

1 AN ACT concerning criminal law.

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

4 Section 5. The Illinois Vehicle Code is amended by changing
5 Sections 6-103, 6-208, 6-514, and 11-501 and by adding Section
6 11-501.9 as follows:

7 (625 ILCS 5/6-103) (from Ch. 95 1/2, par. 6-103)

8 Sec. 6-103. What persons shall not be licensed as drivers
9 or granted permits. The Secretary of State shall not issue,
10 renew, or allow the retention of any driver's license nor issue
11 any permit under this Code:

12 1. To any person, as a driver, who is under the age of
13 18 years except as provided in Section 6-107, and except
14 that an instruction permit may be issued under Section
15 6-107.1 to a child who is not less than 15 years of age if
16 the child is enrolled in an approved driver education
17 course as defined in Section 1-103 of this Code and
18 requires an instruction permit to participate therein,
19 except that an instruction permit may be issued under the
20 provisions of Section 6-107.1 to a child who is 17 years
21 and 9 months of age without the child having enrolled in an
22 approved driver education course and except that an
23 instruction permit may be issued to a child who is at least
24 15 years and 6 months of age, is enrolled in school, meets
25 the educational requirements of the Driver Education Act,
26 and has passed examinations the Secretary of State in his
27 or her discretion may prescribe;

28 2. To any person who is under the age of 18 as an
29 operator of a motorcycle other than a motor driven cycle
30 unless the person has, in addition to meeting the
31 provisions of Section 6-107 of this Code, successfully
32 completed a motorcycle training course approved by the

1 Illinois Department of Transportation and successfully
2 completes the required Secretary of State's motorcycle
3 driver's examination;

4 3. To any person, as a driver, whose driver's license
5 or permit has been suspended, during the suspension, nor to
6 any person whose driver's license or permit has been
7 revoked, except as provided in Sections 6-205, 6-206, and
8 6-208;

9 4. To any person, as a driver, who is a user of alcohol
10 or any other drug to a degree that renders the person
11 incapable of safely driving a motor vehicle;

12 5. To any person, as a driver, who has previously been
13 adjudged to be afflicted with or suffering from any mental
14 or physical disability or disease and who has not at the
15 time of application been restored to competency by the
16 methods provided by law;

17 6. To any person, as a driver, who is required by the
18 Secretary of State to submit an alcohol and drug evaluation
19 or take an examination provided for in this Code unless the
20 person has successfully passed the examination and
21 submitted any required evaluation;

22 7. To any person who is required under the provisions
23 of the laws of this State to deposit security or proof of
24 financial responsibility and who has not deposited the
25 security or proof;

26 8. To any person when the Secretary of State has good
27 cause to believe that the person by reason of physical or
28 mental disability would not be able to safely operate a
29 motor vehicle upon the highways, unless the person shall
30 furnish to the Secretary of State a verified written
31 statement, acceptable to the Secretary of State, from a
32 competent medical specialist to the effect that the
33 operation of a motor vehicle by the person would not be
34 inimical to the public safety;

35 9. To any person, as a driver, who is 69 years of age
36 or older, unless the person has successfully complied with

1 the provisions of Section 6-109;

2 10. To any person convicted, within 12 months of
3 application for a license, of any of the sexual offenses
4 enumerated in paragraph 2 of subsection (b) of Section
5 6-205;

6 11. To any person who is under the age of 21 years with
7 a classification prohibited in paragraph (b) of Section
8 6-104 and to any person who is under the age of 18 years
9 with a classification prohibited in paragraph (c) of
10 Section 6-104;

11 12. To any person who has been either convicted of or
12 adjudicated under the Juvenile Court Act of 1987 based upon
13 a violation of the Cannabis Control Act, the Illinois
14 Controlled Substances Act, or the Methamphetamine Control
15 and Community Protection Act while that person was in
16 actual physical control of a motor vehicle. For purposes of
17 this Section, any person placed on probation under Section
18 10 of the Cannabis Control Act, Section 410 of the Illinois
19 Controlled Substances Act, or Section 70 of the
20 Methamphetamine Control and Community Protection Act shall
21 not be considered convicted. Any person found guilty of
22 this offense, while in actual physical control of a motor
23 vehicle, shall have an entry made in the court record by
24 the judge that this offense did occur while the person was
25 in actual physical control of a motor vehicle and order the
26 clerk of the court to report the violation to the Secretary
27 of State as such. The Secretary of State shall not issue a
28 new license or permit for a period of one year;

29 13. To any person who is under the age of 18 years and
30 who has committed the offense of operating a motor vehicle
31 without a valid license or permit in violation of Section
32 6-101;

33 14. To any person who is 90 days or more delinquent in
34 court ordered child support payments or has been
35 adjudicated in arrears in an amount equal to 90 days'
36 obligation or more and who has been found in contempt of

1 court for failure to pay the support, subject to the
2 requirements and procedures of Article VII of Chapter 7 of
3 the Illinois Vehicle Code;

4 15. To any person released from a term of imprisonment
5 for violating Section 9-3 of the Criminal Code of 1961 or a
6 similar provision of a law of another state relating to
7 reckless homicide or for violating Section 11-501.9
8 ~~subparagraph (F) of paragraph (1) of subsection (d) of~~
9 ~~Section 11-501~~ of this Code relating to homicide while
10 ~~aggravated~~ driving under the influence of alcohol, other
11 drug or drugs, intoxicating compound or compounds, or any
12 combination thereof, if the violation was the proximate
13 cause of a death, within 24 months of release from a term
14 of imprisonment;

15 16. To any person who, with intent to influence any act
16 related to the issuance of any driver's license or permit,
17 by an employee of the Secretary of State's Office, or the
18 owner or employee of any commercial driver training school
19 licensed by the Secretary of State, or any other individual
20 authorized by the laws of this State to give driving
21 instructions or administer all or part of a driver's
22 license examination, promises or tenders to that person any
23 property or personal advantage which that person is not
24 authorized by law to accept. Any persons promising or
25 tendering such property or personal advantage shall be
26 disqualified from holding any class of driver's license or
27 permit for 120 consecutive days. The Secretary of State
28 shall establish by rule the procedures for implementing
29 this period of disqualification and the procedures by which
30 persons so disqualified may obtain administrative review
31 of the decision to disqualify; or

32 17. To any person for whom the Secretary of State
33 cannot verify the accuracy of any information or
34 documentation submitted in application for a driver's
35 license.

36 The Secretary of State shall retain all conviction

1 information, if the information is required to be held
2 confidential under the Juvenile Court Act of 1987.

3 (Source: P.A. 93-174, eff. 1-1-04; 93-712, eff. 1-1-05; 93-783,
4 eff. 1-1-05; 93-788, eff. 1-1-05; 93-895, eff. 1-1-05; 94-556,
5 eff. 9-11-05.)

6 (625 ILCS 5/6-208) (from Ch. 95 1/2, par. 6-208)

7 Sec. 6-208. Period of Suspension - Application After
8 Revocation.

9 (a) Except as otherwise provided by this Code or any other
10 law of this State, the Secretary of State shall not suspend a
11 driver's license, permit or privilege to drive a motor vehicle
12 on the highways for a period of more than one year.

13 (b) Any person whose license, permit or privilege to drive
14 a motor vehicle on the highways has been revoked shall not be
15 entitled to have such license, permit or privilege renewed or
16 restored. However, such person may, except as provided under
17 subsection (d) of Section 6-205, make application for a license
18 pursuant to Section 6-106 (i) if the revocation was for a cause
19 which has been removed or (ii) as provided in the following
20 subparagraphs:

21 1. Except as provided in subparagraphs 2, 3, and 4, the
22 person may make application for a license after the
23 expiration of one year from the effective date of the
24 revocation or, in the case of a violation of paragraph (b)
25 of Section 11-401 of this Code or a similar provision of a
26 local ordinance, after the expiration of 3 years from the
27 effective date of the revocation or, in the case of a
28 violation of Section 9-3 of the Criminal Code of 1961 or a
29 similar provision of a law of another state relating to the
30 offense of reckless homicide or a violation of Section
31 11-501.9 ~~subparagraph (F) of paragraph 1 of subsection (d)~~
32 ~~of Section 11-501~~ of this Code relating to homicide while
33 ~~aggravated~~ driving under the influence of alcohol, other
34 drug or drugs, intoxicating compound or compounds, or any
35 combination thereof, if the violation was the proximate

1 cause of a death, after the expiration of 2 years from the
2 effective date of the revocation or after the expiration of
3 24 months from the date of release from a period of
4 imprisonment as provided in Section 6-103 of this Code,
5 whichever is later.

6 2. If such person is convicted of committing a second
7 violation within a 20 year period of:

8 (A) Section 11-501 of this Code, or a similar
9 provision of a local ordinance; or

10 (B) Paragraph (b) of Section 11-401 of this Code,
11 or a similar provision of a local ordinance; or

12 (C) Section 9-3 of the Criminal Code of 1961, as
13 amended, relating to the offense of reckless homicide;
14 or

15 (D) any combination of the above offenses
16 committed at different instances;

17 then such person may not make application for a license
18 until after the expiration of 5 years from the effective
19 date of the most recent revocation. The 20 year period
20 shall be computed by using the dates the offenses were
21 committed and shall also include similar out-of-state
22 offenses.

23 3. However, except as provided in subparagraph 4, if
24 such person is convicted of committing a third, or
25 subsequent, violation or any combination of the above
26 offenses, including similar out-of-state offenses,
27 contained in subparagraph 2, then such person may not make
28 application for a license until after the expiration of 10
29 years from the effective date of the most recent
30 revocation.

31 4. The person may not make application for a license if
32 the person is convicted of committing a fourth or
33 subsequent violation of Section 11-501 of this Code or a
34 similar provision of a local ordinance, Section 11-401 of
35 this Code, Section 9-3 of the Criminal Code of 1961, or a
36 combination of these offenses or similar provisions of

1 local ordinances or similar out-of-state offenses.

2 Notwithstanding any other provision of this Code, all
3 persons referred to in this paragraph (b) may not have their
4 privileges restored until the Secretary receives payment of the
5 required reinstatement fee pursuant to subsection (b) of
6 Section 6-118.

7 In no event shall the Secretary issue such license unless
8 and until such person has had a hearing pursuant to this Code
9 and the appropriate administrative rules and the Secretary is
10 satisfied, after a review or investigation of such person, that
11 to grant the privilege of driving a motor vehicle on the
12 highways will not endanger the public safety or welfare.

13 (c) (Blank).

14 (Source: P.A. 92-343, eff. 1-1-02; 92-418, eff. 8-17-01;
15 92-458, eff. 8-22-01; 92-651, eff. 7-11-02; 93-712, eff.
16 1-1-05; 93-788, eff. 1-1-05; revised 10-14-04.)

17 (625 ILCS 5/6-514) (from Ch. 95 1/2, par. 6-514)

18 Sec. 6-514. Commercial Driver's License (CDL) -
19 Disqualifications.

20 (a) A person shall be disqualified from driving a
21 commercial motor vehicle for a period of not less than 12
22 months for the first violation of:

23 (1) Refusing to submit to or failure to complete a test
24 or tests to determine the driver's blood concentration of
25 alcohol, other drug, or both, while driving a commercial
26 motor vehicle or, if the driver is a CDL holder, while
27 driving a non-CMV; or

28 (2) Operating a commercial motor vehicle while the
29 alcohol concentration of the person's blood, breath or
30 urine is at least 0.04, or any amount of a drug, substance,
31 or compound in the person's blood or urine resulting from
32 the unlawful use or consumption of cannabis listed in the
33 Cannabis Control Act or a controlled substance listed in
34 the Illinois Controlled Substances Act as indicated by a
35 police officer's sworn report or other verified evidence;

1 or

2 (3) Conviction for a first violation of:

3 (i) Driving a commercial motor vehicle or, if the
4 driver is a CDL holder, driving a non-CMV while under
5 the influence of alcohol, or any other drug, or
6 combination of drugs to a degree which renders such
7 person incapable of safely driving; or

8 (ii) Knowingly and wilfully leaving the scene of an
9 accident while operating a commercial motor vehicle
10 or, if the driver is a CDL holder, while driving a
11 non-CMV; or

12 (iii) Driving a commercial motor vehicle or, if the
13 driver is a CDL holder, driving a non-CMV while
14 committing any felony; or

15 (iv) Driving a commercial motor vehicle if, as a
16 result of prior violations committed while operating a
17 commercial motor vehicle, the driver's CDL is revoked,
18 suspended, or cancelled or the driver is disqualified
19 from operating a commercial motor vehicle; or

20 (v) Causing a fatality through the negligent
21 operation of a commercial motor vehicle, including but
22 not limited to the crimes of reckless driving under
23 Section 9-3 of the Criminal Code of 1961 and homicide
24 while ~~aggravated~~ driving under the influence of
25 alcohol, other drug or drugs, intoxicating compound or
26 compounds, or any combination thereof under Section
27 11-501.9 ~~subdivision (d) (1) (F) of Section 11-501~~ of
28 this Code.

29 If any of the above violations or refusals occurred
30 while transporting hazardous material(s) required to be
31 placarded, the person shall be disqualified for a period of
32 not less than 3 years.

33 (b) A person is disqualified for life for a second
34 conviction of any of the offenses specified in paragraph (a),
35 or any combination of those offenses, arising from 2 or more
36 separate incidents.

1 (c) A person is disqualified from driving a commercial
2 motor vehicle for life if the person either (i) uses a
3 commercial motor vehicle in the commission of any felony
4 involving the manufacture, distribution, or dispensing of a
5 controlled substance, or possession with intent to
6 manufacture, distribute or dispense a controlled substance or
7 (ii) if the person is a CDL holder, uses a non-CMV in the
8 commission of a felony involving any of those activities.

9 (d) The Secretary of State may, when the United States
10 Secretary of Transportation so authorizes, issue regulations
11 in which a disqualification for life under paragraph (b) may be
12 reduced to a period of not less than 10 years. If a reinstated
13 driver is subsequently convicted of another disqualifying
14 offense, as specified in subsection (a) of this Section, he or
15 she shall be permanently disqualified for life and shall be
16 ineligible to again apply for a reduction of the lifetime
17 disqualification.

18 (e) A person is disqualified from driving a commercial
19 motor vehicle for a period of not less than 2 months if
20 convicted of 2 serious traffic violations, committed in a
21 commercial motor vehicle, arising from separate incidents,
22 occurring within a 3 year period. However, a person will be
23 disqualified from driving a commercial motor vehicle for a
24 period of not less than 4 months if convicted of 3 serious
25 traffic violations, committed in a commercial motor vehicle,
26 arising from separate incidents, occurring within a 3 year
27 period.

28 (e-1) A person is disqualified from driving a commercial
29 motor vehicle for a period of not less than 2 months if
30 convicted of 2 serious traffic violations committed in a
31 non-CMV while holding a CDL, arising from separate incidents,
32 occurring within a 3 year period, if the convictions would
33 result in the suspension or revocation of the CDL holder's
34 non-CMV privileges. A person shall be disqualified from driving
35 a commercial motor vehicle for a period of not less than 4
36 months, however, if he or she is convicted of 3 or more serious

1 traffic violations committed in a non-CMV while holding a CDL,
2 arising from separate incidents, occurring within a 3 year
3 period, if the convictions would result in the suspension or
4 revocation of the CDL holder's non-CMV privileges.

5 (f) Notwithstanding any other provision of this Code, any
6 driver disqualified from operating a commercial motor vehicle,
7 pursuant to this UCDLA, shall not be eligible for restoration
8 of commercial driving privileges during any such period of
9 disqualification.

10 (g) After suspending, revoking, or cancelling a commercial
11 driver's license, the Secretary of State must update the
12 driver's records to reflect such action within 10 days. After
13 suspending or revoking the driving privilege of any person who
14 has been issued a CDL or commercial driver instruction permit
15 from another jurisdiction, the Secretary shall originate
16 notification to such issuing jurisdiction within 10 days.

17 (h) The "disqualifications" referred to in this Section
18 shall not be imposed upon any commercial motor vehicle driver,
19 by the Secretary of State, unless the prohibited action(s)
20 occurred after March 31, 1992.

21 (i) A person is disqualified from driving a commercial
22 motor vehicle in accordance with the following:

23 (1) For 6 months upon a first conviction of paragraph
24 (2) of subsection (b) of Section 6-507 of this Code.

25 (2) For one year upon a second conviction of paragraph
26 (2) of subsection (b) of Section 6-507 of this Code within
27 a 10-year period.

28 (3) For 3 years upon a third or subsequent conviction
29 of paragraph (2) of subsection (b) of Section 6-507 of this
30 Code within a 10-year period.

31 (4) For one year upon a first conviction of paragraph
32 (3) of subsection (b) of Section 6-507 of this Code.

33 (5) For 3 years upon a second conviction of paragraph
34 (3) of subsection (b) of Section 6-507 of this Code within
35 a 10-year period.

36 (6) For 5 years upon a third or subsequent conviction

1 of paragraph (3) of subsection (b) of Section 6-507 of this
2 Code within a 10-year period.

3 (j) Disqualification for railroad-highway grade crossing
4 violation.

5 (1) General rule. A driver who is convicted of a
6 violation of a federal, State, or local law or regulation
7 pertaining to one of the following 6 offenses at a
8 railroad-highway grade crossing must be disqualified from
9 operating a commercial motor vehicle for the period of time
10 specified in paragraph (2) of this subsection (j) if the
11 offense was committed while operating a commercial motor
12 vehicle:

13 (i) For drivers who are not required to always
14 stop, failing to slow down and check that the tracks
15 are clear of an approaching train, as described in
16 subsection (a-5) of Section 11-1201 of this Code;

17 (ii) For drivers who are not required to always
18 stop, failing to stop before reaching the crossing, if
19 the tracks are not clear, as described in subsection
20 (a) of Section 11-1201 of this Code;

21 (iii) For drivers who are always required to stop,
22 failing to stop before driving onto the crossing, as
23 described in Section 11-1202 of this Code;

24 (iv) For all drivers, failing to have sufficient
25 space to drive completely through the crossing without
26 stopping, as described in subsection (b) of Section
27 11-1425 of this Code;

28 (v) For all drivers, failing to obey a traffic
29 control device or the directions of an enforcement
30 official at the crossing, as described in subdivision
31 (a)2 of Section 11-1201 of this Code;

32 (vi) For all drivers, failing to negotiate a
33 crossing because of insufficient undercarriage
34 clearance, as described in subsection (d-1) of Section
35 11-1201 of this Code.

36 (2) Duration of disqualification for railroad-highway

1 grade crossing violation.

2 (i) First violation. A driver must be disqualified
3 from operating a commercial motor vehicle for not less
4 than 60 days if the driver is convicted of a violation
5 described in paragraph (1) of this subsection (j) and,
6 in the three-year period preceding the conviction, the
7 driver had no convictions for a violation described in
8 paragraph (1) of this subsection (j).

9 (ii) Second violation. A driver must be
10 disqualified from operating a commercial motor vehicle
11 for not less than 120 days if the driver is convicted
12 of a violation described in paragraph (1) of this
13 subsection (j) and, in the three-year period preceding
14 the conviction, the driver had one other conviction for
15 a violation described in paragraph (1) of this
16 subsection (j) that was committed in a separate
17 incident.

18 (iii) Third or subsequent violation. A driver must
19 be disqualified from operating a commercial motor
20 vehicle for not less than one year if the driver is
21 convicted of a violation described in paragraph (1) of
22 this subsection (j) and, in the three-year period
23 preceding the conviction, the driver had 2 or more
24 other convictions for violations described in
25 paragraph (1) of this subsection (j) that were
26 committed in separate incidents.

27 (k) Upon notification of a disqualification of a driver's
28 commercial motor vehicle privileges imposed by the U.S.
29 Department of Transportation, Federal Motor Carrier Safety
30 Administration, in accordance with 49 C.F.R. 383.52, the
31 Secretary of State shall immediately record to the driving
32 record the notice of disqualification and confirm to the driver
33 the action that has been taken.

34 (Source: P.A. 94-307, eff. 9-30-05.)

35 (625 ILCS 5/11-501) (from Ch. 95 1/2, par. 11-501)

1 (Text of Section from P.A. 93-1093)

2 Sec. 11-501. Driving while under the influence of alcohol,
3 other drug or drugs, intoxicating compound or compounds or any
4 combination thereof.

5 (a) A person shall not drive or be in actual physical
6 control of any vehicle within this State while:

7 (1) the alcohol concentration in the person's blood or
8 breath is 0.08 or more based on the definition of blood and
9 breath units in Section 11-501.2;

10 (2) under the influence of alcohol;

11 (3) under the influence of any intoxicating compound or
12 combination of intoxicating compounds to a degree that
13 renders the person incapable of driving safely;

14 (4) under the influence of any other drug or
15 combination of drugs to a degree that renders the person
16 incapable of safely driving;

17 (5) under the combined influence of alcohol, other drug
18 or drugs, or intoxicating compound or compounds to a degree
19 that renders the person incapable of safely driving; or

20 (6) there is any amount of a drug, substance, or
21 compound in the person's breath, blood, or urine resulting
22 from the unlawful use or consumption of cannabis listed in
23 the Cannabis Control Act, a controlled substance listed in
24 the Illinois Controlled Substances Act, or an intoxicating
25 compound listed in the Use of Intoxicating Compounds Act.

26 (b) The fact that any person charged with violating this
27 Section is or has been legally entitled to use alcohol, other
28 drug or drugs, or intoxicating compound or compounds, or any
29 combination thereof, shall not constitute a defense against any
30 charge of violating this Section.

31 (b-1) With regard to penalties imposed under this Section:

32 (1) Any reference to a prior violation of subsection

33 (a) or a similar provision includes any violation of a
34 provision of a local ordinance or a provision of a law of
35 another state that is similar to a violation of subsection
36 (a) of this Section.

1 (2) Any penalty imposed for driving with a license that
2 has been revoked for a previous violation of subsection (a)
3 of this Section shall be in addition to the penalty imposed
4 for any subsequent violation of subsection (a).

5 (b-2) Except as otherwise provided in this Section, any
6 person convicted of violating subsection (a) of this Section is
7 guilty of a Class A misdemeanor.

8 (b-3) In addition to any other criminal or administrative
9 sanction for any second conviction of violating subsection (a)
10 or a similar provision committed within 5 years of a previous
11 violation of subsection (a) or a similar provision, the
12 defendant shall be sentenced to a mandatory minimum of 5 days
13 of imprisonment or assigned a mandatory minimum of 240 hours of
14 community service as may be determined by the court.

15 (b-4) In the case of a third or subsequent violation
16 committed within 5 years of a previous violation of subsection
17 (a) or a similar provision, in addition to any other criminal
18 or administrative sanction, a mandatory minimum term of either
19 10 days of imprisonment or 480 hours of community service shall
20 be imposed.

21 (b-5) The imprisonment or assignment of community service
22 under subsections (b-3) and (b-4) shall not be subject to
23 suspension, nor shall the person be eligible for a reduced
24 sentence.

25 (c) (Blank).

26 (c-1) (1) A person who violates subsection (a) during a
27 period in which his or her driving privileges are revoked
28 or suspended, where the revocation or suspension was for a
29 violation of subsection (a), Section 11-501.1, paragraph
30 (b) of Section 11-401, or for reckless homicide as defined
31 in Section 9-3 of the Criminal Code of 1961 is guilty of a
32 Class 4 felony.

33 (2) A person who violates subsection (a) a third time,
34 if the third violation occurs during a period in which his
35 or her driving privileges are revoked or suspended where
36 the revocation or suspension was for a violation of

1 subsection (a), Section 11-501.1, paragraph (b) of Section
2 11-401, or for reckless homicide as defined in Section 9-3
3 of the Criminal Code of 1961, is guilty of a Class 3
4 felony; and if the person receives a term of probation or
5 conditional discharge, he or she shall be required to serve
6 a mandatory minimum of 10 days of imprisonment or shall be
7 assigned a mandatory minimum of 480 hours of community
8 service, as may be determined by the court, as a condition
9 of the probation or conditional discharge. This mandatory
10 minimum term of imprisonment or assignment of community
11 service shall not be suspended or reduced by the court.

12 (2.2) A person who violates subsection (a), if the
13 violation occurs during a period in which his or her
14 driving privileges are revoked or suspended where the
15 revocation or suspension was for a violation of subsection
16 (a) or Section 11-501.1, shall also be sentenced to an
17 additional mandatory minimum term of 30 consecutive days of
18 imprisonment, 40 days of 24-hour periodic imprisonment, or
19 720 hours of community service, as may be determined by the
20 court. This mandatory term of imprisonment or assignment of
21 community service shall not be suspended or reduced by the
22 court.

23 (3) A person who violates subsection (a) a fourth or
24 subsequent time, if the fourth or subsequent violation
25 occurs during a period in which his or her driving
26 privileges are revoked or suspended where the revocation or
27 suspension was for a violation of subsection (a), Section
28 11-501.1, paragraph (b) of Section 11-401, or for reckless
29 homicide as defined in Section 9-3 of the Criminal Code of
30 1961, is guilty of a Class 2 felony and is not eligible for
31 a sentence of probation or conditional discharge.

32 (c-2) (Blank).

33 (c-3) (Blank).

34 (c-4) (Blank).

35 (c-5) (1) A person who violates subsection (a), if the
36 person was transporting a person under the age of 16 at the

1 time of the violation, is subject to an additional
2 mandatory minimum fine of \$1,000, an additional mandatory
3 minimum 140 hours of community service, which shall include
4 40 hours of community service in a program benefiting
5 children, and an additional 2 days of imprisonment. The
6 imprisonment or assignment of community service under this
7 subdivision (c-5)(1) is not subject to suspension, nor is
8 the person eligible for a reduced sentence.

9 (2) Except as provided in subdivisions (c-5)(3) and
10 (c-5)(4) a person who violates subsection (a) a second
11 time, if at the time of the second violation the person was
12 transporting a person under the age of 16, is subject to an
13 additional 10 days of imprisonment, an additional
14 mandatory minimum fine of \$1,000, and an additional
15 mandatory minimum 140 hours of community service, which
16 shall include 40 hours of community service in a program
17 benefiting children. The imprisonment or assignment of
18 community service under this subdivision (c-5)(2) is not
19 subject to suspension, nor is the person eligible for a
20 reduced sentence.

21 (3) Except as provided in subdivision (c-5)(4), any
22 person convicted of violating subdivision (c-5)(2) or a
23 similar provision within 10 years of a previous violation
24 of subsection (a) or a similar provision shall receive, in
25 addition to any other penalty imposed, a mandatory minimum
26 12 days imprisonment, an additional 40 hours of mandatory
27 community service in a program benefiting children, and a
28 mandatory minimum fine of \$1,750. The imprisonment or
29 assignment of community service under this subdivision
30 (c-5)(3) is not subject to suspension, nor is the person
31 eligible for a reduced sentence.

32 (4) Any person convicted of violating subdivision
33 (c-5)(2) or a similar provision within 5 years of a
34 previous violation of subsection (a) or a similar provision
35 shall receive, in addition to any other penalty imposed, an
36 additional 80 hours of mandatory community service in a

1 program benefiting children, an additional mandatory
2 minimum 12 days of imprisonment, and a mandatory minimum
3 fine of \$1,750. The imprisonment or assignment of community
4 service under this subdivision (c-5)(4) is not subject to
5 suspension, nor is the person eligible for a reduced
6 sentence.

7 (5) Any person convicted a third time for violating
8 subsection (a) or a similar provision, if at the time of
9 the third violation the person was transporting a person
10 under the age of 16, is guilty of a Class 4 felony and
11 shall receive, in addition to any other penalty imposed, an
12 additional mandatory fine of \$1,000, an additional
13 mandatory 140 hours of community service, which shall
14 include 40 hours in a program benefiting children, and a
15 mandatory minimum 30 days of imprisonment. The
16 imprisonment or assignment of community service under this
17 subdivision (c-5)(5) is not subject to suspension, nor is
18 the person eligible for a reduced sentence.

19 (6) Any person convicted of violating subdivision
20 (c-5)(5) or a similar provision a third time within 20
21 years of a previous violation of subsection (a) or a
22 similar provision is guilty of a Class 4 felony and shall
23 receive, in addition to any other penalty imposed, an
24 additional mandatory 40 hours of community service in a
25 program benefiting children, an additional mandatory fine
26 of \$3,000, and a mandatory minimum 120 days of
27 imprisonment. The imprisonment or assignment of community
28 service under this subdivision (c-5)(6) is not subject to
29 suspension, nor is the person eligible for a reduced
30 sentence.

31 (7) Any person convicted a fourth or subsequent time
32 for violating subsection (a) or a similar provision, if at
33 the time of the fourth or subsequent violation the person
34 was transporting a person under the age of 16, and if the
35 person's 3 prior violations of subsection (a) or a similar
36 provision occurred while transporting a person under the

1 age of 16 or while the alcohol concentration in his or her
2 blood, breath, or urine was 0.16 or more based on the
3 definition of blood, breath, or urine units in Section
4 11-501.2, is guilty of a Class 2 felony, is not eligible
5 for probation or conditional discharge, and is subject to a
6 minimum fine of \$3,000.

7 (c-6) (1) Any person convicted of a first violation of
8 subsection (a) or a similar provision, if the alcohol
9 concentration in his or her blood, breath, or urine was
10 0.16 or more based on the definition of blood, breath, or
11 urine units in Section 11-501.2, shall be subject, in
12 addition to any other penalty that may be imposed, to a
13 mandatory minimum of 100 hours of community service and a
14 mandatory minimum fine of \$500.

15 (2) Any person convicted of a second violation of
16 subsection (a) or a similar provision committed within 10
17 years of a previous violation of subsection (a) or a
18 similar provision, if at the time of the second violation
19 of subsection (a) or a similar provision the alcohol
20 concentration in his or her blood, breath, or urine was
21 0.16 or more based on the definition of blood, breath, or
22 urine units in Section 11-501.2, shall be subject, in
23 addition to any other penalty that may be imposed, to a
24 mandatory minimum of 2 days of imprisonment and a mandatory
25 minimum fine of \$1,250.

26 (3) Any person convicted of a third violation of
27 subsection (a) or a similar provision within 20 years of a
28 previous violation of subsection (a) or a similar
29 provision, if at the time of the third violation of
30 subsection (a) or a similar provision the alcohol
31 concentration in his or her blood, breath, or urine was
32 0.16 or more based on the definition of blood, breath, or
33 urine units in Section 11-501.2, is guilty of a Class 4
34 felony and shall be subject, in addition to any other
35 penalty that may be imposed, to a mandatory minimum of 90
36 days of imprisonment and a mandatory minimum fine of

1 \$2,500.

2 (4) Any person convicted of a fourth or subsequent
3 violation of subsection (a) or a similar provision, if at
4 the time of the fourth or subsequent violation the alcohol
5 concentration in his or her blood, breath, or urine was
6 0.16 or more based on the definition of blood, breath, or
7 urine units in Section 11-501.2, and if the person's 3
8 prior violations of subsection (a) or a similar provision
9 occurred while transporting a person under the age of 16 or
10 while the alcohol concentration in his or her blood,
11 breath, or urine was 0.16 or more based on the definition
12 of blood, breath, or urine units in Section 11-501.2, is
13 guilty of a Class 2 felony and is not eligible for a
14 sentence of probation or conditional discharge and is
15 subject to a minimum fine of \$2,500.

16 (d) (1) Every person convicted of committing a violation of
17 this Section shall be guilty of aggravated driving under
18 the influence of alcohol, other drug or drugs, or
19 intoxicating compound or compounds, or any combination
20 thereof if:

21 (A) the person committed a violation of subsection
22 (a) or a similar provision for the third or subsequent
23 time;

24 (B) the person committed a violation of subsection
25 (a) while driving a school bus with persons 18 years of
26 age or younger on board;

27 (C) the person in committing a violation of
28 subsection (a) was involved in a motor vehicle accident
29 that resulted in great bodily harm or permanent
30 disability or disfigurement to another, when the
31 violation was a proximate cause of the injuries;

32 (D) the person committed a violation of subsection
33 (a) for a second time and has been previously convicted
34 of violating Section 9-3 of the Criminal Code of 1961
35 or a similar provision of a law of another state
36 relating to reckless homicide in which the person was

1 determined to have been under the influence of alcohol,
2 other drug or drugs, or intoxicating compound or
3 compounds as an element of the offense or the person
4 has previously been convicted under subparagraph (C)
5 or subparagraph (F) of this paragraph (1); or

6 (E) the person, in committing a violation of
7 subsection (a) while driving at any speed in a school
8 speed zone at a time when a speed limit of 20 miles per
9 hour was in effect under subsection (a) of Section
10 11-605 of this Code, was involved in a motor vehicle
11 accident that resulted in bodily harm, other than great
12 bodily harm or permanent disability or disfigurement,
13 to another person, when the violation of subsection (a)
14 was a proximate cause of the bodily harm. ~~or~~

15 (F) (Blank). ~~the person, in committing a violation~~
16 ~~of subsection (a), was involved in a motor vehicle,~~
17 ~~snowmobile, all terrain vehicle, or watercraft~~
18 ~~accident that resulted in the death of another person,~~
19 ~~when the violation of subsection (a) was a proximate~~
20 ~~cause of the death.~~

21 (2) Except as provided in this paragraph (2), a person
22 convicted of aggravated driving under the influence of
23 alcohol, other drug or drugs, or intoxicating compound or
24 compounds, or any combination thereof is guilty of a Class
25 4 felony. For a violation of subparagraph (C) of paragraph
26 (1) of this subsection (d), the defendant, if sentenced to
27 a term of imprisonment, shall be sentenced to not less than
28 one year nor more than 12 years. ~~Aggravated driving under~~
29 ~~the influence of alcohol, other drug or drugs, or~~
30 ~~intoxicating compound or compounds, or any combination~~
31 ~~thereof as defined in subparagraph (F) of paragraph (1) of~~
32 ~~this subsection (d) is a Class 2 felony, for which the~~
33 ~~defendant, if sentenced to a term of imprisonment, shall be~~
34 ~~sentenced to: (A) a term of imprisonment of not less than 3~~
35 ~~years and not more than 14 years if the violation resulted~~
36 ~~in the death of one person; or (B) a term of imprisonment~~

1 ~~of not less than 6 years and not more than 28 years if the~~
2 ~~violation resulted in the deaths of 2 or more persons.~~ For
3 any prosecution under this subsection (d), a certified copy
4 of the driving abstract of the defendant shall be admitted
5 as proof of any prior conviction. Any person sentenced
6 under this subsection (d) who receives a term of probation
7 or conditional discharge must serve a minimum term of
8 either 480 hours of community service or 10 days of
9 imprisonment as a condition of the probation or conditional
10 discharge. This mandatory minimum term of imprisonment or
11 assignment of community service may not be suspended or
12 reduced by the court.

13 (e) After a finding of guilt and prior to any final
14 sentencing, or an order for supervision, for an offense based
15 upon an arrest for a violation of this Section or a similar
16 provision of a local ordinance, individuals shall be required
17 to undergo a professional evaluation to determine if an
18 alcohol, drug, or intoxicating compound abuse problem exists
19 and the extent of the problem, and undergo the imposition of
20 treatment as appropriate. Programs conducting these
21 evaluations shall be licensed by the Department of Human
22 Services. The cost of any professional evaluation shall be paid
23 for by the individual required to undergo the professional
24 evaluation.

25 (e-1) Any person who is found guilty of or pleads guilty to
26 violating this Section, including any person receiving a
27 disposition of court supervision for violating this Section,
28 may be required by the Court to attend a victim impact panel
29 offered by, or under contract with, a County State's Attorney's
30 office, a probation and court services department, Mothers
31 Against Drunk Driving, or the Alliance Against Intoxicated
32 Motorists. All costs generated by the victim impact panel shall
33 be paid from fees collected from the offender or as may be
34 determined by the court.

35 (f) Every person found guilty of violating this Section,
36 whose operation of a motor vehicle while in violation of this

1 Section proximately caused any incident resulting in an
2 appropriate emergency response, shall be liable for the expense
3 of an emergency response as provided under Section 5-5-3 of the
4 Unified Code of Corrections.

5 (g) The Secretary of State shall revoke the driving
6 privileges of any person convicted under this Section or a
7 similar provision of a local ordinance.

8 (h) (Blank).

9 (i) The Secretary of State shall require the use of
10 ignition interlock devices on all vehicles owned by an
11 individual who has been convicted of a second or subsequent
12 offense of this Section or a similar provision of a local
13 ordinance. The Secretary shall establish by rule and regulation
14 the procedures for certification and use of the interlock
15 system.

16 (j) In addition to any other penalties and liabilities, a
17 person who is found guilty of or pleads guilty to violating
18 subsection (a), including any person placed on court
19 supervision for violating subsection (a), shall be fined \$500,
20 payable to the circuit clerk, who shall distribute the money as
21 follows: 20% to the law enforcement agency that made the arrest
22 and 80% shall be forwarded to the State Treasurer for deposit
23 into the General Revenue Fund. If the person has been
24 previously convicted of violating subsection (a) or a similar
25 provision of a local ordinance, the fine shall be \$1,000. In
26 the event that more than one agency is responsible for the
27 arrest, the amount payable to law enforcement agencies shall be
28 shared equally. Any moneys received by a law enforcement agency
29 under this subsection (j) shall be used to purchase law
30 enforcement equipment that will assist in the prevention of
31 alcohol related criminal violence throughout the State. This
32 shall include, but is not limited to, in-car video cameras,
33 radar and laser speed detection devices, and alcohol breath
34 testers. Any moneys received by the Department of State Police
35 under this subsection (j) shall be deposited into the State
36 Police DUI Fund and shall be used to purchase law enforcement

1 equipment that will assist in the prevention of alcohol related
2 criminal violence throughout the State.

3 (k) The Secretary of State Police DUI Fund is created as a
4 special fund in the State treasury. All moneys received by the
5 Secretary of State Police under subsection (j) of this Section
6 shall be deposited into the Secretary of State Police DUI Fund
7 and, subject to appropriation, shall be used to purchase law
8 enforcement equipment to assist in the prevention of alcohol
9 related criminal violence throughout the State.

10 (l) Whenever an individual is sentenced for an offense
11 based upon an arrest for a violation of subsection (a) or a
12 similar provision of a local ordinance, and the professional
13 evaluation recommends remedial or rehabilitative treatment or
14 education, neither the treatment nor the education shall be the
15 sole disposition and either or both may be imposed only in
16 conjunction with another disposition. The court shall monitor
17 compliance with any remedial education or treatment
18 recommendations contained in the professional evaluation.
19 Programs conducting alcohol or other drug evaluation or
20 remedial education must be licensed by the Department of Human
21 Services. If the individual is not a resident of Illinois,
22 however, the court may accept an alcohol or other drug
23 evaluation or remedial education program in the individual's
24 state of residence. Programs providing treatment must be
25 licensed under existing applicable alcoholism and drug
26 treatment licensure standards.

27 (m) In addition to any other fine or penalty required by
28 law, an individual convicted of a violation of subsection (a),
29 Section 5-7 of the Snowmobile Registration and Safety Act,
30 Section 5-16 of the Boat Registration and Safety Act, or a
31 similar provision, whose operation of a motor vehicle,
32 snowmobile, or watercraft while in violation of subsection (a),
33 Section 5-7 of the Snowmobile Registration and Safety Act,
34 Section 5-16 of the Boat Registration and Safety Act, or a
35 similar provision proximately caused an incident resulting in
36 an appropriate emergency response, shall be required to make

1 restitution to a public agency for the costs of that emergency
2 response. The restitution may not exceed \$1,000 per public
3 agency for each emergency response. As used in this subsection
4 (m), "emergency response" means any incident requiring a
5 response by a police officer, a firefighter carried on the
6 rolls of a regularly constituted fire department, or an
7 ambulance.

8 (Source: P.A. 92-248, eff. 8-3-01; 92-418, eff. 8-17-01;
9 92-420, eff. 8-17-01; 92-429, eff. 1-1-02; 92-431, eff. 1-1-02;
10 92-651, eff. 7-11-02; 93-156, eff. 1-1-04; 93-213, eff.
11 7-18-03; 93-584, eff. 8-22-03; 93-712, eff. 1-1-05; 93-800,
12 eff. 1-1-05; 93-840, eff. 7-30-04; 93-1093, eff. 3-29-05.)

13 (Text of Section from P.A. 94-110)

14 Sec. 11-501. Driving while under the influence of alcohol,
15 other drug or drugs, intoxicating compound or compounds or any
16 combination thereof.

17 (a) A person shall not drive or be in actual physical
18 control of any vehicle within this State while:

19 (1) the alcohol concentration in the person's blood or
20 breath is 0.08 or more based on the definition of blood and
21 breath units in Section 11-501.2;

22 (2) under the influence of alcohol;

23 (3) under the influence of any intoxicating compound or
24 combination of intoxicating compounds to a degree that
25 renders the person incapable of driving safely;

26 (4) under the influence of any other drug or
27 combination of drugs to a degree that renders the person
28 incapable of safely driving;

29 (5) under the combined influence of alcohol, other drug
30 or drugs, or intoxicating compound or compounds to a degree
31 that renders the person incapable of safely driving; or

32 (6) there is any amount of a drug, substance, or
33 compound in the person's breath, blood, or urine resulting
34 from the unlawful use or consumption of cannabis listed in
35 the Cannabis Control Act, a controlled substance listed in

1 the Illinois Controlled Substances Act, or an intoxicating
2 compound listed in the Use of Intoxicating Compounds Act.

3 (b) The fact that any person charged with violating this
4 Section is or has been legally entitled to use alcohol, other
5 drug or drugs, or intoxicating compound or compounds, or any
6 combination thereof, shall not constitute a defense against any
7 charge of violating this Section.

8 (b-1) With regard to penalties imposed under this Section:

9 (1) Any reference to a prior violation of subsection
10 (a) or a similar provision includes any violation of a
11 provision of a local ordinance or a provision of a law of
12 another state that is similar to a violation of subsection
13 (a) of this Section.

14 (2) Any penalty imposed for driving with a license that
15 has been revoked for a previous violation of subsection (a)
16 of this Section shall be in addition to the penalty imposed
17 for any subsequent violation of subsection (a).

18 (b-2) Except as otherwise provided in this Section, any
19 person convicted of violating subsection (a) of this Section is
20 guilty of a Class A misdemeanor.

21 (b-3) In addition to any other criminal or administrative
22 sanction for any second conviction of violating subsection (a)
23 or a similar provision committed within 5 years of a previous
24 violation of subsection (a) or a similar provision, the
25 defendant shall be sentenced to a mandatory minimum of 5 days
26 of imprisonment or assigned a mandatory minimum of 240 hours of
27 community service as may be determined by the court.

28 (b-4) In the case of a third or subsequent violation
29 committed within 5 years of a previous violation of subsection
30 (a) or a similar provision, in addition to any other criminal
31 or administrative sanction, a mandatory minimum term of either
32 10 days of imprisonment or 480 hours of community service shall
33 be imposed.

34 (b-5) The imprisonment or assignment of community service
35 under subsections (b-3) and (b-4) shall not be subject to
36 suspension, nor shall the person be eligible for a reduced

1 sentence.

2 (c) (Blank).

3 (c-1) (1) A person who violates subsection (a) during a
4 period in which his or her driving privileges are revoked
5 or suspended, where the revocation or suspension was for a
6 violation of subsection (a), Section 11-501.1, paragraph
7 (b) of Section 11-401, or for reckless homicide as defined
8 in Section 9-3 of the Criminal Code of 1961 is guilty of a
9 Class 4 felony.

10 (2) A person who violates subsection (a) a third time,
11 if the third violation occurs during a period in which his
12 or her driving privileges are revoked or suspended where
13 the revocation or suspension was for a violation of
14 subsection (a), Section 11-501.1, paragraph (b) of Section
15 11-401, or for reckless homicide as defined in Section 9-3
16 of the Criminal Code of 1961, is guilty of a Class 3
17 felony; and if the person receives a term of probation or
18 conditional discharge, he or she shall be required to serve
19 a mandatory minimum of 10 days of imprisonment or shall be
20 assigned a mandatory minimum of 480 hours of community
21 service, as may be determined by the court, as a condition
22 of the probation or conditional discharge. This mandatory
23 minimum term of imprisonment or assignment of community
24 service shall not be suspended or reduced by the court.

25 (2.2) A person who violates subsection (a), if the
26 violation occurs during a period in which his or her
27 driving privileges are revoked or suspended where the
28 revocation or suspension was for a violation of subsection
29 (a) or Section 11-501.1, shall also be sentenced to an
30 additional mandatory minimum term of 30 consecutive days of
31 imprisonment, 40 days of 24-hour periodic imprisonment, or
32 720 hours of community service, as may be determined by the
33 court. This mandatory term of imprisonment or assignment of
34 community service shall not be suspended or reduced by the
35 court.

36 (3) A person who violates subsection (a) a fourth or

1 subsequent time, if the fourth or subsequent violation
2 occurs during a period in which his or her driving
3 privileges are revoked or suspended where the revocation or
4 suspension was for a violation of subsection (a), Section
5 11-501.1, paragraph (b) of Section 11-401, or for reckless
6 homicide as defined in Section 9-3 of the Criminal Code of
7 1961, is guilty of a Class 2 felony and is not eligible for
8 a sentence of probation or conditional discharge.

9 (c-2) (Blank).

10 (c-3) (Blank).

11 (c-4) (Blank).

12 (c-5) Except as provided in subsection (c-5.1), a person 21
13 years of age or older who violates subsection (a), if the
14 person was transporting a person under the age of 16 at the
15 time of the violation, is subject to 6 months of imprisonment,
16 an additional mandatory minimum fine of \$1,000, and 25 days of
17 community service in a program benefiting children. The
18 imprisonment or assignment of community service under this
19 subsection (c-5) is not subject to suspension, nor is the
20 person eligible for a reduced sentence.

21 (c-5.1) A person 21 years of age or older who is convicted
22 of violating subsection (a) of this Section a first time and
23 who in committing that violation was involved in a motor
24 vehicle accident that resulted in bodily harm to the child
25 under the age of 16 being transported by the person, if the
26 violation was the proximate cause of the injury, is guilty of a
27 Class 4 felony and is subject to one year of imprisonment, a
28 mandatory fine of \$2,500, and 25 days of community service in a
29 program benefiting children. The imprisonment or assignment to
30 community service under this subsection (c-5.1) shall not be
31 subject to suspension, nor shall the person be eligible for
32 probation in order to reduce the sentence or assignment.

33 (c-6) Except as provided in subsections (c-7) and (c-7.1),
34 a person 21 years of age or older who violates subsection (a) a
35 second time, if at the time of the second violation the person
36 was transporting a person under the age of 16, is subject to 6

1 months of imprisonment, an additional mandatory minimum fine of
2 \$1,000, and an additional mandatory minimum 140 hours of
3 community service, which shall include 40 hours of community
4 service in a program benefiting children. The imprisonment or
5 assignment of community service under this subsection (c-6) is
6 not subject to suspension, nor is the person eligible for a
7 reduced sentence.

8 (c-7) Except as provided in subsection (c-7.1), any person
9 21 years of age or older convicted of violating subsection
10 (c-6) or a similar provision within 10 years of a previous
11 violation of subsection (a) or a similar provision is guilty of
12 a Class 4 felony and, in addition to any other penalty imposed,
13 is subject to one year of imprisonment, 25 days of mandatory
14 community service in a program benefiting children, and a
15 mandatory fine of \$2,500. The imprisonment or assignment of
16 community service under this subsection (c-7) is not subject to
17 suspension, nor is the person eligible for a reduced sentence.

18 (c-7.1) A person 21 years of age or older who is convicted
19 of violating subsection (a) of this Section a second time
20 within 10 years and who in committing that violation was
21 involved in a motor vehicle accident that resulted in bodily
22 harm to the child under the age of 16 being transported, if the
23 violation was the proximate cause of the injury, is guilty of a
24 Class 4 felony and is subject to 18 months of imprisonment, a
25 mandatory fine of \$5,000, and 25 days of community service in a
26 program benefiting children. The imprisonment or assignment to
27 community service under this subsection (c-7.1) shall not be
28 subject to suspension, nor shall the person be eligible for
29 probation in order to reduce the sentence or assignment.

30 (c-8) (Blank).

31 (c-9) Any person 21 years of age or older convicted a third
32 time for violating subsection (a) or a similar provision, if at
33 the time of the third violation the person was transporting a
34 person under the age of 16, is guilty of a Class 4 felony and is
35 subject to 18 months of imprisonment, a mandatory fine of
36 \$2,500, and 25 days of community service in a program

1 benefiting children. The imprisonment or assignment of
2 community service under this subsection (c-9) is not subject to
3 suspension, nor is the person eligible for a reduced sentence.

4 (c-10) Any person 21 years of age or older convicted of
5 violating subsection (c-9) or a similar provision a third time
6 within 20 years of a previous violation of subsection (a) or a
7 similar provision is guilty of a Class 3 felony and, in
8 addition to any other penalty imposed, is subject to 3 years of
9 imprisonment, 25 days of community service in a program
10 benefiting children, and a mandatory fine of \$25,000. The
11 imprisonment or assignment of community service under this
12 subsection (c-10) is not subject to suspension, nor is the
13 person eligible for a reduced sentence.

14 (c-11) Any person 21 years of age or older convicted a
15 fourth or subsequent time for violating subsection (a) or a
16 similar provision, if at the time of the fourth or subsequent
17 violation the person was transporting a person under the age of
18 16, and if the person's 3 prior violations of subsection (a) or
19 a similar provision occurred while transporting a person under
20 the age of 16 or while the alcohol concentration in his or her
21 blood, breath, or urine was 0.16 or more based on the
22 definition of blood, breath, or urine units in Section
23 11-501.2, is guilty of a Class 2 felony, is not eligible for
24 probation or conditional discharge, and is subject to a minimum
25 fine of \$25,000.

26 (c-12) Any person convicted of a first violation of
27 subsection (a) or a similar provision, if the alcohol
28 concentration in his or her blood, breath, or urine was 0.16 or
29 more based on the definition of blood, breath, or urine units
30 in Section 11-501.2, shall be subject, in addition to any other
31 penalty that may be imposed, to a mandatory minimum of 100
32 hours of community service and a mandatory minimum fine of
33 \$500.

34 (c-13) Any person convicted of a second violation of
35 subsection (a) or a similar provision committed within 10 years
36 of a previous violation of subsection (a) or a similar

1 provision, if at the time of the second violation of subsection
2 (a) or a similar provision the alcohol concentration in his or
3 her blood, breath, or urine was 0.16 or more based on the
4 definition of blood, breath, or urine units in Section
5 11-501.2, shall be subject, in addition to any other penalty
6 that may be imposed, to a mandatory minimum of 2 days of
7 imprisonment and a mandatory minimum fine of \$1,250.

8 (c-14) Any person convicted of a third violation of
9 subsection (a) or a similar provision within 20 years of a
10 previous violation of subsection (a) or a similar provision, if
11 at the time of the third violation of subsection (a) or a
12 similar provision the alcohol concentration in his or her
13 blood, breath, or urine was 0.16 or more based on the
14 definition of blood, breath, or urine units in Section
15 11-501.2, is guilty of a Class 4 felony and shall be subject,
16 in addition to any other penalty that may be imposed, to a
17 mandatory minimum of 90 days of imprisonment and a mandatory
18 minimum fine of \$2,500.

19 (c-15) Any person convicted of a fourth or subsequent
20 violation of subsection (a) or a similar provision, if at the
21 time of the fourth or subsequent violation the alcohol
22 concentration in his or her blood, breath, or urine was 0.16 or
23 more based on the definition of blood, breath, or urine units
24 in Section 11-501.2, and if the person's 3 prior violations of
25 subsection (a) or a similar provision occurred while
26 transporting a person under the age of 16 or while the alcohol
27 concentration in his or her blood, breath, or urine was 0.16 or
28 more based on the definition of blood, breath, or urine units
29 in Section 11-501.2, is guilty of a Class 2 felony and is not
30 eligible for a sentence of probation or conditional discharge
31 and is subject to a minimum fine of \$2,500.

32 (d) (1) Every person convicted of committing a violation of
33 this Section shall be guilty of aggravated driving under
34 the influence of alcohol, other drug or drugs, or
35 intoxicating compound or compounds, or any combination
36 thereof if:

1 (A) the person committed a violation of subsection
2 (a) or a similar provision for the third or subsequent
3 time;

4 (B) the person committed a violation of subsection
5 (a) while driving a school bus with persons 18 years of
6 age or younger on board;

7 (C) the person in committing a violation of
8 subsection (a) was involved in a motor vehicle accident
9 that resulted in great bodily harm or permanent
10 disability or disfigurement to another, when the
11 violation was a proximate cause of the injuries;

12 (D) the person committed a violation of subsection
13 (a) for a second time and has been previously convicted
14 of violating Section 9-3 of the Criminal Code of 1961
15 or a similar provision of a law of another state
16 relating to reckless homicide in which the person was
17 determined to have been under the influence of alcohol,
18 other drug or drugs, or intoxicating compound or
19 compounds as an element of the offense or the person
20 has previously been convicted under subparagraph (C)
21 or subparagraph (F) of this paragraph (1); or

22 (E) the person, in committing a violation of
23 subsection (a) while driving at any speed in a school
24 speed zone at a time when a speed limit of 20 miles per
25 hour was in effect under subsection (a) of Section
26 11-605 of this Code, was involved in a motor vehicle
27 accident that resulted in bodily harm, other than great
28 bodily harm or permanent disability or disfigurement,
29 to another person, when the violation of subsection (a)
30 was a proximate cause of the bodily harm. ~~or~~

31 (F) (Blank). ~~the person, in committing a violation~~
32 ~~of subsection (a), was involved in a motor vehicle,~~
33 ~~snowmobile, all-terrain vehicle, or watercraft~~
34 ~~accident that resulted in the death of another person,~~
35 ~~when the violation of subsection (a) was a proximate~~
36 ~~cause of the death.~~

1 (2) Except as provided in this paragraph (2), a person
2 convicted of aggravated driving under the influence of
3 alcohol, other drug or drugs, or intoxicating compound or
4 compounds, or any combination thereof is guilty of a Class
5 4 felony. For a violation of subparagraph (C) of paragraph
6 (1) of this subsection (d), the defendant, if sentenced to
7 a term of imprisonment, shall be sentenced to not less than
8 one year nor more than 12 years. ~~Aggravated driving under
9 the influence of alcohol, other drug or drugs, or
10 intoxicating compound or compounds, or any combination
11 thereof as defined in subparagraph (F) of paragraph (1) of
12 this subsection (d) is a Class 2 felony, for which the
13 defendant, if sentenced to a term of imprisonment, shall be
14 sentenced to: (A) a term of imprisonment of not less than 3
15 years and not more than 14 years if the violation resulted
16 in the death of one person; or (B) a term of imprisonment
17 of not less than 6 years and not more than 28 years if the
18 violation resulted in the deaths of 2 or more persons.~~ For
19 any prosecution under this subsection (d), a certified copy
20 of the driving abstract of the defendant shall be admitted
21 as proof of any prior conviction. Any person sentenced
22 under this subsection (d) who receives a term of probation
23 or conditional discharge must serve a minimum term of
24 either 480 hours of community service or 10 days of
25 imprisonment as a condition of the probation or conditional
26 discharge. This mandatory minimum term of imprisonment or
27 assignment of community service may not be suspended or
28 reduced by the court.

29 (e) After a finding of guilt and prior to any final
30 sentencing, or an order for supervision, for an offense based
31 upon an arrest for a violation of this Section or a similar
32 provision of a local ordinance, individuals shall be required
33 to undergo a professional evaluation to determine if an
34 alcohol, drug, or intoxicating compound abuse problem exists
35 and the extent of the problem, and undergo the imposition of
36 treatment as appropriate. Programs conducting these

1 evaluations shall be licensed by the Department of Human
2 Services. The cost of any professional evaluation shall be paid
3 for by the individual required to undergo the professional
4 evaluation.

5 (e-1) Any person who is found guilty of or pleads guilty to
6 violating this Section, including any person receiving a
7 disposition of court supervision for violating this Section,
8 may be required by the Court to attend a victim impact panel
9 offered by, or under contract with, a County State's Attorney's
10 office, a probation and court services department, Mothers
11 Against Drunk Driving, or the Alliance Against Intoxicated
12 Motorists. All costs generated by the victim impact panel shall
13 be paid from fees collected from the offender or as may be
14 determined by the court.

15 (f) Every person found guilty of violating this Section,
16 whose operation of a motor vehicle while in violation of this
17 Section proximately caused any incident resulting in an
18 appropriate emergency response, shall be liable for the expense
19 of an emergency response as provided under Section 5-5-3 of the
20 Unified Code of Corrections.

21 (g) The Secretary of State shall revoke the driving
22 privileges of any person convicted under this Section or a
23 similar provision of a local ordinance.

24 (h) (Blank).

25 (i) The Secretary of State shall require the use of
26 ignition interlock devices on all vehicles owned by an
27 individual who has been convicted of a second or subsequent
28 offense of this Section or a similar provision of a local
29 ordinance. The Secretary shall establish by rule and regulation
30 the procedures for certification and use of the interlock
31 system.

32 (j) In addition to any other penalties and liabilities, a
33 person who is found guilty of or pleads guilty to violating
34 subsection (a), including any person placed on court
35 supervision for violating subsection (a), shall be fined \$500,
36 payable to the circuit clerk, who shall distribute the money as

1 follows: 20% to the law enforcement agency that made the arrest
2 and 80% shall be forwarded to the State Treasurer for deposit
3 into the General Revenue Fund. If the person has been
4 previously convicted of violating subsection (a) or a similar
5 provision of a local ordinance, the fine shall be \$1,000. In
6 the event that more than one agency is responsible for the
7 arrest, the amount payable to law enforcement agencies shall be
8 shared equally. Any moneys received by a law enforcement agency
9 under this subsection (j) shall be used to purchase law
10 enforcement equipment that will assist in the prevention of
11 alcohol related criminal violence throughout the State. This
12 shall include, but is not limited to, in-car video cameras,
13 radar and laser speed detection devices, and alcohol breath
14 testers. Any moneys received by the Department of State Police
15 under this subsection (j) shall be deposited into the State
16 Police DUI Fund and shall be used to purchase law enforcement
17 equipment that will assist in the prevention of alcohol related
18 criminal violence throughout the State.

19 (k) The Secretary of State Police DUI Fund is created as a
20 special fund in the State treasury. All moneys received by the
21 Secretary of State Police under subsection (j) of this Section
22 shall be deposited into the Secretary of State Police DUI Fund
23 and, subject to appropriation, shall be used to purchase law
24 enforcement equipment to assist in the prevention of alcohol
25 related criminal violence throughout the State.

26 (l) Whenever an individual is sentenced for an offense
27 based upon an arrest for a violation of subsection (a) or a
28 similar provision of a local ordinance, and the professional
29 evaluation recommends remedial or rehabilitative treatment or
30 education, neither the treatment nor the education shall be the
31 sole disposition and either or both may be imposed only in
32 conjunction with another disposition. The court shall monitor
33 compliance with any remedial education or treatment
34 recommendations contained in the professional evaluation.
35 Programs conducting alcohol or other drug evaluation or
36 remedial education must be licensed by the Department of Human

1 Services. If the individual is not a resident of Illinois,
2 however, the court may accept an alcohol or other drug
3 evaluation or remedial education program in the individual's
4 state of residence. Programs providing treatment must be
5 licensed under existing applicable alcoholism and drug
6 treatment licensure standards.

7 (m) In addition to any other fine or penalty required by
8 law, an individual convicted of a violation of subsection (a),
9 Section 5-7 of the Snowmobile Registration and Safety Act,
10 Section 5-16 of the Boat Registration and Safety Act, or a
11 similar provision, whose operation of a motor vehicle,
12 snowmobile, or watercraft while in violation of subsection (a),
13 Section 5-7 of the Snowmobile Registration and Safety Act,
14 Section 5-16 of the Boat Registration and Safety Act, or a
15 similar provision proximately caused an incident resulting in
16 an appropriate emergency response, shall be required to make
17 restitution to a public agency for the costs of that emergency
18 response. The restitution may not exceed \$1,000 per public
19 agency for each emergency response. As used in this subsection
20 (m), "emergency response" means any incident requiring a
21 response by a police officer, a firefighter carried on the
22 rolls of a regularly constituted fire department, or an
23 ambulance.

24 (Source: P.A. 93-156, eff. 1-1-04; 93-213, eff. 7-18-03;
25 93-584, eff. 8-22-03; 93-712, eff. 1-1-05; 93-800, eff. 1-1-05;
26 93-840, eff. 7-30-04; 94-110, eff. 1-1-06.)

27 (Text of Section from P.A. 94-113 and 94-609)

28 Sec. 11-501. Driving while under the influence of alcohol,
29 other drug or drugs, intoxicating compound or compounds or any
30 combination thereof.

31 (a) A person shall not drive or be in actual physical
32 control of any vehicle within this State while:

33 (1) the alcohol concentration in the person's blood or
34 breath is 0.08 or more based on the definition of blood and
35 breath units in Section 11-501.2;

1 (2) under the influence of alcohol;

2 (3) under the influence of any intoxicating compound or
3 combination of intoxicating compounds to a degree that
4 renders the person incapable of driving safely;

5 (4) under the influence of any other drug or
6 combination of drugs to a degree that renders the person
7 incapable of safely driving;

8 (5) under the combined influence of alcohol, other drug
9 or drugs, or intoxicating compound or compounds to a degree
10 that renders the person incapable of safely driving; or

11 (6) there is any amount of a drug, substance, or
12 compound in the person's breath, blood, or urine resulting
13 from the unlawful use or consumption of cannabis listed in
14 the Cannabis Control Act, a controlled substance listed in
15 the Illinois Controlled Substances Act, or an intoxicating
16 compound listed in the Use of Intoxicating Compounds Act.

17 (b) The fact that any person charged with violating this
18 Section is or has been legally entitled to use alcohol, other
19 drug or drugs, or intoxicating compound or compounds, or any
20 combination thereof, shall not constitute a defense against any
21 charge of violating this Section.

22 (b-1) With regard to penalties imposed under this Section:

23 (1) Any reference to a prior violation of subsection
24 (a) or a similar provision includes any violation of a
25 provision of a local ordinance or a provision of a law of
26 another state that is similar to a violation of subsection
27 (a) of this Section.

28 (2) Any penalty imposed for driving with a license that
29 has been revoked for a previous violation of subsection (a)
30 of this Section shall be in addition to the penalty imposed
31 for any subsequent violation of subsection (a).

32 (b-2) Except as otherwise provided in this Section, any
33 person convicted of violating subsection (a) of this Section is
34 guilty of a Class A misdemeanor.

35 (b-3) In addition to any other criminal or administrative
36 sanction for any second conviction of violating subsection (a)

1 or a similar provision committed within 5 years of a previous
2 violation of subsection (a) or a similar provision, the
3 defendant shall be sentenced to a mandatory minimum of 5 days
4 of imprisonment or assigned a mandatory minimum of 240 hours of
5 community service as may be determined by the court.

6 (b-4) In the case of a third or subsequent violation
7 committed within 5 years of a previous violation of subsection
8 (a) or a similar provision, in addition to any other criminal
9 or administrative sanction, a mandatory minimum term of either
10 10 days of imprisonment or 480 hours of community service shall
11 be imposed.

12 (b-5) The imprisonment or assignment of community service
13 under subsections (b-3) and (b-4) shall not be subject to
14 suspension, nor shall the person be eligible for a reduced
15 sentence.

16 (c) (Blank).

17 (c-1) (1) A person who violates subsection (a) during a
18 period in which his or her driving privileges are revoked
19 or suspended, where the revocation or suspension was for a
20 violation of subsection (a), Section 11-501.1, paragraph
21 (b) of Section 11-401, or for reckless homicide as defined
22 in Section 9-3 of the Criminal Code of 1961 is guilty of a
23 Class 4 felony.

24 (2) A person who violates subsection (a) a third time,
25 if the third violation occurs during a period in which his
26 or her driving privileges are revoked or suspended where
27 the revocation or suspension was for a violation of
28 subsection (a), Section 11-501.1, paragraph (b) of Section
29 11-401, or for reckless homicide as defined in Section 9-3
30 of the Criminal Code of 1961, is guilty of a Class 3
31 felony.

32 (2.1) A person who violates subsection (a) a third
33 time, if the third violation occurs during a period in
34 which his or her driving privileges are revoked or
35 suspended where the revocation or suspension was for a
36 violation of subsection (a), Section 11-501.1, subsection

1 (b) of Section 11-401, or for reckless homicide as defined
2 in Section 9-3 of the Criminal Code of 1961, is guilty of a
3 Class 3 felony; and if the person receives a term of
4 probation or conditional discharge, he or she shall be
5 required to serve a mandatory minimum of 10 days of
6 imprisonment or shall be assigned a mandatory minimum of
7 480 hours of community service, as may be determined by the
8 court, as a condition of the probation or conditional
9 discharge. This mandatory minimum term of imprisonment or
10 assignment of community service shall not be suspended or
11 reduced by the court.

12 (2.2) A person who violates subsection (a), if the
13 violation occurs during a period in which his or her
14 driving privileges are revoked or suspended where the
15 revocation or suspension was for a violation of subsection
16 (a) or Section 11-501.1, shall also be sentenced to an
17 additional mandatory minimum term of 30 consecutive days of
18 imprisonment, 40 days of 24-hour periodic imprisonment, or
19 720 hours of community service, as may be determined by the
20 court. This mandatory term of imprisonment or assignment of
21 community service shall not be suspended or reduced by the
22 court.

23 (3) A person who violates subsection (a) a fourth or
24 subsequent time, if the fourth or subsequent violation
25 occurs during a period in which his or her driving
26 privileges are revoked or suspended where the revocation or
27 suspension was for a violation of subsection (a), Section
28 11-501.1, paragraph (b) of Section 11-401, or for reckless
29 homicide as defined in Section 9-3 of the Criminal Code of
30 1961, is guilty of a Class 2 felony and is not eligible for
31 a sentence of probation or conditional discharge.

32 (c-2) (Blank).

33 (c-3) (Blank).

34 (c-4) (Blank).

35 (c-5) A person who violates subsection (a), if the person
36 was transporting a person under the age of 16 at the time of

1 the violation, is subject to an additional mandatory minimum
2 fine of \$1,000, an additional mandatory minimum 140 hours of
3 community service, which shall include 40 hours of community
4 service in a program benefiting children, and an additional 2
5 days of imprisonment. The imprisonment or assignment of
6 community service under this subsection (c-5) is not subject to
7 suspension, nor is the person eligible for a reduced sentence.

8 (c-6) Except as provided in subsections (c-7) and (c-8) a
9 person who violates subsection (a) a second time, if at the
10 time of the second violation the person was transporting a
11 person under the age of 16, is subject to an additional 10 days
12 of imprisonment, an additional mandatory minimum fine of
13 \$1,000, and an additional mandatory minimum 140 hours of
14 community service, which shall include 40 hours of community
15 service in a program benefiting children. The imprisonment or
16 assignment of community service under this subsection (c-6) is
17 not subject to suspension, nor is the person eligible for a
18 reduced sentence.

19 (c-7) Except as provided in subsection (c-8), any person
20 convicted of violating subsection (c-6) or a similar provision
21 within 10 years of a previous violation of subsection (a) or a
22 similar provision shall receive, in addition to any other
23 penalty imposed, a mandatory minimum 12 days imprisonment, an
24 additional 40 hours of mandatory community service in a program
25 benefiting children, and a mandatory minimum fine of \$1,750.
26 The imprisonment or assignment of community service under this
27 subsection (c-7) is not subject to suspension, nor is the
28 person eligible for a reduced sentence.

29 (c-8) Any person convicted of violating subsection (c-6) or
30 a similar provision within 5 years of a previous violation of
31 subsection (a) or a similar provision shall receive, in
32 addition to any other penalty imposed, an additional 80 hours
33 of mandatory community service in a program benefiting
34 children, an additional mandatory minimum 12 days of
35 imprisonment, and a mandatory minimum fine of \$1,750. The
36 imprisonment or assignment of community service under this

1 subsection (c-8) is not subject to suspension, nor is the
2 person eligible for a reduced sentence.

3 (c-9) Any person convicted a third time for violating
4 subsection (a) or a similar provision, if at the time of the
5 third violation the person was transporting a person under the
6 age of 16, is guilty of a Class 4 felony and shall receive, in
7 addition to any other penalty imposed, an additional mandatory
8 fine of \$1,000, an additional mandatory 140 hours of community
9 service, which shall include 40 hours in a program benefiting
10 children, and a mandatory minimum 30 days of imprisonment. The
11 imprisonment or assignment of community service under this
12 subsection (c-9) is not subject to suspension, nor is the
13 person eligible for a reduced sentence.

14 (c-10) Any person convicted of violating subsection (c-9)
15 or a similar provision a third time within 20 years of a
16 previous violation of subsection (a) or a similar provision is
17 guilty of a Class 4 felony and shall receive, in addition to
18 any other penalty imposed, an additional mandatory 40 hours of
19 community service in a program benefiting children, an
20 additional mandatory fine of \$3,000, and a mandatory minimum
21 120 days of imprisonment. The imprisonment or assignment of
22 community service under this subsection (c-10) is not subject
23 to suspension, nor is the person eligible for a reduced
24 sentence.

25 (c-11) Any person convicted a fourth or subsequent time for
26 violating subsection (a) or a similar provision, if at the time
27 of the fourth or subsequent violation the person was
28 transporting a person under the age of 16, and if the person's
29 3 prior violations of subsection (a) or a similar provision
30 occurred while transporting a person under the age of 16 or
31 while the alcohol concentration in his or her blood, breath, or
32 urine was 0.16 or more based on the definition of blood,
33 breath, or urine units in Section 11-501.2, is guilty of a
34 Class 2 felony, is not eligible for probation or conditional
35 discharge, and is subject to a minimum fine of \$3,000.

36 (c-12) Any person convicted of a first violation of

1 subsection (a) or a similar provision, if the alcohol
2 concentration in his or her blood, breath, or urine was 0.16 or
3 more based on the definition of blood, breath, or urine units
4 in Section 11-501.2, shall be subject, in addition to any other
5 penalty that may be imposed, to a mandatory minimum of 100
6 hours of community service and a mandatory minimum fine of
7 \$500.

8 (c-13) Any person convicted of a second violation of
9 subsection (a) or a similar provision committed within 10 years
10 of a previous violation of subsection (a) or a similar
11 provision committed within 10 years of a previous violation of
12 subsection (a) or a similar provision, if at the time of the
13 second violation of subsection (a) the alcohol concentration in
14 his or her blood, breath, or urine was 0.16 or more based on
15 the definition of blood, breath, or urine units in Section
16 11-501.2, shall be subject, in addition to any other penalty
17 that may be imposed, to a mandatory minimum of 2 days of
18 imprisonment and a mandatory minimum fine of \$1,250.

19 (c-14) Any person convicted of a third violation of
20 subsection (a) or a similar provision within 20 years of a
21 previous violation of subsection (a) or a similar provision, if
22 at the time of the third violation of subsection (a) or a
23 similar provision the alcohol concentration in his or her
24 blood, breath, or urine was 0.16 or more based on the
25 definition of blood, breath, or urine units in Section
26 11-501.2, is guilty of a Class 4 felony and shall be subject,
27 in addition to any other penalty that may be imposed, to a
28 mandatory minimum of 90 days of imprisonment and a mandatory
29 minimum fine of \$2,500.

30 (c-15) Any person convicted of a fourth or subsequent
31 violation of subsection (a) or a similar provision, if at the
32 time of the fourth or subsequent violation the alcohol
33 concentration in his or her blood, breath, or urine was 0.16 or
34 more based on the definition of blood, breath, or urine units
35 in Section 11-501.2, and if the person's 3 prior violations of
36 subsection (a) or a similar provision occurred while

1 transporting a person under the age of 16 or while the alcohol
2 concentration in his or her blood, breath, or urine was 0.16 or
3 more based on the definition of blood, breath, or urine units
4 in Section 11-501.2, is guilty of a Class 2 felony and is not
5 eligible for a sentence of probation or conditional discharge
6 and is subject to a minimum fine of \$2,500.

7 (d) (1) Every person convicted of committing a violation of
8 this Section shall be guilty of aggravated driving under
9 the influence of alcohol, other drug or drugs, or
10 intoxicating compound or compounds, or any combination
11 thereof if:

12 (A) the person committed a violation of subsection
13 (a) or a similar provision for the third or subsequent
14 time;

15 (B) the person committed a violation of subsection
16 (a) while driving a school bus with persons 18 years of
17 age or younger on board;

18 (C) the person in committing a violation of
19 subsection (a) was involved in a motor vehicle accident
20 that resulted in great bodily harm or permanent
21 disability or disfigurement to another, when the
22 violation was a proximate cause of the injuries;

23 (D) the person committed a violation of subsection
24 (a) for a second time and has been previously convicted
25 of violating Section 9-3 of the Criminal Code of 1961
26 or a similar provision of a law of another state
27 relating to reckless homicide in which the person was
28 determined to have been under the influence of alcohol,
29 other drug or drugs, or intoxicating compound or
30 compounds as an element of the offense or the person
31 has previously been convicted under subparagraph (C)
32 or subparagraph (F) of this paragraph (1); or

33 (E) the person, in committing a violation of
34 subsection (a) while driving at any speed in a school
35 speed zone at a time when a speed limit of 20 miles per
36 hour was in effect under subsection (a) of Section

1 11-605 of this Code, was involved in a motor vehicle
2 accident that resulted in bodily harm, other than great
3 bodily harm or permanent disability or disfigurement,
4 to another person, when the violation of subsection (a)
5 was a proximate cause of the bodily harm. ~~or~~

6 (F) (Blank). ~~the person, in committing a violation~~
7 ~~of subsection (a), was involved in a motor vehicle,~~
8 ~~snowmobile, all terrain vehicle, or watercraft~~
9 ~~accident that resulted in the death of another person,~~
10 ~~when the violation of subsection (a) was a proximate~~
11 ~~cause of the death.~~

12 (2) Except as provided in this paragraph (2), a person
13 convicted of aggravated driving under the influence of
14 alcohol, other drug or drugs, or intoxicating compound or
15 compounds, or any combination thereof is guilty of a Class
16 4 felony. For a violation of subparagraph (C) of paragraph
17 (1) of this subsection (d), the defendant, if sentenced to
18 a term of imprisonment, shall be sentenced to not less than
19 one year nor more than 12 years. ~~Aggravated driving under~~
20 ~~the influence of alcohol, other drug or drugs, or~~
21 ~~intoxicating compound or compounds, or any combination~~
22 ~~thereof as defined in subparagraph (F) of paragraph (1) of~~
23 ~~this subsection (d) is a Class 2 felony, for which the~~
24 ~~defendant, unless the court determines that extraordinary~~
25 ~~circumstances exist and require probation, shall be~~
26 ~~sentenced to: (A) a term of imprisonment of not less than 3~~
27 ~~years and not more than 14 years if the violation resulted~~
28 ~~in the death of one person; or (B) a term of imprisonment~~
29 ~~of not less than 6 years and not more than 28 years if the~~
30 ~~violation resulted in the deaths of 2 or more persons. For~~
31 any prosecution under this subsection (d), a certified copy
32 of the driving abstract of the defendant shall be admitted
33 as proof of any prior conviction. Any person sentenced
34 under this subsection (d) who receives a term of probation
35 or conditional discharge must serve a minimum term of
36 either 480 hours of community service or 10 days of

1 imprisonment as a condition of the probation or conditional
2 discharge. This mandatory minimum term of imprisonment or
3 assignment of community service may not be suspended or
4 reduced by the court.

5 (e) After a finding of guilt and prior to any final
6 sentencing, or an order for supervision, for an offense based
7 upon an arrest for a violation of this Section or a similar
8 provision of a local ordinance, individuals shall be required
9 to undergo a professional evaluation to determine if an
10 alcohol, drug, or intoxicating compound abuse problem exists
11 and the extent of the problem, and undergo the imposition of
12 treatment as appropriate. Programs conducting these
13 evaluations shall be licensed by the Department of Human
14 Services. The cost of any professional evaluation shall be paid
15 for by the individual required to undergo the professional
16 evaluation.

17 (e-1) Any person who is found guilty of or pleads guilty to
18 violating this Section, including any person receiving a
19 disposition of court supervision for violating this Section,
20 may be required by the Court to attend a victim impact panel
21 offered by, or under contract with, a County State's Attorney's
22 office, a probation and court services department, Mothers
23 Against Drunk Driving, or the Alliance Against Intoxicated
24 Motorists. All costs generated by the victim impact panel shall
25 be paid from fees collected from the offender or as may be
26 determined by the court.

27 (f) Every person found guilty of violating this Section,
28 whose operation of a motor vehicle while in violation of this
29 Section proximately caused any incident resulting in an
30 appropriate emergency response, shall be liable for the expense
31 of an emergency response as provided under Section 5-5-3 of the
32 Unified Code of Corrections.

33 (g) The Secretary of State shall revoke the driving
34 privileges of any person convicted under this Section or a
35 similar provision of a local ordinance.

36 (h) (Blank).

1 (i) The Secretary of State shall require the use of
2 ignition interlock devices on all vehicles owned by an
3 individual who has been convicted of a second or subsequent
4 offense of this Section or a similar provision of a local
5 ordinance. The Secretary shall establish by rule and regulation
6 the procedures for certification and use of the interlock
7 system.

8 (j) In addition to any other penalties and liabilities, a
9 person who is found guilty of or pleads guilty to violating
10 subsection (a), including any person placed on court
11 supervision for violating subsection (a), shall be fined \$500,
12 payable to the circuit clerk, who shall distribute the money as
13 follows: 20% to the law enforcement agency that made the arrest
14 and 80% shall be forwarded to the State Treasurer for deposit
15 into the General Revenue Fund. If the person has been
16 previously convicted of violating subsection (a) or a similar
17 provision of a local ordinance, the fine shall be \$1,000. In
18 the event that more than one agency is responsible for the
19 arrest, the amount payable to law enforcement agencies shall be
20 shared equally. Any moneys received by a law enforcement agency
21 under this subsection (j) shall be used to purchase law
22 enforcement equipment that will assist in the prevention of
23 alcohol related criminal violence throughout the State. This
24 shall include, but is not limited to, in-car video cameras,
25 radar and laser speed detection devices, and alcohol breath
26 testers. Any moneys received by the Department of State Police
27 under this subsection (j) shall be deposited into the State
28 Police DUI Fund and shall be used to purchase law enforcement
29 equipment that will assist in the prevention of alcohol related
30 criminal violence throughout the State.

31 (k) The Secretary of State Police DUI Fund is created as a
32 special fund in the State treasury. All moneys received by the
33 Secretary of State Police under subsection (j) of this Section
34 shall be deposited into the Secretary of State Police DUI Fund
35 and, subject to appropriation, shall be used to purchase law
36 enforcement equipment to assist in the prevention of alcohol

1 related criminal violence throughout the State.

2 (l) Whenever an individual is sentenced for an offense
3 based upon an arrest for a violation of subsection (a) or a
4 similar provision of a local ordinance, and the professional
5 evaluation recommends remedial or rehabilitative treatment or
6 education, neither the treatment nor the education shall be the
7 sole disposition and either or both may be imposed only in
8 conjunction with another disposition. The court shall monitor
9 compliance with any remedial education or treatment
10 recommendations contained in the professional evaluation.
11 Programs conducting alcohol or other drug evaluation or
12 remedial education must be licensed by the Department of Human
13 Services. If the individual is not a resident of Illinois,
14 however, the court may accept an alcohol or other drug
15 evaluation or remedial education program in the individual's
16 state of residence. Programs providing treatment must be
17 licensed under existing applicable alcoholism and drug
18 treatment licensure standards.

19 (m) In addition to any other fine or penalty required by
20 law, an individual convicted of a violation of subsection (a),
21 Section 5-7 of the Snowmobile Registration and Safety Act,
22 Section 5-16 of the Boat Registration and Safety Act, or a
23 similar provision, whose operation of a motor vehicle,
24 snowmobile, or watercraft while in violation of subsection (a),
25 Section 5-7 of the Snowmobile Registration and Safety Act,
26 Section 5-16 of the Boat Registration and Safety Act, or a
27 similar provision proximately caused an incident resulting in
28 an appropriate emergency response, shall be required to make
29 restitution to a public agency for the costs of that emergency
30 response. The restitution may not exceed \$1,000 per public
31 agency for each emergency response. As used in this subsection
32 (m), "emergency response" means any incident requiring a
33 response by a police officer, a firefighter carried on the
34 rolls of a regularly constituted fire department, or an
35 ambulance.

36 (Source: P.A. 93-156, eff. 1-1-04; 93-213, eff. 7-18-03;

1 93-584, eff. 8-22-03; 93-712, eff. 1-1-05; 93-800, eff. 1-1-05;
2 93-840, eff. 7-30-04; 94-113, eff. 1-1-06; 94-609, eff.
3 1-1-06.)

4 (Text of Section from P.A. 94-114)

5 Sec. 11-501. Driving while under the influence of alcohol,
6 other drug or drugs, intoxicating compound or compounds or any
7 combination thereof.

8 (a) A person shall not drive or be in actual physical
9 control of any vehicle within this State while:

10 (1) the alcohol concentration in the person's blood or
11 breath is 0.08 or more based on the definition of blood and
12 breath units in Section 11-501.2;

13 (2) under the influence of alcohol;

14 (3) under the influence of any intoxicating compound or
15 combination of intoxicating compounds to a degree that
16 renders the person incapable of driving safely;

17 (4) under the influence of any other drug or
18 combination of drugs to a degree that renders the person
19 incapable of safely driving;

20 (5) under the combined influence of alcohol, other drug
21 or drugs, or intoxicating compound or compounds to a degree
22 that renders the person incapable of safely driving; or

23 (6) there is any amount of a drug, substance, or
24 compound in the person's breath, blood, or urine resulting
25 from the unlawful use or consumption of cannabis listed in
26 the Cannabis Control Act, a controlled substance listed in
27 the Illinois Controlled Substances Act, or an intoxicating
28 compound listed in the Use of Intoxicating Compounds Act.

29 (b) The fact that any person charged with violating this
30 Section is or has been legally entitled to use alcohol, other
31 drug or drugs, or intoxicating compound or compounds, or any
32 combination thereof, shall not constitute a defense against any
33 charge of violating this Section.

34 (b-1) With regard to penalties imposed under this Section:

35 (1) Any reference to a prior violation of subsection

1 (a) or a similar provision includes any violation of a
2 provision of a local ordinance or a provision of a law of
3 another state that is similar to a violation of subsection
4 (a) of this Section.

5 (2) Any penalty imposed for driving with a license that
6 has been revoked for a previous violation of subsection (a)
7 of this Section shall be in addition to the penalty imposed
8 for any subsequent violation of subsection (a).

9 (b-2) Except as otherwise provided in this Section, any
10 person convicted of violating subsection (a) of this Section is
11 guilty of a Class A misdemeanor.

12 (b-3) In addition to any other criminal or administrative
13 sanction for any second conviction of violating subsection (a)
14 or a similar provision committed within 5 years of a previous
15 violation of subsection (a) or a similar provision, the
16 defendant shall be sentenced to a mandatory minimum of 5 days
17 of imprisonment or assigned a mandatory minimum of 240 hours of
18 community service as may be determined by the court.

19 (b-4) In the case of a third or subsequent violation
20 committed within 5 years of a previous violation of subsection
21 (a) or a similar provision, in addition to any other criminal
22 or administrative sanction, a mandatory minimum term of either
23 10 days of imprisonment or 480 hours of community service shall
24 be imposed.

25 (b-5) The imprisonment or assignment of community service
26 under subsections (b-3) and (b-4) shall not be subject to
27 suspension, nor shall the person be eligible for a reduced
28 sentence.

29 (c) (Blank).

30 (c-1) (1) A person who violates subsection (a) during a
31 period in which his or her driving privileges are revoked
32 or suspended, where the revocation or suspension was for a
33 violation of subsection (a), Section 11-501.1, paragraph
34 (b) of Section 11-401, or for reckless homicide as defined
35 in Section 9-3 of the Criminal Code of 1961 is guilty of a
36 Class 4 felony.

1 (2) A person who violates subsection (a) a third time,
2 if the third violation occurs during a period in which his
3 or her driving privileges are revoked or suspended where
4 the revocation or suspension was for a violation of
5 subsection (a), Section 11-501.1, paragraph (b) of Section
6 11-401, or for reckless homicide as defined in Section 9-3
7 of the Criminal Code of 1961, is guilty of a Class 3
8 felony.

9 (2.1) A person who violates subsection (a) a third
10 time, if the third violation occurs during a period in
11 which his or her driving privileges are revoked or
12 suspended where the revocation or suspension was for a
13 violation of subsection (a), Section 11-501.1, subsection
14 (b) of Section 11-401, or for reckless homicide as defined
15 in Section 9-3 of the Criminal Code of 1961, is guilty of a
16 Class 3 felony; and if the person receives a term of
17 probation or conditional discharge, he or she shall be
18 required to serve a mandatory minimum of 10 days of
19 imprisonment or shall be assigned a mandatory minimum of
20 480 hours of community service, as may be determined by the
21 court, as a condition of the probation or conditional
22 discharge. This mandatory minimum term of imprisonment or
23 assignment of community service shall not be suspended or
24 reduced by the court.

25 (2.2) A person who violates subsection (a), if the
26 violation occurs during a period in which his or her
27 driving privileges are revoked or suspended where the
28 revocation or suspension was for a violation of subsection
29 (a) or Section 11-501.1, shall also be sentenced to an
30 additional mandatory minimum term of 30 consecutive days of
31 imprisonment, 40 days of 24-hour periodic imprisonment, or
32 720 hours of community service, as may be determined by the
33 court. This mandatory term of imprisonment or assignment of
34 community service shall not be suspended or reduced by the
35 court.

36 (3) A person who violates subsection (a) a fourth or

1 fifth time, if the fourth or fifth violation occurs during
2 a period in which his or her driving privileges are revoked
3 or suspended where the revocation or suspension was for a
4 violation of subsection (a), Section 11-501.1, paragraph
5 (b) of Section 11-401, or for reckless homicide as defined
6 in Section 9-3 of the Criminal Code of 1961, is guilty of a
7 Class 2 felony and is not eligible for a sentence of
8 probation or conditional discharge.

9 (c-2) (Blank).

10 (c-3) (Blank).

11 (c-4) (Blank).

12 (c-5) A person who violates subsection (a), if the person
13 was transporting a person under the age of 16 at the time of
14 the violation, is subject to an additional mandatory minimum
15 fine of \$1,000, an additional mandatory minimum 140 hours of
16 community service, which shall include 40 hours of community
17 service in a program benefiting children, and an additional 2
18 days of imprisonment. The imprisonment or assignment of
19 community service under this subsection (c-5) is not subject to
20 suspension, nor is the person eligible for a reduced sentence.

21 (c-6) Except as provided in subsections (c-7) and (c-8) a
22 person who violates subsection (a) a second time, if at the
23 time of the second violation the person was transporting a
24 person under the age of 16, is subject to an additional 10 days
25 of imprisonment, an additional mandatory minimum fine of
26 \$1,000, and an additional mandatory minimum 140 hours of
27 community service, which shall include 40 hours of community
28 service in a program benefiting children. The imprisonment or
29 assignment of community service under this subsection (c-6) is
30 not subject to suspension, nor is the person eligible for a
31 reduced sentence.

32 (c-7) Except as provided in subsection (c-8), any person
33 convicted of violating subsection (c-6) or a similar provision
34 within 10 years of a previous violation of subsection (a) or a
35 similar provision shall receive, in addition to any other
36 penalty imposed, a mandatory minimum 12 days imprisonment, an

1 additional 40 hours of mandatory community service in a program
2 benefiting children, and a mandatory minimum fine of \$1,750.
3 The imprisonment or assignment of community service under this
4 subsection (c-7) is not subject to suspension, nor is the
5 person eligible for a reduced sentence.

6 (c-8) Any person convicted of violating subsection (c-6) or
7 a similar provision within 5 years of a previous violation of
8 subsection (a) or a similar provision shall receive, in
9 addition to any other penalty imposed, an additional 80 hours
10 of mandatory community service in a program benefiting
11 children, an additional mandatory minimum 12 days of
12 imprisonment, and a mandatory minimum fine of \$1,750. The
13 imprisonment or assignment of community service under this
14 subsection (c-8) is not subject to suspension, nor is the
15 person eligible for a reduced sentence.

16 (c-9) Any person convicted a third time for violating
17 subsection (a) or a similar provision, if at the time of the
18 third violation the person was transporting a person under the
19 age of 16, is guilty of a Class 4 felony and shall receive, in
20 addition to any other penalty imposed, an additional mandatory
21 fine of \$1,000, an additional mandatory 140 hours of community
22 service, which shall include 40 hours in a program benefiting
23 children, and a mandatory minimum 30 days of imprisonment. The
24 imprisonment or assignment of community service under this
25 subsection (c-9) is not subject to suspension, nor is the
26 person eligible for a reduced sentence.

27 (c-10) Any person convicted of violating subsection (c-9)
28 or a similar provision a third time within 20 years of a
29 previous violation of subsection (a) or a similar provision is
30 guilty of a Class 4 felony and shall receive, in addition to
31 any other penalty imposed, an additional mandatory 40 hours of
32 community service in a program benefiting children, an
33 additional mandatory fine of \$3,000, and a mandatory minimum
34 120 days of imprisonment. The imprisonment or assignment of
35 community service under this subsection (c-10) is not subject
36 to suspension, nor is the person eligible for a reduced

1 sentence.

2 (c-11) Any person convicted a fourth or fifth time for
3 violating subsection (a) or a similar provision, if at the time
4 of the fourth or fifth violation the person was transporting a
5 person under the age of 16, and if the person's 3 prior
6 violations of subsection (a) or a similar provision occurred
7 while transporting a person under the age of 16 or while the
8 alcohol concentration in his or her blood, breath, or urine was
9 0.16 or more based on the definition of blood, breath, or urine
10 units in Section 11-501.2, is guilty of a Class 2 felony, is
11 not eligible for probation or conditional discharge, and is
12 subject to a minimum fine of \$3,000.

13 (c-12) Any person convicted of a first violation of
14 subsection (a) or a similar provision, if the alcohol
15 concentration in his or her blood, breath, or urine was 0.16 or
16 more based on the definition of blood, breath, or urine units
17 in Section 11-501.2, shall be subject, in addition to any other
18 penalty that may be imposed, to a mandatory minimum of 100
19 hours of community service and a mandatory minimum fine of
20 \$500.

21 (c-13) Any person convicted of a second violation of
22 subsection (a) or a similar provision committed within 10 years
23 of a previous violation of subsection (a) or a similar
24 provision committed within 10 years of a previous violation of
25 subsection (a) or a similar provision, if at the time of the
26 second violation of subsection (a) the alcohol concentration in
27 his or her blood, breath, or urine was 0.16 or more based on
28 the definition of blood, breath, or urine units in Section
29 11-501.2, shall be subject, in addition to any other penalty
30 that may be imposed, to a mandatory minimum of 2 days of
31 imprisonment and a mandatory minimum fine of \$1,250.

32 (c-14) Any person convicted of a third violation of
33 subsection (a) or a similar provision within 20 years of a
34 previous violation of subsection (a) or a similar provision, if
35 at the time of the third violation of subsection (a) or a
36 similar provision the alcohol concentration in his or her

1 blood, breath, or urine was 0.16 or more based on the
2 definition of blood, breath, or urine units in Section
3 11-501.2, is guilty of a Class 4 felony and shall be subject,
4 in addition to any other penalty that may be imposed, to a
5 mandatory minimum of 90 days of imprisonment and a mandatory
6 minimum fine of \$2,500.

7 (c-15) Any person convicted of a fourth or fifth violation
8 of subsection (a) or a similar provision, if at the time of the
9 fourth or fifth violation the alcohol concentration in his or
10 her blood, breath, or urine was 0.16 or more based on the
11 definition of blood, breath, or urine units in Section
12 11-501.2, and if the person's 3 prior violations of subsection
13 (a) or a similar provision occurred while transporting a person
14 under the age of 16 or while the alcohol concentration in his
15 or her blood, breath, or urine was 0.16 or more based on the
16 definition of blood, breath, or urine units in Section
17 11-501.2, is guilty of a Class 2 felony and is not eligible for
18 a sentence of probation or conditional discharge and is subject
19 to a minimum fine of \$2,500.

20 (c-16) Any person convicted of a sixth or subsequent
21 violation of subsection (a) is guilty of a Class X felony.

22 (d) (1) Every person convicted of committing a violation of
23 this Section shall be guilty of aggravated driving under
24 the influence of alcohol, other drug or drugs, or
25 intoxicating compound or compounds, or any combination
26 thereof if:

27 (A) the person committed a violation of subsection
28 (a) or a similar provision for the third or subsequent
29 time;

30 (B) the person committed a violation of subsection
31 (a) while driving a school bus with persons 18 years of
32 age or younger on board;

33 (C) the person in committing a violation of
34 subsection (a) was involved in a motor vehicle accident
35 that resulted in great bodily harm or permanent
36 disability or disfigurement to another, when the

1 violation was a proximate cause of the injuries;

2 (D) the person committed a violation of subsection
3 (a) for a second time and has been previously convicted
4 of violating Section 9-3 of the Criminal Code of 1961
5 or a similar provision of a law of another state
6 relating to reckless homicide in which the person was
7 determined to have been under the influence of alcohol,
8 other drug or drugs, or intoxicating compound or
9 compounds as an element of the offense or the person
10 has previously been convicted under subparagraph (C)
11 or subparagraph (F) of this paragraph (1); or

12 (E) the person, in committing a violation of
13 subsection (a) while driving at any speed in a school
14 speed zone at a time when a speedlimit of 20 miles per
15 hour was in effect under subsection (a) of Section
16 11-605 of this Code, was involved in a motor vehicle
17 accident that resulted in bodily harm, other than great
18 bodily harm or permanent disability or disfigurement,
19 to another person, when the violation of subsection (a)
20 was a proximate cause of the bodily harm. ~~or~~

21 (F) (Blank). ~~the person, in committing a violation~~
22 ~~of subsection (a), was involved in a motor vehicle,~~
23 ~~snowmobile, all-terrain vehicle, or watercraft~~
24 ~~accident that resulted in the death of another person,~~
25 ~~when the violation of subsection (a) was a proximate~~
26 ~~cause of the death.~~

27 (2) Except as provided in this paragraph (2), a person
28 convicted of aggravated driving under the influence of
29 alcohol, other drug or drugs, or intoxicating compound or
30 compounds, or any combination thereof is guilty of a Class
31 4 felony. For a violation of subparagraph (C) of paragraph
32 (1) of this subsection (d), the defendant, if sentenced to
33 a term of imprisonment, shall be sentenced to not less than
34 one year nor more than 12 years. ~~Aggravated driving under~~
35 ~~the influence of alcohol, other drug or drugs, or~~
36 ~~intoxicating compound or compounds, or any combination~~

1 ~~thereof as defined in subparagraph (F) of paragraph (1) of~~
2 ~~this subsection (d) is a Class 2 felony, for which the~~
3 ~~defendant, if sentenced to a term of imprisonment, shall be~~
4 ~~sentenced to: (A) a term of imprisonment of not less than 3~~
5 ~~years and not more than 14 years if the violation resulted~~
6 ~~in the death of one person; or (B) a term of imprisonment~~
7 ~~of not less than 6 years and not more than 28 years if the~~
8 ~~violation resulted in the deaths of 2 or more persons.~~ For
9 any prosecution under this subsection (d), a certified copy
10 of the driving abstract of the defendant shall be admitted
11 as proof of any prior conviction. Any person sentenced
12 under this subsection (d) who receives a term of probation
13 or conditional discharge must serve a minimum term of
14 either 480 hours of community service or 10 days of
15 imprisonment as a condition of the probation or conditional
16 discharge. This mandatory minimum term of imprisonment or
17 assignment of community service may not be suspended or
18 reduced by the court.

19 (e) After a finding of guilt and prior to any final
20 sentencing, or an order for supervision, for an offense based
21 upon an arrest for a violation of this Section or a similar
22 provision of a local ordinance, individuals shall be required
23 to undergo a professional evaluation to determine if an
24 alcohol, drug, or intoxicating compound abuse problem exists
25 and the extent of the problem, and undergo the imposition of
26 treatment as appropriate. Programs conducting these
27 evaluations shall be licensed by the Department of Human
28 Services. The cost of any professional evaluation shall be paid
29 for by the individual required to undergo the professional
30 evaluation.

31 (e-1) Any person who is found guilty of or pleads guilty to
32 violating this Section, including any person receiving a
33 disposition of court supervision for violating this Section,
34 may be required by the Court to attend a victim impact panel
35 offered by, or under contract with, a County State's Attorney's
36 office, a probation and court services department, Mothers

1 Against Drunk Driving, or the Alliance Against Intoxicated
2 Motorists. All costs generated by the victim impact panel shall
3 be paid from fees collected from the offender or as may be
4 determined by the court.

5 (f) Every person found guilty of violating this Section,
6 whose operation of a motor vehicle while in violation of this
7 Section proximately caused any incident resulting in an
8 appropriate emergency response, shall be liable for the expense
9 of an emergency response as provided under Section 5-5-3 of the
10 Unified Code of Corrections.

11 (g) The Secretary of State shall revoke the driving
12 privileges of any person convicted under this Section or a
13 similar provision of a local ordinance.

14 (h) (Blank).

15 (i) The Secretary of State shall require the use of
16 ignition interlock devices on all vehicles owned by an
17 individual who has been convicted of a second or subsequent
18 offense of this Section or a similar provision of a local
19 ordinance. The Secretary shall establish by rule and regulation
20 the procedures for certification and use of the interlock
21 system.

22 (j) In addition to any other penalties and liabilities, a
23 person who is found guilty of or pleads guilty to violating
24 subsection (a), including any person placed on court
25 supervision for violating subsection (a), shall be fined \$500,
26 payable to the circuit clerk, who shall distribute the money as
27 follows: 20% to the law enforcement agency that made the arrest
28 and 80% shall be forwarded to the State Treasurer for deposit
29 into the General Revenue Fund. If the person has been
30 previously convicted of violating subsection (a) or a similar
31 provision of a local ordinance, the fine shall be \$1,000. In
32 the event that more than one agency is responsible for the
33 arrest, the amount payable to law enforcement agencies shall be
34 shared equally. Any moneys received by a law enforcement agency
35 under this subsection (j) shall be used to purchase law
36 enforcement equipment that will assist in the prevention of

1 alcohol related criminal violence throughout the State. This
2 shall include, but is not limited to, in-car video cameras,
3 radar and laser speed detection devices, and alcohol breath
4 testers. Any moneys received by the Department of State Police
5 under this subsection (j) shall be deposited into the State
6 Police DUI Fund and shall be used to purchase law enforcement
7 equipment that will assist in the prevention of alcohol related
8 criminal violence throughout the State.

9 (k) The Secretary of State Police DUI Fund is created as a
10 special fund in the State treasury. All moneys received by the
11 Secretary of State Police under subsection (j) of this Section
12 shall be deposited into the Secretary of State Police DUI Fund
13 and, subject to appropriation, shall be used to purchase law
14 enforcement equipment to assist in the prevention of alcohol
15 related criminal violence throughout the State.

16 (l) Whenever an individual is sentenced for an offense
17 based upon an arrest for a violation of subsection (a) or a
18 similar provision of a local ordinance, and the professional
19 evaluation recommends remedial or rehabilitative treatment or
20 education, neither the treatment nor the education shall be the
21 sole disposition and either or both may be imposed only in
22 conjunction with another disposition. The court shall monitor
23 compliance with any remedial education or treatment
24 recommendations contained in the professional evaluation.
25 Programs conducting alcohol or other drug evaluation or
26 remedial education must be licensed by the Department of Human
27 Services. If the individual is not a resident of Illinois,
28 however, the court may accept an alcohol or other drug
29 evaluation or remedial education program in the individual's
30 state of residence. Programs providing treatment must be
31 licensed under existing applicable alcoholism and drug
32 treatment licensure standards.

33 (m) In addition to any other fine or penalty required by
34 law, an individual convicted of a violation of subsection (a),
35 Section 5-7 of the Snowmobile Registration and Safety Act,
36 Section 5-16 of the Boat Registration and Safety Act, or a

1 similar provision, whose operation of a motor vehicle,
2 snowmobile, or watercraft while in violation of subsection (a),
3 Section 5-7 of the Snowmobile Registration and Safety Act,
4 Section 5-16 of the Boat Registration and Safety Act, or a
5 similar provision proximately caused an incident resulting in
6 an appropriate emergency response, shall be required to make
7 restitution to a public agency for the costs of that emergency
8 response. The restitution may not exceed \$1,000 per public
9 agency for each emergency response. As used in this subsection
10 (m), "emergency response" means any incident requiring a
11 response by a police officer, a firefighter carried on the
12 rolls of a regularly constituted fire department, or an
13 ambulance.

14 (Source: P.A. 93-156, eff. 1-1-04; 93-213, eff. 7-18-03;
15 93-584, eff. 8-22-03; 93-712, eff. 1-1-05; 93-800, eff. 1-1-05;
16 93-840, eff. 7-30-04; 94-114, eff. 1-1-06.)

17 (Text of Section from P.A. 94-116)

18 Sec. 11-501. Driving while under the influence of alcohol,
19 other drug or drugs, intoxicating compound or compounds or any
20 combination thereof.

21 (a) A person shall not drive or be in actual physical
22 control of any vehicle within this State while:

23 (1) the alcohol concentration in the person's blood or
24 breath is 0.08 or more based on the definition of blood and
25 breath units in Section 11-501.2;

26 (2) under the influence of alcohol;

27 (3) under the influence of any intoxicating compound or
28 combination of intoxicating compounds to a degree that
29 renders the person incapable of driving safely;

30 (4) under the influence of any other drug or
31 combination of drugs to a degree that renders the person
32 incapable of safely driving;

33 (5) under the combined influence of alcohol, other drug
34 or drugs, or intoxicating compound or compounds to a degree
35 that renders the person incapable of safely driving; or

1 (6) there is any amount of a drug, substance, or
2 compound in the person's breath, blood, or urine resulting
3 from the unlawful use or consumption of cannabis listed in
4 the Cannabis Control Act, a controlled substance listed in
5 the Illinois Controlled Substances Act, or an intoxicating
6 compound listed in the Use of Intoxicating Compounds Act.

7 (b) The fact that any person charged with violating this
8 Section is or has been legally entitled to use alcohol, other
9 drug or drugs, or intoxicating compound or compounds, or any
10 combination thereof, shall not constitute a defense against any
11 charge of violating this Section.

12 (b-1) With regard to penalties imposed under this Section:

13 (1) Any reference to a prior violation of subsection

14 (a) or a similar provision includes any violation of a
15 provision of a local ordinance or a provision of a law of
16 another state that is similar to a violation of subsection
17 (a) of this Section.

18 (2) Any penalty imposed for driving with a license that
19 has been revoked for a previous violation of subsection (a)
20 of this Section shall be in addition to the penalty imposed
21 for any subsequent violation of subsection (a).

22 (b-2) Except as otherwise provided in this Section, any
23 person convicted of violating subsection (a) of this Section is
24 guilty of a Class A misdemeanor.

25 (b-3) In addition to any other criminal or administrative
26 sanction for any second conviction of violating subsection (a)
27 or a similar provision committed within 5 years of a previous
28 violation of subsection (a) or a similar provision, the
29 defendant shall be sentenced to a mandatory minimum of 5 days
30 of imprisonment or assigned a mandatory minimum of 240 hours of
31 community service as may be determined by the court.

32 (b-4) In the case of a third violation committed within 5
33 years of a previous violation of subsection (a) or a similar
34 provision, the defendant is guilty of a Class 2 felony, and in
35 addition to any other criminal or administrative sanction, a
36 mandatory minimum term of either 10 days of imprisonment or 480

1 hours of community service shall be imposed.

2 (b-5) The imprisonment or assignment of community service
3 under subsections (b-3) and (b-4) shall not be subject to
4 suspension, nor shall the person be eligible for a reduced
5 sentence.

6 (c) (Blank).

7 (c-1) (1) A person who violates subsection (a) during a
8 period in which his or her driving privileges are revoked
9 or suspended, where the revocation or suspension was for a
10 violation of subsection (a), Section 11-501.1, paragraph
11 (b) of Section 11-401, or for reckless homicide as defined
12 in Section 9-3 of the Criminal Code of 1961 is guilty of a
13 Class 4 felony.

14 (2) A person who violates subsection (a) a third time
15 is guilty of a Class 2 felony.

16 (2.1) A person who violates subsection (a) a third
17 time, if the third violation occurs during a period in
18 which his or her driving privileges are revoked or
19 suspended where the revocation or suspension was for a
20 violation of subsection (a), Section 11-501.1, subsection
21 (b) of Section 11-401, or for reckless homicide as defined
22 in Section 9-3 of the Criminal Code of 1961, is guilty of a
23 Class 2 felony; and if the person receives a term of
24 probation or conditional discharge, he or she shall be
25 required to serve a mandatory minimum of 10 days of
26 imprisonment or shall be assigned a mandatory minimum of
27 480 hours of community service, as may be determined by the
28 court, as a condition of the probation or conditional
29 discharge. This mandatory minimum term of imprisonment or
30 assignment of community service shall not be suspended or
31 reduced by the court.

32 (2.2) A person who violates subsection (a), if the
33 violation occurs during a period in which his or her
34 driving privileges are revoked or suspended where the
35 revocation or suspension was for a violation of subsection
36 (a) or Section 11-501.1, shall also be sentenced to an

1 additional mandatory minimum term of 30 consecutive days of
2 imprisonment, 40 days of 24-hour periodic imprisonment, or
3 720 hours of community service, as may be determined by the
4 court. This mandatory term of imprisonment or assignment of
5 community service shall not be suspended or reduced by the
6 court.

7 (3) A person who violates subsection (a) a fourth time
8 is guilty of a Class 2 felony and is not eligible for a
9 sentence of probation or conditional discharge.

10 (4) A person who violates subsection (a) a fifth or
11 subsequent time is guilty of a Class 1 felony and is not
12 eligible for a sentence of probation or conditional
13 discharge.

14 (c-2) (Blank).

15 (c-3) (Blank).

16 (c-4) (Blank).

17 (c-5) A person who violates subsection (a), if the person
18 was transporting a person under the age of 16 at the time of
19 the violation, is subject to an additional mandatory minimum
20 fine of \$1,000, an additional mandatory minimum 140 hours of
21 community service, which shall include 40 hours of community
22 service in a program benefiting children, and an additional 2
23 days of imprisonment. The imprisonment or assignment of
24 community service under this subsection (c-5) is not subject to
25 suspension, nor is the person eligible for a reduced sentence.

26 (c-6) Except as provided in subsections (c-7) and (c-8) a
27 person who violates subsection (a) a second time, if at the
28 time of the second violation the person was transporting a
29 person under the age of 16, is subject to an additional 10 days
30 of imprisonment, an additional mandatory minimum fine of
31 \$1,000, and an additional mandatory minimum 140 hours of
32 community service, which shall include 40 hours of community
33 service in a program benefiting children. The imprisonment or
34 assignment of community service under this subsection (c-6) is
35 not subject to suspension, nor is the person eligible for a
36 reduced sentence.

1 (c-7) Except as provided in subsection (c-8), any person
2 convicted of violating subsection (c-6) or a similar provision
3 within 10 years of a previous violation of subsection (a) or a
4 similar provision shall receive, in addition to any other
5 penalty imposed, a mandatory minimum 12 days imprisonment, an
6 additional 40 hours of mandatory community service in a program
7 benefiting children, and a mandatory minimum fine of \$1,750.
8 The imprisonment or assignment of community service under this
9 subsection (c-7) is not subject to suspension, nor is the
10 person eligible for a reduced sentence.

11 (c-8) Any person convicted of violating subsection (c-6) or
12 a similar provision within 5 years of a previous violation of
13 subsection (a) or a similar provision shall receive, in
14 addition to any other penalty imposed, an additional 80 hours
15 of mandatory community service in a program benefiting
16 children, an additional mandatory minimum 12 days of
17 imprisonment, and a mandatory minimum fine of \$1,750. The
18 imprisonment or assignment of community service under this
19 subsection (c-8) is not subject to suspension, nor is the
20 person eligible for a reduced sentence.

21 (c-9) Any person convicted a third time for violating
22 subsection (a) or a similar provision, if at the time of the
23 third violation the person was transporting a person under the
24 age of 16, is guilty of a Class 2 felony and shall receive, in
25 addition to any other penalty imposed, an additional mandatory
26 fine of \$1,000, an additional mandatory 140 hours of community
27 service, which shall include 40 hours in a program benefiting
28 children, and a mandatory minimum 30 days of imprisonment. The
29 imprisonment or assignment of community service under this
30 subsection (c-9) is not subject to suspension, nor is the
31 person eligible for a reduced sentence.

32 (c-10) Any person convicted of violating subsection (c-9)
33 or a similar provision a third time within 20 years of a
34 previous violation of subsection (a) or a similar provision is
35 guilty of a Class 2 felony and shall receive, in addition to
36 any other penalty imposed, an additional mandatory 40 hours of

1 community service in a program benefiting children, an
2 additional mandatory fine of \$3,000, and a mandatory minimum
3 120 days of imprisonment. The imprisonment or assignment of
4 community service under this subsection (c-10) is not subject
5 to suspension, nor is the person eligible for a reduced
6 sentence.

7 (c-11) Any person convicted a fourth time for violating
8 subsection (a) or a similar provision, if at the time of the
9 fourth violation the person was transporting a person under the
10 age of 16, and if the person's 3 prior violations of subsection
11 (a) or a similar provision occurred while transporting a person
12 under the age of 16 or while the alcohol concentration in his
13 or her blood, breath, or urine was 0.16 or more based on the
14 definition of blood, breath, or urine units in Section
15 11-501.2, is guilty of a Class 2 felony, is not eligible for
16 probation or conditional discharge, and is subject to a minimum
17 fine of \$3,000.

18 (c-12) Any person convicted of a first violation of
19 subsection (a) or a similar provision, if the alcohol
20 concentration in his or her blood, breath, or urine was 0.16 or
21 more based on the definition of blood, breath, or urine units
22 in Section 11-501.2, shall be subject, in addition to any other
23 penalty that may be imposed, to a mandatory minimum of 100
24 hours of community service and a mandatory minimum fine of
25 \$500.

26 (c-13) Any person convicted of a second violation of
27 subsection (a) or a similar provision committed within 10 years
28 of a previous violation of subsection (a) or a similar
29 provision committed within 10 years of a previous violation of
30 subsection (a) or a similar provision, if at the time of the
31 second violation of subsection (a) the alcohol concentration in
32 his or her blood, breath, or urine was 0.16 or more based on
33 the definition of blood, breath, or urine units in Section
34 11-501.2, shall be subject, in addition to any other penalty
35 that may be imposed, to a mandatory minimum of 2 days of
36 imprisonment and a mandatory minimum fine of \$1,250.

1 (c-14) Any person convicted of a third violation of
2 subsection (a) or a similar provision within 20 years of a
3 previous violation of subsection (a) or a similar provision, if
4 at the time of the third violation of subsection (a) or a
5 similar provision the alcohol concentration in his or her
6 blood, breath, or urine was 0.16 or more based on the
7 definition of blood, breath, or urine units in Section
8 11-501.2, is guilty of a Class 2 felony and shall be subject,
9 in addition to any other penalty that may be imposed, to a
10 mandatory minimum of 90 days of imprisonment and a mandatory
11 minimum fine of \$2,500.

12 (c-15) Any person convicted of a fourth violation of
13 subsection (a) or a similar provision, if at the time of the
14 fourth violation the alcohol concentration in his or her blood,
15 breath, or urine was 0.16 or more based on the definition of
16 blood, breath, or urine units in Section 11-501.2, and if the
17 person's 3 prior violations of subsection (a) or a similar
18 provision occurred while transporting a person under the age of
19 16 or while the alcohol concentration in his or her blood,
20 breath, or urine was 0.16 or more based on the definition of
21 blood, breath, or urine units in Section 11-501.2, is guilty of
22 a Class 2 felony and is not eligible for a sentence of
23 probation or conditional discharge and is subject to a minimum
24 fine of \$2,500.

25 (d) (1) Every person convicted of committing a violation of
26 this Section shall be guilty of aggravated driving under
27 the influence of alcohol, other drug or drugs, or
28 intoxicating compound or compounds, or any combination
29 thereof if:

30 (A) the person committed a violation of subsection
31 (a) or a similar provision for the third or subsequent
32 time;

33 (B) the person committed a violation of subsection
34 (a) while driving a school bus with persons 18 years of
35 age or younger on board;

36 (C) the person in committing a violation of

1 subsection (a) was involved in a motor vehicle accident
2 that resulted in great bodily harm or permanent
3 disability or disfigurement to another, when the
4 violation was a proximate cause of the injuries;

5 (D) the person committed a violation of subsection
6 (a) for a second time and has been previously convicted
7 of violating Section 9-3 of the Criminal Code of 1961
8 or a similar provision of a law of another state
9 relating to reckless homicide in which the person was
10 determined to have been under the influence of alcohol,
11 other drug or drugs, or intoxicating compound or
12 compounds as an element of the offense or the person
13 has previously been convicted under subparagraph (C)
14 or subparagraph (F) of this paragraph (1); or

15 (E) the person, in committing a violation of
16 subsection (a) while driving at any speed in a school
17 speed zone at a time when a speed limit of 20 miles per
18 hour was in effect under subsection (a) of Section
19 11-605 of this Code, was involved in a motor vehicle
20 accident that resulted in bodily harm, other than great
21 bodily harm or permanent disability or disfigurement,
22 to another person, when the violation of subsection (a)
23 was a proximate cause of the bodily harm. ~~or~~

24 (F) (Blank). ~~the person, in committing a violation~~
25 ~~of subsection (a), was involved in a motor vehicle,~~
26 ~~snowmobile, all terrain vehicle, or watercraft~~
27 ~~accident that resulted in the death of another person,~~
28 ~~when the violation of subsection (a) was a proximate~~
29 ~~cause of the death.~~

30 (2) Except as provided in this paragraph (2) and in
31 paragraphs (3) and (4) of subsection (c-1), a person
32 convicted of aggravated driving under the influence of
33 alcohol, other drug or drugs, or intoxicating compound or
34 compounds, or any combination thereof is guilty of a Class
35 4 felony. For a violation of subparagraph (C) of paragraph
36 (1) of this subsection (d), the defendant, if sentenced to

1 a term of imprisonment, shall be sentenced to not less than
2 one year nor more than 12 years. Except as provided in
3 paragraph (4) of subsection (c-1), aggravated driving
4 under the influence of alcohol, other drug, or drugs,
5 intoxicating compounds or compounds, or any combination
6 thereof as defined in subparagraph (A) of paragraph (1) of
7 this subsection (d) is a Class 2 felony. ~~Aggravated driving~~
8 ~~under the influence of alcohol, other drug or drugs, or~~
9 ~~intoxicating compound or compounds, or any combination~~
10 ~~thereof as defined in subparagraph (F) of paragraph (1) of~~
11 ~~this subsection (d) is a Class 2 felony, for which the~~
12 ~~defendant, if sentenced to a term of imprisonment, shall be~~
13 ~~sentenced to: (A) a term of imprisonment of not less than 3~~
14 ~~years and not more than 14 years if the violation resulted~~
15 ~~in the death of one person; or (B) a term of imprisonment~~
16 ~~of not less than 6 years and not more than 28 years if the~~
17 ~~violation resulted in the deaths of 2 or more persons. For~~
18 any prosecution under this subsection (d), a certified copy
19 of the driving abstract of the defendant shall be admitted
20 as proof of any prior conviction. Any person sentenced
21 under this subsection (d) who receives a term of probation
22 or conditional discharge must serve a minimum term of
23 either 480 hours of community service or 10 days of
24 imprisonment as a condition of the probation or conditional
25 discharge. This mandatory minimum term of imprisonment or
26 assignment of community service may not be suspended or
27 reduced by the court.

28 (e) After a finding of guilt and prior to any final
29 sentencing, or an order for supervision, for an offense based
30 upon an arrest for a violation of this Section or a similar
31 provision of a local ordinance, individuals shall be required
32 to undergo a professional evaluation to determine if an
33 alcohol, drug, or intoxicating compound abuse problem exists
34 and the extent of the problem, and undergo the imposition of
35 treatment as appropriate. Programs conducting these
36 evaluations shall be licensed by the Department of Human

1 Services. The cost of any professional evaluation shall be paid
2 for by the individual required to undergo the professional
3 evaluation.

4 (e-1) Any person who is found guilty of or pleads guilty to
5 violating this Section, including any person receiving a
6 disposition of court supervision for violating this Section,
7 may be required by the Court to attend a victim impact panel
8 offered by, or under contract with, a County State's Attorney's
9 office, a probation and court services department, Mothers
10 Against Drunk Driving, or the Alliance Against Intoxicated
11 Motorists. All costs generated by the victim impact panel shall
12 be paid from fees collected from the offender or as may be
13 determined by the court.

14 (f) Every person found guilty of violating this Section,
15 whose operation of a motor vehicle while in violation of this
16 Section proximately caused any incident resulting in an
17 appropriate emergency response, shall be liable for the expense
18 of an emergency response as provided under Section 5-5-3 of the
19 Unified Code of Corrections.

20 (g) The Secretary of State shall revoke the driving
21 privileges of any person convicted under this Section or a
22 similar provision of a local ordinance.

23 (h) (Blank).

24 (i) The Secretary of State shall require the use of
25 ignition interlock devices on all vehicles owned by an
26 individual who has been convicted of a second or subsequent
27 offense of this Section or a similar provision of a local
28 ordinance. The Secretary shall establish by rule and regulation
29 the procedures for certification and use of the interlock
30 system.

31 (j) In addition to any other penalties and liabilities, a
32 person who is found guilty of or pleads guilty to violating
33 subsection (a), including any person placed on court
34 supervision for violating subsection (a), shall be fined \$500,
35 payable to the circuit clerk, who shall distribute the money as
36 follows: 20% to the law enforcement agency that made the arrest

1 and 80% shall be forwarded to the State Treasurer for deposit
2 into the General Revenue Fund. If the person has been
3 previously convicted of violating subsection (a) or a similar
4 provision of a local ordinance, the fine shall be \$1,000. In
5 the event that more than one agency is responsible for the
6 arrest, the amount payable to law enforcement agencies shall be
7 shared equally. Any moneys received by a law enforcement agency
8 under this subsection (j) shall be used to purchase law
9 enforcement equipment that will assist in the prevention of
10 alcohol related criminal violence throughout the State. This
11 shall include, but is not limited to, in-car video cameras,
12 radar and laser speed detection devices, and alcohol breath
13 testers. Any moneys received by the Department of State Police
14 under this subsection (j) shall be deposited into the State
15 Police DUI Fund and shall be used to purchase law enforcement
16 equipment that will assist in the prevention of alcohol related
17 criminal violence throughout the State.

18 (k) The Secretary of State Police DUI Fund is created as a
19 special fund in the State treasury. All moneys received by the
20 Secretary of State Police under subsection (j) of this Section
21 shall be deposited into the Secretary of State Police DUI Fund
22 and, subject to appropriation, shall be used to purchase law
23 enforcement equipment to assist in the prevention of alcohol
24 related criminal violence throughout the State.

25 (l) Whenever an individual is sentenced for an offense
26 based upon an arrest for a violation of subsection (a) or a
27 similar provision of a local ordinance, and the professional
28 evaluation recommends remedial or rehabilitative treatment or
29 education, neither the treatment nor the education shall be the
30 sole disposition and either or both may be imposed only in
31 conjunction with another disposition. The court shall monitor
32 compliance with any remedial education or treatment
33 recommendations contained in the professional evaluation.
34 Programs conducting alcohol or other drug evaluation or
35 remedial education must be licensed by the Department of Human
36 Services. If the individual is not a resident of Illinois,

1 however, the court may accept an alcohol or other drug
2 evaluation or remedial education program in the individual's
3 state of residence. Programs providing treatment must be
4 licensed under existing applicable alcoholism and drug
5 treatment licensure standards.

6 (m) In addition to any other fine or penalty required by
7 law, an individual convicted of a violation of subsection (a),
8 Section 5-7 of the Snowmobile Registration and Safety Act,
9 Section 5-16 of the Boat Registration and Safety Act, or a
10 similar provision, whose operation of a motor vehicle,
11 snowmobile, or watercraft while in violation of subsection (a),
12 Section 5-7 of the Snowmobile Registration and Safety Act,
13 Section 5-16 of the Boat Registration and Safety Act, or a
14 similar provision proximately caused an incident resulting in
15 an appropriate emergency response, shall be required to make
16 restitution to a public agency for the costs of that emergency
17 response. The restitution may not exceed \$1,000 per public
18 agency for each emergency response. As used in this subsection
19 (m), "emergency response" means any incident requiring a
20 response by a police officer, a firefighter carried on the
21 rolls of a regularly constituted fire department, or an
22 ambulance.

23 (Source: P.A. 93-156, eff. 1-1-04; 93-213, eff. 7-18-03;
24 93-584, eff. 8-22-03; 93-712, eff. 1-1-05; 93-800, eff. 1-1-05;
25 93-840, eff. 7-30-04; 94-116, eff. 1-1-06.)

26 (Text of Section from P.A. 94-329)

27 Sec. 11-501. Driving while under the influence of alcohol,
28 other drug or drugs, intoxicating compound or compounds or any
29 combination thereof.

30 (a) A person shall not drive or be in actual physical
31 control of any vehicle within this State while:

32 (1) the alcohol concentration in the person's blood or
33 breath is 0.08 or more based on the definition of blood and
34 breath units in Section 11-501.2;

35 (2) under the influence of alcohol;

1 (3) under the influence of any intoxicating compound or
2 combination of intoxicating compounds to a degree that
3 renders the person incapable of driving safely;

4 (4) under the influence of any other drug or
5 combination of drugs to a degree that renders the person
6 incapable of safely driving;

7 (5) under the combined influence of alcohol, other drug
8 or drugs, or intoxicating compound or compounds to a degree
9 that renders the person incapable of safely driving; or

10 (6) there is any amount of a drug, substance, or
11 compound in the person's breath, blood, or urine resulting
12 from the unlawful use or consumption of cannabis listed in
13 the Cannabis Control Act, a controlled substance listed in
14 the Illinois Controlled Substances Act, or an intoxicating
15 compound listed in the Use of Intoxicating Compounds Act.

16 (b) The fact that any person charged with violating this
17 Section is or has been legally entitled to use alcohol, other
18 drug or drugs, or intoxicating compound or compounds, or any
19 combination thereof, shall not constitute a defense against any
20 charge of violating this Section.

21 (b-1) With regard to penalties imposed under this Section:

22 (1) Any reference to a prior violation of subsection
23 (a) or a similar provision includes any violation of a
24 provision of a local ordinance or a provision of a law of
25 another state that is similar to a violation of subsection
26 (a) of this Section.

27 (2) Any penalty imposed for driving with a license that
28 has been revoked for a previous violation of subsection (a)
29 of this Section shall be in addition to the penalty imposed
30 for any subsequent violation of subsection (a).

31 (b-2) Except as otherwise provided in this Section, any
32 person convicted of violating subsection (a) of this Section is
33 guilty of a Class A misdemeanor.

34 (b-3) In addition to any other criminal or administrative
35 sanction for any second conviction of violating subsection (a)
36 or a similar provision committed within 5 years of a previous

1 violation of subsection (a) or a similar provision, the
2 defendant shall be sentenced to a mandatory minimum of 5 days
3 of imprisonment or assigned a mandatory minimum of 240 hours of
4 community service as may be determined by the court.

5 (b-4) In the case of a third or subsequent violation
6 committed within 5 years of a previous violation of subsection
7 (a) or a similar provision, in addition to any other criminal
8 or administrative sanction, a mandatory minimum term of either
9 10 days of imprisonment or 480 hours of community service shall
10 be imposed.

11 (b-5) The imprisonment or assignment of community service
12 under subsections (b-3) and (b-4) shall not be subject to
13 suspension, nor shall the person be eligible for a reduced
14 sentence.

15 (c) (Blank).

16 (c-1) (1) A person who violates subsection (a) during a
17 period in which his or her driving privileges are revoked
18 or suspended, where the revocation or suspension was for a
19 violation of subsection (a), Section 11-501.1, paragraph
20 (b) of Section 11-401, or for reckless homicide as defined
21 in Section 9-3 of the Criminal Code of 1961 is guilty of
22 aggravated driving under the influence of alcohol, other
23 drug or drugs, intoxicating compound or compounds, or any
24 combination thereof and is guilty of a Class 4 felony.

25 (2) A person who violates subsection (a) a third time,
26 if the third violation occurs during a period in which his
27 or her driving privileges are revoked or suspended where
28 the revocation or suspension was for a violation of
29 subsection (a), Section 11-501.1, paragraph (b) of Section
30 11-401, or for reckless homicide as defined in Section 9-3
31 of the Criminal Code of 1961, is guilty of aggravated
32 driving under the influence of alcohol, other drug or
33 drugs, intoxicating compound or compounds, or any
34 combination thereof and is guilty of a Class 3 felony.

35 (2.1) A person who violates subsection (a) a third
36 time, if the third violation occurs during a period in

1 which his or her driving privileges are revoked or
2 suspended where the revocation or suspension was for a
3 violation of subsection (a), Section 11-501.1, subsection
4 (b) of Section 11-401, or for reckless homicide as defined
5 in Section 9-3 of the Criminal Code of 1961, is guilty of
6 aggravated driving under the influence of alcohol, other
7 drug or drugs, intoxicating compound or compounds, or any
8 combination thereof and is guilty of a Class 3 felony; and
9 if the person receives a term of probation or conditional
10 discharge, he or she shall be required to serve a mandatory
11 minimum of 10 days of imprisonment or shall be assigned a
12 mandatory minimum of 480 hours of community service, as may
13 be determined by the court, as a condition of the probation
14 or conditional discharge. This mandatory minimum term of
15 imprisonment or assignment of community service shall not
16 be suspended or reduced by the court.

17 (2.2) A person who violates subsection (a), if the
18 violation occurs during a period in which his or her
19 driving privileges are revoked or suspended where the
20 revocation or suspension was for a violation of subsection
21 (a) or Section 11-501.1, is guilty of aggravated driving
22 under the influence of alcohol, other drug or drugs,
23 intoxicating compound or compounds, or any combination
24 thereof and shall also be sentenced to an additional
25 mandatory minimum term of 30 consecutive days of
26 imprisonment, 40 days of 24-hour periodic imprisonment, or
27 720 hours of community service, as may be determined by the
28 court. This mandatory term of imprisonment or assignment of
29 community service shall not be suspended or reduced by the
30 court.

31 (3) A person who violates subsection (a) a fourth or
32 subsequent time, if the fourth or subsequent violation
33 occurs during a period in which his or her driving
34 privileges are revoked or suspended where the revocation or
35 suspension was for a violation of subsection (a), Section
36 11-501.1, paragraph (b) of Section 11-401, or for reckless

1 homicide as defined in Section 9-3 of the Criminal Code of
2 1961, is guilty of aggravated driving under the influence
3 of alcohol, other drug or drugs, intoxicating compound or
4 compounds, or any combination thereof and is guilty of a
5 Class 2 felony, and is not eligible for a sentence of
6 probation or conditional discharge.

7 (c-2) (Blank).

8 (c-3) (Blank).

9 (c-4) (Blank).

10 (c-5) A person who violates subsection (a), if the person
11 was transporting a person under the age of 16 at the time of
12 the violation, is subject to an additional mandatory minimum
13 fine of \$1,000, an additional mandatory minimum 140 hours of
14 community service, which shall include 40 hours of community
15 service in a program benefiting children, and an additional 2
16 days of imprisonment. The imprisonment or assignment of
17 community service under this subsection (c-5) is not subject to
18 suspension, nor is the person eligible for a reduced sentence.

19 (c-6) Except as provided in subsections (c-7) and (c-8) a
20 person who violates subsection (a) a second time, if at the
21 time of the second violation the person was transporting a
22 person under the age of 16, is subject to an additional 10 days
23 of imprisonment, an additional mandatory minimum fine of
24 \$1,000, and an additional mandatory minimum 140 hours of
25 community service, which shall include 40 hours of community
26 service in a program benefiting children. The imprisonment or
27 assignment of community service under this subsection (c-6) is
28 not subject to suspension, nor is the person eligible for a
29 reduced sentence.

30 (c-7) Except as provided in subsection (c-8), any person
31 convicted of violating subsection (c-6) or a similar provision
32 within 10 years of a previous violation of subsection (a) or a
33 similar provision shall receive, in addition to any other
34 penalty imposed, a mandatory minimum 12 days imprisonment, an
35 additional 40 hours of mandatory community service in a program
36 benefiting children, and a mandatory minimum fine of \$1,750.

1 The imprisonment or assignment of community service under this
2 subsection (c-7) is not subject to suspension, nor is the
3 person eligible for a reduced sentence.

4 (c-8) Any person convicted of violating subsection (c-6) or
5 a similar provision within 5 years of a previous violation of
6 subsection (a) or a similar provision shall receive, in
7 addition to any other penalty imposed, an additional 80 hours
8 of mandatory community service in a program benefiting
9 children, an additional mandatory minimum 12 days of
10 imprisonment, and a mandatory minimum fine of \$1,750. The
11 imprisonment or assignment of community service under this
12 subsection (c-8) is not subject to suspension, nor is the
13 person eligible for a reduced sentence.

14 (c-9) Any person convicted a third time for violating
15 subsection (a) or a similar provision, if at the time of the
16 third violation the person was transporting a person under the
17 age of 16, is guilty of a Class 4 felony and shall receive, in
18 addition to any other penalty imposed, an additional mandatory
19 fine of \$1,000, an additional mandatory 140 hours of community
20 service, which shall include 40 hours in a program benefiting
21 children, and a mandatory minimum 30 days of imprisonment. The
22 imprisonment or assignment of community service under this
23 subsection (c-9) is not subject to suspension, nor is the
24 person eligible for a reduced sentence.

25 (c-10) Any person convicted of violating subsection (c-9)
26 or a similar provision a third time within 20 years of a
27 previous violation of subsection (a) or a similar provision is
28 guilty of a Class 4 felony and shall receive, in addition to
29 any other penalty imposed, an additional mandatory 40 hours of
30 community service in a program benefiting children, an
31 additional mandatory fine of \$3,000, and a mandatory minimum
32 120 days of imprisonment. The imprisonment or assignment of
33 community service under this subsection (c-10) is not subject
34 to suspension, nor is the person eligible for a reduced
35 sentence.

36 (c-11) Any person convicted a fourth or subsequent time for

1 violating subsection (a) or a similar provision, if at the time
2 of the fourth or subsequent violation the person was
3 transporting a person under the age of 16, and if the person's
4 3 prior violations of subsection (a) or a similar provision
5 occurred while transporting a person under the age of 16 or
6 while the alcohol concentration in his or her blood, breath, or
7 urine was 0.16 or more based on the definition of blood,
8 breath, or urine units in Section 11-501.2, is guilty of a
9 Class 2 felony, is not eligible for probation or conditional
10 discharge, and is subject to a minimum fine of \$3,000.

11 (c-12) Any person convicted of a first violation of
12 subsection (a) or a similar provision, if the alcohol
13 concentration in his or her blood, breath, or urine was 0.16 or
14 more based on the definition of blood, breath, or urine units
15 in Section 11-501.2, shall be subject, in addition to any other
16 penalty that may be imposed, to a mandatory minimum of 100
17 hours of community service and a mandatory minimum fine of
18 \$500.

19 (c-13) Any person convicted of a second violation of
20 subsection (a) or a similar provision committed within 10 years
21 of a previous violation of subsection (a) or a similar
22 provision committed within 10 years of a previous violation of
23 subsection (a) or a similar provision, if at the time of the
24 second violation of subsection (a) the alcohol concentration in
25 his or her blood, breath, or urine was 0.16 or more based on
26 the definition of blood, breath, or urine units in Section
27 11-501.2, shall be subject, in addition to any other penalty
28 that may be imposed, to a mandatory minimum of 2 days of
29 imprisonment and a mandatory minimum fine of \$1,250.

30 (c-14) Any person convicted of a third violation of
31 subsection (a) or a similar provision within 20 years of a
32 previous violation of subsection (a) or a similar provision, if
33 at the time of the third violation of subsection (a) or a
34 similar provision the alcohol concentration in his or her
35 blood, breath, or urine was 0.16 or more based on the
36 definition of blood, breath, or urine units in Section

1 11-501.2, is guilty of a Class 4 felony and shall be subject,
2 in addition to any other penalty that may be imposed, to a
3 mandatory minimum of 90 days of imprisonment and a mandatory
4 minimum fine of \$2,500.

5 (c-15) Any person convicted of a fourth or subsequent
6 violation of subsection (a) or a similar provision, if at the
7 time of the fourth or subsequent violation the alcohol
8 concentration in his or her blood, breath, or urine was 0.16 or
9 more based on the definition of blood, breath, or urine units
10 in Section 11-501.2, and if the person's 3 prior violations of
11 subsection (a) or a similar provision occurred while
12 transporting a person under the age of 16 or while the alcohol
13 concentration in his or her blood, breath, or urine was 0.16 or
14 more based on the definition of blood, breath, or urine units
15 in Section 11-501.2, is guilty of a Class 2 felony and is not
16 eligible for a sentence of probation or conditional discharge
17 and is subject to a minimum fine of \$2,500.

18 (d) (1) Every person convicted of committing a violation of
19 this Section shall be guilty of aggravated driving under
20 the influence of alcohol, other drug or drugs, or
21 intoxicating compound or compounds, or any combination
22 thereof if:

23 (A) the person committed a violation of subsection
24 (a) or a similar provision for the third or subsequent
25 time;

26 (B) the person committed a violation of subsection
27 (a) while driving a school bus with persons 18 years of
28 age or younger on board;

29 (C) the person in committing a violation of
30 subsection (a) was involved in a motor vehicle accident
31 that resulted in great bodily harm or permanent
32 disability or disfigurement to another, when the
33 violation was a proximate cause of the injuries;

34 (D) the person committed a violation of subsection
35 (a) for a second time and has been previously convicted
36 of violating Section 9-3 of the Criminal Code of 1961

1 or a similar provision of a law of another state
2 relating to reckless homicide in which the person was
3 determined to have been under the influence of alcohol,
4 other drug or drugs, or intoxicating compound or
5 compounds as an element of the offense or the person
6 has previously been convicted under subparagraph (C)
7 or subparagraph (F) of this paragraph (1);

8 (E) the person, in committing a violation of
9 subsection (a) while driving at any speed in a school
10 speed zone at a time when a speed limit of 20 miles per
11 hour was in effect under subsection (a) of Section
12 11-605 of this Code, was involved in a motor vehicle
13 accident that resulted in bodily harm, other than great
14 bodily harm or permanent disability or disfigurement,
15 to another person, when the violation of subsection (a)
16 was a proximate cause of the bodily harm; ~~or~~

17 (F) (blank); ~~the person, in committing a violation~~
18 ~~of subsection (a), was involved in a motor vehicle,~~
19 ~~snowmobile, all terrain vehicle, or watercraft~~
20 ~~accident that resulted in the death of another person,~~
21 ~~when the violation of subsection (a) was a proximate~~
22 ~~cause of the death;~~

23 (G) the person committed the violation while he or
24 she did not possess a driver's license or permit or a
25 restricted driving permit or a judicial driving
26 permit; or

27 (H) the person committed the violation while he or
28 she knew or should have known that the vehicle he or
29 she was driving was not covered by a liability
30 insurance policy.

31 (2) Except as provided in this paragraph (2) and in
32 paragraphs (2), (2.1), and (3) of subsection (c-1), a
33 person convicted of aggravated driving under the influence
34 of alcohol, other drug or drugs, or intoxicating compound
35 or compounds, or any combination thereof is guilty of a
36 Class 4 felony. For a violation of subparagraph (C) of

1 paragraph (1) of this subsection (d), the defendant, if
2 sentenced to a term of imprisonment, shall be sentenced to
3 not less than one year nor more than 12 years. ~~Aggravated~~
4 ~~driving under the influence of alcohol, other drug or~~
5 ~~drugs, or intoxicating compound or compounds, or any~~
6 ~~combination thereof as defined in subparagraph (F) of~~
7 ~~paragraph (1) of this subsection (d) is a Class 2 felony,~~
8 ~~for which the defendant, if sentenced to a term of~~
9 ~~imprisonment, shall be sentenced to: (A) a term of~~
10 ~~imprisonment of not less than 3 years and not more than 14~~
11 ~~years if the violation resulted in the death of one person;~~
12 ~~or (B) a term of imprisonment of not less than 6 years and~~
13 ~~not more than 28 years if the violation resulted in the~~
14 ~~deaths of 2 or more persons.~~ For any prosecution under this
15 subsection (d), a certified copy of the driving abstract of
16 the defendant shall be admitted as proof of any prior
17 conviction. Any person sentenced under this subsection (d)
18 who receives a term of probation or conditional discharge
19 must serve a minimum term of either 480 hours of community
20 service or 10 days of imprisonment as a condition of the
21 probation or conditional discharge. This mandatory minimum
22 term of imprisonment or assignment of community service may
23 not be suspended or reduced by the court.

24 (e) After a finding of guilt and prior to any final
25 sentencing, or an order for supervision, for an offense based
26 upon an arrest for a violation of this Section or a similar
27 provision of a local ordinance, individuals shall be required
28 to undergo a professional evaluation to determine if an
29 alcohol, drug, or intoxicating compound abuse problem exists
30 and the extent of the problem, and undergo the imposition of
31 treatment as appropriate. Programs conducting these
32 evaluations shall be licensed by the Department of Human
33 Services. The cost of any professional evaluation shall be paid
34 for by the individual required to undergo the professional
35 evaluation.

36 (e-1) Any person who is found guilty of or pleads guilty to

1 violating this Section, including any person receiving a
2 disposition of court supervision for violating this Section,
3 may be required by the Court to attend a victim impact panel
4 offered by, or under contract with, a County State's Attorney's
5 office, a probation and court services department, Mothers
6 Against Drunk Driving, or the Alliance Against Intoxicated
7 Motorists. All costs generated by the victim impact panel shall
8 be paid from fees collected from the offender or as may be
9 determined by the court.

10 (f) Every person found guilty of violating this Section,
11 whose operation of a motor vehicle while in violation of this
12 Section proximately caused any incident resulting in an
13 appropriate emergency response, shall be liable for the expense
14 of an emergency response as provided under Section 5-5-3 of the
15 Unified Code of Corrections.

16 (g) The Secretary of State shall revoke the driving
17 privileges of any person convicted under this Section or a
18 similar provision of a local ordinance.

19 (h) (Blank).

20 (i) The Secretary of State shall require the use of
21 ignition interlock devices on all vehicles owned by an
22 individual who has been convicted of a second or subsequent
23 offense of this Section or a similar provision of a local
24 ordinance. The Secretary shall establish by rule and regulation
25 the procedures for certification and use of the interlock
26 system.

27 (j) In addition to any other penalties and liabilities, a
28 person who is found guilty of or pleads guilty to violating
29 subsection (a), including any person placed on court
30 supervision for violating subsection (a), shall be fined \$500,
31 payable to the circuit clerk, who shall distribute the money as
32 follows: 20% to the law enforcement agency that made the arrest
33 and 80% shall be forwarded to the State Treasurer for deposit
34 into the General Revenue Fund. If the person has been
35 previously convicted of violating subsection (a) or a similar
36 provision of a local ordinance, the fine shall be \$1,000. In

1 the event that more than one agency is responsible for the
2 arrest, the amount payable to law enforcement agencies shall be
3 shared equally. Any moneys received by a law enforcement agency
4 under this subsection (j) shall be used to purchase law
5 enforcement equipment that will assist in the prevention of
6 alcohol related criminal violence throughout the State. This
7 shall include, but is not limited to, in-car video cameras,
8 radar and laser speed detection devices, and alcohol breath
9 testers. Any moneys received by the Department of State Police
10 under this subsection (j) shall be deposited into the State
11 Police DUI Fund and shall be used to purchase law enforcement
12 equipment that will assist in the prevention of alcohol related
13 criminal violence throughout the State.

14 (k) The Secretary of State Police DUI Fund is created as a
15 special fund in the State treasury. All moneys received by the
16 Secretary of State Police under subsection (j) of this Section
17 shall be deposited into the Secretary of State Police DUI Fund
18 and, subject to appropriation, shall be used to purchase law
19 enforcement equipment to assist in the prevention of alcohol
20 related criminal violence throughout the State.

21 (l) Whenever an individual is sentenced for an offense
22 based upon an arrest for a violation of subsection (a) or a
23 similar provision of a local ordinance, and the professional
24 evaluation recommends remedial or rehabilitative treatment or
25 education, neither the treatment nor the education shall be the
26 sole disposition and either or both may be imposed only in
27 conjunction with another disposition. The court shall monitor
28 compliance with any remedial education or treatment
29 recommendations contained in the professional evaluation.
30 Programs conducting alcohol or other drug evaluation or
31 remedial education must be licensed by the Department of Human
32 Services. If the individual is not a resident of Illinois,
33 however, the court may accept an alcohol or other drug
34 evaluation or remedial education program in the individual's
35 state of residence. Programs providing treatment must be
36 licensed under existing applicable alcoholism and drug

1 treatment licensure standards.

2 (m) In addition to any other fine or penalty required by
3 law, an individual convicted of a violation of subsection (a),
4 Section 5-7 of the Snowmobile Registration and Safety Act,
5 Section 5-16 of the Boat Registration and Safety Act, or a
6 similar provision, whose operation of a motor vehicle,
7 snowmobile, or watercraft while in violation of subsection (a),
8 Section 5-7 of the Snowmobile Registration and Safety Act,
9 Section 5-16 of the Boat Registration and Safety Act, or a
10 similar provision proximately caused an incident resulting in
11 an appropriate emergency response, shall be required to make
12 restitution to a public agency for the costs of that emergency
13 response. The restitution may not exceed \$1,000 per public
14 agency for each emergency response. As used in this subsection
15 (m), "emergency response" means any incident requiring a
16 response by a police officer, a firefighter carried on the
17 rolls of a regularly constituted fire department, or an
18 ambulance.

19 (Source: P.A. 93-156, eff. 1-1-04; 93-213, eff. 7-18-03;
20 93-584, eff. 8-22-03; 93-712, eff. 1-1-05; 93-800, eff. 1-1-05;
21 93-840, eff. 7-30-04; 94-329, eff. 1-1-06.)

22 (625 ILCS 5/11-501.9 new)

23 Sec. 11-501.9. Homicide while driving under the influence
24 of alcohol, other drug or drugs, intoxicating compound or
25 compounds, or any combination thereof.

26 (a) A person violates this Section if:

27 (1) he or she violates Section 11-501 of the Illinois
28 Vehicle Code;

29 (2) in committing the violation, he or she was involved
30 in a motor vehicle, snowmobile, all terrain vehicle or
31 watercraft accident that resulted in the death of another
32 person; and

33 (3) the violation was a proximate cause of the death.

34 (b) Violation of this Section is a Class 2 felony, for
35 which the defendant, if sentenced to a term of imprisonment,

1 shall be sentenced to: (1) a term of imprisonment of not less
2 than 3 years and not more than 14 years if the violation
3 resulted in the death of one person; or (2) a term of
4 imprisonment of not less than 6 years and not more than 28
5 years if the violation resulted in the deaths of 2 or more
6 persons.

7 Section 10. The Juvenile Court Act of 1987 is amended by
8 changing Section 5-401.5 as follows:

9 (705 ILCS 405/5-401.5)

10 Sec. 5-401.5. When statements by minor may be used.

11 (a) In this Section, "custodial interrogation" means any
12 interrogation (i) during which a reasonable person in the
13 subject's position would consider himself or herself to be in
14 custody and (ii) during which a question is asked that is
15 reasonably likely to elicit an incriminating response.

16 In this Section, "electronic recording" includes motion
17 picture, audiotape, videotape, or digital recording.

18 In this Section, "place of detention" means a building or a
19 police station that is a place of operation for a municipal
20 police department or county sheriff department or other law
21 enforcement agency at which persons are or may be held in
22 detention in connection with criminal charges against those
23 persons or allegations that those persons are delinquent
24 minors.

25 (b) An oral, written, or sign language statement of a minor
26 who, at the time of the commission of the offense was under the
27 age of 17 years, made as a result of a custodial interrogation
28 conducted at a police station or other place of detention on or
29 after the effective date of this amendatory Act of the 93rd
30 General Assembly shall be presumed to be inadmissible as
31 evidence against the minor in any criminal proceeding or
32 juvenile court proceeding, for an act that if committed by an
33 adult would be brought under Section 9-1, 9-1.2, 9-2, 9-2.1,
34 9-3, 9-3.2, or 9-3.3, of the Criminal Code of 1961 or under

1 Section 11-501.9 ~~clause (d)(1)(F) of Section 11-501~~ of the
2 Illinois Vehicle Code unless:

3 (1) an electronic recording is made of the custodial
4 interrogation; and

5 (2) the recording is substantially accurate and not
6 intentionally altered.

7 (c) Every electronic recording required under this Section
8 must be preserved until such time as the minor's adjudication
9 for any offense relating to the statement is final and all
10 direct and habeas corpus appeals are exhausted, or the
11 prosecution of such offenses is barred by law.

12 (d) If the court finds, by a preponderance of the evidence,
13 that the minor was subjected to a custodial interrogation in
14 violation of this Section, then any statements made by the
15 minor during or following that non-recorded custodial
16 interrogation, even if otherwise in compliance with this
17 Section, are presumed to be inadmissible in any criminal
18 proceeding or juvenile court proceeding against the minor
19 except for the purposes of impeachment.

20 (e) Nothing in this Section precludes the admission (i) of
21 a statement made by the minor in open court in any criminal
22 proceeding or juvenile court proceeding, before a grand jury,
23 or at a preliminary hearing, (ii) of a statement made during a
24 custodial interrogation that was not recorded as required by
25 this Section because electronic recording was not feasible,
26 (iii) of a voluntary statement, whether or not the result of a
27 custodial interrogation, that has a bearing on the credibility
28 of the accused as a witness, (iv) of a spontaneous statement
29 that is not made in response to a question, (v) of a statement
30 made after questioning that is routinely asked during the
31 processing of the arrest of the suspect, (vi) of a statement
32 made during a custodial interrogation by a suspect who
33 requests, prior to making the statement, to respond to the
34 interrogator's questions only if an electronic recording is not
35 made of the statement, provided that an electronic recording is
36 made of the statement of agreeing to respond to the

1 interrogator's question, only if a recording is not made of the
2 statement, (vii) of a statement made during a custodial
3 interrogation that is conducted out-of-state, (viii) of a
4 statement given at a time when the interrogators are unaware
5 that a death has in fact occurred, or (ix) of any other
6 statement that may be admissible under law. The State shall
7 bear the burden of proving, by a preponderance of the evidence,
8 that one of the exceptions described in this subsection (e) is
9 applicable. Nothing in this Section precludes the admission of
10 a statement, otherwise inadmissible under this Section, that is
11 used only for impeachment and not as substantive evidence.

12 (f) The presumption of inadmissibility of a statement made
13 by a suspect at a custodial interrogation at a police station
14 or other place of detention may be overcome by a preponderance
15 of the evidence that the statement was voluntarily given and is
16 reliable, based on the totality of the circumstances.

17 (g) Any electronic recording of any statement made by a
18 minor during a custodial interrogation that is compiled by any
19 law enforcement agency as required by this Section for the
20 purposes of fulfilling the requirements of this Section shall
21 be confidential and exempt from public inspection and copying,
22 as provided under Section 7 of the Freedom of Information Act,
23 and the information shall not be transmitted to anyone except
24 as needed to comply with this Section.

25 (Source: P.A. 93-206, eff. 7-18-05; 93-517, eff. 8-6-05;
26 94-117, eff. 7-5-05.)

27 Section 15. The Criminal Code of 1961 is amended by
28 changing Section 9-3 as follows:

29 (720 ILCS 5/9-3) (from Ch. 38, par. 9-3)

30 Sec. 9-3. Involuntary Manslaughter and Reckless Homicide.

31 (a) A person who unintentionally kills an individual
32 without lawful justification commits involuntary manslaughter
33 if his acts whether lawful or unlawful which cause the death
34 are such as are likely to cause death or great bodily harm to

1 some individual, and he performs them recklessly, except in
2 cases in which the cause of the death consists of the driving
3 of a motor vehicle or operating a snowmobile, all-terrain
4 vehicle, or watercraft, in which case, except as otherwise
5 provided in subsection (a-5), the person commits reckless
6 homicide. Except as otherwise provided in subsection (a-5), a ~~A~~
7 person commits reckless homicide if he or she unintentionally
8 kills an individual while driving a vehicle and using an
9 incline in a roadway, such as a railroad crossing, bridge
10 approach, or hill, to cause the vehicle to become airborne.

11 (a-5) A person who otherwise would be guilty of reckless
12 homicide is instead guilty of violating Section 11-501.9 of the
13 Illinois Vehicle Code if he or she was under the influence of
14 alcohol, other drug or drugs, intoxicating compound or
15 compounds, or any combination thereof at the time of the
16 offense.

17 (b) (Blank).

18 (c) (Blank).

19 (d) Sentence.

20 (1) Involuntary manslaughter is a Class 3 felony.

21 (2) Reckless homicide is a Class 3 felony.

22 (e) (Blank).

23 (e-5) (Blank).

24 (e-7) Except as otherwise provided in subsection (e-8), in
25 cases involving reckless homicide in which the defendant was
26 driving in a construction or maintenance zone, as defined in
27 Section 11-605 of the Illinois Vehicle Code, the penalty is a
28 Class 2 felony, for which a person, if sentenced to a term of
29 imprisonment, shall be sentenced to a term of not less than 3
30 years and not more than 14 years.

31 (e-8) In cases involving reckless homicide in which the
32 defendant was driving in a construction or maintenance zone, as
33 defined in Section 11-605 of the Illinois Vehicle Code, and
34 caused the deaths of 2 or more persons as part of a single
35 course of conduct, the penalty is a Class 2 felony, for which a
36 person, if sentenced to a term of imprisonment, shall be

1 sentenced to a term of not less than 6 years and not more than
2 28 years.

3 (e-9) In cases involving reckless homicide in which the
4 defendant drove a vehicle and used an incline in a roadway,
5 such as a railroad crossing, bridge approach, or hill, to cause
6 the vehicle to become airborne, and caused the deaths of 2 or
7 more persons as part of a single course of conduct, the penalty
8 is a Class 2 felony.

9 (f) In cases involving involuntary manslaughter in which
10 the victim was a family or household member as defined in
11 paragraph (3) of Section 112A-3 of the Code of Criminal
12 Procedure of 1963, the penalty shall be a Class 2 felony, for
13 which a person is sentenced to a term of imprisonment, shall be
14 sentenced to a term of not less than 3 years and not more than
15 14 years.

16 (Source: P.A. 92-16, eff. 6-28-01; 93-178, eff. 6-1-04; 93-213,
17 eff. 7-18-03; 93-682, eff. 1-1-05.)

18 Section 20. The Code of Criminal Procedure of 1963 is
19 amended by changing Section 103-2.1 as follows:

20 (725 ILCS 5/103-2.1)

21 Sec. 103-2.1. When statements by accused may be used.

22 (a) In this Section, "custodial interrogation" means any
23 interrogation during which (i) a reasonable person in the
24 subject's position would consider himself or herself to be in
25 custody and (ii) during which a question is asked that is
26 reasonably likely to elicit an incriminating response.

27 In this Section, "place of detention" means a building or a
28 police station that is a place of operation for a municipal
29 police department or county sheriff department or other law
30 enforcement agency, not a courthouse, that is owned or operated
31 by a law enforcement agency at which persons are or may be held
32 in detention in connection with criminal charges against those
33 persons.

34 In this Section, "electronic recording" includes motion

1 picture, audiotape, or videotape, or digital recording.

2 (b) An oral, written, or sign language statement of an
3 accused made as a result of a custodial interrogation at a
4 police station or other place of detention shall be presumed to
5 be inadmissible as evidence against the accused in any criminal
6 proceeding brought under Section 9-1, 9-1.2, 9-2, 9-2.1, 9-3,
7 9-3.2, or 9-3.3 of the Criminal Code of 1961 or under Section
8 11-501.9 ~~clause (d)(1)(F) of Section 11-501~~ of the Illinois
9 Vehicle Code unless:

10 (1) an electronic recording is made of the custodial
11 interrogation; and

12 (2) the recording is substantially accurate and not
13 intentionally altered.

14 (c) Every electronic recording required under this Section
15 must be preserved until such time as the defendant's conviction
16 for any offense relating to the statement is final and all
17 direct and habeas corpus appeals are exhausted, or the
18 prosecution of such offenses is barred by law.

19 (d) If the court finds, by a preponderance of the evidence,
20 that the defendant was subjected to a custodial interrogation
21 in violation of this Section, then any statements made by the
22 defendant during or following that non-recorded custodial
23 interrogation, even if otherwise in compliance with this
24 Section, are presumed to be inadmissible in any criminal
25 proceeding against the defendant except for the purposes of
26 impeachment.

27 (e) Nothing in this Section precludes the admission (i) of
28 a statement made by the accused in open court at his or her
29 trial, before a grand jury, or at a preliminary hearing, (ii)
30 of a statement made during a custodial interrogation that was
31 not recorded as required by this Section, because electronic
32 recording was not feasible, (iii) of a voluntary statement,
33 whether or not the result of a custodial interrogation, that
34 has a bearing on the credibility of the accused as a witness,
35 (iv) of a spontaneous statement that is not made in response to
36 a question, (v) of a statement made after questioning that is

1 routinely asked during the processing of the arrest of the
2 suspect, (vi) of a statement made during a custodial
3 interrogation by a suspect who requests, prior to making the
4 statement, to respond to the interrogator's questions only if
5 an electronic recording is not made of the statement, provided
6 that an electronic recording is made of the statement of
7 agreeing to respond to the interrogator's question, only if a
8 recording is not made of the statement, (vii) of a statement
9 made during a custodial interrogation that is conducted
10 out-of-state, (viii) of a statement given at a time when the
11 interrogators are unaware that a death has in fact occurred, or
12 (ix) of any other statement that may be admissible under law.
13 The State shall bear the burden of proving, by a preponderance
14 of the evidence, that one of the exceptions described in this
15 subsection (e) is applicable. Nothing in this Section precludes
16 the admission of a statement, otherwise inadmissible under this
17 Section, that is used only for impeachment and not as
18 substantive evidence.

19 (f) The presumption of inadmissibility of a statement made
20 by a suspect at a custodial interrogation at a police station
21 or other place of detention may be overcome by a preponderance
22 of the evidence that the statement was voluntarily given and is
23 reliable, based on the totality of the circumstances.

24 (g) Any electronic recording of any statement made by an
25 accused during a custodial interrogation that is compiled by
26 any law enforcement agency as required by this Section for the
27 purposes of fulfilling the requirements of this Section shall
28 be confidential and exempt from public inspection and copying,
29 as provided under Section 7 of the Freedom of Information Act,
30 and the information shall not be transmitted to anyone except
31 as needed to comply with this Section.

32 (Source: P.A. 93-206, eff. 7-18-05; 93-517, eff. 8-6-05;
33 94-117, eff. 7-5-05.)

34 Section 25. The Unified Code of Corrections is amended by
35 changing Sections 3-6-3 and 5-4-1 as follows:

1 (730 ILCS 5/3-6-3) (from Ch. 38, par. 1003-6-3)

2 Sec. 3-6-3. Rules and Regulations for Early Release.

3 (a) (1) The Department of Corrections shall prescribe
4 rules and regulations for the early release on account of
5 good conduct of persons committed to the Department which
6 shall be subject to review by the Prisoner Review Board.

7 (2) The rules and regulations on early release shall
8 provide, with respect to offenses listed in clause (i),
9 (ii), or (iii) of this paragraph (2) committed on or after
10 June 19, 1998 or with respect to the offense listed in
11 clause (iv) of this paragraph (2) committed on or after
12 June 23, 2005 (the effective date of Public Act 94-71) ~~this~~
13 ~~amendatory Act of the 94th General Assembly~~ or with respect
14 to the offense of being an armed habitual criminal
15 committed on or after August 2, 2005 (the effective date of
16 Public Act 94-398) ~~this amendatory Act of the 94th General~~
17 ~~Assembly~~, the following:

18 (i) that a prisoner who is serving a term of
19 imprisonment for first degree murder or for the offense
20 of terrorism shall receive no good conduct credit and
21 shall serve the entire sentence imposed by the court;

22 (ii) that a prisoner serving a sentence for attempt
23 to commit first degree murder, solicitation of murder,
24 solicitation of murder for hire, intentional homicide
25 of an unborn child, predatory criminal sexual assault
26 of a child, aggravated criminal sexual assault,
27 criminal sexual assault, aggravated kidnapping,
28 aggravated battery with a firearm, heinous battery,
29 being an armed habitual criminal, aggravated battery
30 of a senior citizen, or aggravated battery of a child
31 shall receive no more than 4.5 days of good conduct
32 credit for each month of his or her sentence of
33 imprisonment;

34 (iii) that a prisoner serving a sentence for home
35 invasion, armed robbery, aggravated vehicular

1 hijacking, aggravated discharge of a firearm, or armed
2 violence with a category I weapon or category II
3 weapon, when the court has made and entered a finding,
4 pursuant to subsection (c-1) of Section 5-4-1 of this
5 Code, that the conduct leading to conviction for the
6 enumerated offense resulted in great bodily harm to a
7 victim, shall receive no more than 4.5 days of good
8 conduct credit for each month of his or her sentence of
9 imprisonment; and

10 (iv) that a prisoner serving a sentence for
11 aggravated discharge of a firearm, whether or not the
12 conduct leading to conviction for the offense resulted
13 in great bodily harm to the victim, shall receive no
14 more than 4.5 days of good conduct credit for each
15 month of his or her sentence of imprisonment.

16 (2.1) For all offenses, other than those enumerated in
17 subdivision (a)(2)(i), (ii), or (iii) committed on or after
18 June 19, 1998 or subdivision (a)(2)(iv) committed on or
19 after June 23, 2005 (the effective date of Public Act
20 94-71) ~~this amendatory Act of the 94th General Assembly,~~
21 and other than the offense of reckless homicide as defined
22 in subsection (e) of Section 9-3 of the Criminal Code of
23 1961 committed on or after January 1, 1999, or aggravated
24 driving under the influence of alcohol, other drug or
25 drugs, or intoxicating compound or compounds, or any
26 combination thereof as defined in subparagraph (F) of
27 paragraph (1) of subsection (d) of Section 11-501 of the
28 Illinois Vehicle Code, the rules and regulations shall
29 provide that a prisoner who is serving a term of
30 imprisonment shall receive one day of good conduct credit
31 for each day of his or her sentence of imprisonment or
32 recommitment under Section 3-3-9. Each day of good conduct
33 credit shall reduce by one day the prisoner's period of
34 imprisonment or recommitment under Section 3-3-9.

35 (2.2) A prisoner serving a term of natural life
36 imprisonment or a prisoner who has been sentenced to death

1 shall receive no good conduct credit.

2 (2.3) The rules and regulations on early release shall
3 provide that a prisoner who is serving a sentence for
4 reckless homicide as defined in subsection (e) of Section
5 9-3 of the Criminal Code of 1961 committed on or after
6 January 1, 1999, or aggravated driving under the influence
7 of alcohol, other drug or drugs, or intoxicating compound
8 or compounds, or any combination thereof as defined in
9 subparagraph (F) of paragraph (1) of subsection (d) of
10 Section 11-501 of the Illinois Vehicle Code, shall receive
11 no more than 4.5 days of good conduct credit for each month
12 of his or her sentence of imprisonment.

13 (2.4) The rules and regulations on early release shall
14 provide with respect to the offenses of aggravated battery
15 with a machine gun or a firearm equipped with any device or
16 attachment designed or used for silencing the report of a
17 firearm or aggravated discharge of a machine gun or a
18 firearm equipped with any device or attachment designed or
19 used for silencing the report of a firearm, committed on or
20 after July 15, 1999 (the effective date of Public Act
21 91-121), that a prisoner serving a sentence for any of
22 these offenses shall receive no more than 4.5 days of good
23 conduct credit for each month of his or her sentence of
24 imprisonment.

25 (2.5) The rules and regulations on early release shall
26 provide that a prisoner who is serving a sentence for
27 aggravated arson committed on or after July 27, 2001 (the
28 effective date of Public Act 92-176) shall receive no more
29 than 4.5 days of good conduct credit for each month of his
30 or her sentence of imprisonment.

31 (3) The rules and regulations shall also provide that
32 the Director may award up to 180 days additional good
33 conduct credit for meritorious service in specific
34 instances as the Director deems proper; except that no more
35 than 90 days of good conduct credit for meritorious service
36 shall be awarded to any prisoner who is serving a sentence

1 for conviction of first degree murder, reckless homicide
2 while under the influence of alcohol or any other drug, or
3 aggravated driving under the influence of alcohol, other
4 drug or drugs, or intoxicating compound or compounds, or
5 any combination thereof as defined in subparagraph (F) of
6 paragraph (1) of subsection (d) of Section 11-501 of the
7 Illinois Vehicle Code, aggravated kidnapping, kidnapping,
8 predatory criminal sexual assault of a child, aggravated
9 criminal sexual assault, criminal sexual assault, deviate
10 sexual assault, aggravated criminal sexual abuse,
11 aggravated indecent liberties with a child, indecent
12 liberties with a child, child pornography, heinous
13 battery, aggravated battery of a spouse, aggravated
14 battery of a spouse with a firearm, stalking, aggravated
15 stalking, aggravated battery of a child, endangering the
16 life or health of a child, cruelty to a child, or narcotic
17 racketeering. Notwithstanding the foregoing, good conduct
18 credit for meritorious service shall not be awarded on a
19 sentence of imprisonment imposed for conviction of: (i) one
20 of the offenses enumerated in subdivision (a)(2)(i), (ii),
21 or (iii) when the offense is committed on or after June 19,
22 1998 or subdivision (a)(2)(iv) when the offense is
23 committed on or after June 23, 2005 (the effective date of
24 Public Act 94-71) ~~this amendatory Act of the 94th General~~
25 ~~Assembly~~, (ii) reckless homicide as defined in subsection
26 (e) of Section 9-3 of the Criminal Code of 1961 when the
27 offense is committed on or after January 1, 1999, or
28 aggravated driving under the influence of alcohol, other
29 drug or drugs, or intoxicating compound or compounds, or
30 any combination thereof as defined in subparagraph (F) of
31 paragraph (1) of subsection (d) of Section 11-501 of the
32 Illinois Vehicle Code, (iii) one of the offenses enumerated
33 in subdivision (a)(2.4) when the offense is committed on or
34 after July 15, 1999 (the effective date of Public Act
35 91-121), or (iv) aggravated arson when the offense is
36 committed on or after July 27, 2001 (the effective date of

1 Public Act 92-176).

2 (4) The rules and regulations shall also provide that
3 the good conduct credit accumulated and retained under
4 paragraph (2.1) of subsection (a) of this Section by any
5 inmate during specific periods of time in which such inmate
6 is engaged full-time in substance abuse programs,
7 correctional industry assignments, or educational programs
8 provided by the Department under this paragraph (4) and
9 satisfactorily completes the assigned program as
10 determined by the standards of the Department, shall be
11 multiplied by a factor of 1.25 for program participation
12 before August 11, 1993 and 1.50 for program participation
13 on or after that date. However, no inmate shall be eligible
14 for the additional good conduct credit under this paragraph
15 (4) or (4.1) of this subsection (a) while assigned to a
16 boot camp~~7~~ or electronic detention, or if convicted of an
17 offense enumerated in subdivision (a)(2)(i), (ii), or
18 (iii) of this Section that is committed on or after June
19 19, 1998 or subdivision (a)(2)(iv) of this Section that is
20 committed on or after June 23, 2005 (the effective date of
21 Public Act 94-71) ~~this amendatory Act of the 94th General~~
22 ~~Assembly~~, or if convicted of reckless homicide as defined
23 in subsection (e) of Section 9-3 of the Criminal Code of
24 1961 if the offense is committed on or after January 1,
25 1999, or homicide while aggravated driving under the
26 influence of alcohol, other drug or drugs, or intoxicating
27 compound or compounds, or any combination thereof as
28 defined in Section 11-501.9 ~~subparagraph (F) of paragraph~~
29 ~~(1) of subsection (d) of Section 11-501~~ of the Illinois
30 Vehicle Code, or if convicted of an offense enumerated in
31 paragraph (a)(2.4) of this Section that is committed on or
32 after July 15, 1999 (the effective date of Public Act
33 91-121), or first degree murder, a Class X felony, criminal
34 sexual assault, felony criminal sexual abuse, aggravated
35 criminal sexual abuse, aggravated battery with a firearm,
36 or any predecessor or successor offenses with the same or

1 substantially the same elements, or any inchoate offenses
2 relating to the foregoing offenses. No inmate shall be
3 eligible for the additional good conduct credit under this
4 paragraph (4) who (i) has previously received increased
5 good conduct credit under this paragraph (4) and has
6 subsequently been convicted of a felony, or (ii) has
7 previously served more than one prior sentence of
8 imprisonment for a felony in an adult correctional
9 facility.

10 Educational, vocational, substance abuse and
11 correctional industry programs under which good conduct
12 credit may be increased under this paragraph (4) and
13 paragraph (4.1) of this subsection (a) shall be evaluated
14 by the Department on the basis of documented standards. The
15 Department shall report the results of these evaluations to
16 the Governor and the General Assembly by September 30th of
17 each year. The reports shall include data relating to the
18 recidivism rate among program participants.

19 Availability of these programs shall be subject to the
20 limits of fiscal resources appropriated by the General
21 Assembly for these purposes. Eligible inmates who are
22 denied immediate admission shall be placed on a waiting
23 list under criteria established by the Department. The
24 inability of any inmate to become engaged in any such
25 programs by reason of insufficient program resources or for
26 any other reason established under the rules and
27 regulations of the Department shall not be deemed a cause
28 of action under which the Department or any employee or
29 agent of the Department shall be liable for damages to the
30 inmate.

31 (4.1) The rules and regulations shall also provide that
32 an additional 60 days of good conduct credit shall be
33 awarded to any prisoner who passes the high school level
34 Test of General Educational Development (GED) and receives
35 a GED certificate while the prisoner is incarcerated. The
36 good conduct credit awarded under this paragraph (4.1)

1 shall be in addition to, and shall not affect, the award of
2 good conduct under any other paragraph of this Section, but
3 shall also be pursuant to the guidelines and restrictions
4 set forth in paragraph (4) of subsection (a) of this
5 Section.

6 (4.5) The rules and regulations on early release shall
7 also provide that when the court's sentencing order
8 recommends a prisoner for substance abuse treatment and the
9 crime was committed on or after September 1, 2003 (the
10 effective date of Public Act 93-354), the prisoner shall
11 receive no good conduct credit awarded under clause (3) of
12 this subsection (a) unless he or she participates in and
13 completes a substance abuse treatment program. The
14 Director may waive the requirement to participate in or
15 complete a substance abuse treatment program and award the
16 good conduct credit in specific instances if the prisoner
17 is not a good candidate for a substance abuse treatment
18 program for medical, programming, or operational reasons.
19 Availability of substance abuse treatment shall be subject
20 to the limits of fiscal resources appropriated by the
21 General Assembly for these purposes. If treatment is not
22 available and the requirement to participate and complete
23 the treatment has not been waived by the Director, the
24 prisoner shall be placed on a waiting list under criteria
25 established by the Department. The Director may allow a
26 prisoner placed on a waiting list to participate in and
27 complete a substance abuse education class or attend
28 substance abuse self-help meetings in lieu of a substance
29 abuse treatment program. A prisoner on a waiting list who
30 is not placed in a substance abuse program prior to release
31 may be eligible for a waiver and receive good conduct
32 credit under clause (3) of this subsection (a) at the
33 discretion of the Director.

34 (5) Whenever the Department is to release any inmate
35 earlier than it otherwise would because of a grant of good
36 conduct credit for meritorious service given at any time

1 during the term, the Department shall give reasonable
2 advance notice of the impending release to the State's
3 Attorney of the county where the prosecution of the inmate
4 took place.

5 (b) Whenever a person is or has been committed under
6 several convictions, with separate sentences, the sentences
7 shall be construed under Section 5-8-4 in granting and
8 forfeiting of good time.

9 (c) The Department shall prescribe rules and regulations
10 for revoking good conduct credit, or suspending or reducing the
11 rate of accumulation of good conduct credit for specific rule
12 violations, during imprisonment. These rules and regulations
13 shall provide that no inmate may be penalized more than one
14 year of good conduct credit for any one infraction.

15 When the Department seeks to revoke, suspend or reduce the
16 rate of accumulation of any good conduct credits for an alleged
17 infraction of its rules, it shall bring charges therefor
18 against the prisoner sought to be so deprived of good conduct
19 credits before the Prisoner Review Board as provided in
20 subparagraph (a)(4) of Section 3-3-2 of this Code, if the
21 amount of credit at issue exceeds 30 days or when during any 12
22 month period, the cumulative amount of credit revoked exceeds
23 30 days except where the infraction is committed or discovered
24 within 60 days of scheduled release. In those cases, the
25 Department of Corrections may revoke up to 30 days of good
26 conduct credit. The Board may subsequently approve the
27 revocation of additional good conduct credit, if the Department
28 seeks to revoke good conduct credit in excess of 30 days.
29 However, the Board shall not be empowered to review the
30 Department's decision with respect to the loss of 30 days of
31 good conduct credit within any calendar year for any prisoner
32 or to increase any penalty beyond the length requested by the
33 Department.

34 The Director of the Department of Corrections, in
35 appropriate cases, may restore up to 30 days good conduct
36 credits which have been revoked, suspended or reduced. Any

1 restoration of good conduct credits in excess of 30 days shall
2 be subject to review by the Prisoner Review Board. However, the
3 Board may not restore good conduct credit in excess of the
4 amount requested by the Director.

5 Nothing contained in this Section shall prohibit the
6 Prisoner Review Board from ordering, pursuant to Section
7 3-3-9(a)(3)(i)(B), that a prisoner serve up to one year of the
8 sentence imposed by the court that was not served due to the
9 accumulation of good conduct credit.

10 (d) If a lawsuit is filed by a prisoner in an Illinois or
11 federal court against the State, the Department of Corrections,
12 or the Prisoner Review Board, or against any of their officers
13 or employees, and the court makes a specific finding that a
14 pleading, motion, or other paper filed by the prisoner is
15 frivolous, the Department of Corrections shall conduct a
16 hearing to revoke up to 180 days of good conduct credit by
17 bringing charges against the prisoner sought to be deprived of
18 the good conduct credits before the Prisoner Review Board as
19 provided in subparagraph (a)(8) of Section 3-3-2 of this Code.
20 If the prisoner has not accumulated 180 days of good conduct
21 credit at the time of the finding, then the Prisoner Review
22 Board may revoke all good conduct credit accumulated by the
23 prisoner.

24 For purposes of this subsection (d):

25 (1) "Frivolous" means that a pleading, motion, or other
26 filing which purports to be a legal document filed by a
27 prisoner in his or her lawsuit meets any or all of the
28 following criteria:

29 (A) it lacks an arguable basis either in law or in
30 fact;

31 (B) it is being presented for any improper purpose,
32 such as to harass or to cause unnecessary delay or
33 needless increase in the cost of litigation;

34 (C) the claims, defenses, and other legal
35 contentions therein are not warranted by existing law
36 or by a nonfrivolous argument for the extension,

1 modification, or reversal of existing law or the
2 establishment of new law;

3 (D) the allegations and other factual contentions
4 do not have evidentiary support or, if specifically so
5 identified, are not likely to have evidentiary support
6 after a reasonable opportunity for further
7 investigation or discovery; or

8 (E) the denials of factual contentions are not
9 warranted on the evidence, or if specifically so
10 identified, are not reasonably based on a lack of
11 information or belief.

12 (2) "Lawsuit" means a petition for post-conviction
13 relief under Article 122 of the Code of Criminal Procedure
14 of 1963, a motion pursuant to Section 116-3 of the Code of
15 Criminal Procedure of 1963, a habeas corpus action under
16 Article X of the Code of Civil Procedure or under federal
17 law (28 U.S.C. 2254), a petition for claim under the Court
18 of Claims Act or an action under the federal Civil Rights
19 Act (42 U.S.C. 1983).

20 (e) Nothing in Public Act 90-592 or 90-593 affects the
21 validity of Public Act 89-404.

22 (Source: P.A. 93-213, eff. 7-18-03; 93-354, eff. 9-1-03; 94-71,
23 eff. 6-23-05; 94-128, eff. 7-7-05; 94-156, eff. 7-8-05; 94-398,
24 eff. 8-2-05; 94-491, eff. 8-8-05; revised 8-19-05.)

25 (730 ILCS 5/5-4-1) (from Ch. 38, par. 1005-4-1)

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

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

1 Programs conducting these evaluations shall be licensed by the
2 Department of Human Services. However, if the individual is not
3 a resident of Illinois, the court may, in its discretion,
4 accept an evaluation from a program in the state of such
5 individual's residence. The court may in its sentencing order
6 approve an eligible defendant for placement in a Department of
7 Corrections impact incarceration program as provided in
8 Section 5-8-1.1 or 5-8-1.3. The court may in its sentencing
9 order recommend a defendant for placement in a Department of
10 Corrections substance abuse treatment program as provided in
11 paragraph (a) of subsection (1) of Section 3-2-2 conditioned
12 upon the defendant being accepted in a program by the
13 Department of Corrections. At the hearing the court shall:

14 (1) consider the evidence, if any, received upon the
15 trial;

16 (2) consider any presentence reports;

17 (3) consider the financial impact of incarceration
18 based on the financial impact statement filed with the
19 clerk of the court by the Department of Corrections;

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

22 (4.5) consider substance abuse treatment, eligibility
23 screening, and an assessment, if any, of the defendant by
24 an agent designated by the State of Illinois to provide
25 assessment services for the Illinois courts;

26 (5) hear arguments as to sentencing alternatives;

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

29 (7) afford the victim of a violent crime or a violation
30 of Section 11-501 of the Illinois Vehicle Code, or a
31 similar provision of a local ordinance, or a qualified
32 individual affected by: (i) a violation of Section 405,
33 405.1, 405.2, or 407 of the Illinois Controlled Substances
34 Act or a violation of Section 55 or Section 65 of the
35 Methamphetamine Control and Community Protection Act, or
36 (ii) a Class 4 felony violation of Section 11-14, 11-15,

1 11-17, 11-18, 11-18.1, or 11-19 of the Criminal Code of
2 1961, committed by the defendant the opportunity to make a
3 statement concerning the impact on the victim and to offer
4 evidence in aggravation or mitigation; provided that the
5 statement and evidence offered in aggravation or
6 mitigation must first be prepared in writing in conjunction
7 with the State's Attorney before it may be presented orally
8 at the hearing. Any sworn testimony offered by the victim
9 is subject to the defendant's right to cross-examine. All
10 statements and evidence offered under this paragraph (7)
11 shall become part of the record of the court. For the
12 purpose of this paragraph (7), "qualified individual"
13 means any person who (i) lived or worked within the
14 territorial jurisdiction where the offense took place when
15 the offense took place; and (ii) is familiar with various
16 public places within the territorial jurisdiction where
17 the offense took place when the offense took place. For the
18 purposes of this paragraph (7), "qualified individual"
19 includes any peace officer, or any member of any duly
20 organized State, county, or municipal peace unit assigned
21 to the territorial jurisdiction where the offense took
22 place when the offense took place;

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

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

30 (b) All sentences shall be imposed by the judge based upon
31 his independent assessment of the elements specified above and
32 any agreement as to sentence reached by the parties. The judge
33 who presided at the trial or the judge who accepted the plea of
34 guilty shall impose the sentence unless he is no longer sitting
35 as a judge in that court. Where the judge does not impose
36 sentence at the same time on all defendants who are convicted

1 as a result of being involved in the same offense, the
2 defendant or the State's Attorney may advise the sentencing
3 court of the disposition of any other defendants who have been
4 sentenced.

5 (c) In imposing a sentence for a violent crime or for an
6 offense of operating or being in physical control of a vehicle
7 while under the influence of alcohol, any other drug or any
8 combination thereof, or a similar provision of a local
9 ordinance, when such offense resulted in the personal injury to
10 someone other than the defendant, the trial judge shall specify
11 on the record the particular evidence, information, factors in
12 mitigation and aggravation or other reasons that led to his
13 sentencing determination. The full verbatim record of the
14 sentencing hearing shall be filed with the clerk of the court
15 and shall be a public record.

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

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

34 The judge's statement, to be given after pronouncing the
35 sentence, other than when the sentence is imposed for one of
36 the offenses enumerated in paragraph (a) (3) of Section 3-6-3,

1 shall include the following:

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

19 When the sentence is imposed for one of the offenses
20 enumerated in paragraph (a)(3) of Section 3-6-3, other than
21 when the sentence is imposed for one of the offenses enumerated
22 in paragraph (a)(2) of Section 3-6-3 committed on or after June
23 19, 1998, and other than when the sentence is imposed for
24 reckless homicide as defined in subsection (e) of Section 9-3
25 of the Criminal Code of 1961 if the offense was committed on or
26 after January 1, 1999, and other than when the sentence is
27 imposed for aggravated arson if the offense was committed on or
28 after July 27, 2001 (the effective date of Public Act 92-176),
29 the judge's statement, to be given after pronouncing the
30 sentence, shall include the following:

31 "The purpose of this statement is to inform the public of
32 the actual period of time this defendant is likely to spend in
33 prison as a result of this sentence. The actual period of
34 prison time served is determined by the statutes of Illinois as
35 applied to this sentence by the Illinois Department of
36 Corrections and the Illinois Prisoner Review Board. In this

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

12 When the sentence is imposed for one of the offenses
13 enumerated in paragraph (a)(2) of Section 3-6-3, other than
14 first degree murder, and the offense was committed on or after
15 June 19, 1998, and when the sentence is imposed for reckless
16 homicide as defined in subsection (e) of Section 9-3 of the
17 Criminal Code of 1961 if the offense was committed on or after
18 January 1, 1999, and when the sentence is imposed for homicide
19 while ~~aggravated~~ driving under the influence of alcohol, other
20 drug or drugs, or intoxicating compound or compounds, or any
21 combination thereof as defined in Section 11-501.9
22 ~~subparagraph (F) of paragraph (1) of subsection (d) of Section~~
23 ~~11-501~~ of the Illinois Vehicle Code, and when the sentence is
24 imposed for aggravated arson if the offense was committed on or
25 after July 27, 2001 (the effective date of Public Act 92-176),
26 the judge's statement, to be given after pronouncing the
27 sentence, shall include the following:

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

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

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

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

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

28 "The purpose of this statement is to inform the public of
29 the actual period of time this defendant is likely to spend in
30 prison as a result of this sentence. The actual period of
31 prison time served is determined by the statutes of Illinois as
32 applied to this sentence by the Illinois Department of
33 Corrections and the Illinois Prisoner Review Board. In this
34 case, the defendant shall receive no good conduct credit under
35 clause (3) of subsection (a) of Section 3-6-3 until he or she
36 participates in and completes a substance abuse treatment

1 program or receives a waiver from the Director of Corrections
2 pursuant to clause (4.5) of subsection (a) of Section 3-6-3."

3 (d) When the defendant is committed to the Department of
4 Corrections, the State's Attorney shall and counsel for the
5 defendant may file a statement with the clerk of the court to
6 be transmitted to the department, agency or institution to
7 which the defendant is committed to furnish such department,
8 agency or institution with the facts and circumstances of the
9 offense for which the person was committed together with all
10 other factual information accessible to them in regard to the
11 person prior to his commitment relative to his habits,
12 associates, disposition and reputation and any other facts and
13 circumstances which may aid such department, agency or
14 institution during its custody of such person. The clerk shall
15 within 10 days after receiving any such statements transmit a
16 copy to such department, agency or institution and a copy to
17 the other party, provided, however, that this shall not be
18 cause for delay in conveying the person to the department,
19 agency or institution to which he has been committed.

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

23 (1) the sentence imposed;

24 (2) any statement by the court of the basis for
25 imposing the sentence;

26 (3) any presentence reports;

27 (3.5) any sex offender evaluations;

28 (3.6) any substance abuse treatment eligibility
29 screening and assessment of the defendant by an agent
30 designated by the State of Illinois to provide assessment
31 services for the Illinois courts;

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

36 (4.1) any finding of great bodily harm made by the

1 court with respect to an offense enumerated in subsection
2 (c-1);

3 (5) all statements filed under subsection (d) of this
4 Section;

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

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

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

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

14 (Source: P.A. 93-213, eff. 7-18-03; 93-317, eff. 1-1-04;
15 93-354, eff. 9-1-03; 93-616, eff. 1-1-04; 94-156, eff. 7-8-05;
16 94-556, eff. 9-11-05; revised 8-19-05.)