



Sen. Mattie Hunter

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1 AMENDMENT TO SENATE BILL 2074

2 AMENDMENT NO. _____. Amend Senate Bill 2074 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Department of State Police Law of the Civil
5 Administrative Code of Illinois is amended by changing Section
6 2605-40 as follows:

7 (20 ILCS 2605/2605-40) (was 20 ILCS 2605/55a-4)

8 Sec. 2605-40. Division of Forensic Services. The Division
9 of Forensic Services shall exercise the following functions:

10 (1) Exercise the rights, powers, and duties vested by
11 law in the Department by the Criminal Identification Act.

12 (2) Exercise the rights, powers, and duties vested by
13 law in the Department by Section 2605-300 of this Law.

14 (3) Provide assistance to local law enforcement
15 agencies through training, management, and consultant
16 services.

17 (4) (Blank).

18 (5) Exercise other duties that may be assigned by the
19 Director in order to fulfill the responsibilities and
20 achieve the purposes of the Department.

21 (6) Establish and operate a forensic science
22 laboratory system, including a forensic toxicological
23 laboratory service, for the purpose of testing specimens
24 submitted by coroners and other law enforcement officers in

1 their efforts to determine whether alcohol, drugs, or
2 poisonous or other toxic substances have been involved in
3 deaths, accidents, or illness. Forensic toxicological
4 laboratories shall be established in Springfield, Chicago,
5 and elsewhere in the State as needed.

6 (7) (Blank). ~~Subject to specific appropriations made~~
7 ~~for these purposes, establish and coordinate a system for~~
8 ~~providing accurate and expedited forensic science and~~
9 ~~other investigative and laboratory services to local law~~
10 ~~enforcement agencies and local State's Attorneys in aid of~~
11 ~~the investigation and trial of capital cases.~~

12 (Source: P.A. 90-130, eff. 1-1-98; 91-239, eff. 1-1-00; 91-589,
13 eff. 1-1-00; 91-760, eff. 1-1-01.)

14 (20 ILCS 3929/Act rep.)

15 Section 10. The Capital Punishment Reform Study Committee
16 Act is repealed.

17 Section 15. The Criminal Identification Act is amended by
18 changing Section 2.1 as follows:

19 (20 ILCS 2630/2.1) (from Ch. 38, par. 206-2.1)

20 Sec. 2.1. For the purpose of maintaining complete and
21 accurate criminal records of the Department of State Police, it
22 is necessary for all policing bodies of this State, the clerk
23 of the circuit court, the Illinois Department of Corrections,
24 the sheriff of each county, and State's Attorney of each county
25 to submit certain criminal arrest, charge, and disposition
26 information to the Department for filing at the earliest time
27 possible. Unless otherwise noted herein, it shall be the duty
28 of all policing bodies of this State, the clerk of the circuit
29 court, the Illinois Department of Corrections, the sheriff of
30 each county, and the State's Attorney of each county to report
31 such information as provided in this Section, both in the form

1 and manner required by the Department and within 30 days of the
2 criminal history event. Specifically:

3 (a) Arrest Information. All agencies making arrests for
4 offenses which are required by statute to be collected,
5 maintained or disseminated by the Department of State Police
6 shall be responsible for furnishing daily to the Department
7 fingerprints, charges and descriptions of all persons who are
8 arrested for such offenses. All such agencies shall also notify
9 the Department of all decisions by the arresting agency not to
10 refer such arrests for prosecution. With approval of the
11 Department, an agency making such arrests may enter into
12 arrangements with other agencies for the purpose of furnishing
13 daily such fingerprints, charges and descriptions to the
14 Department upon its behalf.

15 (b) Charge Information. The State's Attorney of each county
16 shall notify the Department of all charges filed and all
17 petitions filed alleging that a minor is delinquent, including
18 all those added subsequent to the filing of a case, and whether
19 charges were not filed in cases for which the Department has
20 received information required to be reported pursuant to
21 paragraph (a) of this Section. With approval of the Department,
22 the State's Attorney may enter into arrangements with other
23 agencies for the purpose of furnishing the information required
24 by this subsection (b) to the Department upon the State's
25 Attorney's behalf.

26 (c) Disposition Information. The clerk of the circuit court
27 of each county shall furnish the Department, in the form and
28 manner required by the Supreme Court, with all final
29 dispositions of cases for which the Department has received
30 information required to be reported pursuant to paragraph (a)
31 or (d) of this Section. Such information shall include, for
32 each charge, all (1) judgments of not guilty, judgments of
33 guilty including the sentence pronounced by the court, findings
34 that a minor is delinquent and any sentence made based on those

1 findings, discharges and dismissals in the court; (2) reviewing
2 court orders filed with the clerk of the circuit court which
3 reverse or remand a reported conviction or findings that a
4 minor is delinquent or that vacate or modify a sentence or
5 sentence made following a trial that a minor is delinquent; (3)
6 continuances to a date certain in furtherance of an order of
7 supervision granted under Section 5-6-1 of the Unified Code of
8 Corrections or an order of probation granted under Section 10
9 of the Cannabis Control Act, Section 410 of the Illinois
10 Controlled Substances Act, Section 12-4.3 of the Criminal Code
11 of 1961, Section 10-102 of the Illinois Alcoholism and Other
12 Drug Dependency Act, Section 40-10 of the Alcoholism and Other
13 Drug Abuse and Dependency Act, Section 10 of the Steroid
14 Control Act, or Section 5-615 of the Juvenile Court Act of
15 1987; and (4) judgments or court orders terminating or revoking
16 a sentence to or juvenile disposition of probation, supervision
17 or conditional discharge and any resentencing or new court
18 orders entered by a juvenile court relating to the disposition
19 of a minor's case involving delinquency after such revocation.

20 (d) Fingerprints After Sentencing.

21 (1) After the court pronounces sentence, sentences a
22 minor following a trial in which a minor was found to be
23 delinquent or issues an order of supervision or an order of
24 probation granted under Section 10 of the Cannabis Control
25 Act, Section 410 of the Illinois Controlled Substances Act,
26 Section 12-4.3 of the Criminal Code of 1961, Section 10-102
27 of the Illinois Alcoholism and Other Drug Dependency Act,
28 Section 40-10 of the Alcoholism and Other Drug Abuse and
29 Dependency Act, Section 10 of the Steroid Control Act, or
30 Section 5-615 of the Juvenile Court Act of 1987 for any
31 offense which is required by statute to be collected,
32 maintained, or disseminated by the Department of State
33 Police, the State's Attorney of each county shall ask the
34 court to order a law enforcement agency to fingerprint

1 immediately all persons appearing before the court who have
2 not previously been fingerprinted for the same case. The
3 court shall so order the requested fingerprinting, if it
4 determines that any such person has not previously been
5 fingerprinted for the same case. The law enforcement agency
6 shall submit such fingerprints to the Department daily.

7 (2) After the court pronounces sentence or makes a
8 disposition of a case following a finding of delinquency
9 for any offense which is not required by statute to be
10 collected, maintained, or disseminated by the Department
11 of State Police, the prosecuting attorney may ask the court
12 to order a law enforcement agency to fingerprint
13 immediately all persons appearing before the court who have
14 not previously been fingerprinted for the same case. The
15 court may so order the requested fingerprinting, if it
16 determines that any so sentenced person has not previously
17 been fingerprinted for the same case. The law enforcement
18 agency may retain such fingerprints in its files.

19 (e) Corrections Information. The Illinois Department of
20 Corrections and the sheriff of each county shall furnish the
21 Department with all information concerning the receipt,
22 escape, execution before the effective date of this amendatory
23 Act of the 94th General Assembly, death, release, pardon,
24 parole, commutation of sentence, granting of executive
25 clemency or discharge of an individual who has been sentenced
26 or committed to the agency's custody for any offenses which are
27 mandated by statute to be collected, maintained or disseminated
28 by the Department of State Police. For an individual who has
29 been charged with any such offense and who escapes from custody
30 or dies while in custody, all information concerning the
31 receipt and escape or death, whichever is appropriate, shall
32 also be so furnished to the Department.

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

1 (30 ILCS 105/5.518 rep.)

2 Section 20. The State Finance Act is amended by repealing
3 Section 5.518 on July 1, 2006.

4 Section 25. The Counties Code is amended by changing
5 Sections 3-4011 and 3-9005 as follows:

6 (55 ILCS 5/3-4011) (from Ch. 34, par. 3-4011)

7 Sec. 3-4011. Expenses and legal services for indigent
8 defendants in felony cases. It shall be the duty of the county
9 board in counties containing fewer than 500,000 inhabitants to
10 appropriate a sufficient sum for the purpose of paying for the
11 legal services necessarily rendered for the defense of indigent
12 persons in felony cases, and for costs, expenses and legal
13 services necessary in the prosecution of an appeal when the
14 sentence is death and the sentence was imposed before the
15 effective date of this amendatory Act of the 94th General
16 Assembly, which is to be paid upon the orders of a court of
17 competent jurisdiction. It shall likewise be the duty of the
18 county board in counties containing fewer than 500,000
19 inhabitants to appropriate a sufficient sum for the payment of
20 out of pocket expenses necessarily incurred by appointed
21 counsel in the prosecution of an appeal on behalf of an
22 indigent incarcerated defendant in felony cases. In such cases
23 payment shall be made upon the order of the reviewing court.

24 (Source: P.A. 86-962.)

25 (55 ILCS 5/3-9005) (from Ch. 34, par. 3-9005)

26 Sec. 3-9005. Powers and duties of State's attorney.

27 (a) The duty of each State's attorney shall be:

28 (1) To commence and prosecute all actions, suits,
29 indictments and prosecutions, civil and criminal, in the
30 circuit court for his county, in which the people of the
31 State or county may be concerned.

1 (2) To prosecute all forfeited bonds and
2 recognizances, and all actions and proceedings for the
3 recovery of debts, revenues, moneys, fines, penalties and
4 forfeitures accruing to the State or his county, or to any
5 school district or road district in his county; also, to
6 prosecute all suits in his county against railroad or
7 transportation companies, which may be prosecuted in the
8 name of the People of the State of Illinois.

9 (3) To commence and prosecute all actions and
10 proceedings brought by any county officer in his official
11 capacity.

12 (4) To defend all actions and proceedings brought
13 against his county, or against any county or State officer,
14 in his official capacity, within his county.

15 (5) To attend the examination of all persons brought
16 before any judge on habeas corpus, when the prosecution is
17 in his county.

18 (6) To attend before judges and prosecute charges of
19 felony or misdemeanor, for which the offender is required
20 to be recognized to appear before the circuit court, when
21 in his power so to do.

22 (7) To give his opinion, without fee or reward, to any
23 county officer in his county, upon any question or law
24 relating to any criminal or other matter, in which the
25 people or the county may be concerned.

26 (8) To assist the attorney general whenever it may be
27 necessary, and in cases of appeal from his county to the
28 Supreme Court, to which it is the duty of the attorney
29 general to attend, he shall furnish the attorney general at
30 least 10 days before such is due to be filed, a manuscript
31 of a proposed statement, brief and argument to be printed
32 and filed on behalf of the people, prepared in accordance
33 with the rules of the Supreme Court. However, if such
34 brief, argument or other document is due to be filed by law

1 or order of court within this 10 day period, then the
2 State's attorney shall furnish such as soon as may be
3 reasonable.

4 (9) To pay all moneys received by him in trust, without
5 delay, to the officer who by law is entitled to the custody
6 thereof.

7 (10) To notify, by first class mail, complaining
8 witnesses of the ultimate disposition of the cases arising
9 from an indictment or an information.

10 (11) To perform such other and further duties as may,
11 from time to time, be enjoined on him by law.

12 (12) To appear in all proceedings by collectors of
13 taxes against delinquent taxpayers for judgments to sell
14 real estate, and see that all the necessary preliminary
15 steps have been legally taken to make the judgment legal
16 and binding.

17 (b) The State's Attorney of each county shall have
18 authority to appoint one or more special investigators to serve
19 subpoenas, make return of process and conduct investigations
20 which assist the State's Attorney in the performance of his
21 duties. A special investigator shall not carry firearms except
22 with permission of the State's Attorney and only while carrying
23 appropriate identification indicating his employment and in
24 the performance of his assigned duties.

25 Subject to the qualifications set forth in this subsection,
26 special investigators shall be peace officers and shall have
27 all the powers possessed by investigators under the State's
28 Attorneys Appellate Prosecutor's Act.

29 No special investigator employed by the State's Attorney
30 shall have peace officer status or exercise police powers
31 unless he or she successfully completes the basic police
32 training course mandated and approved by the Illinois Law
33 Enforcement Training Standards Board or such board waives the
34 training requirement by reason of the special investigator's

1 prior law enforcement experience or training or both. Any
2 State's Attorney appointing a special investigator shall
3 consult with all affected local police agencies, to the extent
4 consistent with the public interest, if the special
5 investigator is assigned to areas within that agency's
6 jurisdiction.

7 Before a person is appointed as a special investigator, his
8 fingerprints shall be taken and transmitted to the Department
9 of State Police. The Department shall examine its records and
10 submit to the State's Attorney of the county in which the
11 investigator seeks appointment any conviction information
12 concerning the person on file with the Department. No person
13 shall be appointed as a special investigator if he has been
14 convicted of a felony or other offense involving moral
15 turpitude. A special investigator shall be paid a salary and be
16 reimbursed for actual expenses incurred in performing his
17 assigned duties. The county board shall approve the salary and
18 actual expenses and appropriate the salary and expenses in the
19 manner prescribed by law or ordinance.

20 (c) The State's Attorney may request and receive from
21 employers, labor unions, telephone companies, and utility
22 companies location information concerning putative fathers and
23 noncustodial parents for the purpose of establishing a child's
24 paternity or establishing, enforcing, or modifying a child
25 support obligation. In this subsection, "location information"
26 means information about (i) the physical whereabouts of a
27 putative father or noncustodial parent, (ii) the putative
28 father or noncustodial parent's employer, or (iii) the salary,
29 wages, and other compensation paid and the health insurance
30 coverage provided to the putative father or noncustodial parent
31 by the employer of the putative father or noncustodial parent
32 or by a labor union of which the putative father or
33 noncustodial parent is a member.

34 (d) (Blank). ~~For each State fiscal year, the State's~~

~~Attorney of Cook County shall appear before the General Assembly and request appropriations to be made from the Capital Litigation Trust Fund to the State Treasurer for the purpose of providing assistance in the prosecution of capital cases in Cook County and for the purpose of providing assistance to the State in post conviction proceedings in capital cases under Article 122 of the Code of Criminal Procedure of 1963 and in relation to petitions filed under Section 2-1401 of the Code of Civil Procedure in relation to capital cases. The State's Attorney may appear before the General Assembly at other times during the State's fiscal year to request supplemental appropriations from the Trust Fund to the State Treasurer.~~

(e) The State's Attorney shall have the authority to enter into a written agreement with the Department of Revenue for pursuit of civil liability under Section 17-1a of the Criminal Code of 1961 against persons who have issued to the Department checks or other orders in violation of the provisions of paragraph (d) of subsection (B) of Section 17-1 of the Criminal Code of 1961, with the Department to retain the amount owing upon the dishonored check or order along with the dishonored check fee imposed under the Uniform Penalty and Interest Act, with the balance of damages, fees, and costs collected under Section 17-1a of the Criminal Code of 1961 to be retained by the State's Attorney. The agreement shall not affect the allocation of fines and costs imposed in any criminal prosecution.

(Source: P.A. 92-492, eff. 1-1-02; 93-972, eff. 8-20-04.)

(55 ILCS 5/3-4006.1 rep.)

Section 30. The Counties Code is amended by repealing Section 3-4006.1.

Section 35. The School Code is amended by changing Section 21-23b as follows:

1 (105 ILCS 5/21-23b) (from Ch. 122, par. 21-23b)

2 Sec. 21-23b. Conviction of felony.

3 (a) Whenever the holder of any certificate issued under
4 this Article is employed by the school board of any school
5 district, including a special charter district or school
6 district organized under Article 34, and is convicted, either
7 after a bench trial, trial by jury, or plea of guilty, of any
8 offense for which a sentence to ~~death or~~ a term of imprisonment
9 in a penitentiary for one year or more is provided, the school
10 board shall promptly notify the State Board of Education in
11 writing of the name of the certificate holder, the fact of the
12 conviction, and the name and location of the court in which the
13 conviction occurred.

14 (b) Whenever the State Board of Education receives notice
15 of a conviction under subsection (a) or otherwise learns that
16 any person who is a "teacher" as that term is defined in
17 Section 16-106 of the Illinois Pension Code has been convicted,
18 either after a bench trial, trial by jury, or plea of guilty,
19 of any offense for which a sentence to ~~death or~~ a term of
20 imprisonment in a penitentiary for one year or more is
21 provided, the State Board of Education shall promptly notify in
22 writing the board of trustees of the Teachers' Retirement
23 System of the State of Illinois and the board of trustees of
24 the Public School Teachers' Pension and Retirement Fund of the
25 City of Chicago of the name of the certificate holder or
26 teacher, the fact of the conviction, the name and location of
27 the court in which the conviction occurred, and the number
28 assigned in that court to the case in which the conviction
29 occurred.

30 (Source: P.A. 87-1001.)

31 Section 40. The Illinois Public Aid Code is amended by
32 changing Section 1-8 as follows:

1 (305 ILCS 5/1-8)

2 Sec. 1-8. Fugitives ineligible.

3 (a) The following persons are not eligible for aid under
4 this Code, or federal food stamps or federal food stamp
5 benefits:

6 (1) A person who has fled from the jurisdiction of any
7 court of record of this or any other state or of the United
8 States to avoid prosecution for a felony or to avoid giving
9 testimony in any criminal proceeding involving the alleged
10 commission of a felony.

11 (2) A person who has fled to avoid imprisonment in a
12 correctional facility of this or any other state or the
13 United States for having committed a felony.

14 (3) A person who has escaped from a correctional
15 facility of this or any other state or the United States if
16 the person was incarcerated for having committed a felony.

17 (4) A person who is violating a condition of probation
18 or parole imposed under federal or State law.

19 In this Section, "felony" means a violation of a penal
20 statute of this State for which a sentence to a term of
21 imprisonment in a penitentiary for one year or more is provided
22 or a violation of a penal statute of ~~or~~ any other state or the
23 United States for which a sentence to death or to a term of
24 imprisonment in a penitentiary for one year or more is
25 provided.

26 To implement this Section, the Illinois Department may
27 exchange necessary information with an appropriate law
28 enforcement agency of this or any other state, a political
29 subdivision of this or any other state, or the United States.

30 (b) (Blank).

31 (Source: P.A. 92-111, eff. 1-1-02.)

32 Section 45. The Criminal Code of 1961 is amended by

1 changing Sections 2-7, 7-10, 9-1, 9-1.2, 30-1, and 33B-1 as
2 follows:

3 (720 ILCS 5/2-7) (from Ch. 38, par. 2-7)

4 Sec. 2-7. "Felony".

5 "Felony" means an offense for which a sentence to ~~death or~~
6 ~~to~~ a term of imprisonment in a penitentiary for one year or
7 more is provided.

8 (Source: P.A. 77-2638.)

9 (720 ILCS 5/7-10) (from Ch. 38, par. 7-10)

10 Sec. 7-10. Execution of death sentence.

11 A public officer who, in the exercise of his official duty,
12 puts a person to death pursuant to a sentence of a court of
13 competent jurisdiction made before the effective date of this
14 amendatory Act of the 94th General Assembly, is justified if he
15 acts in accordance with the sentence pronounced and the law
16 prescribing the procedure for execution of a death sentence.

17 (Source: Laws 1961, p. 1983.)

18 (720 ILCS 5/9-1) (from Ch. 38, par. 9-1)

19 Sec. 9-1. First degree Murder ~~— Death penalties —~~
20 ~~Exceptions — Separate Hearings — Proof — Findings — Appellate~~
21 ~~procedures — Reversals.~~

22 (a) A person who kills an individual without lawful
23 justification commits first degree murder if, in performing the
24 acts which cause the death:

25 (1) he either intends to kill or do great bodily harm
26 to that individual or another, or knows that such acts will
27 cause death to that individual or another; or

28 (2) he knows that such acts create a strong probability
29 of death or great bodily harm to that individual or
30 another; or

31 (3) he is attempting or committing a forcible felony

1 other than second degree murder.

2 (b) Aggravating Factors. A defendant who at the time of the
3 commission of the offense has attained the age of 18 or more
4 and who has been found guilty of first degree murder may be
5 sentenced to a term of natural life imprisonment ~~death~~ if:

6 (1) the murdered individual was a peace officer or
7 fireman killed in the course of performing his official
8 duties, to prevent the performance of his official duties,
9 or in retaliation for performing his official duties, and
10 the defendant knew or should have known that the murdered
11 individual was a peace officer or fireman; or

12 (2) the murdered individual was an employee of an
13 institution or facility of the Department of Corrections,
14 or any similar local correctional agency, killed in the
15 course of performing his official duties, to prevent the
16 performance of his official duties, or in retaliation for
17 performing his official duties, or the murdered individual
18 was an inmate at such institution or facility and was
19 killed on the grounds thereof, or the murdered individual
20 was otherwise present in such institution or facility with
21 the knowledge and approval of the chief administrative
22 officer thereof; or

23 (3) the defendant has been convicted of murdering two
24 or more individuals under subsection (a) of this Section or
25 under any law of the United States or of any state which is
26 substantially similar to subsection (a) of this Section
27 regardless of whether the deaths occurred as the result of
28 the same act or of several related or unrelated acts so
29 long as the deaths were the result of either an intent to
30 kill more than one person or of separate acts which the
31 defendant knew would cause death or create a strong
32 probability of death or great bodily harm to the murdered
33 individual or another; or

34 (4) the murdered individual was killed as a result of

1 the hijacking of an airplane, train, ship, bus or other
2 public conveyance; or

3 (5) the defendant committed the murder pursuant to a
4 contract, agreement or understanding by which he was to
5 receive money or anything of value in return for committing
6 the murder or procured another to commit the murder for
7 money or anything of value; or

8 (6) the murdered individual was killed in the course of
9 another felony if:

10 (a) the murdered individual:

11 (i) was actually killed by the defendant, or

12 (ii) received physical injuries personally
13 inflicted by the defendant substantially
14 contemporaneously with physical injuries caused by
15 one or more persons for whose conduct the defendant
16 is legally accountable under Section 5-2 of this
17 Code, and the physical injuries inflicted by
18 either the defendant or the other person or persons
19 for whose conduct he is legally accountable caused
20 the death of the murdered individual; and

21 (b) in performing the acts which caused the death
22 of the murdered individual or which resulted in
23 physical injuries personally inflicted by the
24 defendant on the murdered individual under the
25 circumstances of subdivision (ii) of subparagraph (a)
26 of paragraph (6) of subsection (b) of this Section, the
27 defendant acted with the intent to kill the murdered
28 individual or with the knowledge that his acts created
29 a strong probability of death or great bodily harm to
30 the murdered individual or another; and

31 (c) the other felony was an inherently violent
32 crime or the attempt to commit an inherently violent
33 crime. In this subparagraph (c), "inherently violent
34 crime" includes, but is not limited to, armed robbery,

1 robbery, predatory criminal sexual assault of a child,
2 aggravated criminal sexual assault, aggravated
3 kidnapping, aggravated vehicular hijacking, aggravated
4 arson, aggravated stalking, residential burglary, and
5 home invasion ; or

6 (7) the murdered individual was under 12 years of age
7 and the death resulted from exceptionally brutal or heinous
8 behavior indicative of wanton cruelty; or

9 (8) the defendant committed the murder with intent to
10 prevent the murdered individual from testifying or
11 participating in any criminal investigation or prosecution
12 or giving material assistance to the State in any
13 investigation or prosecution, either against the defendant
14 or another; or the defendant committed the murder because
15 the murdered individual was a witness in any prosecution or
16 gave material assistance to the State in any investigation
17 or prosecution, either against the defendant or another;
18 for purposes of this paragraph (8), "participating in any
19 criminal investigation or prosecution" is intended to
20 include those appearing in the proceedings in any capacity
21 such as trial judges, prosecutors, defense attorneys,
22 investigators, witnesses, or jurors; or

23 (9) the defendant, while committing an offense
24 punishable under Sections 401, 401.1, 401.2, 405, 405.2,
25 407 or 407.1 or subsection (b) of Section 404 of the
26 Illinois Controlled Substances Act, or while engaged in a
27 conspiracy or solicitation to commit such offense,
28 intentionally killed an individual or counseled,
29 commanded, induced, procured or caused the intentional
30 killing of the murdered individual; or

31 (10) the defendant was incarcerated in an institution
32 or facility of the Department of Corrections at the time of
33 the murder, and while committing an offense punishable as a
34 felony under Illinois law, or while engaged in a conspiracy

1 or solicitation to commit such offense, intentionally
2 killed an individual or counseled, commanded, induced,
3 procured or caused the intentional killing of the murdered
4 individual; or

5 (11) the murder was committed in a cold, calculated and
6 premeditated manner pursuant to a preconceived plan,
7 scheme or design to take a human life by unlawful means,
8 and the conduct of the defendant created a reasonable
9 expectation that the death of a human being would result
10 therefrom; or

11 (12) the murdered individual was an emergency medical
12 technician - ambulance, emergency medical technician -
13 intermediate, emergency medical technician - paramedic,
14 ambulance driver, or other medical assistance or first aid
15 personnel, employed by a municipality or other
16 governmental unit, killed in the course of performing his
17 official duties, to prevent the performance of his official
18 duties, or in retaliation for performing his official
19 duties, and the defendant knew or should have known that
20 the murdered individual was an emergency medical
21 technician - ambulance, emergency medical technician -
22 intermediate, emergency medical technician - paramedic,
23 ambulance driver, or other medical assistance or first aid
24 personnel; or

25 (13) the defendant was a principal administrator,
26 organizer, or leader of a calculated criminal drug
27 conspiracy consisting of a hierarchical position of
28 authority superior to that of all other members of the
29 conspiracy, and the defendant counseled, commanded,
30 induced, procured, or caused the intentional killing of the
31 murdered person; or

32 (14) the murder was intentional and involved the
33 infliction of torture. For the purpose of this Section
34 torture means the infliction of or subjection to extreme

1 physical pain, motivated by an intent to increase or
2 prolong the pain, suffering or agony of the victim; or

3 (15) the murder was committed as a result of the
4 intentional discharge of a firearm by the defendant from a
5 motor vehicle and the victim was not present within the
6 motor vehicle; or

7 (16) the murdered individual was 60 years of age or
8 older and the death resulted from exceptionally brutal or
9 heinous behavior indicative of wanton cruelty; or

10 (17) the murdered individual was a disabled person and
11 the defendant knew or should have known that the murdered
12 individual was disabled. For purposes of this paragraph
13 (17), "disabled person" means a person who suffers from a
14 permanent physical or mental impairment resulting from
15 disease, an injury, a functional disorder, or a congenital
16 condition that renders the person incapable of adequately
17 providing for his or her own health or personal care; or

18 (18) the murder was committed by reason of any person's
19 activity as a community policing volunteer or to prevent
20 any person from engaging in activity as a community
21 policing volunteer; or

22 (19) the murdered individual was subject to an order of
23 protection and the murder was committed by a person against
24 whom the same order of protection was issued under the
25 Illinois Domestic Violence Act of 1986; or

26 (20) the murdered individual was known by the defendant
27 to be a teacher or other person employed in any school and
28 the teacher or other employee is upon the grounds of a
29 school or grounds adjacent to a school, or is in any part
30 of a building used for school purposes; or

31 (21) the murder was committed by the defendant in
32 connection with or as a result of the offense of terrorism
33 as defined in Section 29D-30 of this Code.

34 (c) (Blank). ~~Consideration of factors in Aggravation and~~

1 ~~Mitigation.~~

2 ~~The court shall consider, or shall instruct the jury to~~
3 ~~consider any aggravating and any mitigating factors which are~~
4 ~~relevant to the imposition of the death penalty. Aggravating~~
5 ~~factors may include but need not be limited to those factors~~
6 ~~set forth in subsection (b). Mitigating factors may include but~~
7 ~~need not be limited to the following:~~

8 ~~(1) the defendant has no significant history of prior~~
9 ~~criminal activity;~~

10 ~~(2) the murder was committed while the defendant was~~
11 ~~under the influence of extreme mental or emotional~~
12 ~~disturbance, although not such as to constitute a defense~~
13 ~~to prosecution;~~

14 ~~(3) the murdered individual was a participant in the~~
15 ~~defendant's homicidal conduct or consented to the~~
16 ~~homicidal act;~~

17 ~~(4) the defendant acted under the compulsion of threat~~
18 ~~or menace of the imminent infliction of death or great~~
19 ~~bodily harm;~~

20 ~~(5) the defendant was not personally present during~~
21 ~~commission of the act or acts causing death;~~

22 ~~(6) the defendant's background includes a history of~~
23 ~~extreme emotional or physical abuse;~~

24 ~~(7) the defendant suffers from a reduced mental~~
25 ~~capacity.~~

26 (d) (Blank). ~~Separate sentencing hearing.~~

27 ~~Where requested by the State, the court shall conduct a~~
28 ~~separate sentencing proceeding to determine the existence of~~
29 ~~factors set forth in subsection (b) and to consider any~~
30 ~~aggravating or mitigating factors as indicated in subsection~~
31 ~~(c). The proceeding shall be conducted:~~

32 ~~(1) before the jury that determined the defendant's~~
33 ~~guilt; or~~

34 ~~(2) before a jury impanelled for the purpose of the~~

1 ~~proceeding if:~~

2 ~~A. the defendant was convicted upon a plea of~~
3 ~~guilty; or~~

4 ~~B. the defendant was convicted after a trial before~~
5 ~~the court sitting without a jury; or~~

6 ~~C. the court for good cause shown discharges the~~
7 ~~jury that determined the defendant's guilt; or~~

8 ~~(3) before the court alone if the defendant waives a~~
9 ~~jury for the separate proceeding.~~

10 (e) (Blank). ~~Evidence and Argument.~~

11 ~~During the proceeding any information relevant to any of~~
12 ~~the factors set forth in subsection (b) may be presented by~~
13 ~~either the State or the defendant under the rules governing the~~
14 ~~admission of evidence at criminal trials. Any information~~
15 ~~relevant to any additional aggravating factors or any~~
16 ~~mitigating factors indicated in subsection (c) may be presented~~
17 ~~by the State or defendant regardless of its admissibility under~~
18 ~~the rules governing the admission of evidence at criminal~~
19 ~~trials. The State and the defendant shall be given fair~~
20 ~~opportunity to rebut any information received at the hearing.~~

21 (f) (Blank). ~~Proof.~~

22 ~~The burden of proof of establishing the existence of any of~~
23 ~~the factors set forth in subsection (b) is on the State and~~
24 ~~shall not be satisfied unless established beyond a reasonable~~
25 ~~doubt.~~

26 (g) (Blank). ~~Procedure—Jury.~~

27 ~~If at the separate sentencing proceeding the jury finds~~
28 ~~that none of the factors set forth in subsection (b) exists,~~
29 ~~the court shall sentence the defendant to a term of~~
30 ~~imprisonment under Chapter V of the Unified Code of~~
31 ~~Corrections. If there is a unanimous finding by the jury that~~
32 ~~one or more of the factors set forth in subsection (b) exist,~~
33 ~~the jury shall consider aggravating and mitigating factors as~~
34 ~~instructed by the court and shall determine whether the~~

1 ~~sentence of death shall be imposed. If the jury determines~~
2 ~~unanimously, after weighing the factors in aggravation and~~
3 ~~mitigation, that death is the appropriate sentence, the court~~
4 ~~shall sentence the defendant to death. If the court does not~~
5 ~~concur with the jury determination that death is the~~
6 ~~appropriate sentence, the court shall set forth reasons in~~
7 ~~writing including what facts or circumstances the court relied~~
8 ~~upon, along with any relevant documents, that compelled the~~
9 ~~court to non-concur with the sentence. This document and any~~
10 ~~attachments shall be part of the record for appellate review.~~
11 ~~The court shall be bound by the jury's sentencing~~
12 ~~determination.~~

13 ~~If after weighing the factors in aggravation and~~
14 ~~mitigation, one or more jurors determines that death is not the~~
15 ~~appropriate sentence, the court shall sentence the defendant to~~
16 ~~a term of imprisonment under Chapter V of the Unified Code of~~
17 ~~Corrections.~~

18 (h) (Blank). ~~Procedure — No Jury.~~

19 ~~In a proceeding before the court alone, if the court finds~~
20 ~~that none of the factors found in subsection (b) exists, the~~
21 ~~court shall sentence the defendant to a term of imprisonment~~
22 ~~under Chapter V of the Unified Code of Corrections.~~

23 ~~If the Court determines that one or more of the factors set~~
24 ~~forth in subsection (b) exists, the Court shall consider any~~
25 ~~aggravating and mitigating factors as indicated in subsection~~
26 ~~(c). If the Court determines, after weighing the factors in~~
27 ~~aggravation and mitigation, that death is the appropriate~~
28 ~~sentence, the Court shall sentence the defendant to death.~~

29 ~~If the court finds that death is not the appropriate~~
30 ~~sentence, the court shall sentence the defendant to a term of~~
31 ~~imprisonment under Chapter V of the Unified Code of~~
32 ~~Corrections.~~

33 (h-5) (Blank). ~~Decertification as a capital case.~~

34 ~~In a case in which the defendant has been found guilty of~~

1 ~~first degree murder by a judge or jury, or a case on remand for~~
2 ~~resentencing, and the State seeks the death penalty as an~~
3 ~~appropriate sentence, on the court's own motion or the written~~
4 ~~motion of the defendant, the court may decertify the case as a~~
5 ~~death penalty case if the court finds that the only evidence~~
6 ~~supporting the defendant's conviction is the uncorroborated~~
7 ~~testimony of an informant witness, as defined in Section 115-21~~
8 ~~of the Code of Criminal Procedure of 1963, concerning the~~
9 ~~confession or admission of the defendant or that the sole~~
10 ~~evidence against the defendant is a single eyewitness or single~~
11 ~~accomplice without any other corroborating evidence. If the~~
12 ~~court decertifies the case as a capital case under either of~~
13 ~~the grounds set forth above, the court shall issue a written~~
14 ~~finding. The State may pursue its right to appeal the~~
15 ~~decertification pursuant to Supreme Court Rule 604(a)(1). If~~
16 ~~the court does not decertify the case as a capital case, the~~
17 ~~matter shall proceed to the eligibility phase of the sentencing~~
18 ~~hearing.~~

19 (i) (Blank). ~~Appellate Procedure.~~

20 ~~The conviction and sentence of death shall be subject to~~
21 ~~automatic review by the Supreme Court. Such review shall be in~~
22 ~~accordance with rules promulgated by the Supreme Court. The~~
23 ~~Illinois Supreme Court may overturn the death sentence, and~~
24 ~~order the imposition of imprisonment under Chapter V of the~~
25 ~~Unified Code of Corrections if the court finds that the death~~
26 ~~sentence is fundamentally unjust as applied to the particular~~
27 ~~case. If the Illinois Supreme Court finds that the death~~
28 ~~sentence is fundamentally unjust as applied to the particular~~
29 ~~case, independent of any procedural grounds for relief, the~~
30 ~~Illinois Supreme Court shall issue a written opinion explaining~~
31 ~~this finding.~~

32 (j) (Blank). ~~Disposition of reversed death sentence.~~

33 ~~In the event that the death penalty in this Act is held to~~
34 ~~be unconstitutional by the Supreme Court of the United States~~

1 ~~or of the State of Illinois, any person convicted of first~~
2 ~~degree murder shall be sentenced by the court to a term of~~
3 ~~imprisonment under Chapter V of the Unified Code of~~
4 ~~Corrections.~~

5 ~~In the event that any death sentence pursuant to the~~
6 ~~sentencing provisions of this Section is declared~~
7 ~~unconstitutional by the Supreme Court of the United States or~~
8 ~~of the State of Illinois, the court having jurisdiction over a~~
9 ~~person previously sentenced to death shall cause the defendant~~
10 ~~to be brought before the court, and the court shall sentence~~
11 ~~the defendant to a term of imprisonment under Chapter V of the~~
12 ~~Unified Code of Corrections.~~

13 (k) (Blank). ~~Guidelines for seeking the death penalty.~~

14 ~~The Attorney General and State's Attorneys Association~~
15 ~~shall consult on voluntary guidelines for procedures governing~~
16 ~~whether or not to seek the death penalty. The guidelines do not~~
17 ~~have the force of law and are only advisory in nature.~~

18 (Source: P.A. 92-854, eff. 12-5-02; 93-605, eff. 11-19-03.)

19 (720 ILCS 5/9-1.2) (from Ch. 38, par. 9-1.2)

20 Sec. 9-1.2. Intentional Homicide of an Unborn Child.

21 (a) A person commits the offense of intentional homicide of
22 an unborn child if, in performing acts which cause the death of
23 an unborn child, he without lawful justification:

24 (1) either intended to cause the death of or do great
25 bodily harm to the pregnant woman or her unborn child or
26 knew that such acts would cause death or great bodily harm
27 to the pregnant woman or her unborn child; or

28 (2) he knew that his acts created a strong probability
29 of death or great bodily harm to the pregnant woman or her
30 unborn child; and

31 (3) he knew that the woman was pregnant.

32 (b) For purposes of this Section, (1) "unborn child" shall
33 mean any individual of the human species from fertilization

1 until birth, and (2) "person" shall not include the pregnant
2 woman whose unborn child is killed.

3 (c) This Section shall not apply to acts which cause the
4 death of an unborn child if those acts were committed during
5 any abortion, as defined in Section 2 of the Illinois Abortion
6 Law of 1975, as amended, to which the pregnant woman has
7 consented. This Section shall not apply to acts which were
8 committed pursuant to usual and customary standards of medical
9 practice during diagnostic testing or therapeutic treatment.

10 (d) Penalty. The sentence for intentional homicide of an
11 unborn child shall be the same as for first degree murder,
12 except that:

13 (1) (Blank); ~~the death penalty may not be imposed;~~

14 (2) if the person committed the offense while armed
15 with a firearm, 15 years shall be added to the term of
16 imprisonment imposed by the court;

17 (3) if, during the commission of the offense, the
18 person personally discharged a firearm, 20 years shall be
19 added to the term of imprisonment imposed by the court;

20 (4) if, during the commission of the offense, the
21 person personally discharged a firearm that proximately
22 caused great bodily harm, permanent disability, permanent
23 disfigurement, or death to another person, 25 years or up
24 to a term of natural life shall be added to the term of
25 imprisonment imposed by the court.

26 (e) The provisions of this Act shall not be construed to
27 prohibit the prosecution of any person under any other
28 provision of law.

29 (Source: P.A. 91-404, eff. 1-1-00.)

30 (720 ILCS 5/30-1) (from Ch. 38, par. 30-1)

31 Sec. 30-1. Treason. (a) A person owing allegiance to this
32 State commits treason when he or she knowingly:

33 (1) Levies war against this State; or

1 (2) Adheres to the enemies of this State, giving them
2 aid or comfort.

3 (b) No person may be convicted of treason except on the
4 testimony of 2 witnesses to the same overt act, or on his
5 confession in open court.

6 (c) Sentence. Treason is a Class X felony ~~for which an~~
7 ~~offender may be sentenced to death under Section 5-5-3 of the~~
8 ~~Unified Code of Corrections.~~

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

10 (720 ILCS 5/33B-1) (from Ch. 38, par. 33B-1)

11 Sec. 33B-1. (a) Every person who has been twice convicted
12 in any state or federal court of an offense that contains the
13 same elements as an offense now classified in Illinois as a
14 Class X felony, criminal sexual assault, aggravated kidnapping
15 or first degree murder, and is thereafter convicted of a Class
16 X felony, criminal sexual assault or first degree murder,
17 committed after the 2 prior convictions, shall be adjudged an
18 habitual criminal.

19 (b) The 2 prior convictions need not have been for the same
20 offense.

21 (c) Any convictions which result from or are connected with
22 the same transaction, or result from offenses committed at the
23 same time, shall be counted for the purposes of this Section as
24 one conviction.

25 (d) This Article shall not apply unless each of the
26 following requirements are satisfied:

27 (1) the third offense was committed after the effective
28 date of this Act;

29 (2) the third offense was committed within 20 years of
30 the date that judgment was entered on the first conviction,
31 provided, however, that time spent in custody shall not be
32 counted;

33 (3) the third offense was committed after conviction on

1 the second offense;

2 (4) the second offense was committed after conviction
3 on the first offense.

4 (e) ~~Except when the death penalty is imposed,~~ Anyone
5 adjudged an habitual criminal shall be sentenced to life
6 imprisonment.

7 (Source: P.A. 88-677, eff. 12-15-94.)

8 Section 50. The Cannabis Control Act is amended by changing
9 Section 9 as follows:

10 (720 ILCS 550/9) (from Ch. 56 1/2, par. 709)

11 Sec. 9. (a) Any person who engages in a calculated criminal
12 cannabis conspiracy, as defined in subsection (b), is guilty of
13 a Class 3 felony, and fined not more than \$200,000 and shall be
14 subject to the forfeitures prescribed in subsection (c); except
15 that, if any person engages in such offense after one or more
16 prior convictions under this Section, Section 4 (d), Section 5
17 (d), Section 8 (d) or any law of the United States or of any
18 State relating to cannabis, or controlled substances as defined
19 in the Illinois Controlled Substances Act, in addition to the
20 fine and forfeiture authorized above, he shall be guilty of a
21 Class 1 felony ~~for which an offender may not be sentenced to~~
22 ~~death.~~

23 (b) For purposes of this section, a person engages in a
24 calculated criminal cannabis conspiracy when:

25 (1) he violates Section 4 (d), 4 (e), 5 (d), 5 (e), 8 (c) or
26 8 (d) of this Act; and

27 (2) such violation is a part of a conspiracy undertaken or
28 carried on with 2 or more other persons; and

29 (3) he obtains anything of value greater than \$500 from, or
30 organizes, directs or finances such violation or conspiracy.

31 (c) Any person who is convicted under this Section of
32 engaging in a calculated criminal cannabis conspiracy shall

1 forfeit to the State of Illinois:

2 (1) the receipts obtained by him in such conspiracy; and

3 (2) any of his interests in, claims against, receipts from,
4 or property or rights of any kind affording a source of
5 influence over, such conspiracy.

6 (d) The circuit court may enter such injunctions,
7 restraining orders, directions, or prohibitions, or take such
8 other actions, including the acceptance of satisfactory
9 performance bonds, in connection with any property, claim,
10 receipt, right or other interest subject to forfeiture under
11 this Section, as it deems proper.

12 (Source: P.A. 84-1233.)

13 Section 55. The Code of Criminal Procedure of 1963 is
14 amended by changing Sections 104-26, 113-3, 114-5, 115-4,
15 115-4.1, 119-5, 121-13, 122-1, 122-2.1 and 122-4 as follows:

16 (725 ILCS 5/104-26) (from Ch. 38, par. 104-26)

17 Sec. 104-26. Disposition of Defendants suffering
18 disabilities.

19 (a) A defendant convicted following a trial conducted under
20 the provisions of Section 104-22 shall not be sentenced before
21 a written presentence report of investigation is presented to
22 and considered by the court. The presentence report shall be
23 prepared pursuant to Sections 5-3-2, 5-3-3 and 5-3-4 of the
24 Unified Code of Corrections, as now or hereafter amended, and
25 shall include a physical and mental examination unless the
26 court finds that the reports of prior physical and mental
27 examinations conducted pursuant to this Article are adequate
28 and recent enough so that additional examinations would be
29 unnecessary.

30 (b) (Blank). ~~A defendant convicted following a trial under~~
31 ~~Section 104-22 shall not be subject to the death penalty.~~

32 (c) A defendant convicted following a trial under Section

1 104-22 shall be sentenced according to the procedures and
2 dispositions authorized under the Unified Code of Corrections,
3 as now or hereafter amended, subject to the following
4 provisions:

5 (1) The court shall not impose a sentence of
6 imprisonment upon the offender if the court believes that
7 because of his disability a sentence of imprisonment would
8 not serve the ends of justice and the interests of society
9 and the offender or that because of his disability a
10 sentence of imprisonment would subject the offender to
11 excessive hardship. In addition to any other conditions of
12 a sentence of conditional discharge or probation the court
13 may require that the offender undergo treatment
14 appropriate to his mental or physical condition.

15 (2) After imposing a sentence of imprisonment upon an
16 offender who has a mental disability, the court may remand
17 him to the custody of the Department of Human Services and
18 order a hearing to be conducted pursuant to the provisions
19 of the Mental Health and Developmental Disabilities Code,
20 as now or hereafter amended. If the offender is committed
21 following such hearing, he shall be treated in the same
22 manner as any other civilly committed patient for all
23 purposes except as provided in this Section. If the
24 defendant is not committed pursuant to such hearing, he
25 shall be remanded to the sentencing court for disposition
26 according to the sentence imposed.

27 (3) If the court imposes a sentence of imprisonment
28 upon an offender who has a mental disability but does not
29 proceed under subparagraph (2) of paragraph (c) of this
30 Section, it shall order the Department of Corrections to
31 proceed pursuant to Section 3-8-5 of the Unified Code of
32 Corrections, as now or hereafter amended.

33 (4) If the court imposes a sentence of imprisonment
34 upon an offender who has a physical disability, it may

1 authorize the Department of Corrections to place the
2 offender in a public or private facility which is able to
3 provide care or treatment for the offender's disability and
4 which agrees to do so.

5 (5) When an offender is placed with the Department of
6 Human Services or another facility pursuant to
7 subparagraph (2) or (4) of this paragraph (c), the
8 Department or private facility shall not discharge or allow
9 the offender to be at large in the community without prior
10 approval of the court. If the defendant is placed in the
11 custody of the Department of Human Services, the defendant
12 shall be placed in a secure setting unless the court
13 determines that there are compelling reasons why such
14 placement is not necessary. The offender shall accrue good
15 time and shall be eligible for parole in the same manner as
16 if he were serving his sentence within the Department of
17 Corrections. When the offender no longer requires
18 hospitalization, care, or treatment, the Department of
19 Human Services or the facility shall transfer him, if his
20 sentence has not expired, to the Department of Corrections.
21 If an offender is transferred to the Department of
22 Corrections, the Department of Human Services shall
23 transfer to the Department of Corrections all related
24 records pertaining to length of custody and treatment
25 services provided during the time the offender was held.

26 (6) The Department of Corrections shall notify the
27 Department of Human Services or a facility in which an
28 offender has been placed pursuant to subparagraph (2) or
29 (4) of paragraph (c) of this Section of the expiration of
30 his sentence. Thereafter, an offender in the Department of
31 Human Services shall continue to be treated pursuant to his
32 commitment order and shall be considered a civilly
33 committed patient for all purposes including discharge. An
34 offender who is in a facility pursuant to subparagraph (4)

1 of paragraph (c) of this Section shall be informed by the
2 facility of the expiration of his sentence, and shall
3 either consent to the continuation of his care or treatment
4 by the facility or shall be discharged.

5 (Source: P.A. 89-507, eff. 7-1-97.)

6 (725 ILCS 5/113-3) (from Ch. 38, par. 113-3)

7 Sec. 113-3. (a) Every person charged with an offense shall
8 be allowed counsel before pleading to the charge. If the
9 defendant desires counsel and has been unable to obtain same
10 before arraignment the court shall recess court or continue the
11 cause for a reasonable time to permit defendant to obtain
12 counsel and consult with him before pleading to the charge. If
13 the accused is a dissolved corporation, and is not represented
14 by counsel, the court may, in the interest of justice, appoint
15 as counsel a licensed attorney of this State.

16 (b) In all cases, except where the penalty is a fine only,
17 if the court determines that the defendant is indigent and
18 desires counsel, the Public Defender shall be appointed as
19 counsel. If there is no Public Defender in the county or if the
20 defendant requests counsel other than the Public Defender and
21 the court finds that the rights of the defendant will be
22 prejudiced by the appointment of the Public Defender, the court
23 shall appoint as counsel a licensed attorney at law of this
24 State, except that in a county having a population of 2,000,000
25 ~~1,000,000~~ or more the Public Defender shall be appointed as
26 counsel in all misdemeanor cases where the defendant is
27 indigent and desires counsel unless the case involves multiple
28 defendants, in which case the court may appoint counsel other
29 than the Public Defender for the additional defendants. The
30 court shall require an affidavit signed by any defendant who
31 requests court-appointed counsel. Such affidavit shall be in
32 the form established by the Supreme Court containing sufficient
33 information to ascertain the assets and liabilities of that

1 defendant. The Court may direct the Clerk of the Circuit Court
2 to assist the defendant in the completion of the affidavit. Any
3 person who knowingly files such affidavit containing false
4 information concerning his assets and liabilities shall be
5 liable to the county where the case, in which such false
6 affidavit is filed, is pending for the reasonable value of the
7 services rendered by the public defender or other
8 court-appointed counsel in the case to the extent that such
9 services were unjustly or falsely procured.

10 (c) Upon the filing with the court of a verified statement
11 of services rendered the court shall order the county treasurer
12 of the county of trial to pay counsel other than the Public
13 Defender a reasonable fee. The court shall consider all
14 relevant circumstances, including but not limited to the time
15 spent while court is in session, other time spent in
16 representing the defendant, and expenses reasonably incurred
17 by counsel. In counties with a population greater than
18 2,000,000, the court shall order the county treasurer of the
19 county of trial to pay counsel other than the Public Defender a
20 reasonable fee stated in the order and based upon a rate of
21 compensation of not more than \$40 for each hour spent while
22 court is in session and not more than \$30 for each hour
23 otherwise spent representing a defendant, and such
24 compensation shall not exceed \$150 for each defendant
25 represented in misdemeanor cases and \$1250 in felony cases, in
26 addition to expenses reasonably incurred as hereinafter in this
27 Section provided, except that, in extraordinary circumstances,
28 payment in excess of the limits herein stated may be made if
29 the trial court certifies that such payment is necessary to
30 provide fair compensation for protracted representation. A
31 trial court may entertain the filing of this verified statement
32 before the termination of the cause, and may order the
33 provisional payment of sums during the pendency of the cause.

34 (d) (Blank). ~~In capital cases, in addition to counsel, if~~

1 ~~the court determines that the defendant is indigent the court~~
2 ~~may, upon the filing with the court of a verified statement of~~
3 ~~services rendered, order the county Treasurer of the county of~~
4 ~~trial to pay necessary expert witnesses for defendant~~
5 ~~reasonable compensation stated in the order not to exceed \$250~~
6 ~~for each defendant.~~

7 (e) If the court in any county having a population greater
8 than 2,000,000 ~~1,000,000~~ determines that the defendant is
9 indigent the court may, upon the filing with the court of a
10 verified statement of such expenses, order the county treasurer
11 of the county of trial, in such counties having a population
12 greater than 2,000,000 ~~1,000,000~~ to pay the general expenses of
13 the trial incurred by the defendant not to exceed \$50 for each
14 defendant.

15 (f) (Blank). ~~The provisions of this Section relating to~~
16 ~~appointment of counsel, compensation of counsel, and payment of~~
17 ~~expenses in capital cases apply except when the compensation~~
18 ~~and expenses are being provided under the Capital Crimes~~
19 ~~Litigation Act.~~

20 (Source: P.A. 91-589, eff. 1-1-00.)

21 (725 ILCS 5/114-5) (from Ch. 38, par. 114-5)

22 Sec. 114-5. Substitution of judge.

23 (a) Within 10 days after a cause involving only one
24 defendant has been placed on the trial call of a judge the
25 defendant may move the court in writing for a substitution of
26 that judge on the ground that such judge is so prejudiced
27 against him that he cannot receive a fair trial. Upon the
28 filing of such a motion the court shall proceed no further in
29 the cause but shall transfer it to another judge not named in
30 the motion. The defendant may name only one judge as
31 prejudiced, pursuant to this subsection; provided, however,
32 that in a case in which the offense charged is a Class X felony
33 or may be punished by ~~death or~~ life imprisonment, the defendant

1 may name two judges as prejudiced.

2 (b) Within 24 hours after a motion is made for substitution
3 of judge in a cause with multiple defendants each defendant
4 shall have the right to move in accordance with subsection (a)
5 of this Section for a substitution of one judge. The total
6 number of judges named as prejudiced by all defendants shall
7 not exceed the total number of defendants. The first motion for
8 substitution of judge in a cause with multiple defendants shall
9 be made within 10 days after the cause has been placed on the
10 trial call of a judge.

11 (c) Within 10 days after a cause has been placed on the
12 trial call of a judge the State may move the court in writing
13 for a substitution of that judge on the ground that such judge
14 is prejudiced against the State. Upon the filing of such a
15 motion the court shall proceed no further in the cause but
16 shall transfer it to another judge not named in the motion. The
17 State may name only one judge as prejudiced, pursuant to this
18 subsection.

19 (d) In addition to the provisions of subsections (a), (b)
20 and (c) of this Section the State or any defendant may move at
21 any time for substitution of judge for cause, supported by
22 affidavit. Upon the filing of such motion a hearing shall be
23 conducted as soon as possible after its filing by a judge not
24 named in the motion; provided, however, that the judge named in
25 the motion need not testify, but may submit an affidavit if the
26 judge wishes. If the motion is allowed, the case shall be
27 assigned to a judge not named in the motion. If the motion is
28 denied the case shall be assigned back to the judge named in
29 the motion.

30 (Source: P.A. 84-1428.)

31 (725 ILCS 5/115-4) (from Ch. 38, par. 115-4)

32 Sec. 115-4. Trial by Court and Jury.) (a) Questions of law
33 shall be decided by the court and questions of fact by the

1 jury.

2 (b) The jury shall consist of 12 members.

3 (c) Upon request the parties shall be furnished with a list
4 of prospective jurors with their addresses if known.

5 (d) Each party may challenge jurors for cause. If a
6 prospective juror has a physical impairment, the court shall
7 consider such prospective juror's ability to perceive and
8 appreciate the evidence when considering a challenge for cause.

9 (e) A defendant tried alone shall be allowed ~~20 peremptory~~
10 ~~challenges in a capital case,~~ 10 peremptory challenges in a
11 case in which the punishment may be imprisonment in the
12 penitentiary⁷ and 5 in all other cases; except that, in a
13 single trial of more than one defendant, each defendant shall
14 be allowed ~~12 peremptory challenges in a capital case,~~ 6
15 peremptory challenges in a case in which the punishment may be
16 imprisonment in the penitentiary⁷ and 3 in all other cases. If
17 several charges against a defendant or defendants are
18 consolidated for trial, each defendant shall be allowed
19 peremptory challenges upon one charge only, which single charge
20 shall be the charge against that defendant authorizing the
21 greatest maximum penalty. The State shall be allowed the same
22 number of peremptory challenges as all of the defendants.

23 (f) After examination by the court the jurors may be
24 examined, passed upon, accepted and tendered by opposing
25 counsel as provided by Supreme Court rules.

26 (g) After the jury is impaneled and sworn the court may
27 direct the selection of 2 alternate jurors who shall take the
28 same oath as the regular jurors. Each party shall have one
29 additional peremptory challenge for each alternate juror. If
30 before the final submission of a cause a member of the jury
31 dies or is discharged he shall be replaced by an alternate
32 juror in the order of selection.

33 (h) A trial by the court and jury shall be conducted in the
34 presence of the defendant unless he waives the right to be

1 present.

2 (i) After arguments of counsel the court shall instruct the
3 jury as to the law.

4 (j) Unless the affirmative defense of insanity has been
5 presented during the trial, the jury shall return a general
6 verdict as to each offense charged. When the affirmative
7 defense of insanity has been presented during the trial, the
8 court shall provide the jury not only with general verdict
9 forms but also with a special verdict form of not guilty by
10 reason of insanity, as to each offense charged, and in such
11 event the court shall separately instruct the jury that a
12 special verdict of not guilty by reason of insanity may be
13 returned instead of a general verdict but such special verdict
14 requires a unanimous finding by the jury that the defendant
15 committed the acts charged but at the time of the commission of
16 those acts the defendant was insane. In the event of a verdict
17 of not guilty by reason of insanity, a hearing shall be held
18 pursuant to the Mental Health and Developmental Disabilities
19 Code to determine whether the defendant is subject to
20 involuntary admission. When the affirmative defense of
21 insanity has been presented during the trial, the court, where
22 warranted by the evidence, shall also provide the jury with a
23 special verdict form of guilty but mentally ill, as to each
24 offense charged and shall separately instruct the jury that a
25 special verdict of guilty but mentally ill may be returned
26 instead of a general verdict, but that such special verdict
27 requires a unanimous finding by the jury that: (1) the State
28 has proven beyond a reasonable doubt that the defendant is
29 guilty of the offense charged; and (2) the defendant has failed
30 to prove his insanity as required in subsection (b) of Section
31 3-2 of the Criminal Code of 1961, as amended, and subsections
32 (a), (b) and (e) of Section 6-2 of the Criminal Code of 1961,
33 as amended; and (3) the defendant has proven by a preponderance
34 of the evidence that he was mentally ill, as defined in

1 subsections (c) and (d) of Section 6-2 of the Criminal Code of
2 1961, as amended, at the time of the offense.

3 (k) When, at the close of the State's evidence or at the
4 close of all of the evidence, the evidence is insufficient to
5 support a finding or verdict of guilty the court may and on
6 motion of the defendant shall make a finding or direct the jury
7 to return a verdict of not guilty, enter a judgment of
8 acquittal and discharge the defendant.

9 (l) When the jury retires to consider its verdict an
10 officer of the court shall be appointed to keep them together
11 and to prevent conversation between the jurors and others;
12 however, if any juror is deaf, the jury may be accompanied by
13 and may communicate with a court-appointed interpreter during
14 its deliberations. Upon agreement between the State and
15 defendant or his counsel the jury may seal and deliver its
16 verdict to the clerk of the court, separate, and then return
17 such verdict in open court at its next session.

18 (m) In the trial of an ~~a capital or other~~ offense, any
19 juror who is a member of a panel or jury which has been
20 impaneled and sworn as a panel or as a jury shall be permitted
21 to separate from other such jurors during every period of
22 adjournment to a later day, until final submission of the cause
23 to the jury for determination, except that no such separation
24 shall be permitted in any trial after the court, upon motion by
25 the defendant or the State or upon its own motion, finds a
26 probability that prejudice to the defendant or to the State
27 will result from such separation.

28 (n) The members of the jury shall be entitled to take notes
29 during the trial, and the sheriff of the county in which the
30 jury is sitting shall provide them with writing materials for
31 this purpose. Such notes shall remain confidential, and shall
32 be destroyed by the sheriff after the verdict has been returned
33 or a mistrial declared.

34 (o) A defendant tried by the court and jury shall only be

1 found guilty, guilty but mentally ill, not guilty or not guilty
2 by reason of insanity, upon the unanimous verdict of the jury.

3 (Source: P.A. 86-392.)

4 (725 ILCS 5/115-4.1) (from Ch. 38, par. 115-4.1)

5 Sec. 115-4.1. Absence of defendant.

6 (a) When a defendant after arrest and an initial court
7 appearance for a ~~non-capital~~ felony or a misdemeanor, fails to
8 appear for trial, at the request of the State and after the
9 State has affirmatively proven through substantial evidence
10 that the defendant is willfully avoiding trial, the court may
11 commence trial in the absence of the defendant. Absence of a
12 defendant as specified in this Section shall not be a bar to
13 indictment of a defendant, return of information against a
14 defendant, or arraignment of a defendant for the charge for
15 which bail has been granted. If a defendant fails to appear at
16 arraignment, the court may enter a plea of "not guilty" on his
17 behalf. ~~If a defendant absents himself before trial on a~~
18 ~~capital felony, trial may proceed as specified in this Section~~
19 ~~provided that the State certifies that it will not seek a death~~
20 ~~sentence following conviction.~~ Trial in the defendant's
21 absence shall be by jury unless the defendant had previously
22 waived trial by jury. The absent defendant must be represented
23 by retained or appointed counsel. The court, at the conclusion
24 of all of the proceedings, may order the clerk of the circuit
25 court to pay counsel such sum as the court deems reasonable,
26 from any bond monies which were posted by the defendant with
27 the clerk, after the clerk has first deducted all court costs.
28 If trial had previously commenced in the presence of the
29 defendant and the defendant willfully absents himself for two
30 successive court days, the court shall proceed to trial. All
31 procedural rights guaranteed by the United States
32 Constitution, Constitution of the State of Illinois, statutes
33 of the State of Illinois, and rules of court shall apply to the

1 proceedings the same as if the defendant were present in court
2 and had not either forfeited his bail bond or escaped from
3 custody. The court may set the case for a trial which may be
4 conducted under this Section despite the failure of the
5 defendant to appear at the hearing at which the trial date is
6 set. When such trial date is set the clerk shall send to the
7 defendant, by certified mail at his last known address
8 indicated on his bond slip, notice of the new date which has
9 been set for trial. Such notification shall be required when
10 the defendant was not personally present in open court at the
11 time when the case was set for trial.

12 (b) The absence of a defendant from a trial conducted
13 pursuant to this Section does not operate as a bar to
14 concluding the trial, to a judgment of conviction resulting
15 therefrom, or to a final disposition of the trial in favor of
16 the defendant.

17 (c) Upon a verdict of not guilty, the court shall enter
18 judgment for the defendant. Upon a verdict of guilty, the court
19 shall set a date for the hearing of post-trial motions and
20 shall hear such motion in the absence of the defendant. If
21 post-trial motions are denied, the court shall proceed to
22 conduct a sentencing hearing and to impose a sentence upon the
23 defendant.

24 (d) A defendant who is absent for part of the proceedings
25 of trial, post-trial motions, or sentencing, does not thereby
26 forfeit his right to be present at all remaining proceedings.

27 (e) When a defendant who in his absence has been either
28 convicted or sentenced or both convicted and sentenced appears
29 before the court, he must be granted a new trial or new
30 sentencing hearing if the defendant can establish that his
31 failure to appear in court was both without his fault and due
32 to circumstances beyond his control. A hearing with notice to
33 the State's Attorney on the defendant's request for a new trial
34 or a new sentencing hearing must be held before any such

1 request may be granted. At any such hearing both the defendant
2 and the State may present evidence.

3 (f) If the court grants only the defendant's request for a
4 new sentencing hearing, then a new sentencing hearing shall be
5 held in accordance with the provisions of the Unified Code of
6 Corrections. At any such hearing, both the defendant and the
7 State may offer evidence of the defendant's conduct during his
8 period of absence from the court. The court may impose any
9 sentence authorized by the Unified Code of Corrections and is
10 not in any way limited or restricted by any sentence previously
11 imposed.

12 (g) A defendant whose motion under paragraph (e) for a new
13 trial or new sentencing hearing has been denied may file a
14 notice of appeal therefrom. Such notice may also include a
15 request for review of the judgment and sentence not vacated by
16 the trial court.

17 (Source: P.A. 90-787, eff. 8-14-98.)

18 (725 ILCS 5/119-5) (from Ch. 38, par. 119-5)

19 Sec. 119-5. Execution of Death Sentence. On or after the
20 effective date of this amendatory Act of the 94th General
21 Assembly, no person may be executed in this State. ~~(a)(1) A~~
22 ~~defendant sentenced to death shall be executed by an~~
23 ~~intravenous administration of a lethal quantity of an~~
24 ~~ultrashort acting barbiturate in combination with a chemical~~
25 ~~paralytic agent and potassium chloride or other equally~~
26 ~~effective substances sufficient to cause death until death is~~
27 ~~pronounced by a coroner who is not a licensed physician.~~

28 ~~(2) If the execution of the sentence of death as provided~~
29 ~~in paragraph (1) is held illegal or unconstitutional by a~~
30 ~~reviewing court of competent jurisdiction, the sentence of~~
31 ~~death shall be carried out by electrocution.~~

32 ~~(b) In pronouncing the sentence of death the court shall~~
33 ~~set the date of the execution which shall be not less than 60~~

1 ~~nor more than 90 days from the date sentence is pronounced.~~

2 ~~(c) A sentence of death shall be executed at a Department~~
3 ~~of Corrections facility.~~

4 ~~(d) The warden of the penitentiary shall supervise such~~
5 ~~execution, which shall be conducted in the presence of 6~~
6 ~~witnesses who shall certify the execution of the sentence. The~~
7 ~~certification shall be filed with the clerk of the court that~~
8 ~~imposed the sentence.~~

9 ~~(d-5) The Department of Corrections shall not request,~~
10 ~~require, or allow a health care practitioner licensed in~~
11 ~~Illinois, including but not limited to physicians and nurses,~~
12 ~~regardless of employment, to participate in an execution.~~

13 ~~(e) Except as otherwise provided in this subsection (e),~~
14 ~~the identity of executioners and other persons who participate~~
15 ~~or perform ancillary functions in an execution and information~~
16 ~~contained in records that would identify those persons shall~~
17 ~~remain confidential, shall not be subject to disclosure, and~~
18 ~~shall not be admissible as evidence or be discoverable in any~~
19 ~~action of any kind in any court or before any tribunal, board,~~
20 ~~agency, or person. In order to protect the confidentiality of~~
21 ~~persons participating in an execution, the Director of~~
22 ~~Corrections may direct that the Department make payments in~~
23 ~~cash for such services. In confidential investigations by the~~
24 ~~Department of Professional Regulation, the Department of~~
25 ~~Corrections shall disclose the names and license numbers of~~
26 ~~health care practitioners participating or performing~~
27 ~~ancillary functions in an execution to the Department of~~
28 ~~Professional Regulation and the Department of Professional~~
29 ~~Regulation shall forward those names and license numbers to the~~
30 ~~appropriate disciplinary boards.~~

31 ~~(f) The amendatory changes to this Section made by this~~
32 ~~amendatory Act of 1991 are severable under Section 1.31 of the~~
33 ~~Statute on Statutes.~~

34 ~~(g) (Blank).~~

1 ~~(h) Notwithstanding any other provision of law, any~~
2 ~~pharmaceutical supplier is authorized to dispense drugs to the~~
3 ~~Director of Corrections or his or her designee, without~~
4 ~~prescription, in order to carry out the provisions of this~~
5 ~~Section.~~

6 ~~(i) The amendatory changes to this Section made by this~~
7 ~~amendatory Act of the 93rd General Assembly are severable under~~
8 ~~Section 1.31 of the Statute on Statutes.~~

9 (Source: P.A. 93-379, eff. 7-24-03.)

10 (725 ILCS 5/121-13) (from Ch. 38, par. 121-13)

11 Sec. 121-13. Pauper Appeals.

12 (a) In any case wherein the defendant was convicted of a
13 felony, if the court determines that the defendant desires
14 counsel on appeal but is indigent the Public Defender or the
15 State Appellate Defender shall be appointed as counsel, unless
16 with the consent of the defendant and for good cause shown, the
17 court may appoint counsel other than the Public Defender or the
18 State Appellate Defender.

19 (b) In any case wherein the defendant was convicted of a
20 felony ~~and a sentence of death was not imposed in the trial~~
21 ~~court~~ the reviewing court, upon petition of the defendant's
22 counsel made not more frequently than every 60 days after
23 appointment, shall determine a reasonable amount to be allowed
24 an indigent defendant's counsel other than the Public Defender
25 or the State Appellate Defender for compensation and
26 reimbursement of expenditures necessarily incurred in the
27 prosecution of the appeal or review proceedings. The
28 compensation shall not exceed \$1500 in each case, except that,
29 in extraordinary circumstances, payment in excess of the limits
30 herein stated may be made if the reviewing court certifies that
31 the payment is necessary to provide fair compensation for
32 protracted representation. The reviewing court shall enter an
33 order directing the county treasurer of the county where the

1 case was tried to pay the amount allowed by the court. The
2 reviewing court may order the provisional payment of sums
3 during the pendency of the cause.

4 (c) In any case in which a sentence of death was imposed in
5 the trial court before the effective date of this amendatory
6 Act of the 94th General Assembly, the Supreme Court, upon
7 written petition of the defendant's counsel made not more than
8 every 60 days after appointment, shall determine reasonable
9 compensation for an indigent defendant's attorneys on appeal.
10 The compensation shall not exceed \$2,000 in each case, except
11 that, in extraordinary circumstances, payment in excess of the
12 limits herein stated may be made if the reviewing court
13 certifies that the payment is necessary to provide fair
14 compensation for protracted representation. The Supreme Court
15 shall enter an order directing the county treasurer of the
16 county where the case was tried to pay compensation and
17 reimburse expenditures necessarily incurred in the prosecution
18 of the appeal or review proceedings. The Supreme Court may
19 order the provisional payment of sums during the pendency of
20 the cause.

21 (Source: P.A. 86-318; 87-580.)

22 (725 ILCS 5/122-1) (from Ch. 38, par. 122-1)

23 Sec. 122-1. Petition in the trial court.

24 (a) Any person imprisoned in the penitentiary may institute
25 a proceeding under this Article if the person asserts that:

26 (1) in the proceedings which resulted in his or her
27 conviction there was a substantial denial of his or her
28 rights under the Constitution of the United States or of
29 the State of Illinois or both; or

30 (2) (blank). ~~the death penalty was imposed and there is~~
31 ~~newly discovered evidence not available to the person at~~
32 ~~the time of the proceeding that resulted in his or her~~
33 ~~conviction that establishes a substantial basis to believe~~

1 ~~that the defendant is actually innocent by clear and~~
2 ~~convincing evidence.~~

3 (a-5) (Blank). ~~A proceeding under paragraph (2) of~~
4 ~~subsection (a) may be commenced within a reasonable period of~~
5 ~~time after the person's conviction notwithstanding any other~~
6 ~~provisions of this Article. In such a proceeding regarding~~
7 ~~actual innocence, if the court determines the petition is~~
8 ~~frivolous or is patently without merit, it shall dismiss the~~
9 ~~petition in a written order, specifying the findings of fact~~
10 ~~and conclusions of law it made in reaching its decision. Such~~
11 ~~order of dismissal is a final judgment and shall be served upon~~
12 ~~the petitioner by certified mail within 10 days of its entry.~~

13 (b) The proceeding shall be commenced by filing with the
14 clerk of the court in which the conviction took place a
15 petition (together with a copy thereof) verified by affidavit.
16 Petitioner shall also serve another copy upon the State's
17 Attorney by any of the methods provided in Rule 7 of the
18 Supreme Court. The clerk shall docket the petition for
19 consideration by the court pursuant to Section 122-2.1 upon his
20 or her receipt thereof and bring the same promptly to the
21 attention of the court.

22 (c) (Blank). ~~Except as otherwise provided in subsection~~
23 ~~(a-5), if the petitioner is under sentence of death and a~~
24 ~~petition for writ of certiorari is filed, no proceedings under~~
25 ~~this Article shall be commenced more than 6 months after the~~
26 ~~conclusion of proceedings in the United States Supreme Court,~~
27 ~~unless the petitioner alleges facts showing that the delay was~~
28 ~~not due to his or her culpable negligence. If a petition for~~
29 ~~certiorari is not filed, no proceedings under this Article~~
30 ~~shall be commenced more than 6 months from the date for filing~~
31 ~~a certiorari petition, unless the petitioner alleges facts~~
32 ~~showing that the delay was not due to his or her culpable~~
33 ~~negligence.~~

34 No ~~When a defendant has a sentence other than death, no~~

1 proceedings under this Article shall be commenced more than 6
2 months after the conclusion of proceedings in the United States
3 Supreme Court, unless the petitioner alleges facts showing that
4 the delay was not due to his or her culpable negligence. If a
5 petition for certiorari is not filed, no proceedings under this
6 Article shall be commenced more than 6 months from the date for
7 filing a certiorari petition, unless the petitioner alleges
8 facts showing that the delay was not due to his or her culpable
9 negligence. If a defendant does not file a direct appeal, the
10 post-conviction petition shall be filed no later than 3 years
11 from the date of conviction, unless the petitioner alleges
12 facts showing that the delay was not due to his or her culpable
13 negligence.

14 This limitation does not apply to a petition advancing a
15 claim of actual innocence.

16 (d) A person seeking relief by filing a petition under this
17 Section must specify in the petition or its heading that it is
18 filed under this Section. A trial court that has received a
19 petition complaining of a conviction or sentence that fails to
20 specify in the petition or its heading that it is filed under
21 this Section need not evaluate the petition to determine
22 whether it could otherwise have stated some grounds for relief
23 under this Article.

24 (e) (Blank). ~~A proceeding under this Article may not be~~
25 ~~commenced on behalf of a defendant who has been sentenced to~~
26 ~~death without the written consent of the defendant, unless the~~
27 ~~defendant, because of a mental or physical condition, is~~
28 ~~incapable of asserting his or her own claim.~~

29 (f) Only one petition may be filed by a petitioner under
30 this Article without leave of the court. Leave of court may be
31 granted only if a petitioner demonstrates cause for his or her
32 failure to bring the claim in his or her initial
33 post-conviction proceedings and prejudice results from that
34 failure. For purposes of this subsection (f): (1) a prisoner

1 shows cause by identifying an objective factor that impeded his
2 or her ability to raise a specific claim during his or her
3 initial post-conviction proceedings; and (2) a prisoner shows
4 prejudice by demonstrating that the claim not raised during his
5 or her initial post-conviction proceedings so infected the
6 trial that the resulting conviction or sentence violated due
7 process.

8 (Source: P.A. 93-493, eff. 1-1-04; 93-605, eff. 11-19-03;
9 93-972, eff. 8-20-04.)

10 (725 ILCS 5/122-2.1) (from Ch. 38, par. 122-2.1)

11 Sec. 122-2.1. (a) Within 90 days after the filing and
12 docketing of each petition, the court shall examine such
13 petition and enter an order thereon pursuant to this Section.

14 (1) If the petitioner is under sentence of death
15 imposed before the effective date of this amendatory Act of
16 the 94th General Assembly and is without counsel and
17 alleges that he is without means to procure counsel, he
18 shall state whether or not he wishes counsel to be
19 appointed to represent him. If appointment of counsel is so
20 requested, the court shall appoint counsel if satisfied
21 that the petitioner has no means to procure counsel.

22 (2) If the petitioner is sentenced to imprisonment and
23 the court determines the petition is frivolous or is
24 patently without merit, it shall dismiss the petition in a
25 written order, specifying the findings of fact and
26 conclusions of law it made in reaching its decision. Such
27 order of dismissal is a final judgment and shall be served
28 upon the petitioner by certified mail within 10 days of its
29 entry.

30 (b) If the petition is not dismissed pursuant to this
31 Section, the court shall order the petition to be docketed for
32 further consideration in accordance with Sections 122-4
33 through 122-6. ~~If the petitioner is under sentence of death,~~

1 ~~the court shall order the petition to be docketed for further~~
2 ~~consideration and hearing within one year of the filing of the~~
3 ~~petition.~~ Continuances may be granted as the court deems
4 appropriate.

5 (c) In considering a petition pursuant to this Section, the
6 court may examine the court file of the proceeding in which the
7 petitioner was convicted, any action taken by an appellate
8 court in such proceeding and any transcripts of such
9 proceeding.

10 (Source: P.A. 93-605, eff. 11-19-03.)

11 (725 ILCS 5/122-4) (from Ch. 38, par. 122-4)

12 Sec. 122-4. Pauper Petitions. If the petition is not
13 dismissed pursuant to Section 122-2.1, and alleges that the
14 petitioner is unable to pay the costs of the proceeding, the
15 court may order that the petitioner be permitted to proceed as
16 a poor person and order a transcript of the proceedings
17 delivered to petitioner in accordance with Rule of the Supreme
18 Court. If the petitioner is without counsel and alleges that he
19 is without means to procure counsel, he shall state whether or
20 not he wishes counsel to be appointed to represent him. If
21 appointment of counsel is so requested, and the petition is not
22 dismissed pursuant to Section 122-2.1, the court shall appoint
23 counsel if satisfied that the petitioner has no means to
24 procure counsel. A petitioner who is a prisoner in an Illinois
25 Department of Corrections facility who files a pleading,
26 motion, or other filing that purports to be a legal document
27 seeking post-conviction relief under this Article against the
28 State, the Illinois Department of Corrections, the Prisoner
29 Review Board, or any of their officers or employees in which
30 the court makes a specific finding that the pleading, motion,
31 or other filing that purports to be a legal document is
32 frivolous shall not proceed as a poor person and shall be
33 liable for the full payment of filing fees and actual court

1 costs as provided in Article XXII of the Code of Civil
2 Procedure.

3 A Circuit Court or the Illinois Supreme Court may appoint
4 the State Appellate Defender to provide post-conviction
5 representation in a case in which the defendant was is
6 sentenced to death before the effective date of this amendatory
7 Act of the 94th General Assembly. Any attorney assigned by the
8 Office of the State Appellate Defender to provide
9 post-conviction representation for indigent defendants in
10 cases in which a sentence of death was imposed in the trial
11 court may, from time to time submit bills and time sheets to
12 the Office of the State Appellate Defender for payment of
13 services rendered and the Office of the State Appellate
14 Defender shall pay bills from funds appropriated for this
15 purpose in accordance with rules promulgated by the State
16 Appellate Defender.

17 The court, at the conclusion of the proceedings upon
18 receipt of a petition by the appointed counsel, shall determine
19 a reasonable amount to be allowed an indigent defendant's
20 counsel other than the Public Defender or the State Appellate
21 Defender for compensation and reimbursement of expenditures
22 necessarily incurred in the proceedings. The compensation
23 shall not exceed \$500 in each case, except that, in
24 extraordinary circumstances, payment in excess of the limits
25 herein stated may be made if the trial court certifies that the
26 payment is necessary to provide fair compensation for
27 protracted representation, and the amount is approved by the
28 chief judge of the circuit. The court shall enter an order
29 directing the county treasurer of the county where the case was
30 tried to pay the amount thereby allowed by the court. The court
31 may order the provisional payment of sums during the pendency
32 of the cause.

33 (Source: P.A. 90-505, eff. 8-19-97.)

1 (725 ILCS 5/114-15 rep.)

2 (725 ILCS 5/115-21 rep.)

3 (725 ILCS 5/115-22 rep.)

4 (725 ILCS 5/122-2.1 rep.) (from Ch. 38, par. 122-2.1)

5 Section 60. The Code of Criminal Procedure of 1963 is
6 amended by repealing Sections 114-15, 115-21, 115-22, and
7 122-2.1.

8 Section 65. The State Appellate Defender Act is amended by
9 changing Sections 10 and 10.5 as follows:

10 (725 ILCS 105/10) (from Ch. 38, par. 208-10)

11 Sec. 10. Powers and duties of State Appellate Defender.

12 (a) The State Appellate Defender shall represent indigent
13 persons on appeal in criminal and delinquent minor proceedings,
14 when appointed to do so by a court under a Supreme Court Rule
15 or law of this State.

16 (b) The State Appellate Defender shall submit a budget for
17 the approval of the State Appellate Defender Commission.

18 (c) The State Appellate Defender may:

19 (1) maintain a panel of private attorneys available to
20 serve as counsel on a case basis;

21 (2) establish programs, alone or in conjunction with
22 law schools, for the purpose of utilizing volunteer law
23 students as legal assistants;

24 (3) cooperate and consult with state agencies,
25 professional associations, and other groups concerning the
26 causes of criminal conduct, the rehabilitation and
27 correction of persons charged with and convicted of crime,
28 the administration of criminal justice, and, in counties of
29 less than 1,000,000 population, study, design, develop and
30 implement model systems for the delivery of trial level
31 defender services, and make an annual report to the General
32 Assembly;

1 (4) hire investigators to provide investigative
2 services to appointed counsel and county public defenders;

3 (5) (blank). ~~in cases in which a death sentence is an~~
4 ~~authorized disposition, provide trial counsel with the~~
5 ~~assistance of expert witnesses, investigators, and~~
6 ~~mitigation specialists from funds appropriated to the~~
7 ~~State Appellate Defender specifically for that purpose by~~
8 ~~the General Assembly. The Office of State Appellate~~
9 ~~Defender shall not be appointed to serve as trial counsel~~
10 ~~in capital cases.~~

11 ~~Investigators employed by the Death Penalty Trial~~
12 ~~Assistance and Capital Litigation Division of the State~~
13 ~~Appellate Defender shall be authorized to inquire through the~~
14 ~~Illinois State Police or local law enforcement with the Law~~
15 ~~Enforcement Agencies Data System (LEADS) under Section~~
16 ~~2605 375 of the Civil Administrative Code of Illinois to~~
17 ~~ascertain whether their potential witnesses have a criminal~~
18 ~~background, including: (i) warrants; (ii) arrests; (iii)~~
19 ~~convictions; and (iv) officer safety information. This~~
20 ~~authorization applies only to information held on the State~~
21 ~~level and shall be used only to protect the personal safety of~~
22 ~~the investigators. Any information that is obtained through~~
23 ~~this inquiry may not be disclosed by the investigators.~~

24 (d) (Blank). ~~For each State fiscal year, the State~~
25 ~~Appellate Defender shall appear before the General Assembly and~~
26 ~~request appropriations to be made from the Capital Litigation~~
27 ~~Trust Fund to the State Treasurer for the purpose of providing~~
28 ~~defense assistance in capital cases outside of Cook County and~~
29 ~~for expenses incurred by the the State Appellate Defender in~~
30 ~~representing petitioners in capital cases in post conviction~~
31 ~~proceedings under Article 122 of the Code of Criminal Procedure~~
32 ~~of 1963 and in relation to petitions filed under Section 2-1401~~
33 ~~of the Code of Civil Procedure in relation to capital cases and~~
34 ~~for the representation of those petitioners by attorneys~~

1 ~~approved by or contracted with the State Appellate Defender.~~
2 ~~The State Appellate Defender may appear before the General~~
3 ~~Assembly at other times during the State's fiscal year to~~
4 ~~request supplemental appropriations from the Trust Fund to the~~
5 ~~State Treasurer.~~

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

16 (Source: P.A. 93-972, eff. 8-20-04; 93-1011, eff. 1-1-05;
17 revised 10-14-04.)

18 (725 ILCS 105/10.5)

19 Sec. 10.5. Competitive bidding for appellate services.

20 (a) The State Appellate Defender may, to the extent
21 necessary to dispose of its backlog of indigent criminal
22 appeals, institute a competitive bidding program under which
23 contracts for the services of attorneys in ~~non-death penalty~~
24 criminal appeals are awarded to the lowest responsible bidder.

25 (b) The State Appellate Defender, before letting out bids
26 for contracts for the services of attorneys to represent
27 indigent defendants on appeal in criminal cases, shall
28 advertise the letting of the bids in a publication or
29 publications of the Illinois State Bar Association, the Chicago
30 Daily Law Bulletin, and the Chicago Lawyer. The State Appellate
31 Defender shall also advertise the letting of the bids in
32 newspapers of general circulation in major municipalities to be
33 determined by the State Appellate Defender. The State Appellate

1 Defender shall mail notices of the letting of the bids to
2 county and local bar associations.

3 (c) Bids may be let in packages of one to 5, appeals.
4 Additional cases may be assigned, in the discretion of the
5 State Appellate Defender, after a successful bidder completes
6 work on existing packages.

7 (d) A bid for services of an attorney under this Section
8 shall be let only to an attorney licensed to practice law in
9 Illinois who has prior criminal appellate experience or to an
10 attorney who is a member or employee of a law firm which has at
11 least one member with that experience. Prospective bidders must
12 furnish legal writing samples that are deemed acceptable to the
13 State Appellate Defender.

14 (e) An attorney who is awarded a contract under this
15 Section shall communicate with each of his or her clients and
16 shall file each initial brief before the due date established
17 by Supreme Court Rule or by the Appellate Court. The State
18 Appellate Defender may rescind the contract for attorney
19 services and may require the return of the record on appeal if
20 the contracted attorney fails to make satisfactory progress, in
21 the opinion of the State Appellate Defender, toward filing a
22 brief.

23 (f) Gross compensation for completing of a case shall be
24 \$40 per hour but shall not exceed \$2,000 per case. The contract
25 shall specify the manner of payment.

26 (g) (Blank).

27 (h) (Blank).

28 (Source: P.A. 89-689, eff. 12-31-96; 90-505, eff. 8-19-97.)

29 (725 ILCS 124/Act rep.)

30 Section 70. The Capital Crimes Litigation Act is repealed
31 on July 1, 2006.

32 Section 75. The Uniform Rendition of Prisoners as Witnesses

1 in Criminal Proceedings Act is amended by changing Section 5 as
2 follows:

3 (725 ILCS 235/5) (from Ch. 38, par. 157-5)

4 Sec. 5. Exceptions.

5 This act does not apply to any person in this State
6 confined as mentally ill or in need of mental treatment, ~~or~~
7 ~~under sentence of death.~~

8 (Source: Laws 1963, p. 2171.)

9 Section 80. The Unified Code of Corrections is amended by
10 changing Sections 3-3-13, 3-8-10, 3-6-3, 5-1-9, 5-4-1, 5-5-3,
11 5-8-1, 5-8-4, and 5-8-5 as follows:

12 (730 ILCS 5/3-3-13) (from Ch. 38, par. 1003-3-13)

13 Sec. 3-3-13. Procedure for Executive Clemency.

14 (a) Petitions seeking pardon, commutation, or reprieve
15 shall be addressed to the Governor and filed with the Prisoner
16 Review Board. The petition shall be in writing and signed by
17 the person under conviction or by a person on his behalf. It
18 shall contain a brief history of the case, the reasons for
19 seeking executive clemency, and other relevant information the
20 Board may require.

21 (a-5) After a petition has been denied by the Governor, the
22 Board may not accept a repeat petition for executive clemency
23 for the same person until one full year has elapsed from the
24 date of the denial. The Chairman of the Board may waive the
25 one-year requirement if the petitioner offers in writing new
26 information that was unavailable to the petitioner at the time
27 of the filing of the prior petition and which the Chairman
28 determines to be significant. The Chairman also may waive the
29 one-year waiting period if the petitioner can show that a
30 change in circumstances of a compelling humanitarian nature has
31 arisen since the denial of the prior petition.

1 (b) Notice of the proposed application shall be given by
2 the Board to the committing court and the state's attorney of
3 the county where the conviction was had.

4 (c) The Board shall, if requested and upon due notice, give
5 a hearing to each application, allowing representation by
6 counsel, if desired, after which it shall confidentially advise
7 the Governor by a written report of its recommendations which
8 shall be determined by majority vote. The Board shall meet to
9 consider such petitions no less than 4 times each year.

10 ~~Application for executive clemency under this Section may~~
11 ~~not be commenced on behalf of a person who has been sentenced~~
12 ~~to death without the written consent of the defendant, unless~~
13 ~~the defendant, because of a mental or physical condition, is~~
14 ~~incapable of asserting his or her own claim.~~

15 (d) The Governor shall decide each application and
16 communicate his decision to the Board which shall notify the
17 petitioner.

18 In the event a petitioner who has been convicted of a Class
19 X felony is granted a release, after the Governor has
20 communicated such decision to the Board, the Board shall give
21 written notice to the Sheriff of the county from which the
22 offender was sentenced if such sheriff has requested that such
23 notice be given on a continuing basis. In cases where arrest of
24 the offender or the commission of the offense took place in any
25 municipality with a population of more than 10,000 persons, the
26 Board shall also give written notice to the proper law
27 enforcement agency for said municipality which has requested
28 notice on a continuing basis.

29 (e) Nothing in this Section shall be construed to limit the
30 power of the Governor under the constitution to grant a
31 reprieve, commutation of sentence, or pardon.

32 (Source: P.A. 89-112, eff. 7-7-95; 89-684, eff. 6-1-97.)

33 (730 ILCS 5/3-6-3) (from Ch. 38, par. 1003-6-3)

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

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

6 (2) The rules and regulations on early release shall
7 provide, with respect to offenses committed on or after
8 June 19, 1998, the following:

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

13 (ii) that a prisoner serving a sentence for attempt
14 to commit first degree murder, solicitation of murder,
15 solicitation of murder for hire, intentional homicide
16 of an unborn child, predatory criminal sexual assault
17 of a child, aggravated criminal sexual assault,
18 criminal sexual assault, aggravated kidnapping,
19 aggravated battery with a firearm, heinous battery,
20 aggravated battery of a senior citizen, or aggravated
21 battery of a child shall receive no more than 4.5 days
22 of good conduct credit for each month of his or her
23 sentence of imprisonment; and

24 (iii) that a prisoner serving a sentence for home
25 invasion, armed robbery, aggravated vehicular
26 hijacking, aggravated discharge of a firearm, or armed
27 violence with a category I weapon or category II
28 weapon, when the court has made and entered a finding,
29 pursuant to subsection (c-1) of Section 5-4-1 of this
30 Code, that the conduct leading to conviction for the
31 enumerated offense resulted in great bodily harm to a
32 victim, shall receive no more than 4.5 days of good
33 conduct credit for each month of his or her sentence of
34 imprisonment.

1 (2.1) For all offenses, other than those enumerated in
2 subdivision (a) (2) committed on or after June 19, 1998, and
3 other than the offense of reckless homicide as defined in
4 subsection (e) of Section 9-3 of the Criminal Code of 1961
5 committed on or after January 1, 1999, or aggravated
6 driving under the influence of alcohol, other drug or
7 drugs, or intoxicating compound or compounds, or any
8 combination thereof as defined in subparagraph (F) of
9 paragraph (1) of subsection (d) of Section 11-501 of the
10 Illinois Vehicle Code, the rules and regulations shall
11 provide that a prisoner who is serving a term of
12 imprisonment shall receive one day of good conduct credit
13 for each day of his or her sentence of imprisonment or
14 recommitment under Section 3-3-9. Each day of good conduct
15 credit shall reduce by one day the prisoner's period of
16 imprisonment or recommitment under Section 3-3-9.

17 (2.2) A prisoner serving a term of natural life
18 imprisonment ~~or a prisoner who has been sentenced to death~~
19 shall receive no good conduct credit.

20 (2.3) The rules and regulations on early release shall
21 provide that a prisoner who is serving a sentence for
22 reckless homicide as defined in subsection (e) of Section
23 9-3 of the Criminal Code of 1961 committed on or after
24 January 1, 1999, or aggravated driving under the influence
25 of alcohol, other drug or drugs, or intoxicating compound
26 or compounds, or any combination thereof as defined in
27 subparagraph (F) of paragraph (1) of subsection (d) of
28 Section 11-501 of the Illinois Vehicle Code, shall receive
29 no more than 4.5 days of good conduct credit for each month
30 of his or her sentence of imprisonment.

31 (2.4) The rules and regulations on early release shall
32 provide with respect to the offenses of aggravated battery
33 with a machine gun or a firearm equipped with any device or
34 attachment designed or used for silencing the report of a

1 firearm or aggravated discharge of a machine gun or a
2 firearm equipped with any device or attachment designed or
3 used for silencing the report of a firearm, committed on or
4 after July 15, 1999 (the effective date of Public Act
5 91-121) ~~this amendatory Act of 1999~~, that a prisoner
6 serving a sentence for any of these offenses shall receive
7 no more than 4.5 days of good conduct credit for each month
8 of his or her sentence of imprisonment.

9 (2.5) The rules and regulations on early release shall
10 provide that a prisoner who is serving a sentence for
11 aggravated arson committed on or after July 27, 2001 (the
12 effective date of Public Act 92-176) ~~this amendatory Act of~~
13 ~~the 92nd 93rd General Assembly~~ shall receive no more than
14 4.5 days of good conduct credit for each month of his or
15 her sentence of imprisonment.

16 (3) The rules and regulations shall also provide that
17 the Director may award up to 180 days additional good
18 conduct credit for meritorious service in specific
19 instances as the Director deems proper; except that no more
20 than 90 days of good conduct credit for meritorious service
21 shall be awarded to any prisoner who is serving a sentence
22 for conviction of first degree murder, reckless homicide
23 while under the influence of alcohol or any other drug, or
24 aggravated driving under the influence of alcohol, other
25 drug or drugs, or intoxicating compound or compounds, or
26 any combination thereof as defined in subparagraph (F) of
27 paragraph (1) of subsection (d) of Section 11-501 of the
28 Illinois Vehicle Code, aggravated kidnapping, kidnapping,
29 predatory criminal sexual assault of a child, aggravated
30 criminal sexual assault, criminal sexual assault, deviate
31 sexual assault, aggravated criminal sexual abuse,
32 aggravated indecent liberties with a child, indecent
33 liberties with a child, child pornography, heinous
34 battery, aggravated battery of a spouse, aggravated

1 battery of a spouse with a firearm, stalking, aggravated
2 stalking, aggravated battery of a child, endangering the
3 life or health of a child, cruelty to a child, or narcotic
4 racketeering. Notwithstanding the foregoing, good conduct
5 credit for meritorious service shall not be awarded on a
6 sentence of imprisonment imposed for conviction of: (i) one
7 of the offenses enumerated in subdivision (a)(2) when the
8 offense is committed on or after June 19, 1998, (ii)
9 reckless homicide as defined in subsection (e) of Section
10 9-3 of the Criminal Code of 1961 when the offense is
11 committed on or after January 1, 1999, or aggravated
12 driving under the influence of alcohol, other drug or
13 drugs, or intoxicating compound or compounds, or any
14 combination thereof as defined in subparagraph (F) of
15 paragraph (1) of subsection (d) of Section 11-501 of the
16 Illinois Vehicle Code, (iii) one of the offenses enumerated
17 in subdivision (a)(2.4) when the offense is committed on or
18 after July 15, 1999 (the effective date of Public Act
19 91-121) ~~this amendatory Act of 1999~~, or (iv) aggravated
20 arson when the offense is committed on or after July 27,
21 2001 (the effective date of Public Act 92-176) ~~this~~
22 ~~amendatory Act of the 92nd 93rd General Assembly.~~

23 (4) The rules and regulations shall also provide that
24 the good conduct credit accumulated and retained under
25 paragraph (2.1) of subsection (a) of this Section by any
26 inmate during specific periods of time in which such inmate
27 is engaged full-time in substance abuse programs,
28 correctional industry assignments, or educational programs
29 provided by the Department under this paragraph (4) and
30 satisfactorily completes the assigned program as
31 determined by the standards of the Department, shall be
32 multiplied by a factor of 1.25 for program participation
33 before August 11, 1993 and 1.50 for program participation
34 on or after that date. However, no inmate shall be eligible

1 for the additional good conduct credit under this paragraph
2 (4) while assigned to a boot camp, mental health unit, or
3 electronic detention, or if convicted of an offense
4 enumerated in paragraph (a)(2) of this Section that is
5 committed on or after June 19, 1998, or if convicted of
6 reckless homicide as defined in subsection (e) of Section
7 9-3 of the Criminal Code of 1961 if the offense is
8 committed on or after January 1, 1999, or aggravated
9 driving under the influence of alcohol, other drug or
10 drugs, or intoxicating compound or compounds, or any
11 combination thereof as defined in subparagraph (F) of
12 paragraph (1) of subsection (d) of Section 11-501 of the
13 Illinois Vehicle Code, or if convicted of an offense
14 enumerated in paragraph (a)(2.4) of this Section that is
15 committed on or after July 15, 1999 (the effective date of
16 Public Act 91-121) ~~this amendatory Act of 1999~~, or first
17 degree murder, a Class X felony, criminal sexual assault,
18 felony criminal sexual abuse, aggravated criminal sexual
19 abuse, aggravated battery with a firearm, or any
20 predecessor or successor offenses with the same or
21 substantially the same elements, or any inchoate offenses
22 relating to the foregoing offenses. No inmate shall be
23 eligible for the additional good conduct credit under this
24 paragraph (4) who (i) has previously received increased
25 good conduct credit under this paragraph (4) and has
26 subsequently been convicted of a felony, or (ii) has
27 previously served more than one prior sentence of
28 imprisonment for a felony in an adult correctional
29 facility.

30 Educational, vocational, substance abuse and
31 correctional industry programs under which good conduct
32 credit may be increased under this paragraph (4) shall be
33 evaluated by the Department on the basis of documented
34 standards. The Department shall report the results of these

1 evaluations to the Governor and the General Assembly by
2 September 30th of each year. The reports shall include data
3 relating to the recidivism rate among program
4 participants.

5 Availability of these programs shall be subject to the
6 limits of fiscal resources appropriated by the General
7 Assembly for these purposes. Eligible inmates who are
8 denied immediate admission shall be placed on a waiting
9 list under criteria established by the Department. The
10 inability of any inmate to become engaged in any such
11 programs by reason of insufficient program resources or for
12 any other reason established under the rules and
13 regulations of the Department shall not be deemed a cause
14 of action under which the Department or any employee or
15 agent of the Department shall be liable for damages to the
16 inmate.

17 (4.5) The rules and regulations on early release shall
18 also provide that a prisoner who is serving a sentence for
19 a crime committed as a result of the use of, abuse of, or
20 addiction to alcohol or a controlled substance and the
21 crime was committed on or after September 1, 2003 (the
22 effective date of Public Act 93-354) ~~this Amendatory Act of~~
23 ~~the 93rd General Assembly~~ shall receive no good conduct
24 credit until he or she participates in and completes a
25 substance abuse treatment program. Good conduct credit
26 awarded under clauses (2), (3), and (4) of this subsection
27 (a) for crimes committed on or after September 1, 2003 ~~the~~
28 ~~effective date of this amendatory Act of the 93rd General~~
29 ~~Assembly~~ is subject to the provisions of this clause (4.5).
30 If the prisoner completes a substance abuse treatment
31 program, the Department may award good conduct credit for
32 the time spent in treatment. Availability of substance
33 abuse treatment shall be subject to the limits of fiscal
34 resources appropriated by the General Assembly for these

1 purposes. If treatment is not available, the prisoner shall
2 be placed on a waiting list under criteria established by
3 the Department. The Department may require a prisoner
4 placed on a waiting list to attend a substance abuse
5 education class or attend substance abuse self-help
6 meetings. A prisoner may not lose good conduct credit as a
7 result of being placed on a waiting list. A prisoner placed
8 on a waiting list remains eligible for increased good
9 conduct credit for participation in an educational,
10 vocational, or correctional industry program under clause
11 (4) of subsection (a) of this Section.

12 (5) Whenever the Department is to release any inmate
13 earlier than it otherwise would because of a grant of good
14 conduct credit for meritorious service given at any time
15 during the term, the Department shall give reasonable
16 advance notice of the impending release to the State's
17 Attorney of the county where the prosecution of the inmate
18 took place.

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

23 (c) The Department shall prescribe rules and regulations
24 for revoking good conduct credit, or suspending or reducing the
25 rate of accumulation of good conduct credit for specific rule
26 violations, during imprisonment. These rules and regulations
27 shall provide that no inmate may be penalized more than one
28 year of good conduct credit for any one infraction.

29 When the Department seeks to revoke, suspend or reduce the
30 rate of accumulation of any good conduct credits for an alleged
31 infraction of its rules, it shall bring charges therefor
32 against the prisoner sought to be so deprived of good conduct
33 credits before the Prisoner Review Board as provided in
34 subparagraph (a)(4) of Section 3-3-2 of this Code, if the

1 amount of credit at issue exceeds 30 days or when during any 12
2 month period, the cumulative amount of credit revoked exceeds
3 30 days except where the infraction is committed or discovered
4 within 60 days of scheduled release. In those cases, the
5 Department of Corrections may revoke up to 30 days of good
6 conduct credit. The Board may subsequently approve the
7 revocation of additional good conduct credit, if the Department
8 seeks to revoke good conduct credit in excess of 30 days.
9 However, the Board shall not be empowered to review the
10 Department's decision with respect to the loss of 30 days of
11 good conduct credit within any calendar year for any prisoner
12 or to increase any penalty beyond the length requested by the
13 Department.

14 The Director of the Department of Corrections, in
15 appropriate cases, may restore up to 30 days good conduct
16 credits which have been revoked, suspended or reduced. Any
17 restoration of good conduct credits in excess of 30 days shall
18 be subject to review by the Prisoner Review Board. However, the
19 Board may not restore good conduct credit in excess of the
20 amount requested by the Director.

21 Nothing contained in this Section shall prohibit the
22 Prisoner Review Board from ordering, pursuant to Section
23 3-3-9(a) (3) (i) (B), that a prisoner serve up to one year of the
24 sentence imposed by the court that was not served due to the
25 accumulation of good conduct credit.

26 (d) If a lawsuit is filed by a prisoner in an Illinois or
27 federal court against the State, the Department of Corrections,
28 or the Prisoner Review Board, or against any of their officers
29 or employees, and the court makes a specific finding that a
30 pleading, motion, or other paper filed by the prisoner is
31 frivolous, the Department of Corrections shall conduct a
32 hearing to revoke up to 180 days of good conduct credit by
33 bringing charges against the prisoner sought to be deprived of
34 the good conduct credits before the Prisoner Review Board as

1 provided in subparagraph (a) (8) of Section 3-3-2 of this Code.
2 If the prisoner has not accumulated 180 days of good conduct
3 credit at the time of the finding, then the Prisoner Review
4 Board may revoke all good conduct credit accumulated by the
5 prisoner.

6 For purposes of this subsection (d):

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

11 (A) it lacks an arguable basis either in law or in
12 fact;

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

16 (C) the claims, defenses, and other legal
17 contentions therein are not warranted by existing law
18 or by a nonfrivolous argument for the extension,
19 modification, or reversal of existing law or the
20 establishment of new law;

21 (D) the allegations and other factual contentions
22 do not have evidentiary support or, if specifically so
23 identified, are not likely to have evidentiary support
24 after a reasonable opportunity for further
25 investigation or discovery; or

26 (E) the denials of factual contentions are not
27 warranted on the evidence, or if specifically so
28 identified, are not reasonably based on a lack of
29 information or belief.

30 (2) "Lawsuit" means a petition for post-conviction
31 relief under Article 122 of the Code of Criminal Procedure
32 of 1963, a motion pursuant to Section 116-3 of the Code of
33 Criminal Procedure of 1963, a habeas corpus action under
34 Article X of the Code of Civil Procedure or under federal

1 law (28 U.S.C. 2254), a petition for claim under the Court
2 of Claims Act or an action under the federal Civil Rights
3 Act (42 U.S.C. 1983).

4 (e) Nothing in Public Act 90-592 or 90-593 ~~this amendatory~~
5 ~~Act of 1998~~ affects the validity of Public Act 89-404.

6 (Source: P.A. 92-176, eff. 7-27-01; 92-854, eff. 12-5-02;
7 93-213, eff. 7-18-03; 93-354, eff. 9-1-03; revised 10-15-03.)

8 (730 ILCS 5/3-8-10) (from Ch. 38, par. 1003-8-10)

9 Sec. 3-8-10. Intrastate Detainers. ~~Except for persons~~
10 ~~sentenced to death,~~ Subsection (b), (c) and (e) of Section
11 103-5 of the Code of Criminal Procedure of 1963 shall also
12 apply to persons committed to any institution or facility or
13 program of the Illinois Department of Corrections who have
14 untried complaints, charges or indictments pending in any
15 county of this State, and such person shall include in the
16 demand under subsection (b), a statement of the place of
17 present commitment, the term, and length of the remaining term,
18 the charges pending against him or her to be tried and the
19 county of the charges, and the demand shall be addressed to the
20 state's attorney of the county where he or she is charged with
21 a copy to the clerk of that court and a copy to the chief
22 administrative officer of the Department of Corrections
23 institution or facility to which he or she is committed. The
24 state's attorney shall then procure the presence of the
25 defendant for trial in his county by habeas corpus. Additional
26 time may be granted by the court for the process of bringing
27 and serving an order of habeas corpus ad prosequendum. In the
28 event that the person is not brought to trial within the
29 allotted time, then the charge for which he or she has
30 requested a speedy trial shall be dismissed.

31 (Source: P.A. 83-346.)

32 (730 ILCS 5/5-1-9) (from Ch. 38, par. 1005-1-9)

1 Sec. 5-1-9. Felony.

2 "Felony" means an offense for which a sentence to ~~death or~~
3 ~~to~~ a term of imprisonment in a penitentiary for one year or
4 more is provided.

5 (Source: P.A. 77-2097.)

6 (730 ILCS 5/5-4-1) (from Ch. 38, par. 1005-4-1)

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

8 (a) After ~~Except when the death penalty is sought under~~
9 ~~hearing procedures otherwise specified, after~~ a determination
10 of guilt, a hearing shall be held to impose the sentence.
11 However, prior to the imposition of sentence on an individual
12 being sentenced for an offense based upon a charge for a
13 violation of Section 11-501 of the Illinois Vehicle Code or a
14 similar provision of a local ordinance, the individual must
15 undergo a professional evaluation to determine if an alcohol or
16 other drug abuse problem exists and the extent of such a
17 problem. Programs conducting these evaluations shall be
18 licensed by the Department of Human Services. However, if the
19 individual is not a resident of Illinois, the court may, in its
20 discretion, accept an evaluation from a program in the state of
21 such individual's residence. The court may in its sentencing
22 order approve an eligible defendant for placement in a
23 Department of Corrections impact incarceration program as
24 provided in Section 5-8-1.1 or 5-8-1.3. At the hearing the
25 court shall:

26 (1) consider the evidence, if any, received upon the
27 trial;

28 (2) consider any presentence reports;

29 (3) consider the financial impact of incarceration
30 based on the financial impact statement filed with the
31 clerk of the court by the Department of Corrections;

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

1 (5) hear arguments as to sentencing alternatives;

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

4 (7) afford the victim of a violent crime or a violation
5 of Section 11-501 of the Illinois Vehicle Code, or a
6 similar provision of a local ordinance, or a qualified
7 individual affected by: (i) a violation of Section 405,
8 405.1, 405.2, or 407 of the Illinois Controlled Substances
9 Act, or (ii) a Class 4 felony violation of Section 11-14,
10 11-15, 11-17, 11-18, 11-18.1, or 11-19 of the Criminal Code
11 of 1961, committed by the defendant the opportunity to make
12 a statement concerning the impact on the victim and to
13 offer evidence in aggravation or mitigation; provided that
14 the statement and evidence offered in aggravation or
15 mitigation must first be prepared in writing in conjunction
16 with the State's Attorney before it may be presented orally
17 at the hearing. Any sworn testimony offered by the victim
18 is subject to the defendant's right to cross-examine. All
19 statements and evidence offered under this paragraph (7)
20 shall become part of the record of the court. For the
21 purpose of this paragraph (7), "qualified individual"
22 means any person who (i) lived or worked within the
23 territorial jurisdiction where the offense took place when
24 the offense took place; and (ii) is familiar with various
25 public places within the territorial jurisdiction where
26 the offense took place when the offense took place. For the
27 purposes of this paragraph (7), "qualified individual"
28 includes any peace officer, or any member of any duly
29 organized State, county, or municipal peace unit assigned
30 to the territorial jurisdiction where the offense took
31 place when the offense took place;

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

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

5 (b) All sentences shall be imposed by the judge based upon
6 his independent assessment of the elements specified above and
7 any agreement as to sentence reached by the parties. The judge
8 who presided at the trial or the judge who accepted the plea of
9 guilty shall impose the sentence unless he is no longer sitting
10 as a judge in that court. Where the judge does not impose
11 sentence at the same time on all defendants who are convicted
12 as a result of being involved in the same offense, the
13 defendant or the State's Attorney may advise the sentencing
14 court of the disposition of any other defendants who have been
15 sentenced.

16 (c) In imposing a sentence for a violent crime or for an
17 offense of operating or being in physical control of a vehicle
18 while under the influence of alcohol, any other drug or any
19 combination thereof, or a similar provision of a local
20 ordinance, when such offense resulted in the personal injury to
21 someone other than the defendant, the trial judge shall specify
22 on the record the particular evidence, information, factors in
23 mitigation and aggravation or other reasons that led to his
24 sentencing determination. The full verbatim record of the
25 sentencing hearing shall be filed with the clerk of the court
26 and shall be a public record.

27 (c-1) In imposing a sentence for the offense of aggravated
28 kidnapping for ransom, home invasion, armed robbery,
29 aggravated vehicular hijacking, aggravated discharge of a
30 firearm, or armed violence with a category I weapon or category
31 II weapon, the trial judge shall make a finding as to whether
32 the conduct leading to conviction for the offense resulted in
33 great bodily harm to a victim, and shall enter that finding and
34 the basis for that finding in the record.

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

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

15 "The purpose of this statement is to inform the public of
16 the actual period of time this defendant is likely to spend in
17 prison as a result of this sentence. The actual period of
18 prison time served is determined by the statutes of Illinois as
19 applied to this sentence by the Illinois Department of
20 Corrections and the Illinois Prisoner Review Board. In this
21 case, assuming the defendant receives all of his or her good
22 conduct credit, the period of estimated actual custody is ...
23 years and ... months, less up to 180 days additional good
24 conduct credit for meritorious service. If the defendant,
25 because of his or her own misconduct or failure to comply with
26 the institutional regulations, does not receive those credits,
27 the actual time served in prison will be longer. The defendant
28 may also receive an additional one-half day good conduct credit
29 for each day of participation in vocational, industry,
30 substance abuse, and educational programs as provided for by
31 Illinois statute."

32 When the sentence is imposed for one of the offenses
33 enumerated in paragraph (a)(3) of Section 3-6-3, other than
34 when the sentence is imposed for one of the offenses enumerated

1 in paragraph (a) (2) of Section 3-6-3 committed on or after June
2 19, 1998, and other than when the sentence is imposed for
3 reckless homicide as defined in subsection (e) of Section 9-3
4 of the Criminal Code of 1961 if the offense was committed on or
5 after January 1, 1999, and other than when the sentence is
6 imposed for aggravated arson if the offense was committed on or
7 after July 27, 2001 (the effective date of Public Act 92-176)
8 ~~this amendatory Act of the 92nd 93rd General Assembly~~, the
9 judge's statement, to be given after pronouncing the sentence,
10 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, assuming the defendant receives all of his or her good
18 conduct credit, the period of estimated actual custody is ...
19 years and ... months, less up to 90 days additional good
20 conduct credit for meritorious service. If the defendant,
21 because of his or her own misconduct or failure to comply with
22 the institutional regulations, does not receive those credits,
23 the actual time served in prison will be longer. The defendant
24 may also receive an additional one-half day good conduct credit
25 for each day of participation in vocational, industry,
26 substance abuse, and educational programs as provided for by
27 Illinois statute."

28 When the sentence is imposed for one of the offenses
29 enumerated in paragraph (a) (2) of Section 3-6-3, other than
30 first degree murder, and the offense was committed on or after
31 June 19, 1998, and when the sentence is imposed for reckless
32 homicide as defined in subsection (e) of Section 9-3 of the
33 Criminal Code of 1961 if the offense was committed on or after
34 January 1, 1999, and when the sentence is imposed for

1 aggravated driving under the influence of alcohol, other drug
2 or drugs, or intoxicating compound or compounds, or any
3 combination thereof as defined in subparagraph (F) of paragraph
4 (1) of subsection (d) of Section 11-501 of the Illinois Vehicle
5 Code, and when the sentence is imposed for aggravated arson if
6 the offense was committed on or after July 27, 2001 (the
7 effective date of Public Act 92-176) ~~this amendatory Act of the~~
8 ~~92nd 93rd General Assembly~~, the judge's statement, to be given
9 after pronouncing the sentence, shall include the following:

10 "The purpose of this statement is to inform the public of
11 the actual period of time this defendant is likely to spend in
12 prison as a result of this sentence. The actual period of
13 prison time served is determined by the statutes of Illinois as
14 applied to this sentence by the Illinois Department of
15 Corrections and the Illinois Prisoner Review Board. In this
16 case, the defendant is entitled to no more than 4 1/2 days of
17 good conduct credit for each month of his or her sentence of
18 imprisonment. Therefore, this defendant will serve at least 85%
19 of his or her sentence. Assuming the defendant receives 4 1/2
20 days credit for each month of his or her sentence, the period
21 of estimated actual custody is ... years and ... months. If the
22 defendant, because of his or her own misconduct or failure to
23 comply with the institutional regulations receives lesser
24 credit, the actual time served in prison will be longer."

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

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

1 case, the defendant is not entitled to good conduct credit.
2 Therefore, this defendant will serve 100% of his or her
3 sentence."

4 When the sentence is imposed for any offense that results
5 in incarceration in a Department of Corrections facility
6 committed as a result of the use of, abuse of, or addiction to
7 alcohol or a controlled substance and the crime was committed
8 on or after September 1, 2003 (the effective date of Public Act
9 93-354) ~~this amendatory Act of the 93rd General Assembly~~, the
10 judge's statement, in addition to any other judge's statement
11 required under this Section, to be given after pronouncing the
12 sentence, shall include the following:

13 "The purpose of this statement is to inform the public of
14 the actual period of time this defendant is likely to spend in
15 prison as a result of this sentence. The actual period of
16 prison time served is determined by the statutes of Illinois as
17 applied to this sentence by the Illinois Department of
18 Corrections and the Illinois Prisoner Review Board. In this
19 case, the defendant shall receive no good conduct credit until
20 he or she participates in and completes a substance abuse
21 treatment program."

22 (d) When the defendant is committed to the Department of
23 Corrections, the State's Attorney shall and counsel for the
24 defendant may file a statement with the clerk of the court to
25 be transmitted to the department, agency or institution to
26 which the defendant is committed to furnish such department,
27 agency or institution with the facts and circumstances of the
28 offense for which the person was committed together with all
29 other factual information accessible to them in regard to the
30 person prior to his commitment relative to his habits,
31 associates, disposition and reputation and any other facts and
32 circumstances which may aid such department, agency or
33 institution during its custody of such person. The clerk shall
34 within 10 days after receiving any such statements transmit a

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

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

8 (1) the sentence imposed;

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

11 (3) any presentence reports;

12 (3.5) any sex offender evaluations;

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

17 (4.1) any finding of great bodily harm made by the
18 court with respect to an offense enumerated in subsection
19 (c-1);

20 (5) all statements filed under subsection (d) of this
21 Section;

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

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

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

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

31 (Source: P.A. 92-176, eff. 7-27-01; 92-806, eff. 1-1-03;
32 93-213, eff. 7-18-03; 93-317, eff. 1-1-04; 93-354, eff. 9-1-03;
33 93-616, eff. 1-1-04; revised 12-9-03.)

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

2 Sec. 5-5-3. Disposition.

3 (a) Except as provided in Section 11-501 of the Illinois
4 Vehicle Code, every person convicted of an offense shall be
5 sentenced as provided in this Section.

6 (b) The following options shall be appropriate
7 dispositions, alone or in combination, for all felonies and
8 misdemeanors other than those identified in subsection (c) of
9 this Section:

10 (1) A period of probation.

11 (2) A term of periodic imprisonment.

12 (3) A term of conditional discharge.

13 (4) A term of imprisonment.

14 (5) An order directing the offender to clean up and
15 repair the damage, if the offender was convicted under
16 paragraph (h) of Section 21-1 of the Criminal Code of 1961
17 (now repealed).

18 (6) A fine.

19 (7) An order directing the offender to make restitution
20 to the victim under Section 5-5-6 of this Code.

21 (8) A sentence of participation in a county impact
22 incarceration program under Section 5-8-1.2 of this Code.

23 (9) A term of imprisonment in combination with a term
24 of probation when the offender has been admitted into a
25 drug court program under Section 20 of the Drug Court
26 Treatment Act.

27 Neither a fine nor restitution shall be the sole
28 disposition for a felony and either or both may be imposed only
29 in conjunction with another disposition.

30 (c) (1) When a defendant is found guilty of first degree
31 murder the State may ~~either~~ seek a sentence of imprisonment
32 under Section 5-8-1 of this Code, ~~or where appropriate seek~~
33 ~~a sentence of death under Section 9-1 of the Criminal Code~~
34 ~~of 1961.~~

1 (2) A period of probation, a term of periodic
2 imprisonment or conditional discharge shall not be imposed
3 for the following offenses. The court shall sentence the
4 offender to not less than the minimum term of imprisonment
5 set forth in this Code for the following offenses, and may
6 order a fine or restitution or both in conjunction with
7 such term of imprisonment:

8 (A) First degree murder ~~where the death penalty is~~
9 ~~not imposed.~~

10 (B) Attempted first degree murder.

11 (C) A Class X felony.

12 (D) A violation of Section 401.1 or 407 of the
13 Illinois Controlled Substances Act, or a violation of
14 subdivision (c) (1) or (c) (2) of Section 401 of that Act
15 which relates to more than 5 grams of a substance
16 containing heroin or cocaine or an analog thereof.

17 (E) A violation of Section 5.1 or 9 of the Cannabis
18 Control Act.

19 (F) A Class 2 or greater felony if the offender had
20 been convicted of a Class 2 or greater felony within 10
21 years of the date on which the offender committed the
22 offense for which he or she is being sentenced, except
23 as otherwise provided in Section 40-10 of the
24 Alcoholism and Other Drug Abuse and Dependency Act.

25 (G) Residential burglary, except as otherwise
26 provided in Section 40-10 of the Alcoholism and Other
27 Drug Abuse and Dependency Act.

28 (H) Criminal sexual assault.

29 (I) Aggravated battery of a senior citizen.

30 (J) A forcible felony if the offense was related to
31 the activities of an organized gang.

32 Before July 1, 1994, for the purposes of this
33 paragraph, "organized gang" means an association of 5
34 or more persons, with an established hierarchy, that

1 encourages members of the association to perpetrate
2 crimes or provides support to the members of the
3 association who do commit crimes.

4 Beginning July 1, 1994, for the purposes of this
5 paragraph, "organized gang" has the meaning ascribed
6 to it in Section 10 of the Illinois Streetgang
7 Terrorism Omnibus Prevention Act.

8 (K) Vehicular hijacking.

9 (L) A second or subsequent conviction for the
10 offense of hate crime when the underlying offense upon
11 which the hate crime is based is felony aggravated
12 assault or felony mob action.

13 (M) A second or subsequent conviction for the
14 offense of institutional vandalism if the damage to the
15 property exceeds \$300.

16 (N) A Class 3 felony violation of paragraph (1) of
17 subsection (a) of Section 2 of the Firearm Owners
18 Identification Card Act.

19 (O) A violation of Section 12-6.1 of the Criminal
20 Code of 1961.

21 (P) A violation of paragraph (1), (2), (3), (4),
22 (5), or (7) of subsection (a) of Section 11-20.1 of the
23 Criminal Code of 1961.

24 (Q) A violation of Section 20-1.2 or 20-1.3 of the
25 Criminal Code of 1961.

26 (R) A violation of Section 24-3A of the Criminal
27 Code of 1961.

28 (S) (Blank).

29 (T) A second or subsequent violation of paragraph
30 (6.6) of subsection (a), subsection (c-5), or
31 subsection (d-5) of Section 401 of the Illinois
32 Controlled Substances Act.

33 (3) (Blank).

34 (4) A minimum term of imprisonment of not less than 10

1 consecutive days or 30 days of community service shall be
2 imposed for a violation of paragraph (c) of Section 6-303
3 of the Illinois Vehicle Code.

4 (4.1) (Blank).

5 (4.2) Except as provided in paragraph (4.3) of this
6 subsection (c), a minimum of 100 hours of community service
7 shall be imposed for a second violation of Section 6-303 of
8 the Illinois Vehicle Code.

9 (4.3) A minimum term of imprisonment of 30 days or 300
10 hours of community service, as determined by the court,
11 shall be imposed for a second violation of subsection (c)
12 of Section 6-303 of the Illinois Vehicle Code.

13 (4.4) Except as provided in paragraph (4.5) and
14 paragraph (4.6) of this subsection (c), a minimum term of
15 imprisonment of 30 days or 300 hours of community service,
16 as determined by the court, shall be imposed for a third or
17 subsequent violation of Section 6-303 of the Illinois
18 Vehicle Code.

19 (4.5) A minimum term of imprisonment of 30 days shall
20 be imposed for a third violation of subsection (c) of
21 Section 6-303 of the Illinois Vehicle Code.

22 (4.6) A minimum term of imprisonment of 180 days shall
23 be imposed for a fourth or subsequent violation of
24 subsection (c) of Section 6-303 of the Illinois Vehicle
25 Code.

26 (5) The court may sentence an offender convicted of a
27 business offense or a petty offense or a corporation or
28 unincorporated association convicted of any offense to:

29 (A) a period of conditional discharge;

30 (B) a fine;

31 (C) make restitution to the victim under Section
32 5-5-6 of this Code.

33 (5.1) In addition to any penalties imposed under
34 paragraph (5) of this subsection (c), and except as

1 provided in paragraph (5.2) or (5.3), a person convicted of
2 violating subsection (c) of Section 11-907 of the Illinois
3 Vehicle Code shall have his or her driver's license,
4 permit, or privileges suspended for at least 90 days but
5 not more than one year, if the violation resulted in damage
6 to the property of another person.

7 (5.2) In addition to any penalties imposed under
8 paragraph (5) of this subsection (c), and except as
9 provided in paragraph (5.3), a person convicted of
10 violating subsection (c) of Section 11-907 of the Illinois
11 Vehicle Code shall have his or her driver's license,
12 permit, or privileges suspended for at least 180 days but
13 not more than 2 years, if the violation resulted in injury
14 to another person.

15 (5.3) In addition to any penalties imposed under
16 paragraph (5) of this subsection (c), a person convicted of
17 violating subsection (c) of Section 11-907 of the Illinois
18 Vehicle Code shall have his or her driver's license,
19 permit, or privileges suspended for 2 years, if the
20 violation resulted in the death of another person.

21 (6) In no case shall an offender be eligible for a
22 disposition of probation or conditional discharge for a
23 Class 1 felony committed while he was serving a term of
24 probation or conditional discharge for a felony.

25 (7) When a defendant is adjudged a habitual criminal
26 under Article 33B of the Criminal Code of 1961, the court
27 shall sentence the defendant to a term of natural life
28 imprisonment.

29 (8) When a defendant, over the age of 21 years, is
30 convicted of a Class 1 or Class 2 felony, after having
31 twice been convicted in any state or federal court of an
32 offense that contains the same elements as an offense now
33 classified in Illinois as a Class 2 or greater Class felony
34 and such charges are separately brought and tried and arise

1 out of different series of acts, such defendant shall be
2 sentenced as a Class X offender. This paragraph shall not
3 apply unless (1) the first felony was committed after the
4 effective date of this amendatory Act of 1977; and (2) the
5 second felony was committed after conviction on the first;
6 and (3) the third felony was committed after conviction on
7 the second. A person sentenced as a Class X offender under
8 this paragraph is not eligible to apply for treatment as a
9 condition of probation as provided by Section 40-10 of the
10 Alcoholism and Other Drug Abuse and Dependency Act.

11 (9) A defendant convicted of a second or subsequent
12 offense of ritualized abuse of a child may be sentenced to
13 a term of natural life imprisonment.

14 (10) (Blank).

15 (11) The court shall impose a minimum fine of \$1,000
16 for a first offense and \$2,000 for a second or subsequent
17 offense upon a person convicted of or placed on supervision
18 for battery when the individual harmed was a sports
19 official or coach at any level of competition and the act
20 causing harm to the sports official or coach occurred
21 within an athletic facility or within the immediate
22 vicinity of the athletic facility at which the sports
23 official or coach was an active participant of the athletic
24 contest held at the athletic facility. For the purposes of
25 this paragraph (11), "sports official" means a person at an
26 athletic contest who enforces the rules of the contest,
27 such as an umpire or referee; "athletic facility" means an
28 indoor or outdoor playing field or recreational area where
29 sports activities are conducted; and "coach" means a person
30 recognized as a coach by the sanctioning authority that
31 conducted the sporting event.

32 (12) ~~(11)~~ A person may not receive a disposition of
33 court supervision for a violation of Section 5-16 of the
34 Boat Registration and Safety Act if that person has

1 (ii) restricted contact with the victim;

2 (iii) continued financial support of the
3 family;

4 (iv) restitution for harm done to the victim;

5 and

6 (v) compliance with any other measures that
7 the court may deem appropriate; and

8 (2) the court orders the defendant to pay for the
9 victim's counseling services, to the extent that the court
10 finds, after considering the defendant's income and
11 assets, that the defendant is financially capable of paying
12 for such services, if the victim was under 18 years of age
13 at the time the offense was committed and requires
14 counseling as a result of the offense.

15 Probation may be revoked or modified pursuant to Section
16 5-6-4; except where the court determines at the hearing that
17 the defendant violated a condition of his or her probation
18 restricting contact with the victim or other family members or
19 commits another offense with the victim or other family
20 members, the court shall revoke the defendant's probation and
21 impose a term of imprisonment.

22 For the purposes of this Section, "family member" and
23 "victim" shall have the meanings ascribed to them in Section
24 12-12 of the Criminal Code of 1961.

25 (f) This Article shall not deprive a court in other
26 proceedings to order a forfeiture of property, to suspend or
27 cancel a license, to remove a person from office, or to impose
28 any other civil penalty.

29 (g) Whenever a defendant is convicted of an offense under
30 Sections 11-14, 11-15, 11-15.1, 11-16, 11-17, 11-18, 11-18.1,
31 11-19, 11-19.1, 11-19.2, 12-13, 12-14, 12-14.1, 12-15 or 12-16
32 of the Criminal Code of 1961, the defendant shall undergo
33 medical testing to determine whether the defendant has any
34 sexually transmissible disease, including a test for infection

1 with human immunodeficiency virus (HIV) or any other identified
2 causative agent of acquired immunodeficiency syndrome (AIDS).
3 Any such medical test shall be performed only by appropriately
4 licensed medical practitioners and may include an analysis of
5 any bodily fluids as well as an examination of the defendant's
6 person. Except as otherwise provided by law, the results of
7 such test shall be kept strictly confidential by all medical
8 personnel involved in the testing and must be personally
9 delivered in a sealed envelope to the judge of the court in
10 which the conviction was entered for the judge's inspection in
11 camera. Acting in accordance with the best interests of the
12 victim and the public, the judge shall have the discretion to
13 determine to whom, if anyone, the results of the testing may be
14 revealed. The court shall notify the defendant of the test
15 results. The court shall also notify the victim if requested by
16 the victim, and if the victim is under the age of 15 and if
17 requested by the victim's parents or legal guardian, the court
18 shall notify the victim's parents or legal guardian of the test
19 results. The court shall provide information on the
20 availability of HIV testing and counseling at Department of
21 Public Health facilities to all parties to whom the results of
22 the testing are revealed and shall direct the State's Attorney
23 to provide the information to the victim when possible. A
24 State's Attorney may petition the court to obtain the results
25 of any HIV test administered under this Section, and the court
26 shall grant the disclosure if the State's Attorney shows it is
27 relevant in order to prosecute a charge of criminal
28 transmission of HIV under Section 12-16.2 of the Criminal Code
29 of 1961 against the defendant. The court shall order that the
30 cost of any such test shall be paid by the county and may be
31 taxed as costs against the convicted defendant.

32 (g-5) When an inmate is tested for an airborne communicable
33 disease, as determined by the Illinois Department of Public
34 Health including but not limited to tuberculosis, the results

1 of the test shall be personally delivered by the warden or his
2 or her designee in a sealed envelope to the judge of the court
3 in which the inmate must appear for the judge's inspection in
4 camera if requested by the judge. Acting in accordance with the
5 best interests of those in the courtroom, the judge shall have
6 the discretion to determine what if any precautions need to be
7 taken to prevent transmission of the disease in the courtroom.

8 (h) Whenever a defendant is convicted of an offense under
9 Section 1 or 2 of the Hypodermic Syringes and Needles Act, the
10 defendant shall undergo medical testing to determine whether
11 the defendant has been exposed to human immunodeficiency virus
12 (HIV) or any other identified causative agent of acquired
13 immunodeficiency syndrome (AIDS). Except as otherwise provided
14 by law, the results of such test shall be kept strictly
15 confidential by all medical personnel involved in the testing
16 and must be personally delivered in a sealed envelope to the
17 judge of the court in which the conviction was entered for the
18 judge's inspection in camera. Acting in accordance with the
19 best interests of the public, the judge shall have the
20 discretion to determine to whom, if anyone, the results of the
21 testing may be revealed. The court shall notify the defendant
22 of a positive test showing an infection with the human
23 immunodeficiency virus (HIV). The court shall provide
24 information on the availability of HIV testing and counseling
25 at Department of Public Health facilities to all parties to
26 whom the results of the testing are revealed and shall direct
27 the State's Attorney to provide the information to the victim
28 when possible. A State's Attorney may petition the court to
29 obtain the results of any HIV test administered under this
30 Section, and the court shall grant the disclosure if the
31 State's Attorney shows it is relevant in order to prosecute a
32 charge of criminal transmission of HIV under Section 12-16.2 of
33 the Criminal Code of 1961 against the defendant. The court
34 shall order that the cost of any such test shall be paid by the

1 county and may be taxed as costs against the convicted
2 defendant.

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

10 (j) In cases when prosecution for any violation of Section
11 11-6, 11-8, 11-9, 11-11, 11-14, 11-15, 11-15.1, 11-16, 11-17,
12 11-17.1, 11-18, 11-18.1, 11-19, 11-19.1, 11-19.2, 11-20.1,
13 11-21, 12-13, 12-14, 12-14.1, 12-15, or 12-16 of the Criminal
14 Code of 1961, any violation of the Illinois Controlled
15 Substances Act, or any violation of the Cannabis Control Act
16 results in conviction, a disposition of court supervision, or
17 an order of probation granted under Section 10 of the Cannabis
18 Control Act or Section 410 of the Illinois Controlled Substance
19 Act of a defendant, the court shall determine whether the
20 defendant is employed by a facility or center as defined under
21 the Child Care Act of 1969, a public or private elementary or
22 secondary school, or otherwise works with children under 18
23 years of age on a daily basis. When a defendant is so employed,
24 the court shall order the Clerk of the Court to send a copy of
25 the judgment of conviction or order of supervision or probation
26 to the defendant's employer by certified mail. If the employer
27 of the defendant is a school, the Clerk of the Court shall
28 direct the mailing of a copy of the judgment of conviction or
29 order of supervision or probation to the appropriate regional
30 superintendent of schools. The regional superintendent of
31 schools shall notify the State Board of Education of any
32 notification under this subsection.

33 (j-5) A defendant at least 17 years of age who is convicted
34 of a felony and who has not been previously convicted of a

1 misdemeanor or felony and who is sentenced to a term of
2 imprisonment in the Illinois Department of Corrections shall as
3 a condition of his or her sentence be required by the court to
4 attend educational courses designed to prepare the defendant
5 for a high school diploma and to work toward a high school
6 diploma or to work toward passing the high school level Test of
7 General Educational Development (GED) or to work toward
8 completing a vocational training program offered by the
9 Department of Corrections. If a defendant fails to complete the
10 educational training required by his or her sentence during the
11 term of incarceration, the Prisoner Review Board shall, as a
12 condition of mandatory supervised release, require the
13 defendant, at his or her own expense, to pursue a course of
14 study toward a high school diploma or passage of the GED test.
15 The Prisoner Review Board shall revoke the mandatory supervised
16 release of a defendant who wilfully fails to comply with this
17 subsection (j-5) upon his or her release from confinement in a
18 penal institution while serving a mandatory supervised release
19 term; however, the inability of the defendant after making a
20 good faith effort to obtain financial aid or pay for the
21 educational training shall not be deemed a wilful failure to
22 comply. The Prisoner Review Board shall recommit the defendant
23 whose mandatory supervised release term has been revoked under
24 this subsection (j-5) as provided in Section 3-3-9. This
25 subsection (j-5) does not apply to a defendant who has a high
26 school diploma or has successfully passed the GED test. This
27 subsection (j-5) does not apply to a defendant who is
28 determined by the court to be developmentally disabled or
29 otherwise mentally incapable of completing the educational or
30 vocational program.

31 (k) A court may not impose a sentence or disposition for a
32 felony or misdemeanor that requires the defendant to be
33 implanted or injected with or to use any form of birth control.

34 (l) (A) Except as provided in paragraph (C) of subsection

1 (1), whenever a defendant, who is an alien as defined by
2 the Immigration and Nationality Act, is convicted of any
3 felony or misdemeanor offense, the court after sentencing
4 the defendant may, upon motion of the State's Attorney,
5 hold sentence in abeyance and remand the defendant to the
6 custody of the Attorney General of the United States or his
7 or her designated agent to be deported when:

8 (1) a final order of deportation has been issued
9 against the defendant pursuant to proceedings under
10 the Immigration and Nationality Act, and

11 (2) the deportation of the defendant would not
12 deprecate the seriousness of the defendant's conduct
13 and would not be inconsistent with the ends of justice.

14 Otherwise, the defendant shall be sentenced as
15 provided in this Chapter V.

16 (B) If the defendant has already been sentenced for a
17 felony or misdemeanor offense, or has been placed on
18 probation under Section 10 of the Cannabis Control Act or
19 Section 410 of the Illinois Controlled Substances Act, the
20 court may, upon motion of the State's Attorney to suspend
21 the sentence imposed, commit the defendant to the custody
22 of the Attorney General of the United States or his or her
23 designated agent when:

24 (1) a final order of deportation has been issued
25 against the defendant pursuant to proceedings under
26 the Immigration and Nationality Act, and

27 (2) the deportation of the defendant would not
28 deprecate the seriousness of the defendant's conduct
29 and would not be inconsistent with the ends of justice.

30 (C) This subsection (1) does not apply to offenders who
31 are subject to the provisions of paragraph (2) of
32 subsection (a) of Section 3-6-3.

33 (D) Upon motion of the State's Attorney, if a defendant
34 sentenced under this Section returns to the jurisdiction of

1 the United States, the defendant shall be recommitted to
2 the custody of the county from which he or she was
3 sentenced. Thereafter, the defendant shall be brought
4 before the sentencing court, which may impose any sentence
5 that was available under Section 5-5-3 at the time of
6 initial sentencing. In addition, the defendant shall not be
7 eligible for additional good conduct credit for
8 meritorious service as provided under Section 3-6-6.

9 (m) A person convicted of criminal defacement of property
10 under Section 21-1.3 of the Criminal Code of 1961, in which the
11 property damage exceeds \$300 and the property damaged is a
12 school building, shall be ordered to perform community service
13 that may include cleanup, removal, or painting over the
14 defacement.

15 (n) The court may sentence a person convicted of a
16 violation of Section 12-19, 12-21, or 16-1.3 of the Criminal
17 Code of 1961 (i) to an impact incarceration program if the
18 person is otherwise eligible for that program under Section
19 5-8-1.1, (ii) to community service, or (iii) if the person is
20 an addict or alcoholic, as defined in the Alcoholism and Other
21 Drug Abuse and Dependency Act, to a substance or alcohol abuse
22 program licensed under that Act.

23 (Source: P.A. 92-183, eff. 7-27-01; 92-248, eff. 8-3-01;
24 92-283, eff. 1-1-02; 92-340, eff. 8-10-01; 92-418, eff.
25 8-17-01; 92-422, eff. 8-17-01; 92-651, eff. 7-11-02; 92-698,
26 eff. 7-19-02; 93-44, eff. 7-1-03; 93-156, eff. 1-1-04; 93-169,
27 eff. 7-10-03; 93-301, eff. 1-1-04; 93-419, eff. 1-1-04; 93-546,
28 eff. 1-1-04; 93-694, eff. 7-9-04; 93-782, eff. 1-1-05; 93-800,
29 eff. 1-1-05; 93-1014, eff. 1-1-05; revised 10-25-04.)

30 (730 ILCS 5/5-8-1) (from Ch. 38, par. 1005-8-1)

31 Sec. 5-8-1. Sentence of Imprisonment for Felony.

32 (a) Except as otherwise provided in the statute defining
33 the offense, a sentence of imprisonment for a felony shall be a

1 determinate sentence set by the court under this Section,
2 according to the following limitations:

3 (1) for first degree murder,

4 (a) a term shall be not less than 20 years and not
5 more than 60 years, or

6 (b) if a trier of fact finds beyond a reasonable
7 doubt that the murder was accompanied by exceptionally
8 brutal or heinous behavior indicative of wanton
9 cruelty or, except as set forth in subsection (a) (1) (c)
10 of this Section, ~~that any of the aggravating factors~~
11 ~~listed in subsection (b) of Section 9-1 of the Criminal~~
12 ~~Code of 1961 are present,~~ the court may sentence the
13 defendant to a term of natural life imprisonment, or

14 (b-5) a defendant who has been sentenced to death
15 before the effective date of this amendatory Act of the
16 94th General Assembly shall be sentenced as provided in
17 this Chapter V, or

18 (c) the court shall sentence the defendant to a
19 term of natural life imprisonment ~~when the death~~
20 ~~penalty is not imposed~~ if the defendant,

21 (i) has previously been convicted of first
22 degree murder under any state or federal law, or

23 (ii) is a person who, at the time of the
24 commission of the murder, had attained the age of
25 17 or more and is found guilty of murdering an
26 individual under 12 years of age; or, irrespective
27 of the defendant's age at the time of the
28 commission of the offense, is found guilty of
29 murdering more than one victim, or

30 (iii) is found guilty of murdering a peace
31 officer or fireman when the peace officer or
32 fireman was killed in the course of performing his
33 official duties, or to prevent the peace officer or
34 fireman from performing his official duties, or in

1 retaliation for the peace officer or fireman
2 performing his official duties, and the defendant
3 knew or should have known that the murdered
4 individual was a peace officer or fireman, or

5 (iv) is found guilty of murdering an employee
6 of an institution or facility of the Department of
7 Corrections, or any similar local correctional
8 agency, when the employee was killed in the course
9 of performing his official duties, or to prevent
10 the employee from performing his official duties,
11 or in retaliation for the employee performing his
12 official duties, or

13 (v) is found guilty of murdering an emergency
14 medical technician - ambulance, emergency medical
15 technician - intermediate, emergency medical
16 technician - paramedic, ambulance driver or other
17 medical assistance or first aid person while
18 employed by a municipality or other governmental
19 unit when the person was killed in the course of
20 performing official duties or to prevent the
21 person from performing official duties or in
22 retaliation for performing official duties and the
23 defendant knew or should have known that the
24 murdered individual was an emergency medical
25 technician - ambulance, emergency medical
26 technician - intermediate, emergency medical
27 technician - paramedic, ambulance driver, or other
28 medical assistant or first aid personnel, or

29 (vi) is a person who, at the time of the
30 commission of the murder, had not attained the age
31 of 17, and is found guilty of murdering a person
32 under 12 years of age and the murder is committed
33 during the course of aggravated criminal sexual
34 assault, criminal sexual assault, or aggravated

1 kidnaping, or

2 (vii) is found guilty of first degree murder
3 and the murder was committed by reason of any
4 person's activity as a community policing
5 volunteer or to prevent any person from engaging in
6 activity as a community policing volunteer. For
7 the purpose of this Section, "community policing
8 volunteer" has the meaning ascribed to it in
9 Section 2-3.5 of the Criminal Code of 1961.

10 For purposes of clause (v), "emergency medical
11 technician - ambulance", "emergency medical technician
12 - intermediate", "emergency medical technician -
13 paramedic", have the meanings ascribed to them in the
14 Emergency Medical Services (EMS) Systems Act.

15 (d) (i) if the person committed the offense while
16 armed with a firearm, 15 years shall be added to
17 the term of imprisonment imposed by the court;

18 (ii) if, during the commission of the offense,
19 the person personally discharged a firearm, 20
20 years shall be added to the term of imprisonment
21 imposed by the court;

22 (iii) if, during the commission of the
23 offense, the person personally discharged a
24 firearm that proximately caused great bodily harm,
25 permanent disability, permanent disfigurement, or
26 death to another person, 25 years or up to a term
27 of natural life shall be added to the term of
28 imprisonment imposed by the court.

29 (1.5) for second degree murder, a term shall be not
30 less than 4 years and not more than 20 years;

31 (2) for a person adjudged a habitual criminal under
32 Article 33B of the Criminal Code of 1961, as amended, the
33 sentence shall be a term of natural life imprisonment;

34 (2.5) for a person convicted under the circumstances

1 described in paragraph (3) of subsection (b) of Section
2 12-13, paragraph (2) of subsection (d) of Section 12-14,
3 paragraph (1.2) of subsection (b) of Section 12-14.1, or
4 paragraph (2) of subsection (b) of Section 12-14.1 of the
5 Criminal Code of 1961, the sentence shall be a term of
6 natural life imprisonment;

7 (3) except as otherwise provided in the statute
8 defining the offense, for a Class X felony, the sentence
9 shall be not less than 6 years and not more than 30 years;

10 (4) for a Class 1 felony, other than second degree
11 murder, the sentence shall be not less than 4 years and not
12 more than 15 years;

13 (5) for a Class 2 felony, the sentence shall be not
14 less than 3 years and not more than 7 years;

15 (6) for a Class 3 felony, the sentence shall be not
16 less than 2 years and not more than 5 years;

17 (7) for a Class 4 felony, the sentence shall be not
18 less than 1 year and not more than 3 years.

19 (b) The sentencing judge in each felony conviction shall
20 set forth his reasons for imposing the particular sentence he
21 enters in the case, as provided in Section 5-4-1 of this Code.
22 Those reasons may include any mitigating or aggravating factors
23 specified in this Code, or the lack of any such circumstances,
24 as well as any other such factors as the judge shall set forth
25 on the record that are consistent with the purposes and
26 principles of sentencing set out in this Code.

27 (c) A motion to reduce a sentence may be made, or the court
28 may reduce a sentence without motion, within 30 days after the
29 sentence is imposed. A defendant's challenge to the correctness
30 of a sentence or to any aspect of the sentencing hearing shall
31 be made by a written motion filed within 30 days following the
32 imposition of sentence. However, the court may not increase a
33 sentence once it is imposed.

34 If a motion filed pursuant to this subsection is timely

1 filed within 30 days after the sentence is imposed, the
2 proponent of the motion shall exercise due diligence in seeking
3 a determination on the motion and the court shall thereafter
4 decide such motion within a reasonable time.

5 If a motion filed pursuant to this subsection is timely
6 filed within 30 days after the sentence is imposed, then for
7 purposes of perfecting an appeal, a final judgment shall not be
8 considered to have been entered until the motion to reduce a
9 sentence has been decided by order entered by the trial court.

10 A motion filed pursuant to this subsection shall not be
11 considered to have been timely filed unless it is filed with
12 the circuit court clerk within 30 days after the sentence is
13 imposed together with a notice of motion, which notice of
14 motion shall set the motion on the court's calendar on a date
15 certain within a reasonable time after the date of filing.

16 (d) Except where a term of natural life is imposed, every
17 sentence shall include as though written therein a term in
18 addition to the term of imprisonment. For those sentenced under
19 the law in effect prior to February 1, 1978, such term shall be
20 identified as a parole term. For those sentenced on or after
21 February 1, 1978, such term shall be identified as a mandatory
22 supervised release term. Subject to earlier termination under
23 Section 3-3-8, the parole or mandatory supervised release term
24 shall be as follows:

25 (1) for first degree murder or a Class X felony, 3
26 years;

27 (2) for a Class 1 felony or a Class 2 felony, 2 years;

28 (3) for a Class 3 felony or a Class 4 felony, 1 year;

29 (4) if the victim is under 18 years of age, for a
30 second or subsequent offense of criminal sexual assault or
31 aggravated criminal sexual assault, 5 years, at least the
32 first 2 years of which the defendant shall serve in an
33 electronic home detention program under Article 8A of
34 Chapter V of this Code;

1 (5) if the victim is under 18 years of age, for a
2 second or subsequent offense of aggravated criminal sexual
3 abuse or felony criminal sexual abuse, 4 years, at least
4 the first 2 years of which the defendant shall serve in an
5 electronic home detention program under Article 8A of
6 Chapter V of this Code.

7 (e) A defendant who has a previous and unexpired sentence
8 of imprisonment imposed by another state or by any district
9 court of the United States and who, after sentence for a crime
10 in Illinois, must return to serve the unexpired prior sentence
11 may have his sentence by the Illinois court ordered to be
12 concurrent with the prior sentence in the other state. The
13 court may order that any time served on the unexpired portion
14 of the sentence in the other state, prior to his return to
15 Illinois, shall be credited on his Illinois sentence. The other
16 state shall be furnished with a copy of the order imposing
17 sentence which shall provide that, when the offender is
18 released from confinement of the other state, whether by parole
19 or by termination of sentence, the offender shall be
20 transferred by the Sheriff of the committing county to the
21 Illinois Department of Corrections. The court shall cause the
22 Department of Corrections to be notified of such sentence at
23 the time of commitment and to be provided with copies of all
24 records regarding the sentence.

25 (f) A defendant who has a previous and unexpired sentence
26 of imprisonment imposed by an Illinois circuit court for a
27 crime in this State and who is subsequently sentenced to a term
28 of imprisonment by another state or by any district court of
29 the United States and who has served a term of imprisonment
30 imposed by the other state or district court of the United
31 States, and must return to serve the unexpired prior sentence
32 imposed by the Illinois Circuit Court may apply to the court
33 which imposed sentence to have his sentence reduced.

34 The circuit court may order that any time served on the

1 sentence imposed by the other state or district court of the
2 United States be credited on his Illinois sentence. Such
3 application for reduction of a sentence under this subsection
4 (f) shall be made within 30 days after the defendant has
5 completed the sentence imposed by the other state or district
6 court of the United States.

7 (Source: P.A. 91-279, eff. 1-1-00; 91-404, eff. 1-1-00; 91-953,
8 eff. 2-23-01; 92-16, eff. 6-28-01.)

9 (730 ILCS 5/5-8-4) (from Ch. 38, par. 1005-8-4)

10 Sec. 5-8-4. Concurrent and Consecutive Terms of
11 Imprisonment.

12 (a) When multiple sentences of imprisonment are imposed on
13 a defendant at the same time, or when a term of imprisonment is
14 imposed on a defendant who is already subject to sentence in
15 this State or in another state, or for a sentence imposed by
16 any district court of the United States, the sentences shall
17 run concurrently or consecutively as determined by the court.
18 When a term of imprisonment is imposed on a defendant by an
19 Illinois circuit court and the defendant is subsequently
20 sentenced to a term of imprisonment by another state or by a
21 district court of the United States, the Illinois circuit court
22 which imposed the sentence may order that the Illinois sentence
23 be made concurrent with the sentence imposed by the other state
24 or district court of the United States. The defendant must
25 apply to the circuit court within 30 days after the defendant's
26 sentence imposed by the other state or district of the United
27 States is finalized. The court shall impose consecutive
28 sentences if:

29 (i) one of the offenses for which defendant was
30 convicted was first degree murder or a Class X or Class 1
31 felony and the defendant inflicted severe bodily injury, or

32 (ii) the defendant was convicted of a violation of
33 Section 12-13, 12-14, or 12-14.1 of the Criminal Code of

1 1961, or

2 (iii) the defendant was convicted of armed violence
3 based upon the predicate offense of solicitation of murder,
4 solicitation of murder for hire, heinous battery,
5 aggravated battery of a senior citizen, criminal sexual
6 assault, a violation of subsection (g) of Section 5 of the
7 Cannabis Control Act, cannabis trafficking, a violation of
8 subsection (a) of Section 401 of the Illinois Controlled
9 Substances Act, controlled substance trafficking involving
10 a Class X felony amount of controlled substance under
11 Section 401 of the Illinois Controlled Substances Act,
12 calculated criminal drug conspiracy, or streetgang
13 criminal drug conspiracy, or

14 (iv) the defendant was convicted of the offense of
15 leaving the scene of a motor vehicle accident involving
16 death or personal injuries under Section 11-401 and either:
17 (A) aggravated driving under the influence of alcohol,
18 other drug or drugs, or intoxicating compound or compounds,
19 or any combination thereof under Section 11-501 of the
20 Illinois Vehicle Code, or (B) reckless homicide under
21 Section 9-3 of the Criminal Code of 1961, or both an
22 offense described in subdivision (A) and an offense
23 described in subdivision (B), or

24 (v) the defendant was convicted of a violation of
25 Section 9-3.1 (concealment of homicidal death) or Section
26 12-20.5 (dismembering a human body) of the Criminal Code of
27 1961,

28 in which event the court shall enter sentences to run
29 consecutively. Sentences shall run concurrently unless
30 otherwise specified by the court.

31 (b) Except in cases where consecutive sentences are
32 mandated, the court shall impose concurrent sentences unless,
33 having regard to the nature and circumstances of the offense
34 and the history and character of the defendant, it is of the

1 opinion that consecutive sentences are required to protect the
2 public from further criminal conduct by the defendant, the
3 basis for which the court shall set forth in the record.

4 (c) (1) For sentences imposed under law in effect prior to
5 February 1, 1978 the aggregate maximum of consecutive
6 sentences shall not exceed the maximum term authorized
7 under Section 5-8-1 for the 2 most serious felonies
8 involved. The aggregate minimum period of consecutive
9 sentences shall not exceed the highest minimum term
10 authorized under Section 5-8-1 for the 2 most serious
11 felonies involved. When sentenced only for misdemeanors, a
12 defendant shall not be consecutively sentenced to more than
13 the maximum for one Class A misdemeanor.

14 (2) For sentences imposed under the law in effect on or
15 after February 1, 1978, the aggregate of consecutive
16 sentences for offenses that were committed as part of a
17 single course of conduct during which there was no
18 substantial change in the nature of the criminal objective
19 shall not exceed the sum of the maximum terms authorized
20 under Section 5-8-2 for the 2 most serious felonies
21 involved, but no such limitation shall apply for offenses
22 that were not committed as part of a single course of
23 conduct during which there was no substantial change in the
24 nature of the criminal objective. When sentenced only for
25 misdemeanors, a defendant shall not be consecutively
26 sentenced to more than the maximum for one Class A
27 misdemeanor.

28 (d) An offender serving a sentence for a misdemeanor who is
29 convicted of a felony and sentenced to imprisonment shall be
30 transferred to the Department of Corrections, and the
31 misdemeanor sentence shall be merged in and run concurrently
32 with the felony sentence.

33 (e) In determining the manner in which consecutive
34 sentences of imprisonment, one or more of which is for a

1 felony, will be served, the Department of Corrections shall
2 treat the offender as though he had been committed for a single
3 term with the following incidents:

4 (1) the maximum period of a term of imprisonment shall
5 consist of the aggregate of the maximums of the imposed
6 indeterminate terms, if any, plus the aggregate of the
7 imposed determinate sentences for felonies plus the
8 aggregate of the imposed determinate sentences for
9 misdemeanors subject to paragraph (c) of this Section;

10 (2) the parole or mandatory supervised release term
11 shall be as provided in paragraph (e) of Section 5-8-1 of
12 this Code for the most serious of the offenses involved;

13 (3) the minimum period of imprisonment shall be the
14 aggregate of the minimum and determinate periods of
15 imprisonment imposed by the court, subject to paragraph (c)
16 of this Section; and

17 (4) the offender shall be awarded credit against the
18 aggregate maximum term and the aggregate minimum term of
19 imprisonment for all time served in an institution since
20 the commission of the offense or offenses and as a
21 consequence thereof at the rate specified in Section 3-6-3
22 of this Code.

23 (f) A sentence of an offender committed to the Department
24 of Corrections at the time of the commission of the offense
25 shall be served consecutive to the sentence under which he is
26 held by the Department of Corrections. ~~However, in case such~~
27 ~~offender shall be sentenced to punishment by death, the~~
28 ~~sentence shall be executed at such time as the court may fix~~
29 ~~without regard to the sentence under which such offender may be~~
30 ~~held by the Department.~~

31 (g) A sentence under Section 3-6-4 for escape or attempted
32 escape shall be served consecutive to the terms under which the
33 offender is held by the Department of Corrections.

34 (h) If a person charged with a felony commits a separate

1 felony while on pre-trial release or in pretrial detention in a
2 county jail facility or county detention facility, the
3 sentences imposed upon conviction of these felonies shall be
4 served consecutively regardless of the order in which the
5 judgments of conviction are entered.

6 (i) If a person admitted to bail following conviction of a
7 felony commits a separate felony while free on bond or if a
8 person detained in a county jail facility or county detention
9 facility following conviction of a felony commits a separate
10 felony while in detention, any sentence following conviction of
11 the separate felony shall be consecutive to that of the
12 original sentence for which the defendant was on bond or
13 detained.

14 (Source: P.A. 92-16, eff. 6-28-01; 92-674, eff. 1-1-03; 93-160,
15 eff. 7-10-03; 93-768, eff. 7-20-04.)

16 (730 ILCS 5/5-8-5) (from Ch. 38, par. 1005-8-5)

17 Sec. 5-8-5. Commitment of the Offender. Upon rendition of
18 judgment after pronouncement of a sentence of periodic
19 imprisonment or, imprisonment, ~~or death~~, the court shall commit
20 the offender to the custody of the sheriff or to the Department
21 of Corrections. A sheriff in executing an order for commitment
22 to the Department of Corrections shall convey such offender to
23 the nearest receiving station designated by the Department of
24 Corrections. The court may commit the offender to the custody
25 of the Attorney General of the United States under Section
26 5-8-6 when a sentence for a State offense provides that such
27 sentence is to run concurrently with a previous and unexpired
28 federal sentence. The expense of conveying a person committed
29 by the juvenile court or an offender convicted of a felony
30 shall be paid by the State. The expenses in all other cases
31 shall be paid by the county of the committing court.

32 (Source: P.A. 84-551.)

1 Section 85. The Code of Civil Procedure is amended by
2 changing Sections 10-103 and 10-136 as follows:

3 (735 ILCS 5/10-103) (from Ch. 110, par. 10-103)

4 Sec. 10-103. Application. Application for the relief shall
5 be made to the Supreme Court or to the circuit court of the
6 county in which the person in whose behalf the application is
7 made, is imprisoned or restrained, or to the circuit court of
8 the county from which such person was sentenced or committed.
9 Application shall be made by complaint signed by the person for
10 whose relief it is intended, or by some person in his or her
11 behalf, and verified by affidavit. ~~Application for relief under
12 this Article may not be commenced on behalf of a person who has
13 been sentenced to death without the written consent of that
14 person, unless the person, because of a mental or physical
15 condition, is incapable of asserting his or her own claim.~~

16 (Source: P.A. 89-684, eff. 6-1-97.)

17 (735 ILCS 5/10-136) (from Ch. 110, par. 10-136)

18 Sec. 10-136. Prisoner remanded or punished. After a
19 prisoner has given his or her testimony, or been surrendered,
20 or his or her bail discharged, or he or she has been tried for
21 the crime with which he or she is charged, he or she shall be
22 returned to the jail or other place of confinement from which
23 he or she was taken for that purpose. If such prisoner is
24 convicted of a crime punishable with ~~death or~~ imprisonment in
25 the penitentiary, he or she may be punished accordingly; but in
26 any case where the prisoner has been taken from the
27 penitentiary, and his or her punishment is by imprisonment, the
28 time of such imprisonment shall not commence to run until the
29 expiration of the time of service under any former sentence.

30 (Source: P.A. 82-280.)

31 Section 99. Effective date. This Act takes effect upon

1 becoming law.".