

HB0262



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB0262

Introduced 1/23/2009, by Rep. Karen A. Yarbrough

SYNOPSIS AS INTRODUCED:

See Index

Amends various Acts to abolish the death penalty. Provides that on or after the effective date of this amendatory Act no person may be executed. Requires resentencing of those already sentenced to death. Effective immediately.

LRB096 04676 RLC 14737 b

A BILL FOR

1 AN ACT to abolish the death penalty.

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

4 Section 5. The Freedom of Information Act is amended by
5 changing Section 7 as follows:

6 (5 ILCS 140/7) (from Ch. 116, par. 207)

7 (Text of Section before amendment by P.A. 95-988)

8 Sec. 7. Exemptions.

9 (1) The following shall be exempt from inspection and
10 copying:

11 (a) Information specifically prohibited from
12 disclosure by federal or State law or rules and regulations
13 adopted under federal or State law.

14 (b) Information that, if disclosed, would constitute a
15 clearly unwarranted invasion of personal privacy, unless
16 the disclosure is consented to in writing by the individual
17 subjects of the information. The disclosure of information
18 that bears on the public duties of public employees and
19 officials shall not be considered an invasion of personal
20 privacy. Information exempted under this subsection (b)
21 shall include but is not limited to:

22 (i) files and personal information maintained with
23 respect to clients, patients, residents, students or

1 other individuals receiving social, medical,
2 educational, vocational, financial, supervisory or
3 custodial care or services directly or indirectly from
4 federal agencies or public bodies;

5 (ii) personnel files and personal information
6 maintained with respect to employees, appointees or
7 elected officials of any public body or applicants for
8 those positions;

9 (iii) files and personal information maintained
10 with respect to any applicant, registrant or licensee
11 by any public body cooperating with or engaged in
12 professional or occupational registration, licensure
13 or discipline;

14 (iv) information required of any taxpayer in
15 connection with the assessment or collection of any tax
16 unless disclosure is otherwise required by State
17 statute;

18 (v) information revealing the identity of persons
19 who file complaints with or provide information to
20 administrative, investigative, law enforcement or
21 penal agencies; provided, however, that identification
22 of witnesses to traffic accidents, traffic accident
23 reports, and rescue reports may be provided by agencies
24 of local government, except in a case for which a
25 criminal investigation is ongoing, without
26 constituting a clearly unwarranted per se invasion of

1 personal privacy under this subsection; and

2 (vi) the names, addresses, or other personal
3 information of participants and registrants in park
4 district, forest preserve district, and conservation
5 district programs.

6 (c) Records compiled by any public body for
7 administrative enforcement proceedings and any law
8 enforcement or correctional agency for law enforcement
9 purposes or for internal matters of a public body, but only
10 to the extent that disclosure would:

11 (i) interfere with pending or actually and
12 reasonably contemplated law enforcement proceedings
13 conducted by any law enforcement or correctional
14 agency;

15 (ii) interfere with pending administrative
16 enforcement proceedings conducted by any public body;

17 (iii) deprive a person of a fair trial or an
18 impartial hearing;

19 (iv) unavoidably disclose the identity of a
20 confidential source or confidential information
21 furnished only by the confidential source;

22 (v) disclose unique or specialized investigative
23 techniques other than those generally used and known or
24 disclose internal documents of correctional agencies
25 related to detection, observation or investigation of
26 incidents of crime or misconduct;

1 (vi) constitute an invasion of personal privacy
2 under subsection (b) of this Section;

3 (vii) endanger the life or physical safety of law
4 enforcement personnel or any other person; or

5 (viii) obstruct an ongoing criminal investigation.

6 (d) Criminal history record information maintained by
7 State or local criminal justice agencies, except the
8 following which shall be open for public inspection and
9 copying:

10 (i) chronologically maintained arrest information,
11 such as traditional arrest logs or blotters;

12 (ii) the name of a person in the custody of a law
13 enforcement agency and the charges for which that
14 person is being held;

15 (iii) court records that are public;

16 (iv) records that are otherwise available under
17 State or local law; or

18 (v) records in which the requesting party is the
19 individual identified, except as provided under part
20 (vii) of paragraph (c) of subsection (1) of this
21 Section.

22 "Criminal history record information" means data
23 identifiable to an individual and consisting of
24 descriptions or notations of arrests, detentions,
25 indictments, informations, pre-trial proceedings, trials,
26 or other formal events in the criminal justice system or

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

10 (e) Records that relate to or affect the security of
11 correctional institutions and detention facilities.

12 (f) Preliminary drafts, notes, recommendations,
13 memoranda and other records in which opinions are
14 expressed, or policies or actions are formulated, except
15 that a specific record or relevant portion of a record
16 shall not be exempt when the record is publicly cited and
17 identified by the head of the public body. The exemption
18 provided in this paragraph (f) extends to all those records
19 of officers and agencies of the General Assembly that
20 pertain to the preparation of legislative documents.

21 (g) Trade secrets and commercial or financial
22 information obtained from a person or business where the
23 trade secrets or information are proprietary, privileged
24 or confidential, or where disclosure of the trade secrets
25 or information may cause competitive harm, including:

26 (i) All information determined to be confidential

1 under Section 4002 of the Technology Advancement and
2 Development Act.

3 (ii) All trade secrets and commercial or financial
4 information obtained by a public body, including a
5 public pension fund, from a private equity fund or a
6 privately held company within the investment portfolio
7 of a private equity fund as a result of either
8 investing or evaluating a potential investment of
9 public funds in a private equity fund. The exemption
10 contained in this item does not apply to the aggregate
11 financial performance information of a private equity
12 fund, nor to the identity of the fund's managers or
13 general partners. The exemption contained in this item
14 does not apply to the identity of a privately held
15 company within the investment portfolio of a private
16 equity fund, unless the disclosure of the identity of a
17 privately held company may cause competitive harm.

18 Nothing contained in this paragraph (g) shall be construed
19 to prevent a person or business from consenting to disclosure.

20 (h) Proposals and bids for any contract, grant, or
21 agreement, including information which if it were
22 disclosed would frustrate procurement or give an advantage
23 to any person proposing to enter into a contractor
24 agreement with the body, until an award or final selection
25 is made. Information prepared by or for the body in
26 preparation of a bid solicitation shall be exempt until an

1 award or final selection is made.

2 (i) Valuable formulae, computer geographic systems,
3 designs, drawings and research data obtained or produced by
4 any public body when disclosure could reasonably be
5 expected to produce private gain or public loss. The
6 exemption for "computer geographic systems" provided in
7 this paragraph (i) does not extend to requests made by news
8 media as defined in Section 2 of this Act when the
9 requested information is not otherwise exempt and the only
10 purpose of the request is to access and disseminate
11 information regarding the health, safety, welfare, or
12 legal rights of the general public.

13 (j) Test questions, scoring keys and other examination
14 data used to administer an academic examination or
15 determined the qualifications of an applicant for a license
16 or employment.

17 (k) Architects' plans, engineers' technical
18 submissions, and other construction related technical
19 documents for projects not constructed or developed in
20 whole or in part with public funds and the same for
21 projects constructed or developed with public funds, but
22 only to the extent that disclosure would compromise
23 security, including but not limited to water treatment
24 facilities, airport facilities, sport stadiums, convention
25 centers, and all government owned, operated, or occupied
26 buildings.

1 (l) Library circulation and order records identifying
2 library users with specific materials.

3 (m) Minutes of meetings of public bodies closed to the
4 public as provided in the Open Meetings Act until the
5 public body makes the minutes available to the public under
6 Section 2.06 of the Open Meetings Act.

7 (n) Communications between a public body and an
8 attorney or auditor representing the public body that would
9 not be subject to discovery in litigation, and materials
10 prepared or compiled by or for a public body in
11 anticipation of a criminal, civil or administrative
12 proceeding upon the request of an attorney advising the
13 public body, and materials prepared or compiled with
14 respect to internal audits of public bodies.

15 (o) Information received by a primary or secondary
16 school, college or university under its procedures for the
17 evaluation of faculty members by their academic peers.

18 (p) Administrative or technical information associated
19 with automated data processing operations, including but
20 not limited to software, operating protocols, computer
21 program abstracts, file layouts, source listings, object
22 modules, load modules, user guides, documentation
23 pertaining to all logical and physical design of
24 computerized systems, employee manuals, and any other
25 information that, if disclosed, would jeopardize the
26 security of the system or its data or the security of

1 materials exempt under this Section.

2 (q) Documents or materials relating to collective
3 negotiating matters between public bodies and their
4 employees or representatives, except that any final
5 contract or agreement shall be subject to inspection and
6 copying.

7 (r) Drafts, notes, recommendations and memoranda
8 pertaining to the financing and marketing transactions of
9 the public body. The records of ownership, registration,
10 transfer, and exchange of municipal debt obligations, and
11 of persons to whom payment with respect to these
12 obligations is made.

13 (s) The records, documents and information relating to
14 real estate purchase negotiations until those negotiations
15 have been completed or otherwise terminated. With regard to
16 a parcel involved in a pending or actually and reasonably
17 contemplated eminent domain proceeding under the Eminent
18 Domain Act, records, documents and information relating to
19 that parcel shall be exempt except as may be allowed under
20 discovery rules adopted by the Illinois Supreme Court. The
21 records, documents and information relating to a real
22 estate sale shall be exempt until a sale is consummated.

23 (t) Any and all proprietary information and records
24 related to the operation of an intergovernmental risk
25 management association or self-insurance pool or jointly
26 self-administered health and accident cooperative or pool.

1 (u) Information concerning a university's adjudication
2 of student or employee grievance or disciplinary cases, to
3 the extent that disclosure would reveal the identity of the
4 student or employee and information concerning any public
5 body's adjudication of student or employee grievances or
6 disciplinary cases, except for the final outcome of the
7 cases.

8 (v) Course materials or research materials used by
9 faculty members.

10 (w) Information related solely to the internal
11 personnel rules and practices of a public body.

12 (x) Information contained in or related to
13 examination, operating, or condition reports prepared by,
14 on behalf of, or for the use of a public body responsible
15 for the regulation or supervision of financial
16 institutions or insurance companies, unless disclosure is
17 otherwise required by State law.

18 (y) Information the disclosure of which is restricted
19 under Section 5-108 of the Public Utilities Act.

20 (z) Manuals or instruction to staff that relate to
21 establishment or collection of liability for any State tax
22 or that relate to investigations by a public body to
23 determine violation of any criminal law.

24 (aa) Applications, related documents, and medical
25 records received by the Experimental Organ Transplantation
26 Procedures Board and any and all documents or other records

1 prepared by the Experimental Organ Transplantation
2 Procedures Board or its staff relating to applications it
3 has received.

4 (bb) Insurance or self insurance (including any
5 intergovernmental risk management association or self
6 insurance pool) claims, loss or risk management
7 information, records, data, advice or communications.

8 (cc) Information and records held by the Department of
9 Public Health and its authorized representatives relating
10 to known or suspected cases of sexually transmissible
11 disease or any information the disclosure of which is
12 restricted under the Illinois Sexually Transmissible
13 Disease Control Act.

14 (dd) Information the disclosure of which is exempted
15 under Section 30 of the Radon Industry Licensing Act.

16 (ee) Firm performance evaluations under Section 55 of
17 the Architectural, Engineering, and Land Surveying
18 Qualifications Based Selection Act.

19 (ff) Security portions of system safety program plans,
20 investigation reports, surveys, schedules, lists, data, or
21 information compiled, collected, or prepared by or for the
22 Regional Transportation Authority under Section 2.11 of
23 the Regional Transportation Authority Act or the St. Clair
24 County Transit District under the Bi-State Transit Safety
25 Act.

26 (gg) Information the disclosure of which is restricted

1 and exempted under Section 50 of the Illinois Prepaid
2 Tuition Act.

3 (hh) Information the disclosure of which is exempted
4 under the State Officials and Employees Ethics Act.

5 (ii) Beginning July 1, 1999, information that would
6 disclose or might lead to the disclosure of secret or
7 confidential information, codes, algorithms, programs, or
8 private keys intended to be used to create electronic or
9 digital signatures under the Electronic Commerce Security
10 Act.

11 (jj) Information contained in a local emergency energy
12 plan submitted to a municipality in accordance with a local
13 emergency energy plan ordinance that is adopted under
14 Section 11-21.5-5 of the Illinois Municipal Code.

15 (kk) Information and data concerning the distribution
16 of surcharge moneys collected and remitted by wireless
17 carriers under the Wireless Emergency Telephone Safety
18 Act.

19 (ll) Vulnerability assessments, security measures, and
20 response policies or plans that are designed to identify,
21 prevent, or respond to potential attacks upon a community's
22 population or systems, facilities, or installations, the
23 destruction or contamination of which would constitute a
24 clear and present danger to the health or safety of the
25 community, but only to the extent that disclosure could
26 reasonably be expected to jeopardize the effectiveness of

1 the measures or the safety of the personnel who implement
2 them or the public. Information exempt under this item may
3 include such things as details pertaining to the
4 mobilization or deployment of personnel or equipment, to
5 the operation of communication systems or protocols, or to
6 tactical operations.

7 (mm) Maps and other records regarding the location or
8 security of generation, transmission, distribution,
9 storage, gathering, treatment, or switching facilities
10 owned by a utility or by the Illinois Power Agency.

11 (nn) Law enforcement officer identification
12 information or driver identification information compiled
13 by a law enforcement agency or the Department of
14 Transportation under Section 11-212 of the Illinois
15 Vehicle Code.

16 (oo) Records and information provided to a residential
17 health care facility resident sexual assault and death
18 review team or the Executive Council under the Abuse
19 Prevention Review Team Act.

20 (pp) Information provided to the predatory lending
21 database created pursuant to Article 3 of the Residential
22 Real Property Disclosure Act, except to the extent
23 authorized under that Article.

24 (qq) Defense budgets and petitions for certification
25 of compensation and expenses for court appointed trial
26 counsel as provided under Sections 10 and 15 of the Capital

1 Crimes Litigation Act if those budgets and petitions were
2 for compensation and expenses incurred before the
3 effective date of this amendatory Act of the 96th General
4 Assembly. This subsection (qq) shall apply until the
5 conclusion of the trial of the case, even if the
6 prosecution chose ~~chooses~~ not to pursue the death penalty
7 prior to trial or sentencing and before the effective date
8 of this amendatory Act of the 96th General Assembly.

9 (rr) Information contained in or related to proposals,
10 bids, or negotiations related to electric power
11 procurement under Section 1-75 of the Illinois Power Agency
12 Act and Section 16-111.5 of the Public Utilities Act that
13 is determined to be confidential and proprietary by the
14 Illinois Power Agency or by the Illinois Commerce
15 Commission.

16 (ss) Information that is prohibited from being
17 disclosed under Section 4 of the Illinois Health and
18 Hazardous Substances Registry Act.

19 (2) This Section does not authorize withholding of
20 information or limit the availability of records to the public,
21 except as stated in this Section or otherwise provided in this
22 Act.

23 (Source: P.A. 94-280, eff. 1-1-06; 94-508, eff. 1-1-06; 94-664,
24 eff. 1-1-06; 94-931, eff. 6-26-06; 94-953, eff. 6-27-06;
25 94-1055, eff. 1-1-07; 95-331, eff. 8-21-07; 95-481, eff.
26 8-28-07; 95-941, eff. 8-29-08.)

1 (Text of Section after amendment by P.A. 95-988)

2 Sec. 7. Exemptions.

3 (1) The following shall be exempt from inspection and
4 copying:

5 (a) Information specifically prohibited from
6 disclosure by federal or State law or rules and regulations
7 adopted under federal or State law.

8 (b) Information that, if disclosed, would constitute a
9 clearly unwarranted invasion of personal privacy, unless
10 the disclosure is consented to in writing by the individual
11 subjects of the information. The disclosure of information
12 that bears on the public duties of public employees and
13 officials shall not be considered an invasion of personal
14 privacy. Information exempted under this subsection (b)
15 shall include but is not limited to:

16 (i) files and personal information maintained with
17 respect to clients, patients, residents, students or
18 other individuals receiving social, medical,
19 educational, vocational, financial, supervisory or
20 custodial care or services directly or indirectly from
21 federal agencies or public bodies;

22 (ii) personnel files and personal information
23 maintained with respect to employees, appointees or
24 elected officials of any public body or applicants for
25 those positions;

1 (iii) files and personal information maintained
2 with respect to any applicant, registrant or licensee
3 by any public body cooperating with or engaged in
4 professional or occupational registration, licensure
5 or discipline;

6 (iv) information required of any taxpayer in
7 connection with the assessment or collection of any tax
8 unless disclosure is otherwise required by State
9 statute;

10 (v) information revealing the identity of persons
11 who file complaints with or provide information to
12 administrative, investigative, law enforcement or
13 penal agencies; provided, however, that identification
14 of witnesses to traffic accidents, traffic accident
15 reports, and rescue reports may be provided by agencies
16 of local government, except in a case for which a
17 criminal investigation is ongoing, without
18 constituting a clearly unwarranted per se invasion of
19 personal privacy under this subsection;

20 (vi) the names, addresses, or other personal
21 information of participants and registrants in park
22 district, forest preserve district, and conservation
23 district programs; and

24 (vii) the Notarial Record or other medium
25 containing the thumbprint or fingerprint required by
26 Section 3-102(c)(6) of the Illinois Notary Public Act.

1 (c) Records compiled by any public body for
2 administrative enforcement proceedings and any law
3 enforcement or correctional agency for law enforcement
4 purposes or for internal matters of a public body, but only
5 to the extent that disclosure would:

6 (i) interfere with pending or actually and
7 reasonably contemplated law enforcement proceedings
8 conducted by any law enforcement or correctional
9 agency;

10 (ii) interfere with pending administrative
11 enforcement proceedings conducted by any public body;

12 (iii) deprive a person of a fair trial or an
13 impartial hearing;

14 (iv) unavoidably disclose the identity of a
15 confidential source or confidential information
16 furnished only by the confidential source;

17 (v) disclose unique or specialized investigative
18 techniques other than those generally used and known or
19 disclose internal documents of correctional agencies
20 related to detection, observation or investigation of
21 incidents of crime or misconduct;

22 (vi) constitute an invasion of personal privacy
23 under subsection (b) of this Section;

24 (vii) endanger the life or physical safety of law
25 enforcement personnel or any other person; or

26 (viii) obstruct an ongoing criminal investigation.

1 (d) Criminal history record information maintained by
2 State or local criminal justice agencies, except the
3 following which shall be open for public inspection and
4 copying:

5 (i) chronologically maintained arrest information,
6 such as traditional arrest logs or blotters;

7 (ii) the name of a person in the custody of a law
8 enforcement agency and the charges for which that
9 person is being held;

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12 State or local law; or

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14 individual identified, except as provided under part
15 (vii) of paragraph (c) of subsection (1) of this
16 Section.

17 "Criminal history record information" means data
18 identifiable to an individual and consisting of
19 descriptions or notations of arrests, detentions,
20 indictments, informations, pre-trial proceedings, trials,
21 or other formal events in the criminal justice system or
22 descriptions or notations of criminal charges (including
23 criminal violations of local municipal ordinances) and the
24 nature of any disposition arising therefrom, including
25 sentencing, court or correctional supervision,
26 rehabilitation and release. The term does not apply to

1 statistical records and reports in which individuals are
2 not identified and from which their identities are not
3 ascertainable, or to information that is for criminal
4 investigative or intelligence purposes.

5 (e) Records that relate to or affect the security of
6 correctional institutions and detention facilities.

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8 memoranda and other records in which opinions are
9 expressed, or policies or actions are formulated, except
10 that a specific record or relevant portion of a record
11 shall not be exempt when the record is publicly cited and
12 identified by the head of the public body. The exemption
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14 of officers and agencies of the General Assembly that
15 pertain to the preparation of legislative documents.

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17 information obtained from a person or business where the
18 trade secrets or information are proprietary, privileged
19 or confidential, or where disclosure of the trade secrets
20 or information may cause competitive harm, including:

21 (i) All information determined to be confidential
22 under Section 4002 of the Technology Advancement and
23 Development Act.

24 (ii) All trade secrets and commercial or financial
25 information obtained by a public body, including a
26 public pension fund, from a private equity fund or a

1 privately held company within the investment portfolio
2 of a private equity fund as a result of either
3 investing or evaluating a potential investment of
4 public funds in a private equity fund. The exemption
5 contained in this item does not apply to the aggregate
6 financial performance information of a private equity
7 fund, nor to the identity of the fund's managers or
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21 buildings.

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25 public as provided in the Open Meetings Act until the
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9 real estate purchase negotiations until those negotiations
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11 a parcel involved in a pending or actually and reasonably
12 contemplated eminent domain proceeding under the Eminent
13 Domain Act, records, documents and information relating to
14 that parcel shall be exempt except as may be allowed under
15 discovery rules adopted by the Illinois Supreme Court. The
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21 self-administered health and accident cooperative or pool.

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26 body's adjudication of student or employee grievances or

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2 cases.

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4 faculty members.

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8 examination, operating, or condition reports prepared by,
9 on behalf of, or for the use of a public body responsible
10 for the regulation or supervision of financial
11 institutions or insurance companies, unless disclosure is
12 otherwise required by State law.

13 (y) Information the disclosure of which is restricted
14 under Section 5-108 of the Public Utilities Act.

15 (z) Manuals or instruction to staff that relate to
16 establishment or collection of liability for any State tax
17 or that relate to investigations by a public body to
18 determine violation of any criminal law.

19 (aa) Applications, related documents, and medical
20 records received by the Experimental Organ Transplantation
21 Procedures Board and any and all documents or other records
22 prepared by the Experimental Organ Transplantation
23 Procedures Board or its staff relating to applications it
24 has received.

25 (bb) Insurance or self insurance (including any
26 intergovernmental risk management association or self

1 insurance pool) claims, loss or risk management
2 information, records, data, advice or communications.

3 (cc) Information and records held by the Department of
4 Public Health and its authorized representatives relating
5 to known or suspected cases of sexually transmissible
6 disease or any information the disclosure of which is
7 restricted under the Illinois Sexually Transmissible
8 Disease Control Act.

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12 the Architectural, Engineering, and Land Surveying
13 Qualifications Based Selection Act.

14 (ff) Security portions of system safety program plans,
15 investigation reports, surveys, schedules, lists, data, or
16 information compiled, collected, or prepared by or for the
17 Regional Transportation Authority under Section 2.11 of
18 the Regional Transportation Authority Act or the St. Clair
19 County Transit District under the Bi-State Transit Safety
20 Act.

21 (gg) Information the disclosure of which is restricted
22 and exempted under Section 50 of the Illinois Prepaid
23 Tuition Act.

24 (hh) Information the disclosure of which is exempted
25 under the State Officials and Employees Ethics Act.

26 (ii) Beginning July 1, 1999, information that would

1 disclose or might lead to the disclosure of secret or
2 confidential information, codes, algorithms, programs, or
3 private keys intended to be used to create electronic or
4 digital signatures under the Electronic Commerce Security
5 Act.

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7 plan submitted to a municipality in accordance with a local
8 emergency energy plan ordinance that is adopted under
9 Section 11-21.5-5 of the Illinois Municipal Code.

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11 of surcharge moneys collected and remitted by wireless
12 carriers under the Wireless Emergency Telephone Safety
13 Act.

14 (ll) Vulnerability assessments, security measures, and
15 response policies or plans that are designed to identify,
16 prevent, or respond to potential attacks upon a community's
17 population or systems, facilities, or installations, the
18 destruction or contamination of which would constitute a
19 clear and present danger to the health or safety of the
20 community, but only to the extent that disclosure could
21 reasonably be expected to jeopardize the effectiveness of
22 the measures or the safety of the personnel who implement
23 them or the public. Information exempt under this item may
24 include such things as details pertaining to the
25 mobilization or deployment of personnel or equipment, to
26 the operation of communication systems or protocols, or to

1 tactical operations.

2 (mm) Maps and other records regarding the location or
3 security of generation, transmission, distribution,
4 storage, gathering, treatment, or switching facilities
5 owned by a utility or by the Illinois Power Agency.

6 (nn) Law enforcement officer identification
7 information or driver identification information compiled
8 by a law enforcement agency or the Department of
9 Transportation under Section 11-212 of the Illinois
10 Vehicle Code.

11 (oo) Records and information provided to a residential
12 health care facility resident sexual assault and death
13 review team or the Executive Council under the Abuse
14 Prevention Review Team Act.

15 (pp) Information provided to the predatory lending
16 database created pursuant to Article 3 of the Residential
17 Real Property Disclosure Act, except to the extent
18 authorized under that Article.

19 (qq) Defense budgets and petitions for certification
20 of compensation and expenses for court appointed trial
21 counsel as provided under Sections 10 and 15 of the Capital
22 Crimes Litigation Act if those budgets and petitions were
23 for compensation and expenses incurred before the
24 effective date of this amendatory Act of the 96th General
25 Assembly. This subsection (qq) shall apply until the
26 conclusion of the trial of the case, even if the

1 prosecution chose ~~chooses~~ not to pursue the death penalty
2 prior to trial or sentencing and before the effective date
3 of this amendatory Act of the 96th General Assembly.

4 (rr) Information contained in or related to proposals,
5 bids, or negotiations related to electric power
6 procurement under Section 1-75 of the Illinois Power Agency
7 Act and Section 16-111.5 of the Public Utilities Act that
8 is determined to be confidential and proprietary by the
9 Illinois Power Agency or by the Illinois Commerce
10 Commission.

11 (ss) Information that is prohibited from being
12 disclosed under Section 4 of the Illinois Health and
13 Hazardous Substances Registry Act.

14 (2) This Section does not authorize withholding of
15 information or limit the availability of records to the public,
16 except as stated in this Section or otherwise provided in this
17 Act.

18 (Source: P.A. 94-280, eff. 1-1-06; 94-508, eff. 1-1-06; 94-664,
19 eff. 1-1-06; 94-931, eff. 6-26-06; 94-953, eff. 6-27-06;
20 94-1055, eff. 1-1-07; 95-331, eff. 8-21-07; 95-481, eff.
21 8-28-07; 95-941, eff. 8-29-08; 95-988, eff. 6-1-09; revised
22 10-20-08.)

23 Section 10. The Department of State Police Law of the Civil
24 Administrative Code of Illinois is amended by changing Section
25 2605-40 as follows:

1 (20 ILCS 2605/2605-40) (was 20 ILCS 2605/55a-4)
2 Sec. 2605-40. Division of Forensic Services. The Division
3 of Forensic Services shall exercise the following functions:

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

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

8 (3) Provide assistance to local law enforcement
9 agencies through training, management, and consultant
10 services.

11 (4) (Blank).

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

15 (6) Establish and operate a forensic science
16 laboratory system, including a forensic toxicological
17 laboratory service, for the purpose of testing specimens
18 submitted by coroners and other law enforcement officers in
19 their efforts to determine whether alcohol, drugs, or
20 poisonous or other toxic substances have been involved in
21 deaths, accidents, or illness. Forensic toxicological
22 laboratories shall be established in Springfield, Chicago,
23 and elsewhere in the State as needed.

24 (7) (Blank). ~~Subject to specific appropriations made~~
25 ~~for these purposes, establish and coordinate a system for~~

1 ~~providing accurate and expedited forensic science and~~
2 ~~other investigative and laboratory services to local law~~
3 ~~enforcement agencies and local State's Attorneys in aid of~~
4 ~~the investigation and trial of capital cases.~~

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

7 Section 15. The Criminal Identification Act is amended by
8 changing Section 2.1 as follows:

9 (20 ILCS 2630/2.1) (from Ch. 38, par. 206-2.1)

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

24 (a) Arrest Information. All agencies making arrests for

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

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

23 (c) Disposition Information. The clerk of the circuit court
24 of each county shall furnish the Department, in the form and
25 manner required by the Supreme Court, with all final
26 dispositions of cases for which the Department has received

1 information required to be reported pursuant to paragraph (a)
2 or (d) of this Section. Such information shall include, for
3 each charge, all (1) judgments of not guilty, judgments of
4 guilty including the sentence pronounced by the court, findings
5 that a minor is delinquent and any sentence made based on those
6 findings, discharges and dismissals in the court; (2) reviewing
7 court orders filed with the clerk of the circuit court which
8 reverse or remand a reported conviction or findings that a
9 minor is delinquent or that vacate or modify a sentence or
10 sentence made following a trial that a minor is delinquent; (3)
11 continuances to a date certain in furtherance of an order of
12 supervision granted under Section 5-6-1 of the Unified Code of
13 Corrections or an order of probation granted under Section 10
14 of the Cannabis Control Act, Section 410 of the Illinois
15 Controlled Substances Act, Section 70 of the Methamphetamine
16 Control and Community Protection Act, Section 12-4.3 of the
17 Criminal Code of 1961, Section 10-102 of the Illinois
18 Alcoholism and Other Drug Dependency Act, Section 40-10 of the
19 Alcoholism and Other Drug Abuse and Dependency Act, Section 10
20 of the Steroid Control Act, or Section 5-615 of the Juvenile
21 Court Act of 1987; and (4) judgments or court orders
22 terminating or revoking a sentence to or juvenile disposition
23 of probation, supervision or conditional discharge and any
24 resentencing or new court orders entered by a juvenile court
25 relating to the disposition of a minor's case involving
26 delinquency after such revocation.

1 (d) Fingerprints After Sentencing.

2 (1) After the court pronounces sentence, sentences a
3 minor following a trial in which a minor was found to be
4 delinquent or issues an order of supervision or an order of
5 probation granted under Section 10 of the Cannabis Control
6 Act, Section 410 of the Illinois Controlled Substances Act,
7 Section 70 of the Methamphetamine Control and Community
8 Protection Act, Section 12-4.3 of the Criminal Code of
9 1961, Section 10-102 of the Illinois Alcoholism and Other
10 Drug Dependency Act, Section 40-10 of the Alcoholism and
11 Other Drug Abuse and Dependency Act, Section 10 of the
12 Steroid Control Act, or Section 5-615 of the Juvenile Court
13 Act of 1987 for any offense which is required by statute to
14 be collected, maintained, or disseminated by the
15 Department of State Police, the State's Attorney of each
16 county shall ask the court to order a law enforcement
17 agency to fingerprint immediately all persons appearing
18 before the court who have not previously been fingerprinted
19 for the same case. The court shall so order the requested
20 fingerprinting, if it determines that any such person has
21 not previously been fingerprinted for the same case. The
22 law enforcement agency shall submit such fingerprints to
23 the Department daily.

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

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

10 (e) Corrections Information. The Illinois Department of
11 Corrections and the sheriff of each county shall furnish the
12 Department with all information concerning the receipt,
13 escape, execution before the effective date of this amendatory
14 Act of the 96th General Assembly, death, release, pardon,
15 parole, commutation of sentence, granting of executive
16 clemency or discharge of an individual who has been sentenced
17 or committed to the agency's custody for any offenses which are
18 mandated by statute to be collected, maintained or disseminated
19 by the Department of State Police. For an individual who has
20 been charged with any such offense and who escapes from custody
21 or dies while in custody, all information concerning the
22 receipt and escape or death, whichever is appropriate, shall
23 also be so furnished to the Department.

24 (Source: P.A. 94-556, eff. 9-11-05.)

25 (20 ILCS 3929/Act rep.)

1 Section 20. The Capital Punishment Reform Study Committee
2 Act is repealed.

3 (30 ILCS 105/5.518 rep.)

4 Section 25. The State Finance Act is amended by repealing
5 Section 5.518 on July 1, 2007.

6 Section 30. The Counties Code is amended by changing
7 Sections 3-4011 and 3-9005 as follows:

8 (55 ILCS 5/3-4011) (from Ch. 34, par. 3-4011)

9 Sec. 3-4011. Expenses and legal services for indigent
10 defendants in felony cases. It shall be the duty of the county
11 board in counties containing fewer than 500,000 inhabitants to
12 appropriate a sufficient sum for the purpose of paying for the
13 legal services necessarily rendered for the defense of indigent
14 persons in felony cases, and for costs, expenses and legal
15 services necessary in the prosecution of an appeal when the
16 sentence is death and the sentence was imposed before the
17 effective date of this amendatory Act of the 96th General
18 Assembly, which is to be paid upon the orders of a court of
19 competent jurisdiction. It shall likewise be the duty of the
20 county board in counties containing fewer than 500,000
21 inhabitants to appropriate a sufficient sum for the payment of
22 out of pocket expenses necessarily incurred by appointed
23 counsel in the prosecution of an appeal on behalf of an

1 indigent incarcerated defendant in felony cases. In such cases
2 payment shall be made upon the order of the reviewing court.

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

4 (55 ILCS 5/3-9005) (from Ch. 34, par. 3-9005)

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

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

7 (1) To commence and prosecute all actions, suits,
8 indictments and prosecutions, civil and criminal, in the
9 circuit court for his county, in which the people of the
10 State or county may be concerned.

11 (2) To prosecute all forfeited bonds and
12 recognizances, and all actions and proceedings for the
13 recovery of debts, revenues, moneys, fines, penalties and
14 forfeitures accruing to the State or his county, or to any
15 school district or road district in his county; also, to
16 prosecute all suits in his county against railroad or
17 transportation companies, which may be prosecuted in the
18 name of the People of the State of Illinois.

19 (3) To commence and prosecute all actions and
20 proceedings brought by any county officer in his official
21 capacity.

22 (4) To defend all actions and proceedings brought
23 against his county, or against any county or State officer,
24 in his official capacity, within his county.

25 (5) To attend the examination of all persons brought

1 before any judge on habeas corpus, when the prosecution is
2 in his county.

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

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

11 (8) To assist the attorney general whenever it may be
12 necessary, and in cases of appeal from his county to the
13 Supreme Court, to which it is the duty of the attorney
14 general to attend, he shall furnish the attorney general at
15 least 10 days before such is due to be filed, a manuscript
16 of a proposed statement, brief and argument to be printed
17 and filed on behalf of the people, prepared in accordance
18 with the rules of the Supreme Court. However, if such
19 brief, argument or other document is due to be filed by law
20 or order of court within this 10 day period, then the
21 State's attorney shall furnish such as soon as may be
22 reasonable.

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

26 (10) To notify, by first class mail, complaining

1 witnesses of the ultimate disposition of the cases arising
2 from an indictment or an information.

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

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

10 (b) The State's Attorney of each county shall have
11 authority to appoint one or more special investigators to serve
12 subpoenas, make return of process and conduct investigations
13 which assist the State's Attorney in the performance of his
14 duties. A special investigator shall not carry firearms except
15 with permission of the State's Attorney and only while carrying
16 appropriate identification indicating his employment and in
17 the performance of his assigned duties.

18 Subject to the qualifications set forth in this subsection,
19 special investigators shall be peace officers and shall have
20 all the powers possessed by investigators under the State's
21 Attorneys Appellate Prosecutor's Act.

22 No special investigator employed by the State's Attorney
23 shall have peace officer status or exercise police powers
24 unless he or she successfully completes the basic police
25 training course mandated and approved by the Illinois Law
26 Enforcement Training Standards Board or such board waives the

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

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

21 (c) The State's Attorney may request and receive from
22 employers, labor unions, telephone companies, and utility
23 companies location information concerning putative fathers and
24 noncustodial parents for the purpose of establishing a child's
25 paternity or establishing, enforcing, or modifying a child
26 support obligation. In this subsection, "location information"

1 means information about (i) the physical whereabouts of a
2 putative father or noncustodial parent, (ii) the putative
3 father or noncustodial parent's employer, or (iii) the salary,
4 wages, and other compensation paid and the health insurance
5 coverage provided to the putative father or noncustodial parent
6 by the employer of the putative father or noncustodial parent
7 or by a labor union of which the putative father or
8 noncustodial parent is a member.

9 (d) (Blank) ~~For each State fiscal year, the State's~~
10 ~~Attorney of Cook County shall appear before the General~~
11 ~~Assembly and request appropriations to be made from the Capital~~
12 ~~Litigation Trust Fund to the State Treasurer for the purpose of~~
13 ~~providing assistance in the prosecution of capital cases in~~
14 ~~Cook County and for the purpose of providing assistance to the~~
15 ~~State in post-conviction proceedings in capital cases under~~
16 ~~Article 122 of the Code of Criminal Procedure of 1963 and in~~
17 ~~relation to petitions filed under Section 2-1401 of the Code of~~
18 ~~Civil Procedure in relation to capital cases. The State's~~
19 ~~Attorney may appear before the General Assembly at other times~~
20 ~~during the State's fiscal year to request supplemental~~
21 ~~appropriations from the Trust Fund to the State Treasurer.~~

22 (e) The State's Attorney shall have the authority to enter
23 into a written agreement with the Department of Revenue for
24 pursuit of civil liability under Section 17-1a of the Criminal
25 Code of 1961 against persons who have issued to the Department
26 checks or other orders in violation of the provisions of

1 paragraph (d) of subsection (B) of Section 17-1 of the Criminal
2 Code of 1961, with the Department to retain the amount owing
3 upon the dishonored check or order along with the dishonored
4 check fee imposed under the Uniform Penalty and Interest Act,
5 with the balance of damages, fees, and costs collected under
6 Section 17-1a of the Criminal Code of 1961 to be retained by
7 the State's Attorney. The agreement shall not affect the
8 allocation of fines and costs imposed in any criminal
9 prosecution.

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

11 (55 ILCS 5/3-4006.1 rep.)

12 Section 35. The Counties Code is amended by repealing
13 Section 3-4006.1.

14 Section 40. The School Code is amended by changing Section
15 21-23b as follows:

16 (105 ILCS 5/21-23b) (from Ch. 122, par. 21-23b)

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

18 (a) Whenever the holder of any certificate issued under
19 this Article is employed by the school board of any school
20 district, including a special charter district or school
21 district organized under Article 34, and is convicted, either
22 after a bench trial, trial by jury, or plea of guilty, of any
23 offense for which a sentence to ~~death or~~ a term of imprisonment

1 in a penitentiary for one year or more is provided, the school
2 board shall promptly notify the State Board of Education in
3 writing of the name of the certificate holder, the fact of the
4 conviction, and the name and location of the court in which the
5 conviction occurred.

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

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

23 Section 45. The Illinois Public Aid Code is amended by
24 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

1 exchange necessary information with an appropriate law
2 enforcement agency of this or any other state, a political
3 subdivision of this or any other state, or the United States.

4 (b) (Blank).

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

6 Section 50. The Criminal Code of 1961 is amended by
7 changing Sections 2-7, 7-10, 9-1, 9-1.2, 29D-30, 30-1, and
8 33B-1 as follows:

9 (720 ILCS 5/2-7) (from Ch. 38, par. 2-7)

10 Sec. 2-7. "Felony".

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

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

15 (720 ILCS 5/7-10) (from Ch. 38, par. 7-10)

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

17 A public officer who, in the exercise of his official duty,
18 puts a person to death pursuant to a sentence of a court of
19 competent jurisdiction made before the effective date of this
20 amendatory Act of the 96th General Assembly, is justified if he
21 acts in accordance with the sentence pronounced and the law
22 prescribing the procedure for execution of a death sentence.

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

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

2 Sec. 9-1. First degree Murder ~~Death penalties~~
3 ~~Exceptions~~ ~~Separate Hearings~~ ~~Proof~~ ~~Findings~~ ~~Appellate~~
4 ~~procedures~~ ~~Reversals~~.

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

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

11 (2) he knows that such acts create a strong probability
12 of death or great bodily harm to that individual or
13 another; or

14 (3) he is attempting or committing a forcible felony
15 other than second degree murder.

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

20 (1) the murdered individual was a peace officer or
21 fireman killed in the course of performing his official
22 duties, to prevent the performance of his official duties,
23 or in retaliation for performing his official duties, and
24 the defendant knew or should have known that the murdered
25 individual was a peace officer or fireman; or

1 (2) the murdered individual was an employee of an
2 institution or facility of the Department of Corrections,
3 or any similar local correctional agency, killed in the
4 course of performing his official duties, to prevent the
5 performance of his official duties, or in retaliation for
6 performing his official duties, or the murdered individual
7 was an inmate at such institution or facility and was
8 killed on the grounds thereof, or the murdered individual
9 was otherwise present in such institution or facility with
10 the knowledge and approval of the chief administrative
11 officer thereof; or

12 (3) the defendant has been convicted of murdering two
13 or more individuals under subsection (a) of this Section or
14 under any law of the United States or of any state which is
15 substantially similar to subsection (a) of this Section
16 regardless of whether the deaths occurred as the result of
17 the same act or of several related or unrelated acts so
18 long as the deaths were the result of either an intent to
19 kill more than one person or of separate acts which the
20 defendant knew would cause death or create a strong
21 probability of death or great bodily harm to the murdered
22 individual or another; or

23 (4) the murdered individual was killed as a result of
24 the hijacking of an airplane, train, ship, bus or other
25 public conveyance; or

26 (5) the defendant committed the murder pursuant to a

1 contract, agreement or understanding by which he was to
2 receive money or anything of value in return for committing
3 the murder or procured another to commit the murder for
4 money or anything of value; or

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

7 (a) the murdered individual:

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

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

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

1 the murdered individual or another; and

2 (c) the other felony was an inherently violent
3 crime or the attempt to commit an inherently violent
4 crime. In this subparagraph (c), "inherently violent
5 crime" includes, but is not limited to, armed robbery,
6 robbery, predatory criminal sexual assault of a child,
7 aggravated criminal sexual assault, aggravated
8 kidnapping, aggravated vehicular hijacking, aggravated
9 arson, aggravated stalking, residential burglary, and
10 home invasion; or

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

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

1 investigators, witnesses, or jurors; or

2 (9) the defendant, while committing an offense
3 punishable under Sections 401, 401.1, 401.2, 405, 405.2,
4 407 or 407.1 or subsection (b) of Section 404 of the
5 Illinois Controlled Substances Act, or while engaged in a
6 conspiracy or solicitation to commit such offense,
7 intentionally killed an individual or counseled,
8 commanded, induced, procured or caused the intentional
9 killing of the murdered individual; or

10 (10) the defendant was incarcerated in an institution
11 or facility of the Department of Corrections at the time of
12 the murder, and while committing an offense punishable as a
13 felony under Illinois law, or while engaged in a conspiracy
14 or solicitation to commit such offense, intentionally
15 killed an individual or counseled, commanded, induced,
16 procured or caused the intentional killing of the murdered
17 individual; or

18 (11) the murder was committed in a cold, calculated and
19 premeditated manner pursuant to a preconceived plan,
20 scheme or design to take a human life by unlawful means,
21 and the conduct of the defendant created a reasonable
22 expectation that the death of a human being would result
23 therefrom; or

24 (12) the murdered individual was an emergency medical
25 technician - ambulance, emergency medical technician -
26 intermediate, emergency medical technician - paramedic,

1 ambulance driver, or other medical assistance or first aid
2 personnel, employed by a municipality or other
3 governmental unit, killed in the course of performing his
4 official duties, to prevent the performance of his official
5 duties, or in retaliation for performing his official
6 duties, and the defendant knew or should have known that
7 the murdered individual was an emergency medical
8 technician - ambulance, emergency medical technician -
9 intermediate, emergency medical technician - paramedic,
10 ambulance driver, or other medical assistance or first aid
11 personnel; or

12 (13) the defendant was a principal administrator,
13 organizer, or leader of a calculated criminal drug
14 conspiracy consisting of a hierarchical position of
15 authority superior to that of all other members of the
16 conspiracy, and the defendant counseled, commanded,
17 induced, procured, or caused the intentional killing of the
18 murdered person; or

19 (14) the murder was intentional and involved the
20 infliction of torture. For the purpose of this Section
21 torture means the infliction of or subjection to extreme
22 physical pain, motivated by an intent to increase or
23 prolong the pain, suffering or agony of the victim; or

24 (15) the murder was committed as a result of the
25 intentional discharge of a firearm by the defendant from a
26 motor vehicle and the victim was not present within the

1 motor vehicle; or

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

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

13 (18) the murder was committed by reason of any person's
14 activity as a community policing volunteer or to prevent
15 any person from engaging in activity as a community
16 policing volunteer; or

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

21 (20) the murdered individual was known by the defendant
22 to be a teacher or other person employed in any school and
23 the teacher or other employee is upon the grounds of a
24 school or grounds adjacent to a school, or is in any part
25 of a building used for school purposes; or

26 (21) the murder was committed by the defendant in

1 connection with or as a result of the offense of terrorism
2 as defined in Section 29D-30 of this Code.

3 (c) (Blank). ~~Consideration of factors in Aggravation and~~
4 ~~Mitigation.~~

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

11 ~~(1) the defendant has no significant history of prior~~
12 ~~criminal activity;~~

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

17 ~~(3) the murdered individual was a participant in the~~
18 ~~defendant's homicidal conduct or consented to the~~
19 ~~homicidal act;~~

20 ~~(4) the defendant acted under the compulsion of threat~~
21 ~~or menace of the imminent infliction of death or great~~
22 ~~bodily harm;~~

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

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

1 ~~(7) the defendant suffers from a reduced mental~~
2 ~~capacity.~~

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

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

9 ~~(1) before the jury that determined the defendant's~~
10 ~~guilt; or~~

11 ~~(2) before a jury impanelled for the purpose of the~~
12 ~~proceeding if:~~

13 ~~A. the defendant was convicted upon a plea of~~
14 ~~guilty; or~~

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

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

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

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

22 ~~During the proceeding any information relevant to any of~~
23 ~~the factors set forth in subsection (b) may be presented by~~
24 ~~either the State or the defendant under the rules governing the~~
25 ~~admission of evidence at criminal trials. Any information~~
26 ~~relevant to any additional aggravating factors or any~~

1 ~~mitigating factors indicated in subsection (c) may be presented~~
2 ~~by the State or defendant regardless of its admissibility under~~
3 ~~the rules governing the admission of evidence at criminal~~
4 ~~trials. The State and the defendant shall be given fair~~
5 ~~opportunity to rebut any information received at the hearing.~~

6 (f) (Blank). ~~Proof.~~

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

11 (g) (Blank). ~~Procedure -- Jury.~~

12 ~~If at the separate sentencing proceeding the jury finds~~
13 ~~that none of the factors set forth in subsection (b) exists,~~
14 ~~the court shall sentence the defendant to a term of~~
15 ~~imprisonment under Chapter V of the Unified Code of~~
16 ~~Corrections. If there is a unanimous finding by the jury that~~
17 ~~one or more of the factors set forth in subsection (b) exist,~~
18 ~~the jury shall consider aggravating and mitigating factors as~~
19 ~~instructed by the court and shall determine whether the~~
20 ~~sentence of death shall be imposed. If the jury determines~~
21 ~~unanimously, after weighing the factors in aggravation and~~
22 ~~mitigation, that death is the appropriate sentence, the court~~
23 ~~shall sentence the defendant to death. If the court does not~~
24 ~~concur with the jury determination that death is the~~
25 ~~appropriate sentence, the court shall set forth reasons in~~
26 ~~writing including what facts or circumstances the court relied~~

1 ~~upon, along with any relevant documents, that compelled the~~
2 ~~court to non-concur with the sentence. This document and any~~
3 ~~attachments shall be part of the record for appellate review.~~
4 ~~The court shall be bound by the jury's sentencing~~
5 ~~determination.~~

6 ~~If after weighing the factors in aggravation and~~
7 ~~mitigation, one or more jurors determines that death is not the~~
8 ~~appropriate sentence, the court shall sentence the defendant to~~
9 ~~a term of imprisonment under Chapter V of the Unified Code of~~
10 ~~Corrections.~~

11 (h) (Blank). Procedure - No Jury.

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

16 ~~If the Court determines that one or more of the factors set~~
17 ~~forth in subsection (b) exists, the Court shall consider any~~
18 ~~aggravating and mitigating factors as indicated in subsection~~
19 ~~(c). If the Court determines, after weighing the factors in~~
20 ~~aggravation and mitigation, that death is the appropriate~~
21 ~~sentence, the Court shall sentence the defendant to death.~~

22 ~~If the court finds that death is not the appropriate~~
23 ~~sentence, the court shall sentence the defendant to a term of~~
24 ~~imprisonment under Chapter V of the Unified Code of~~
25 ~~Corrections.~~

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

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

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

21 ~~The conviction and sentence of death shall be subject to~~
22 ~~automatic review by the Supreme Court. Such review shall be in~~
23 ~~accordance with rules promulgated by the Supreme Court. The~~
24 ~~Illinois Supreme Court may overturn the death sentence, and~~
25 ~~order the imposition of imprisonment under Chapter V of the~~
26 ~~Unified Code of Corrections if the court finds that the death~~

1 ~~sentence is fundamentally unjust as applied to the particular~~
2 ~~ease. If the Illinois Supreme Court finds that the death~~
3 ~~sentence is fundamentally unjust as applied to the particular~~
4 ~~ease, independent of any procedural grounds for relief, the~~
5 ~~Illinois Supreme Court shall issue a written opinion explaining~~
6 ~~this finding.~~

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

8 ~~In the event that the death penalty in this Act is held to~~
9 ~~be unconstitutional by the Supreme Court of the United States~~
10 ~~or of the State of Illinois, any person convicted of first~~
11 ~~degree murder shall be sentenced by the court to a term of~~
12 ~~imprisonment under Chapter V of the Unified Code of~~
13 ~~Corrections.~~

14 ~~In the event that any death sentence pursuant to the~~
15 ~~sentencing provisions of this Section is declared~~
16 ~~unconstitutional by the Supreme Court of the United States or~~
17 ~~of the State of Illinois, the court having jurisdiction over a~~
18 ~~person previously sentenced to death shall cause the defendant~~
19 ~~to be brought before the court, and the court shall sentence~~
20 ~~the defendant to a term of imprisonment under Chapter V of the~~
21 ~~Unified Code of Corrections.~~

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

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

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

2 (720 ILCS 5/9-1.2) (from Ch. 38, par. 9-1.2)

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

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

7 (1) either intended to cause the death of or do great
8 bodily harm to the pregnant woman or her unborn child or
9 knew that such acts would cause death or great bodily harm
10 to the pregnant woman or her unborn child; or

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

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

15 (b) For purposes of this Section, (1) "unborn child" shall
16 mean any individual of the human species from fertilization
17 until birth, and (2) "person" shall not include the pregnant
18 woman whose unborn child is killed.

19 (c) This Section shall not apply to acts which cause the
20 death of an unborn child if those acts were committed during
21 any abortion, as defined in Section 2 of the Illinois Abortion
22 Law of 1975, as amended, to which the pregnant woman has
23 consented. This Section shall not apply to acts which were
24 committed pursuant to usual and customary standards of medical
25 practice during diagnostic testing or therapeutic treatment.

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

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

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

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

11 (4) if, during the commission of the offense, the
12 person personally discharged a firearm that proximately
13 caused great bodily harm, permanent disability, permanent
14 disfigurement, or death to another person, 25 years or up
15 to a term of natural life shall be added to the term of
16 imprisonment imposed by the court.

17 (e) The provisions of this Act shall not be construed to
18 prohibit the prosecution of any person under any other
19 provision of law.

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

21 (720 ILCS 5/29D-30)

22 Sec. 29D-30. Terrorism.

23 (a) A person is guilty of terrorism when, with the intent
24 to intimidate or coerce a significant portion of a civilian
25 population:

1 (1) he or she knowingly commits a terrorist act as
2 defined in Section 29D-10(1) of this Code within this
3 State; or

4 (2) he or she, while outside this State, knowingly
5 commits a terrorist act as defined in Section 29D-10(1) of
6 this Code that takes effect within this State or produces
7 substantial detrimental effects within this State.

8 (b) Sentence. Terrorism is a Class X felony. If no deaths
9 are caused by the terrorist act, the sentence shall be a term
10 of 20 years to natural life imprisonment; however, if the
11 terrorist act caused the death of one or more persons, a
12 mandatory term of natural life imprisonment shall be the
13 sentence ~~in the event the death penalty is not imposed.~~

14 (Source: P.A. 92-854, eff. 12-5-02.)

15 (720 ILCS 5/30-1) (from Ch. 38, par. 30-1)

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

18 (1) Levies war against this State; or

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

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

24 (c) Sentence. Treason is a Class X felony ~~for which an~~
25 ~~offender may be sentenced to death under Section 5-5-3 of the~~

1 ~~Unified Code of Corrections.~~

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

3 (720 ILCS 5/33B-1) (from Ch. 38, par. 33B-1)

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

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

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

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

20 (1) the third offense was committed after the effective
21 date of this Act;

22 (2) the third offense was committed within 20 years of
23 the date that judgment was entered on the first conviction,
24 provided, however, that time spent in custody shall not be
25 counted;

1 (3) the third offense was committed after conviction on
2 the second offense;

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

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

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

9 Section 55. The Cannabis Control Act is amended by changing
10 Section 9 as follows:

11 (720 ILCS 550/9) (from Ch. 56 1/2, par. 709)

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

24 (b) For purposes of this section, a person engages in a

1 calculated criminal cannabis conspiracy when:

2 (1) he violates Section 4 (d), 4 (e), 5 (d), 5 (e), 8 (c) or
3 8 (d) of this Act; and

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

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

8 (c) Any person who is convicted under this Section of
9 engaging in a calculated criminal cannabis conspiracy shall
10 forfeit to the State of Illinois:

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

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

15 (d) The circuit court may enter such injunctions,
16 restraining orders, directions, or prohibitions, or take such
17 other actions, including the acceptance of satisfactory
18 performance bonds, in connection with any property, claim,
19 receipt, right or other interest subject to forfeiture under
20 this Section, as it deems proper.

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

22 Section 60. The Code of Criminal Procedure of 1963 is
23 amended by changing Sections 104-26, 111-3, 113-3, 114-5,
24 115-4, 115-4.1, 116-4, 119-5, 121-13, 122-1, 122-2.1, and 122-4
25 as follows:

1 (725 ILCS 5/104-26) (from Ch. 38, par. 104-26)
2 Sec. 104-26. Disposition of Defendants suffering
3 disabilities.

4 (a) A defendant convicted following a trial conducted under
5 the provisions of Section 104-22 shall not be sentenced before
6 a written presentence report of investigation is presented to
7 and considered by the court. The presentence report shall be
8 prepared pursuant to Sections 5-3-2, 5-3-3 and 5-3-4 of the
9 Unified Code of Corrections, as now or hereafter amended, and
10 shall include a physical and mental examination unless the
11 court finds that the reports of prior physical and mental
12 examinations conducted pursuant to this Article are adequate
13 and recent enough so that additional examinations would be
14 unnecessary.

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

17 (c) A defendant convicted following a trial under Section
18 104-22 shall be sentenced according to the procedures and
19 dispositions authorized under the Unified Code of Corrections,
20 as now or hereafter amended, subject to the following
21 provisions:

22 (1) The court shall not impose a sentence of
23 imprisonment upon the offender if the court believes that
24 because of his disability a sentence of imprisonment would
25 not serve the ends of justice and the interests of society

1 and the offender or that because of his disability a
2 sentence of imprisonment would subject the offender to
3 excessive hardship. In addition to any other conditions of
4 a sentence of conditional discharge or probation the court
5 may require that the offender undergo treatment
6 appropriate to his mental or physical condition.

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

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

25 (4) If the court imposes a sentence of imprisonment
26 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

1 Department of Human Services or a facility in which an
2 offender has been placed pursuant to subparagraph (2) or
3 (4) of paragraph (c) of this Section of the expiration of
4 his sentence. Thereafter, an offender in the Department of
5 Human Services shall continue to be treated pursuant to his
6 commitment order and shall be considered a civilly
7 committed patient for all purposes including discharge. An
8 offender who is in a facility pursuant to subparagraph (4)
9 of paragraph (c) of this Section shall be informed by the
10 facility of the expiration of his sentence, and shall
11 either consent to the continuation of his care or treatment
12 by the facility or shall be discharged.

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

14 (725 ILCS 5/111-3) (from Ch. 38, par. 111-3)

15 Sec. 111-3. Form of charge.

16 (a) A charge shall be in writing and allege the commission
17 of an offense by:

18 (1) Stating the name of the offense;

19 (2) Citing the statutory provision alleged to have been
20 violated;

21 (3) Setting forth the nature and elements of the
22 offense charged;

23 (4) Stating the date and county of the offense as
24 definitely as can be done; and

25 (5) Stating the name of the accused, if known, and if

1 not known, designate the accused by any name or description
2 by which he can be identified with reasonable certainty.

3 (b) An indictment shall be signed by the foreman of the
4 Grand Jury and an information shall be signed by the State's
5 Attorney and sworn to by him or another. A complaint shall be
6 sworn to and signed by the complainant; Provided, however, that
7 when a citation is issued on a Uniform Traffic Ticket or
8 Uniform Conservation Ticket (in a form prescribed by the
9 Conference of Chief Circuit Judges and filed with the Supreme
10 Court), the copy of such Uniform Ticket which is filed with the
11 circuit court constitutes a complaint to which the defendant
12 may plead, unless he specifically requests that a verified
13 complaint be filed.

14 (c) When the State seeks an enhanced sentence because of a
15 prior conviction, the charge shall also state the intention to
16 seek an enhanced sentence and shall state such prior conviction
17 so as to give notice to the defendant. However, the fact of
18 such prior conviction and the State's intention to seek an
19 enhanced sentence are not elements of the offense and may not
20 be disclosed to the jury during trial unless otherwise
21 permitted by issues properly raised during such trial. For the
22 purposes of this Section, "enhanced sentence" means a sentence
23 which is increased by a prior conviction from one
24 classification of offense to another higher level
25 classification of offense set forth in Section 5-5-1 of the
26 "Unified Code of Corrections", approved July 26, 1972, as

1 amended; it does not include an increase in the sentence
2 applied within the same level of classification of offense.

3 (c-5) Notwithstanding any other provision of law, ~~in all~~
4 ~~cases in which the imposition of the death penalty is not a~~
5 ~~possibility,~~ if an alleged fact (other than the fact of a prior
6 conviction) is not an element of an offense but is sought to be
7 used to increase the range of penalties for the offense beyond
8 the statutory maximum that could otherwise be imposed for the
9 offense, the alleged fact must be included in the charging
10 instrument or otherwise provided to the defendant through a
11 written notification before trial, submitted to a trier of fact
12 as an aggravating factor, and proved beyond a reasonable doubt.
13 Failure to prove the fact beyond a reasonable doubt is not a
14 bar to a conviction for commission of the offense, but is a bar
15 to increasing, based on that fact, the range of penalties for
16 the offense beyond the statutory maximum that could otherwise
17 be imposed for that offense. Nothing in this subsection (c-5)
18 requires the imposition of a sentence that increases the range
19 of penalties for the offense beyond the statutory maximum that
20 could otherwise be imposed for the offense if the imposition of
21 that sentence is not required by law.

22 (d) At any time prior to trial, the State on motion shall
23 be permitted to amend the charge, whether brought by
24 indictment, information or complaint, to make the charge comply
25 with subsection (c) or (c-5) of this Section. Nothing in
26 Section 103-5 of this Code precludes such an amendment or a

1 written notification made in accordance with subsection (c-5)
2 of this Section.

3 (e) The provisions of Article 33B of the Criminal Code of
4 1961, as amended, shall not be affected by this Section.

5 (Source: P.A. 91-953, eff. 2-23-01.)

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

1 counsel in all misdemeanor cases where the defendant is
2 indigent and desires counsel unless the case involves multiple
3 defendants, in which case the court may appoint counsel other
4 than the Public Defender for the additional defendants. The
5 court shall require an affidavit signed by any defendant who
6 requests court-appointed counsel. Such affidavit shall be in
7 the form established by the Supreme Court containing sufficient
8 information to ascertain the assets and liabilities of that
9 defendant. The Court may direct the Clerk of the Circuit Court
10 to assist the defendant in the completion of the affidavit. Any
11 person who knowingly files such affidavit containing false
12 information concerning his assets and liabilities shall be
13 liable to the county where the case, in which such false
14 affidavit is filed, is pending for the reasonable value of the
15 services rendered by the public defender or other
16 court-appointed counsel in the case to the extent that such
17 services were unjustly or falsely procured.

18 (c) Upon the filing with the court of a verified statement
19 of services rendered the court shall order the county treasurer
20 of the county of trial to pay counsel other than the Public
21 Defender a reasonable fee. The court shall consider all
22 relevant circumstances, including but not limited to the time
23 spent while court is in session, other time spent in
24 representing the defendant, and expenses reasonably incurred
25 by counsel. In counties with a population greater than
26 2,000,000, the court shall order the county treasurer of the

1 county of trial to pay counsel other than the Public Defender a
2 reasonable fee stated in the order and based upon a rate of
3 compensation of not more than \$40 for each hour spent while
4 court is in session and not more than \$30 for each hour
5 otherwise spent representing a defendant, and such
6 compensation shall not exceed \$150 for each defendant
7 represented in misdemeanor cases and \$1250 in felony cases, in
8 addition to expenses reasonably incurred as hereinafter in this
9 Section provided, except that, in extraordinary circumstances,
10 payment in excess of the limits herein stated may be made if
11 the trial court certifies that such payment is necessary to
12 provide fair compensation for protracted representation. A
13 trial court may entertain the filing of this verified statement
14 before the termination of the cause, and may order the
15 provisional payment of sums during the pendency of the cause.

16 (d) (Blank). ~~In capital cases, in addition to counsel, if~~
17 ~~the court determines that the defendant is indigent the court~~
18 ~~may, upon the filing with the court of a verified statement of~~
19 ~~services rendered, order the county Treasurer of the county of~~
20 ~~trial to pay necessary expert witnesses for defendant~~
21 ~~reasonable compensation stated in the order not to exceed \$250~~
22 ~~for each defendant.~~

23 (e) If the court in any county having a population greater
24 than 2,000,000 ~~1,000,000~~ determines that the defendant is
25 indigent the court may, upon the filing with the court of a
26 verified statement of such expenses, order the county treasurer

1 of the county of trial, in such counties having a population
2 greater than 2,000,000 ~~1,000,000~~ to pay the general expenses of
3 the trial incurred by the defendant not to exceed \$50 for each
4 defendant.

5 (f) (Blank). ~~The provisions of this Section relating to~~
6 ~~appointment of counsel, compensation of counsel, and payment of~~
7 ~~expenses in capital cases apply except when the compensation~~
8 ~~and expenses are being provided under the Capital Crimes~~
9 ~~Litigation Act.~~

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

11 (725 ILCS 5/114-5) (from Ch. 38, par. 114-5)

12 Sec. 114-5. Substitution of judge.

13 (a) Within 10 days after a cause involving only one
14 defendant has been placed on the trial call of a judge the
15 defendant may move the court in writing for a substitution of
16 that judge on the ground that such judge is so prejudiced
17 against him that he cannot receive a fair trial. Upon the
18 filing of such a motion the court shall proceed no further in
19 the cause but shall transfer it to another judge not named in
20 the motion. The defendant may name only one judge as
21 prejudiced, pursuant to this subsection; provided, however,
22 that in a case in which the offense charged is a Class X felony
23 or may be punished by ~~death or~~ life imprisonment, the defendant
24 may name two judges as prejudiced.

25 (b) Within 24 hours after a motion is made for substitution

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

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

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

1 the motion.

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

3 (725 ILCS 5/115-4) (from Ch. 38, par. 115-4)

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

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

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

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

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

1 greatest maximum penalty. The State shall be allowed the same
2 number of peremptory challenges as all of the defendants.

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

6 (g) After the jury is impaneled and sworn the court may
7 direct the selection of 2 alternate jurors who shall take the
8 same oath as the regular jurors. Each party shall have one
9 additional peremptory challenge for each alternate juror. If
10 before the final submission of a cause a member of the jury
11 dies or is discharged he shall be replaced by an alternate
12 juror in the order of selection.

13 (h) A trial by the court and jury shall be conducted in the
14 presence of the defendant unless he waives the right to be
15 present.

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

18 (j) Unless the affirmative defense of insanity has been
19 presented during the trial, the jury shall return a general
20 verdict as to each offense charged. When the affirmative
21 defense of insanity has been presented during the trial, the
22 court shall provide the jury not only with general verdict
23 forms but also with a special verdict form of not guilty by
24 reason of insanity, as to each offense charged, and in such
25 event the court shall separately instruct the jury that a
26 special verdict of not guilty by reason of insanity may be

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

25 (k) When, at the close of the State's evidence or at the
26 close of all of the evidence, the evidence is insufficient to

1 support a finding or verdict of guilty the court may and on
2 motion of the defendant shall make a finding or direct the jury
3 to return a verdict of not guilty, enter a judgment of
4 acquittal and discharge the defendant.

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

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

24 (n) The members of the jury shall be entitled to take notes
25 during the trial, and the sheriff of the county in which the
26 jury is sitting shall provide them with writing materials for

1 this purpose. Such notes shall remain confidential, and shall
2 be destroyed by the sheriff after the verdict has been returned
3 or a mistrial declared.

4 (o) A defendant tried by the court and jury shall only be
5 found guilty, guilty but mentally ill, not guilty or not guilty
6 by reason of insanity, upon the unanimous verdict of the jury.
7 (Source: P.A. 86-392.)

8 (725 ILCS 5/115-4.1) (from Ch. 38, par. 115-4.1)
9 Sec. 115-4.1. Absence of defendant.

10 (a) When a defendant after arrest and an initial court
11 appearance for a ~~non-capital~~ felony or a misdemeanor, fails to
12 appear for trial, at the request of the State and after the
13 State has affirmatively proven through substantial evidence
14 that the defendant is willfully avoiding trial, the court may
15 commence trial in the absence of the defendant. Absence of a
16 defendant as specified in this Section shall not be a bar to
17 indictment of a defendant, return of information against a
18 defendant, or arraignment of a defendant for the charge for
19 which bail has been granted. If a defendant fails to appear at
20 arraignment, the court may enter a plea of "not guilty" on his
21 behalf. ~~If a defendant absents himself before trial on a~~
22 ~~capital felony, trial may proceed as specified in this Section~~
23 ~~provided that the State certifies that it will not seek a death~~
24 ~~sentence following conviction.~~ Trial in the defendant's
25 absence shall be by jury unless the defendant had previously

1 waived trial by jury. The absent defendant must be represented
2 by retained or appointed counsel. The court, at the conclusion
3 of all of the proceedings, may order the clerk of the circuit
4 court to pay counsel such sum as the court deems reasonable,
5 from any bond monies which were posted by the defendant with
6 the clerk, after the clerk has first deducted all court costs.
7 If trial had previously commenced in the presence of the
8 defendant and the defendant willfully absents himself for two
9 successive court days, the court shall proceed to trial. All
10 procedural rights guaranteed by the United States
11 Constitution, Constitution of the State of Illinois, statutes
12 of the State of Illinois, and rules of court shall apply to the
13 proceedings the same as if the defendant were present in court
14 and had not either forfeited his bail bond or escaped from
15 custody. The court may set the case for a trial which may be
16 conducted under this Section despite the failure of the
17 defendant to appear at the hearing at which the trial date is
18 set. When such trial date is set the clerk shall send to the
19 defendant, by certified mail at his last known address
20 indicated on his bond slip, notice of the new date which has
21 been set for trial. Such notification shall be required when
22 the defendant was not personally present in open court at the
23 time when the case was set for trial.

24 (b) The absence of a defendant from a trial conducted
25 pursuant to this Section does not operate as a bar to
26 concluding the trial, to a judgment of conviction resulting

1 therefrom, or to a final disposition of the trial in favor of
2 the defendant.

3 (c) Upon a verdict of not guilty, the court shall enter
4 judgment for the defendant. Upon a verdict of guilty, the court
5 shall set a date for the hearing of post-trial motions and
6 shall hear such motion in the absence of the defendant. If
7 post-trial motions are denied, the court shall proceed to
8 conduct a sentencing hearing and to impose a sentence upon the
9 defendant.

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

13 (e) When a defendant who in his absence has been either
14 convicted or sentenced or both convicted and sentenced appears
15 before the court, he must be granted a new trial or new
16 sentencing hearing if the defendant can establish that his
17 failure to appear in court was both without his fault and due
18 to circumstances beyond his control. A hearing with notice to
19 the State's Attorney on the defendant's request for a new trial
20 or a new sentencing hearing must be held before any such
21 request may be granted. At any such hearing both the defendant
22 and the State may present evidence.

23 (f) If the court grants only the defendant's request for a
24 new sentencing hearing, then a new sentencing hearing shall be
25 held in accordance with the provisions of the Unified Code of
26 Corrections. At any such hearing, both the defendant and the

1 State may offer evidence of the defendant's conduct during his
2 period of absence from the court. The court may impose any
3 sentence authorized by the Unified Code of Corrections and is
4 not in any way limited or restricted by any sentence previously
5 imposed.

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

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

12 (725 ILCS 5/116-4)

13 Sec. 116-4. Preservation of evidence for forensic testing.

14 (a) Before or after the trial in a prosecution for a
15 violation of Section 12-13, 12-14, 12-14.1, 12-15, or 12-16 of
16 the Criminal Code of 1961 or in a prosecution for an offense
17 defined in Article 9 of that Code, or in a prosecution for an
18 attempt in violation of Section 8-4 of that Code of any of the
19 above-enumerated offenses, unless otherwise provided herein
20 under subsection (b) or (c), a law enforcement agency or an
21 agent acting on behalf of the law enforcement agency shall
22 preserve, subject to a continuous chain of custody, any
23 physical evidence in their possession or control that is
24 reasonably likely to contain forensic evidence, including, but
25 not limited to, fingerprints or biological material secured in

1 relation to a trial and with sufficient documentation to locate
2 that evidence.

3 (b) After a judgment of conviction is entered, the evidence
4 shall either be impounded with the Clerk of the Circuit Court
5 or shall be securely retained by a law enforcement agency.
6 Retention shall be permanent in cases where a sentence of
7 natural life imprisonment ~~death~~ is imposed. Retention shall be
8 until the completion of the sentence, including the period of
9 mandatory supervised release for the offense, or January 1,
10 2006, whichever is later, for any conviction for an offense or
11 an attempt of an offense defined in Article 9 of the Criminal
12 Code of 1961 or in Section 12-13, 12-14, 12-14.1, 12-15, or
13 12-16 of the Criminal Code of 1961 or for 7 years following any
14 conviction for any other felony for which the defendant's
15 genetic profile may be taken by a law enforcement agency and
16 submitted for comparison in a forensic DNA database for
17 unsolved offenses.

18 (c) After a judgment of conviction is entered, the law
19 enforcement agency required to retain evidence described in
20 subsection (a) may petition the court with notice to the
21 defendant or, in cases where the defendant has died, his
22 estate, his attorney of record, or an attorney appointed for
23 that purpose by the court for entry of an order allowing it to
24 dispose of evidence if, after a hearing, the court determines
25 by a preponderance of the evidence that:

26 (1) it has no significant value for forensic science

1 analysis and should be returned to its rightful owner,
2 destroyed, used for training purposes, or as otherwise
3 provided by law; or

4 (2) it has no significant value for forensic science
5 analysis and is of a size, bulk, or physical character not
6 usually retained by the law enforcement agency and cannot
7 practicably be retained by the law enforcement agency; or

8 (3) there no longer exists a reasonable basis to
9 require the preservation of the evidence because of the
10 death of the defendant; ~~however, this paragraph (3) does~~
11 ~~not apply if a sentence of death was imposed.~~

12 (d) The court may order the disposition of the evidence if
13 the defendant is allowed the opportunity to take reasonable
14 measures to remove or preserve portions of the evidence in
15 question for future testing.

16 (d-5) Any order allowing the disposition of evidence
17 pursuant to subsection (c) or (d) shall be a final and
18 appealable order. No evidence shall be disposed of until 30
19 days after the order is entered, and if a notice of appeal is
20 filed, no evidence shall be disposed of until the mandate has
21 been received by the circuit court from the appellate court.

22 (d-10) All records documenting the possession, control,
23 storage, and destruction of evidence and all police reports,
24 evidence control or inventory records, and other reports cited
25 in this Section, including computer records, must be retained
26 for as long as the evidence exists and may not be disposed of

1 without the approval of the Local Records Commission.

2 (e) In this Section, "law enforcement agency" includes any
3 of the following or an agent acting on behalf of any of the
4 following: a municipal police department, county sheriff's
5 office, any prosecuting authority, the Department of State
6 Police, or any other State, university, county, federal, or
7 municipal police unit or police force.

8 "Biological material" includes, but is not limited to, any
9 blood, hair, saliva, or semen from which genetic marker
10 groupings may be obtained.

11 (Source: P.A. 91-871, eff. 1-1-01; 92-459, eff. 8-22-01.)

12 (725 ILCS 5/119-5) (from Ch. 38, par. 119-5)

13 Sec. 119-5. ~~Execution of~~ Death sentence abolished
14 Sentence. On or after the effective date of this amendatory Act
15 of the 96th General Assembly no person may be executed in this
16 State.

17 ~~(a)(1) A defendant sentenced to death shall be executed by~~
18 ~~an intravenous administration of a lethal quantity of an~~
19 ~~ultrashort acting barbiturate in combination with a~~
20 ~~chemical paralytic agent and potassium chloride or other~~
21 ~~equally effective substances sufficient to cause death~~
22 ~~until death is pronounced by a coroner who is not a~~
23 ~~licensed physician.~~

24 ~~(2) If the execution of the sentence of death as~~
25 ~~provided in paragraph (1) is held illegal or~~

1 ~~unconstitutional by a reviewing court of competent~~
2 ~~jurisdiction, the sentence of death shall be carried out by~~
3 ~~electrocution.~~

4 ~~(b) In pronouncing the sentence of death the court shall~~
5 ~~set the date of the execution which shall be not less than 60~~
6 ~~nor more than 90 days from the date sentence is pronounced.~~

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

9 ~~(d) The warden of the penitentiary shall supervise such~~
10 ~~execution, which shall be conducted in the presence of 6~~
11 ~~witnesses who shall certify the execution of the sentence. The~~
12 ~~certification shall be filed with the clerk of the court that~~
13 ~~imposed the sentence.~~

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

18 ~~(e) Except as otherwise provided in this subsection (e),~~
19 ~~the identity of executioners and other persons who participate~~
20 ~~or perform ancillary functions in an execution and information~~
21 ~~contained in records that would identify those persons shall~~
22 ~~remain confidential, shall not be subject to disclosure, and~~
23 ~~shall not be admissible as evidence or be discoverable in any~~
24 ~~action of any kind in any court or before any tribunal, board,~~
25 ~~agency, or person. In order to protect the confidentiality of~~
26 ~~persons participating in an execution, the Director of~~

1 ~~Corrections may direct that the Department make payments in~~
2 ~~cash for such services. In confidential investigations by the~~
3 ~~Department of Professional Regulation, the Department of~~
4 ~~Corrections shall disclose the names and license numbers of~~
5 ~~health care practitioners participating or performing~~
6 ~~ancillary functions in an execution to the Department of~~
7 ~~Professional Regulation and the Department of Professional~~
8 ~~Regulation shall forward those names and license numbers to the~~
9 ~~appropriate disciplinary boards.~~

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

13 ~~(g) (Blank).~~

14 ~~(h) Notwithstanding any other provision of law, any~~
15 ~~pharmaceutical supplier is authorized to dispense drugs to the~~
16 ~~Director of Corrections or his or her designee, without~~
17 ~~prescription, in order to carry out the provisions of this~~
18 ~~Section.~~

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

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

23 (725 ILCS 5/121-13) (from Ch. 38, par. 121-13)

24 Sec. 121-13. Pauper Appeals.

25 (a) In any case wherein the defendant was convicted of a

1 felony, if the court determines that the defendant desires
2 counsel on appeal but is indigent the Public Defender or the
3 State Appellate Defender shall be appointed as counsel, unless
4 with the consent of the defendant and for good cause shown, the
5 court may appoint counsel other than the Public Defender or the
6 State Appellate Defender.

7 (b) In any case wherein the defendant was convicted of a
8 felony ~~and a sentence of death was not imposed~~ in the trial
9 court the reviewing court, upon petition of the defendant's
10 counsel made not more frequently than every 60 days after
11 appointment, shall determine a reasonable amount to be allowed
12 an indigent defendant's counsel other than the Public Defender
13 or the State Appellate Defender for compensation and
14 reimbursement of expenditures necessarily incurred in the
15 prosecution of the appeal or review proceedings. The
16 compensation shall not exceed \$1500 in each case, except that,
17 in extraordinary circumstances, payment in excess of the limits
18 herein stated may be made if the reviewing court certifies that
19 the payment is necessary to provide fair compensation for
20 protracted representation. The reviewing court shall enter an
21 order directing the county treasurer of the county where the
22 case was tried to pay the amount allowed by the court. The
23 reviewing court may order the provisional payment of sums
24 during the pendency of the cause.

25 (c) In any case in which a sentence of death was imposed in
26 the trial court before the effective date of this amendatory

1 Act of the 96th General Assembly, the Supreme Court, upon
2 written petition of the defendant's counsel made not more than
3 every 60 days after appointment, shall determine reasonable
4 compensation for an indigent defendant's attorneys on appeal.
5 The compensation shall not exceed \$2,000 in each case, except
6 that, in extraordinary circumstances, payment in excess of the
7 limits herein stated may be made if the reviewing court
8 certifies that the payment is necessary to provide fair
9 compensation for protracted representation. The Supreme Court
10 shall enter an order directing the county treasurer of the
11 county where the case was tried to pay compensation and
12 reimburse expenditures necessarily incurred in the prosecution
13 of the appeal or review proceedings. The Supreme Court may
14 order the provisional payment of sums during the pendency of
15 the cause.

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

17 (725 ILCS 5/122-1) (from Ch. 38, par. 122-1)

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

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

21 (1) in the proceedings which resulted in his or her
22 conviction there was a substantial denial of his or her
23 rights under the Constitution of the United States or of
24 the State of Illinois or both; or

25 (2) the death penalty was imposed before the effective

1 date of this amendatory Act of the 96th General Assembly
2 and there is newly discovered evidence not available to the
3 person at the time of the proceeding that resulted in his
4 or her conviction that establishes a substantial basis to
5 believe that the defendant is actually innocent by clear
6 and convincing evidence.

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

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

26 (c) Except as otherwise provided in subsection (a-5), if

1 the petitioner is under sentence of death before the effective
2 date of this amendatory Act of the 96th General Assembly and a
3 petition for writ of certiorari is filed, no proceedings under
4 this Article shall be commenced more than 6 months after the
5 conclusion of proceedings in the United States Supreme Court,
6 unless the petitioner alleges facts showing that the delay was
7 not due to his or her culpable negligence. If a petition for
8 certiorari is not filed, no proceedings under this Article
9 shall be commenced more than 6 months from the date for filing
10 a certiorari petition, unless the petitioner alleges facts
11 showing that the delay was not due to his or her culpable
12 negligence.

13 When a defendant has a sentence other than death, no
14 proceedings under this Article shall be commenced more than 6
15 months after the conclusion of proceedings in the United States
16 Supreme Court, unless the petitioner alleges facts showing that
17 the delay was not due to his or her culpable negligence. If a
18 petition for certiorari is not filed, no proceedings under this
19 Article shall be commenced more than 6 months from the date for
20 filing a certiorari petition, unless the petitioner alleges
21 facts showing that the delay was not due to his or her culpable
22 negligence. If a defendant does not file a direct appeal, the
23 post-conviction petition shall be filed no later than 3 years
24 from the date of conviction, unless the petitioner alleges
25 facts showing that the delay was not due to his or her culpable
26 negligence.

1 This limitation does not apply to a petition advancing a
2 claim of actual innocence.

3 (d) A person seeking relief by filing a petition under this
4 Section must specify in the petition or its heading that it is
5 filed under this Section. A trial court that has received a
6 petition complaining of a conviction or sentence that fails to
7 specify in the petition or its heading that it is filed under
8 this Section need not evaluate the petition to determine
9 whether it could otherwise have stated some grounds for relief
10 under this Article.

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

16 (f) Only one petition may be filed by a petitioner under
17 this Article without leave of the court. Leave of court may be
18 granted only if a petitioner demonstrates cause for his or her
19 failure to bring the claim in his or her initial
20 post-conviction proceedings and prejudice results from that
21 failure. For purposes of this subsection (f): (1) a prisoner
22 shows cause by identifying an objective factor that impeded his
23 or her ability to raise a specific claim during his or her
24 initial post-conviction proceedings; and (2) a prisoner shows
25 prejudice by demonstrating that the claim not raised during his
26 or her initial post-conviction proceedings so infected the

1 trial that the resulting conviction or sentence violated due
2 process.

3 (Source: P.A. 93-493, eff. 1-1-04; 93-605, eff. 11-19-03;
4 93-972, eff. 8-20-04.)

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

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

9 (1) If the petitioner is under sentence of death
10 imposed before the effective date of this amendatory Act of
11 the 96th General Assembly and is without counsel and
12 alleges that he is without means to procure counsel, he
13 shall state whether or not he wishes counsel to be
14 appointed to represent him. If appointment of counsel is so
15 requested, the court shall appoint counsel if satisfied
16 that the petitioner has no means to procure counsel.

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

25 (b) If the petition is not dismissed pursuant to this

1 Section, the court shall order the petition to be docketed for
2 further consideration in accordance with Sections 122-4
3 through 122-6. If the petitioner is under sentence of death
4 imposed before the effective date of this amendatory Act of the
5 96th General Assembly, the court shall order the petition to be
6 docketed for further consideration and hearing within one year
7 of the filing of the petition. Continuances may be granted as
8 the court deems appropriate.

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

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

15 (725 ILCS 5/122-4) (from Ch. 38, par. 122-4)

16 Sec. 122-4. Pauper Petitions. If the petition is not
17 dismissed pursuant to Section 122-2.1, and alleges that the
18 petitioner is unable to pay the costs of the proceeding, the
19 court may order that the petitioner be permitted to proceed as
20 a poor person and order a transcript of the proceedings
21 delivered to petitioner in accordance with Rule of the Supreme
22 Court. If the petitioner is without counsel and alleges that he
23 is without means to procure counsel, he shall state whether or
24 not he wishes counsel to be appointed to represent him. If
25 appointment of counsel is so requested, and the petition is not

1 dismissed pursuant to Section 122-2.1, the court shall appoint
2 counsel if satisfied that the petitioner has no means to
3 procure counsel. A petitioner who is a prisoner in an Illinois
4 Department of Corrections facility who files a pleading,
5 motion, or other filing that purports to be a legal document
6 seeking post-conviction relief under this Article against the
7 State, the Illinois Department of Corrections, the Prisoner
8 Review Board, or any of their officers or employees in which
9 the court makes a specific finding that the pleading, motion,
10 or other filing that purports to be a legal document is
11 frivolous shall not proceed as a poor person and shall be
12 liable for the full payment of filing fees and actual court
13 costs as provided in Article XXII of the Code of Civil
14 Procedure.

15 A Circuit Court or the Illinois Supreme Court may appoint
16 the State Appellate Defender to provide post-conviction
17 representation in a case in which the defendant was ~~is~~
18 sentenced to death before the effective date of this amendatory
19 Act of the 96th General Assembly. Any attorney assigned by the
20 Office of the State Appellate Defender to provide
21 post-conviction representation for indigent defendants in
22 cases in which a sentence of death was imposed in the trial
23 court before the effective date of this amendatory Act of the
24 96th General Assembly may, from time to time submit bills and
25 time sheets to the Office of the State Appellate Defender for
26 payment of services rendered and the Office of the State

1 Appellate Defender shall pay bills from funds appropriated for
2 this purpose in accordance with rules promulgated by the State
3 Appellate Defender.

4 The court, at the conclusion of the proceedings upon
5 receipt of a petition by the appointed counsel, shall determine
6 a reasonable amount to be allowed an indigent defendant's
7 counsel other than the Public Defender or the State Appellate
8 Defender for compensation and reimbursement of expenditures
9 necessarily incurred in the proceedings. The compensation
10 shall not exceed \$500 in each case, except that, in
11 extraordinary circumstances, payment in excess of the limits
12 herein stated may be made if the trial court certifies that the
13 payment is necessary to provide fair compensation for
14 protracted representation, and the amount is approved by the
15 chief judge of the circuit. The court shall enter an order
16 directing the county treasurer of the county where the case was
17 tried to pay the amount thereby allowed by the court. The court
18 may order the provisional payment of sums during the pendency
19 of the cause.

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

21 (725 ILCS 5/114-15 rep.)

22 (725 ILCS 5/115-21 rep.)

23 (725 ILCS 5/122-2.2 rep.)

24 Section 65. The Code of Criminal Procedure of 1963 is
25 amended by repealing Sections 114-15, 115-21, and 122-2.2.

1 Section 70. The State Appellate Defender Act is amended by
2 changing Sections 10 and 10.5 as follows:

3 (725 ILCS 105/10) (from Ch. 38, par. 208-10)

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

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

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

11 (c) The State Appellate Defender may:

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

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

17 (3) cooperate and consult with state agencies,
18 professional associations, and other groups concerning the
19 causes of criminal conduct, the rehabilitation and
20 correction of persons charged with and convicted of crime,
21 the administration of criminal justice, and, in counties of
22 less than 1,000,000 population, study, design, develop and
23 implement model systems for the delivery of trial level
24 defender services, and make an annual report to the General

1 Assembly;

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

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

12 (6) develop a Juvenile Defender Resource Center to: (i)
13 study, design, develop, and implement model systems for the
14 delivery of trial level defender services for juveniles in
15 the justice system; (ii) in cases in which a sentence of
16 incarceration or an adult sentence, or both, is an
17 authorized disposition, provide trial counsel with legal
18 advice and the assistance of expert witnesses and
19 investigators from funds appropriated to the Office of the
20 State Appellate Defender by the General Assembly
21 specifically for that purpose; (iii) develop and provide
22 training to public defenders on juvenile justice issues,
23 utilizing resources including the State and local bar
24 associations, the Illinois Public Defender Association,
25 law schools, the Midwest Juvenile Defender Center, and pro
26 bono efforts by law firms; and (iv) make an annual report

1 to the General Assembly.

2 Investigators employed by the Death Penalty Trial
3 Assistance and Capital Litigation Division of the State
4 Appellate Defender before the effective date of this amendatory
5 Act of the 96th General Assembly shall be authorized to inquire
6 through the Illinois State Police or local law enforcement with
7 the Law Enforcement Agencies Data System (LEADS) under Section
8 2605-375 of the Civil Administrative Code of Illinois to
9 ascertain whether their potential witnesses have a criminal
10 background, including: (i) warrants; (ii) arrests; (iii)
11 convictions; and (iv) officer safety information. This
12 authorization applies only to information held on the State
13 level and shall be used only to protect the personal safety of
14 the investigators. Any information that is obtained through
15 this inquiry may not be disclosed by the investigators.

16 (d) (Blank). ~~For each State fiscal year, the State~~
17 ~~Appellate Defender shall appear before the General Assembly and~~
18 ~~request appropriations to be made from the Capital Litigation~~
19 ~~Trust Fund to the State Treasurer for the purpose of providing~~
20 ~~defense assistance in capital cases outside of Cook County and~~
21 ~~for expenses incurred by the State Appellate Defender in~~
22 ~~representing petitioners in capital cases in post-conviction~~
23 ~~proceedings under Article 122 of the Code of Criminal Procedure~~
24 ~~of 1963 and in relation to petitions filed under Section 2-1401~~
25 ~~of the Code of Civil Procedure in relation to capital cases and~~
26 ~~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. 94-340, eff. 1-1-06; 95-376, eff. 1-1-08.)

17 (725 ILCS 105/10.5)

18 Sec. 10.5. Competitive bidding for appellate services.

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

24 (b) The State Appellate Defender, before letting out bids
25 for contracts for the services of attorneys to represent

1 indigent defendants on appeal in criminal cases, shall
2 advertise the letting of the bids in a publication or
3 publications of the Illinois State Bar Association, the Chicago
4 Daily Law Bulletin, and the Chicago Lawyer. The State Appellate
5 Defender shall also advertise the letting of the bids in
6 newspapers of general circulation in major municipalities to be
7 determined by the State Appellate Defender. The State Appellate
8 Defender shall mail notices of the letting of the bids to
9 county and local bar associations.

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

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

21 (e) An attorney who is awarded a contract under this
22 Section shall communicate with each of his or her clients and
23 shall file each initial brief before the due date established
24 by Supreme Court Rule or by the Appellate Court. The State
25 Appellate Defender may rescind the contract for attorney
26 services and may require the return of the record on appeal if

1 the contracted attorney fails to make satisfactory progress, in
2 the opinion of the State Appellate Defender, toward filing a
3 brief.

4 (f) Gross compensation for completing of a case shall be
5 \$40 per hour but shall not exceed \$2,000 per case. The contract
6 shall specify the manner of payment.

7 (g) (Blank).

8 (h) (Blank).

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

10 (725 ILCS 124/Act rep.)

11 Section 75. The Capital Crimes Litigation Act is repealed
12 on July 1, 2003.

13 Section 80. The Uniform Rendition of Prisoners as Witnesses
14 in Criminal Proceedings Act is amended by changing Section 5 as
15 follows:

16 (725 ILCS 235/5) (from Ch. 38, par. 157-5)

17 Sec. 5. Exceptions.

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

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

22 Section 85. The Unified Code of Corrections is amended by

1 changing Sections 3-3-13, 3-6-3, 3-8-10, 5-1-9, 5-4-1, 5-4-3,
2 5-5-3, 5-8-1, 5-8-4, and 5-8-5 as follows:

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

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

5 (a) Petitions seeking pardon, commutation, or reprieve
6 shall be addressed to the Governor and filed with the Prisoner
7 Review Board. The petition shall be in writing and signed by
8 the person under conviction or by a person on his behalf. It
9 shall contain a brief history of the case, the reasons for
10 seeking executive clemency, and other relevant information the
11 Board may require.

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

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

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

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

12 (d) The Governor shall decide each application and
13 communicate his decision to the Board which shall notify the
14 petitioner.

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

26 (e) Nothing in this Section shall be construed to limit the

1 power of the Governor under the constitution to grant a
2 reprieve, commutation of sentence, or pardon.

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

4 (730 ILCS 5/3-6-3) (from Ch. 38, par. 1003-6-3)

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

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

10 (2) The rules and regulations on early release shall
11 provide, with respect to offenses listed in clause (i),
12 (ii), or (iii) of this paragraph (2) committed on or after
13 June 19, 1998 or with respect to the offense listed in
14 clause (iv) of this paragraph (2) committed on or after
15 June 23, 2005 (the effective date of Public Act 94-71) or
16 with respect to offense listed in clause (vi) committed on
17 or after June 1, 2008 (the effective date of Public Act
18 95-625) or with respect to the offense of being an armed
19 habitual criminal committed on or after August 2, 2005 (the
20 effective date of Public Act 94-398) or with respect to the
21 offenses listed in clause (v) of this paragraph (2)
22 committed on or after August 13, 2007 (the effective date
23 of Public Act 95-134), the following:

24 (i) that a prisoner who is serving a term of
25 imprisonment for first degree murder or for the offense

1 of terrorism shall receive no good conduct credit and
2 shall serve the entire sentence imposed by the court;

3 (ii) that a prisoner serving a sentence for attempt
4 to commit first degree murder, solicitation of murder,
5 solicitation of murder for hire, intentional homicide
6 of an unborn child, predatory criminal sexual assault
7 of a child, aggravated criminal sexual assault,
8 criminal sexual assault, aggravated kidnapping,
9 aggravated battery with a firearm, heinous battery,
10 being an armed habitual criminal, aggravated battery
11 of a senior citizen, or aggravated battery of a child
12 shall receive no more than 4.5 days of good conduct
13 credit for each month of his or her sentence of
14 imprisonment;

15 (iii) that a prisoner serving a sentence for home
16 invasion, armed robbery, aggravated vehicular
17 hijacking, aggravated discharge of a firearm, or armed
18 violence with a category I weapon or category II
19 weapon, when the court has made and entered a finding,
20 pursuant to subsection (c-1) of Section 5-4-1 of this
21 Code, that the conduct leading to conviction for the
22 enumerated offense resulted in great bodily harm to a
23 victim, shall receive no more than 4.5 days of good
24 conduct credit for each month of his or her sentence of
25 imprisonment;

26 (iv) that a prisoner serving a sentence for

1 aggravated discharge of a firearm, whether or not the
2 conduct leading to conviction for the offense resulted
3 in great bodily harm to the victim, shall receive no
4 more than 4.5 days of good conduct credit for each
5 month of his or her sentence of imprisonment;

6 (v) that a person serving a sentence for
7 gunrunning, narcotics racketeering, controlled
8 substance trafficking, methamphetamine trafficking,
9 drug-induced homicide, aggravated
10 methamphetamine-related child endangerment, money
11 laundering pursuant to clause (c) (4) or (5) of Section
12 29B-1 of the Criminal Code of 1961, or a Class X felony
13 conviction for delivery of a controlled substance,
14 possession of a controlled substance with intent to
15 manufacture or deliver, calculated criminal drug
16 conspiracy, criminal drug conspiracy, street gang
17 criminal drug conspiracy, participation in
18 methamphetamine manufacturing, aggravated
19 participation in methamphetamine manufacturing,
20 delivery of methamphetamine, possession with intent to
21 deliver methamphetamine, aggravated delivery of
22 methamphetamine, aggravated possession with intent to
23 deliver methamphetamine, methamphetamine conspiracy
24 when the substance containing the controlled substance
25 or methamphetamine is 100 grams or more shall receive
26 no more than 7.5 days good conduct credit for each

1 month of his or her sentence of imprisonment; and

2 (vi) that a prisoner serving a sentence for a
3 second or subsequent offense of luring a minor shall
4 receive no more than 4.5 days of good conduct credit
5 for each month of his or her sentence of imprisonment.

6 (2.1) For all offenses, other than those enumerated in
7 subdivision (a)(2)(i), (ii), or (iii) committed on or after
8 June 19, 1998 or subdivision (a)(2)(iv) committed on or
9 after June 23, 2005 (the effective date of Public Act
10 94-71) or subdivision (a)(2)(v) committed on or after
11 August 13, 2007 (the effective date of Public Act 95-134)
12 or subdivision (a)(2)(vi) committed on or after June 1,
13 2008 (the effective date of Public Act 95-625), and other
14 than the offense of reckless homicide as defined in
15 subsection (e) of Section 9-3 of the Criminal Code of 1961
16 committed on or after January 1, 1999, or aggravated
17 driving under the influence of alcohol, other drug or
18 drugs, or intoxicating compound or compounds, or any
19 combination thereof as defined in subparagraph (F) of
20 paragraph (1) of subsection (d) of Section 11-501 of the
21 Illinois Vehicle Code, the rules and regulations shall
22 provide that a prisoner who is serving a term of
23 imprisonment shall receive one day of good conduct credit
24 for each day of his or her sentence of imprisonment or
25 recommitment under Section 3-3-9. Each day of good conduct
26 credit shall reduce by one day the prisoner's period of

1 imprisonment or recommitment under Section 3-3-9.

2 (2.2) A prisoner serving a term of natural life
3 imprisonment ~~or a prisoner who has been sentenced to death~~
4 shall receive no good conduct credit.

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

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

1 imprisonment.

2 (2.5) The rules and regulations on early release shall
3 provide that a prisoner who is serving a sentence for
4 aggravated arson committed on or after July 27, 2001 (the
5 effective date of Public Act 92-176) shall receive no more
6 than 4.5 days of good conduct credit for each month of his
7 or her sentence of imprisonment.

8 (3) The rules and regulations shall also provide that
9 the Director may award up to 180 days additional good
10 conduct credit for meritorious service in specific
11 instances as the Director deems proper; except that no more
12 than 90 days of good conduct credit for meritorious service
13 shall be awarded to any prisoner who is serving a sentence
14 for conviction of first degree murder, reckless homicide
15 while under the influence of alcohol or any other drug, or
16 aggravated driving under the influence of alcohol, other
17 drug or drugs, or intoxicating compound or compounds, or
18 any combination thereof as defined in subparagraph (F) of
19 paragraph (1) of subsection (d) of Section 11-501 of the
20 Illinois Vehicle Code, aggravated kidnapping, kidnapping,
21 predatory criminal sexual assault of a child, aggravated
22 criminal sexual assault, criminal sexual assault, deviate
23 sexual assault, aggravated criminal sexual abuse,
24 aggravated indecent liberties with a child, indecent
25 liberties with a child, child pornography, heinous
26 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, or cruelty to a child.
4 Notwithstanding the foregoing, good conduct credit for
5 meritorious service shall not be awarded on a sentence of
6 imprisonment imposed for conviction of: (i) one of the
7 offenses enumerated in subdivision (a)(2)(i), (ii), or
8 (iii) when the offense is committed on or after June 19,
9 1998 or subdivision (a)(2)(iv) when the offense is
10 committed on or after June 23, 2005 (the effective date of
11 Public Act 94-71) or subdivision (a)(2)(v) when the offense
12 is committed on or after August 13, 2007 (the effective
13 date of Public Act 95-134) or subdivision (a)(2)(vi) when
14 the offense is committed on or after June 1, 2008 (the
15 effective date of Public Act 95-625), (ii) reckless
16 homicide as defined in subsection (e) of Section 9-3 of the
17 Criminal Code of 1961 when the offense is committed on or
18 after January 1, 1999, or aggravated driving under the
19 influence of alcohol, other drug or drugs, or intoxicating
20 compound or compounds, or any combination thereof as
21 defined in subparagraph (F) of paragraph (1) of subsection
22 (d) of Section 11-501 of the Illinois Vehicle Code, (iii)
23 one of the offenses enumerated in subdivision (a)(2.4) when
24 the offense is committed on or after July 15, 1999 (the
25 effective date of Public Act 91-121), or (iv) aggravated
26 arson when the offense is committed on or after July 27,

1 2001 (the effective date of Public Act 92-176).

2 (4) The rules and regulations shall also provide that
3 the good conduct credit accumulated and retained under
4 paragraph (2.1) of subsection (a) of this Section by any
5 inmate during specific periods of time in which such inmate
6 is engaged full-time in substance abuse programs,
7 correctional industry assignments, or educational programs
8 provided by the Department under this paragraph (4) and
9 satisfactorily completes the assigned program as
10 determined by the standards of the Department, shall be
11 multiplied by a factor of 1.25 for program participation
12 before August 11, 1993 and 1.50 for program participation
13 on or after that date. However, no inmate shall be eligible
14 for the additional good conduct credit under this paragraph
15 (4) or (4.1) of this subsection (a) while assigned to a
16 boot camp or electronic detention, or if convicted of an
17 offense enumerated in subdivision (a)(2)(i), (ii), or
18 (iii) of this Section that is committed on or after June
19 19, 1998 or subdivision (a)(2)(iv) of this Section that is
20 committed on or after June 23, 2005 (the effective date of
21 Public Act 94-71) or subdivision (a)(2)(v) of this Section
22 that is committed on or after August 13, 2007 (the
23 effective date of Public Act 95-134) or subdivision
24 (a)(2)(vi) when the offense is committed on or after June
25 1, 2008 (the effective date of Public Act 95-625), or if
26 convicted of reckless homicide as defined in subsection (e)

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

23 Educational, vocational, substance abuse and
24 correctional industry programs under which good conduct
25 credit may be increased under this paragraph (4) and
26 paragraph (4.1) of this subsection (a) shall be evaluated

1 by the Department on the basis of documented standards. The
2 Department shall report the results of these evaluations to
3 the Governor and the General Assembly by September 30th of
4 each year. The reports shall include data relating to the
5 recidivism rate among program participants.

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

18 (4.1) The rules and regulations shall also provide that
19 an additional 60 days of good conduct credit shall be
20 awarded to any prisoner who passes the high school level
21 Test of General Educational Development (GED) while the
22 prisoner is incarcerated. The good conduct credit awarded
23 under this paragraph (4.1) shall be in addition to, and
24 shall not affect, the award of good conduct under any other
25 paragraph of this Section, but shall also be pursuant to
26 the guidelines and restrictions set forth in paragraph (4)

1 of subsection (a) of this Section. The good conduct credit
2 provided for in this paragraph shall be available only to
3 those prisoners who have not previously earned a high
4 school diploma or a GED. If, after an award of the GED good
5 conduct credit has been made and the Department determines
6 that the prisoner was not eligible, then the award shall be
7 revoked.

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

1 established by the Department. The Director may allow a
2 prisoner placed on a waiting list to participate in and
3 complete a substance abuse education class or attend
4 substance abuse self-help meetings in lieu of a substance
5 abuse treatment program. A prisoner on a waiting list who
6 is not placed in a substance abuse program prior to release
7 may be eligible for a waiver and receive good conduct
8 credit under clause (3) of this subsection (a) at the
9 discretion of the Director.

10 (4.6) The rules and regulations on early release shall
11 also provide that a prisoner who has been convicted of a
12 sex offense as defined in Section 2 of the Sex Offender
13 Registration Act shall receive no good conduct credit
14 unless he or she either has successfully completed or is
15 participating in sex offender treatment as defined by the
16 Sex Offender Management Board. However, prisoners who are
17 waiting to receive such treatment, but who are unable to do
18 so due solely to the lack of resources on the part of the
19 Department, may, at the Director's sole discretion, be
20 awarded good conduct credit at such rate as the Director
21 shall determine.

22 (5) Whenever the Department is to release any inmate
23 earlier than it otherwise would because of a grant of good
24 conduct credit for meritorious service given at any time
25 during the term, the Department shall give reasonable
26 advance notice of the impending release to the State's

1 Attorney of the county where the prosecution of the inmate
2 took place.

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

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

13 When the Department seeks to revoke, suspend or reduce the
14 rate of accumulation of any good conduct credits for an alleged
15 infraction of its rules, it shall bring charges therefor
16 against the prisoner sought to be so deprived of good conduct
17 credits before the Prisoner Review Board as provided in
18 subparagraph (a)(4) of Section 3-3-2 of this Code, if the
19 amount of credit at issue exceeds 30 days or when during any 12
20 month period, the cumulative amount of credit revoked exceeds
21 30 days except where the infraction is committed or discovered
22 within 60 days of scheduled release. In those cases, the
23 Department of Corrections may revoke up to 30 days of good
24 conduct credit. The Board may subsequently approve the
25 revocation of additional good conduct credit, if the Department
26 seeks to revoke good conduct credit in excess of 30 days.

1 However, the Board shall not be empowered to review the
2 Department's decision with respect to the loss of 30 days of
3 good conduct credit within any calendar year for any prisoner
4 or to increase any penalty beyond the length requested by the
5 Department.

6 The Director of the Department of Corrections, in
7 appropriate cases, may restore up to 30 days good conduct
8 credits which have been revoked, suspended or reduced. Any
9 restoration of good conduct credits in excess of 30 days shall
10 be subject to review by the Prisoner Review Board. However, the
11 Board may not restore good conduct credit in excess of the
12 amount requested by the Director.

13 Nothing contained in this Section shall prohibit the
14 Prisoner Review Board from ordering, pursuant to Section
15 3-3-9(a)(3)(i)(B), that a prisoner serve up to one year of the
16 sentence imposed by the court that was not served due to the
17 accumulation of good conduct credit.

18 (d) If a lawsuit is filed by a prisoner in an Illinois or
19 federal court against the State, the Department of Corrections,
20 or the Prisoner Review Board, or against any of their officers
21 or employees, and the court makes a specific finding that a
22 pleading, motion, or other paper filed by the prisoner is
23 frivolous, the Department of Corrections shall conduct a
24 hearing to revoke up to 180 days of good conduct credit by
25 bringing charges against the prisoner sought to be deprived of
26 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

1 warranted on the evidence, or if specifically so
2 identified, are not reasonably based on a lack of
3 information or belief.

4 (2) "Lawsuit" means a motion pursuant to Section 116-3
5 of the Code of Criminal Procedure of 1963, a habeas corpus
6 action under Article X of the Code of Civil Procedure or
7 under federal law (28 U.S.C. 2254), a petition for claim
8 under the Court of Claims Act, an action under the federal
9 Civil Rights Act (42 U.S.C. 1983), or a second or
10 subsequent petition for post-conviction relief under
11 Article 122 of the Code of Criminal Procedure of 1963
12 whether filed with or without leave of court or a second or
13 subsequent petition for relief from judgment under Section
14 2-1401 of the Code of Civil Procedure.

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

17 (f) Whenever the Department is to release any inmate who
18 has been convicted of a violation of an order of protection
19 under Section 12-30 of the Criminal Code of 1961, earlier than
20 it otherwise would because of a grant of good conduct credit,
21 the Department, as a condition of such early release, shall
22 require that the person, upon release, be placed under
23 electronic surveillance as provided in Section 5-8A-7 of this
24 Code.

25 (Source: P.A. 94-71, eff. 6-23-05; 94-128, eff. 7-7-05; 94-156,
26 eff. 7-8-05; 94-398, eff. 8-2-05; 94-491, eff. 8-8-05; 94-744,

1 eff. 5-8-06; 95-134, eff. 8-13-07; 95-585, eff. 6-1-08; 95-625,
2 eff. 6-1-08; 95-640, eff. 6-1-08; 95-773, eff. 1-1-09; 95-876,
3 eff. 8-21-08.)

4 (730 ILCS 5/3-8-10) (from Ch. 38, par. 1003-8-10)

5 Sec. 3-8-10. Intrastate Detainers. ~~Except for persons~~
6 ~~sentenced to death,~~ Subsection (b), (c) and (e) of Section
7 103-5 of the Code of Criminal Procedure of 1963 shall also
8 apply to persons committed to any institution or facility or
9 program of the Illinois Department of Corrections who have
10 untried complaints, charges or indictments pending in any
11 county of this State, and such person shall include in the
12 demand under subsection (b), a statement of the place of
13 present commitment, the term, and length of the remaining term,
14 the charges pending against him or her to be tried and the
15 county of the charges, and the demand shall be addressed to the
16 state's attorney of the county where he or she is charged with
17 a copy to the clerk of that court and a copy to the chief
18 administrative officer of the Department of Corrections
19 institution or facility to which he or she is committed. The
20 state's attorney shall then procure the presence of the
21 defendant for trial in his county by habeas corpus. Additional
22 time may be granted by the court for the process of bringing
23 and serving an order of habeas corpus ad prosequendum. In the
24 event that the person is not brought to trial within the
25 allotted time, then the charge for which he or she has

1 requested a speedy trial shall be dismissed.

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

3 (730 ILCS 5/5-1-9) (from Ch. 38, par. 1005-1-9)

4 Sec. 5-1-9. 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. 77-2097.)

9 (730 ILCS 5/5-4-1) (from Ch. 38, par. 1005-4-1)

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

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

1 order approve an eligible defendant for placement in a
2 Department of Corrections impact incarceration program as
3 provided in Section 5-8-1.1 or 5-8-1.3. The court may in its
4 sentencing order recommend a defendant for placement in a
5 Department of Corrections substance abuse treatment program as
6 provided in paragraph (a) of subsection (1) of Section 3-2-2
7 conditioned upon the defendant being accepted in a program by
8 the Department of Corrections. At the hearing the court shall:

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

11 (2) consider any presentence reports;

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

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

17 (4.5) consider substance abuse treatment, eligibility
18 screening, and an assessment, if any, of the defendant by
19 an agent designated by the State of Illinois to provide
20 assessment services for the Illinois courts;

21 (5) hear arguments as to sentencing alternatives;

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

24 (7) afford the victim of a violent crime or a violation
25 of Section 11-501 of the Illinois Vehicle Code, or a
26 similar provision of a local ordinance, or a qualified

1 individual affected by: (i) a violation of Section 405,
2 405.1, 405.2, or 407 of the Illinois Controlled Substances
3 Act or a violation of Section 55 or Section 65 of the
4 Methamphetamine Control and Community Protection Act, or
5 (ii) a Class 4 felony violation of Section 11-14, 11-15,
6 11-17, 11-18, 11-18.1, or 11-19 of the Criminal Code of
7 1961, committed by the defendant the opportunity to make a
8 statement concerning the impact on the victim and to offer
9 evidence in aggravation or mitigation; provided that the
10 statement and evidence offered in aggravation or
11 mitigation must first be prepared in writing in conjunction
12 with the State's Attorney before it may be presented orally
13 at the hearing. Any sworn testimony offered by the victim
14 is subject to the defendant's right to cross-examine. All
15 statements and evidence offered under this paragraph (7)
16 shall become part of the record of the court. For the
17 purpose of this paragraph (7), "qualified individual"
18 means any person who (i) lived or worked within the
19 territorial jurisdiction where the offense took place when
20 the offense took place; and (ii) is familiar with various
21 public places within the territorial jurisdiction where
22 the offense took place when the offense took place. For the
23 purposes of this paragraph (7), "qualified individual"
24 includes any peace officer, or any member of any duly
25 organized State, county, or municipal peace unit assigned
26 to the territorial jurisdiction where the offense took

1 place when the offense took place;

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

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

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

20 (c) In imposing a sentence for a violent crime or for an
21 offense of operating or being in physical control of a vehicle
22 while under the influence of alcohol, any other drug or any
23 combination thereof, or a similar provision of a local
24 ordinance, when such offense resulted in the personal injury to
25 someone other than the defendant, the trial judge shall specify
26 on the record the particular evidence, information, factors in

1 mitigation and aggravation or other reasons that led to his
2 sentencing determination. The full verbatim record of the
3 sentencing hearing shall be filed with the clerk of the court
4 and shall be a public record.

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

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

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

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

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

1 after July 27, 2001 (the effective date of Public Act 92-176),
2 the judge's statement, to be given after pronouncing the
3 sentence, shall include the following:

4 "The purpose of this statement is to inform the public of
5 the actual period of time this defendant is likely to spend in
6 prison as a result of this sentence. The actual period of
7 prison time served is determined by the statutes of Illinois as
8 applied to this sentence by the Illinois Department of
9 Corrections and the Illinois Prisoner Review Board. In this
10 case, assuming the defendant receives all of his or her good
11 conduct credit, the period of estimated actual custody is ...
12 years and ... months, less up to 90 days additional good
13 conduct credit for meritorious service. If the defendant,
14 because of his or her own misconduct or failure to comply with
15 the institutional regulations, does not receive those credits,
16 the actual time served in prison will be longer. The defendant
17 may also receive an additional one-half day good conduct credit
18 for each day of participation in vocational, industry,
19 substance abuse, and educational programs as provided for by
20 Illinois statute."

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

1 January 1, 1999, and when the sentence is imposed for
2 aggravated driving under the influence of alcohol, other drug
3 or drugs, or intoxicating compound or compounds, or any
4 combination thereof as defined in subparagraph (F) of paragraph
5 (1) of subsection (d) of Section 11-501 of the Illinois Vehicle
6 Code, and when the sentence is imposed for aggravated arson if
7 the offense was committed on or after July 27, 2001 (the
8 effective date of Public Act 92-176), the judge's statement, to
9 be given after pronouncing the sentence, shall include the
10 following:

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

26 When a sentence of imprisonment is imposed for first degree

1 murder and the offense was committed on or after June 19, 1998,
2 the judge's statement, to be given after pronouncing the
3 sentence, shall include the following:

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

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

21 "The purpose of this statement is to inform the public of
22 the actual period of time this defendant is likely to spend in
23 prison as a result of this sentence. The actual period of
24 prison time served is determined by the statutes of Illinois as
25 applied to this sentence by the Illinois Department of
26 Corrections and the Illinois Prisoner Review Board. In this

1 case, the defendant shall receive no good conduct credit under
2 clause (3) of subsection (a) of Section 3-6-3 until he or she
3 participates in and completes a substance abuse treatment
4 program or receives a waiver from the Director of Corrections
5 pursuant to clause (4.5) of subsection (a) of Section 3-6-3."

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

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

- 26 (1) the sentence imposed;

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

3 (3) any presentence reports;

4 (3.5) any sex offender evaluations;

5 (3.6) any substance abuse treatment eligibility
6 screening and assessment of the defendant by an agent
7 designated by the State of Illinois to provide assessment
8 services for the Illinois courts;

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

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

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

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

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

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

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

1 (Source: P.A. 94-156, eff. 7-8-05; 94-556, eff. 9-11-05;
2 95-331, eff. 8-21-07.)

3 (730 ILCS 5/5-4-3) (from Ch. 38, par. 1005-4-3)

4 Sec. 5-4-3. Persons convicted of, or found delinquent for,
5 certain offenses or institutionalized as sexually dangerous;
6 specimens; genetic marker groups.

7 (a) Any person convicted of, found guilty under the
8 Juvenile Court Act of 1987 for, or who received a disposition
9 of court supervision for, a qualifying offense or attempt of a
10 qualifying offense, convicted or found guilty of any offense
11 classified as a felony under Illinois law, convicted or found
12 guilty of any offense requiring registration under the Sex
13 Offender Registration Act, found guilty or given supervision
14 for any offense classified as a felony under the Juvenile Court
15 Act of 1987, convicted or found guilty of, under the Juvenile
16 Court Act of 1987, any offense requiring registration under the
17 Sex Offender Registration Act, or institutionalized as a
18 sexually dangerous person under the Sexually Dangerous Persons
19 Act, or committed as a sexually violent person under the
20 Sexually Violent Persons Commitment Act shall, regardless of
21 the sentence or disposition imposed, be required to submit
22 specimens of blood, saliva, or tissue to the Illinois
23 Department of State Police in accordance with the provisions of
24 this Section, provided such person is:

25 (1) convicted of a qualifying offense or attempt of a

1 qualifying offense on or after July 1, 1990 and sentenced
2 to a term of imprisonment, periodic imprisonment, fine,
3 probation, conditional discharge or any other form of
4 sentence, or given a disposition of court supervision for
5 the offense;

6 (1.5) found guilty or given supervision under the
7 Juvenile Court Act of 1987 for a qualifying offense or
8 attempt of a qualifying offense on or after January 1,
9 1997;

10 (2) ordered institutionalized as a sexually dangerous
11 person on or after July 1, 1990;

12 (3) convicted of a qualifying offense or attempt of a
13 qualifying offense before July 1, 1990 and is presently
14 confined as a result of such conviction in any State
15 correctional facility or county jail or is presently
16 serving a sentence of probation, conditional discharge or
17 periodic imprisonment as a result of such conviction;

18 (3.5) convicted or found guilty of any offense
19 classified as a felony under Illinois law or found guilty
20 or given supervision for such an offense under the Juvenile
21 Court Act of 1987 on or after August 22, 2002;

22 (4) presently institutionalized as a sexually
23 dangerous person or presently institutionalized as a
24 person found guilty but mentally ill of a sexual offense or
25 attempt to commit a sexual offense;

26 (4.5) ordered committed as a sexually violent person on

1 or after the effective date of the Sexually Violent Persons
2 Commitment Act; or

3 (5) seeking transfer to or residency in Illinois under
4 Sections 3-3-11.05 through 3-3-11.5 of the Unified Code of
5 Corrections and the Interstate Compact for Adult Offender
6 Supervision or the Interstate Agreements on Sexually
7 Dangerous Persons Act.

8 Notwithstanding other provisions of this Section, any
9 person incarcerated in a facility of the Illinois Department of
10 Corrections on or after August 22, 2002 shall be required to
11 submit a specimen of blood, saliva, or tissue prior to his or
12 her final discharge or release on parole or mandatory
13 supervised release, as a condition of his or her parole or
14 mandatory supervised release.

15 Notwithstanding other provisions of this Section, any
16 person sentenced to life imprisonment in a facility of the
17 Illinois Department of Corrections after the effective date of
18 this amendatory Act of the 94th General Assembly or sentenced
19 to death after the effective date of this amendatory Act of the
20 94th General Assembly and before the effective date of this
21 amendatory Act of the 96th General Assembly shall be required
22 to provide a specimen of blood, saliva, or tissue within 45
23 days after sentencing or disposition at a collection site
24 designated by the Illinois Department of State Police. Any
25 person serving a sentence of life imprisonment in a facility of
26 the Illinois Department of Corrections on the effective date of

1 this amendatory Act of the 94th General Assembly or any person
2 who is under a sentence of death on the effective date of this
3 amendatory Act of the 94th General Assembly and before the
4 effective date of this amendatory Act of the 96th General
5 Assembly shall be required to provide a specimen of blood,
6 saliva, or tissue upon request at a collection site designated
7 by the Illinois Department of State Police.

8 (a-5) Any person who was otherwise convicted of or received
9 a disposition of court supervision for any other offense under
10 the Criminal Code of 1961 or who was found guilty or given
11 supervision for such a violation under the Juvenile Court Act
12 of 1987, may, regardless of the sentence imposed, be required
13 by an order of the court to submit specimens of blood, saliva,
14 or tissue to the Illinois Department of State Police in
15 accordance with the provisions of this Section.

16 (b) Any person required by paragraphs (a)(1), (a)(1.5),
17 (a)(2), (a)(3.5), and (a-5) to provide specimens of blood,
18 saliva, or tissue shall provide specimens of blood, saliva, or
19 tissue within 45 days after sentencing or disposition at a
20 collection site designated by the Illinois Department of State
21 Police.

22 (c) Any person required by paragraphs (a)(3), (a)(4), and
23 (a)(4.5) to provide specimens of blood, saliva, or tissue shall
24 be required to provide such samples prior to final discharge,
25 parole, or release at a collection site designated by the
26 Illinois Department of State Police.

1 (c-5) Any person required by paragraph (a)(5) to provide
2 specimens of blood, saliva, or tissue shall, where feasible, be
3 required to provide the specimens before being accepted for
4 conditioned residency in Illinois under the interstate compact
5 or agreement, but no later than 45 days after arrival in this
6 State.

7 (c-6) The Illinois Department of State Police may determine
8 which type of specimen or specimens, blood, saliva, or tissue,
9 is acceptable for submission to the Division of Forensic
10 Services for analysis.

11 (d) The Illinois Department of State Police shall provide
12 all equipment and instructions necessary for the collection of
13 blood samples. The collection of samples shall be performed in
14 a medically approved manner. Only a physician authorized to
15 practice medicine, a registered nurse or other qualified person
16 trained in venipuncture may withdraw blood for the purposes of
17 this Act. The samples shall thereafter be forwarded to the
18 Illinois Department of State Police, Division of Forensic
19 Services, for analysis and categorizing into genetic marker
20 groupings.

21 (d-1) The Illinois Department of State Police shall provide
22 all equipment and instructions necessary for the collection of
23 saliva samples. The collection of saliva samples shall be
24 performed in a medically approved manner. Only a person trained
25 in the instructions promulgated by the Illinois State Police on
26 collecting saliva may collect saliva for the purposes of this

1 Section. The samples shall thereafter be forwarded to the
2 Illinois Department of State Police, Division of Forensic
3 Services, for analysis and categorizing into genetic marker
4 groupings.

5 (d-2) The Illinois Department of State Police shall provide
6 all equipment and instructions necessary for the collection of
7 tissue samples. The collection of tissue samples shall be
8 performed in a medically approved manner. Only a person trained
9 in the instructions promulgated by the Illinois State Police on
10 collecting tissue may collect tissue for the purposes of this
11 Section. The samples shall thereafter be forwarded to the
12 Illinois Department of State Police, Division of Forensic
13 Services, for analysis and categorizing into genetic marker
14 groupings.

15 (d-5) To the extent that funds are available, the Illinois
16 Department of State Police shall contract with qualified
17 personnel and certified laboratories for the collection,
18 analysis, and categorization of known samples.

19 (d-6) Agencies designated by the Illinois Department of
20 State Police and the Illinois Department of State Police may
21 contract with third parties to provide for the collection or
22 analysis of DNA, or both, of an offender's blood, saliva, and
23 tissue samples.

24 (e) The genetic marker groupings shall be maintained by the
25 Illinois Department of State Police, Division of Forensic
26 Services.

1 (f) The genetic marker grouping analysis information
2 obtained pursuant to this Act shall be confidential and shall
3 be released only to peace officers of the United States, of
4 other states or territories, of the insular possessions of the
5 United States, of foreign countries duly authorized to receive
6 the same, to all peace officers of the State of Illinois and to
7 all prosecutorial agencies, and to defense counsel as provided
8 by Section 116-5 of the Code of Criminal Procedure of 1963. The
9 genetic marker grouping analysis information obtained pursuant
10 to this Act shall be used only for (i) valid law enforcement
11 identification purposes and as required by the Federal Bureau
12 of Investigation for participation in the National DNA
13 database, (ii) technology validation purposes, (iii) a
14 population statistics database, (iv) quality assurance
15 purposes if personally identifying information is removed, (v)
16 assisting in the defense of the criminally accused pursuant to
17 Section 116-5 of the Code of Criminal Procedure of 1963, or
18 (vi) identifying and assisting in the prosecution of a person
19 who is suspected of committing a sexual assault as defined in
20 Section 1a of the Sexual Assault Survivors Emergency Treatment
21 Act. Notwithstanding any other statutory provision to the
22 contrary, all information obtained under this Section shall be
23 maintained in a single State data base, which may be uploaded
24 into a national database, and which information may be subject
25 to expungement only as set forth in subsection (f-1).

26 (f-1) Upon receipt of notification of a reversal of a

1 conviction based on actual innocence, or of the granting of a
2 pardon pursuant to Section 12 of Article V of the Illinois
3 Constitution, if that pardon document specifically states that
4 the reason for the pardon is the actual innocence of an
5 individual whose DNA record has been stored in the State or
6 national DNA identification index in accordance with this
7 Section by the Illinois Department of State Police, the DNA
8 record shall be expunged from the DNA identification index, and
9 the Department shall by rule prescribe procedures to ensure
10 that the record and any samples, analyses, or other documents
11 relating to such record, whether in the possession of the
12 Department or any law enforcement or police agency, or any
13 forensic DNA laboratory, including any duplicates or copies
14 thereof, are destroyed and a letter is sent to the court
15 verifying the expungement is completed.

16 (f-5) Any person who intentionally uses genetic marker
17 grouping analysis information, or any other information
18 derived from a DNA sample, beyond the authorized uses as
19 provided under this Section, or any other Illinois law, is
20 guilty of a Class 4 felony, and shall be subject to a fine of
21 not less than \$5,000.

22 (f-6) The Illinois Department of State Police may contract
23 with third parties for the purposes of implementing this
24 amendatory Act of the 93rd General Assembly. Any other party
25 contracting to carry out the functions of this Section shall be
26 subject to the same restrictions and requirements of this

1 Section insofar as applicable, as the Illinois Department of
2 State Police, and to any additional restrictions imposed by the
3 Illinois Department of State Police.

4 (g) For the purposes of this Section, "qualifying offense"
5 means any of the following:

6 (1) any violation or inchoate violation of Section
7 11-6, 11-9.1, 11-11, 11-18.1, 12-15, or 12-16 of the
8 Criminal Code of 1961;

9 (1.1) any violation or inchoate violation of Section
10 9-1, 9-2, 10-1, 10-2, 12-11, 12-11.1, 18-1, 18-2, 18-3,
11 18-4, 19-1, or 19-2 of the Criminal Code of 1961 for which
12 persons are convicted on or after July 1, 2001;

13 (2) any former statute of this State which defined a
14 felony sexual offense;

15 (3) (blank);

16 (4) any inchoate violation of Section 9-3.1, 11-9.3,
17 12-7.3, or 12-7.4 of the Criminal Code of 1961; or

18 (5) any violation or inchoate violation of Article 29D
19 of the Criminal Code of 1961.

20 (g-5) (Blank).

21 (h) The Illinois Department of State Police shall be the
22 State central repository for all genetic marker grouping
23 analysis information obtained pursuant to this Act. The
24 Illinois Department of State Police may promulgate rules for
25 the form and manner of the collection of blood, saliva, or
26 tissue samples and other procedures for the operation of this

1 Act. The provisions of the Administrative Review Law shall
2 apply to all actions taken under the rules so promulgated.

3 (i) (1) A person required to provide a blood, saliva, or
4 tissue specimen shall cooperate with the collection of the
5 specimen and any deliberate act by that person intended to
6 impede, delay or stop the collection of the blood, saliva,
7 or tissue specimen is a Class A misdemeanor.

8 (2) In the event that a person's DNA sample is not
9 adequate for any reason, the person shall provide another
10 DNA sample for analysis. Duly authorized law enforcement
11 and corrections personnel may employ reasonable force in
12 cases in which an individual refuses to provide a DNA
13 sample required under this Act.

14 (j) Any person required by subsection (a) to submit
15 specimens of blood, saliva, or tissue to the Illinois
16 Department of State Police for analysis and categorization into
17 genetic marker grouping, in addition to any other disposition,
18 penalty, or fine imposed, shall pay an analysis fee of \$200. If
19 the analysis fee is not paid at the time of sentencing, the
20 court shall establish a fee schedule by which the entire amount
21 of the analysis fee shall be paid in full, such schedule not to
22 exceed 24 months from the time of conviction. The inability to
23 pay this analysis fee shall not be the sole ground to
24 incarcerate the person.

25 (k) All analysis and categorization fees provided for by
26 subsection (j) shall be regulated as follows:

1 (1) The State Offender DNA Identification System Fund
2 is hereby created as a special fund in the State Treasury.

3 (2) All fees shall be collected by the clerk of the
4 court and forwarded to the State Offender DNA
5 Identification System Fund for deposit. The clerk of the
6 circuit court may retain the amount of \$10 from each
7 collected analysis fee to offset administrative costs
8 incurred in carrying out the clerk's responsibilities
9 under this Section.

10 (3) Fees deposited into the State Offender DNA
11 Identification System Fund shall be used by Illinois State
12 Police crime laboratories as designated by the Director of
13 State Police. These funds shall be in addition to any
14 allocations made pursuant to existing laws and shall be
15 designated for the exclusive use of State crime
16 laboratories. These uses may include, but are not limited
17 to, the following:

18 (A) Costs incurred in providing analysis and
19 genetic marker categorization as required by
20 subsection (d).

21 (B) Costs incurred in maintaining genetic marker
22 groupings as required by subsection (e).

23 (C) Costs incurred in the purchase and maintenance
24 of equipment for use in performing analyses.

25 (D) Costs incurred in continuing research and
26 development of new techniques for analysis and genetic

1 marker categorization.

2 (E) Costs incurred in continuing education,
3 training, and professional development of forensic
4 scientists regularly employed by these laboratories.

5 (1) The failure of a person to provide a specimen, or of
6 any person or agency to collect a specimen, within the 45 day
7 period shall in no way alter the obligation of the person to
8 submit such specimen, or the authority of the Illinois
9 Department of State Police or persons designated by the
10 Department to collect the specimen, or the authority of the
11 Illinois Department of State Police to accept, analyze and
12 maintain the specimen or to maintain or upload results of
13 genetic marker grouping analysis information into a State or
14 national database.

15 (m) If any provision of this amendatory Act of the 93rd
16 General Assembly is held unconstitutional or otherwise
17 invalid, the remainder of this amendatory Act of the 93rd
18 General Assembly is not affected.

19 (Source: P.A. 93-216, eff. 1-1-04; 93-605, eff. 11-19-03;
20 93-781, eff. 1-1-05; 94-16, eff. 6-13-05; 94-1018, eff.
21 1-1-07.)

22 (730 ILCS 5/5-5-3) (from Ch. 38, par. 1005-5-3)
23 Sec. 5-5-3. Disposition.

24 (a) Except as provided in Section 11-501 of the Illinois
25 Vehicle Code, every person convicted of an offense shall be

1 sentenced as provided in this Section.

2 (b) The following options shall be appropriate
3 dispositions, alone or in combination, for all felonies and
4 misdemeanors other than those identified in subsection (c) of
5 this Section:

6 (1) A period of probation.

7 (2) A term of periodic imprisonment.

8 (3) A term of conditional discharge.

9 (4) A term of imprisonment.

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

14 (6) A fine.

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

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

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

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

26 (c) (1) When a defendant is found guilty of first degree

1 murder the defendant shall be sentenced to a term of State
2 ~~may either seek a sentence of~~ imprisonment under Section
3 5-8-1 of this Code, ~~or where appropriate seek a sentence of~~
4 ~~death under Section 9-1 of the Criminal Code of 1961.~~

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

12 (A) First degree murder ~~where the death penalty is~~
13 ~~not imposed.~~

14 (B) Attempted first degree murder.

15 (C) A Class X felony.

16 (D) A violation of Section 401.1 or 407 of the
17 Illinois Controlled Substances Act, or a violation of
18 subdivision (c)(1), (c)(1.5), or (c)(2) of Section 401
19 of that Act which relates to more than 5 grams of a
20 substance containing heroin, cocaine, fentanyl, or an
21 analog thereof.

22 (E) A violation of Section 5.1 or 9 of the Cannabis
23 Control Act.

24 (F) A Class 2 or greater felony if the offender had
25 been convicted of a Class 2 or greater felony within 10
26 years of the date on which the offender committed the

1 offense for which he or she is being sentenced, except
2 as otherwise provided in Section 40-10 of the
3 Alcoholism and Other Drug Abuse and Dependency Act.

4 (F-5) A violation of Section 24-1, 24-1.1, or
5 24-1.6 of the Criminal Code of 1961 for which
6 imprisonment is prescribed in those Sections.

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

10 (H) Criminal sexual assault.

11 (I) Aggravated battery of a senior citizen.

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

14 Before July 1, 1994, for the purposes of this
15 paragraph, "organized gang" means an association of 5
16 or more persons, with an established hierarchy, that
17 encourages members of the association to perpetrate
18 crimes or provides support to the members of the
19 association who do commit crimes.

20 Beginning July 1, 1994, for the purposes of this
21 paragraph, "organized gang" has the meaning ascribed
22 to it in Section 10 of the Illinois Streetgang
23 Terrorism Omnibus Prevention Act.

24 (K) Vehicular hijacking.

25 (L) A second or subsequent conviction for the
26 offense of hate crime when the underlying offense upon

1 which the hate crime is based is felony aggravated
2 assault or felony mob action.

3 (M) A second or subsequent conviction for the
4 offense of institutional vandalism if the damage to the
5 property exceeds \$300.

6 (N) A Class 3 felony violation of paragraph (1) of
7 subsection (a) of Section 2 of the Firearm Owners
8 Identification Card Act.

9 (O) A violation of Section 12-6.1 of the Criminal
10 Code of 1961.

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

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

16 (R) A violation of Section 24-3A of the Criminal
17 Code of 1961.

18 (S) (Blank).

19 (T) A second or subsequent violation of the
20 Methamphetamine Control and Community Protection Act.

21 (U) A second or subsequent violation of Section
22 6-303 of the Illinois Vehicle Code committed while his
23 or her driver's license, permit, or privilege was
24 revoked because of a violation of Section 9-3 of the
25 Criminal Code of 1961, relating to the offense of
26 reckless homicide, or a similar provision of a law of

1 another state.

2 (V) A violation of paragraph (4) of subsection (c)
3 of Section 11-20.3 of the Criminal Code of 1961.

4 (W) A violation of Section 24-3.5 of the Criminal
5 Code of 1961.

6 (3) (Blank).

7 (4) A minimum term of imprisonment of not less than 10
8 consecutive days or 30 days of community service shall be
9 imposed for a violation of paragraph (c) of Section 6-303
10 of the Illinois Vehicle Code.

11 (4.1) (Blank).

12 (4.2) Except as provided in paragraphs (4.3) and (4.8)
13 of this subsection (c), a minimum of 100 hours of community
14 service shall be imposed for a second violation of Section
15 6-303 of the Illinois Vehicle Code.

16 (4.3) A minimum term of imprisonment of 30 days or 300
17 hours of community service, as determined by the court,
18 shall be imposed for a second violation of subsection (c)
19 of Section 6-303 of the Illinois Vehicle Code.

20 (4.4) Except as provided in paragraphs (4.5), (4.6),
21 and (4.9) of this subsection (c), a minimum term of
22 imprisonment of 30 days or 300 hours of community service,
23 as determined by the court, shall be imposed for a third or
24 subsequent violation of Section 6-303 of the Illinois
25 Vehicle Code.

26 (4.5) A minimum term of imprisonment of 30 days shall

1 be imposed for a third violation of subsection (c) of
2 Section 6-303 of the Illinois Vehicle Code.

3 (4.6) Except as provided in paragraph (4.10) of this
4 subsection (c), a minimum term of imprisonment of 180 days
5 shall be imposed for a fourth or subsequent violation of
6 subsection (c) of Section 6-303 of the Illinois Vehicle
7 Code.

8 (4.7) A minimum term of imprisonment of not less than
9 30 consecutive days, or 300 hours of community service,
10 shall be imposed for a violation of subsection (a-5) of
11 Section 6-303 of the Illinois Vehicle Code, as provided in
12 subsection (b-5) of that Section.

13 (4.8) A mandatory prison sentence shall be imposed for
14 a second violation of subsection (a-5) of Section 6-303 of
15 the Illinois Vehicle Code, as provided in subsection (c-5)
16 of that Section. The person's driving privileges shall be
17 revoked for a period of not less than 5 years from the date
18 of his or her release from prison.

19 (4.9) A mandatory prison sentence of not less than 4
20 and not more than 15 years shall be imposed for a third
21 violation of subsection (a-5) of Section 6-303 of the
22 Illinois Vehicle Code, as provided in subsection (d-2.5) of
23 that Section. The person's driving privileges shall be
24 revoked for the remainder of his or her life.

25 (4.10) A mandatory prison sentence for a Class 1 felony
26 shall be imposed, and the person shall be eligible for an

1 extended term sentence, for a fourth or subsequent
2 violation of subsection (a-5) of Section 6-303 of the
3 Illinois Vehicle Code, as provided in subsection (d-3.5) of
4 that Section. The person's driving privileges shall be
5 revoked for the remainder of his or her life.

6 (5) The court may sentence an offender convicted of a
7 business offense or a petty offense or a corporation or
8 unincorporated association convicted of any offense to:

9 (A) a period of conditional discharge;

10 (B) a fine;

11 (C) make restitution to the victim under Section
12 5-5-6 of this Code.

13 (5.1) In addition to any penalties imposed under
14 paragraph (5) of this subsection (c), and except as
15 provided in paragraph (5.2) or (5.3), a person convicted of
16 violating subsection (c) of Section 11-907 of the Illinois
17 Vehicle Code shall have his or her driver's license,
18 permit, or privileges suspended for at least 90 days but
19 not more than one year, if the violation resulted in damage
20 to the property of another person.

21 (5.2) In addition to any penalties imposed under
22 paragraph (5) of this subsection (c), and except as
23 provided in paragraph (5.3), a person convicted of
24 violating subsection (c) of Section 11-907 of the Illinois
25 Vehicle Code shall have his or her driver's license,
26 permit, or privileges suspended for at least 180 days but

1 not more than 2 years, if the violation resulted in injury
2 to another person.

3 (5.3) In addition to any penalties imposed under
4 paragraph (5) of this subsection (c), a person convicted of
5 violating subsection (c) of Section 11-907 of the Illinois
6 Vehicle Code shall have his or her driver's license,
7 permit, or privileges suspended for 2 years, if the
8 violation resulted in the death of another person.

9 (5.4) In addition to any penalties imposed under
10 paragraph (5) of this subsection (c), a person convicted of
11 violating Section 3-707 of the Illinois Vehicle Code shall
12 have his or her driver's license, permit, or privileges
13 suspended for 3 months and until he or she has paid a
14 reinstatement fee of \$100.

15 (5.5) In addition to any penalties imposed under
16 paragraph (5) of this subsection (c), a person convicted of
17 violating Section 3-707 of the Illinois Vehicle Code during
18 a period in which his or her driver's license, permit, or
19 privileges were suspended for a previous violation of that
20 Section shall have his or her driver's license, permit, or
21 privileges suspended for an additional 6 months after the
22 expiration of the original 3-month suspension and until he
23 or she has paid a reinstatement fee of \$100.

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

1 probation or conditional discharge for a felony.

2 (7) When a defendant is adjudged a habitual criminal
3 under Article 33B of the Criminal Code of 1961, the court
4 shall sentence the defendant to a term of natural life
5 imprisonment.

6 (8) When a defendant, over the age of 21 years, is
7 convicted of a Class 1 or Class 2 felony, after having
8 twice been convicted in any state or federal court of an
9 offense that contains the same elements as an offense now
10 classified in Illinois as a Class 2 or greater Class felony
11 and such charges are separately brought and tried and arise
12 out of different series of acts, such defendant shall be
13 sentenced as a Class X offender. This paragraph shall not
14 apply unless (1) the first felony was committed after the
15 effective date of this amendatory Act of 1977; and (2) the
16 second felony was committed after conviction on the first;
17 and (3) the third felony was committed after conviction on
18 the second. A person sentenced as a Class X offender under
19 this paragraph is not eligible to apply for treatment as a
20 condition of probation as provided by Section 40-10 of the
21 Alcoholism and Other Drug Abuse and Dependency Act.

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

25 (10) (Blank).

26 (11) The court shall impose a minimum fine of \$1,000

1 for a first offense and \$2,000 for a second or subsequent
2 offense upon a person convicted of or placed on supervision
3 for battery when the individual harmed was a sports
4 official or coach at any level of competition and the act
5 causing harm to the sports official or coach occurred
6 within an athletic facility or within the immediate
7 vicinity of the athletic facility at which the sports
8 official or coach was an active participant of the athletic
9 contest held at the athletic facility. For the purposes of
10 this paragraph (11), "sports official" means a person at an
11 athletic contest who enforces the rules of the contest,
12 such as an umpire or referee; "athletic facility" means an
13 indoor or outdoor playing field or recreational area where
14 sports activities are conducted; and "coach" means a person
15 recognized as a coach by the sanctioning authority that
16 conducted the sporting event.

17 (12) A person may not receive a disposition of court
18 supervision for a violation of Section 5-16 of the Boat
19 Registration and Safety Act if that person has previously
20 received a disposition of court supervision for a violation
21 of that Section.

22 (13) A person convicted of or placed on court
23 supervision for an assault or aggravated assault when the
24 victim and the offender are family or household members as
25 defined in Section 103 of the Illinois Domestic Violence
26 Act of 1986 or convicted of domestic battery or aggravated

1 domestic battery may be required to attend a Partner Abuse
2 Intervention Program under protocols set forth by the
3 Illinois Department of Human Services under such terms and
4 conditions imposed by the court. The costs of such classes
5 shall be paid by the offender.

6 (d) In any case in which a sentence originally imposed is
7 vacated, the case shall be remanded to the trial court. The
8 trial court shall hold a hearing under Section 5-4-1 of the
9 Unified Code of Corrections which may include evidence of the
10 defendant's life, moral character and occupation during the
11 time since the original sentence was passed. The trial court
12 shall then impose sentence upon the defendant. The trial court
13 may impose any sentence which could have been imposed at the
14 original trial subject to Section 5-5-4 of the Unified Code of
15 Corrections. If a sentence is vacated on appeal or on
16 collateral attack due to the failure of the trier of fact at
17 trial to determine beyond a reasonable doubt the existence of a
18 fact (other than a prior conviction) necessary to increase the
19 punishment for the offense beyond the statutory maximum
20 otherwise applicable, either the defendant may be re-sentenced
21 to a term within the range otherwise provided or, if the State
22 files notice of its intention to again seek the extended
23 sentence, the defendant shall be afforded a new trial.

24 (e) In cases where prosecution for aggravated criminal
25 sexual abuse under Section 12-16 of the Criminal Code of 1961
26 results in conviction of a defendant who was a family member of

1 the victim at the time of the commission of the offense, the
2 court shall consider the safety and welfare of the victim and
3 may impose a sentence of probation only where:

4 (1) the court finds (A) or (B) or both are appropriate:

5 (A) the defendant is willing to undergo a court
6 approved counseling program for a minimum duration of 2
7 years; or

8 (B) the defendant is willing to participate in a
9 court approved plan including but not limited to the
10 defendant's:

11 (i) removal from the household;

12 (ii) restricted contact with the victim;

13 (iii) continued financial support of the
14 family;

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

16 and

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

19 (2) the court orders the defendant to pay for the
20 victim's counseling services, to the extent that the court
21 finds, after considering the defendant's income and
22 assets, that the defendant is financially capable of paying
23 for such services, if the victim was under 18 years of age
24 at the time the offense was committed and requires
25 counseling as a result of the offense.

26 Probation may be revoked or modified pursuant to Section

1 5-6-4; except where the court determines at the hearing that
2 the defendant violated a condition of his or her probation
3 restricting contact with the victim or other family members or
4 commits another offense with the victim or other family
5 members, the court shall revoke the defendant's probation and
6 impose a term of imprisonment.

7 For the purposes of this Section, "family member" and
8 "victim" shall have the meanings ascribed to them in Section
9 12-12 of the Criminal Code of 1961.

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

14 (g) Whenever a defendant is convicted of an offense under
15 Sections 11-14, 11-15, 11-15.1, 11-16, 11-17, 11-18, 11-18.1,
16 11-19, 11-19.1, 11-19.2, 12-13, 12-14, 12-14.1, 12-15 or 12-16
17 of the Criminal Code of 1961, the defendant shall undergo
18 medical testing to determine whether the defendant has any
19 sexually transmissible disease, including a test for infection
20 with human immunodeficiency virus (HIV) or any other identified
21 causative agent of acquired immunodeficiency syndrome (AIDS).
22 Any such medical test shall be performed only by appropriately
23 licensed medical practitioners and may include an analysis of
24 any bodily fluids as well as an examination of the defendant's
25 person. Except as otherwise provided by law, the results of
26 such test shall be kept strictly confidential by all medical

1 personnel involved in the testing and must be personally
2 delivered in a sealed envelope to the judge of the court in
3 which the conviction was entered for the judge's inspection in
4 camera. Acting in accordance with the best interests of the
5 victim and the public, the judge shall have the discretion to
6 determine to whom, if anyone, the results of the testing may be
7 revealed. The court shall notify the defendant of the test
8 results. The court shall also notify the victim if requested by
9 the victim, and if the victim is under the age of 15 and if
10 requested by the victim's parents or legal guardian, the court
11 shall notify the victim's parents or legal guardian of the test
12 results. The court shall provide information on the
13 availability of HIV testing and counseling at Department of
14 Public Health facilities to all parties to whom the results of
15 the testing are revealed and shall direct the State's Attorney
16 to provide the information to the victim when possible. A
17 State's Attorney may petition the court to obtain the results
18 of any HIV test administered under this Section, and the court
19 shall grant the disclosure if the State's Attorney shows it is
20 relevant in order to prosecute a charge of criminal
21 transmission of HIV under Section 12-16.2 of the Criminal Code
22 of 1961 against the defendant. The court shall order that the
23 cost of any such test shall be paid by the county and may be
24 taxed as costs against the convicted defendant.

25 (g-5) When an inmate is tested for an airborne communicable
26 disease, as determined by the Illinois Department of Public

1 Health including but not limited to tuberculosis, the results
2 of the test shall be personally delivered by the warden or his
3 or her designee in a sealed envelope to the judge of the court
4 in which the inmate must appear for the judge's inspection in
5 camera if requested by the judge. Acting in accordance with the
6 best interests of those in the courtroom, the judge shall have
7 the discretion to determine what if any precautions need to be
8 taken to prevent transmission of the disease in the courtroom.

9 (h) Whenever a defendant is convicted of an offense under
10 Section 1 or 2 of the Hypodermic Syringes and Needles Act, the
11 defendant shall undergo medical testing to determine whether
12 the defendant has been exposed to human immunodeficiency virus
13 (HIV) or any other identified causative agent of acquired
14 immunodeficiency syndrome (AIDS). Except as otherwise provided
15 by law, the results of such test shall be kept strictly
16 confidential by all medical personnel involved in the testing
17 and must be personally delivered in a sealed envelope to the
18 judge of the court in which the conviction was entered for the
19 judge's inspection in camera. Acting in accordance with the
20 best interests of the public, the judge shall have the
21 discretion to determine to whom, if anyone, the results of the
22 testing may be revealed. The court shall notify the defendant
23 of a positive test showing an infection with the human
24 immunodeficiency virus (HIV). The court shall provide
25 information on the availability of HIV testing and counseling
26 at Department of Public Health facilities to all parties to

1 whom the results of the testing are revealed and shall direct
2 the State's Attorney to provide the information to the victim
3 when possible. A State's Attorney may petition the court to
4 obtain the results of any HIV test administered under this
5 Section, and the court shall grant the disclosure if the
6 State's Attorney shows it is relevant in order to prosecute a
7 charge of criminal transmission of HIV under Section 12-16.2 of
8 the Criminal Code of 1961 against the defendant. The court
9 shall order that the cost of any such test shall be paid by the
10 county and may be taxed as costs against the convicted
11 defendant.

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

19 (j) In cases when prosecution for any violation of Section
20 11-6, 11-8, 11-9, 11-11, 11-14, 11-15, 11-15.1, 11-16, 11-17,
21 11-17.1, 11-18, 11-18.1, 11-19, 11-19.1, 11-19.2, 11-20.1,
22 11-21, 12-13, 12-14, 12-14.1, 12-15, or 12-16 of the Criminal
23 Code of 1961, any violation of the Illinois Controlled
24 Substances Act, any violation of the Cannabis Control Act, or
25 any violation of the Methamphetamine Control and Community
26 Protection Act results in conviction, a disposition of court

1 supervision, or an order of probation granted under Section 10
2 of the Cannabis Control Act, Section 410 of the Illinois
3 Controlled Substance Act, or Section 70 of the Methamphetamine
4 Control and Community Protection Act of a defendant, the court
5 shall determine whether the defendant is employed by a facility
6 or center as defined under the Child Care Act of 1969, a public
7 or private elementary or secondary school, or otherwise works
8 with children under 18 years of age on a daily basis. When a
9 defendant is so employed, the court shall order the Clerk of
10 the Court to send a copy of the judgment of conviction or order
11 of supervision or probation to the defendant's employer by
12 certified mail. If the employer of the defendant is a school,
13 the Clerk of the Court shall direct the mailing of a copy of
14 the judgment of conviction or order of supervision or probation
15 to the appropriate regional superintendent of schools. The
16 regional superintendent of schools shall notify the State Board
17 of Education of any notification under this subsection.

18 (j-5) A defendant at least 17 years of age who is convicted
19 of a felony and who has not been previously convicted of a
20 misdemeanor or felony and who is sentenced to a term of
21 imprisonment in the Illinois Department of Corrections shall as
22 a condition of his or her sentence be required by the court to
23 attend educational courses designed to prepare the defendant
24 for a high school diploma and to work toward a high school
25 diploma or to work toward passing the high school level Test of
26 General Educational Development (GED) or to work toward

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

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

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

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

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

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

17 (B) If the defendant has already been sentenced for a
18 felony or misdemeanor offense, or has been placed on
19 probation under Section 10 of the Cannabis Control Act,
20 Section 410 of the Illinois Controlled Substances Act, or
21 Section 70 of the Methamphetamine Control and Community
22 Protection Act, the court may, upon motion of the State's
23 Attorney to suspend the sentence imposed, commit the
24 defendant to the custody of the Attorney General of the
25 United States or his or her designated agent when:

26 (1) a final order of deportation has been issued

1 against the defendant pursuant to proceedings under
2 the Immigration and Nationality Act, and

3 (2) the deportation of the defendant would not
4 deprecate the seriousness of the defendant's conduct
5 and would not be inconsistent with the ends of justice.

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

9 (D) Upon motion of the State's Attorney, if a defendant
10 sentenced under this Section returns to the jurisdiction of
11 the United States, the defendant shall be recommitted to
12 the custody of the county from which he or she was
13 sentenced. Thereafter, the defendant shall be brought
14 before the sentencing court, which may impose any sentence
15 that was available under Section 5-5-3 at the time of
16 initial sentencing. In addition, the defendant shall not be
17 eligible for additional good conduct credit for
18 meritorious service as provided under Section 3-6-6.

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

25 (n) The court may sentence a person convicted of a
26 violation of Section 12-19, 12-21, or 16-1.3 of the Criminal

1 Code of 1961 (i) to an impact incarceration program if the
2 person is otherwise eligible for that program under Section
3 5-8-1.1, (ii) to community service, or (iii) if the person is
4 an addict or alcoholic, as defined in the Alcoholism and Other
5 Drug Abuse and Dependency Act, to a substance or alcohol abuse
6 program licensed under that Act.

7 (o) Whenever a person is convicted of a sex offense as
8 defined in Section 2 of the Sex Offender Registration Act, the
9 defendant's driver's license or permit shall be subject to
10 renewal on an annual basis in accordance with the provisions of
11 license renewal established by the Secretary of State.

12 (Source: P.A. 94-72, eff. 1-1-06; 94-556, eff. 9-11-05; 94-993,
13 eff. 1-1-07; 94-1035, eff. 7-1-07; 95-188, eff. 8-16-07;
14 95-259, eff. 8-17-07; 95-331, eff. 8-21-07; 95-377, eff.
15 1-1-08; 95-579, eff. 6-1-08; 95-876, eff. 8-21-08; 95-882, eff.
16 1-1-09.)

17 (730 ILCS 5/5-8-1) (from Ch. 38, par. 1005-8-1)

18 (Text of Section before amendment by P.A. 95-983)

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

20 (a) Except as otherwise provided in the statute defining
21 the offense, a sentence of imprisonment for a felony shall be a
22 determinate sentence set by the court under this Section,
23 according to the following limitations:

24 (1) for first degree murder,

25 (a) a term shall be not less than 20 years and not

1 more than 60 years, or

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

10 (b-5) a defendant who has been sentenced to death
11 before the effective date of this amendatory Act of the
12 96th General Assembly shall be sentenced as provided in
13 this Chapter V, or

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

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

19 (ii) is a person who, at the time of the
20 commission of the murder, had attained the age of
21 17 or more and is found guilty of murdering an
22 individual under 12 years of age; or, irrespective
23 of the defendant's age at the time of the
24 commission of the offense, is found guilty of
25 murdering more than one victim, or

26 (iii) is found guilty of murdering a peace

1 officer, fireman, or emergency management worker
2 when the peace officer, fireman, or emergency
3 management worker was killed in the course of
4 performing his official duties, or to prevent the
5 peace officer or fireman from performing his
6 official duties, or in retaliation for the peace
7 officer, fireman, or emergency management worker
8 from performing his official duties, and the
9 defendant knew or should have known that the
10 murdered individual was a peace officer, fireman,
11 or emergency management worker, or

12 (iv) is found guilty of murdering an employee
13 of an institution or facility of the Department of
14 Corrections, or any similar local correctional
15 agency, when the employee was killed in the course
16 of performing his official duties, or to prevent
17 the employee from performing his official duties,
18 or in retaliation for the employee performing his
19 official duties, or

20 (v) is found guilty of murdering an emergency
21 medical technician - ambulance, emergency medical
22 technician - intermediate, emergency medical
23 technician - paramedic, ambulance driver or other
24 medical assistance or first aid person while
25 employed by a municipality or other governmental
26 unit when the person was killed in the course of

1 performing official duties or to prevent the
2 person from performing official duties or in
3 retaliation for performing official duties and the
4 defendant knew or should have known that the
5 murdered individual was an emergency medical
6 technician - ambulance, emergency medical
7 technician - intermediate, emergency medical
8 technician - paramedic, ambulance driver, or other
9 medical assistant or first aid personnel, or

10 (vi) is a person who, at the time of the
11 commission of the murder, had not attained the age
12 of 17, and is found guilty of murdering a person
13 under 12 years of age and the murder is committed
14 during the course of aggravated criminal sexual
15 assault, criminal sexual assault, or aggravated
16 kidnaping, or

17 (vii) is found guilty of first degree murder
18 and the murder was committed by reason of any
19 person's activity as a community policing
20 volunteer or to prevent any person from engaging in
21 activity as a community policing volunteer. For
22 the purpose of this Section, "community policing
23 volunteer" has the meaning ascribed to it in
24 Section 2-3.5 of the Criminal Code of 1961.

25 For purposes of clause (v), "emergency medical
26 technician - ambulance", "emergency medical technician

1 - intermediate", "emergency medical technician -
2 paramedic", have the meanings ascribed to them in the
3 Emergency Medical Services (EMS) Systems Act.

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

7 (ii) if, during the commission of the offense,
8 the person personally discharged a firearm, 20
9 years shall be added to the term of imprisonment
10 imposed by the court;

11 (iii) if, during the commission of the
12 offense, the person personally discharged a
13 firearm that proximately caused great bodily harm,
14 permanent disability, permanent disfigurement, or
15 death to another person, 25 years or up to a term
16 of natural life shall be added to the term of
17 imprisonment imposed by the court.

18 (1.5) for second degree murder, a term shall be not
19 less than 4 years and not more than 20 years;

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

23 (2.5) for a person convicted under the circumstances
24 described in paragraph (3) of subsection (b) of Section
25 12-13, paragraph (2) of subsection (d) of Section 12-14,
26 paragraph (1.2) of subsection (b) of Section 12-14.1, or

1 paragraph (2) of subsection (b) of Section 12-14.1 of the
2 Criminal Code of 1961, the sentence shall be a term of
3 natural life imprisonment;

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

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

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

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

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

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

24 (c) A motion to reduce a sentence may be made, or the court
25 may reduce a sentence without motion, within 30 days after the
26 sentence is imposed. A defendant's challenge to the correctness

1 of a sentence or to any aspect of the sentencing hearing shall
2 be made by a written motion filed within 30 days following the
3 imposition of sentence. However, the court may not increase a
4 sentence once it is imposed.

5 If a motion filed pursuant to this subsection is timely
6 filed within 30 days after the sentence is imposed, the
7 proponent of the motion shall exercise due diligence in seeking
8 a determination on the motion and the court shall thereafter
9 decide such motion within a reasonable time.

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

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

21 (d) Except where a term of natural life is imposed, every
22 sentence shall include as though written therein a term in
23 addition to the term of imprisonment. For those sentenced under
24 the law in effect prior to February 1, 1978, such term shall be
25 identified as a parole term. For those sentenced on or after
26 February 1, 1978, such term shall be identified as a mandatory

1 supervised release term. Subject to earlier termination under
2 Section 3-3-8, the parole or mandatory supervised release term
3 shall be as follows:

4 (1) for first degree murder or a Class X felony except
5 for the offenses of predatory criminal sexual assault of a
6 child, aggravated criminal sexual assault, and criminal
7 sexual assault if committed on or after the effective date
8 of this amendatory Act of the 94th General Assembly, 3
9 years;

10 (2) for a Class 1 felony or a Class 2 felony except for
11 the offense of criminal sexual assault if committed on or
12 after the effective date of this amendatory Act of the 94th
13 General Assembly, 2 years;

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

15 (4) for defendants who commit the offense of predatory
16 criminal sexual assault of a child, aggravated criminal
17 sexual assault, or criminal sexual assault, on or after the
18 effective date of this amendatory Act of the 94th General
19 Assembly, the term of mandatory supervised release shall
20 range from a minimum of 3 years to a maximum of the natural
21 life of the defendant;

22 (5) if the victim is under 18 years of age, for a
23 second or subsequent offense of aggravated criminal sexual
24 abuse or felony criminal sexual abuse, 4 years, at least
25 the first 2 years of which the defendant shall serve in an
26 electronic home detention program under Article 8A of

1 Chapter V of this Code.

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

20 (f) A defendant who has a previous and unexpired sentence
21 of imprisonment imposed by an Illinois circuit court for a
22 crime in this State and who is subsequently sentenced to a term
23 of imprisonment by another state or by any district court of
24 the United States and who has served a term of imprisonment
25 imposed by the other state or district court of the United
26 States, and must return to serve the unexpired prior sentence

1 imposed by the Illinois Circuit Court may apply to the court
2 which imposed sentence to have his sentence reduced.

3 The circuit court may order that any time served on the
4 sentence imposed by the other state or district court of the
5 United States be credited on his Illinois sentence. Such
6 application for reduction of a sentence under this subsection
7 (f) shall be made within 30 days after the defendant has
8 completed the sentence imposed by the other state or district
9 court of the United States.

10 (Source: P.A. 94-165, eff. 7-11-05; 94-243, eff. 1-1-06;
11 94-715, eff. 12-13-05.)

12 (Text of Section after amendment by P.A. 95-983)

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

14 (a) Except as otherwise provided in the statute defining
15 the offense, a sentence of imprisonment for a felony shall be a
16 determinate sentence set by the court under this Section,
17 according to the following limitations:

18 (1) for first degree murder,

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

21 (b) if a trier of fact finds beyond a reasonable
22 doubt that the murder was accompanied by exceptionally
23 brutal or heinous behavior indicative of wanton
24 cruelty or, except as set forth in subsection (a) (1) (c)
25 of this Section, ~~that any of the aggravating factors~~

1 ~~listed in subsection (b) of Section 9-1 of the Criminal~~
2 ~~Code of 1961 are present,~~ the court may sentence the
3 defendant to a term of natural life imprisonment, or

4 (b-5) a defendant who has been sentenced to death
5 before the effective date of this amendatory Act of the
6 96th General Assembly shall be sentenced as provided in
7 this Chapter V, or

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

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

13 (ii) is a person who, at the time of the
14 commission of the murder, had attained the age of
15 17 or more and is found guilty of murdering an
16 individual under 12 years of age; or, irrespective
17 of the defendant's age at the time of the
18 commission of the offense, is found guilty of
19 murdering more than one victim, or

20 (iii) is found guilty of murdering a peace
21 officer, fireman, or emergency management worker
22 when the peace officer, fireman, or emergency
23 management worker was killed in the course of
24 performing his official duties, or to prevent the
25 peace officer or fireman from performing his
26 official duties, or in retaliation for the peace

1 officer, fireman, or emergency management worker
2 from performing his official duties, and the
3 defendant knew or should have known that the
4 murdered individual was a peace officer, fireman,
5 or emergency management worker, or

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

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

1 technician - intermediate, emergency medical
2 technician - paramedic, ambulance driver, or other
3 medical assistant or first aid personnel, or

4 (vi) is a person who, at the time of the
5 commission of the murder, had not attained the age
6 of 17, and is found guilty of murdering a person
7 under 12 years of age and the murder is committed
8 during the course of aggravated criminal sexual
9 assault, criminal sexual assault, or aggravated
10 kidnaping, or

11 (vii) is found guilty of first degree murder
12 and the murder was committed by reason of any
13 person's activity as a community policing
14 volunteer or to prevent any person from engaging in
15 activity as a community policing volunteer. For
16 the purpose of this Section, "community policing
17 volunteer" has the meaning ascribed to it in
18 Section 2-3.5 of the Criminal Code of 1961.

19 For purposes of clause (v), "emergency medical
20 technician - ambulance", "emergency medical technician
21 - intermediate", "emergency medical technician -
22 paramedic", have the meanings ascribed to them in the
23 Emergency Medical Services (EMS) Systems Act.

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

1 (ii) if, during the commission of the offense,
2 the person personally discharged a firearm, 20
3 years shall be added to the term of imprisonment
4 imposed by the court;

5 (iii) if, during the commission of the
6 offense, the person personally discharged a
7 firearm that proximately caused great bodily harm,
8 permanent disability, permanent disfigurement, or
9 death to another person, 25 years or up to a term
10 of natural life shall be added to the term of
11 imprisonment imposed by the court.

12 (1.5) for second degree murder, a term shall be not
13 less than 4 years and not more than 20 years;

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

17 (2.5) for a person convicted under the circumstances
18 described in paragraph (3) of subsection (b) of Section
19 12-13, paragraph (2) of subsection (d) of Section 12-14,
20 paragraph (1.2) of subsection (b) of Section 12-14.1, or
21 paragraph (2) of subsection (b) of Section 12-14.1 of the
22 Criminal Code of 1961, the sentence shall be a term of
23 natural life imprisonment;

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

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

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

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

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

10 (b) The sentencing judge in each felony conviction shall
11 set forth his reasons for imposing the particular sentence he
12 enters in the case, as provided in Section 5-4-1 of this Code.
13 Those reasons may include any mitigating or aggravating factors
14 specified in this Code, or the lack of any such circumstances,
15 as well as any other such factors as the judge shall set forth
16 on the record that are consistent with the purposes and
17 principles of sentencing set out in this Code.

18 (c) A motion to reduce a sentence may be made, or the court
19 may reduce a sentence without motion, within 30 days after the
20 sentence is imposed. A defendant's challenge to the correctness
21 of a sentence or to any aspect of the sentencing hearing shall
22 be made by a written motion filed within 30 days following the
23 imposition of sentence. However, the court may not increase a
24 sentence once it is imposed.

25 If a motion filed pursuant to this subsection is timely
26 filed within 30 days after the sentence is imposed, the

1 proponent of the motion shall exercise due diligence in seeking
2 a determination on the motion and the court shall thereafter
3 decide such motion within a reasonable time.

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

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

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

24 (1) for first degree murder or a Class X felony except
25 for the offenses of predatory criminal sexual assault of a
26 child, aggravated criminal sexual assault, and criminal

1 sexual assault if committed on or after the effective date
2 of this amendatory Act of the 94th General Assembly and
3 except for the offense of aggravated child pornography
4 under Section 11-20.3 of the Criminal Code of 1961, if
5 committed on or after January 1, 2009, 3 years;

6 (2) for a Class 1 felony or a Class 2 felony except for
7 the offense of criminal sexual assault if committed on or
8 after the effective date of this amendatory Act of the 94th
9 General Assembly and except for the offenses of manufacture
10 and dissemination of child pornography under clauses
11 (a) (1) and (a) (2) of Section 11-20.1 of the Criminal Code
12 of 1961, if committed on or after January 1, 2009, 2 years;

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

14 (4) for defendants who commit the offense of predatory
15 criminal sexual assault of a child, aggravated criminal
16 sexual assault, or criminal sexual assault, on or after the
17 effective date of this amendatory Act of the 94th General
18 Assembly, or who commit the offense of aggravated child
19 pornography, manufacture of child pornography, or
20 dissemination of child pornography after January 1, 2009,
21 the term of mandatory supervised release shall range from a
22 minimum of 3 years to a maximum of the natural life of the
23 defendant;

24 (5) if the victim is under 18 years of age, for a
25 second or subsequent offense of aggravated criminal sexual
26 abuse or felony criminal sexual abuse, 4 years, at least

1 the first 2 years of which the defendant shall serve in an
2 electronic home detention program under Article 8A of
3 Chapter V of this Code.

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

22 (f) A defendant who has a previous and unexpired sentence
23 of imprisonment imposed by an Illinois circuit court for a
24 crime in this State and who is subsequently sentenced to a term
25 of imprisonment by another state or by any district court of
26 the United States and who has served a term of imprisonment

1 imposed by the other state or district court of the United
2 States, and must return to serve the unexpired prior sentence
3 imposed by the Illinois Circuit Court may apply to the court
4 which imposed sentence to have his sentence reduced.

5 The circuit court may order that any time served on the
6 sentence imposed by the other state or district court of the
7 United States be credited on his Illinois sentence. Such
8 application for reduction of a sentence under this subsection
9 (f) shall be made within 30 days after the defendant has
10 completed the sentence imposed by the other state or district
11 court of the United States.

12 (Source: P.A. 94-165, eff. 7-11-05; 94-243, eff. 1-1-06;
13 94-715, eff. 12-13-05; 95-983, eff. 6-1-09.)

14 (730 ILCS 5/5-8-4) (from Ch. 38, par. 1005-8-4)

15 Sec. 5-8-4. Concurrent and Consecutive Terms of
16 Imprisonment.

17 (a) When multiple sentences of imprisonment are imposed on
18 a defendant at the same time, or when a term of imprisonment is
19 imposed on a defendant who is already subject to sentence in
20 this State or in another state, or for a sentence imposed by
21 any district court of the United States, the sentences shall
22 run concurrently or consecutively as determined by the court.
23 When one of the offenses for which a defendant was convicted
24 was a violation of Section 32-5.2 of the Criminal Code of 1961
25 and the offense was committed in attempting or committing a

1 forcible felony, the court may impose consecutive sentences.
2 When a term of imprisonment is imposed on a defendant by an
3 Illinois circuit court and the defendant is subsequently
4 sentenced to a term of imprisonment by another state or by a
5 district court of the United States, the Illinois circuit court
6 which imposed the sentence may order that the Illinois sentence
7 be made concurrent with the sentence imposed by the other state
8 or district court of the United States. The defendant must
9 apply to the circuit court within 30 days after the defendant's
10 sentence imposed by the other state or district of the United
11 States is finalized. The court shall impose consecutive
12 sentences if:

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

16 (ii) the defendant was convicted of a violation of
17 Section 12-13, 12-14, or 12-14.1 of the Criminal Code of
18 1961, or

19 (iii) the defendant was convicted of armed violence
20 based upon the predicate offense of solicitation of murder,
21 solicitation of murder for hire, heinous battery,
22 aggravated battery of a senior citizen, criminal sexual
23 assault, a violation of subsection (g) of Section 5 of the
24 Cannabis Control Act, cannabis trafficking, a violation of
25 subsection (a) of Section 401 of the Illinois Controlled
26 Substances Act, controlled substance trafficking involving

1 a Class X felony amount of controlled substance under
2 Section 401 of the Illinois Controlled Substances Act, a
3 violation of the Methamphetamine Control and Community
4 Protection Act, calculated criminal drug conspiracy, or
5 streetgang criminal drug conspiracy, or

6 (iv) the defendant was convicted of the offense of
7 leaving the scene of a motor vehicle accident involving
8 death or personal injuries under Section 11-401 and either:

9 (A) aggravated driving under the influence of alcohol,
10 other drug or drugs, or intoxicating compound or compounds,
11 or any combination thereof under Section 11-501 of the
12 Illinois Vehicle Code, or (B) reckless homicide under
13 Section 9-3 of the Criminal Code of 1961, or both an
14 offense described in subdivision (A) and an offense
15 described in subdivision (B), or

16 (v) the defendant was convicted of a violation of
17 Section 9-3.1 (concealment of homicidal death) or Section
18 12-20.5 (dismembering a human body) of the Criminal Code of
19 1961,

20 in which event the court shall enter sentences to run
21 consecutively. Sentences shall run concurrently unless
22 otherwise specified by the court.

23 (b) Except in cases where consecutive sentences are
24 mandated, the court shall impose concurrent sentences unless,
25 having regard to the nature and circumstances of the offense
26 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

1 misdemeanor.

2 (d) An offender serving a sentence for a misdemeanor who is
3 convicted of a felony and sentenced to imprisonment shall be
4 transferred to the Department of Corrections, and the
5 misdemeanor sentence shall be merged in and run concurrently
6 with the felony sentence.

7 (e) In determining the manner in which consecutive
8 sentences of imprisonment, one or more of which is for a
9 felony, will be served, the Department of Corrections shall
10 treat the offender as though he had been committed for a single
11 term with the following incidents:

12 (1) the maximum period of a term of imprisonment shall
13 consist of the aggregate of the maximums of the imposed
14 indeterminate terms, if any, plus the aggregate of the
15 imposed determinate sentences for felonies plus the
16 aggregate of the imposed determinate sentences for
17 misdemeanors subject to paragraph (c) of this Section;

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

21 (3) the minimum period of imprisonment shall be the
22 aggregate of the minimum and determinate periods of
23 imprisonment imposed by the court, subject to paragraph (c)
24 of this Section; and

25 (4) the offender shall be awarded credit against the
26 aggregate maximum term and the aggregate minimum term of

1 imprisonment for all time served in an institution since
2 the commission of the offense or offenses and as a
3 consequence thereof at the rate specified in Section 3-6-3
4 of this Code.

5 (f) A sentence of an offender committed to the Department
6 of Corrections at the time of the commission of the offense
7 shall be served consecutive to the sentence under which he is
8 held by the Department of Corrections. ~~However, in case such~~
9 ~~offender shall be sentenced to punishment by death, the~~
10 ~~sentence shall be executed at such time as the court may fix~~
11 ~~without regard to the sentence under which such offender may be~~
12 ~~held by the Department.~~

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

16 (h) If a person charged with a felony commits a separate
17 felony while on pre-trial release or in pretrial detention in a
18 county jail facility or county detention facility, the
19 sentences imposed upon conviction of these felonies shall be
20 served consecutively regardless of the order in which the
21 judgments of conviction are entered.

22 (h-1) If a person commits a battery against a county
23 correctional officer or sheriff's employee while serving a
24 sentence or in pretrial detention in a county jail facility,
25 then the sentence imposed upon conviction of the battery shall
26 be served consecutively with the sentence imposed upon

1 conviction of the earlier misdemeanor or felony, regardless of
2 the order in which the judgments of conviction are entered.

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

11 (j) If a person is found to be in possession of an item of
12 contraband, as defined in clause (c)(2) of Section 31A-1.1 of
13 the Criminal Code of 1961, while serving a sentence in a penal
14 institution or while in pre-trial detention in a county jail,
15 the sentence imposed upon conviction for the offense of
16 possessing contraband in a penal institution shall be served
17 consecutively to the sentence imposed for the offense in which
18 the person is serving sentence in the county jail or serving
19 pretrial detention, regardless of the order in which the
20 judgments of conviction are entered.

21 (Source: P.A. 94-556, eff. 9-11-05; 94-985, eff. 1-1-07;
22 95-379, eff. 8-23-07; 95-766, eff. 1-1-09.)

23 (730 ILCS 5/5-8-5) (from Ch. 38, par. 1005-8-5)

24 Sec. 5-8-5. Commitment of the Offender. Upon rendition of
25 judgment after pronouncement of a sentence of periodic

1 imprisonment ~~or~~ imprisonment, ~~or death~~, the court shall commit
2 the offender to the custody of the sheriff or to the Department
3 of Corrections. A sheriff in executing an order for commitment
4 to the Department of Corrections shall convey such offender to
5 the nearest receiving station designated by the Department of
6 Corrections. The court may commit the offender to the custody
7 of the Attorney General of the United States under Section
8 5-8-6 when a sentence for a State offense provides that such
9 sentence is to run concurrently with a previous and unexpired
10 federal sentence. The expense of conveying a person committed
11 by the juvenile court or an offender convicted of a felony
12 shall be paid by the State. The expenses in all other cases
13 shall be paid by the county of the committing court.

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

15 Section 90. The Code of Civil Procedure is amended by
16 changing Sections 10-103 and 10-136 as follows:

17 (735 ILCS 5/10-103) (from Ch. 110, par. 10-103)

18 Sec. 10-103. Application. Application for the relief shall
19 be made to the Supreme Court or to the circuit court of the
20 county in which the person in whose behalf the application is
21 made, is imprisoned or restrained, or to the circuit court of
22 the county from which such person was sentenced or committed.
23 Application shall be made by complaint signed by the person for
24 whose relief it is intended, or by some person in his or her

1 behalf, and verified by affidavit. ~~Application for relief under~~
2 ~~this Article may not be commenced on behalf of a person who has~~
3 ~~been sentenced to death without the written consent of that~~
4 ~~person, unless the person, because of a mental or physical~~
5 ~~condition, is incapable of asserting his or her own claim.~~

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

7 (735 ILCS 5/10-136) (from Ch. 110, par. 10-136)

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

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

21 Section 95. No acceleration or delay. Where this Act makes
22 changes in a statute that is represented in this Act by text
23 that is not yet or no longer in effect (for example, a Section
24 represented by multiple versions), the use of that text does

1 not accelerate or delay the taking effect of (i) the changes
2 made by this Act or (ii) provisions derived from any other
3 Public Act.

4 Section 100. Death sentences carried out before abolition
5 of the death penalty. A public officer or employee is not
6 criminally or civilly liable for his or her act or omission in
7 the execution or enforcement of a sentence of death that was
8 lawful and carried out before the effective date of this Act
9 unless such act or omission constituted willful and wanton
10 conduct.

11 Section 105. Capital Litigation Trust Fund expenditures
12 validated. Expenditures of moneys from the Capital Litigation
13 Trust Fund for expenses authorized under the Capital Crimes
14 Litigation Act before its repeal by this Act are not
15 invalidated by the repeal of the Capital Crimes Litigation Act.

16 Section 999. Effective date. This Act takes effect upon
17 becoming law.

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| 5 | 20 ILCS 2630/2.1 | from Ch. 38, par. 206-2.1 |
| 6 | 20 ILCS 3929/Act rep. | |
| 7 | 30 ILCS 105/5.518 rep. | |
| 8 | 55 ILCS 5/3-4011 | from Ch. 34, par. 3-4011 |
| 9 | 55 ILCS 5/3-9005 | from Ch. 34, par. 3-9005 |
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