



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB5687

Introduced 2/9/2010, 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.

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CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

FISCAL NOTE ACT
MAY APPLY

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 7.5 as follows:

6 (5 ILCS 140/7.5)

7 Sec. 7.5. Statutory Exemptions. To the extent provided for
8 by the statutes referenced below, the following shall be exempt
9 from inspection and copying:

10 (a) All information determined to be confidential under
11 Section 4002 of the Technology Advancement and Development Act.

12 (b) Library circulation and order records identifying
13 library users with specific materials under the Library Records
14 Confidentiality Act.

15 (c) Applications, related documents, and medical records
16 received by the Experimental Organ Transplantation Procedures
17 Board and any and all documents or other records prepared by
18 the Experimental Organ Transplantation Procedures Board or its
19 staff relating to applications it has received.

20 (d) Information and records held by the Department of
21 Public Health and its authorized representatives relating to
22 known or suspected cases of sexually transmissible disease or
23 any information the disclosure of which is restricted under the

1 Illinois Sexually Transmissible Disease Control Act.

2 (e) Information the disclosure of which is exempted under
3 Section 30 of the Radon Industry Licensing Act.

4 (f) Firm performance evaluations under Section 55 of the
5 Architectural, Engineering, and Land Surveying Qualifications
6 Based Selection Act.

7 (g) Information the disclosure of which is restricted and
8 exempted under Section 50 of the Illinois Prepaid Tuition Act.

9 (h) Information the disclosure of which is exempted under
10 the State Officials and Employees Ethics Act, and records of
11 any lawfully created State or local inspector general's office
12 that would be exempt if created or obtained by an Executive
13 Inspector General's office under that Act.

14 (i) Information contained in a local emergency energy plan
15 submitted to a municipality in accordance with a local
16 emergency energy plan ordinance that is adopted under Section
17 11-21.5-5 of the Illinois Municipal Code.

18 (j) Information and data concerning the distribution of
19 surcharge moneys collected and remitted by wireless carriers
20 under the Wireless Emergency Telephone Safety Act.

21 (k) Law enforcement officer identification information or
22 driver identification information compiled by a law
23 enforcement agency or the Department of Transportation under
24 Section 11-212 of the Illinois Vehicle Code.

25 (l) Records and information provided to a residential
26 health care facility resident sexual assault and death review

1 team or the Executive Council under the Abuse Prevention Review
2 Team Act.

3 (m) Information provided to the predatory lending database
4 created pursuant to Article 3 of the Residential Real Property
5 Disclosure Act, except to the extent authorized under that
6 Article.

7 (n) Defense budgets and petitions for certification of
8 compensation and expenses for court appointed trial counsel as
9 provided under Sections 10 and 15 of the Capital Crimes
10 Litigation Act if those budgets and petitions were for
11 compensation and expenses incurred before the effective date of
12 this amendatory Act of the 96th General Assembly. This
13 subsection (n) shall apply until the conclusion of the trial of
14 the case, even if the prosecution chose ~~chooses~~ not to pursue
15 the death penalty prior to trial or sentencing and before the
16 effective date of this amendatory Act of the 96th General
17 Assembly.

18 (o) Information that is prohibited from being disclosed
19 under Section 4 of the Illinois Health and Hazardous Substances
20 Registry Act.

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

1 (q) Information prohibited from being disclosed by the
2 Personnel Records Review Act.

3 (r) Information prohibited from being disclosed by the
4 Illinois School Student Records Act.

5 (s) Information the disclosure of which is restricted under
6 Section 5-108 of the Public Utilities Act.

7 (Source: P.A. 96-542, eff. 1-1-10.)

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

11 (20 ILCS 2605/2605-40) (was 20 ILCS 2605/55a-4)

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

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

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

18 (3) Provide assistance to local law enforcement
19 agencies through training, management, and consultant
20 services.

21 (4) (Blank).

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

1 (6) Establish and operate a forensic science
2 laboratory system, including a forensic toxicological
3 laboratory service, for the purpose of testing specimens
4 submitted by coroners and other law enforcement officers in
5 their efforts to determine whether alcohol, drugs, or
6 poisonous or other toxic substances have been involved in
7 deaths, accidents, or illness. Forensic toxicological
8 laboratories shall be established in Springfield, Chicago,
9 and elsewhere in the State as needed.

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

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

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

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

21 Sec. 2.1. For the purpose of maintaining complete and
22 accurate criminal records of the Department of State Police, it
23 is necessary for all policing bodies of this State, the clerk
24 of the circuit court, the Illinois Department of Corrections,

1 the sheriff of each county, and State's Attorney of each county
2 to submit certain criminal arrest, charge, and disposition
3 information to the Department for filing at the earliest time
4 possible. Unless otherwise noted herein, it shall be the duty
5 of all policing bodies of this State, the clerk of the circuit
6 court, the Illinois Department of Corrections, the sheriff of
7 each county, and the State's Attorney of each county to report
8 such information as provided in this Section, both in the form
9 and manner required by the Department and within 30 days of the
10 criminal history event. Specifically:

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

23 (b) Charge Information. The State's Attorney of each county
24 shall notify the Department of all charges filed and all
25 petitions filed alleging that a minor is delinquent, including
26 all those added subsequent to the filing of a case, and whether

1 charges were not filed in cases for which the Department has
2 received information required to be reported pursuant to
3 paragraph (a) of this Section. With approval of the Department,
4 the State's Attorney may enter into arrangements with other
5 agencies for the purpose of furnishing the information required
6 by this subsection (b) to the Department upon the State's
7 Attorney's behalf.

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

1 Control and Community Protection Act, Section 12-4.3 of the
2 Criminal Code of 1961, Section 10-102 of the Illinois
3 Alcoholism and Other Drug Dependency Act, Section 40-10 of the
4 Alcoholism and Other Drug Abuse and Dependency Act, Section 10
5 of the Steroid Control Act, or Section 5-615 of the Juvenile
6 Court Act of 1987; and (4) judgments or court orders
7 terminating or revoking a sentence to or juvenile disposition
8 of probation, supervision or conditional discharge and any
9 resentencing or new court orders entered by a juvenile court
10 relating to the disposition of a minor's case involving
11 delinquency after such revocation.

12 (d) Fingerprints After Sentencing.

13 (1) After the court pronounces sentence, sentences a
14 minor following a trial in which a minor was found to be
15 delinquent or issues an order of supervision or an order of
16 probation granted under Section 10 of the Cannabis Control
17 Act, Section 410 of the Illinois Controlled Substances Act,
18 Section 70 of the Methamphetamine Control and Community
19 Protection Act, Section 12-4.3 of the Criminal Code of
20 1961, Section 10-102 of the Illinois Alcoholism and Other
21 Drug Dependency Act, Section 40-10 of the Alcoholism and
22 Other Drug Abuse and Dependency Act, Section 10 of the
23 Steroid Control Act, or Section 5-615 of the Juvenile Court
24 Act of 1987 for any offense which is required by statute to
25 be collected, maintained, or disseminated by the
26 Department of State Police, the State's Attorney of each

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

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

21 (e) Corrections Information. The Illinois Department of
22 Corrections and the sheriff of each county shall furnish the
23 Department with all information concerning the receipt,
24 escape, execution before the effective date of this amendatory
25 Act of the 96th General Assembly, death, release, pardon,
26 parole, commutation of sentence, granting of executive

1 clemency or discharge of an individual who has been sentenced
2 or committed to the agency's custody for any offenses which are
3 mandated by statute to be collected, maintained or disseminated
4 by the Department of State Police. For an individual who has
5 been charged with any such offense and who escapes from custody
6 or dies while in custody, all information concerning the
7 receipt and escape or death, whichever is appropriate, shall
8 also be so furnished to the Department.

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

10 (20 ILCS 3929/Act rep.)

11 Section 20. The Capital Punishment Reform Study Committee
12 Act is repealed.

13 (30 ILCS 105/5.518 rep.)

14 Section 25. The State Finance Act is amended by repealing
15 Section 5.518 on July 1, 2011.

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

18 (55 ILCS 5/3-4011) (from Ch. 34, par. 3-4011)

19 Sec. 3-4011. Expenses and legal services for indigent
20 defendants in felony cases. It shall be the duty of the county
21 board in counties containing fewer than 500,000 inhabitants to
22 appropriate a sufficient sum for the purpose of paying for the

1 legal services necessarily rendered for the defense of indigent
2 persons in felony cases, and for costs, expenses and legal
3 services necessary in the prosecution of an appeal when the
4 sentence is death and the sentence was imposed before the
5 effective date of this amendatory Act of the 96th General
6 Assembly, which is to be paid upon the orders of a court of
7 competent jurisdiction. It shall likewise be the duty of the
8 county board in counties containing fewer than 500,000
9 inhabitants to appropriate a sufficient sum for the payment of
10 out of pocket expenses necessarily incurred by appointed
11 counsel in the prosecution of an appeal on behalf of an
12 indigent incarcerated defendant in felony cases. In such cases
13 payment shall be made upon the order of the reviewing court.

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

15 (55 ILCS 5/3-9005) (from Ch. 34, par. 3-9005)

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

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

18 (1) To commence and prosecute all actions, suits,
19 indictments and prosecutions, civil and criminal, in the
20 circuit court for his county, in which the people of the
21 State or county may be concerned.

22 (2) To prosecute all forfeited bonds and
23 recognizances, and all actions and proceedings for the
24 recovery of debts, revenues, moneys, fines, penalties and
25 forfeitures accruing to the State or his county, or to any

1 school district or road district in his county; also, to
2 prosecute all suits in his county against railroad or
3 transportation companies, which may be prosecuted in the
4 name of the People of the State of Illinois.

5 (3) To commence and prosecute all actions and
6 proceedings brought by any county officer in his official
7 capacity.

8 (4) To defend all actions and proceedings brought
9 against his county, or against any county or State officer,
10 in his official capacity, within his county.

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

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

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

22 (8) To assist the attorney general whenever it may be
23 necessary, and in cases of appeal from his county to the
24 Supreme Court, to which it is the duty of the attorney
25 general to attend, he shall furnish the attorney general at
26 least 10 days before such is due to be filed, a manuscript

1 of a proposed statement, brief and argument to be printed
2 and filed on behalf of the people, prepared in accordance
3 with the rules of the Supreme Court. However, if such
4 brief, argument or other document is due to be filed by law
5 or order of court within this 10 day period, then the
6 State's attorney shall furnish such as soon as may be
7 reasonable.

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

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

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

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

21 (13) To notify, by first-class mail, the State
22 Superintendent of Education, the applicable regional
23 superintendent of schools, and the superintendent of the
24 employing school district or the chief school
25 administrator of the employing nonpublic school, if any,
26 upon the conviction of any individual known to possess a

1 certificate issued pursuant to Article 21 of the School
2 Code of any offense set forth in Section 21-23a of the
3 School Code or any other felony conviction, providing the
4 name of the certificate holder, the fact of the conviction,
5 and the name and location of the court where the conviction
6 occurred. The certificate holder must also be
7 contemporaneously sent a copy of the notice.

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

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

20 No special investigator employed by the State's Attorney
21 shall have peace officer status or exercise police powers
22 unless he or she successfully completes the basic police
23 training course mandated and approved by the Illinois Law
24 Enforcement Training Standards Board or such board waives the
25 training requirement by reason of the special investigator's
26 prior law enforcement experience or training or both. Any

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

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

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

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

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

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

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

8 (Source: P.A. 96-431, eff. 8-13-09.)

9 (55 ILCS 5/3-4006.1 rep.)

10 Section 35. The Counties Code is amended by repealing
11 Section 3-4006.1.

12 Section 40. The School Code is amended by changing Section
13 21-23b as follows:

14 (105 ILCS 5/21-23b) (from Ch. 122, par. 21-23b)

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

16 (a) Whenever the holder of any certificate issued under
17 this Article is employed by the school board of any school
18 district, including a special charter district or school
19 district organized under Article 34, and is convicted, either
20 after a bench trial, trial by jury, or plea of guilty, of any
21 offense for which a sentence to ~~death or~~ a term of imprisonment
22 in a penitentiary for one year or more is provided, the school
23 board shall promptly notify the State Board of Education in

1 writing of the name of the certificate holder, the fact of the
2 conviction, and the name and location of the court in which the
3 conviction occurred.

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

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

21 Section 45. The Illinois Public Aid Code is amended by
22 changing Section 1-8 as follows:

23 (305 ILCS 5/1-8)

24 Sec. 1-8. Fugitives ineligible.

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

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

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

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

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

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

24 To implement this Section, the Illinois Department may
25 exchange necessary information with an appropriate law
26 enforcement agency of this or any other state, a political

1 subdivision of this or any other state, or the United States.

2 (b) (Blank).

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

4 Section 50. The Criminal Code of 1961 is amended by
5 changing Sections 2-7, 7-10, 9-1, 9-1.2, 29D-14.9, 30-1, and
6 33B-1 as follows:

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

8 Sec. 2-7. "Felony".

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

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

13 (720 ILCS 5/7-10) (from Ch. 38, par. 7-10)

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

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

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

22 (720 ILCS 5/9-1) (from Ch. 38, par. 9-1)

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

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

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

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

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

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

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

25 (2) the murdered individual was an employee of an
26 institution or facility of the Department of Corrections,

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

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

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

24 (5) the defendant committed the murder pursuant to a
25 contract, agreement or understanding by which he was to
26 receive money or anything of value in return for committing

1 the murder or procured another to commit the murder for
2 money or anything of value; or

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

5 (a) the murdered individual:

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

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

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

26 (c) the other felony was an inherently violent

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

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

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

26 (9) the defendant, while committing an offense

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

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

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

22 (12) the murdered individual was an emergency medical
23 technician - ambulance, emergency medical technician -
24 intermediate, emergency medical technician - paramedic,
25 ambulance driver, or other medical assistance or first aid
26 personnel, employed by a municipality or other

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

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

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

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

26 (16) the murdered individual was 60 years of age or

1 older and the death resulted from exceptionally brutal or
2 heinous behavior indicative of wanton cruelty; or

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

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

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

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

24 (21) the murder was committed by the defendant in
25 connection with or as a result of the offense of terrorism
26 as defined in Section 29D-14.9 of this Code.

1 (c) (Blank). ~~Consideration of factors in Aggravation and~~
2 ~~Mitigation.~~

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

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

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

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

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

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

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

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

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

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

7 ~~(1) before the jury that determined the defendant's~~
8 ~~guilt; or~~

9 ~~(2) before a jury impanelled for the purpose of the~~
10 ~~proceeding if:~~

11 ~~A. the defendant was convicted upon a plea of~~
12 ~~guilty; or~~

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

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

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

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

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

1 ~~the rules governing the admission of evidence at criminal~~
2 ~~trials. The State and the defendant shall be given fair~~
3 ~~opportunity to rebut any information received at the hearing.~~

4 (f) (Blank). ~~Proof.~~

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

9 (g) (Blank). ~~Procedure—Jury.~~

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

1 ~~attachments shall be part of the record for appellate review.~~
2 ~~The court shall be bound by the jury's sentencing~~
3 ~~determination.~~

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

9 (h) (Blank). ~~Procedure No Jury.~~

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

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

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

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

25 ~~In a case in which the defendant has been found guilty of~~
26 ~~first degree murder by a judge or jury, or a case on remand for~~

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

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

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

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

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

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

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

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

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

25 (Source: P.A. 96-710, eff. 1-1-10.)

1 (720 ILCS 5/9-1.2) (from Ch. 38, par. 9-1.2)

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

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

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

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

13 (3) ~~he~~ knew that the woman was pregnant.

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

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

25 (d) Penalty. The sentence for intentional homicide of an
26 unborn child shall be the same as for first degree murder,

1 except that:

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

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

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

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

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

18 (Source: P.A. 91-404, eff. 1-1-00; revised 11-4-09.)

19 (720 ILCS 5/29D-14.9) (was 720 ILCS 5/29D-30)

20 Sec. 29D-14.9. Terrorism.

21 (a) A person commits the offense of terrorism when, with
22 the intent to intimidate or coerce a significant portion of a
23 civilian population:

24 (1) he or she knowingly commits a terrorist act as
25 defined in Section 29D-10(1) of this Code within this

1 State; or

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

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

12 (Source: P.A. 96-710, eff. 1-1-10.)

13 (720 ILCS 5/30-1) (from Ch. 38, par. 30-1)

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

16 (1) Levies war against this State; or

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

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

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

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

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

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

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

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

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

18 (1) the third offense was committed after the effective
19 date of this Act;

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

24 (3) the third offense was committed after conviction on
25 the second offense;

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

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

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

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

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

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

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

24 (1) he violates Section 4 (d), 4 (e), 5 (d), 5 (e), 8 (c) or

1 8 (d) of this Act; and

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

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

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

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

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

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

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

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

24 (725 ILCS 5/104-26) (from Ch. 38, par. 104-26)

1 Sec. 104-26. Disposition of Defendants suffering
2 disabilities.

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

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

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

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

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

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

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

23 (4) If the court imposes a sentence of imprisonment
24 upon an offender who has a physical disability, it may
25 authorize the Department of Corrections to place the
26 offender in a public or private facility which is able to

1 provide care or treatment for the offender's disability and
2 which agrees to do so.

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

24 (6) The Department of Corrections shall notify the
25 Department of Human Services or a facility in which an
26 offender has been placed pursuant to subparagraph (2) or

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

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

12 (725 ILCS 5/111-3) (from Ch. 38, par. 111-3)

13 Sec. 111-3. Form of charge.

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

16 (1) Stating the name of the offense;

17 (2) Citing the statutory provision alleged to have been
18 violated;

19 (3) Setting forth the nature and elements of the
20 offense charged;

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

23 (5) Stating the name of the accused, if known, and if
24 not known, designate the accused by any name or description
25 by which he can be identified with reasonable certainty.

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

12 (c) When the State seeks an enhanced sentence because of a
13 prior conviction, the charge shall also state the intention to
14 seek an enhanced sentence and shall state such prior conviction
15 so as to give notice to the defendant. However, the fact of
16 such prior conviction and the State's intention to seek an
17 enhanced sentence are not elements of the offense and may not
18 be disclosed to the jury during trial unless otherwise
19 permitted by issues properly raised during such trial. For the
20 purposes of this Section, "enhanced sentence" means a sentence
21 which is increased by a prior conviction from one
22 classification of offense to another higher level
23 classification of offense set forth in Section 5-4.5-10 of the
24 Unified Code of Corrections (730 ILCS 5/5-4.5-10); it does not
25 include an increase in the sentence applied within the same
26 level of classification of offense.

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

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

1 (e) The provisions of subsection (a) of Section 5-4.5-95 of
2 the Unified Code of Corrections (730 ILCS 5/5-4.5-95) shall not
3 be affected by this Section.

4 (Source: P.A. 95-1052, eff. 7-1-09.)

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

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

15 (b) In all cases, except where the penalty is a fine only,
16 if the court determines that the defendant is indigent and
17 desires counsel, the Public Defender shall be appointed as
18 counsel. If there is no Public Defender in the county or if the
19 defendant requests counsel other than the Public Defender and
20 the court finds that the rights of the defendant will be
21 prejudiced by the appointment of the Public Defender, the court
22 shall appoint as counsel a licensed attorney at law of this
23 State, except that in a county having a population of 2,000,000
24 ~~1,000,000~~ or more the Public Defender shall be appointed as
25 counsel in all misdemeanor cases where the defendant is

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

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

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

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

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

1 greater than 2,000,000 ~~1,000,000~~ to pay the general expenses of
2 the trial incurred by the defendant not to exceed \$50 for each
3 defendant.

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

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

10 (725 ILCS 5/114-5) (from Ch. 38, par. 114-5)

11 Sec. 114-5. Substitution of judge.

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

24 (b) Within 24 hours after a motion is made for substitution
25 of judge in a cause with multiple defendants each defendant

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

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

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

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

2 (725 ILCS 5/115-4) (from Ch. 38, par. 115-4)

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

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

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

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

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

1 number of peremptory challenges as all of the defendants.

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

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

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

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

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

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

24 (k) When, at the close of the State's evidence or at the
25 close of all of the evidence, the evidence is insufficient to
26 support a finding or verdict of guilty the court may and on

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

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

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

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

1 be destroyed by the sheriff after the verdict has been returned
2 or a mistrial declared.

3 (o) A defendant tried by the court and jury shall only be
4 found guilty, guilty but mentally ill, not guilty or not guilty
5 by reason of insanity, upon the unanimous verdict of the jury.

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

7 (725 ILCS 5/115-4.1) (from Ch. 38, par. 115-4.1)

8 Sec. 115-4.1. Absence of defendant.

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

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

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

1 the defendant.

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

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

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

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

1 period of absence from the court. The court may impose any
2 sentence authorized by the Unified Code of Corrections and is
3 not in any way limited or restricted by any sentence previously
4 imposed.

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

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

11 (725 ILCS 5/116-4)

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

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

1 that evidence.

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

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

25 (1) it has no significant value for forensic science
26 analysis and should be returned to its rightful owner,

1 destroyed, used for training purposes, or as otherwise
2 provided by law; or

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

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

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

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

21 (d-10) All records documenting the possession, control,
22 storage, and destruction of evidence and all police reports,
23 evidence control or inventory records, and other reports cited
24 in this Section, including computer records, must be retained
25 for as long as the evidence exists and may not be disposed of
26 without the approval of the Local Records Commission.

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

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

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

11 (725 ILCS 5/119-5) (from Ch. 38, par. 119-5)

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

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

23 ~~(2) If the execution of the sentence of death as~~
24 ~~provided in paragraph (1) is held illegal or~~
25 ~~unconstitutional by a reviewing court of competent~~

1 ~~jurisdiction, the sentence of death shall be carried out by~~
2 ~~electrocution.~~

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

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

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

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

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

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

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

12 ~~(g) (Blank).~~

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

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

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

22 (725 ILCS 5/121-13) (from Ch. 38, par. 121-13)

23 Sec. 121-13. Pauper Appeals.

24 (a) In any case wherein the defendant was convicted of a
25 felony, if the court determines that the defendant desires

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

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

24 (c) In any case in which a sentence of death was imposed in
25 the trial court before the effective date of this amendatory
26 Act of the 96th General Assembly, the Supreme Court, upon

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

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

16 (725 ILCS 5/122-1) (from Ch. 38, par. 122-1)

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

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

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

24 (2) the death penalty was imposed before the effective
25 date of this amendatory Act of the 96th General Assembly

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

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

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

25 (c) Except as otherwise provided in subsection (a-5), if
26 the petitioner is under sentence of death before the effective

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

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

26 This limitation does not apply to a petition advancing a

1 claim of actual innocence.

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

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

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

1 process.

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

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

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

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

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

24 (b) If the petition is not dismissed pursuant to this
25 Section, the court shall order the petition to be docketed for

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

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

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

14 (725 ILCS 5/122-4) (from Ch. 38, par. 122-4)

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

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

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

1 this purpose in accordance with rules promulgated by the State
2 Appellate Defender.

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

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

20 (725 ILCS 5/114-15 rep.)

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

22 (725 ILCS 5/122-2.2 rep.)

23 Section 65. The Code of Criminal Procedure of 1963 is
24 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
25 Assembly;

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

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

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

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

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

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

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

15 (Source: P.A. 94-340, eff. 1-1-06; 95-376, eff. 1-1-08.)

16 (725 ILCS 105/10.5)

17 Sec. 10.5. Competitive bidding for appellate services.

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

23 (b) The State Appellate Defender, before letting out bids
24 for contracts for the services of attorneys to represent
25 indigent defendants on appeal in criminal cases, shall

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

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

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

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

1 the opinion of the State Appellate Defender, toward filing a
2 brief.

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

6 (g) (Blank).

7 (h) (Blank).

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

9 (725 ILCS 124/Act rep.)

10 Section 75. The Capital Crimes Litigation Act is repealed
11 on July 1, 2011.

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

15 (725 ILCS 235/5) (from Ch. 38, par. 157-5)

16 Sec. 5. Exceptions.

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

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

21 Section 85. The Unified Code of Corrections is amended by
22 changing Sections 3-3-13, 3-6-3, 3-8-10, 5-1-9, 5-4-1, 5-4-3,

1 5-4.5-20, 5-5-3, 5-8-1, 5-8-4, and 5-8-5 as follows:

2 (730 ILCS 5/3-3-13) (from Ch. 38, par. 1003-3-13)

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

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

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

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

25 (c) The Board shall, if requested and upon due notice, give

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

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

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

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

25 (e) Nothing in this Section shall be construed to limit the
26 power of the Governor under the constitution to grant a

1 repeive, commutation of sentence, or pardon.

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

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

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

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

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

23 (i) that a prisoner who is serving a term of
24 imprisonment for first degree murder or for the offense
25 of terrorism shall receive no good conduct credit and

1 shall serve the entire sentence imposed by the court;

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

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

25 (iv) that a prisoner serving a sentence for
26 aggravated discharge of a firearm, whether or not the

1 conduct leading to conviction for the offense resulted
2 in great bodily harm to the victim, shall receive no
3 more than 4.5 days of good conduct credit for each
4 month of his or her sentence of imprisonment;

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

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

5 (2.1) For all offenses, other than those enumerated in
6 subdivision (a)(2)(i), (ii), or (iii) committed on or after
7 June 19, 1998 or subdivision (a)(2)(iv) committed on or
8 after June 23, 2005 (the effective date of Public Act
9 94-71) or subdivision (a)(2)(v) committed on or after
10 August 13, 2007 (the effective date of Public Act 95-134)
11 or subdivision (a)(2)(vi) committed on or after June 1,
12 2008 (the effective date of Public Act 95-625), and other
13 than the offense of reckless homicide as defined in
14 subsection (e) of Section 9-3 of the Criminal Code of 1961
15 committed on or after January 1, 1999, or aggravated
16 driving under the influence of alcohol, other drug or
17 drugs, or intoxicating compound or compounds, or any
18 combination thereof as defined in subparagraph (F) of
19 paragraph (1) of subsection (d) of Section 11-501 of the
20 Illinois Vehicle Code, the rules and regulations shall
21 provide that a prisoner who is serving a term of
22 imprisonment shall receive one day of good conduct credit
23 for each day of his or her sentence of imprisonment or
24 recommitment under Section 3-3-9. Each day of good conduct
25 credit shall reduce by one day the prisoner's period of
26 imprisonment or recommitment under Section 3-3-9.

1 (2.2) A prisoner serving a term of natural life
2 imprisonment ~~or a prisoner who has been sentenced to death~~
3 shall receive no good conduct credit.

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

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

1 (2.5) The rules and regulations on early release shall
2 provide that a prisoner who is serving a sentence for
3 aggravated arson committed on or after July 27, 2001 (the
4 effective date of Public Act 92-176) shall receive no more
5 than 4.5 days of good conduct credit for each month of his
6 or her sentence of imprisonment.

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

1 stalking, aggravated battery of a child, endangering the
2 life or health of a child, or cruelty to a child.
3 Notwithstanding the foregoing, good conduct credit for
4 meritorious service shall not be awarded on a sentence of
5 imprisonment imposed for conviction of: (i) one of the
6 offenses enumerated in subdivision (a)(2)(i), (ii), or
7 (iii) when the offense is committed on or after June 19,
8 1998 or subdivision (a)(2)(iv) when the offense is
9 committed on or after June 23, 2005 (the effective date of
10 Public Act 94-71) or subdivision (a)(2)(v) when the offense
11 is committed on or after August 13, 2007 (the effective
12 date of Public Act 95-134) or subdivision (a)(2)(vi) when
13 the offense is committed on or after June 1, 2008 (the
14 effective date of Public Act 95-625), (ii) reckless
15 homicide as defined in subsection (e) of Section 9-3 of the
16 Criminal Code of 1961 when the offense is committed on or
17 after January 1, 1999, or aggravated driving under the
18 influence of alcohol, other drug or drugs, or intoxicating
19 compound or compounds, or any combination thereof as
20 defined in subparagraph (F) of paragraph (1) of subsection
21 (d) of Section 11-501 of the Illinois Vehicle Code, (iii)
22 one of the offenses enumerated in subdivision (a)(2.4) when
23 the offense is committed on or after July 15, 1999 (the
24 effective date of Public Act 91-121), or (iv) aggravated
25 arson when the offense is committed on or after July 27,
26 2001 (the effective date of Public Act 92-176).

1 The Director shall not award good conduct credit for
2 meritorious service under this paragraph (3) to an inmate
3 unless the inmate has served a minimum of 60 days of the
4 sentence; except nothing in this paragraph shall be
5 construed to permit the Director to extend an inmate's
6 sentence beyond that which was imposed by the court. Prior
7 to awarding credit under this paragraph (3), the Director
8 shall make a written determination that the inmate:

9 (A) is eligible for good conduct credit for
10 meritorious service;

11 (B) has served a minimum of 60 days, or as close to
12 60 days as the sentence will allow; and

13 (C) has met the eligibility criteria established
14 by rule.

15 The Director shall determine the form and content of
16 the written determination required in this subsection.

17 (4) The rules and regulations shall also provide that
18 the good conduct credit accumulated and retained under
19 paragraph (2.1) of subsection (a) of this Section by any
20 inmate during specific periods of time in which such inmate
21 is engaged full-time in substance abuse programs,
22 correctional industry assignments, or educational programs
23 provided by the Department under this paragraph (4) and
24 satisfactorily completes the assigned program as
25 determined by the standards of the Department, shall be
26 multiplied by a factor of 1.25 for program participation

1 before August 11, 1993 and 1.50 for program participation
2 on or after that date. However, no inmate shall be eligible
3 for the additional good conduct credit under this paragraph
4 (4) or (4.1) of this subsection (a) while assigned to a
5 boot camp or electronic detention, or if convicted of an
6 offense enumerated in subdivision (a)(2)(i), (ii), or
7 (iii) of this Section that is committed on or after June
8 19, 1998 or subdivision (a)(2)(iv) of this Section that is
9 committed on or after June 23, 2005 (the effective date of
10 Public Act 94-71) or subdivision (a)(2)(v) of this Section
11 that is committed on or after August 13, 2007 (the
12 effective date of Public Act 95-134) or subdivision
13 (a)(2)(vi) when the offense is committed on or after June
14 1, 2008 (the effective date of Public Act 95-625), or if
15 convicted of reckless homicide as defined in subsection (e)
16 of Section 9-3 of the Criminal Code of 1961 if the offense
17 is committed on or after January 1, 1999, or aggravated
18 driving under the influence of alcohol, other drug or
19 drugs, or intoxicating compound or compounds, or any
20 combination thereof as defined in subparagraph (F) of
21 paragraph (1) of subsection (d) of Section 11-501 of the
22 Illinois Vehicle Code, or if convicted of an offense
23 enumerated in paragraph (a)(2.4) of this Section that is
24 committed on or after July 15, 1999 (the effective date of
25 Public Act 91-121), or first degree murder, a Class X
26 felony, criminal sexual assault, felony criminal sexual

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

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

21 Availability of these programs shall be subject to the
22 limits of fiscal resources appropriated by the General
23 Assembly for these purposes. Eligible inmates who are
24 denied immediate admission shall be placed on a waiting
25 list under criteria established by the Department. The
26 inability of any inmate to become engaged in any such

1 programs by reason of insufficient program resources or for
2 any other reason established under the rules and
3 regulations of the Department shall not be deemed a cause
4 of action under which the Department or any employee or
5 agent of the Department shall be liable for damages to the
6 inmate.

7 (4.1) The rules and regulations shall also provide that
8 an additional 60 days of good conduct credit shall be
9 awarded to any prisoner who passes the high school level
10 Test of General Educational Development (GED) while the
11 prisoner is incarcerated. The good conduct credit awarded
12 under this paragraph (4.1) shall be in addition to, and
13 shall not affect, the award of good conduct under any other
14 paragraph of this Section, but shall also be pursuant to
15 the guidelines and restrictions set forth in paragraph (4)
16 of subsection (a) of this Section. The good conduct credit
17 provided for in this paragraph shall be available only to
18 those prisoners who have not previously earned a high
19 school diploma or a GED. If, after an award of the GED good
20 conduct credit has been made and the Department determines
21 that the prisoner was not eligible, then the award shall be
22 revoked.

23 (4.5) The rules and regulations on early release shall
24 also provide that when the court's sentencing order
25 recommends a prisoner for substance abuse treatment and the
26 crime was committed on or after September 1, 2003 (the

1 effective date of Public Act 93-354), the prisoner shall
2 receive no good conduct credit awarded under clause (3) of
3 this subsection (a) unless he or she participates in and
4 completes a substance abuse treatment program. The
5 Director may waive the requirement to participate in or
6 complete a substance abuse treatment program and award the
7 good conduct credit in specific instances if the prisoner
8 is not a good candidate for a substance abuse treatment
9 program for medical, programming, or operational reasons.
10 Availability of substance abuse treatment shall be subject
11 to the limits of fiscal resources appropriated by the
12 General Assembly for these purposes. If treatment is not
13 available and the requirement to participate and complete
14 the treatment has not been waived by the Director, the
15 prisoner shall be placed on a waiting list under criteria
16 established by the Department. The Director may allow a
17 prisoner placed on a waiting list to participate in and
18 complete a substance abuse education class or attend
19 substance abuse self-help meetings in lieu of a substance
20 abuse treatment program. A prisoner on a waiting list who
21 is not placed in a substance abuse program prior to release
22 may be eligible for a waiver and receive good conduct
23 credit under clause (3) of this subsection (a) at the
24 discretion of the Director.

25 (4.6) The rules and regulations on early release shall
26 also provide that a prisoner who has been convicted of a

1 sex offense as defined in Section 2 of the Sex Offender
2 Registration Act shall receive no good conduct credit
3 unless he or she either has successfully completed or is
4 participating in sex offender treatment as defined by the
5 Sex Offender Management Board. However, prisoners who are
6 waiting to receive such treatment, but who are unable to do
7 so due solely to the lack of resources on the part of the
8 Department, may, at the Director's sole discretion, be
9 awarded good conduct credit at such rate as the Director
10 shall determine.

11 (5) Whenever the Department is to release any inmate
12 earlier than it otherwise would because of a grant of good
13 conduct credit for meritorious service given at any time
14 during the term, the Department shall give reasonable
15 notice of the impending release not less than 14 days prior
16 to the date of the release to the State's Attorney of the
17 county where the prosecution of the inmate took place, and
18 if applicable, the State's Attorney of the county into
19 which the inmate will be released.

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

24 (c) The Department shall prescribe rules and regulations
25 for revoking good conduct credit, or suspending or reducing the
26 rate of accumulation of good conduct credit for specific rule

1 violations, during imprisonment. These rules and regulations
2 shall provide that no inmate may be penalized more than one
3 year of good conduct credit for any one infraction.

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

23 The Director of the Department of Corrections, in
24 appropriate cases, may restore up to 30 days good conduct
25 credits which have been revoked, suspended or reduced. Any
26 restoration of good conduct credits in excess of 30 days shall

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

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

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

23 For purposes of this subsection (d):

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

1 following criteria:

2 (A) it lacks an arguable basis either in law or in
3 fact;

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

7 (C) the claims, defenses, and other legal
8 contentions therein are not warranted by existing law
9 or by a nonfrivolous argument for the extension,
10 modification, or reversal of existing law or the
11 establishment of new law;

12 (D) the allegations and other factual contentions
13 do not have evidentiary support or, if specifically so
14 identified, are not likely to have evidentiary support
15 after a reasonable opportunity for further
16 investigation or discovery; or

17 (E) the denials of factual contentions are not
18 warranted on the evidence, or if specifically so
19 identified, are not reasonably based on a lack of
20 information or belief.

21 (2) "Lawsuit" means a motion pursuant to Section 116-3
22 of the Code of Criminal Procedure of 1963, a habeas corpus
23 action under Article X of the Code of Civil Procedure or
24 under federal law (28 U.S.C. 2254), a petition for claim
25 under the Court of Claims Act, an action under the federal
26 Civil Rights Act (42 U.S.C. 1983), or a second or

1 subsequent petition for post-conviction relief under
2 Article 122 of the Code of Criminal Procedure of 1963
3 whether filed with or without leave of court or a second or
4 subsequent petition for relief from judgment under Section
5 2-1401 of the Code of Civil Procedure.

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

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

16 (Source: P.A. 95-134, eff. 8-13-07; 95-585, eff. 6-1-08;
17 95-625, eff. 6-1-08; 95-640, eff. 6-1-08; 95-773, eff. 1-1-09;
18 95-876, eff. 8-21-08; 96-860, eff. 1-15-10.)

19 (730 ILCS 5/3-8-10) (from Ch. 38, par. 1003-8-10)

20 Sec. 3-8-10. Intrastate Detainers. Subsection ~~Except for~~
21 ~~persons sentenced to death, subsection~~ (b), (c) and (e) of
22 Section 103-5 of the Code of Criminal Procedure of 1963 shall
23 also apply to persons committed to any institution or facility
24 or program of the Illinois Department of Corrections who have
25 untried complaints, charges or indictments pending in any

1 county of this State, and such person shall include in the
2 demand under subsection (b), a statement of the place of
3 present commitment, the term, and length of the remaining term,
4 the charges pending against him or her to be tried and the
5 county of the charges, and the demand shall be addressed to the
6 state's attorney of the county where he or she is charged with
7 a copy to the clerk of that court and a copy to the chief
8 administrative officer of the Department of Corrections
9 institution or facility to which he or she is committed. The
10 state's attorney shall then procure the presence of the
11 defendant for trial in his county by habeas corpus. Additional
12 time may be granted by the court for the process of bringing
13 and serving an order of habeas corpus ad prosequendum. In the
14 event that the person is not brought to trial within the
15 allotted time, then the charge for which he or she has
16 requested a speedy trial shall be dismissed. The provisions of
17 this Section do not apply to persons no longer committed to a
18 facility or program of the Illinois Department of Corrections.
19 A person serving a period of parole or mandatory supervised
20 release under the supervision of the Department of Corrections,
21 for the purpose of this Section, shall not be deemed to be
22 committed to the Department.

23 (Source: P.A. 96-642, eff. 8-24-09.)

24 (730 ILCS 5/5-1-9) (from Ch. 38, par. 1005-1-9)

25 Sec. 5-1-9. Felony.

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

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

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

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

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

1 provided in paragraph (a) of subsection (1) of Section 3-2-2
2 conditioned upon the defendant being accepted in a program by
3 the Department of Corrections. At the hearing the court shall:

4 (1) consider the evidence, if any, received upon the
5 trial;

6 (2) consider any presentence reports;

7 (3) consider the financial impact of incarceration
8 based on the financial impact statement filed with the
9 clerk of the court by the Department of Corrections;

10 (4) consider evidence and information offered by the
11 parties in aggravation and mitigation;

12 (4.5) consider substance abuse treatment, eligibility
13 screening, and an assessment, if any, of the defendant by
14 an agent designated by the State of Illinois to provide
15 assessment services for the Illinois courts;

16 (5) hear arguments as to sentencing alternatives;

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

19 (7) afford the victim of a violent crime or a violation
20 of Section 11-501 of the Illinois Vehicle Code, or a
21 similar provision of a local ordinance, or a qualified
22 individual affected by: (i) a violation of Section 405,
23 405.1, 405.2, or 407 of the Illinois Controlled Substances
24 Act or a violation of Section 55 or Section 65 of the
25 Methamphetamine Control and Community Protection Act, or
26 (ii) a Class 4 felony violation of Section 11-14, 11-15,

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

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

26 (9) in cases involving a felony sex offense as defined

1 under the Sex Offender Management Board Act, consider the
2 results of the sex offender evaluation conducted pursuant
3 to Section 5-3-2 of this Act.

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

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

26 (c-1) In imposing a sentence for the offense of aggravated

1 kidnapping for ransom, home invasion, armed robbery,
2 aggravated vehicular hijacking, aggravated discharge of a
3 firearm, or armed violence with a category I weapon or category
4 II weapon, the trial judge shall make a finding as to whether
5 the conduct leading to conviction for the offense resulted in
6 great bodily harm to a victim, and shall enter that finding and
7 the basis for that finding in the record.

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

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

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

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

13 When the sentence is imposed for one of the offenses
14 enumerated in paragraph (a) (3) of Section 3-6-3, other than
15 when the sentence is imposed for one of the offenses enumerated
16 in paragraph (a) (2) of Section 3-6-3 committed on or after June
17 19, 1998, and other than when the sentence is imposed for
18 reckless homicide as defined in subsection (e) of Section 9-3
19 of the Criminal Code of 1961 if the offense was committed on or
20 after January 1, 1999, and other than when the sentence is
21 imposed for aggravated arson if the offense was committed on or
22 after July 27, 2001 (the effective date of Public Act 92-176),
23 the judge's statement, to be given after pronouncing the
24 sentence, shall include the following:

25 "The purpose of this statement is to inform the public of
26 the actual period of time this defendant is likely to spend in

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

16 When the sentence is imposed for one of the offenses
17 enumerated in paragraph (a)(2) of Section 3-6-3, other than
18 first degree murder, and the offense was committed on or after
19 June 19, 1998, and when the sentence is imposed for reckless
20 homicide as defined in subsection (e) of Section 9-3 of the
21 Criminal Code of 1961 if the offense was committed on or after
22 January 1, 1999, and when the sentence is imposed for
23 aggravated driving under the influence of alcohol, other drug
24 or drugs, or intoxicating compound or compounds, or any
25 combination thereof as defined in subparagraph (F) of paragraph
26 (1) of subsection (d) of Section 11-501 of the Illinois Vehicle

1 Code, and when the sentence is imposed for aggravated arson if
2 the offense was committed on or after July 27, 2001 (the
3 effective date of Public Act 92-176), the judge's statement, to
4 be given after pronouncing the sentence, shall include the
5 following:

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

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

25 "The purpose of this statement is to inform the public of
26 the actual period of time this defendant is likely to spend in

1 prison as a result of this sentence. The actual period of
2 prison time served is determined by the statutes of Illinois as
3 applied to this sentence by the Illinois Department of
4 Corrections and the Illinois Prisoner Review Board. In this
5 case, the defendant is not entitled to good conduct credit.
6 Therefore, this defendant will serve 100% of his or her
7 sentence."

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

16 "The purpose of this statement is to inform the public of
17 the actual period of time this defendant is likely to spend in
18 prison as a result of this sentence. The actual period of
19 prison time served is determined by the statutes of Illinois as
20 applied to this sentence by the Illinois Department of
21 Corrections and the Illinois Prisoner Review Board. In this
22 case, the defendant shall receive no good conduct credit under
23 clause (3) of subsection (a) of Section 3-6-3 until he or she
24 participates in and completes a substance abuse treatment
25 program or receives a waiver from the Director of Corrections
26 pursuant to clause (4.5) of subsection (a) of Section 3-6-3."

1 (c-4) Before the sentencing hearing and as part of the
2 presentence investigation under Section 5-3-1, the court shall
3 inquire of the defendant whether the defendant is currently
4 serving in or is a veteran of the Armed Forces of the United
5 States. If the defendant is currently serving in the Armed
6 Forces of the United States or is a veteran of the Armed Forces
7 of the United States and has been diagnosed as having a mental
8 illness by a qualified psychiatrist or clinical psychologist or
9 physician, the court may:

10 (1) order that the officer preparing the presentence
11 report consult with the United States Department of
12 Veterans Affairs, Illinois Department of Veterans'
13 Affairs, or another agency or person with suitable
14 knowledge or experience for the purpose of providing the
15 court with information regarding treatment options
16 available to the defendant, including federal, State, and
17 local programming; and

18 (2) consider the treatment recommendations of any
19 diagnosing or treating mental health professionals
20 together with the treatment options available to the
21 defendant in imposing sentence.

22 For the purposes of this subsection (c-4), "qualified
23 psychiatrist" means a reputable physician licensed in Illinois
24 to practice medicine in all its branches, who has specialized
25 in the diagnosis and treatment of mental and nervous disorders
26 for a period of not less than 5 years.

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

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

21 (1) the sentence imposed;

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

24 (3) any presentence reports;

25 (3.5) any sex offender evaluations;

26 (3.6) any substance abuse treatment eligibility

1 screening and assessment of the defendant by an agent
2 designated by the State of Illinois to provide assessment
3 services for the Illinois courts;

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

8 (4.1) any finding of great bodily harm made by the
9 court with respect to an offense enumerated in subsection
10 (c-1);

11 (5) all statements filed under subsection (d) of this
12 Section;

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

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

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

20 (9) all additional matters which the court directs the
21 clerk to transmit.

22 (Source: P.A. 95-331, eff. 8-21-07; 96-86, eff. 1-1-10.)

23 (730 ILCS 5/5-4-3) (from Ch. 38, par. 1005-4-3)

24 Sec. 5-4-3. Persons convicted of, or found delinquent for,
25 certain offenses or institutionalized as sexually dangerous;

1 specimens; genetic marker groups.

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

20 (1) convicted of a qualifying offense or attempt of a
21 qualifying offense on or after July 1, 1990 and sentenced
22 to a term of imprisonment, periodic imprisonment, fine,
23 probation, conditional discharge or any other form of
24 sentence, or given a disposition of court supervision for
25 the offense;

26 (1.5) found guilty or given supervision under the

1 Juvenile Court Act of 1987 for a qualifying offense or
2 attempt of a qualifying offense on or after January 1,
3 1997;

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

6 (3) convicted of a qualifying offense or attempt of a
7 qualifying offense before July 1, 1990 and is presently
8 confined as a result of such conviction in any State
9 correctional facility or county jail or is presently
10 serving a sentence of probation, conditional discharge or
11 periodic imprisonment as a result of such conviction;

12 (3.5) convicted or found guilty of any offense
13 classified as a felony under Illinois law or found guilty
14 or given supervision for such an offense under the Juvenile
15 Court Act of 1987 on or after August 22, 2002;

16 (4) presently institutionalized as a sexually
17 dangerous person or presently institutionalized as a
18 person found guilty but mentally ill of a sexual offense or
19 attempt to commit a sexual offense;

20 (4.5) ordered committed as a sexually violent person on
21 or after the effective date of the Sexually Violent Persons
22 Commitment Act; or

23 (5) seeking transfer to or residency in Illinois under
24 Sections 3-3-11.05 through 3-3-11.5 of the Unified Code of
25 Corrections and the Interstate Compact for Adult Offender
26 Supervision or the Interstate Agreements on Sexually

1 Dangerous Persons Act.

2 Notwithstanding other provisions of this Section, any
3 person incarcerated in a facility of the Illinois Department of
4 Corrections or the Illinois Department of Juvenile Justice on
5 or after August 22, 2002, whether for a term of years, natural
6 life, or a sentence of death, who has not yet submitted a
7 sample of blood, saliva, or tissue shall be required to submit
8 a specimen of blood, saliva, or tissue prior to his or her
9 final discharge, or release on parole or mandatory supervised
10 release, as a condition of his or her parole or mandatory
11 supervised release, or within 6 months from August 13, 2009
12 ~~(the effective date of Public Act 96-426) the effective date of~~
13 ~~this amendatory Act of the 96th General Assembly~~, whichever is
14 sooner. A person ~~Persons~~ incarcerated on or after August 13,
15 2009 (the effective date of Public Act 96-426) ~~the effective~~
16 ~~date of this amendatory Act of the 96th General Assembly~~ shall
17 be required to submit a sample within 45 days of incarceration,
18 or prior to his or her final discharge, or release on parole or
19 mandatory supervised release, as a condition of his or her
20 parole or mandatory supervised release, whichever is sooner.
21 These specimens shall be placed into the State or national DNA
22 database, to be used in accordance with other provisions of
23 this Section, by the Illinois State Police.

24 Notwithstanding other provisions of this Section, any
25 person sentenced to life imprisonment in a facility of the
26 Illinois Department of Corrections after the effective date of

1 this amendatory Act of the 94th General Assembly or sentenced
2 to death after the effective date of this amendatory Act of the
3 94th General Assembly and before the effective date of this
4 amendatory Act of the 96th General Assembly shall be required
5 to provide a specimen of blood, saliva, or tissue within 45
6 days after sentencing or disposition at a collection site
7 designated by the Illinois Department of State Police. Any
8 person serving a sentence of life imprisonment in a facility of
9 the Illinois Department of Corrections on the effective date of
10 this amendatory Act of the 94th General Assembly or any person
11 who is under a sentence of death on the effective date of this
12 amendatory Act of the 94th General Assembly and before the
13 effective date of this amendatory Act of the 96th General
14 Assembly shall be required to provide a specimen of blood,
15 saliva, or tissue upon request at a collection site designated
16 by the Illinois Department of State Police.

17 (a-5) Any person who was otherwise convicted of or received
18 a disposition of court supervision for any other offense under
19 the Criminal Code of 1961 or who was found guilty or given
20 supervision for such a violation under the Juvenile Court Act
21 of 1987, may, regardless of the sentence imposed, be required
22 by an order of the court to submit specimens of blood, saliva,
23 or tissue to the Illinois Department of State Police in
24 accordance with the provisions of this Section.

25 (b) Any person required by paragraphs (a)(1), (a)(1.5),
26 (a)(2), (a)(3.5), and (a-5) to provide specimens of blood,

1 saliva, or tissue shall provide specimens of blood, saliva, or
2 tissue within 45 days after sentencing or disposition at a
3 collection site designated by the Illinois Department of State
4 Police.

5 (c) Any person required by paragraphs (a) (3), (a) (4), and
6 (a) (4.5) to provide specimens of blood, saliva, or tissue shall
7 be required to provide such samples prior to final discharge or
8 within 6 months from August 13, 2009 (the effective date of
9 Public Act 96-426) ~~the effective date of this amendatory Act of~~
10 ~~the 96th General Assembly~~, whichever is sooner. These specimens
11 shall be placed into the State or national DNA database, to be
12 used in accordance with other provisions of this Act, by the
13 Illinois State Police.

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

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

24 (d) The Illinois Department of State Police shall provide
25 all equipment and instructions necessary for the collection of
26 blood samples. The collection of samples shall be performed in

1 a medically approved manner. Only a physician authorized to
2 practice medicine, a registered nurse or other qualified person
3 trained in venipuncture may withdraw blood for the purposes of
4 this Act. The samples shall thereafter be forwarded to the
5 Illinois Department of State Police, Division of Forensic
6 Services, for analysis and categorizing into genetic marker
7 groupings.

8 (d-1) The Illinois Department of State Police shall provide
9 all equipment and instructions necessary for the collection of
10 saliva samples. The collection of saliva samples shall be
11 performed in a medically approved manner. Only a person trained
12 in the instructions promulgated by the Illinois State Police on
13 collecting saliva may collect saliva for the purposes of this
14 Section. The samples shall thereafter be forwarded to the
15 Illinois Department of State Police, Division of Forensic
16 Services, for analysis and categorizing into genetic marker
17 groupings.

18 (d-2) The Illinois Department of State Police shall provide
19 all equipment and instructions necessary for the collection of
20 tissue samples. The collection of tissue samples shall be
21 performed in a medically approved manner. Only a person trained
22 in the instructions promulgated by the Illinois State Police on
23 collecting tissue may collect tissue for the purposes of this
24 Section. The samples shall thereafter be forwarded to the
25 Illinois Department of State Police, Division of Forensic
26 Services, for analysis and categorizing into genetic marker

1 groupings.

2 (d-5) To the extent that funds are available, the Illinois
3 Department of State Police shall contract with qualified
4 personnel and certified laboratories for the collection,
5 analysis, and categorization of known samples, except as
6 provided in subsection (n) of this Section.

7 (d-6) Agencies designated by the Illinois Department of
8 State Police and the Illinois Department of State Police may
9 contract with third parties to provide for the collection or
10 analysis of DNA, or both, of an offender's blood, saliva, and
11 tissue samples, except as provided in subsection (n) of this
12 Section.

13 (e) The genetic marker groupings shall be maintained by the
14 Illinois Department of State Police, Division of Forensic
15 Services.

16 (f) The genetic marker grouping analysis information
17 obtained pursuant to this Act shall be confidential and shall
18 be released only to peace officers of the United States, of
19 other states or territories, of the insular possessions of the
20 United States, of foreign countries duly authorized to receive
21 the same, to all peace officers of the State of Illinois and to
22 all prosecutorial agencies, and to defense counsel as provided
23 by Section 116-5 of the Code of Criminal Procedure of 1963. The
24 genetic marker grouping analysis information obtained pursuant
25 to this Act shall be used only for (i) valid law enforcement
26 identification purposes and as required by the Federal Bureau

1 of Investigation for participation in the National DNA
2 database, (ii) technology validation purposes, (iii) a
3 population statistics database, (iv) quality assurance
4 purposes if personally identifying information is removed, (v)
5 assisting in the defense of the criminally accused pursuant to
6 Section 116-5 of the Code of Criminal Procedure of 1963, or
7 (vi) identifying and assisting in the prosecution of a person
8 who is suspected of committing a sexual assault as defined in
9 Section 1a of the Sexual Assault Survivors Emergency Treatment
10 Act. Notwithstanding any other statutory provision to the
11 contrary, all information obtained under this Section shall be
12 maintained in a single State data base, which may be uploaded
13 into a national database, and which information may be subject
14 to expungement only as set forth in subsection (f-1).

15 (f-1) Upon receipt of notification of a reversal of a
16 conviction based on actual innocence, or of the granting of a
17 pardon pursuant to Section 12 of Article V of the Illinois
18 Constitution, if that pardon document specifically states that
19 the reason for the pardon is the actual innocence of an
20 individual whose DNA record has been stored in the State or
21 national DNA identification index in accordance with this
22 Section by the Illinois Department of State Police, the DNA
23 record shall be expunged from the DNA identification index, and
24 the Department shall by rule prescribe procedures to ensure
25 that the record and any samples, analyses, or other documents
26 relating to such record, whether in the possession of the

1 Department or any law enforcement or police agency, or any
2 forensic DNA laboratory, including any duplicates or copies
3 thereof, are destroyed and a letter is sent to the court
4 verifying the expungement is completed.

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

11 (f-6) The Illinois Department of State Police may contract
12 with third parties for the purposes of implementing this
13 amendatory Act of the 93rd General Assembly, except as provided
14 in subsection (n) of this Section. Any other party contracting
15 to carry out the functions of this Section shall be subject to
16 the same restrictions and requirements of this Section insofar
17 as applicable, as the Illinois Department of State Police, and
18 to any additional restrictions imposed by the Illinois
19 Department of State Police.

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

22 (1) any violation or inchoate violation of Section
23 11-6, 11-9.1, 11-11, 11-18.1, 12-15, or 12-16 of the
24 Criminal Code of 1961;

25 (1.1) any violation or inchoate violation of Section
26 9-1, 9-2, 10-1, 10-2, 12-11, 12-11.1, 18-1, 18-2, 18-3,

1 18-4, 19-1, or 19-2 of the Criminal Code of 1961 for which
2 persons are convicted on or after July 1, 2001;

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

5 (3) (blank);

6 (4) any inchoate violation of Section 9-3.1, 11-9.3,
7 12-7.3, or 12-7.4 of the Criminal Code of 1961; or

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

10 (g-5) (Blank).

11 (h) The Illinois Department of State Police shall be the
12 State central repository for all genetic marker grouping
13 analysis information obtained pursuant to this Act. The
14 Illinois Department of State Police may promulgate rules for
15 the form and manner of the collection of blood, saliva, or
16 tissue samples and other procedures for the operation of this
17 Act. The provisions of the Administrative Review Law shall
18 apply to all actions taken under the rules so promulgated.

19 (i) (1) A person required to provide a blood, saliva, or
20 tissue specimen shall cooperate with the collection of the
21 specimen and any deliberate act by that person intended to
22 impede, delay or stop the collection of the blood, saliva,
23 or tissue specimen is a Class A misdemeanor.

24 (2) In the event that a person's DNA sample is not
25 adequate for any reason, the person shall provide another
26 DNA sample for analysis. Duly authorized law enforcement

1 and corrections personnel may employ reasonable force in
2 cases in which an individual refuses to provide a DNA
3 sample required under this Act.

4 (j) Any person required by subsection (a) to submit
5 specimens of blood, saliva, or tissue to the Illinois
6 Department of State Police for analysis and categorization into
7 genetic marker grouping, in addition to any other disposition,
8 penalty, or fine imposed, shall pay an analysis fee of \$200. If
9 the analysis fee is not paid at the time of sentencing, the
10 court shall establish a fee schedule by which the entire amount
11 of the analysis fee shall be paid in full, such schedule not to
12 exceed 24 months from the time of conviction. The inability to
13 pay this analysis fee shall not be the sole ground to
14 incarcerate the person.

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

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

19 (2) All fees shall be collected by the clerk of the
20 court and forwarded to the State Offender DNA
21 Identification System Fund for deposit. The clerk of the
22 circuit court may retain the amount of \$10 from each
23 collected analysis fee to offset administrative costs
24 incurred in carrying out the clerk's responsibilities
25 under this Section.

26 (3) Fees deposited into the State Offender DNA

1 Identification System Fund shall be used by Illinois State
2 Police crime laboratories as designated by the Director of
3 State Police. These funds shall be in addition to any
4 allocations made pursuant to existing laws and shall be
5 designated for the exclusive use of State crime
6 laboratories. These uses may include, but are not limited
7 to, the following:

8 (A) Costs incurred in providing analysis and
9 genetic marker categorization as required by
10 subsection (d).

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

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

15 (D) Costs incurred in continuing research and
16 development of new techniques for analysis and genetic
17 marker categorization.

18 (E) Costs incurred in continuing education,
19 training, and professional development of forensic
20 scientists regularly employed by these laboratories.

21 (1) The failure of a person to provide a specimen, or of
22 any person or agency to collect a specimen, within the 45 day
23 period shall in no way alter the obligation of the person to
24 submit such specimen, or the authority of the Illinois
25 Department of State Police or persons designated by the
26 Department to collect the specimen, or the authority of the

1 Illinois Department of State Police to accept, analyze and
2 maintain the specimen or to maintain or upload results of
3 genetic marker grouping analysis information into a State or
4 national database.

5 (m) If any provision of this amendatory Act of the 93rd
6 General Assembly is held unconstitutional or otherwise
7 invalid, the remainder of this amendatory Act of the 93rd
8 General Assembly is not affected.

9 (n) Neither the Department of State Police, the Division of
10 Forensic Services, nor any laboratory of the Division of
11 Forensic Services may contract out forensic testing for the
12 purpose of an active investigation or a matter pending before a
13 court of competent jurisdiction without the written consent of
14 the prosecuting agency. For the purposes of this subsection
15 (n), "forensic testing" includes the analysis of physical
16 evidence in an investigation or other proceeding for the
17 prosecution of a violation of the Criminal Code of 1961 or for
18 matters adjudicated under the Juvenile Court Act of 1987, and
19 includes the use of forensic databases and databanks, including
20 DNA, firearm, and fingerprint databases, and expert testimony.
21 (Source: P.A. 96-426, eff. 8-13-09; 96-642, eff. 8-24-09;
22 revised 9-15-09.)

23 (730 ILCS 5/5-4.5-20)

24 Sec. 5-4.5-20. FIRST DEGREE MURDER; SENTENCE. For first
25 degree murder:

1 (a) TERM. The defendant shall be sentenced to imprisonment
2 ~~or, if appropriate, death under Section 9-1 of the Criminal~~
3 ~~Code of 1961 (720 ILCS 5/9-1)~~. Imprisonment shall be for a
4 determinate term of (1) not less than 20 years and not more
5 than 60 years; (2) not less than 60 years and not more than 100
6 years when an extended term is imposed under Section 5-8-2 (730
7 ILCS 5/5-8-2); or (3) natural life as provided in Section 5-8-1
8 (730 ILCS 5/5-8-1).

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

12 (b) PERIODIC IMPRISONMENT. A term of periodic imprisonment
13 shall not be imposed.

14 (c) IMPACT INCARCERATION. The impact incarceration program
15 or the county impact incarceration program is not an authorized
16 disposition.

17 (d) PROBATION; CONDITIONAL DISCHARGE. A period of
18 probation or conditional discharge shall not be imposed.

19 (e) FINE. Fines may be imposed as provided in Section
20 5-4.5-50(b) (730 ILCS 5/5-4.5-50(b)).

21 (f) RESTITUTION. See Section 5-5-6 (730 ILCS 5/5-5-6)
22 concerning restitution.

23 (g) CONCURRENT OR CONSECUTIVE SENTENCE. The sentence shall
24 be concurrent or consecutive as provided in Section 5-8-4 (730
25 ILCS 5/5-8-4) and Section 5-4.5-50 (730 ILCS 5/5-4.5-50).

26 (h) DRUG COURT. Drug court is not an authorized

1 disposition.

2 (i) CREDIT FOR HOME DETENTION. See Section 5-4.5-100 (730
3 ILCS 5/5-4.5-100) concerning no credit for time spent in home
4 detention prior to judgment.

5 (j) EARLY RELEASE; GOOD CONDUCT. See Section 3-6-3 (730
6 ILCS 5/3-6-3) for rules and regulations for early release based
7 on good conduct.

8 (k) ELECTRONIC HOME DETENTION. Electronic home detention
9 is not an authorized disposition, except in limited
10 circumstances as provided in Section 5-8A-3 (730 ILCS
11 5/5-8A-3).

12 (l) PAROLE; MANDATORY SUPERVISED RELEASE. Except as
13 provided in Section 3-3-8 (730 ILCS 5/3-3-8), the parole or
14 mandatory supervised release term shall be 3 years upon release
15 from imprisonment.

16 (Source: P.A. 95-1052, eff. 7-1-09.)

17 (730 ILCS 5/5-5-3) (from Ch. 38, par. 1005-5-3)

18 Sec. 5-5-3. Disposition.

19 (a) (Blank).

20 (b) (Blank).

21 (c) (1) (Blank).

22 (2) A period of probation, a term of periodic
23 imprisonment or conditional discharge shall not be imposed
24 for the following offenses. The court shall sentence the
25 offender to not less than the minimum term of imprisonment

1 set forth in this Code for the following offenses, and may
2 order a fine or restitution or both in conjunction with
3 such term of imprisonment:

4 (A) First degree murder ~~where the death penalty is~~
5 ~~not imposed.~~

6 (B) Attempted first degree murder.

7 (C) A Class X felony.

8 (D) A violation of Section 401.1 or 407 of the
9 Illinois Controlled Substances Act, or a violation of
10 subdivision (c) (1), (c) (1.5), or (c) (2) of Section 401
11 of that Act which relates to more than 5 grams of a
12 substance containing heroin, cocaine, fentanyl, or an
13 analog thereof.

14 (E) A violation of Section 5.1 or 9 of the Cannabis
15 Control Act.

16 (F) A Class 2 or greater felony if the offender had
17 been convicted of a Class 2 or greater felony,
18 including any state or federal conviction for an
19 offense that contained, at the time it was committed,
20 the same elements as an offense now (the date of the
21 offense committed after the prior Class 2 or greater
22 felony) classified as a Class 2 or greater felony,
23 within 10 years of the date on which the offender
24 committed the offense for which he or she is being
25 sentenced, except as otherwise provided in Section
26 40-10 of the Alcoholism and Other Drug Abuse and

1 Dependency Act.

2 (F-5) A violation of Section 24-1, 24-1.1, or
3 24-1.6 of the Criminal Code of 1961 for which
4 imprisonment is prescribed in those Sections.

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

8 (H) Criminal sexual assault.

9 (I) Aggravated battery of a senior citizen.

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

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

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

22 (K) Vehicular hijacking.

23 (L) A second or subsequent conviction for the
24 offense of hate crime when the underlying offense upon
25 which the hate crime is based is felony aggravated
26 assault or felony mob action.

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

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

7 (O) A violation of Section 12-6.1 of the Criminal
8 Code of 1961.

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

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

14 (R) A violation of Section 24-3A of the Criminal
15 Code of 1961.

16 (S) (Blank).

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

19 (U) A second or subsequent violation of Section
20 6-303 of the Illinois Vehicle Code committed while his
21 or her driver's license, permit, or privilege was
22 revoked because of a violation of Section 9-3 of the
23 Criminal Code of 1961, relating to the offense of
24 reckless homicide, or a similar provision of a law of
25 another state.

26 (V) A violation of paragraph (4) of subsection (c)

1 of Section 11-20.3 of the Criminal Code of 1961.

2 (W) A violation of Section 24-3.5 of the Criminal
3 Code of 1961.

4 (X) A violation of subsection (a) of Section 31-1a
5 of the Criminal Code of 1961.

6 (Y) A conviction for unlawful possession of a
7 firearm by a street gang member when the firearm was
8 loaded or contained firearm ammunition.

9 (3) (Blank).

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

14 (4.1) (Blank).

15 (4.2) Except as provided in paragraphs (4.3) and (4.8)
16 of this subsection (c), a minimum of 100 hours of community
17 service shall be imposed for a second violation of Section
18 6-303 of the Illinois Vehicle Code.

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

23 (4.4) Except as provided in paragraphs (4.5), (4.6),
24 and (4.9) of this subsection (c), a minimum term of
25 imprisonment of 30 days or 300 hours of community service,
26 as determined by the court, shall be imposed for a third or

1 subsequent violation of Section 6-303 of the Illinois
2 Vehicle Code.

3 (4.5) A minimum term of imprisonment of 30 days shall
4 be imposed for a third violation of subsection (c) of
5 Section 6-303 of the Illinois Vehicle Code.

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

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

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

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

1 revoked for the remainder of his or her life.

2 (4.10) A mandatory prison sentence for a Class 1 felony
3 shall be imposed, and the person shall be eligible for an
4 extended term sentence, for a fourth or subsequent
5 violation of subsection (a-5) of Section 6-303 of the
6 Illinois Vehicle Code, as provided in subsection (d-3.5) of
7 that Section. The person's driving privileges shall be
8 revoked for the remainder of his or her life.

9 (5) The court may sentence a corporation or
10 unincorporated association convicted of any offense to:

11 (A) a period of conditional discharge;

12 (B) a fine;

13 (C) make restitution to the victim under Section
14 5-5-6 of this Code.

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

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

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

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

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

14 (5.5) In addition to any other penalties imposed, a
15 person convicted of violating Section 3-707 of the Illinois
16 Vehicle Code during a period in which his or her driver's
17 license, permit, or privileges were suspended for a
18 previous violation of that Section shall have his or her
19 driver's license, permit, or privileges suspended for an
20 additional 6 months after the expiration of the original
21 3-month suspension and until he or she has paid a
22 reinstatement fee of \$100.

23 (6) (Blank).

24 (7) (Blank).

25 (8) (Blank).

26 (9) A defendant convicted of a second or subsequent

1 offense of ritualized abuse of a child may be sentenced to
2 a term of natural life imprisonment.

3 (10) (Blank).

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

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

26 (13) A person convicted of or placed on court

1 supervision for an assault or aggravated assault when the
2 victim and the offender are family or household members as
3 defined in Section 103 of the Illinois Domestic Violence
4 Act of 1986 or convicted of domestic battery or aggravated
5 domestic battery may be required to attend a Partner Abuse
6 Intervention Program under protocols set forth by the
7 Illinois Department of Human Services under such terms and
8 conditions imposed by the court. The costs of such classes
9 shall be paid by the offender.

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

1 sentence, the defendant shall be afforded a new trial.

2 (e) In cases where prosecution for aggravated criminal
3 sexual abuse under Section 12-16 of the Criminal Code of 1961
4 results in conviction of a defendant who was a family member of
5 the victim at the time of the commission of the offense, the
6 court shall consider the safety and welfare of the victim and
7 may impose a sentence of probation only where:

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

9 (A) the defendant is willing to undergo a court
10 approved counseling program for a minimum duration of 2
11 years; or

12 (B) the defendant is willing to participate in a
13 court approved plan including but not limited to the
14 defendant's:

15 (i) removal from the household;

16 (ii) restricted contact with the victim;

17 (iii) continued financial support of the
18 family;

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

20 and

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

23 (2) the court orders the defendant to pay for the
24 victim's counseling services, to the extent that the court
25 finds, after considering the defendant's income and
26 assets, that the defendant is financially capable of paying

1 for such services, if the victim was under 18 years of age
2 at the time the offense was committed and requires
3 counseling as a result of the offense.

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

11 For the purposes of this Section, "family member" and
12 "victim" shall have the meanings ascribed to them in Section
13 12-12 of the Criminal Code of 1961.

14 (f) (Blank).

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

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

26 (g-5) When an inmate is tested for an airborne communicable

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

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

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

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

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

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

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

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

25 (k) (Blank).

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

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

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

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

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

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

25 (1) a final order of deportation has been issued
26 against the defendant pursuant to proceedings under

1 the Immigration and Nationality Act, and

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

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

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

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

24 (n) The court may sentence a person convicted of a
25 violation of Section 12-19, 12-21, or 16-1.3 of the Criminal
26 Code of 1961 (i) to an impact incarceration program if the

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

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

11 (Source: P.A. 95-188, eff. 8-16-07; 95-259, eff. 8-17-07;
12 95-331, eff. 8-21-07; 95-377, eff. 1-1-08; 95-579, eff. 6-1-08;
13 95-876, eff. 8-21-08; 95-882, eff. 1-1-09; 95-1052, eff.
14 7-1-09; 96-348, eff. 8-12-09; 96-400, eff. 8-13-09; 96-829,
15 eff. 12-3-09.)

16 (730 ILCS 5/5-8-1) (from Ch. 38, par. 1005-8-1)

17 Sec. 5-8-1. Natural life imprisonment; mandatory
18 supervised release.

19 (a) Except as otherwise provided in the statute defining
20 the offense or in Article 4.5 of Chapter V, a sentence of
21 imprisonment for a felony shall be a determinate sentence set
22 by the court under this Section, according to the following
23 limitations:

24 (1) for first degree murder,

25 (a) (blank),

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

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

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

14 (ii) is a person who, at the time of the
15 commission of the murder, had attained the age of
16 17 or more and is found guilty of murdering an
17 individual under 12 years of age; or, irrespective
18 of the defendant's age at the time of the
19 commission of the offense, is found guilty of
20 murdering more than one victim, or

21 (iii) is found guilty of murdering a peace
22 officer, fireman, or emergency management worker
23 when the peace officer, fireman, or emergency
24 management worker was killed in the course of
25 performing his official duties, or to prevent the
26 peace officer or fireman from performing his

1 official duties, or in retaliation for the peace
2 officer, fireman, or emergency management worker
3 from performing his official duties, and the
4 defendant knew or should have known that the
5 murdered individual was a peace officer, fireman,
6 or emergency management worker, or

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

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

1 technician - ambulance, emergency medical
2 technician - intermediate, emergency medical
3 technician - paramedic, ambulance driver, or other
4 medical assistant or first aid personnel, or

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

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

20 For purposes of clause (v), "emergency medical
21 technician - ambulance", "emergency medical technician
22 - intermediate", "emergency medical technician -
23 paramedic", have the meanings ascribed to them in the
24 Emergency Medical Services (EMS) Systems Act.

25 (d) (i) if the person committed the offense while
26 armed with a firearm, 15 years shall be added to

1 the term of imprisonment imposed by the court;

2 (ii) if, during the commission of the offense,
3 the person personally discharged a firearm, 20
4 years shall be added to the term of imprisonment
5 imposed by the court;

6 (iii) if, during the commission of the
7 offense, the person personally discharged a
8 firearm that proximately caused great bodily harm,
9 permanent disability, permanent disfigurement, or
10 death to another person, 25 years or up to a term
11 of natural life shall be added to the term of
12 imprisonment imposed by the court.

13 (2) (blank);

14 (2.5) for a person convicted under the circumstances
15 described in paragraph (3) of subsection (b) of Section
16 12-13, paragraph (2) of subsection (d) of Section 12-14,
17 paragraph (1.2) of subsection (b) of Section 12-14.1, or
18 paragraph (2) of subsection (b) of Section 12-14.1 of the
19 Criminal Code of 1961, the sentence shall be a term of
20 natural life imprisonment.

21 (b) (Blank~~-~~).

22 (c) (Blank~~-~~).

23 (d) Subject to earlier termination under Section 3-3-8, the
24 parole or mandatory supervised release term shall be as
25 follows:

26 (1) for first degree murder or a Class X felony except

1 for the offenses of predatory criminal sexual assault of a
2 child, aggravated criminal sexual assault, and criminal
3 sexual assault if committed on or after the effective date
4 of this amendatory Act of the 94th General Assembly and
5 except for the offense of aggravated child pornography
6 under Section 11-20.3 of the Criminal Code of 1961, if
7 committed on or after January 1, 2009, 3 years;

8 (2) for a Class 1 felony or a Class 2 felony except for
9 the offense of criminal sexual assault if committed on or
10 after the effective date of this amendatory Act of the 94th
11 General Assembly and except for the offenses of manufacture
12 and dissemination of child pornography under clauses
13 (a) (1) and (a) (2) of Section 11-20.1 of the Criminal Code
14 of 1961, if committed on or after January 1, 2009, 2 years;

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

16 (4) for defendants who commit the offense of predatory
17 criminal sexual assault of a child, aggravated criminal
18 sexual assault, or criminal sexual assault, on or after the
19 effective date of this amendatory Act of the 94th General
20 Assembly, or who commit the offense of aggravated child
21 pornography, manufacture of child pornography, or
22 dissemination of child pornography after January 1, 2009,
23 the term of mandatory supervised release shall range from a
24 minimum of 3 years to a maximum of the natural life of the
25 defendant;

26 (5) if the victim is under 18 years of age, for a

1 second or subsequent offense of aggravated criminal sexual
2 abuse or felony criminal sexual abuse, 4 years, at least
3 the first 2 years of which the defendant shall serve in an
4 electronic home detention program under Article 8A of
5 Chapter V of this Code;

6 (6) for a felony domestic battery, aggravated domestic
7 battery, stalking, aggravated stalking, and a felony
8 violation of an order of protection, 4 years.

9 (e) (Blank~~→~~).

10 (f) (Blank~~→~~).

11 (Source: P.A. 95-983, eff. 6-1-09; 95-1052, eff. 7-1-09;
12 96-282, eff. 1-1-10; revised 9-4-09.)

13 (730 ILCS 5/5-8-4) (from Ch. 38, par. 1005-8-4)

14 Sec. 5-8-4. Concurrent and consecutive terms of
15 imprisonment.

16 (a) Concurrent terms; multiple or additional sentences.
17 When an Illinois court (i) imposes multiple sentences of
18 imprisonment on a defendant at the same time or (ii) imposes a
19 sentence of imprisonment on a defendant who is already subject
20 to a sentence of imprisonment imposed by an Illinois court, a
21 court of another state, or a federal court, then the sentences
22 shall run concurrently unless otherwise determined by the
23 Illinois court under this Section.

24 (b) Concurrent terms; misdemeanor and felony. A defendant
25 serving a sentence for a misdemeanor who is convicted of a

1 felony and sentenced to imprisonment shall be transferred to
2 the Department of Corrections, and the misdemeanor sentence
3 shall be merged in and run concurrently with the felony
4 sentence.

5 (c) Consecutive terms; permissive. The court may impose
6 consecutive sentences in any of the following circumstances:

7 (1) If, having regard to the nature and circumstances
8 of the offense and the history and character of the
9 defendant, it is the opinion of the court that consecutive
10 sentences are required to protect the public from further
11 criminal conduct by the defendant, the basis for which the
12 court shall set forth in the record.

13 (2) If one of the offenses for which a defendant was
14 convicted was a violation of Section 32-5.2 (aggravated
15 false personation of a peace officer) of the Criminal Code
16 of 1961 (720 ILCS 5/32-5.2) and the offense was committed
17 in attempting or committing a forcible felony.

18 (d) Consecutive terms; mandatory. The court shall impose
19 consecutive sentences in each of the following circumstances:

20 (1) One of the offenses for which the defendant was
21 convicted was first degree murder or a Class X or Class 1
22 felony and the defendant inflicted severe bodily injury.

23 (2) The defendant was convicted of a violation of
24 Section 12-13 (criminal sexual assault), 12-14 (aggravated
25 criminal sexual assault), or 12-14.1 (predatory criminal
26 sexual assault of a child) of the Criminal Code of 1961

1 (720 ILCS 5/12-13, 5/12-14, or 5/12-14.1).

2 (3) The defendant was convicted of armed violence based
3 upon the predicate offense of any of the following:
4 solicitation of murder, solicitation of murder for hire,
5 heinous battery, aggravated battery of a senior citizen,
6 criminal sexual assault, a violation of subsection (g) of
7 Section 5 of the Cannabis Control Act (720 ILCS 550/5),
8 cannabis trafficking, a violation of subsection (a) of
9 Section 401 of the Illinois Controlled Substances Act (720
10 ILCS 570/401), controlled substance trafficking involving
11 a Class X felony amount of controlled substance under
12 Section 401 of the Illinois Controlled Substances Act (720
13 ILCS 570/401), a violation of the Methamphetamine Control
14 and Community Protection Act (720 ILCS 646/), calculated
15 criminal drug conspiracy, or streetgang criminal drug
16 conspiracy.

17 (4) The defendant was convicted of the offense of
18 leaving the scene of a motor vehicle accident involving
19 death or personal injuries under Section 11-401 of the
20 Illinois Vehicle Code (625 ILCS 5/11-401) and either: (A)
21 aggravated driving under the influence of alcohol, other
22 drug or drugs, or intoxicating compound or compounds, or
23 any combination thereof under Section 11-501 of the
24 Illinois Vehicle Code (625 ILCS 5/11-501), (B) reckless
25 homicide under Section 9-3 of the Criminal Code of 1961
26 (720 ILCS 5/9-3), or (C) both an offense described in item

1 (A) and an offense described in item (B).

2 (5) The defendant was convicted of a violation of
3 Section 9-3.1 (concealment of homicidal death) or Section
4 12-20.5 (dismembering a human body) of the Criminal Code of
5 1961 (720 ILCS 5/9-3.1 or 5/12-20.5). ~~or~~

6 (5.5) The ~~(vi) the~~ defendant was convicted of a
7 violation of Section 24-3.7 (use of a stolen firearm in the
8 commission of an offense) of the Criminal Code of 1961. ~~7~~

9 (6) If the defendant was in the custody of the
10 Department of Corrections at the time of the commission of
11 the offense, the sentence shall be served consecutive to
12 the sentence under which the defendant is held by the
13 Department of Corrections. ~~If, however, the defendant is~~
14 ~~sentenced to punishment by death, the sentence shall be~~
15 ~~executed at such time as the court may fix without regard~~
16 ~~to the sentence under which the defendant may be held by~~
17 ~~the Department.~~

18 (7) A sentence under Section 3-6-4 (730 ILCS 5/3-6-4)
19 for escape or attempted escape shall be served consecutive
20 to the terms under which the offender is held by the
21 Department of Corrections.

22 (8) If a person charged with a felony commits a
23 separate felony while on pretrial release or in pretrial
24 detention in a county jail facility or county detention
25 facility, then the sentences imposed upon conviction of
26 these felonies shall be served consecutively regardless of

1 the order in which the judgments of conviction are entered.

2 (8.5) If a person commits a battery against a county
3 correctional officer or sheriff's employee while serving a
4 sentence or in pretrial detention in a county jail
5 facility, then the sentence imposed upon conviction of the
6 battery shall be served consecutively with the sentence
7 imposed upon conviction of the earlier misdemeanor or
8 felony, regardless of the order in which the judgments of
9 conviction are entered.

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

18 (10) If a person is found to be in possession of an
19 item of contraband, as defined in clause (c)(2) of Section
20 31A-1.1 of the Criminal Code of 1961, while serving a
21 sentence in a county jail or while in pre-trial detention
22 in a county jail, the sentence imposed upon conviction for
23 the offense of possessing contraband in a penal institution
24 shall be served consecutively to the sentence imposed for
25 the offense in which the person is serving sentence in the
26 county jail or serving pretrial detention, regardless of

1 the order in which the judgments of conviction are entered.

2 (e) Consecutive terms; subsequent non-Illinois term. If an
3 Illinois court has imposed a sentence of imprisonment on a
4 defendant and the defendant is subsequently sentenced to a term
5 of imprisonment by a court of another state or a federal court,
6 then the Illinois sentence shall run consecutively to the
7 sentence imposed by the court of the other state or the federal
8 court. That same Illinois court, however, may order that the
9 Illinois sentence run concurrently with the sentence imposed by
10 the court of the other state or the federal court, but only if
11 the defendant applies to that same Illinois court within 30
12 days after the sentence imposed by the court of the other state
13 or the federal court is finalized.

14 (f) Consecutive terms; aggregate maximums and minimums.
15 The aggregate maximum and aggregate minimum of consecutive
16 sentences shall be determined as follows:

17 (1) For sentences imposed under law in effect prior to
18 February 1, 1978, the aggregate maximum of consecutive
19 sentences shall not exceed the maximum term authorized
20 under Section 5-8-1 (730 ILCS 5/5-8-1) or Article 4.5 of
21 Chapter V for the 2 most serious felonies involved. The
22 aggregate minimum period of consecutive sentences shall
23 not exceed the highest minimum term authorized under
24 Section 5-8-1 (730 ILCS 5/5-8-1) or Article 4.5 of Chapter
25 V for the 2 most serious felonies involved. When sentenced
26 only for misdemeanors, a defendant shall not be

1 consecutively sentenced to more than the maximum for one
2 Class A misdemeanor.

3 (2) For sentences imposed under the law in effect on or
4 after February 1, 1978, the aggregate of consecutive
5 sentences for offenses that were committed as part of a
6 single course of conduct during which there was no
7 substantial change in the nature of the criminal objective
8 shall not exceed the sum of the maximum terms authorized
9 under Section 5-8-2 (730 ILCS 5/5-8-2) for the 2 most
10 serious felonies involved, but no such limitation shall
11 apply for offenses that were not committed as part of a
12 single course of conduct during which there was no
13 substantial change in the nature of the criminal objective.
14 When sentenced only for misdemeanors, a defendant shall not
15 be consecutively sentenced to more than the maximum for one
16 Class A misdemeanor.

17 (g) Consecutive terms; manner served. In determining the
18 manner in which consecutive sentences of imprisonment, one or
19 more of which is for a felony, will be served, the Department
20 of Corrections shall treat the defendant as though he or she
21 had been committed for a single term subject to each of the
22 following:

23 (1) The maximum period of a term of imprisonment shall
24 consist of the aggregate of the maximums of the imposed
25 indeterminate terms, if any, plus the aggregate of the
26 imposed determinate sentences for felonies, plus the

1 aggregate of the imposed determinate sentences for
2 misdemeanors, subject to subsection (f) of this Section.

3 (2) The parole or mandatory supervised release term
4 shall be as provided in paragraph (e) of Section 5-4.5-50
5 (730 ILCS 5/5-4.5-50) for the most serious of the offenses
6 involved.

7 (3) The minimum period of imprisonment shall be the
8 aggregate of the minimum and determinate periods of
9 imprisonment imposed by the court, subject to subsection
10 (f) of this Section.

11 (4) The defendant shall be awarded credit against the
12 aggregate maximum term and the aggregate minimum term of
13 imprisonment for all time served in an institution since
14 the commission of the offense or offenses and as a
15 consequence thereof at the rate specified in Section 3-6-3
16 (730 ILCS 5/3-6-3).

17 (Source: P.A. 95-379, eff. 8-23-07; 95-766, eff. 1-1-09;
18 95-1052, eff. 7-1-09; 96-190, eff. 1-1-10; revised 8-20-09.)

19 (730 ILCS 5/5-8-5) (from Ch. 38, par. 1005-8-5)

20 Sec. 5-8-5. Commitment of the Offender. Upon rendition of
21 judgment after pronouncement of a sentence of periodic
22 imprisonment or imprisonment, ~~or death~~, the court shall commit
23 the offender to the custody of the sheriff or to the Department
24 of Corrections. A sheriff in executing an order for commitment
25 to the Department of Corrections shall convey such offender to

1 the nearest receiving station designated by the Department of
2 Corrections. The court may commit the offender to the custody
3 of the Attorney General of the United States under Section
4 5-8-6 when a sentence for a State offense provides that such
5 sentence is to run concurrently with a previous and unexpired
6 federal sentence. The expense of conveying a person committed
7 by the juvenile court or an offender convicted of a felony
8 shall be paid by the State. The expenses in all other cases
9 shall be paid by the county of the committing court.

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

11 Section 90. The Code of Civil Procedure is amended by
12 changing Sections 10-103 and 10-136 as follows:

13 (735 ILCS 5/10-103) (from Ch. 110, par. 10-103)

14 Sec. 10-103. Application. Application for the relief shall
15 be made to the Supreme Court or to the circuit court of the
16 county in which the person in whose behalf the application is
17 made, is imprisoned or restrained, or to the circuit court of
18 the county from which such person was sentenced or committed.
19 Application shall be made by complaint signed by the person for
20 whose relief it is intended, or by some person in his or her
21 behalf, and verified by affidavit. ~~Application for relief under~~
22 ~~this Article may not be commenced on behalf of a person who has~~
23 ~~been sentenced to death without the written consent of that~~
24 ~~person, unless the person, because of a mental or physical~~

1 ~~condition, is incapable of asserting his or her own claim.~~

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

3 (735 ILCS 5/10-136) (from Ch. 110, par. 10-136)

4 Sec. 10-136. Prisoner remanded or punished. After a
5 prisoner has given his or her testimony, or been surrendered,
6 or his or her bail discharged, or he or she has been tried for
7 the crime with which he or she is charged, he or she shall be
8 returned to the jail or other place of confinement from which
9 he or she was taken for that purpose. If such prisoner is
10 convicted of a crime punishable with ~~death or~~ imprisonment in
11 the penitentiary, he or she may be punished accordingly; but in
12 any case where the prisoner has been taken from the
13 penitentiary, and his or her punishment is by imprisonment, the
14 time of such imprisonment shall not commence to run until the
15 expiration of the time of service under any former sentence.

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

17 Section 95. No acceleration or delay. Where this Act makes
18 changes in a statute that is represented in this Act by text
19 that is not yet or no longer in effect (for example, a Section
20 represented by multiple versions), the use of that text does
21 not accelerate or delay the taking effect of (i) the changes
22 made by this Act or (ii) provisions derived from any other
23 Public Act.

1 Section 100. Death sentences carried out before abolition
2 of the death penalty. A public officer or employee is not
3 criminally or civilly liable for his or her act or omission in
4 the execution or enforcement of a sentence of death that was
5 lawful and carried out before the effective date of this Act
6 unless such act or omission constituted willful and wanton
7 conduct.

8 Section 105. Capital Litigation Trust Fund expenditures
9 validated. Expenditures of moneys from the Capital Litigation
10 Trust Fund for expenses authorized under the Capital Crimes
11 Litigation Act before its repeal by this Act are not
12 invalidated by the repeal of the Capital Crimes Litigation Act.

13 Section 999. Effective date. This Act takes effect upon
14 becoming law.

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6	20 ILCS 3929/Act rep.	
7	30 ILCS 105/5.518 rep.	
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