

1 AN ACT in relation to criminal law.

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

4 Section 5. The Unified Code of Corrections is amended by
5 changing Section 5-4-1 and adding Section 5-8-1.3 as follows:

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

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

- 26 (1) consider the evidence, if any, received upon
- 27 the trial;
- 28 (2) consider any presentence reports;
- 29 (3) consider the financial impact of incarceration
- 30 based on the financial impact statement filed with the
- 31 clerk of the court by the Department of Corrections;

1 (4) consider evidence and information offered by
2 the parties in aggravation and mitigation;

3 (5) hear arguments as to sentencing alternatives;

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

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

33 (8) in cases of reckless homicide afford the
34 victim's spouse, guardians, parents or other immediate

1 family members an opportunity to make oral statements.

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

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

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

32 (c-2) If the defendant is sentenced to prison, other
33 than when a sentence of natural life imprisonment or a
34 sentence of death is imposed, at the time the sentence is

1 imposed the judge shall state on the record in open court the
2 approximate period of time the defendant will serve in
3 custody according to the then current statutory rules and
4 regulations for early release found in Section 3-6-3 and
5 other related provisions of this Code. This statement is
6 intended solely to inform the public, has no legal effect on
7 the defendant's actual release, and may not be relied on by
8 the defendant on appeal.

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

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

30 When the sentence is imposed for one of the offenses
31 enumerated in paragraph (a)(3) of Section 3-6-3, other than
32 when the sentence is imposed for one of the offenses
33 enumerated in paragraph (a)(2) of Section 3-6-3 committed on
34 or after June 19, 1998, and other than when the sentence is

1 imposed for reckless homicide as defined in subsection (e) of
2 Section 9-3 of the Criminal Code of 1961 if the offense was
3 committed on or after January 1, 1999, and other than when
4 the sentence is imposed for aggravated arson if the offense
5 was committed on or after the effective date of this
6 amendatory Act of the 92nd General Assembly, the judge's
7 statement, to be given after pronouncing the sentence, shall
8 include the following:

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

26 When the sentence is imposed for one of the offenses
27 enumerated in paragraph (a)(2) of Section 3-6-3, other than
28 first degree murder, and the offense was committed on or
29 after June 19, 1998, and when the sentence is imposed for
30 reckless homicide as defined in subsection (e) of Section 9-3
31 of the Criminal Code of 1961 if the offense was committed on
32 or after January 1, 1999, and when the sentence is imposed
33 for aggravated arson if the offense was committed on or after
34 the effective date of this amendatory Act of the 92nd General

1 Assembly, the judge's statement, to be given after
2 pronouncing the sentence, shall include the following:

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

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

23 "The purpose of this statement is to inform the public of
24 the actual period of time this defendant is likely to spend
25 in prison as a result of this sentence. The actual period of
26 prison time served is determined by the statutes of Illinois
27 as applied to this sentence by the Illinois Department of
28 Corrections and the Illinois Prisoner Review Board. In this
29 case, the defendant is not entitled to good conduct credit.
30 Therefore, this defendant will serve 100% of his or her
31 sentence."

32 (d) When the defendant is committed to the Department of
33 Corrections, the State's Attorney shall and counsel for the
34 defendant may file a statement with the clerk of the court to

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

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

- 19 (1) the sentence imposed;
- 20 (2) any statement by the court of the basis for
21 imposing the sentence;
- 22 (3) any presentence reports;
- 23 (4) the number of days, if any, which the defendant
24 has been in custody and for which he is entitled to
25 credit against the sentence, which information shall be
26 provided to the clerk by the sheriff;
- 27 (4.1) any finding of great bodily harm made by the
28 court with respect to an offense enumerated in subsection
29 (c-1);
- 30 (5) all statements filed under subsection (d) of
31 this Section;
- 32 (6) any medical or mental health records or
33 summaries of the defendant;
- 34 (7) the municipality where the arrest of the

1 offender or the commission of the offense has occurred,
2 where such municipality has a population of more than
3 25,000 persons;

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

6 (9) all additional matters which the court directs
7 the clerk to transmit.

8 (Source: P.A. 91-357, eff. 7-29-99; 91-899, eff. 1-1-01;
9 92-176, eff. 7-27-01.)

10 (730 ILCS 5/5-8-1.3 new)

11 Sec. 5-8-1.3. Pilot residential and transition treatment
12 program for women.

13 (a) The General Assembly recognizes:

14 (1) that drug-offending women with children who
15 have been in and out of the criminal justice system for
16 years are a serious problem;

17 (2) that the intergenerational cycle of women
18 continuously being part of the criminal justice system
19 needs to be broken;

20 (3) that the effects of drug offending women with
21 children disrupts family harmony and creates an
22 atmosphere that is not conducive to healthy childhood
23 development;

24 (4) that there is a need for an effective
25 residential community supervision model to provide help
26 to women to become drug free, recover from trauma, focus
27 on healthy mother-child relationships, and establish
28 economic independence and long-term support;

29 (5) that certain non-violent women offenders with
30 children eligible for sentences of incarceration, may
31 benefit from the rehabilitative aspects of gender
32 responsive treatment programs and services. This Section
33 shall not be construed to allow violent offenders to

1 participate in a treatment program.

2 (b) Under the direction of the sheriff and with the
3 approval of the county board of commissioners, the sheriff,
4 in any county with more than 3,000,000 inhabitants, may
5 operate a residential and transition treatment program for
6 women established by the Illinois Department of Corrections.
7 If the court finds during the sentencing hearing conducted
8 under Section 5-4-1 that a woman convicted of a felony meets
9 the eligibility requirements of the sheriff's residential and
10 transition treatment program for women, the court may refer
11 the offender to the sheriff's residential and transition
12 treatment program for women for consideration as a
13 participant as an alternative to incarceration in the
14 penitentiary. The sheriff shall be responsible for
15 supervising all women who are placed in the residential and
16 transition treatment program for women for the 12-month
17 period. In the event that the woman is not accepted for
18 placement in the sheriff's residential and transition
19 treatment program for women, the court shall proceed to
20 sentence the woman to any other disposition authorized by
21 this Code. If the woman does not successfully complete the
22 residential and transition treatment program for women, the
23 woman's failure to do so shall constitute a violation of the
24 sentence to the residential and transition treatment program
25 for women.

26 (c) In order to be eligible to be a participant in the
27 pilot residential and transition treatment program for women,
28 the participant shall meet all of the following conditions:

29 (1) The woman has not been convicted of a violent
30 crime as defined in subsection (c) of Section 3 of the
31 Rights of Crime Victims and Witnesses Act, a Class X
32 felony, first or second degree murder, armed violence,
33 aggravated kidnapping, criminal sexual assault,
34 aggravated criminal sexual abuse or a subsequent

1 conviction for criminal sexual abuse, forcible detention,
2 or arson and has not been previously convicted of any of
3 those offenses.

4 (2) The woman must undergo an initial assessment
5 evaluation to determine the treatment and program plan.

6 (3) The woman was recommended and accepted for
7 placement in the pilot residential and transition
8 treatment program for women by the Department of
9 Corrections and has consented in writing to participation
10 in the program under the terms and conditions of the
11 program. The Department of Corrections may consider
12 whether space is available.

13 (d) The program may include a substance abuse treatment
14 program designed for women offenders, mental health, trauma,
15 and medical treatment; parenting skills and family
16 relationship counseling, preparation for a GED or vocational
17 certificate; life skills program; job readiness and job skill
18 training; and a community transition development plan.

19 (e) With the approval of the Department of Corrections,
20 the sheriff shall issue requirements for the program and
21 inform the participants who shall sign an agreement to adhere
22 to all rules and all requirements for the pilot residential
23 and transition treatment program for pilot.

24 (f) Participation in the pilot residential and
25 transition treatment program for women shall be for a period
26 not to exceed 12 months. The period may not be reduced by
27 accumulation of good time.

28 (g) If the woman successfully completes the pilot
29 residential and transition treatment program for women, the
30 sheriff shall notify the Department of Corrections, the
31 court, and the State's Attorney of the county of the woman's
32 successful completion.

33 (h) A woman may be removed from the pilot residential
34 and transition treatment program for women for violation of

1 the terms and conditions of the program or in the event she
2 is unable to participate. The failure to complete the program
3 shall be deemed a violation of the conditions of the program.
4 The sheriff shall give notice to the Department of
5 Corrections, the court, and the State's Attorney of the
6 woman's failure to complete the program. The Department of
7 Corrections or its designee shall file a petition alleging
8 that the woman has violated the conditions of the program
9 with the court. The State's Attorney may proceed on the
10 petition under Section 5-4-1 of this Code.

11 (i) The conditions of the pilot residential and
12 transition treatment program for women shall include that the
13 woman while in the program:

14 (1) not violate any criminal statute of any
15 jurisdiction;

16 (2) report or appear in person before any person or
17 agency as directed by the court, the sheriff, or
18 Department of Corrections;

19 (3) refrain from possessing a firearm or other
20 dangerous weapon;

21 (4) consent to drug testing;

22 (5) not leave the State without the consent of the
23 court or, in circumstances in which reason for the
24 absence is of such an emergency nature that prior consent
25 by the court is not possible, without prior notification
26 and approval of the Department of Corrections; and

27 (6) upon placement in the program, must agree to
28 follow all requirements of the program.

29 (j) The Department of Corrections or the sheriff may
30 terminate the program at any time by mutual agreement or with
31 30 days prior written notice by either the Department of
32 Corrections or the sheriff.

33 (k) The Department of Corrections may enter into a joint
34 contract with a country with more than 3,000,000 inhabitants

1 to establish and operate a pilot residential and treatment
2 program for women.

3 (l) The Director of the Department of Corrections shall
4 have the authority to develop rules to establish and operate
5 a pilot residential and treatment program for women that
6 shall include criteria for selection of the participants of
7 the program in conjunction and approval by the sentencing
8 court. Violent crime offenders are not eligible to
9 participate in the program.

10 (m) The Department shall submit a report to the Governor
11 and the General Assembly before September 30th of each year
12 on the pilot residential and treatment program for women,
13 including the composition of the program by offenders,
14 sentence, age, offense, and race.

15 (n) The Department of Corrections or the sheriff may
16 terminate the program with 30 days prior written notice.