

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

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

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

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

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

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

19 (4) (Blank).

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

23 (6) Establish and operate a forensic science  
24 laboratory system, including a forensic toxicological  
25 laboratory service, for the purpose of testing specimens  
26 submitted by coroners and other law enforcement officers  
27 in their efforts to determine whether alcohol, drugs, or  
28 poisonous or other toxic substances have been involved in  
29 deaths, accidents, or illness. Forensic toxicological  
30 laboratories shall be established in Springfield,  
31 Chicago, and elsewhere in the State as needed.

1           ~~(7) Subject to specific appropriations made for~~  
2           ~~these purposes, establish and coordinate a system for~~  
3           ~~providing accurate and expedited forensic science and~~  
4           ~~other investigative and laboratory services to local law~~  
5           ~~enforcement agencies and local State's Attorneys in aid~~  
6           ~~of the investigation and trial of capital cases.~~  
7           (Source: P.A. 90-130, eff. 1-1-98; 91-239, eff. 1-1-00;  
8           91-589, eff. 1-1-00; 91-760, eff. 1-1-01.)

9           Section 5. The Criminal Identification Act is amended by  
10          changing Section 2.1 as follows:

11          (20 ILCS 2630/2.1) (from Ch. 38, par. 206-2.1)

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

27          (a) Arrest Information. All agencies making arrests for  
28          offenses which are required by statute to be collected,  
29          maintained or disseminated by the Department of State Police  
30          shall be responsible for furnishing daily to the Department  
31          fingerprints, charges and descriptions of all persons who are  
32          arrested for such offenses. All such agencies shall also

1 notify the Department of all decisions by the arresting  
2 agency not to refer such arrests for prosecution. With  
3 approval of the Department, an agency making such arrests may  
4 enter into arrangements with other agencies for the purpose  
5 of furnishing daily such fingerprints, charges and  
6 descriptions to the Department upon its behalf.

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

18 (c) Disposition Information. The clerk of the circuit  
19 court of each county shall furnish the Department, in the  
20 form and manner required by the Supreme Court, with all final  
21 dispositions of cases for which the Department has received  
22 information required to be reported pursuant to paragraph (a)  
23 or (d) of this Section. Such information shall include, for  
24 each charge, all (1) judgments of not guilty, judgments of  
25 guilty including the sentence pronounced by the court,  
26 findings that a minor is delinquent and any sentence made  
27 based on those findings, discharges and dismissals in the  
28 court; (2) reviewing court orders filed with the clerk of the  
29 circuit court which reverse or remand a reported conviction  
30 or findings that a minor is delinquent or that vacate or  
31 modify a sentence or sentence made following a trial that a  
32 minor is delinquent; (3) continuances to a date certain in  
33 furtherance of an order of supervision granted under Section  
34 5-6-1 of the Unified Code of Corrections or an order of

1 probation granted under Section 10 of the Cannabis Control  
2 Act, Section 410 of the Illinois Controlled Substances Act,  
3 Section 12-4.3 of the Criminal Code of 1961, Section 10-102  
4 of the Illinois Alcoholism and Other Drug Dependency Act,  
5 Section 40-10 of the Alcoholism and Other Drug Abuse and  
6 Dependency Act, Section 10 of the Steroid Control Act, or  
7 Section 5-615 of the Juvenile Court Act of 1987; and (4)  
8 judgments or court orders terminating or revoking a sentence  
9 to or juvenile disposition of probation, supervision or  
10 conditional discharge and any resentencing or new court  
11 orders entered by a juvenile court relating to the  
12 disposition of a minor's case involving delinquency after  
13 such revocation.

14 (d) Fingerprints After Sentencing.

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

1 fingerprints to the Department daily.

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

15 (e) Corrections Information. The Illinois Department of  
16 Corrections and the sheriff of each county shall furnish the  
17 Department with all information concerning the receipt,  
18 escape, execution before the effective date of this  
19 amendatory Act of the 92nd General Assembly, death, release,  
20 pardon, parole, commutation of sentence, granting of  
21 executive clemency or discharge of an individual who has been  
22 sentenced or committed to the agency's custody for any  
23 offenses which are mandated by statute to be collected,  
24 maintained or disseminated by the Department of State Police.  
25 For an individual who has been charged with any such offense  
26 and who escapes from custody or dies while in custody, all  
27 information concerning the receipt and escape or death,  
28 whichever is appropriate, shall also be so furnished to the  
29 Department.

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

31 (30 ILCS 105/5.490 rep.)

32 Section 10. The State Finance Act is amended by  
33 repealing Section 5.490 (added by Public Act 91-589) on July

1 1, 2003.

2 Section 15. The Counties Code is amended by changing  
3 Sections 3-9005 and 3-4011 as follows:

4 (55 ILCS 5/3-9005) (from Ch. 34, par. 3-9005)  
5 Sec. 3-9005. Powers and duties of State's attorney.

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

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

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

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

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

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

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

32 (7) To give his opinion, without fee or reward, to

1 any county officer in his county, upon any question or  
2 law relating to any criminal or other matter, in which  
3 the people or the county may be concerned.

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

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

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

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

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

29 (b) The State's Attorney of each county shall have  
30 authority to appoint one or more special investigators to  
31 serve subpoenas, make return of process and conduct  
32 investigations which assist the State's Attorney in the  
33 performance of his duties. A special investigator shall not  
34 carry firearms except with permission of the State's Attorney

1 and only while carrying appropriate identification indicating  
2 his employment and in the performance of his assigned duties.

3 Subject to the qualifications set forth in this  
4 subsection, special investigators shall be peace officers and  
5 shall have all the powers possessed by investigators under  
6 the State's Attorneys Appellate Prosecutor's Act.

7 No special investigator employed by the State's Attorney  
8 shall have peace officer status or exercise police powers  
9 unless he or she successfully completes the basic police  
10 training course mandated and approved by the Illinois Law  
11 Enforcement Training Standards Board or such board waives the  
12 training requirement by reason of the special investigator's  
13 prior law enforcement experience or training or both. Any  
14 State's Attorney appointing a special investigator shall  
15 consult with all affected local police agencies, to the  
16 extent consistent with the public interest, if the special  
17 investigator is assigned to areas within that agency's  
18 jurisdiction.

19 Before a person is appointed as a special investigator,  
20 his fingerprints shall be taken and transmitted to the  
21 Department of State Police. The Department shall examine its  
22 records and submit to the State's Attorney of the county in  
23 which the investigator seeks appointment any conviction  
24 information concerning the person on file with the  
25 Department. No person shall be appointed as a special  
26 investigator if he has been convicted of a felony or other  
27 offense involving moral turpitude. A special investigator  
28 shall be paid a salary and be reimbursed for actual expenses  
29 incurred in performing his assigned duties. The county board  
30 shall approve the salary and actual expenses and appropriate  
31 the salary and expenses in the manner prescribed by law or  
32 ordinance.

33 (c) The State's Attorney may request and receive from  
34 employers, labor unions, telephone companies, and utility



1 companies location information concerning putative fathers  
 2 and noncustodial parents for the purpose of establishing a  
 3 child's paternity or establishing, enforcing, or modifying a  
 4 child support obligation. In this subsection, "location  
 5 information" means information about (i) the physical  
 6 whereabouts of a putative father or noncustodial parent, (ii)  
 7 the putative father or noncustodial parent's employer, or  
 8 (iii) the salary, wages, and other compensation paid and the  
 9 health insurance coverage provided to the putative father or  
 10 noncustodial parent by the employer of the putative father or  
 11 noncustodial parent or by a labor union of which the putative  
 12 father or noncustodial parent is a member.

13 ~~(d) For each State fiscal year, the State's Attorney of~~  
 14 ~~Cook County shall appear before the General Assembly and~~  
 15 ~~request appropriations to be made from the Capital Litigation~~  
 16 ~~Trust Fund to the State Treasurer for the purpose of~~  
 17 ~~providing assistance in the prosecution of capital cases in~~  
 18 ~~Cook County. The State's Attorney may appear before the~~  
 19 ~~General Assembly at other times during the State's fiscal~~  
 20 ~~year to request supplemental appropriations from the Trust~~  
 21 ~~Fund to the State Treasurer.~~

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

23 (55 ILCS 5/3-4011) (from Ch. 34, par. 3-4011)  
 24 Sec. 3-4011. Expenses and legal services for indigent  
 25 defendants in felony cases. It shall be the duty of the  
 26 county board in counties containing fewer than 500,000  
 27 inhabitants to appropriate a sufficient sum for the purpose  
 28 of paying for the legal services necessarily rendered for the  
 29 defense of indigent persons in felony cases, and for costs,  
 30 expenses and legal services necessary in the prosecution of  
 31 an appeal when the sentence is death and the sentence was  
 32 imposed before the effective date of this amendatory Act of  
 33 the 92nd General Assembly, which is to be paid upon the

1 orders of a court of competent jurisdiction. It shall  
2 likewise be the duty of the county board in counties  
3 containing fewer than 500,000 inhabitants to appropriate a  
4 sufficient sum for the payment of out of pocket expenses  
5 necessarily incurred by appointed counsel in the prosecution  
6 of an appeal on behalf of an indigent incarcerated defendant  
7 in felony cases. In such cases payment shall be made upon the  
8 order of the reviewing court.

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

10 (55 ILCS 5/3-4006.1 rep.)

11 Section 20. The Counties Code is amended by repealing  
12 Section 3-4006.1.

13 Section 25. The School Code is amended by changing  
14 Section 21-23b as follows:

15 (105 ILCS 5/21-23b) (from Ch. 122, par. 21-23b)

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

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

28 (b) Whenever the State Board of Education receives  
29 notice of a conviction under subsection (a) or otherwise  
30 learns that any person who is a "teacher" as that term is  
31 defined in Section 16-106 of the Illinois Pension Code has

1    been convicted, either after a bench trial, trial by jury, or  
2    plea of guilty, of any offense for which a sentence to death  
3    or a term of imprisonment in a penitentiary for one year or  
4    more is provided, the State Board of Education shall promptly  
5    notify in writing the board of trustees of the Teachers'  
6    Retirement System of the State of Illinois and the board of  
7    trustees of the Public School Teachers' Pension and  
8    Retirement Fund of the City of Chicago of the name of the  
9    certificate holder or teacher, the fact of the conviction,  
10   the name and location of the court in which the conviction  
11   occurred, and the number assigned in that court to the case  
12   in which the conviction occurred.

13   (Source: P.A. 87-1001.)

14        Section 30. The Illinois Public Aid Code is amended by  
15   changing Section 1-8 as follows:

16        (305 ILCS 5/1-8)

17        Sec. 1-8. Fugitives ineligible.

18        (a) The following persons are not eligible for aid under  
19   this Code, or federal food stamps or federal food stamp  
20   benefits:

21           (1) A person who has fled from the jurisdiction of  
22   any court of record of this or any other state or of the  
23   United States to avoid prosecution for a felony or to  
24   avoid giving testimony in any criminal proceeding  
25   involving the alleged commission of a felony.

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

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

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

3 In this Section, "felony" means a violation of a penal  
4 statute of this State for which a sentence to a term of  
5 imprisonment in a penitentiary for one year or more is  
6 provided or a violation of a penal statute of ~~er~~ any other  
7 state or the United States for which a sentence to death or  
8 to a term of imprisonment in a penitentiary for one year or  
9 more is provided.

10 To implement this Section, the Illinois Department may  
11 exchange necessary information with an appropriate law  
12 enforcement agency of this or any other state, a political  
13 subdivision of this or any other state, or the United States.

14 (b) The Illinois Department shall apply for all waivers  
15 of federal law and regulations necessary to implement this  
16 Section, and implementation of this Section is contingent on  
17 the Illinois Department's receipt of those waivers.

18 (Source: P.A. 89-489, eff. 1-1-97; 90-17, eff. 7-1-97.)

19 Section 35. The Criminal Code of 1961 is amended by  
20 changing Sections 2-7, 7-10, 9-1, 9-1.2, 30-1, and 33B-1 as  
21 follows:

22 (720 ILCS 5/2-7) (from Ch. 38, par. 2-7)

23 Sec. 2-7. "Felony".

24 "Felony" means an offense for which a sentence to death  
25 ~~er-to~~ a term of imprisonment in a penitentiary for one year  
26 or more is provided.

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

28 (720 ILCS 5/7-10) (from Ch. 38, par. 7-10)

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

30 A public officer who, in the exercise of his official  
31 duty, puts a person to death pursuant to a sentence of a

1 court of competent jurisdiction made before the effective  
 2 date of this amendatory Act of the 92nd General Assembly, is  
 3 justified if he acts in accordance with the sentence  
 4 pronounced and the law prescribing the procedure for  
 5 execution of a death sentence.

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

7 (720 ILCS 5/9-1) (from Ch. 38, par. 9-1)

8 Sec. 9-1. First degree Murder ~~---Death--penalties---~~  
 9 ~~Exeptions---Separate-Hearings---Proof---Findings---Appellate~~  
 10 ~~proeedures---Reversals.~~

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

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

17 (2) he knows that such acts create a strong  
 18 probability of death or great bodily harm to that  
 19 individual or another; or

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

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

26 (1) the murdered individual was a peace officer or  
 27 fireman killed in the course of performing his official  
 28 duties, to prevent the performance of his official  
 29 duties, or in retaliation for performing his official  
 30 duties, and the defendant knew or should have known that  
 31 the murdered individual was a peace officer or fireman;  
 32 or

33 (2) the murdered individual was an employee of an

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

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

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

25 (5) the defendant committed the murder pursuant to  
26 a contract, agreement or understanding by which he was to  
27 receive money or anything of value in return for  
28 committing the murder or procured another to commit the  
29 murder for money or anything of value; or

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

32 (a) the murdered individual:

33 (i) was actually killed by the defendant,

34 or

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

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

22                  (c) the other felony was one of the following:  
23                  armed robbery, armed violence, robbery, predatory  
24                  criminal sexual assault of a child, aggravated  
25                  criminal sexual assault, aggravated kidnapping,  
26                  aggravated vehicular hijacking, forcible detention,  
27                  arson, aggravated arson, aggravated stalking,  
28                  burglary, residential burglary, home invasion,  
29                  calculated criminal drug conspiracy as defined in  
30                  Section 405 of the Illinois Controlled Substances  
31                  Act, streetgang criminal drug conspiracy as defined  
32                  in Section 405.2 of the Illinois Controlled  
33                  Substances Act, or the attempt to commit any of the  
34                  felonies listed in this subsection (c); or

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

4           (8) the defendant committed the murder with intent  
5 to prevent the murdered individual from testifying in any  
6 criminal prosecution or giving material assistance to the  
7 State in any investigation or prosecution, either against  
8 the defendant or another; or the defendant committed the  
9 murder because the murdered individual was a witness in  
10 any prosecution or gave material assistance to the State  
11 in any investigation or prosecution, either against the  
12 defendant or another; or

13           (9) the defendant, while committing an offense  
14 punishable under Sections 401, 401.1, 401.2, 405, 405.2,  
15 407 or 407.1 or subsection (b) of Section 404 of the  
16 Illinois Controlled Substances Act, or while engaged in a  
17 conspiracy or solicitation to commit such offense,  
18 intentionally killed an individual or counseled,  
19 commanded, induced, procured or caused the intentional  
20 killing of the murdered individual; or

21           (10) the defendant was incarcerated in an  
22 institution or facility of the Department of Corrections  
23 at the time of the murder, and while committing an  
24 offense punishable as a felony under Illinois law, or  
25 while engaged in a conspiracy or solicitation to commit  
26 such offense, intentionally killed an individual or  
27 counseled, commanded, induced, procured or caused the  
28 intentional killing of the murdered individual; or

29           (11) the murder was committed in a cold, calculated  
30 and premeditated manner pursuant to a preconceived plan,  
31 scheme or design to take a human life by unlawful means,  
32 and the conduct of the defendant created a reasonable  
33 expectation that the death of a human being would result  
34 therefrom; or



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

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

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

27           (15) the murder was committed as a result of the  
28 intentional discharge of a firearm by the defendant from  
29 a motor vehicle and the victim was not present within the  
30 motor vehicle; or

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

34           (17) the murdered individual was a disabled person

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

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

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

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

23 (c) (Blank). ~~Consideration--of-factors-in-Aggravation~~  
 24 ~~and-Mitigation-~~

25 ~~The-court-shall-consider,-or-shall-instruct-the--jury--to~~  
 26 ~~consider-any-aggravating-and-any-mitigating-factors-which-are~~  
 27 ~~relevant-to-the-imposition-of-the-death-penalty.--Aggravating~~  
 28 ~~factors--may-include-but-need-not-be-limited-to-these-factors~~  
 29 ~~set-forth-in-subsection-(b)-.Mitigating-factors--may--include~~  
 30 ~~but-need-not-be-limited-to-the-following:~~

31 (1)--the--defendant--has--no--significant-history-of  
 32 prior-criminal-activity;

33 (2)--the-murder-was-committed--while--the--defendant  
 34 was--under--the--influence-of-extreme-mental-or-emotional

1 disturbance, although not such as to constitute a defense  
2 to prosecution;

3 (3) the murdered individual was a participant in  
4 the defendant's homicidal conduct or consented to the  
5 homicidal act;

6 (4) the defendant acted under the compulsion of  
7 threat or menace of the imminent infliction of death or  
8 great bodily harm;

9 (5) the defendant was not personally present during  
10 commission of the act or acts causing death.

11 (d) (Blank). Separate sentencing hearing.

12 Where requested by the State, the court shall conduct a  
13 separate sentencing proceeding to determine the existence of  
14 factors set forth in subsection (b) and to consider any  
15 aggravating or mitigating factors as indicated in subsection  
16 (c). The proceeding shall be conducted:

17 (1) before the jury that determined the defendant's  
18 guilt; or

19 (2) before a jury impanelled for the purpose of the  
20 proceeding if:

21 A. the defendant was convicted upon a plea of  
22 guilty; or

23 B. the defendant was convicted after a trial  
24 before the court sitting without a jury; or

25 C. the court for good cause shown discharges  
26 the jury that determined the defendant's guilt; or

27 (3) before the court alone if the defendant waives  
28 a jury for the separate proceeding.

29 (e) (Blank). Evidence and Argument.

30 During the proceeding any information relevant to any of  
31 the factors set forth in subsection (b) may be presented by  
32 either the State or the defendant under the rules governing  
33 the admission of evidence at criminal trials. Any  
34 information relevant to any additional aggravating factors or

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

7 (f) (Blank). Proof.

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

12 (g) (Blank). Procedure--Jury.

13 If--at--the-separate-sentencing-proceeding-the-jury-finds  
 14 that-none-of-the-factors-set-forth-in-subsection-(b)--exists,  
 15 the--court--shall--sentence--the--defendant--to--a--term--of  
 16 imprisonment--under--Chapter--V--of--the--Unified--Code--of  
 17 Corrections.--If--there--is--a-unanimous-finding-by-the-jury  
 18 that-one-or-more-of-the-factors-set-forth-in--subsection--(b)  
 19 exist,--the--jury--shall--consider-aggravating-and-mitigating  
 20 factors-as--instructed--by--the--court--and--shall--determine  
 21 whether--the-sentence-of-death-shall-be-imposed.--If-the-jury  
 22 determines-unanimously-that-there-are-no--mitigating--factors  
 23 sufficient--to-preclude-the-imposition-of-the-death-sentence,  
 24 the-court-shall-sentence-the-defendant-to-death.

25 Unless-the-jury--unanimously--finds--that--there--are--no  
 26 mitigating--factors--sufficient-to-preclude-the-imposition-of  
 27 the-death-sentence-the-court-shall-sentence-the-defendant--to  
 28 a-term-of-imprisonment-under-Chapter-V-of-the-Unified-Code-of  
 29 Corrections.

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

31 In--a--proceeding--before--the--court-alone,-if-the-court  
 32 finds-that-none--of--the--factors--found--in--subsection--(b)  
 33 exists,--the--court-shall-sentence-the-defendant-to-a-term-of  
 34 imprisonment--under--Chapter--V--of--the--Unified--Code--of

1 Corrections.

2 If the Court determines that one or more of the factors  
3 set forth in subsection (b) exists, the Court shall consider  
4 any aggravating and mitigating factors as indicated in  
5 subsection (c). If the Court determines that there are no  
6 mitigating factors sufficient to preclude the imposition of  
7 the death sentence, the Court shall sentence the defendant to  
8 death.

9 Unless the court finds that there are no mitigating  
10 factors sufficient to preclude the imposition of the sentence  
11 of death, the court shall sentence the defendant to a term of  
12 imprisonment under Chapter V of the Unified Code of  
13 Corrections.

14 (i) (Blank). Appellate Procedure.

15 The conviction and sentence of death shall be subject to  
16 automatic review by the Supreme Court. Such review shall be  
17 in accordance with rules promulgated by the Supreme Court.

18 (j) (Blank). Disposition of reversed death sentence.

19 In the event that the death penalty in this Act is held  
20 to be unconstitutional by the Supreme Court of the United  
21 States or of the State of Illinois, any person convicted of  
22 first-degree murder shall be sentenced by the court to a term  
23 of imprisonment under Chapter V of the Unified Code of  
24 Corrections.

25 In the event that any death sentence pursuant to the  
26 sentencing provisions of this Section is declared  
27 unconstitutional by the Supreme Court of the United States or  
28 of the State of Illinois, the court having jurisdiction over  
29 a person previously sentenced to death shall cause the  
30 defendant to be brought before the court, and the court shall  
31 sentence the defendant to a term of imprisonment under  
32 Chapter V of the Unified Code of Corrections.

33 (Source: P.A. 90-213, eff. 1-1-98; 90-651, eff. 1-1-99;  
34 90-668, eff. 1-1-99; 91-357, eff. 7-29-99; 91-434, eff.

1 1-1-00.)

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

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

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

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

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

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

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

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

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

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

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

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

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

10 (e) The provisions of this Act shall not be construed to  
11 prohibit the prosecution of any person under any other  
12 provision of law.

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

14 (720 ILCS 5/30-1) (from Ch. 38, par. 30-1)

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

17 (1) Levies war against this State; or

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

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

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

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

27 (720 ILCS 5/33B-1) (from Ch. 38, par. 33B-1)

28 Sec. 33B-1. (a) Every person who has been twice  
29 convicted in any state or federal court of an offense that  
30 contains the same elements as an offense now classified in  
31 Illinois as a Class X felony, criminal sexual assault,  
32 aggravated kidnapping or first degree murder, and is

1 thereafter convicted of a Class X felony, criminal sexual  
2 assault or first degree murder, committed after the 2 prior  
3 convictions, shall be adjudged an habitual criminal.

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

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

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

12 (1) the third offense was committed after the  
13 effective date of this Act;

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

18 (3) the third offense was committed after  
19 conviction on the second offense;

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

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

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

26 Section 40. The Cannabis Control Act is amended by  
27 changing Section 9 as follows:

28 (720 ILCS 550/9) (from Ch. 56 1/2, par. 709)

29 Sec. 9. (a) Any person who engages in a calculated  
30 criminal cannabis conspiracy, as defined in subsection (b),  
31 is guilty of a Class 3 felony, and fined not more than  
32 \$200,000 and shall be subject to the forfeitures prescribed



1 in subsection (c); except that, if any person engages in such  
2 offense after one or more prior convictions under this  
3 Section, Section 4 (d), Section 5 (d), Section 8 (d) or any  
4 law of the United States or of any State relating to  
5 cannabis, or controlled substances as defined in the Illinois  
6 Controlled Substances Act, in addition to the fine and  
7 forfeiture authorized above, he shall be guilty of a Class 1  
8 felony ~~for which an offender may not be sentenced to death.~~

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

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

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

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

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

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

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

25 (d) The circuit court may enter such injunctions,  
26 restraining orders, directions, or prohibitions, or take such  
27 other actions, including the acceptance of satisfactory  
28 performance bonds, in connection with any property, claim,  
29 receipt, right or other interest subject to forfeiture under  
30 this Section, as it deems proper.

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

32 Section 45. The Code of Criminal Procedure of 1963 is  
33 amended by changing Sections 104-26, 113-3, 114-5, 115-4,

1 115-4.1, 119-5, 121-13, 122-1, 122-2.1 and 122-4 as follows:

2 (725 ILCS 5/104-26) (from Ch. 38, par. 104-26)

3 Sec. 104-26. Disposition of Defendants suffering  
4 disabilities.

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

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

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

24 (1) The court shall not impose a sentence of  
25 imprisonment upon the offender if the court believes that  
26 because of his disability a sentence of imprisonment  
27 would not serve the ends of justice and the interests of  
28 society and the offender or that because of his  
29 disability a sentence of imprisonment would subject the  
30 offender to excessive hardship. In addition to any other  
31 conditions of a sentence of conditional discharge or  
32 probation the court may require that the offender undergo  
33 treatment appropriate to his mental or physical

1 condition.

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

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

20 (4) If the court imposes a sentence of imprisonment  
21 upon an offender who has a physical disability, it may  
22 authorize the Department of Corrections to place the  
23 offender in a public or private facility which is able to  
24 provide care or treatment for the offender's disability  
25 and which agrees to do so.

26 (5) When an offender is placed with the Department  
27 of Human Services or another facility pursuant to  
28 subparagraph (2) or (4) of this paragraph (c), the  
29 Department or private facility shall not discharge or  
30 allow the offender to be at large in the community  
31 without prior approval of the court. If the defendant is  
32 placed in the custody of the Department of Human  
33 Services, the defendant shall be placed in a secure  
34 setting unless the court determines that there are

1 compelling reasons why such placement is not necessary.  
2 The offender shall accrue good time and shall be eligible  
3 for parole in the same manner as if he were serving his  
4 sentence within the Department of Corrections. When the  
5 offender no longer requires hospitalization, care, or  
6 treatment, the Department of Human Services or the  
7 facility shall transfer him, if his sentence has not  
8 expired, to the Department of Corrections. If an  
9 offender is transferred to the Department of Corrections,  
10 the Department of Human Services shall transfer to the  
11 Department of Corrections all related records pertaining  
12 to length of custody and treatment services provided  
13 during the time the offender was held.

14 (6) The Department of Corrections shall notify the  
15 Department of Human Services or a facility in which an  
16 offender has been placed pursuant to subparagraph (2) or  
17 (4) of paragraph (c) of this Section of the expiration of  
18 his sentence. Thereafter, an offender in the Department  
19 of Human Services shall continue to be treated pursuant  
20 to his commitment order and shall be considered a civilly  
21 committed patient for all purposes including discharge.  
22 An offender who is in a facility pursuant to subparagraph  
23 (4) of paragraph (c) of this Section shall be informed by  
24 the facility of the expiration of his sentence, and shall  
25 either consent to the continuation of his care or  
26 treatment by the facility or shall be discharged.

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

28 (725 ILCS 5/113-3) (from Ch. 38, par. 113-3)

29 Sec. 113-3. (a) Every person charged with an offense  
30 shall be allowed counsel before pleading to the charge. If  
31 the defendant desires counsel and has been unable to obtain  
32 same before arraignment the court shall recess court or  
33 continue the cause for a reasonable time to permit defendant

1 to obtain counsel and consult with him before pleading to the  
2 charge. If the accused is a dissolved corporation, and is not  
3 represented by counsel, the court may, in the interest of  
4 justice, appoint as counsel a licensed attorney of this  
5 State.

6 (b) In all cases, except where the penalty is a fine  
7 only, if the court determines that the defendant is indigent  
8 and desires counsel, the Public Defender shall be appointed  
9 as counsel. If there is no Public Defender in the county or  
10 if the defendant requests counsel other than the Public  
11 Defender and the court finds that the rights of the defendant  
12 will be prejudiced by the appointment of the Public Defender,  
13 the court shall appoint as counsel a licensed attorney at law  
14 of this State, except that in a county having a population of  
15 2,000,000 ~~1,000,000~~ or more the Public Defender shall be  
16 appointed as counsel in all misdemeanor cases where the  
17 defendant is indigent and desires counsel unless the case  
18 involves multiple defendants, in which case the court may  
19 appoint counsel other than the Public Defender for the  
20 additional defendants. The court shall require an affidavit  
21 signed by any defendant who requests court-appointed counsel.  
22 Such affidavit shall be in the form established by the  
23 Supreme Court containing sufficient information to ascertain  
24 the assets and liabilities of that defendant. The Court may  
25 direct the Clerk of the Circuit Court to assist the defendant  
26 in the completion of the affidavit. Any person who knowingly  
27 files such affidavit containing false information concerning  
28 his assets and liabilities shall be liable to the county  
29 where the case, in which such false affidavit is filed, is  
30 pending for the reasonable value of the services rendered by  
31 the public defender or other court-appointed counsel in the  
32 case to the extent that such services were unjustly or  
33 falsely procured.

34 (c) Upon the filing with the court of a verified

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

25 (d) (Blank). ~~In-capital-cases, in-addition-to-counsel,~~  
 26 ~~if-the-court-determines-that-the-defendant-is-indigent-the~~  
 27 ~~court-may, upon-the-filing-with-the-court-of-a-verified~~  
 28 ~~statement-of-services-rendered, order-the-county-Treasurer-of~~  
 29 ~~the-county-of-trial-to-pay-necessary-expert-witnesses-for~~  
 30 ~~defendant-reasonable-compensation-stated-in-the-order-not-to~~  
 31 ~~exceed-\$250-for-each-defendant.~~

32 (e) If the court in any county having a population  
 33 greater than 2,000,000 ~~1,000,000~~ determines that the  
 34 defendant is indigent the court may, upon the filing with the

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

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

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

12 (725 ILCS 5/114-5) (from Ch. 38, par. 114-5)

13 Sec. 114-5. Substitution of judge.

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

26 (b) Within 24 hours after a motion is made for  
 27 substitution of judge in a cause with multiple defendants  
 28 each defendant shall have the right to move in accordance  
 29 with subsection (a) of this Section for a substitution of one  
 30 judge. The total number of judges named as prejudiced by all  
 31 defendants shall not exceed the total number of defendants.  
 32 The first motion for substitution of judge in a cause with  
 33 multiple defendants shall be made within 10 days after the

1 cause has been placed on the trial call of a judge.

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

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

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

22 (725 ILCS 5/115-4) (from Ch. 38, par. 115-4)

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

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

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

29 (d) Each party may challenge jurors for cause. If a  
30 prospective juror has a physical impairment, the court shall  
31 consider such prospective juror's ability to perceive and  
32 appreciate the evidence when considering a challenge for  
33 cause.



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

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

19 (g) After the jury is impaneled and sworn the court may  
20 direct the selection of 2 alternate jurors who shall take the  
21 same oath as the regular jurors. Each party shall have one  
22 additional peremptory challenge for each alternate juror. If  
23 before the final submission of a cause a member of the jury  
24 dies or is discharged he shall be replaced by an alternate  
25 juror in the order of selection.

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

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

31 (j) Unless the affirmative defense of insanity has been  
32 presented during the trial, the jury shall return a general  
33 verdict as to each offense charged. When the affirmative  
34 defense of insanity has been presented during the trial, the

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

31 (k) When, at the close of the State's evidence or at the  
32 close of all of the evidence, the evidence is insufficient to  
33 support a finding or verdict of guilty the court may and on  
34 motion of the defendant shall make a finding or direct the

1 jury to return a verdict of not guilty, enter a judgment of  
2 acquittal and discharge the defendant.

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

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

22 (n) The members of the jury shall be entitled to take  
23 notes during the trial, and the sheriff of the county in  
24 which the jury is sitting shall provide them with writing  
25 materials for this purpose. Such notes shall remain  
26 confidential, and shall be destroyed by the sheriff after the  
27 verdict has been returned or a mistrial declared.

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

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

33 (725 ILCS 5/115-4.1) (from Ch. 38, par. 115-4.1)

1           Sec. 115-4.1. Absence of defendant.

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

1 at the hearing at which the trial date is set. When such  
2 trial date is set the clerk shall send to the defendant, by  
3 certified mail at his last known address indicated on his  
4 bond slip, notice of the new date which has been set for  
5 trial. Such notification shall be required when the  
6 defendant was not personally present in open court at the  
7 time when the case was set for trial.

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

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

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

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

34 (f) If the court grants only the defendant's request for

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

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

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

15 (725 ILCS 5/119-5) (from Ch. 38, par. 119-5)

16 Sec. 119-5. Execution of Death Sentence. On or after the  
 17 effective date of this amendatory Act of the 92nd General  
 18 Assembly no person may be executed in this State.

19 (a)-(1)--A-defendant-sentenced--to--death--shall--be  
 20 executed--by--an--intravenous--administration--of--a-lethal  
 21 quantity---of---an---ultrashort-acting---barbiturate---in  
 22 combination-with-a-chemical-paralytic-agent-and-potassium  
 23 chloride-or-other-equally-effective-substances-sufficient  
 24 to-cause-death-until-death-is-pronounced--by--a--licensed  
 25 physician--according--to--accepted--standards--of-medical  
 26 practice.

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

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

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

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

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

9 (e) The identity of executioners and other persons who  
10 participate or perform ancillary functions in an execution  
11 and information contained in records that would identify  
12 those persons shall remain confidential, shall not be subject  
13 to disclosure, and shall not be admissible as evidence or be  
14 discoverable in any action of any kind in any court or before  
15 any tribunal, board, agency, or person. In order to protect  
16 the confidentiality of persons participating in an execution,  
17 the Director of Corrections may direct that the Department  
18 make payments in cash for such services.

19 (f) The amendatory changes to this Section made by this  
20 amendatory Act of 1991 are severable under Section 1.31 of  
21 the Statute on Statutes.

22 (g) Notwithstanding any other provision of law,  
23 assistance, participation in, or the performance of ancillary  
24 or other functions pursuant to this Section, including but  
25 not limited to the administration of the lethal substance or  
26 substances required by this Section, shall not be construed  
27 to constitute the practice of medicine.

28 (h) Notwithstanding any other provision of law, any  
29 pharmacist or pharmaceutical supplier is authorized to  
30 dispense drugs to the Director of Corrections or his or her  
31 designee, without prescription, in order to carry out the  
32 provisions of this Section.

33 (Source: P.A. 89-8, eff. 3-21-95.)

1 (725 ILCS 5/121-13) (from Ch. 38, par. 121-13)

2 Sec. 121-13. Pauper Appeals.

3 (a) In any case wherein the defendant was convicted of a  
4 felony, if the court determines that the defendant desires  
5 counsel on appeal but is indigent the Public Defender or the  
6 State Appellate Defender shall be appointed as counsel,  
7 unless with the consent of the defendant and for good cause  
8 shown, the court may appoint counsel other than the Public  
9 Defender or the State Appellate Defender.

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

28 (c) In any case in which a sentence of death was imposed  
29 in the trial court before the effective date of this  
30 amendatory Act of the 92nd General Assembly, the Supreme  
31 Court, upon written petition of the defendant's counsel made  
32 not more than every 60 days after appointment, shall  
33 determine reasonable compensation for an indigent defendant's  
34 attorneys on appeal. The compensation shall not exceed \$2,000



1 in each case, except that, in extraordinary circumstances,  
2 payment in excess of the limits herein stated may be made if  
3 the reviewing court certifies that the payment is necessary  
4 to provide fair compensation for protracted representation.  
5 The Supreme Court shall enter an order directing the county  
6 treasurer of the county where the case was tried to pay  
7 compensation and reimburse expenditures necessarily incurred  
8 in the prosecution of the appeal or review proceedings. The  
9 Supreme Court may order the provisional payment of sums  
10 during the pendency of the cause.

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

12 (725 ILCS 5/122-1) (from Ch. 38, par. 122-1)

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

14 (a) Any person imprisoned in the penitentiary who  
15 asserts that in the proceedings which resulted in his or her  
16 conviction there was a substantial denial of his or her  
17 rights under the Constitution of the United States or of the  
18 State of Illinois or both may institute a proceeding under  
19 this Article.

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

29 (c) No proceedings under this Article shall be commenced  
30 more than 6 months after the denial of a petition for leave  
31 to appeal or the date for filing such a petition if none is  
32 filed or more than 45 days after the defendant files his or  
33 her brief in the appeal of the sentence before the Illinois

1 Supreme Court (or more than 45 days after the deadline for  
 2 the filing of the defendant's brief with the Illinois Supreme  
 3 Court if no brief is filed) or 3 years from the date of  
 4 conviction, whichever is sooner, unless the petitioner  
 5 alleges facts showing that the delay was not due to his or  
 6 her culpable negligence.

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

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

20 (Source: P.A. 89-284, eff. 1-1-96; 89-609, eff. 1-1-97;  
 21 89-684, eff. 6-1-97; 90-14, eff. 7-1-97.)

22 (725 ILCS 5/122-2.1) (from Ch. 38, par. 122-2.1)

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

26 (1) If the petitioner is under sentence of death  
 27 imposed before the effective date of this amendatory Act  
 28 of the 92nd General Assembly and is without counsel and  
 29 alleges that he is without means to procure counsel, he  
 30 shall state whether or not he wishes counsel to be  
 31 appointed to represent him. If appointment of counsel is  
 32 so requested, the court shall appoint counsel if  
 33 satisfied that the petitioner has no means to procure

1 counsel.

2 (2) If the petitioner is sentenced to imprisonment  
3 and the court determines the petition is frivolous or is  
4 patently without merit, it shall dismiss the petition in  
5 a written order, specifying the findings of fact and  
6 conclusions of law it made in reaching its decision.  
7 Such order of dismissal is a final judgment and shall be  
8 served upon the petitioner by certified mail within 10  
9 days of its entry.

10 (b) If the petition is not dismissed pursuant to this  
11 Section, the court shall order the petition to be docketed  
12 for further consideration in accordance with Sections 122-4  
13 through 122-6.

14 (c) In considering a petition pursuant to this Section,  
15 the court may examine the court file of the proceeding in  
16 which the petitioner was convicted, any action taken by an  
17 appellate court in such proceeding and any transcripts of  
18 such proceeding.

19 (Source: P.A. 86-655; 87-904.)

20 (725 ILCS 5/122-4) (from Ch. 38, par. 122-4)

21 Sec. 122-4. Pauper Petitions. If the petition is not  
22 dismissed pursuant to Section 122-2.1, and alleges that the  
23 petitioner is unable to pay the costs of the proceeding, the  
24 court may order that the petitioner be permitted to proceed  
25 as a poor person and order a transcript of the proceedings  
26 delivered to petitioner in accordance with Rule of the  
27 Supreme Court. If the petitioner is without counsel and  
28 alleges that he is without means to procure counsel, he shall  
29 state whether or not he wishes counsel to be appointed to  
30 represent him. If appointment of counsel is so requested,  
31 and the petition is not dismissed pursuant to Section  
32 122-2.1, the court shall appoint counsel if satisfied that  
33 the petitioner has no means to procure counsel. A petitioner

1 who is a prisoner in an Illinois Department of Corrections  
2 facility who files a pleading, motion, or other filing that  
3 purports to be a legal document seeking post-conviction  
4 relief under this Article against the State, the Illinois  
5 Department of Corrections, the Prisoner Review Board, or any  
6 of their officers or employees in which the court makes a  
7 specific finding that the pleading, motion, or other filing  
8 that purports to be a legal document is frivolous shall not  
9 proceed as a poor person and shall be liable for the full  
10 payment of filing fees and actual court costs as provided in  
11 Article XXII of the Code of Civil Procedure.

12 A Circuit Court or the Illinois Supreme Court may appoint  
13 the State Appellate Defender to provide post-conviction  
14 representation in a case in which the defendant was is  
15 sentenced to death before the effective date of this  
16 amendatory Act of the 92nd General Assembly. Any attorney  
17 assigned by the Office of the State Appellate Defender to  
18 provide post-conviction representation for indigent  
19 defendants in cases in which a sentence of death was imposed  
20 in the trial court may, from time to time submit bills and  
21 time sheets to the Office of the State Appellate Defender for  
22 payment of services rendered and the Office of the State  
23 Appellate Defender shall pay bills from funds appropriated  
24 for this purpose in accordance with rules promulgated by the  
25 State Appellate Defender.

26 The court, at the conclusion of the proceedings upon  
27 receipt of a petition by the appointed counsel, shall  
28 determine a reasonable amount to be allowed an indigent  
29 defendant's counsel other than the Public Defender or the  
30 State Appellate Defender for compensation and reimbursement  
31 of expenditures necessarily incurred in the proceedings. The  
32 compensation shall not exceed \$500 in each case, except that,  
33 in extraordinary circumstances, payment in excess of the  
34 limits herein stated may be made if the trial court certifies

1 that the payment is necessary to provide fair compensation  
2 for protracted representation, and the amount is approved by  
3 the chief judge of the circuit. The court shall enter an  
4 order directing the county treasurer of the county where the  
5 case was tried to pay the amount thereby allowed by the  
6 court. The court may order the provisional payment of sums  
7 during the pendency of the cause.

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

9 Section 50. The State Appellate Defender Act is amended  
10 by changing Sections 10 and 10.5 as follows:

11 (725 ILCS 105/10) (from Ch. 38, par. 208-10)

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

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

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

19 (c) The State Appellate Defender may:

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

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

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

1 annual report to the General Assembly;

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

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

12 (d) (Blank). For--each--State--fiscal--year,--the--State  
13 Appellate--Defender--shall-appear-before-the-General-Assembly  
14 and-request--appropriations--to--be--made--from--the--Capital  
15 Litigation--Trust-Fund-to-the-State-Treasurer-for-the-purpose  
16 of-providing-defense-assistance-in-capital-cases--outside--of  
17 Cook--County.--The-State-Appellate-Defender-may-appear-before  
18 the-General-Assembly-at-other-times-during-the-State's-fiscal  
19 year-to-request-supplemental-appropriations--from--the--Trust  
20 Fund-to-the-State-Treasurer.

21 (e) The requirement for reporting to the General  
22 Assembly shall be satisfied by filing copies of the report  
23 with the Speaker, the Minority Leader and the Clerk of the  
24 House of Representatives and the President, the Minority  
25 Leader and the Secretary of the Senate and the Legislative  
26 Research Unit, as required by Section 3.1 of the General  
27 Assembly Organization Act and filing such additional copies  
28 with the State Government Report Distribution Center for the  
29 General Assembly as is required under paragraph (t) of  
30 Section 7 of the State Library Act.

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

32 (725 ILCS 105/10.5)

33 Sec. 10.5. Competitive bidding for appellate services.

1 (a) The State Appellate Defender may, to the extent  
2 necessary to dispose of its backlog of indigent criminal  
3 appeals, institute a competitive bidding program under which  
4 contracts for the services of attorneys in non-death-penalty  
5 criminal appeals are awarded to the lowest responsible  
6 bidder.

7 (b) The State Appellate Defender, before letting out  
8 bids for contracts for the services of attorneys to represent  
9 indigent defendants on appeal in criminal cases, shall  
10 advertise the letting of the bids in a publication or  
11 publications of the Illinois State Bar Association, the  
12 Chicago Daily Law Bulletin, and the Chicago Lawyer. The  
13 State Appellate Defender shall also advertise the letting of  
14 the bids in newspapers of general circulation in major  
15 municipalities to be determined by the State Appellate  
16 Defender. The State Appellate Defender shall mail notices of  
17 the letting of the bids to county and local bar associations.

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

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

29 (e) An attorney who is awarded a contract under this  
30 Section shall communicate with each of his or her clients and  
31 shall file each initial brief before the due date established  
32 by Supreme Court Rule or by the Appellate Court. The State  
33 Appellate Defender may rescind the contract for attorney  
34 services and may require the return of the record on appeal

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

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

7 (g) (Blank).

8 (h) (Blank).

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

10 (725 ILCS 124/Act rep.)

11 Section 55. The Capital Crimes Litigation Act is  
12 repealed on July 1, 2003.

13 Section 60. The Uniform Criminal Extradiction Act is  
14 amended by changing Section 5 as 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 65. The Unified Code of Corrections is amended  
22 by changing Sections 3-3-13, 3-8-10, 3-6-3, 5-1-9, 5-4-1,  
23 5-5-3, 5-8-1, 5-8-4, and 5-8-5 as follows:

24 (730 ILCS 5/3-3-13) (from Ch. 38, par. 1003-3-13)

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

26 (a) Petitions seeking pardon, commutation, or reprieve  
27 shall be addressed to the Governor and filed with the  
28 Prisoner Review Board. The petition shall be in writing and  
29 signed by the person under conviction or by a person on his



1 behalf. It shall contain a brief history of the case, the  
2 reasons for seeking executive clemency, and other relevant  
3 information the Board may require.

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

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

19 (c) The Board shall, if requested and upon due notice,  
20 give a hearing to each application, allowing representation  
21 by counsel, if desired, after which it shall confidentially  
22 advise the Governor by a written report of its  
23 recommendations which shall be determined by majority vote.  
24 The Board shall meet to consider such petitions no less than  
25 4 times each year.

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

31 (d) The Governor shall decide each application and  
32 communicate his decision to the Board which shall notify the  
33 petitioner.

34 In the event a petitioner who has been convicted of a

1 Class X felony is granted a release, after the Governor has  
2 communicated such decision to the Board, the Board shall give  
3 written notice to the Sheriff of the county from which the  
4 offender was sentenced if such sheriff has requested that  
5 such notice be given on a continuing basis. In cases where  
6 arrest of the offender or the commission of the offense took  
7 place in any municipality with a population of more than  
8 10,000 persons, the Board shall also give written notice to  
9 the proper law enforcement agency for said municipality which  
10 has requested notice on a continuing basis.

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

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

15 (730 ILCS 5/3-8-10) (from Ch. 38, par. 1003-8-10)

16 Sec. 3-8-10. Intrastate Detainers. ~~Except for persons~~  
17 ~~sentenced to death,~~ Subsection (b), (c) and (e) of Section  
18 103-5 of the Code of Criminal Procedure of 1963 shall also  
19 apply to persons committed to any institution or facility or  
20 program of the Illinois Department of Corrections who have  
21 untried complaints, charges or indictments pending in any  
22 county of this State, and such person shall include in the  
23 demand under subsection (b), a statement of the place of  
24 present commitment, the term, and length of the remaining  
25 term, the charges pending against him or her to be tried and  
26 the county of the charges, and the demand shall be addressed  
27 to the state's attorney of the county where he or she is  
28 charged with a copy to the clerk of that court and a copy to  
29 the chief administrative officer of the Department of  
30 Corrections institution or facility to which he or she is  
31 committed. The state's attorney shall then procure the  
32 presence of the defendant for trial in his county by habeas  
33 corpus. Additional time may be granted by the court for the

1 process of bringing and serving an order of habeas corpus ad  
2 prosequendum. In the event that the person is not brought to  
3 trial within the allotted time, then the charge for which he  
4 or she has requested a speedy trial shall be dismissed.

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

6 (730 ILCS 5/3-6-3) (from Ch. 38, par. 1003-6-3)  
7 Sec. 3-6-3. Rules and Regulations for Early Release.

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

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

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

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

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

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

10 (2.1) For all offenses, other than those enumerated  
11 in subdivision (a)(2) committed on or after June 19,  
12 1998, and other than the offense of reckless homicide as  
13 defined in subsection (e) of Section 9-3 of the Criminal  
14 Code of 1961 committed on or after January 1, 1999, the  
15 rules and regulations shall provide that a prisoner who  
16 is serving a term of imprisonment shall receive one day  
17 of good conduct credit for each day of his or her  
18 sentence of imprisonment or recommitment under Section  
19 3-3-9. Each day of good conduct credit shall reduce by  
20 one day the prisoner's period of imprisonment or  
21 recommitment under Section 3-3-9.

22 (2.2) A prisoner serving a term of natural life  
23 imprisonment ~~or--a--prisoner--who--has--been--sentenced--to~~  
24 death shall receive no good conduct credit.

25 (2.3) The rules and regulations on early release  
26 shall provide that a prisoner who is serving a sentence  
27 for reckless homicide as defined in subsection (e) of  
28 Section 9-3 of the Criminal Code of 1961 committed on or  
29 after January 1, 1999 shall receive no more than 4.5 days  
30 of good conduct credit for each month of his or her  
31 sentence of imprisonment.

32 (2.4) The rules and regulations on early release  
33 shall provide with respect to the offenses of aggravated  
34 battery with a machine gun or a firearm equipped with any

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

10 (3) The rules and regulations shall also provide  
11 that the Director may award up to 180 days additional  
12 good conduct credit for meritorious service in specific  
13 instances as the Director deems proper; except that no  
14 more than 90 days of good conduct credit for meritorious  
15 service shall be awarded to any prisoner who is serving a  
16 sentence for conviction of first degree murder, reckless  
17 homicide while under the influence of alcohol or any  
18 other drug, aggravated kidnapping, kidnapping, predatory  
19 criminal sexual assault of a child, aggravated criminal  
20 sexual assault, criminal sexual assault, deviate sexual  
21 assault, aggravated criminal sexual abuse, aggravated  
22 indecent liberties with a child, indecent liberties with  
23 a child, child pornography, heinous battery, aggravated  
24 battery of a spouse, aggravated battery of a spouse with  
25 a firearm, stalking, aggravated stalking, aggravated  
26 battery of a child, endangering the life or health of a  
27 child, cruelty to a child, or narcotic racketeering.  
28 Notwithstanding the foregoing, good conduct credit for  
29 meritorious service shall not be awarded on a sentence of  
30 imprisonment imposed for conviction of: (i) one of the  
31 offenses enumerated in subdivision (a)(2) when the  
32 offense is committed on or after June 19, 1998, (ii)  
33 reckless homicide as defined in subsection (e) of Section  
34 9-3 of the Criminal Code of 1961 when the offense is

1 committed on or after January 1, 1999, or (iii) for  
2 conviction of one of the offenses enumerated in  
3 subdivision (a)(2.4) when the offense is committed on or  
4 after the effective date of this amendatory Act of 1999.

5 (4) The rules and regulations shall also provide  
6 that the good conduct credit accumulated and retained  
7 under paragraph (2.1) of subsection (a) of this Section  
8 by any inmate during specific periods of time in which  
9 such inmate is engaged full-time in substance abuse  
10 programs, correctional industry assignments, or  
11 educational programs provided by the Department under  
12 this paragraph (4) and satisfactorily completes the  
13 assigned program as determined by the standards of the  
14 Department, shall be multiplied by a factor of 1.25 for  
15 program participation before August 11, 1993 and 1.50 for  
16 program participation on or after that date. However, no  
17 inmate shall be eligible for the additional good conduct  
18 credit under this paragraph (4) while assigned to a boot  
19 camp, mental health unit, or electronic detention, or if  
20 convicted of an offense enumerated in paragraph (a)(2) of  
21 this Section that is committed on or after June 19, 1998,  
22 or if convicted of reckless homicide as defined in  
23 subsection (e) of Section 9-3 of the Criminal Code of  
24 1961 if the offense is committed on or after January 1,  
25 1999, or if convicted of an offense enumerated in  
26 paragraph (a)(2.4) of this Section that is committed on  
27 or after the effective date of this amendatory Act of  
28 1999, or first degree murder, a Class X felony, criminal  
29 sexual assault, felony criminal sexual abuse, aggravated  
30 criminal sexual abuse, aggravated battery with a firearm,  
31 or any predecessor or successor offenses with the same or  
32 substantially the same elements, or any inchoate offenses  
33 relating to the foregoing offenses. No inmate shall be  
34 eligible for the additional good conduct credit under

1 this paragraph (4) who (i) has previously received  
2 increased good conduct credit under this paragraph (4)  
3 and has subsequently been convicted of a felony, or (ii)  
4 has previously served more than one prior sentence of  
5 imprisonment for a felony in an adult correctional  
6 facility.

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

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

28 (5) Whenever the Department is to release any  
29 inmate earlier than it otherwise would because of a grant  
30 of good conduct credit for meritorious service given at  
31 any time during the term, the Department shall give  
32 reasonable advance notice of the impending release to the  
33 State's Attorney of the county where the prosecution of  
34 the inmate took place.

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

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

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

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



1 shall be subject to review by the Prisoner Review Board.  
2 However, the Board may not restore good conduct credit in  
3 excess of the 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  
7 the sentence imposed by the court that was not served due to  
8 the accumulation of good conduct credit.

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

23 For purposes of this subsection (d):

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

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

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

34 (C) the claims, defenses, and other legal

1 contentions therein are not warranted by existing  
 2 law or by a nonfrivolous argument for the extension,  
 3 modification, or reversal of existing law or the  
 4 establishment of new law;

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

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

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

22 (e) Nothing in this amendatory Act of 1998 affects the  
 23 validity of Public Act 89-404.

24 (Source: P.A. 90-141, eff. 1-1-98; 90-505, eff. 8-19-97;  
 25 90-592, eff. 6-19-98; 90-593, eff. 6-19-98; 90-655, eff.  
 26 7-30-98; 90-740, eff. 1-1-99; 91-121, eff. 7-15-99; 91-357,  
 27 eff. 7-29-99.)

28 (730 ILCS 5/5-1-9) (from Ch. 38, par. 1005-1-9)  
 29 Sec. 5-1-9. Felony.

30 "Felony" means an offense for which a sentence to death  
 31 or to a term of imprisonment in a penitentiary for one year  
 32 or more is provided.

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

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

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

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

21 (1) consider the evidence, if any, received upon  
22 the trial;

23 (2) consider any presentence reports;

24 (3) consider the financial impact of incarceration  
25 based on the financial impact statement filed with the  
26 clerk of the court by the Department of Corrections;

27 (4) consider evidence and information offered by  
28 the parties in aggravation and mitigation;

29 (5) hear arguments as to sentencing alternatives;

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

32 (7) afford the victim of a violent crime or a  
33 violation of Section 11-501 of the Illinois Vehicle Code,  
34 or a similar provision of a local ordinance, or a

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

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

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

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

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

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

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

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

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

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

32           "The purpose of this statement is to inform the public of  
33 the actual period of time this defendant is likely to spend  
34 in prison as a result of this sentence. The actual period of

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

15 When the sentence is imposed for one of the offenses  
16 enumerated in paragraph (a)(2) of Section 3-6-3, other than  
17 first degree murder, and the offense was committed on or  
18 after June 19, 1998, and when the sentence is imposed for  
19 reckless homicide as defined in subsection (e) of Section 9-3  
20 of the Criminal Code of 1961 if the offense was committed on  
21 or after January 1, 1999, the judge's statement, to be given  
22 after 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 entitled to no more than 4 1/2 days of  
30 good conduct credit for each month of his or her sentence of  
31 imprisonment. Therefore, this defendant will serve at least  
32 85% of his or her sentence. Assuming the defendant receives  
33 4 1/2 days credit for each month of his or her sentence, the  
34 period of estimated actual custody is ... years and ...

1 months. If the defendant, because of his or her own  
2 misconduct or failure to comply with the institutional  
3 regulations receives lesser credit, the actual time served in  
4 prison will be longer."

5 When a sentence of imprisonment is imposed for first  
6 degree murder and the offense was committed on or after June  
7 19, 1998, the judge's statement, to be given after  
8 pronouncing the sentence, shall 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, the defendant is not entitled to good conduct credit.  
16 Therefore, this defendant will serve 100% of his or her  
17 sentence."

18 (d) When the defendant is committed to the Department of  
19 Corrections, the State's Attorney shall and counsel for the  
20 defendant may file a statement with the clerk of the court to  
21 be transmitted to the department, agency or institution to  
22 which the defendant is committed to furnish such department,  
23 agency or institution with the facts and circumstances of the  
24 offense for which the person was committed together with all  
25 other factual information accessible to them in regard to the  
26 person prior to his commitment relative to his habits,  
27 associates, disposition and reputation and any other facts  
28 and circumstances which may aid such department, agency or  
29 institution during its custody of such person. The clerk  
30 shall within 10 days after receiving any such statements  
31 transmit a copy to such department, agency or institution and  
32 a copy to the other party, provided, however, that this shall  
33 not be cause for delay in conveying the person to the  
34 department, agency or institution to which he has been



1 committed.

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

5 (1) the sentence imposed;

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

8 (3) any presentence reports;

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

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

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

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

20 (7) the municipality where the arrest of the  
21 offender or the commission of the offense has occurred,  
22 where such municipality has a population of more than  
23 25,000 persons;

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

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

28 (Source: P.A. 90-592, eff. 6-19-98; 90-593, eff. 6-19-98;  
29 90-740, eff. 1-1-99; 91-357, eff. 7-29-99; 91-899, eff.  
30 1-1-01.)

31 (730 ILCS 5/5-5-3) (from Ch. 38, par. 1005-5-3)  
32 Sec. 5-5-3. Disposition.

33 (a) Every person convicted of an offense shall be

1 sentenced as provided in this Section.

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

6 (1) A period of probation.

7 (2) A term of periodic imprisonment.

8 (3) A term of conditional discharge.

9 (4) A term of imprisonment.

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

14 (6) A fine.

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

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

20 Whenever an individual is sentenced for an offense based  
21 upon an arrest for a violation of Section 11-501 of the  
22 Illinois Vehicle Code, or a similar provision of a local  
23 ordinance, and the professional evaluation recommends  
24 remedial or rehabilitative treatment or education, neither  
25 the treatment nor the education shall be the sole disposition  
26 and either or both may be imposed only in conjunction with  
27 another disposition. The court shall monitor compliance with  
28 any remedial education or treatment recommendations contained  
29 in the professional evaluation. Programs conducting alcohol  
30 or other drug evaluation or remedial education must be  
31 licensed by the Department of Human Services. However, if  
32 the individual is not a resident of Illinois, the court may  
33 accept an alcohol or other drug evaluation or remedial  
34 education program in the state of such individual's

1 residence. Programs providing treatment must be licensed  
2 under existing applicable alcoholism and drug treatment  
3 licensure standards.

4 In addition to any other fine or penalty required by law,  
5 any individual convicted of a violation of Section 11-501 of  
6 the Illinois Vehicle Code or a similar provision of local  
7 ordinance, whose operation of a motor vehicle while in  
8 violation of Section 11-501 or such ordinance proximately  
9 caused an incident resulting in an appropriate emergency  
10 response, shall be required to make restitution to a public  
11 agency for the costs of that emergency response. Such  
12 restitution shall not exceed \$500 per public agency for each  
13 such emergency response. For the purpose of this paragraph,  
14 emergency response shall mean any incident requiring a  
15 response by: a police officer as defined under Section 1-162  
16 of the Illinois Vehicle Code; a fireman carried on the rolls  
17 of a regularly constituted fire department; and an ambulance  
18 as defined under Section 4.05 of the Emergency Medical  
19 Services (EMS) Systems Act.

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

23 (c) (1) When a defendant is found guilty of first degree  
24 murder the defendant shall be sentenced to a term of  
25 ~~State--may--either--seek-a-sentence-of~~ imprisonment under  
26 ~~Section 5-8-1 of this Code, or where appropriate--seek--a~~  
27 ~~sentence--of-death-under-Section-9-1-of-the-Criminal-Code~~  
28 ~~of-1961.~~

29 (2) A period of probation, a term of periodic  
30 imprisonment or conditional discharge shall not be  
31 imposed for the following offenses. The court shall  
32 sentence the offender to not less than the minimum term  
33 of imprisonment set forth in this Code for the following  
34 offenses, and may order a fine or restitution or both in

1 conjunction with such term of imprisonment:

2 (A) First degree murder ~~where---the---death~~  
3 ~~penalty-is-not-imposed.~~

4 (B) Attempted first degree murder.

5 (C) A Class X felony.

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

11 (E) A violation of Section 5.1 or 9 of the  
12 Cannabis Control Act.

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

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

23 (H) Criminal sexual assault, except as  
24 otherwise provided in subsection (e) of this  
25 Section.

26 (I) Aggravated battery of a senior citizen.

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

29 Before July 1, 1994, for the purposes of this  
30 paragraph, "organized gang" means an association of  
31 5 or more persons, with an established hierarchy,  
32 that encourages members of the association to  
33 perpetrate crimes or provides support to the members  
34 of the association who do commit crimes.

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

5           (K) Vehicular hijacking.

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

10          (M) A second or subsequent conviction for the  
11 offense of institutional vandalism if the damage to  
12 the property exceeds \$300.

13          (N) A Class 3 felony violation of paragraph  
14 (1) of subsection (a) of Section 2 of the Firearm  
15 Owners Identification Card Act.

16          (O) A violation of Section 12-6.1 of the  
17 Criminal Code of 1961.

18          (P) A violation of paragraph (1), (2), (3),  
19 (4), (5), or (7) of subsection (a) of Section  
20 11-20.1 of the Criminal Code of 1961.

21          (Q) A violation of Section 20-1.2 of the  
22 Criminal Code of 1961.

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

25          (3) A minimum term of imprisonment of not less than  
26 48 consecutive hours or 100 hours of community service as  
27 may be determined by the court shall be imposed for a  
28 second or subsequent violation committed within 5 years  
29 of a previous violation of Section 11-501 of the Illinois  
30 Vehicle Code or a similar provision of a local ordinance.

31          (4) A minimum term of imprisonment of not less than  
32 7 consecutive days or 30 days of community service shall  
33 be imposed for a violation of paragraph (c) of Section  
34 6-303 of the Illinois Vehicle Code.

1           (4.1) A minimum term of 30 consecutive days of  
2 imprisonment, 40 days of 24 hour periodic imprisonment or  
3 720 hours of community service, as may be determined by  
4 the court, shall be imposed for a violation of Section  
5 11-501 of the Illinois Vehicle Code during a period in  
6 which the defendant's driving privileges are revoked or  
7 suspended, where the revocation or suspension was for a  
8 violation of Section 11-501 or Section 11-501.1 of that  
9 Code.

10           (5) The court may sentence an offender convicted of  
11 a business offense or a petty offense or a corporation or  
12 unincorporated association convicted of any offense to:

13                   (A) a period of conditional discharge;

14                   (B) a fine;

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

17           (6) In no case shall an offender be eligible for a  
18 disposition of probation or conditional discharge for a  
19 Class 1 felony committed while he was serving a term of  
20 probation or conditional discharge for a felony.

21           (7) When a defendant is adjudged a habitual  
22 criminal under Article 33B of the Criminal Code of 1961,  
23 the court shall sentence the defendant to a term of  
24 natural life imprisonment.

25           (8) When a defendant, over the age of 21 years, is  
26 convicted of a Class 1 or Class 2 felony, after having  
27 twice been convicted of any Class 2 or greater Class  
28 felonies in Illinois, and such charges are separately  
29 brought and tried and arise out of different series of  
30 acts, such defendant shall be sentenced as a Class X  
31 offender. This paragraph shall not apply unless (1) the  
32 first felony was committed after the effective date of  
33 this amendatory Act of 1977; and (2) the second felony  
34 was committed after conviction on the first; and (3) the

1 third felony was committed after conviction on the  
2 second.

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

6 (d) In any case in which a sentence originally imposed  
7 is vacated, the case shall be remanded to the trial court.  
8 The trial court shall hold a hearing under Section 5-4-1 of  
9 the Unified Code of Corrections which may include evidence of  
10 the defendant's life, moral character and occupation during  
11 the time since the original sentence was passed. The trial  
12 court shall then impose sentence upon the defendant. The  
13 trial court may impose any sentence which could have been  
14 imposed at the original trial subject to Section 5-5-4 of the  
15 Unified Code of Corrections.

16 (e) In cases where prosecution for criminal sexual  
17 assault or aggravated criminal sexual abuse under Section  
18 12-13 or 12-16 of the Criminal Code of 1961 results in  
19 conviction of a defendant who was a family member of the  
20 victim at the time of the commission of the offense, the  
21 court shall consider the safety and welfare of the victim and  
22 may impose a sentence of probation only where:

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

25 (A) the defendant is willing to undergo a  
26 court approved counseling program for a minimum  
27 duration of 2 years; or

28 (B) the defendant is willing to participate in  
29 a court approved plan including but not limited to  
30 the defendant's:

- 31 (i) removal from the household;
- 32 (ii) restricted contact with the victim;
- 33 (iii) continued financial support of the  
34 family;

1 (iv) restitution for harm done to the  
2 victim; and

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

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

12 Probation may be revoked or modified pursuant to Section  
13 5-6-4; except where the court determines at the hearing that  
14 the defendant violated a condition of his or her probation  
15 restricting contact with the victim or other family members  
16 or commits another offense with the victim or other family  
17 members, the court shall revoke the defendant's probation and  
18 impose a term of imprisonment.

19 For the purposes of this Section, "family member" and  
20 "victim" shall have the meanings ascribed to them in Section  
21 12-12 of the Criminal Code of 1961.

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

26 (g) Whenever a defendant is convicted of an offense  
27 under Sections 11-14, 11-15, 11-15.1, 11-16, 11-17, 11-18,  
28 11-18.1, 11-19, 11-19.1, 11-19.2, 12-13, 12-14, 12-14.1,  
29 12-15 or 12-16 of the Criminal Code of 1961, the defendant  
30 shall undergo medical testing to determine whether the  
31 defendant has any sexually transmissible disease, including a  
32 test for infection with human immunodeficiency virus (HIV) or  
33 any other identified causative agent of acquired  
34 immunodeficiency syndrome (AIDS). Any such medical test



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

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

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

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

1 that the cost of any such test shall be paid by the county  
2 and may be taxed as costs against the convicted defendant.

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

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

34 (j-5) A defendant at least 17 years of age who is

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

33 (k) A court may not impose a sentence or disposition for  
34 a felony or misdemeanor that requires the defendant to be

1 implanted or injected with or to use any form of birth  
2 control.

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

12 (1) a final order of deportation has been  
13 issued against the defendant pursuant to proceedings  
14 under the Immigration and Nationality Act, and

15 (2) the deportation of the defendant would not  
16 deprecate the seriousness of the defendant's conduct  
17 and would not be inconsistent with the ends of  
18 justice.

19 Otherwise, the defendant shall be sentenced as  
20 provided in this Chapter V.

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

29 (1) a final order of deportation has been  
30 issued against the defendant pursuant to proceedings  
31 under the Immigration and Nationality Act, and

32 (2) the deportation of the defendant would not  
33 deprecate the seriousness of the defendant's conduct  
34 and would not be inconsistent with the ends of

1 justice.

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

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

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

21 (Source: P.A. 90-14, eff. 7-1-97; 90-68, eff. 7-8-97; 90-680,  
22 eff. 1-1-99; 90-685, eff. 1-1-99; 90-787, eff. 8-14-98;  
23 91-357, eff. 7-29-99; 91-404, eff. 1-1-00; 91-663, eff.  
24 12-22-99; 91-695, eff. 4-13-00.)

25 (730 ILCS 5/5-8-1) (from Ch. 38, par. 1005-8-1)  
26 Sec. 5-8-1. Sentence of Imprisonment for Felony.

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

- 31 (1) for first degree murder,
  - 32 (a) a term shall be not less than 20 years and
  - 33 not more than 60 years, or

1 (b) if the court finds that the murder was  
 2 accompanied by exceptionally brutal or heinous  
 3 behavior indicative of wanton cruelty or, except as  
 4 set forth in subsection (a)(1)(c) of this Section,  
 5 ~~that--any--of--the--aggravating--factors--listed--in~~  
 6 ~~subsection--(b)--of--Section-9-1-of-the-Criminal-Code~~  
 7 ~~of-1961-are-present,~~ the court may sentence the  
 8 defendant to a term of natural life imprisonment, or  
 9 (b-5) a defendant who has been sentenced to  
 10 death before the effective date of this amendatory  
 11 Act of the 92nd General Assembly shall be sentenced  
 12 as provided in this Chapter V, or

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

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

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

26 (iii) is found guilty of murdering a  
 27 peace officer or fireman when the peace officer  
 28 or fireman was killed in the course of  
 29 performing his official duties, or to prevent  
 30 the peace officer or fireman from performing  
 31 his official duties, or in retaliation for the  
 32 peace officer or fireman performing his  
 33 official duties, and the defendant knew or  
 34 should have known that the murdered individual

1 was a peace officer or fireman, or

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

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

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



1 assault, or aggravated kidnaping, or

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

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

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

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

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

33 (1.5) for second degree murder, a term shall be not  
34 less than 4 years and not more than 20 years;

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

4           (2.5) for a person convicted under the  
5 circumstances described in paragraph (3) of subsection  
6 (b) of Section 12-13, paragraph (2) of subsection (d) of  
7 Section 12-14, paragraph (1.2) of subsection (b) of  
8 Section 12-14.1, or paragraph (2) of subsection (b) of  
9 Section 12-14.1 of the Criminal Code of 1961, the  
10 sentence shall be a term of natural life imprisonment;

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

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

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

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

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

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

33           (c) A motion to reduce a sentence may be made, or the  
34 court may reduce a sentence without motion, within 30 days

1 after the sentence is imposed. A defendant's challenge to  
2 the correctness of a sentence or to any aspect of the  
3 sentencing hearing shall be made by a written motion filed  
4 within 30 days following the imposition of sentence.  
5 However, the court may not increase a sentence once it is  
6 imposed.

7 If a motion filed pursuant to this subsection is timely  
8 filed within 30 days after the sentence is imposed, the  
9 proponent of the motion shall exercise due diligence in  
10 seeking a determination on the motion and the court shall  
11 thereafter decide such motion within a reasonable time.

12 If a motion filed pursuant to this subsection is timely  
13 filed within 30 days after the sentence is imposed, then for  
14 purposes of perfecting an appeal, a final judgment shall not  
15 be considered to have been entered until the motion to reduce  
16 a sentence has been decided by order entered by the trial  
17 court.

18 A motion filed pursuant to this subsection shall not be  
19 considered to have been timely filed unless it is filed with  
20 the circuit court clerk within 30 days after the sentence is  
21 imposed together with a notice of motion, which notice of  
22 motion shall set the motion on the court's calendar on a date  
23 certain within a reasonable time after the date of filing.

24 (d) Except where a term of natural life is imposed,  
25 every sentence shall include as though written therein a term  
26 in addition to the term of imprisonment. For those sentenced  
27 under the law in effect prior to February 1, 1978, such term  
28 shall be identified as a parole term. For those sentenced on  
29 or after February 1, 1978, such term shall be identified as a  
30 mandatory supervised release term. Subject to earlier  
31 termination under Section 3-3-8, the parole or mandatory  
32 supervised release term shall be as follows:

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

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

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

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

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

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

1 (f) A defendant who has a previous and unexpired  
2 sentence of imprisonment imposed by an Illinois circuit court  
3 for a crime in this State and who is subsequently sentenced  
4 to a term of imprisonment by another state or by any district  
5 court of the United States and who has served a term of  
6 imprisonment imposed by the other state or district court of  
7 the United States, and must return to serve the unexpired  
8 prior sentence imposed by the Illinois Circuit Court may  
9 apply to the court which imposed sentence to have his  
10 sentence reduced.

11 The circuit court may order that any time served on the  
12 sentence imposed by the other state or district court of the  
13 United States be credited on his Illinois sentence. Such  
14 application for reduction of a sentence under this  
15 subsection (f) shall be made within 30 days after the  
16 defendant has completed the sentence imposed by the other  
17 state or district court of the United States.

18 (Source: P.A. 90-396, eff. 1-1-98; 90-651, eff. 1-1-99;  
19 91-279, eff. 1-1-00; 91-404, eff. 1-1-00; revised 10-14-99.)

20 (730 ILCS 5/5-8-4) (from Ch. 38, par. 1005-8-4)

21 Sec. 5-8-4. Concurrent and Consecutive Terms of  
22 Imprisonment.

23 (a) When multiple sentences of imprisonment are imposed  
24 on a defendant at the same time, or when a term of  
25 imprisonment is imposed on a defendant who is already subject  
26 to sentence in this State or in another state, or for a  
27 sentence imposed by any district court of the United States,  
28 the sentences shall run concurrently or consecutively as  
29 determined by the court. When a term of imprisonment is  
30 imposed on a defendant by an Illinois circuit court and the  
31 defendant is subsequently sentenced to a term of imprisonment  
32 by another state or by a district court of the United States,  
33 the Illinois circuit court which imposed the sentence may

1 order that the Illinois sentence be made concurrent with the  
2 sentence imposed by the other state or district court of the  
3 United States. The defendant must apply to the circuit court  
4 within 30 days after the defendant's sentence imposed by the  
5 other state or district of the United States is finalized.  
6 The court shall not impose consecutive sentences for offenses  
7 which were committed as part of a single course of conduct  
8 during which there was no substantial change in the nature of  
9 the criminal objective, unless:

10 (i) one of the offenses for which defendant was  
11 convicted was first degree murder or a Class X or Class 1  
12 felony and the defendant inflicted severe bodily injury,  
13 or

14 (ii) the defendant was convicted of a violation of  
15 Section 12-13, 12-14, or 12-14.1 of the Criminal Code of  
16 1961, or

17 (iii) the defendant was convicted of armed violence  
18 based upon the predicate offense of solicitation of  
19 murder, solicitation of murder for hire, heinous battery,  
20 aggravated battery of a senior citizen, criminal sexual  
21 assault, a violation of subsection (g) of Section 5 of  
22 the Cannabis Control Act, cannabis trafficking, a  
23 violation of subsection (a) of Section 401 of the  
24 Illinois Controlled Substances Act, controlled substance  
25 trafficking involving a Class X felony amount of  
26 controlled substance under Section 401 of the Illinois  
27 Controlled Substances Act, calculated criminal drug  
28 conspiracy, or streetgang criminal drug conspiracy,  
29 in which event the court shall enter sentences to run  
30 consecutively. Sentences shall run concurrently unless  
31 otherwise specified by the court.

32 (b) The court shall not impose a consecutive sentence  
33 except as provided for in subsection (a) unless, having  
34 regard to the nature and circumstances of the offense and the

1 history and character of the defendant, it is of the opinion  
2 that such a term is required to protect the public from  
3 further criminal conduct by the defendant, the basis for  
4 which the court shall set forth in the record; except that no  
5 such finding or opinion is required when multiple sentences  
6 of imprisonment are imposed on a defendant for offenses that  
7 were not committed as part of a single course of conduct  
8 during which there was no substantial change in the nature of  
9 the criminal objective, and one of the offenses for which the  
10 defendant was convicted was first degree murder or a Class X  
11 or Class 1 felony and the defendant inflicted severe bodily  
12 injury, or when the defendant was convicted of a violation of  
13 Section 12-13, 12-14, or 12-14.1 of the Criminal Code of  
14 1961, or where the defendant was convicted of armed violence  
15 based upon the predicate offense of solicitation of murder,  
16 solicitation of murder for hire, heinous battery, aggravated  
17 battery of a senior citizen, criminal sexual assault, a  
18 violation of subsection (g) of Section 5 of the Cannabis  
19 Control Act, cannabis trafficking, a violation of subsection  
20 (a) of Section 401 of the Illinois Controlled Substances Act,  
21 controlled substance trafficking involving a Class X felony  
22 amount of controlled substance under Section 401 of the  
23 Illinois Controlled Substances Act, calculated criminal drug  
24 conspiracy, or streetgang criminal drug conspiracy, in which  
25 event the Court shall enter sentences to run consecutively.

26 (c) (1) For sentences imposed under law in effect prior  
27 to February 1, 1978 the aggregate maximum of consecutive  
28 sentences shall not exceed the maximum term authorized  
29 under Section 5-8-1 for the 2 most serious felonies  
30 involved. The aggregate minimum period of consecutive  
31 sentences shall not exceed the highest minimum term  
32 authorized under Section 5-8-1 for the 2 most serious  
33 felonies involved. When sentenced only for misdemeanors,  
34 a defendant shall not be consecutively sentenced to more

1 than the maximum for one Class A misdemeanor.

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

16 (d) An offender serving a sentence for a misdemeanor who  
17 is convicted of a felony and sentenced to imprisonment shall  
18 be transferred to the Department of Corrections, and the  
19 misdemeanor sentence shall be merged in and run concurrently  
20 with the felony sentence.

21 (e) In determining the manner in which consecutive  
22 sentences of imprisonment, one or more of which is for a  
23 felony, will be served, the Department of Corrections shall  
24 treat the offender as though he had been committed for a  
25 single term with the following incidents:

26 (1) the maximum period of a term of imprisonment  
27 shall consist of the aggregate of the maximums of the  
28 imposed indeterminate terms, if any, plus the aggregate  
29 of the imposed determinate sentences for felonies plus  
30 the aggregate of the imposed determinate sentences for  
31 misdemeanors subject to paragraph (c) of this Section;

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



1           (3) the minimum period of imprisonment shall be the  
 2 aggregate of the minimum and determinate periods of  
 3 imprisonment imposed by the court, subject to paragraph  
 4 (c) of this Section; and

5           (4) the offender shall be awarded credit against  
 6 the aggregate maximum term and the aggregate minimum term  
 7 of imprisonment for all time served in an institution  
 8 since the commission of the offense or offenses and as a  
 9 consequence thereof at the rate specified in Section  
 10 3-6-3 of this Code.

11          (f) A sentence of an offender committed to the  
 12 Department of Corrections at the time of the commission of  
 13 the offense shall be served consecutive to the sentence under  
 14 which he is held by the Department of Corrections. However,  
 15 ~~in case such offender shall be sentenced to punishment by~~  
 16 ~~death, the sentence shall be executed at such time as the~~  
 17 ~~court may fix without regard to the sentence under which such~~  
 18 ~~offender may be held by the Department.~~

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

23          (h) If a person charged with a felony commits a separate  
 24 felony while on pre-trial release or in pretrial detention in  
 25 a county jail facility or county detention facility, the  
 26 sentences imposed upon conviction of these felonies shall be  
 27 served consecutively regardless of the order in which the  
 28 judgments of conviction are entered.

29          (i) If a person admitted to bail following conviction of  
 30 a felony commits a separate felony while free on bond or if a  
 31 person detained in a county jail facility or county detention  
 32 facility following conviction of a felony commits a separate  
 33 felony while in detention, any sentence following conviction  
 34 of the separate felony shall be consecutive to that of the

1 original sentence for which the defendant was on bond or  
2 detained.

3 (Source: P.A. 90-128, eff. 7-22-97; 91-144, eff. 1-1-00;  
4 91-404, eff. 1-1-00; revised 9-29-99.)

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

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

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

23 Section 70. The Code of Civil Procedure is amended by  
24 changing Sections 10-103 and 10-136 as follows:

25 (735 ILCS 5/10-103) (from Ch. 110, par. 10-103)

26 Sec. 10-103. Application. Application for the relief  
27 shall be made to the Supreme Court or to the circuit court of  
28 the county in which the person in whose behalf the  
29 application is made, is imprisoned or restrained, or to the  
30 circuit court of the county from which such person was  
31 sentenced or committed. Application shall be made by

1 complaint signed by the person for whose relief it is  
2 intended, or by some person in his or her behalf, and  
3 verified by affidavit. ~~Application--for-relief-under-this~~  
4 ~~Article-may-not-be-commenced-on-behalf-of-a--person--who--has~~  
5 ~~been--sentenced--to-death-without-the-written-consent-of-that~~  
6 ~~person, unless the person, because of a--mental--or--physical~~  
7 ~~condition, is incapable of asserting his or her own claim.~~  
8 (Source: P.A. 89-684, eff. 6-1-97.)

9 (735 ILCS 5/10-136) (from Ch. 110, par. 10-136)

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

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

24 Section 99. Effective date. This Act takes effect upon  
25 becoming law.

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Statutes amended in order of appearance

20 ILCS 2605/2605-40 was 20 ILCS 2605/55a-4  
20 ILCS 2630/2.1 from Ch. 38, par. 206-2.1  
30 ILCS 105/5.490 rep.  
55 ILCS 5/3-9005 from Ch. 34, par. 3-9005  
55 ILCS 5/3-4011 from Ch. 34, par. 3-4011  
55 ILCS 5/3-4006.1 rep.  
105 ILCS 5/21-23b from Ch. 122, par. 21-23b  
305 ILCS 5/1-8  
720 ILCS 5/2-7 from Ch. 38, par. 2-7  
720 ILCS 5/7-10 from Ch. 38, par. 7-10  
720 ILCS 5/9-1 from Ch. 38, par. 9-1  
720 ILCS 5/9-1.2 from Ch. 38, par. 9-1.2  
720 ILCS 5/30-1 from Ch. 38, par. 30-1  
720 ILCS 5/33B-1 from Ch. 38, par. 33B-1  
720 ILCS 550/9 from Ch. 56 1/2, par. 709  
725 ILCS 5/104-26 from Ch. 38, par. 104-26  
725 ILCS 5/113-3 from Ch. 38, par. 113-3  
725 ILCS 5/114-5 from Ch. 38, par. 114-5  
725 ILCS 5/115-4 from Ch. 38, par. 115-4  
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725 ILCS 5/121-13 from Ch. 38, par. 121-13  
725 ILCS 5/122-1 from Ch. 38, par. 122-1  
725 ILCS 5/122-2.1 from Ch. 38, par. 122-2.1  
725 ILCS 5/122-4 from Ch. 38, par. 122-4  
725 ILCS 105/10 from Ch. 38, par. 208-10  
725 ILCS 105/10.5  
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725 ILCS 235/5 from Ch. 38, par. 157-5  
730 ILCS 5/3-3-13 from Ch. 38, par. 1003-3-13  
730 ILCS 5/3-8-10 from Ch. 38, par. 1003-8-10  
730 ILCS 5/3-6-3 from Ch. 38, par. 1003-6-3

- 1 730 ILCS 5/5-1-9 from Ch. 38, par. 1005-1-9
- 2 730 ILCS 5/5-4-1 from Ch. 38, par. 1005-4-1
- 3 730 ILCS 5/5-5-3 from Ch. 38, par. 1005-5-3
- 4 730 ILCS 5/5-8-1 from Ch. 38, par. 1005-8-1
- 5 730 ILCS 5/5-8-4 from Ch. 38, par. 1005-8-4
- 6 730 ILCS 5/5-8-5 from Ch. 38, par. 1005-8-5
- 7 735 ILCS 5/10-103 from Ch. 110, par. 10-103
- 8 735 ILCS 5/10-136 from Ch. 110, par. 10-136