

1 AN ACT in relation to elderly persons and persons with
2 disabilities.

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

5 Section 5. The Elder Abuse and Neglect Act is amended by
6 changing Sections 3.5, 4, and 7 and adding Section 14 as
7 follows:

8 (320 ILCS 20/3.5)

9 Sec. 3.5. Other Responsibilities. The Department shall
10 also be responsible for the following activities, contingent
11 upon adequate funding:

12 (a) promotion of a wide range of endeavors for the
13 purpose of preventing elder abuse, neglect, and financial
14 exploitation in both domestic and institutional settings,
15 including, but not limited to, promotion of public and
16 professional education to increase awareness of elder abuse,
17 neglect, and financial exploitation, to increase reports, and
18 to improve response by various legal, financial, social, and
19 health systems;

20 (b) coordination of efforts with other agencies,
21 councils, and like entities, to include but not be limited
22 to, the Office of the Attorney General, the State Police, the
23 Illinois Law Enforcement Training and Standards Board, the
24 State Triad, the Illinois Criminal Justice Information
25 Authority, the Departments of Public Health, Public Aid, and
26 Human Services, the Family Violence Coordinating Council, the
27 Illinois Violence Prevention Authority, and other entities
28 which may impact awareness of, and response to, elder abuse,
29 neglect, and financial exploitation;

30 (c) collection and analysis of data;

31 (d) monitoring of the performance of regional

1 administrative agencies and elder abuse provider agencies;
2 and

3 (e) promotion of prevention activities;-

4 (f) establishing and coordinating a training program on
5 the unique nature of elder abuse cases with other agencies,
6 councils, and like entities, to include but not be limited to
7 the Office of the Attorney General, the State Police, the
8 Illinois Law Enforcement Training Standards Board, the State
9 Triad, the Illinois Criminal Justice Information Authority,
10 the Departments of Public Health, Public Aid, and Human
11 Services, the Family Violence Coordinating Council, the
12 Illinois Violence Prevention Authority, and other entities
13 that may impact awareness of, and response to elder abuse,
14 neglect, and financial exploitation;

15 (g) coordinating efforts with banks and financial
16 institutions to educate and warn persons 60 years of age and
17 older about financial exploitation and coordinating an
18 ombudsman program with banks and financial institutions to
19 educate persons 60 years of age and older on investing,
20 financial exploitation, and telemarketing fraud; and

21 (h) coordinating efforts with utility and electric
22 companies to send notices in utility bills to explain to
23 persons 60 years of age or older their rights regarding
24 telemarketing and home repair fraud.

25 (Source: P.A. 90-628, eff. 1-1-99; revised 2-23-00.)

26 (320 ILCS 20/4) (from Ch. 23, par. 6604)

27 Sec. 4. Reports of abuse or neglect.

28 (a) Any person who suspects the abuse, neglect, or
29 financial exploitation of an eligible adult may report this
30 suspicion to an agency designated to receive such reports
31 under this Act or to the Department.

32 (a-5) If any mandated reporter has reason to believe
33 that an eligible adult, who because of dysfunction is unable

1 to seek assistance for himself or herself, has, within the
2 previous 12 months, been subjected to abuse, neglect, or
3 financial exploitation, the mandated reporter shall, within
4 24 hours after developing such belief, report this suspicion
5 to an agency designated to receive such reports under this
6 Act or to the Department. Whenever a mandated reporter is
7 required to report under this Act in his or her capacity as a
8 member of the staff of a medical or other public or private
9 institution, facility, board and care home, or agency, he or
10 she shall make a report to an agency designated to receive
11 such reports under this Act or to the Department in
12 accordance with the provisions of this Act and may also
13 notify the person in charge of the institution, facility,
14 board and care home, or agency or his or her designated agent
15 that the report has been made. Under no circumstances shall
16 any person in charge of such institution, facility, board and
17 care home, or agency, or his or her designated agent to whom
18 the notification has been made, exercise any control,
19 restraint, modification, or other change in the report or the
20 forwarding of the report to an agency designated to receive
21 such reports under this Act or to the Department. The
22 privileged quality of communication between any professional
23 person required to report and his or her patient or client
24 shall not apply to situations involving abused, neglected, or
25 financially exploited eligible adults and shall not
26 constitute grounds for failure to report as required by this
27 Act.

28 (a-7) A person making a report under this Act in the
29 belief that it is in the alleged victim's best interest shall
30 be immune from criminal or civil liability or professional
31 disciplinary action on account of making the report,
32 notwithstanding any requirements concerning the
33 confidentiality of information with respect to such eligible
34 adult which might otherwise be applicable.

1 (a-9) Law enforcement officers shall continue to report
2 incidents of alleged abuse pursuant to the Illinois Domestic
3 Violence Act of 1986, notwithstanding any requirements under
4 this Act.

5 (b) Any person, institution or agency participating in
6 the making of a report, providing information or records
7 related to a report, assessment, or services, or
8 participating in the investigation of a report under this Act
9 in good faith, or taking photographs or x-rays as a result of
10 an authorized assessment, shall have immunity from any civil,
11 criminal or other liability in any civil, criminal or other
12 proceeding brought in consequence of making such report or
13 assessment or on account of submitting or otherwise
14 disclosing such photographs or x-rays to any agency
15 designated to receive reports of alleged or suspected abuse
16 or neglect. Any person, institution or agency authorized by
17 the Department to provide assessment, intervention, or
18 administrative services under this Act shall, in the good
19 faith performance of those services, have immunity from any
20 civil, criminal or other liability in any civil, criminal, or
21 other proceeding brought as a consequence of the performance
22 of those services. For the purposes of any civil, criminal,
23 or other proceeding, the good faith of any person required to
24 report, permitted to report, or participating in an
25 investigation of a report of alleged or suspected abuse,
26 neglect, or financial exploitation shall be presumed.

27 (c) The identity of a person making a report of alleged
28 or suspected abuse or neglect under this Act may be disclosed
29 by the Department or other agency provided for in this Act
30 only with such person's written consent or by court order.

31 (d) The Department shall by rule establish a system for
32 filing and compiling reports made under this Act.

33 (e) A mandated reporter required to make a report of
34 suspected abuse, neglect, or financial exploitation under

1 this Act who fails to do so is guilty of a Class A
2 misdemeanor.

3 (Source: P.A. 90-628, eff. 1-1-99.)

4 (320 ILCS 20/7) (from Ch. 23, par. 6607)

5 Sec. 7. Review. All services provided to an eligible
6 adult shall be reviewed by the provider agency on at least a
7 quarterly basis for up to 2 years ~~one-year~~ to determine
8 whether the service care plan should be continued or
9 modified.

10 (Source: P.A. 90-628, eff. 1-1-99.)

11 (320 ILCS 20/14 new)

12 Sec. 14. Private caregivers registry. The Department
13 shall maintain a computerized database of caregivers who have
14 been convicted of a violation of Section 12-19, 12-21, or
15 16-1.3 of the Criminal Code of 1961. Within 48 hours of the
16 conviction of any caregiver for any of these violations, the
17 clerk of the court shall forward the record of conviction to
18 the Department. The Department shall enter that information
19 in the database. The Department shall periodically update
20 the database and make the information available on the
21 Internet by means of a hyperlink to the Department's World
22 Wide Web home page. The Department shall promulgate rules to
23 implement this Section.

24 Section 10. The Criminal Code of 1961 is amended by
25 changing Sections 12-19, 12-21, and 16-1.3 as follows:

26 (720 ILCS 5/12-19) (from Ch. 38, par. 12-19)

27 Sec. 12-19. Abuse and Criminal Gross Neglect of a Long
28 Term Care Facility Resident.

29 (a) Any person or any owner or licensee of a long term
30 care facility who abuses a long term care facility resident

1 is guilty of a Class 3 felony. Any person or any owner or
2 licensee of a long term care facility who criminally grossly
3 neglects a long term care facility resident as described in
4 paragraph (a)(1), (a)(2), or (a)(3) of Section 12-21 is
5 guilty of a Class 3 4 felony. A person whose criminal neglect
6 of a long term care facility resident results in the
7 resident's death is guilty of a Class 2 felony for which the
8 defendant, if sentenced to a term of imprisonment, shall be
9 sentenced to a term of not less than 3 years and not more
10 than 14 years. However, nothing herein shall be deemed to
11 apply to a physician licensed to practice medicine in all its
12 branches or a duly licensed nurse providing care within the
13 scope of his or her professional judgment and within the
14 accepted standards of care within the community.

15 (b) Notwithstanding the penalties in subsections (a) and
16 (c) and in addition thereto, if a licensee or owner of a long
17 term care facility or his or her employee has caused neglect
18 of a resident, the licensee or owner is guilty of a petty
19 offense. An owner or licensee is guilty under this
20 subsection (b) only if the owner or licensee failed to
21 exercise reasonable care in the hiring, training, supervising
22 or providing of staff or other related routine administrative
23 responsibilities.

24 (c) Notwithstanding the penalties in subsections (a) and
25 (b) and in addition thereto, if a licensee or owner of a long
26 term care facility or his or her employee has caused gross
27 neglect of a resident, the licensee or owner is guilty of a
28 business offense for which a fine of not more than \$10,000
29 may be imposed. An owner or licensee is guilty under this
30 subsection (c) only if the owner or licensee failed to
31 exercise reasonable care in the hiring, training, supervising
32 or providing of staff or other related routine administrative
33 responsibilities.

34 (d) For the purpose of this Section:

1 (1) "Abuse" means intentionally or knowingly
2 causing any physical or mental injury or committing any
3 sexual offense set forth in this Code.

4 (2) "Gross neglect" means recklessly failing to
5 provide adequate medical or personal care or maintenance,
6 which failure results in physical or mental injury or the
7 deterioration of a physical or mental condition.

8 (3) "Neglect" means negligently failing to provide
9 adequate medical or personal care or maintenance, which
10 failure results in physical or mental injury or the
11 deterioration of a physical or mental condition.

12 (4) "Resident" means a person residing in a long
13 term care facility.

14 (5) "Owner" means the person who owns a long term
15 care facility as provided under the Nursing Home Care Act
16 or an assisted living or shared housing establishment
17 under the Assisted Living and Shared Housing Act.

18 (6) "Licensee" means the individual or entity
19 licensed to operate a facility under the Nursing Home
20 Care Act or the Assisted Living and Shared Housing Act.

21 (7) "Facility" or "long term care facility" means a
22 private home, institution, building, residence, or any
23 other place, whether operated for profit or not, or a
24 county home for the infirm and chronically ill operated
25 pursuant to Division 5-21 or 5-22 of the Counties Code,
26 or any similar institution operated by the State of
27 Illinois or a political subdivision thereof, which
28 provides, through its ownership or management, personal
29 care, sheltered care or nursing for 3 or more persons not
30 related to the owner by blood or marriage. The term also
31 includes skilled nursing facilities and intermediate care
32 facilities as defined in Title XVIII and Title XIX of the
33 federal Social Security Act and assisted living
34 establishments and shared housing establishments licensed

1 under the Assisted Living and Shared Housing Act.

2 (e) Nothing contained in this Section shall be deemed to
3 apply to the medical supervision, regulation or control of
4 the remedial care or treatment of residents in a facility
5 conducted for those who rely upon treatment by prayer or
6 spiritual means in accordance with the creed or tenets of any
7 well recognized church or religious denomination and which is
8 licensed in accordance with Section 3-803 of the Nursing Home
9 Care Act.

10 (Source: P.A. 91-656, eff. 1-1-01.)

11 (720 ILCS 5/12-21) (from Ch. 38, par. 12-21)

12 Sec. 12-21. Criminal neglect of an elderly person or
13 disabled person with a disability.

14 (a) A person commits the offense of criminal neglect of
15 an elderly person or person with a disability ~~disabled-person~~
16 when he is a caregiver and he knowingly:

17 (1) performs acts which cause the elderly person or
18 person with a disability's ~~disabled-person's~~ life to be
19 endangered, health to be injured, or pre-existing
20 physical or mental condition to deteriorate; or

21 (2) fails to perform acts which he knows or
22 reasonably should know are necessary to maintain or
23 preserve the life or health of the elderly person or
24 disabled person with a disability and such failure causes
25 the elderly person or person with a disability's ~~disabled~~
26 ~~person's~~ life to be endangered, health to be injured or
27 pre-existing physical or mental condition to deteriorate;
28 or

29 (3) abandons the elderly person or disabled person
30 with a disability.

31 Criminal neglect of an elderly person or person with a
32 disability is a Class 3 felony. Criminal neglect of an
33 elderly person or person with a disability is a Class 2

1 felony if the criminal neglect results in the death of the
 2 person neglected for which the defendant, if sentenced to a
 3 term of imprisonment, shall be sentenced to a term of not
 4 less than 3 years and not more than 14 years.

5 (b) For purposes of this Section:

6 (1) "Elderly person" means a person 60 years of age
 7 or older who ~~is--suffering-from-a-disease-or-infirmary~~
 8 ~~associated-with-advanced-age-and-manifested-by--physical,~~
 9 ~~mental--or--emotional--dysfunctioning--to-the-extent-that~~
 10 ~~such-person~~ is incapable of adequately providing for his
 11 or her own health and personal care.

12 (2) "Person with a disability" ~~"Disabled-person"~~
 13 means a person who suffers from a permanent physical or
 14 mental impairment, resulting from disease, injury,
 15 functional disorder or congenital condition which renders
 16 such person incapable of adequately providing for his own
 17 health and personal care.

18 (3) "Caregiver" means a person who has a duty to
 19 provide for an elderly person or person with a
 20 disability's ~~disabled-person's~~ health and personal care,
 21 at such person's place of residence, including but not
 22 limited to, food and nutrition, shelter, hygiene,
 23 prescribed medication and medical care and treatment.

24 "Caregiver" shall include:

25 (A) a parent, spouse, adult child or other
 26 relative by blood or marriage who resides with or
 27 resides in the same building with or ~~and~~ regularly
 28 visits the elderly person or ~~disabled~~ person with a
 29 disability, knows or reasonably should know of such
 30 person's physical or mental impairment and knows or
 31 reasonably should know that such person is unable to
 32 adequately provide for his own health and personal
 33 care;

34 (B) a person who is employed by the elderly

1 person or ~~disabled~~ person with a disability or by
2 another to reside with or regularly visit the
3 elderly person or ~~disabled~~ person with a disability
4 and provide for such person's health and personal
5 care;

6 (C) a person who has agreed for consideration
7 to reside with or regularly visit the elderly person
8 or ~~disabled~~ person with a disability and provide for
9 such person's health and personal care; and

10 (D) a person who has been appointed by a
11 private or public agency or by a court of competent
12 jurisdiction to provide for the elderly person or
13 person with a disability's ~~disabled-person's~~ health
14 and personal care.

15 "Caregiver" shall not include a long-term care
16 facility licensed or certified under the Nursing Home
17 Care Act or any administrative, medical or other
18 personnel of such a facility, or a health care provider
19 who is licensed under the Medical Practice Act of 1987
20 and renders care in the ordinary course of his
21 profession.

22 (4) "Abandon" means to desert or knowingly forsake
23 an elderly person or ~~disabled~~ person with a disability
24 under circumstances in which a reasonable person would
25 continue to provide care and custody.

26 (c) Nothing in this Section shall be construed to limit
27 the remedies available to the victim under the Illinois
28 Domestic Violence Act.

29 (d) Nothing in this Section shall be construed to impose
30 criminal liability on a person who has made a good faith
31 effort to provide for the health and personal care of an
32 elderly person or ~~disabled~~ person with a disability, but
33 through no fault of his own has been unable to provide such
34 care.

1 (e) Nothing in this Section shall be construed as
 2 prohibiting a person from providing treatment by spiritual
 3 means through prayer alone and care consistent therewith in
 4 lieu of medical care and treatment in accordance with the
 5 tenets and practices of any church or religious denomination
 6 of which the elderly person or disabled person with a
 7 disability is a member.

8 (f) It shall not be a defense to criminal neglect of an
 9 elderly or disabled person that the accused reasonably
 10 believed that the victim was not an elderly person or
 11 disabled person with a disability.

12 (Source: P.A. 90-14, eff. 7-1-97.)

13 (720 ILCS 5/16-1.3) (from Ch. 38, par. 16-1.3)

14 Sec. 16-1.3. Financial exploitation of an elderly person
 15 or a person with a disability.

16 (a) A person commits the offense of financial
 17 exploitation of an elderly person or a person with a
 18 disability when he or she stands in a position of trust or
 19 confidence with the elderly person or a person with a
 20 disability and he or she knowingly and by deception or
 21 intimidation obtains control over the property of an elderly
 22 person or a person with a disability or illegally uses the
 23 assets or resources of an elderly person or a person with a
 24 disability. The illegal use of the assets or resources of an
 25 elderly person or a person with a disability includes, but is
 26 not limited to, the misappropriation of those assets or
 27 resources by undue influence, breach of a fiduciary
 28 relationship, fraud, deception, extortion, or use of the
 29 assets or resources contrary to law with--the--intent--to
 30 permanently--deprive--the-elderly-person-or-the-person-with-a
 31 disability-of-the-use, benefit, or possession of his--or--her
 32 property.

33 Financial exploitation of an elderly person or a person

1 with a disability is a Class 4 felony if the value of the
 2 property is \$300 or less, a Class 3 felony if the value of
 3 the property is more than \$300 but less than \$5,000, a Class
 4 2 felony if the value of the property is \$5,000 or more but
 5 less than \$100,000 and a Class 1 felony if the value of the
 6 property is \$100,000 or more.

7 (b) For purposes of this Section:

8 (1) "Elderly person" means a person 60 years of age
 9 or older ~~who is suffering from a disease or infirmity~~
 10 ~~that impairs the individual's mental or physical ability~~
 11 ~~to independently manage his or her property or financial~~
 12 ~~resources, or both.~~

13 (2) "Person with a disability" means a person who
 14 suffers from a permanent physical or mental impairment
 15 resulting from disease, injury, functional disorder or
 16 congenital condition that impairs the individual's mental
 17 or physical ability to independently manage his or her
 18 property or financial resources, or both.

19 (3) "Intimidation" means the communication to an
 20 elderly person or a person with a disability that he or
 21 she shall be deprived of food and nutrition, shelter,
 22 prescribed medication or medical care and treatment.

23 (4) "Deception" means, in addition to its meaning
 24 as defined in Section 15-4 of this Code, a
 25 misrepresentation or concealment of material fact
 26 relating to the terms of a contract or agreement entered
 27 into with the elderly person or person with a disability
 28 or to the existing or pre-existing condition of any of
 29 the property involved in such contract or agreement; or
 30 the use or employment of any misrepresentation, false
 31 pretense or false promise in order to induce, encourage
 32 or solicit the elderly person or person with a disability
 33 to enter into a contract or agreement.

34 (c) For purposes of this Section, a person stands in a

1 position of trust and confidence with an elderly person or
2 person with a disability when he (1) is a parent, spouse,
3 adult child or other relative by blood or marriage of the
4 elderly person or person with a disability, (2) is a joint
5 tenant or tenant in common with the elderly person or person
6 with a disability or (3) has a legal or fiduciary
7 relationship with the elderly person or person with a
8 disability.

9 (d) Nothing in this Section shall be construed to limit
10 the remedies available to the victim under the Illinois
11 Domestic Violence Act of 1986.

12 (e) Nothing in this Section shall be construed to impose
13 criminal liability on a person who has made a good faith
14 effort to assist the elderly person or person with a
15 disability in the management of his or her property, but
16 through no fault of his or her own has been unable to provide
17 such assistance.

18 (f) It shall not be a defense to financial exploitation
19 of an elderly person or person with a disability that the
20 accused reasonably believed that the victim was not an
21 elderly person or person with a disability.

22 (g) Civil liability. A person who is charged by
23 information or indictment with the offense of financial
24 exploitation of an elderly person or person with a disability
25 and who fails or refuses to return the victim's property
26 within 60 days following a written demand from the victim or
27 the victim's legal representative shall be liable to the
28 victim or to the estate of the victim in damages of treble
29 the amount of the value of the property obtained, plus
30 reasonable attorney fees and court costs. The burden of
31 proof that the defendant unlawfully obtained the victim's
32 property shall be by a preponderance of the evidence. This
33 subsection shall be operative whether or not the defendant
34 has been convicted of the offense.

1 (Source: P.A. 91-236, eff. 7-22-99.)

2 Section 15. The Code of Criminal Procedure of 1963 is
3 amended by changing Sections 115-10.3 and adding Section
4 114-13.5 as follows:

5 (725 ILCS 5/114-13.5 new)

6 Sec. 114-13.5. Evidence deposition; elder abuse. In a
7 prosecution for abuse, neglect, or financial exploitation of
8 an eligible adult as defined in the Elder Abuse and Neglect
9 Act, the eligible adult may give testimony in the form of an
10 evidence deposition and not be required to appear in court to
11 testify.

12 (725 ILCS 5/115-10.3)

13 Sec. 115-10.3. Hearsay exception regarding elder adults.

14 (a) In a prosecution for abuse, neglect, or financial
15 exploitation perpetrated upon or against an eligible adult,
16 as defined in the Elder Abuse and Neglect Act, who at--the
17 ~~time--the-act-was-committed~~ has been diagnosed by a physician
18 to suffer from (i) any form of dementia, developmental
19 disability, or other form of mental incapacity or (ii) any
20 physical infirmity which prevents the eligible adult's
21 appearance in court, including but not limited to
22 prosecutions for violations of Sections 10-1, 10-2, 10-3,
23 10-3.1, 10-4, 11-11, 12-1, 12-2, 12-3, 12-3.2, 12-4, 12-4.1,
24 12-4.2, 12-4.5, 12-4.6, 12-4.7, 12-5, 12-6, 12-7.3, 12-7.4,
25 12-11, 12-13, 12-14, 12-15, 12-16, 12-21, 16-1, 16-1.3, and
26 17-3 of the Criminal Code of 1961, the following evidence
27 shall be admitted as an exception to the hearsay rule:

28 (1) testimony by an eligible adult, of an out of
29 court statement made by the eligible adult, that he or
30 she complained of such act to another; and

31 (2) testimony of an out of court statement made by

1 the eligible adult, describing any complaint of such act
 2 or matter or detail pertaining to any act which is an
 3 element of an offense which is the subject of a
 4 prosecution for abuse, neglect, or financial exploitation
 5 perpetrated upon or against the eligible adult.

6 (b) Such testimony shall only be admitted if:

7 (1) The court finds in a hearing conducted outside
 8 the presence of the jury that the time, content, and
 9 circumstances of the statement provide sufficient
 10 safeguards of reliability; and

11 (2) The eligible adult either:

12 (A) testifies at the proceeding; or

13 (B) is unavailable as a witness and there is
 14 corroborative evidence of the act which is the
 15 subject of the statement.

16 (c) If a statement is admitted pursuant to this Section,
 17 the court shall instruct the jury that it is for the jury to
 18 determine the weight and credibility to be given the
 19 statement and that, in making the determination, it shall
 20 consider the condition of the eligible adult, the nature of
 21 the statement, the circumstances under which the statement
 22 was made, and any other relevant factor.

23 (d) The proponent of the statement shall give the
 24 adverse party reasonable notice of his or her intention to
 25 offer the statement and the particulars of the statement.

26 (Source: P.A. 90-628, eff. 1-1-99.)

27 Section 20. The Unified Code of Corrections is amended
 28 by changing Section 5-5-3 as follows:

29 (730 ILCS 5/5-5-3) (from Ch. 38, par. 1005-5-3)
 30 Sec. 5-5-3. Disposition.

31 (a) Every person convicted of an offense shall be
 32 sentenced as provided in this Section.

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

5 (1) A period of probation.

6 (2) A term of periodic imprisonment.

7 (3) A term of conditional discharge.

8 (4) A term of imprisonment.

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

13 (6) A fine.

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

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

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

1 under existing applicable alcoholism and drug treatment
2 licensure standards.

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

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

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

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

34 (A) First degree murder where the death

1 penalty is not imposed.

2 (B) Attempted first degree murder.

3 (C) A Class X felony.

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

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

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

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

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

24 (I) Aggravated battery of a senior citizen.

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

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

33 Beginning July 1, 1994, for the purposes of
34 this paragraph, "organized gang" has the meaning

1 ascribed to it in Section 10 of the Illinois
2 Streetgang Terrorism Omnibus Prevention Act.

3 (K) Vehicular hijacking.

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

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

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

14 (O) A violation of Section 12-6.1 of the
15 Criminal Code of 1961.

16 (P) A violation of paragraph (1), (2), (3),
17 (4), (5), or (7) of subsection (a) of Section
18 11-20.1 of the Criminal Code of 1961.

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

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

23 (3) A minimum term of imprisonment of not less than
24 48 consecutive hours or 100 hours of community service as
25 may be determined by the court shall be imposed for a
26 second or subsequent violation committed within 5 years
27 of a previous violation of Section 11-501 of the Illinois
28 Vehicle Code or a similar provision of a local ordinance.

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

33 (4.1) A minimum term of 30 consecutive days of
34 imprisonment, 40 days of 24 hour periodic imprisonment or

1 720 hours of community service, as may be determined by
2 the court, shall be imposed for a violation of Section
3 11-501 of the Illinois Vehicle Code during a period in
4 which the defendant's driving privileges are revoked or
5 suspended, where the revocation or suspension was for a
6 violation of Section 11-501 or Section 11-501.1 of that
7 Code.

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

11 (A) a period of conditional discharge;

12 (B) a fine;

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

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

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

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

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

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

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

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

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

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

- 29 (i) removal from the household;
- 30 (ii) restricted contact with the victim;
- 31 (iii) continued financial support of the
 32 family;
- 33 (iv) restitution for harm done to the
 34 victim; and

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

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

10 Probation may be revoked or modified pursuant to Section
11 5-6-4; except where the court determines at the hearing that
12 the defendant violated a condition of his or her probation
13 restricting contact with the victim or other family members
14 or commits another offense with the victim or other family
15 members, the court shall revoke the defendant's probation and
16 impose a term of imprisonment.

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

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

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

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

29 (g-5) When an inmate is tested for an airborne
30 communicable disease, as determined by the Illinois
31 Department of Public Health including but not limited to
32 tuberculosis, the results of the test shall be personally
33 delivered by the warden or his or her designee in a sealed
34 envelope to the judge of the court in which the inmate must

1 appear for the judge's inspection in camera if requested by
2 the judge. Acting in accordance with the best interests of
3 those in the courtroom, the judge shall have the discretion
4 to determine what if any precautions need to be taken to
5 prevent transmission of the disease in the courtroom.

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

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

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

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

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

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

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

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

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

17 Otherwise, the defendant shall be sentenced as
18 provided in this Chapter V.

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

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

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

34 (C) This subsection (1) does not apply to offenders

1 who are subject to the provisions of paragraph (2) of
2 subsection (a) of Section 3-6-3.

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

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

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

27 (Source: P.A. 90-14, eff. 7-1-97; 90-68, eff. 7-8-97; 90-680,
28 eff. 1-1-99; 90-685, eff. 1-1-99; 90-787, eff. 8-14-98;
29 91-357, eff. 7-29-99; 91-404, eff. 1-1-00; 91-663, eff.
30 12-22-99; 91-695, eff. 4-13-00.)

31 Section 25. The Probate Act of 1975 is amended by adding
32 Section 2-6.6 as follows:

1 (755 ILCS 5/2-6.6 new)

2 Sec. 2-6.6. Person convicted of certain offenses against
3 the elderly or disabled. A person who is convicted of a
4 violation of Section 12-19, 12-21, or 16-1.3 of the Criminal
5 Code of 1961 may not receive any property, benefit, or other
6 interest by reason of the death of the victim of that
7 offense, whether as heir, legatee, beneficiary, joint tenant,
8 tenant by the entirety, survivor, appointee, or in any other
9 capacity and whether the property, benefit, or other interest
10 passes pursuant to any form of title registration,
11 testamentary or nontestamentary instrument, intestacy,
12 renunciation, or any other circumstance. The property,
13 benefit, or other interest shall pass as if the person
14 convicted of a violation of Section 12-19, 12-21, or 16-1.3
15 of the Criminal Code of 1961 died before the decedent;
16 provided that with respect to joint tenancy property or
17 property held in tenancy by the entirety, the interest
18 possessed prior to the death by the person convicted may not
19 be diminished by the application of this Section.

20 The holder of any property subject to the provisions of
21 this Section is not liable for distributing or releasing the
22 property to the person convicted of violating Section 12-19,
23 12-21, or 16-1.3 of the Criminal Code of 1961.

24 The Department of State Police shall have access to State
25 of Illinois databases containing information that may help in
26 the identification or location of persons convicted of the
27 offenses enumerated in this Section. Interagency agreements
28 shall be implemented, consistent with security and procedures
29 established by the State agency and consistent with the laws
30 governing the confidentiality of the information in the
31 databases. Information shall be used only for administration
32 of this Section.