

1 AN ACT in relation to criminal law.

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

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

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

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

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

26 (1) consider the evidence, if any, received upon
27 the trial;

28 (2) consider any presentence reports;

29 (3) consider the financial impact of incarceration
30 based on the financial impact statement filed with the
31 clerk of the court by the Department of Corrections;

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

3 (5) hear arguments as to sentencing alternatives;

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

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

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

1 family members an opportunity to make oral statements.

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

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

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

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

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

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

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

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

1 imposed for reckless homicide as defined in subsection (e) of
2 Section 9-3 of the Criminal Code of 1961 if the offense was
3 committed on or after January 1, 1999, the judge's statement,
4 to be given after pronouncing the sentence, shall include the
5 following:

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

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

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

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

13 When a sentence of imprisonment is imposed for first
14 degree murder and the offense was committed on or after June
15 19, 1998, the judge's statement, to be given after
16 pronouncing the sentence, shall include the following:

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

26 (d) When the defendant is committed to the Department of
27 Corrections, the State's Attorney shall and counsel for the
28 defendant may file a statement with the clerk of the court to
29 be transmitted to the department, agency or institution to
30 which the defendant is committed to furnish such department,
31 agency or institution with the facts and circumstances of the
32 offense for which the person was committed together with all
33 other factual information accessible to them in regard to the
34 person prior to his commitment relative to his habits,

1 associates, disposition and reputation and any other facts
2 and circumstances which may aid such department, agency or
3 institution during its custody of such person. The clerk
4 shall within 10 days after receiving any such statements
5 transmit a copy to such department, agency or institution and
6 a copy to the other party, provided, however, that this shall
7 not be cause for delay in conveying the person to the
8 department, agency or institution to which he has been
9 committed.

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

- 13 (1) the sentence imposed;
- 14 (2) any statement by the court of the basis for
15 imposing the sentence;
- 16 (3) any presentence reports;
- 17 (4) the number of days, if any, which the defendant
18 has been in custody and for which he is entitled to
19 credit against the sentence, which information shall be
20 provided to the clerk by the sheriff;
- 21 (4.1) any finding of great bodily harm made by the
22 court with respect to an offense enumerated in subsection
23 (c-1);
- 24 (5) all statements filed under subsection (d) of
25 this Section;
- 26 (6) any medical or mental health records or
27 summaries of the defendant;
- 28 (7) the municipality where the arrest of the
29 offender or the commission of the offense has occurred,
30 where such municipality has a population of more than
31 25,000 persons;
- 32 (8) all statements made and evidence offered under
33 paragraph (7) of subsection (a) of this Section; and
- 34 (9) all additional matters which the court directs

1 the clerk to transmit.

2 (Source: P.A. 90-592, eff. 6-19-98; 90-593, eff. 6-19-98;
3 90-740, eff. 1-1-99; 91-357, eff. 7-29-99; 91-899, eff.
4 1-1-01.)

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

6 Sec. 5-8-1.3. Pilot residential and transition treatment
7 program for women.

8 (a) The General Assembly recognizes:

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

12 (2) that the intergenerational cycle of women
13 continuously being part of the criminal justice system
14 needs to be broken;

15 (3) that the effects of drug offending women with
16 children disrupts family harmony and creates an
17 atmosphere that is not conducive to healthy childhood
18 development;

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

24 (5) that certain non-violent women offenders with
25 children eligible for sentences of incarceration, may
26 benefit from the rehabilitative aspects of gender
27 responsive treatment programs and services. This Section
28 shall not be construed to allow violent offenders to
29 participate in a treatment program.

30 (b) Under the direction of the sheriff and with the
31 approval of the county board of commissioners, the sheriff,
32 in any county with more than 3,000,000 inhabitants, may
33 operate a residential and transition treatment program for

1 women established by the Illinois Department of Corrections
2 if funding has been provided by federal, local or private
3 entities. If the court finds during the sentencing hearing
4 conducted under Section 5-4-1 that a woman convicted of a
5 felony meets the eligibility requirements of the sheriff's
6 residential and transition treatment program for women, the
7 court may refer the offender to the sheriff's residential and
8 transition treatment program for women for consideration as a
9 participant as an alternative to incarceration in the
10 penitentiary. The sheriff shall be responsible for
11 supervising all women who are placed in the residential and
12 transition treatment program for women for the 12-month
13 period. In the event that the woman is not accepted for
14 placement in the sheriff's residential and transition
15 treatment program for women, the court shall proceed to
16 sentence the woman to any other disposition authorized by
17 this Code. If the woman does not successfully complete the
18 residential and transition treatment program for women, the
19 woman's failure to do so shall constitute a violation of the
20 sentence to the residential and transition treatment program
21 for women.

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

25 (1) The woman has not been convicted of a violent
26 crime as defined in subsection (c) of Section 3 of the
27 Rights of Crime Victims and Witnesses Act, a Class X
28 felony, first or second degree murder, armed violence,
29 aggravated kidnapping, criminal sexual assault,
30 aggravated criminal sexual abuse or a subsequent
31 conviction for criminal sexual abuse, forcible detention,
32 or arson and has not been previously convicted of any of
33 those offenses.

34 (2) The woman must undergo an initial assessment

1 evaluation to determine the treatment and program plan.

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

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

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

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

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

29 (h) A woman may be removed from the pilot residential
30 and transition treatment program for women for violation of
31 the terms and conditions of the program or in the event she
32 is unable to participate. The failure to complete the program
33 shall be deemed a violation of the conditions of the program.
34 The sheriff shall give notice to the Department of

1 Corrections, the court, and the State's Attorney of the
2 woman's failure to complete the program. The Department of
3 Corrections or its designee shall file a petition alleging
4 that the woman has violated the conditions of the program
5 with the court. The State's Attorney may proceed on the
6 petition under Section 5-4-1 of this Code.

7 (i) The conditions of the pilot residential and
8 transition treatment program for women shall include that the
9 woman while in the program:

10 (1) Not violate any criminal statute of any
11 jurisdiction;

12 (2) Report or appear in person before any person or
13 agency as directed by the court, the sheriff, or
14 Department of Corrections;

15 (3) Refrain from possessing a firearm or other
16 dangerous weapon;

17 (4) Consent to drug testing;

18 (5) Not leave the State without the consent of the
19 court or, in circumstances in which reason for the
20 absence is of such an emergency nature that prior consent
21 by the court is not possible, without prior notification
22 and approval of the Department of Corrections;

23 (6) Upon placement in the program, must agree to
24 follow all requirements of the program;

25 (j) The Department of Corrections or the sheriff may
26 terminate the program at any time by mutual agreement or with
27 30 days prior written notice by either the Department of
28 Corrections or the sheriff.

29 (k) The Department of Corrections may enter into a joint
30 contract with a county with more than 3,000,000 inhabitants
31 to establish and operate a pilot residential and treatment
32 program for women.

33 (l) The Director of the Department of Corrections shall
34 have the authority to develop rules to establish and operate

1 a pilot residential and treatment program for women that
2 shall include criteria for selection of the participants of
3 the program in conjunction and approval by the sentencing
4 court. Violent crime offenders are not eligible to
5 participate in the program.

6 (m) The Department shall report to the Governor and the
7 General Assembly before September 30th of each year on the
8 pilot residential and treatment program for women, including
9 the composition of the program by offenders, sentence, age,
10 offense, and race.

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

13 (o) A county with more than 3,000,000 inhabitants is
14 authorized to apply for funding from federal, local or
15 private entities to create a Residential and Treatment
16 Program for Women. This sentencing option may not go into
17 effect until the funding is secured for the program and the
18 program has been established.