

1 AN ACT in relation to terrorism.

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

4 Section 5. The Solicitation for Charity Act is amended by
5 adding Section 16.5 as follows:

6 (225 ILCS 460/16.5 new)

7 Sec. 16.5. Terrorist acts.

8 (a) Any person or organization subject to registration
9 under this Act, who knowingly acts to further, directly or
10 indirectly, or knowingly uses charitable assets to conduct or
11 further, directly or indirectly, an act or actions as set
12 forth in Article 29D of the Criminal Code of 1961, is thereby
13 engaged in an act or actions contrary to public policy and
14 antithetical to charity, and all of the funds, assets, and
15 records of the person or organization shall be subject to
16 temporary and permanent injunction from use or expenditure
17 and the appointment of a temporary and permanent receiver to
18 take possession of all of the assets and related records.

19 (b) An ex parte action may be commenced by the Attorney
20 General, and, upon a showing of probable cause of a violation
21 of this Section or Article 29D of the Criminal Code of 1961,
22 an immediate seizure of books and records by the Attorney
23 General by and through his or her assistants or investigators
24 or the Department of State Police and freezing of all assets
25 shall be made by order of a court to protect the public,
26 protect the assets, and allow a full review of the records.

27 (c) Upon a finding by a court after a hearing that a
28 person or organization has acted or is in violation of this
29 Section, the person or organization shall be permanently
30 enjoined from soliciting funds from the public, holding
31 charitable funds, or acting as a trustee or fiduciary within

1 Illinois. Upon a finding of violation all assets and funds
 2 held by the person or organization shall be forfeited to the
 3 People of the State of Illinois or otherwise ordered by the
 4 court to be accounted for and marshaled and then delivered to
 5 charitable causes and uses within the State of Illinois by
 6 court order.

7 (d) A determination under this Section may be made by
 8 any court separate and apart from any criminal proceedings
 9 and the standard of proof shall be that for civil
 10 proceedings.

11 (e) Any knowing use of charitable assets to conduct or
 12 further, directly or indirectly, an act or actions set forth
 13 in Article 29D of the Criminal Code of 1961 shall be a misuse
 14 of charitable assets and breach of fiduciary duty relative to
 15 all other Sections of this Act.

16 Section 10. The Firearm Owners Identification Card Act
 17 is amended by changing Sections 4 and 8 as follows:

18 (430 ILCS 65/4) (from Ch. 38, par. 83-4)

19 Sec. 4. (a) Each applicant for a Firearm Owner's
 20 Identification Card must:

21 (1) Make application on blank forms prepared and
 22 furnished at convenient locations throughout the State by
 23 the Department of State Police, or by electronic means,
 24 if and when made available by the Department of State
 25 Police; and

26 (2) Submit evidence to the Department of State
 27 Police that:

28 (i) He or she is 21 years of age or over, or
 29 if he or she is under 21 years of age that he or she
 30 has the written consent of his or her parent or
 31 legal guardian to possess and acquire firearms and
 32 firearm ammunition and that he or she has never been

1 convicted of a misdemeanor other than a traffic
2 offense or adjudged delinquent, provided, however,
3 that such parent or legal guardian is not an
4 individual prohibited from having a Firearm Owner's
5 Identification Card and files an affidavit with the
6 Department as prescribed by the Department stating
7 that he or she is not an individual prohibited from
8 having a Card;

9 (ii) He or she has not been convicted of a
10 felony under the laws of this or any other
11 jurisdiction;

12 (iii) He or she is not addicted to narcotics;

13 (iv) He or she has not been a patient in a
14 mental institution within the past 5 years;

15 (v) He or she is not mentally retarded;

16 (vi) He or she is not an alien who is
17 unlawfully present in the United States under the
18 laws of the United States;

19 (vii) He or she is not subject to an existing
20 order of protection prohibiting him or her from
21 possessing a firearm;

22 (viii) He or she has not been convicted within
23 the past 5 years of battery, assault, aggravated
24 assault, violation of an order of protection, or a
25 substantially similar offense in another
26 jurisdiction, in which a firearm was used or
27 possessed;

28 (ix) He or she has not been convicted of
29 domestic battery or a substantially similar offense
30 in another jurisdiction committed on or after the
31 effective date of this amendatory Act of 1997; and

32 (x) He or she has not been convicted within
33 the past 5 years of domestic battery or a
34 substantially similar offense in another

1 jurisdiction committed before the effective date of
2 this amendatory Act of 1997; and

3 (xi) He or she is not an alien who has been
4 admitted to the United States under a non-immigrant
5 visa (as that term is defined in Section 101(a)(26)
6 of the Immigration and Nationality Act (8 U.S.C.
7 1101(a)(26))), or that he or she is an alien who has
8 been lawfully admitted to the United States under a
9 non-immigrant visa if that alien is:

10 (1) admitted to the United States for
11 lawful hunting or sporting purposes;

12 (2) an official representative of a
13 foreign government who is:

14 (A) accredited to the United States
15 Government or the Government's mission to
16 an international organization having its
17 headquarters in the United States; or

18 (B) en route to or from another
19 country to which that alien is accredited;

20 (3) an official of a foreign government
21 or distinguished foreign visitor who has been
22 so designated by the Department of State;

23 (4) a foreign law enforcement officer of
24 a friendly foreign government entering the
25 United States on official business; or

26 (5) one who has received a waiver from
27 the Attorney General of the United States
28 pursuant to 18 U.S.C. 922(y)(3); and

29 (3) Upon request by the Department of State Police,
30 sign a release on a form prescribed by the Department of
31 State Police waiving any right to confidentiality and
32 requesting the disclosure to the Department of State
33 Police of limited mental health institution admission
34 information from another state, the District of Columbia,

1 any other territory of the United States, or a foreign
2 nation concerning the applicant for the sole purpose of
3 determining whether the applicant is or was a patient in
4 a mental health institution and disqualified because of
5 that status from receiving a Firearm Owner's
6 Identification Card. No mental health care or treatment
7 records may be requested. The information received shall
8 be destroyed within one year of receipt.

9 (a-5) Each applicant for a Firearm Owner's
10 Identification Card who is over the age of 18 shall furnish
11 to the Department of State Police either his or her driver's
12 license number or Illinois Identification Card number.

13 (b) Each application form shall include the following
14 statement printed in bold type: "Warning: Entering false
15 information on an application for a Firearm Owner's
16 Identification Card is punishable as a Class 2 felony in
17 accordance with subsection (d-5) of Section 14 of the Firearm
18 Owners Identification Card Act."

19 (c) Upon such written consent, pursuant to Section 4,
20 paragraph (a) (2) (i), the parent or legal guardian giving
21 the consent shall be liable for any damages resulting from
22 the applicant's use of firearms or firearm ammunition.

23 (Source: P.A. 91-514, eff. 1-1-00; 91-694, eff. 4-13-00;
24 92-442, eff. 8-17-01.)

25 (430 ILCS 65/8) (from Ch. 38, par. 83-8)

26 Sec. 8. The Department of State Police has authority to
27 deny an application for or to revoke and seize a Firearm
28 Owner's Identification Card previously issued under this Act
29 only if the Department finds that the applicant or the person
30 to whom such card was issued is or was at the time of
31 issuance:

32 (a) A person under 21 years of age who has been
33 convicted of a misdemeanor other than a traffic offense or

1 adjudged delinquent;

2 (b) A person under 21 years of age who does not have the
3 written consent of his parent or guardian to acquire and
4 possess firearms and firearm ammunition, or whose parent or
5 guardian has revoked such written consent, or where such
6 parent or guardian does not qualify to have a Firearm Owner's
7 Identification Card;

8 (c) A person convicted of a felony under the laws of
9 this or any other jurisdiction;

10 (d) A person addicted to narcotics;

11 (e) A person who has been a patient of a mental
12 institution within the past 5 years;

13 (f) A person whose mental condition is of such a nature
14 that it poses a clear and present danger to the applicant,
15 any other person or persons or the community;

16 For the purposes of this Section, "mental condition"
17 means a state of mind manifested by violent, suicidal,
18 threatening or assaultive behavior.

19 (g) A person who is mentally retarded;

20 (h) A person who intentionally makes a false statement
21 in the Firearm Owner's Identification Card application;

22 (i) An alien who is unlawfully present in the United
23 States under the laws of the United States;

24 (i-5) An alien who has been admitted to the United
25 States under a non-immigrant visa (as that term is defined in
26 Section 101(a)(26) of the Immigration and Nationality Act (8
27 U.S.C. 1101(a)(26))), except that this subsection (i-5) does
28 not apply to any alien who has been lawfully admitted to the
29 United States under a non-immigrant visa if that alien is:

30 (1) admitted to the United States for lawful
31 hunting or sporting purposes;

32 (2) an official representative of a foreign
33 government who is:

34 (A) accredited to the United States Government

1 or the Government's mission to an international
2 organization having its headquarters in the United
3 States; or

4 (B) en route to or from another country to
5 which that alien is accredited;

6 (3) an official of a foreign government or
7 distinguished foreign visitor who has been so designated
8 by the Department of State;

9 (4) a foreign law enforcement officer of a friendly
10 foreign government entering the United States on official
11 business; or

12 (5) one who has received a waiver from the Attorney
13 General of the United States pursuant to 18 U.S.C.
14 922(y)(3);

15 (j) A person who is subject to an existing order of
16 protection prohibiting him or her from possessing a firearm;

17 (k) A person who has been convicted within the past 5
18 years of battery, assault, aggravated assault, violation of
19 an order of protection, or a substantially similar offense in
20 another jurisdiction, in which a firearm was used or
21 possessed;

22 (l) A person who has been convicted of domestic battery
23 or a substantially similar offense in another jurisdiction
24 committed on or after January 1, 1998;

25 (m) A person who has been convicted within the past 5
26 years of domestic battery or a substantially similar offense
27 in another jurisdiction committed before January 1, 1998; or

28 (n) A person who is prohibited from acquiring or
29 possessing firearms or firearm ammunition by any Illinois
30 State statute or by federal law.

31 (Source: P.A. 90-130, eff. 1-1-98; 90-493, eff. 1-1-98;
32 90-655, eff. 7-30-98; 91-694, eff. 4-13-00.)

33 Section 15. The Criminal Code of 1961 is amended by

1 changing Sections 9-1, 14-3, and 29B-1 and adding Article 29D
2 as follows:

3 (720 ILCS 5/9-1) (from Ch. 38, par. 9-1)

4 Sec. 9-1. First degree Murder - Death penalties -
5 Exceptions - Separate Hearings - Proof - Findings - Appellate
6 procedures - Reversals.

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

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

13 (2) he knows that such acts create a strong
14 probability of death or great bodily harm to that
15 individual or another; or

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

18 (b) Aggravating Factors. A defendant who at the time of
19 the commission of the offense has attained the age of 18 or
20 more and who has been found guilty of first degree murder may
21 be sentenced to death if:

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

29 (2) the murdered individual was an employee of an
30 institution or facility of the Department of Corrections,
31 or any similar local correctional agency, killed in the
32 course of performing his official duties, to prevent the
33 performance of his official duties, or in retaliation for

1 performing his official duties, or the murdered
2 individual was an inmate at such institution or facility
3 and was killed on the grounds thereof, or the murdered
4 individual was otherwise present in such institution or
5 facility with the knowledge and approval of the chief
6 administrative officer thereof; or

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

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

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

26 (6) the murdered individual was killed in the
27 course of another felony if:

28 (a) the murdered individual:

29 (i) was actually killed by the defendant,

30 or

31 (ii) received physical injuries
32 personally inflicted by the defendant
33 substantially contemporaneously with physical
34 injuries caused by one or more persons for

1 whose conduct the defendant is legally
2 accountable under Section 5-2 of this Code, and
3 the physical injuries inflicted by either the
4 defendant or the other person or persons for
5 whose conduct he is legally accountable caused
6 the death of the murdered individual; and

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

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

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

34 (8) the defendant committed the murder with intent

1 to prevent the murdered individual from testifying in any
2 criminal prosecution or giving material assistance to the
3 State in any investigation or prosecution, either against
4 the defendant or another; or the defendant committed the
5 murder because the murdered individual was a witness in
6 any prosecution or gave material assistance to the State
7 in any investigation or prosecution, either against the
8 defendant or another; or

9 (9) the defendant, while committing an offense
10 punishable under Sections 401, 401.1, 401.2, 405, 405.2,
11 407 or 407.1 or subsection (b) of Section 404 of the
12 Illinois Controlled Substances Act, or while engaged in a
13 conspiracy or solicitation to commit such offense,
14 intentionally killed an individual or counseled,
15 commanded, induced, procured or caused the intentional
16 killing of the murdered individual; or

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

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

31 (12) the murdered individual was an emergency
32 medical technician - ambulance, emergency medical
33 technician - intermediate, emergency medical technician -
34 paramedic, ambulance driver, or other medical assistance

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

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

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

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

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

30 (17) the murdered individual was a disabled person
31 and the defendant knew or should have known that the
32 murdered individual was disabled. For purposes of this
33 paragraph (17), "disabled person" means a person who
34 suffers from a permanent physical or mental impairment

1 resulting from disease, an injury, a functional disorder,
 2 or a congenital condition that renders the person
 3 incapable of adequately providing for his or her own
 4 health or personal care; or

5 (18) the murder was committed by reason of any
 6 person's activity as a community policing volunteer or to
 7 prevent any person from engaging in activity as a
 8 community policing volunteer; or

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

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

20 (21) the murder was committed by the defendant in
 21 connection with or as a result of the offense of
 22 terrorism as defined in Section 29D-30 of this Code.

23 (c) Consideration of factors in Aggravation and
 24 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 those 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) 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) 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 (c) may be
2 presented by the State or defendant regardless of its
3 admissibility under the rules governing the admission of
4 evidence at criminal trials. The State and the defendant
5 shall be given fair opportunity to rebut any information
6 received at the hearing.

7 (f) 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) 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) 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) 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) 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 5/14-3) (from Ch. 38, par. 14-3)

3 Sec. 14-3. Exemptions. The following activities shall
4 be exempt from the provisions of this Article:

5 (a) Listening to radio, wireless and television
6 communications of any sort where the same are publicly made;

7 (b) Hearing conversation when heard by employees of any
8 common carrier by wire incidental to the normal course of
9 their employment in the operation, maintenance or repair of
10 the equipment of such common carrier by wire so long as no
11 information obtained thereby is used or divulged by the
12 hearer;

13 (c) Any broadcast by radio, television or otherwise
14 whether it be a broadcast or recorded for the purpose of
15 later broadcasts of any function where the public is in
16 attendance and the conversations are overheard incidental to
17 the main purpose for which such broadcasts are then being
18 made;

19 (d) Recording or listening with the aid of any device to
20 any emergency communication made in the normal course of
21 operations by any federal, state or local law enforcement
22 agency or institutions dealing in emergency services,
23 including, but not limited to, hospitals, clinics, ambulance
24 services, fire fighting agencies, any public utility,
25 emergency repair facility, civilian defense establishment or
26 military installation;

27 (e) Recording the proceedings of any meeting required to
28 be open by the Open Meetings Act, as amended;

29 (f) Recording or listening with the aid of any device to
30 incoming telephone calls of phone lines publicly listed or
31 advertised as consumer "hotlines" by manufacturers or
32 retailers of food and drug products. Such recordings must be
33 destroyed, erased or turned over to local law enforcement

1 authorities within 24 hours from the time of such recording
2 and shall not be otherwise disseminated. Failure on the part
3 of the individual or business operating any such recording or
4 listening device to comply with the requirements of this
5 subsection shall eliminate any civil or criminal immunity
6 conferred upon that individual or business by the operation
7 of this Section;

8 (g) With prior notification to the State's Attorney of
9 the county in which it is to occur, recording or listening
10 with the aid of any device to any conversation where a law
11 enforcement officer, or any person acting at the direction of
12 law enforcement, is a party to the conversation and has
13 consented to it being intercepted or recorded under
14 circumstances where the use of the device is necessary for
15 the protection of the law enforcement officer or any person
16 acting at the direction of law enforcement, in the course of
17 an investigation of a forcible felony, a felony violation of
18 the Illinois Controlled Substances Act, a felony violation of
19 the Cannabis Control Act, or any "streetgang related" or
20 "gang-related" felony as those terms are defined in the
21 Illinois Streetgang Terrorism Omnibus Prevention Act. Any
22 recording or evidence derived as the result of this exemption
23 shall be inadmissible in any proceeding, criminal, civil or
24 administrative, except (i) where a party to the conversation
25 suffers great bodily injury or is killed during such
26 conversation, or (ii) when used as direct impeachment of a
27 witness concerning matters contained in the interception or
28 recording. The Director of the Department of State Police
29 shall issue regulations as are necessary concerning the use
30 of devices, retention of tape recordings, and reports
31 regarding their use;

32 (g-5) With approval of the State's Attorney of the
33 county in which it is to occur, recording or listening with
34 the aid of any device to any conversation where a law

1 enforcement officer, or any person acting at the direction of
2 law enforcement, is a party to the conversation and has
3 consented to it being intercepted or recorded in the course
4 of an investigation of any offense defined in Article 29D of
5 this Code. In all such cases, an application for an order
6 approving the previous or continuing use of an eavesdropping
7 device must be made within 48 hours of the commencement of
8 such use. In the absence of such an order, or upon its
9 denial, any continuing use shall immediately terminate. The
10 Director of State Police shall issue rules as are necessary
11 concerning the use of devices, retention of tape recordings,
12 and reports regarding their use.

13 Any recording or evidence obtained or derived in the
14 course of an investigation of any offense defined in Article
15 29D of this Code shall, upon motion of the State's Attorney
16 or Attorney General prosecuting any violation of Article 29D,
17 be reviewed in camera with notice to all parties present by
18 the court presiding over the criminal case, and, if ruled by
19 the court to be relevant and otherwise admissible, it shall
20 be admissible at the trial of the criminal case.

21 This subsection (g-5) is inoperative on and after January
22 1, 2005. No conversations recorded or monitored pursuant to
23 this subsection (g-5) shall be inadmissible in a court of law
24 by virtue of the repeal of this subsection (g-5) on January
25 1, 2005.

26 (h) Recordings made simultaneously with a video
27 recording of an oral conversation between a peace officer,
28 who has identified his or her office, and a person stopped
29 for an investigation of an offense under the Illinois Vehicle
30 Code;

31 (i) Recording of a conversation made by or at the
32 request of a person, not a law enforcement officer or agent
33 of a law enforcement officer, who is a party to the
34 conversation, under reasonable suspicion that another party

1 to the conversation is committing, is about to commit, or has
2 committed a criminal offense against the person or a member
3 of his or her immediate household, and there is reason to
4 believe that evidence of the criminal offense may be obtained
5 by the recording; and

6 (j) The use of a telephone monitoring device by either
7 (1) a corporation or other business entity engaged in
8 marketing or opinion research or (2) a corporation or other
9 business entity engaged in telephone solicitation, as defined
10 in this subsection, to record or listen to oral telephone
11 solicitation conversations or marketing or opinion research
12 conversations by an employee of the corporation or other
13 business entity when:

14 (i) the monitoring is used for the purpose of
15 service quality control of marketing or opinion research
16 or telephone solicitation, the education or training of
17 employees or contractors engaged in marketing or opinion
18 research or telephone solicitation, or internal research
19 related to marketing or opinion research or telephone
20 solicitation; and

21 (ii) the monitoring is used with the consent of at
22 least one person who is an active party to the marketing
23 or opinion research conversation or telephone
24 solicitation conversation being monitored.

25 No communication or conversation or any part, portion, or
26 aspect of the communication or conversation made, acquired,
27 or obtained, directly or indirectly, under this exemption
28 (j), may be, directly or indirectly, furnished to any law
29 enforcement officer, agency, or official for any purpose or
30 used in any inquiry or investigation, or used, directly or
31 indirectly, in any administrative, judicial, or other
32 proceeding, or divulged to any third party.

33 When recording or listening authorized by this subsection
34 (j) on telephone lines used for marketing or opinion research

1 or telephone solicitation purposes results in recording or
2 listening to a conversation that does not relate to marketing
3 or opinion research or telephone solicitation; the person
4 recording or listening shall, immediately upon determining
5 that the conversation does not relate to marketing or opinion
6 research or telephone solicitation, terminate the recording
7 or listening and destroy any such recording as soon as is
8 practicable.

9 Business entities that use a telephone monitoring or
10 telephone recording system pursuant to this exemption (j)
11 shall provide current and prospective employees with notice
12 that the monitoring or recordings may occur during the course
13 of their employment. The notice shall include prominent
14 signage notification within the workplace.

15 Business entities that use a telephone monitoring or
16 telephone recording system pursuant to this exemption (j)
17 shall provide their employees or agents with access to
18 personal-only telephone lines which may be pay telephones,
19 that are not subject to telephone monitoring or telephone
20 recording.

21 For the purposes of this subsection (j), "telephone
22 solicitation" means a communication through the use of a
23 telephone by live operators:

- 24 (i) soliciting the sale of goods or services;
- 25 (ii) receiving orders for the sale of goods or
26 services;
- 27 (iii) assisting in the use of goods or services; or
- 28 (iv) engaging in the solicitation, administration,
29 or collection of bank or retail credit accounts.

30 For the purposes of this subsection (j), "marketing or
31 opinion research" means a marketing or opinion research
32 interview conducted by a live telephone interviewer engaged
33 by a corporation or other business entity whose principal
34 business is the design, conduct, and analysis of polls and

1 surveys measuring the opinions, attitudes, and responses of
2 respondents toward products and services, or social or
3 political issues, or both.

4 (Source: P.A. 91-357, eff. 7-29-99.)

5 (720 ILCS 5/29B-1) (from Ch. 38, par. 29B-1)

6 Sec. 29B-1. (a) A person commits the offense of money
7 laundering:

8 (1) when he knowingly engages or attempts to engage
9 in a financial transaction in criminally derived property
10 with either the intent to promote the carrying on of the
11 unlawful activity from which the criminally derived
12 property was obtained or where he knows or reasonably
13 should know that the financial transaction is designed in
14 whole or in part to conceal or disguise the nature, the
15 location, the source, the ownership or the control of the
16 criminally derived property; or-

17 (2) when, with the intent to:

18 (A) promote the carrying on of a specified
19 criminal activity as defined in this Article; or

20 (B) conceal or disguise the nature, location,
21 source, ownership, or control of property believed
22 to be the proceeds of a specified criminal activity
23 as defined by subdivision (b) (6).

24 he or she conducts or attempts to conduct a financial
25 transaction involving property he or she believes to be
26 the proceeds of specified criminal activity as defined by
27 subdivision (b) (6) or property used to conduct or
28 facilitate specified criminal activity as defined by
29 subdivision (b) (6).

30 (b) As used in this Section:

31 (1) "Financial transaction" means a purchase, sale,
32 loan, pledge, gift, transfer, delivery or other
33 disposition utilizing criminally derived property, and

1 with respect to financial institutions, includes a
2 deposit, withdrawal, transfer between accounts, exchange
3 of currency, loan, extension of credit, purchase or sale
4 of any stock, bond, certificate of deposit or other
5 monetary instrument or any other payment, transfer or
6 delivery by, through, or to a financial institution. For
7 purposes of clause (a)(2) of this Section, the term
8 "financial transaction" also means a transaction which
9 without regard to whether the funds, monetary
10 instruments, or real or personal property involved in the
11 transaction are criminally derived, any transaction which
12 in any way or degree: (1) involves the movement of funds
13 by wire or any other means; (2) involves one or more
14 monetary instruments; or (3) the transfer of title to any
15 real or personal property. The receipt by an attorney of
16 bona fide fees for the purpose of legal representation is
17 not a financial transaction for purposes of this Section.

18 (2) "Financial institution" means any bank; saving
19 and loan association; trust company; agency or branch of
20 a foreign bank in the United States; currency exchange;
21 credit union, mortgage banking institution; pawnbroker;
22 loan or finance company; operator of a credit card
23 system; issuer, redeemer or cashier of travelers checks,
24 checks or money orders; dealer in precious metals, stones
25 or jewels; broker or dealer in securities or commodities;
26 investment banker; or investment company.

27 (3) "Monetary instrument" means United States coins
28 and currency; coins and currency of a foreign country;
29 travelers checks; personal checks, bank checks, and money
30 orders; investment securities; bearer negotiable
31 instruments; bearer investment securities; or bearer
32 securities and certificates of stock in such form that
33 title thereto passes upon delivery.

34 (4) "Criminally derived property" means any

1 property constituting or derived from proceeds obtained,
2 directly or indirectly, pursuant to a violation of the
3 Criminal Code of 1961, the Illinois Controlled Substances
4 Act or the Cannabis Control Act.

5 (5) "Conduct" or "conducts" includes, in addition
6 to its ordinary meaning, initiating, concluding, or
7 participating in initiating or concluding a transaction.

8 (6) "Specified criminal activity" means any
9 violation of Section 20.5-5 (720 ILCS 5/20.5-5) and any
10 violation of Article 29D of this Code.

11 (c) Sentence.

12 (1) Laundering of criminally derived property of a
13 value not exceeding \$10,000 is a Class 3 felony;

14 (2) Laundering of criminally derived property of a
15 value exceeding \$10,000 but not exceeding \$100,000 is a
16 Class 2 felony;

17 (3) Laundering of criminally derived property of a
18 value exceeding \$100,000 is a Class 1 felony;

19 (4) Money laundering in violation of subsection
20 (a)(2) of this Section is a Class X felony.

21 (Source: P.A. 88-258.)

22 (720 ILCS 5/Article 29D heading new)

23 ARTICLE 29D. TERRORISM

24 (720 ILCS 5/29D-5 new)

25 Sec. 29D-5. Legislative findings. The devastating
26 consequences of the barbaric attacks on the World Trade
27 Center and the Pentagon on September 11, 2001 underscore the
28 compelling need for legislation that is specifically designed
29 to combat the evils of terrorism. Terrorism is inconsistent
30 with civilized society and cannot be tolerated.

31 A comprehensive State law is urgently needed to
32 complement federal laws in the fight against terrorism and to

1 better protect all citizens against terrorist acts.
2 Accordingly, the legislature finds that our laws must be
3 strengthened to ensure that terrorists, as well as those who
4 solicit or provide financial and other support to terrorists,
5 are prosecuted and punished in State courts with appropriate
6 severity. The legislature further finds that due to the grave
7 nature and global reach of terrorism that a comprehensive law
8 encompassing State criminal statutes and strong civil
9 remedies is needed.

10 An investigation may not be initiated or continued for
11 activities protected by the First Amendment to the United
12 States Constitution, including expressions of support or the
13 provision of financial support for the nonviolent political,
14 religious, philosophical, or ideological goals or beliefs of
15 any person or group.

16 (720 ILCS 5/29D-10 new)

17 Sec. 29D-10. Definitions. As used in this Article, where
18 not otherwise distinctly expressed or manifestly incompatible
19 with the intent of this Article:

20 (a) "Computer network" means a set of related, remotely
21 connected devices and any communications facilities including
22 more than one computer with the capability to transmit data
23 among them through communication facilities.

24 (b) "Computer" means a device that accepts, processes,
25 stores, retrieves, or outputs data, and includes, but is not
26 limited to, auxiliary storage and telecommunications devices.

27 (c) "Computer program" means a series of coded
28 instruction or statements in a form acceptable to a computer
29 which causes the computer to process data and supply the
30 results of data processing.

31 (d) "Data" means representations of information,
32 knowledge, facts, concepts or instructions, including program
33 documentation, that are prepared in a formalized manner and

1 are stored or processed in or transmitted by a computer. Data
2 may be in any form, including but not limited to magnetic or
3 optical storage media, punch cards, or data stored internally
4 in the memory of a computer.

5 (e) "Biological products used in or in connection with
6 agricultural production" includes, but is not limited to,
7 seeds, plants, and DNA of plants or animals altered for use
8 in crop or livestock breeding or production or which are
9 sold, intended, designed, or produced for use in crop
10 production or livestock breeding or production.

11 (f) "Agricultural products" means crops and livestock.

12 (g) "Agricultural production" means the breeding and
13 growing of livestock and crops.

14 (h) "Livestock" means animals bred or raised for human
15 consumption.

16 (i) "Crops" means plants raised for: (1) human
17 consumption, (2) fruits that are intended for human
18 consumption, (3) consumption by livestock, and (4) fruits
19 that are intended for consumption by livestock.

20 (j) "Communications systems" means any works, property,
21 or material of any radio, telegraph, telephone, microwave, or
22 cable line, station, or system.

23 (k) "Substantial damage" means monetary damage greater
24 than \$100,000.

25 (l) "Terrorist act" or "act of terrorism" means: (1) any
26 act that is intended to cause or create a risk and does cause
27 or create a risk of death or great bodily harm to one or more
28 persons; (2) any act that disables or destroys the usefulness
29 or operation of any communications system; (3) any act or any
30 series of 2 or more acts committed in furtherance of a single
31 intention, scheme, or design that disables or destroys the
32 usefulness or operation of a computer network, computers,
33 computer programs, or data used by any industry, by any class
34 of business, or by 5 or more businesses or by the federal

1 government, State government, any unit of local government, a
2 public utility, a manufacturer of pharmaceuticals, a national
3 defense contractor, or a manufacturer of chemical or
4 biological products used in or in connection with
5 agricultural production; (4) any act that disables or causes
6 substantial damage to or destruction of any structure or
7 facility used in or used in connection with ground, air, or
8 water transportation; the production or distribution of
9 electricity, gas, oil, or other fuel; the treatment of sewage
10 or the treatment or distribution of water; or controlling the
11 flow of any body of water; (5) any act that causes
12 substantial damage to or destruction of livestock or to crops
13 or a series of 2 or more acts committed in furtherance of a
14 single intention, scheme, or design which, in the aggregate,
15 causes substantial damage to or destruction of livestock or
16 crops; (6) any act that causes substantial damage to or
17 destruction of any hospital or any building or facility used
18 by the federal government, State government, any unit of
19 local government or by a national defense contractor or by a
20 public utility, a manufacturer of pharmaceuticals, a
21 manufacturer of chemical or biological products used in or in
22 connection with agricultural production or the storage or
23 processing of agricultural products or the preparation of
24 agricultural products for food or food products intended for
25 resale or for feed for livestock; or (7) any act that causes
26 substantial damage to any building containing 5 or more
27 businesses of any type or to any building in which 10 or more
28 people reside.

29 (m) "Terrorist" and "terrorist organization" means any
30 person who engages or is about to engage in a terrorist act
31 with the intent to intimidate or coerce a significant portion
32 of a civilian population.

33 (n) "Material support or resources" means currency or
34 other financial securities, financial services, lodging,

1 training, safe houses, false documentation or identification,
 2 communications equipment, facilities, weapons, lethal
 3 substances, explosives, personnel, transportation, any other
 4 kind of physical assets or intangible property, and expert
 5 services or expert assistance.

6 (o) "Person" has the meaning given in Section 2-15 of
 7 this Code and, in addition to that meaning, includes, without
 8 limitation, any charitable organization, whether incorporated
 9 or unincorporated, any professional fund raiser, professional
 10 solicitor, limited liability company, association, joint
 11 stock company, association, trust, trustee, or any group of
 12 people formally or informally affiliated or associated for a
 13 common purpose, and any officer, director, partner, member,
 14 or agent of any person.

15 (p) "Render criminal assistance" means to do any of the
 16 following with the intent to prevent, hinder, or delay the
 17 discovery or apprehension of, or the lodging of a criminal
 18 charge against, a person who he or she knows or believes has
 19 committed an offense under this Article or is being sought by
 20 law enforcement officials for the commission of an offense
 21 under this Article, or with the intent to assist a person in
 22 profiting or benefiting from the commission of an offense
 23 under this Article:

24 (1) harbor or conceal the person;

25 (2) warn the person of impending discovery or
 26 apprehension;

27 (3) provide the person with money, transportation,
 28 a weapon, a disguise, false identification documents, or
 29 any other means of avoiding discovery or apprehension;

30 (4) prevent or obstruct, by means of force,
 31 intimidation, or deception, anyone from performing an act
 32 that might aid in the discovery or apprehension of the
 33 person or in the lodging of a criminal charge against the
 34 person;

1 (5) suppress, by any act of concealment,
 2 alteration, or destruction, any physical evidence that
 3 might aid in the discovery or apprehension of the person
 4 or in the lodging of a criminal charge against the
 5 person;

6 (6) aid the person to protect or expeditiously
 7 profit from an advantage derived from the crime; or

8 (7) provide expert services or expert assistance to
 9 the person. Providing expert services or expert
 10 assistance shall not be construed to apply to: (1) a
 11 licensed attorney who discusses with a client the legal
 12 consequences of a proposed course of conduct or advises a
 13 client of legal or constitutional rights and (2) a
 14 licensed medical doctor who provides emergency medical
 15 treatment to a person whom he or she believes has
 16 committed an offense under this Article if, as soon as
 17 reasonably practicable either before or after providing
 18 such treatment, he or she notifies a law enforcement
 19 agency.

20 (720 ILCS 5/29D-15 new)

21 Sec. 29D-15. Soliciting material support for terrorism;
 22 providing material support for a terrorist act.

23 (a) A person is guilty of soliciting material support
 24 for terrorism if he or she knowingly raises, solicits, or
 25 collects material support or resources knowing that the
 26 material support or resources will be used, in whole or in
 27 part, to plan, prepare, carry out, or avoid apprehension for
 28 committing terrorism as defined in Section 29D-30 or causing
 29 a catastrophe as defined in Section 20.5-5 (720 ILCS
 30 5/20.5-5) of this Code, or who knows and intends that the
 31 material support or resources so raised, solicited, or
 32 collected will be used in the commission of a terrorist act
 33 as defined in Section 29D-10(1) of this Code by an

1 organization designated under 8 U.S.C. 1189, as amended. It
 2 is not an element of the offense that the defendant actually
 3 knows that an organization has been designated under 8 U.S.C.
 4 1189, as amended.

5 (b) A person is guilty of providing material support for
 6 terrorism if he or she knowingly provides material support or
 7 resources to a person knowing that the person will use that
 8 support or those resources in whole or in part to plan,
 9 prepare, carry out, facilitate, or to avoid apprehension for
 10 committing terrorism as defined in Section 29D-30 or to cause
 11 a catastrophe as defined in Section 20.5-5 (720 ILCS
 12 5/20.5-5) of this Code.

13 (c) Sentence. Soliciting material support for terrorism
 14 is a Class X felony for which the sentence shall be a term of
 15 imprisonment of no less than 9 years and no more than 40
 16 years. Providing material support for a terrorist act is a
 17 Class X felony for which the sentence shall be a term of
 18 imprisonment of no less than 9 years and no more than 40
 19 years.

20 (720 ILCS 5/29D-20 new)

21 Sec. 29D-20. Making a terrorist threat.

22 (a) A person is guilty of making a terrorist threat
 23 when, with the intent to intimidate or coerce a significant
 24 portion of a civilian population, he or she in any manner
 25 knowingly threatens to commit or threatens to cause the
 26 commission of a terrorist act as defined in Section 29D-10(1)
 27 and thereby causes a reasonable expectation or fear of the
 28 imminent commission of a terrorist act as defined in Section
 29 29D-10(1) or of another terrorist act as defined in Section
 30 29D-10(1).

31 (b) It is not a defense to a prosecution under this
 32 Section that at the time the defendant made the terrorist
 33 threat, unknown to the defendant, it was impossible to carry

1 out the threat, nor is it a defense that the threat was not
2 made to a person who was a subject or intended victim of the
3 threatened act.

4 (c) Sentence. Making a terrorist threat is a Class X
5 felony.

6 (720 ILCS 5/29D-25 new)

7 Sec. 29D-25. Falsely making a terrorist threat.

8 (a) A person is guilty of falsely making a terrorist
9 threat when in any manner he or she knowingly makes a threat
10 to commit or cause to be committed a terrorist act as defined
11 in Section 29D-10(1) or otherwise knowingly creates the
12 impression or belief that a terrorist act is about to be or
13 has been committed, or in any manner knowingly makes a threat
14 to commit or cause to be committed a catastrophe as defined
15 in Section 20.5-5 (720 ILCS 5/20.5-5) of this Code which he
16 or she knows is false.

17 (b) Sentence. Falsely making a terrorist threat is a
18 Class 1 felony.

19 (720 ILCS 5/29D-30 new)

20 Sec. 29D-30. Terrorism.

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

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

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

32 (b) Sentence. Terrorism is a Class X felony. If no

1 deaths are caused by the terrorist act, the sentence shall be
 2 a term of 20 years to natural life imprisonment; however, if
 3 the terrorist act caused the death of one or more persons, a
 4 mandatory term of natural life imprisonment shall be the
 5 sentence in the event the death penalty is not imposed.

6 (720 ILCS 5/29D-35 new)

7 Sec. 29D-35. Hindering prosecution of terrorism.

8 (a) A person is guilty of hindering prosecution of
 9 terrorism when he or she renders criminal assistance to a
 10 person who has committed terrorism as defined in Section
 11 29D-30 or caused a catastrophe, as defined in Section 20.5-5
 12 of this Code when he or she knows that the person to whom he
 13 or she rendered criminal assistance engaged in an act of
 14 terrorism or caused a catastrophe.

15 (b) Hindering prosecution of terrorism is a Class X
 16 felony, the sentence for which shall be a term of 20 years to
 17 natural life imprisonment if no death was caused by the act
 18 of terrorism committed by the person to whom the defendant
 19 rendered criminal assistance and a mandatory term of natural
 20 life imprisonment if death was caused by the act of terrorism
 21 committed by the person to whom the defendant rendered
 22 criminal assistance.

23 (720 ILCS 5/29D-40 new)

24 Sec. 29D-40. Restitution. In addition to any other
 25 penalty that may be imposed, a court shall sentence any
 26 person convicted of any violation of this Article to pay all
 27 expenses incurred by the federal government, State
 28 government, or any unit of local government in responding to
 29 any violation and cleaning up following any violation.

30 (720 ILCS 5/29D-45 new)

31 Sec. 29D-45. Limitations. A prosecution for any offense

1 in this Article may be commenced at any time.

2 (720 ILCS 5/29D-60 new)

3 Sec. 29D-60. Injunctive relief. Whenever it appears to
4 the Attorney General or any State's Attorney that any person
5 is engaged in, or is about to engage in, any act that
6 constitutes or would constitute a violation of this Article,
7 the Attorney General or any State's Attorney may initiate a
8 civil action in the circuit court to enjoin the violation.

9 (720 ILCS 5/29D-65 new)

10 Sec. 29D-65. Asset freeze, seizure, and forfeiture.

11 (a) Asset freeze, seizure, and forfeiture in connection
12 with a violation of this Article.

13 (1) Whenever it appears that there is probable
14 cause to believe that any person used, is using, is about
15 to use, or is intending to use property in any way that
16 constitutes or would constitute a violation of this
17 Article, the Attorney General or any State's Attorney may
18 make an ex parte application to the circuit court to
19 freeze or seize all the assets of that person and, upon a
20 showing of probable cause in the ex parte hearing, the
21 circuit court shall issue an order to freeze or seize all
22 assets of that person. A copy of the freeze or seize
23 order shall be served upon the person whose assets have
24 been frozen or seized and that person or any person
25 claiming an interest in the property may, at any time
26 within 30 days of service, file a motion to release his
27 or her assets. Within 10 days that person is entitled to
28 a hearing. In any proceeding to release assets, the
29 burden of proof shall be by a preponderance of evidence
30 and shall be on the State to show that the person used,
31 was using, is about to use, or is intending to use any
32 property in any way that constitutes or would constitute

1 a violation of this Article. If the court finds that any
2 property was being used, is about to be used, or is
3 intended to be used in violation of or in any way that
4 would constitute a violation of this Article, the court
5 shall order such property frozen or held until further
6 order of the court. Any property so ordered held or
7 frozen shall be subject to forfeiture under the following
8 procedure. Upon the request of the defendant, the court
9 may release frozen or seized assets sufficient to pay
10 attorney's fees for representation of the defendant at a
11 hearing conducted under this Section.

12 (2) If, within 60 days after any seizure or asset
13 freeze under subparagraph (1) of this Section, a person
14 having any property interest in the seized or frozen
15 property is charged with an offense, the court which
16 renders judgment upon the charge shall, within 30 days
17 after the judgment, conduct a forfeiture hearing to
18 determine whether the property was used, about to be
19 used, or intended to be used in violation of this Article
20 or in connection with any violation of this Article, or
21 was integrally related to any violation or intended
22 violation of this Article. The hearing shall be commenced
23 by a written petition by the State, including material
24 allegations of fact, the name and address of every person
25 determined by the State to have any property interest in
26 the seized or frozen property, a representation that
27 written notice of the date, time, and place of the
28 hearing has been mailed to every such person by certified
29 mail at least 10 days before the date, and a request for
30 forfeiture. Every such person may appear as a party and
31 present evidence at the hearing. The quantum of proof
32 required shall be preponderance of the evidence, and the
33 burden of proof shall be on the State. If the court
34 determines that the seized or frozen property was used,

1 about to be used, or intended to be used in violation of
2 this Article or in connection with any violation of this
3 Article, or was integrally related to any violation or
4 intended violation of this Article, an order of
5 forfeiture and disposition of the seized or frozen money
6 and property shall be entered. All property forfeited may
7 be liquidated and the resultant money together with any
8 money forfeited shall be allocated among the
9 participating law enforcement agencies in such
10 proportions as may be determined to be equitable by the
11 court entering the forfeiture order, any such property so
12 forfeited shall be received by the State's Attorney or
13 Attorney General and upon liquidation shall be allocated
14 among the participating law enforcement agencies in such
15 proportions as may be determined equitable by the court
16 entering the forfeiture order.

17 (3) If a seizure or asset freeze under subparagraph
18 (1) of this subsection (a) is not followed by a charge
19 under this Article within 60 days, or if the prosecution
20 of the charge is permanently terminated or indefinitely
21 discontinued without any judgment of conviction or a
22 judgment of acquittal is entered, the State's Attorney or
23 Attorney General shall immediately commence an in rem
24 proceeding for the forfeiture of any seized money or
25 other things of value, or both, in the circuit court and
26 any person having any property interest in the money or
27 property may commence separate civil proceedings in the
28 manner provided by law. Any property so forfeited shall
29 be allocated among the participating law enforcement
30 agencies in such proportions as may be determined to be
31 equitable by the court entering the forfeiture order.

32 (b) Forfeiture of property acquired in connection with a
33 violation of this Article.

34 (1) Any person who commits any offense under this

1 Article shall forfeit, according to the provisions of
2 this Section, any moneys, profits, or proceeds, and any
3 interest or property in which the sentencing court
4 determines he or she has acquired or maintained, directly
5 or indirectly, in whole or in part, as a result of, or
6 used, was about to be used, or was intended to be used in
7 connection with the offense. The person shall also
8 forfeit any interest in, security, claim against, or
9 contractual right of any kind which affords the person a
10 source of influence over any enterprise which he or she
11 has established, operated, controlled, conducted, or
12 participated in conducting, where his or her relationship
13 to or connection with any such thing or activity directly
14 or indirectly, in whole or in part, is traceable to any
15 item or benefit which he or she has obtained or acquired
16 through an offense under this Article or which he or she
17 used, about to use, or intended to use in connection with
18 any offense under this Article. Forfeiture under this
19 Section may be pursued in addition to or in lieu of
20 proceeding under subsection (a) of this Section.

21 (2) Proceedings instituted under this subsection
22 shall be subject to and conducted in accordance with the
23 following procedures:

24 (A) The sentencing court shall, upon petition
25 by the prosecuting agency, whether it is the
26 Attorney General or the State's Attorney, at any
27 time following sentencing, conduct a hearing to
28 determine whether any property or property interest
29 is subject to forfeiture under this subsection. At
30 the forfeiture hearing the People of the State of
31 Illinois shall have the burden of establishing, by a
32 preponderance of the evidence, that the property or
33 property interests are subject to forfeiture.

34 (B) In any action brought by the People of the

1 State of Illinois under this Section, the court
2 shall have jurisdiction to enter such restraining
3 orders, injunctions, or prohibitions, or to take
4 such other action in connection with any real,
5 personal, or mixed property, or other interest,
6 subject to forfeiture, as it shall consider proper.

7 (C) In any action brought by the People of the
8 State of Illinois under this subsection in which any
9 restraining order, injunction, or prohibition or any
10 other action in connection with any property or
11 interest subject to forfeiture under this subsection
12 is sought, the circuit court presiding over the
13 trial of the person or persons charged with a
14 violation under this Article shall first determine
15 whether there is probable cause to believe that the
16 person or persons so charged have committed an
17 offense under this Article and whether the property
18 or interest is subject to forfeiture under this
19 subsection. In order to make this determination,
20 prior to entering any such order, the court shall
21 conduct a hearing without a jury in which the People
22 shall establish: (i) probable cause that the person
23 or persons so charged have committed an offense
24 under this Article; and (ii) probable cause that any
25 property or interest may be subject to forfeiture
26 under this subsection. The hearing may be conducted
27 simultaneously with a preliminary hearing if the
28 prosecution is commenced by information, or by
29 motion of the People at any stage in the
30 proceedings. The court may enter a finding of
31 probable cause at a preliminary hearing following
32 the filing of information charging a violation of
33 this Article or the return of an indictment by a
34 grand jury charging an offense under this Article as

1 sufficient probable cause for purposes of this
2 subsection. Upon such a finding, the circuit court
3 shall enter such restraining order, injunction, or
4 prohibition or shall take such other action in
5 connection with any such property or other interest
6 subject to forfeiture under this subsection as is
7 necessary to ensure that the property is not removed
8 from the jurisdiction of the court, concealed,
9 destroyed, or otherwise disposed of by the owner or
10 holder of that property or interest prior to a
11 forfeiture hearing under this subsection. The
12 Attorney General or State's Attorney shall file a
13 certified copy of the restraining order, injunction,
14 or other prohibition with the recorder of deeds or
15 registrar of titles of each county where any such
16 property of the defendant may be located. No such
17 injunction, restraining order, or other prohibition
18 shall affect the rights of any bona fide purchaser,
19 mortgagee, judgment creditor, or other lien holder
20 arising prior to the date of such filing. The court
21 may, at any time, upon verified petition by the
22 defendant, conduct a hearing to release all or
23 portions of any such property or interest which the
24 court previously determined to be subject to
25 forfeiture or subject to any restraining order,
26 injunction, prohibition, or other action. The court
27 may release the property to the defendant for good
28 cause shown and within the sound discretion of the
29 court.

30 (D) Upon a conviction of a person under this
31 Article, the court shall authorize the Attorney
32 General or State's Attorney to seize and sell all
33 property or other interest declared forfeited under
34 this Article, unless the property is required by law

1 to be destroyed or is harmful to the public. The
2 court may order the Attorney General or State's
3 Attorney to segregate funds from the proceeds of the
4 sale sufficient: (1) to satisfy any order of
5 restitution, as the court may deem appropriate; (2)
6 to satisfy any legal right, title, or interest which
7 the court deems superior to any right, title, or
8 interest of the defendant at the time of the
9 commission of the acts which gave rise to forfeiture
10 under this subsection; or (3) to satisfy any
11 bona-fide purchaser for value of the right, title,
12 or interest in the property who was without
13 reasonable notice that the property was subject to
14 forfeiture. Following the entry of an order of
15 forfeiture, the Attorney General or State's Attorney
16 shall publish notice of the order and his or her
17 intent to dispose of the property. Within 30 days
18 following the publication, any person may petition
19 the court to adjudicate the validity of his or her
20 alleged interest in the property. After the
21 deduction of all requisite expenses of
22 administration and sale, the Attorney General or
23 State's Attorney shall distribute the proceeds of
24 the sale, along with any moneys forfeited or seized,
25 among participating law enforcement agencies in such
26 equitable portions as the court shall determine.

27 (E) No judge shall release any property or
28 money seized under subdivision (A) or (B) for the
29 payment of attorney's fees of any person claiming an
30 interest in such money or property.

31 (c) Exemptions from forfeiture. A property interest is
32 exempt from forfeiture under this Section if its owner or
33 interest holder establishes by a preponderance of evidence
34 that the owner or interest holder:

1 (A)(i) in the case of personal property, is not
 2 legally accountable for the conduct giving rise to the
 3 forfeiture, did not acquiesce in it, and did not know and
 4 could not reasonably have known of the conduct or that
 5 the conduct was likely to occur, or

6 (ii) in the case of real property, is not legally
 7 accountable for the conduct giving rise to the
 8 forfeiture, or did not solicit, conspire, or attempt to
 9 commit the conduct giving rise to the forfeiture; and

10 (B) had not acquired and did not stand to acquire
 11 substantial proceeds from the conduct giving rise to its
 12 forfeiture other than as an interest holder in an arms
 13 length commercial transaction; and

14 (C) with respect to conveyances, did not hold the
 15 property jointly or in common with a person whose conduct
 16 gave rise to the forfeiture; and

17 (D) does not hold the property for the benefit of
 18 or as nominee for any person whose conduct gave rise to
 19 its forfeiture, and, if the owner or interest holder
 20 acquired the interest through any such person, the owner
 21 or interest holder acquired it as a bona fide purchaser
 22 for value without knowingly taking part in the conduct
 23 giving rise to the forfeiture; and

24 (E) that the owner or interest holder acquired the
 25 interest:

26 (i) before the commencement of the conduct
 27 giving rise to its forfeiture and the person whose
 28 conduct gave rise to its forfeiture did not have the
 29 authority to convey the interest to a bona fide
 30 purchaser for value at the time of the conduct; or

31 (ii) after the commencement of the conduct
 32 giving rise to its forfeiture, and the owner or
 33 interest holder acquired the interest as a
 34 mortgagee, secured creditor, lien holder, or bona

1 vide purchaser for value without knowledge of the
2 conduct which gave rise to the forfeiture; and
3 (a) in the case of personal property,
4 without knowledge of the seizure of the
5 property for forfeiture; or
6 (b) in the case of real estate, before
7 the filing in the office of the Recorder of
8 Deeds of the county in which the real estate is
9 located of a notice of seizure for forfeiture
10 or a lis pendens notice.

11 (720 ILCS 5/29D-70 new)
12 Sec. 29D-70. Severability. If any clause, sentence,
13 Section, provision, or part of this Article or the
14 application thereof to any person or circumstance shall be
15 adjudged to be unconstitutional, the remainder of this
16 Article or its application to persons or circumstances other
17 than those to which it is held invalid, shall not be affected
18 thereby.

19 Section 17. The Boarding Aircraft With Weapon Act is
20 amended by changing Section 7 as follows:

21 (720 ILCS 545/7) (from Ch. 38, par. 84-7)
22 Sec. 7. Sentence. Violation of this Act is a Class 4
23 felony A-misdemeanor.
24 (Source: P.A. 82-662.)

25 Section 20. The Code of Criminal Procedure of 1963 is
26 amended by changing Sections 108-4, 108A-6, 108B-1, 108B-2,
27 108B-3, 108B-4, 108B-5, 108B-7, 108B-8, 108B-9, 108B-10,
28 108B-11, 108B-12, and 108B-14 and adding Section 108B-7.5 as
29 follows:

1 (725 ILCS 5/108-4) (from Ch. 38, par. 108-4)

2 Sec. 108-4. Issuance of search warrant.

3 (a) All warrants upon written complaint shall state the
4 time and date of issuance and be the warrants of the judge
5 issuing the same and not the warrants of the court in which
6 he is then sitting and such warrants need not bear the seal
7 of the court or clerk thereof. The complaint on which the
8 warrant is issued need not be filed with the clerk of the
9 court nor with the court if there is no clerk until the
10 warrant has been executed or has been returned "not
11 executed".

12 The search warrant upon written complaint may be issued
13 electronically or electromagnetically by use of a facsimile
14 transmission machine and any such warrant shall have the same
15 validity as a written search warrant.

16 (b) Warrant upon oral testimony.

17 (1) General rule. When the offense in connection
18 with which a search warrant is sought constitutes
19 terrorism or any related offense as defined in Article
20 29D of the Criminal Code of 1961, and if the
21 circumstances make it reasonable to dispense, in whole or
22 in part, with a written affidavit, a judge may issue a
23 warrant based upon sworn testimony communicated by
24 telephone or other appropriate means, including facsimile
25 transmission.

26 (2) Application. The person who is requesting the
27 warrant shall prepare a document to be known as a
28 duplicate original warrant and shall read such duplicate
29 original warrant, verbatim, to the judge. The judge shall
30 enter, verbatim, what is so read to the judge on a
31 document to be known as the original warrant. The judge
32 may direct that the warrant be modified.

33 (3) Issuance. If the judge is satisfied that the
34 offense in connection with which the search warrant is

1 sought constitutes terrorism or any related offense as
2 defined in Article 29D of the Criminal Code of 1961, that
3 the circumstances are such as to make it reasonable to
4 dispense with a written affidavit, and that grounds for
5 the application exist or that there is probable cause to
6 believe that they exist, the judge shall order the
7 issuance of a warrant by directing the person requesting
8 the warrant to sign the judge's name on the duplicate
9 original warrant. The judge shall immediately sign the
10 original warrant and enter on the face of the original
11 warrant the exact time when the warrant was ordered to be
12 issued. The finding of probable cause for a warrant upon
13 oral testimony may be based on the same kind of evidence
14 as is sufficient for a warrant upon affidavit.

15 (4) Recording and certification of testimony. When
16 a caller informs the judge that the purpose of the call
17 is to request a warrant, the judge shall immediately
18 place under oath each person whose testimony forms a
19 basis of the application and each person applying for
20 that warrant. If a voice recording device is available,
21 the judge shall record by means of the device all of the
22 call after the caller informs the judge that the purpose
23 of the call is to request a warrant, otherwise a
24 stenographic or longhand verbatim record shall be made.
25 If a voice recording device is used or a stenographic
26 record made, the judge shall have the record transcribed,
27 shall certify the accuracy of the transcription, and
28 shall file a copy of the original record and the
29 transcription with the court. If a longhand verbatim
30 record is made, the judge shall file a signed copy with
31 the court.

32 (5) Contents. The contents of a warrant upon oral
33 testimony shall be the same as the contents of a warrant
34 upon affidavit.

1 (6) Additional rule for execution. The person who
2 executes the warrant shall enter the exact time of
3 execution on the face of the duplicate original warrant.

4 (7) Motion to suppress based on failure to obtain a
5 written affidavit. Evidence obtained pursuant to a
6 warrant issued under this subsection (b) is not subject
7 to a motion to suppress on the ground that the
8 circumstances were not such as to make it reasonable to
9 dispense with a written affidavit, absent a finding of
10 bad faith. All other grounds to move to suppress are
11 preserved.

12 (8) This subsection (b) is inoperative on and after
13 January 1, 2005.

14 (9) No evidence obtained pursuant to this subsection
15 (b) shall be inadmissible in a court of law by virtue of
16 subdivision (8).

17 (Source: P.A. 87-523.)

18 (725 ILCS 5/108A-6) (from Ch. 38, par. 108A-6)

19 Sec. 108A-6. Emergency Exception to Procedures. (a)
20 Notwithstanding any other provisions of this Article, any
21 investigative or law enforcement officer, upon approval of a
22 State's Attorney, or without it if a reasonable effort has
23 been made to contact the appropriate State's Attorney, may
24 use an eavesdropping device in an emergency situation as
25 defined in this Section. Such use must be in accordance with
26 the provisions of this Section and may be allowed only where
27 the officer reasonably believes that an order permitting the
28 use of the device would issue were there a prior hearing.

29 An emergency situation exists when, without previous
30 notice to the law enforcement officer sufficient to obtain
31 prior judicial approval, the conversation to be overheard or
32 recorded will occur within a short period of time, the use of
33 the device is necessary for the protection of the law

1 enforcement officer or it will occur in a situation involving
2 a clear and present danger of imminent death or great bodily
3 harm to persons resulting from: (1) a kidnapping or the
4 holding of a hostage by force or the threat of the imminent
5 use of force; or (2) the occupation by force or the threat of
6 the imminent use of force of any premises, place, vehicle,
7 vessel or aircraft; or (3) any violation of Article 29D.

8 (b) In all such cases, an application for an order
9 approving the previous or continuing use of an eavesdropping
10 device must be made within 48 hours of the commencement of
11 such use. In the absence of such an order, or upon its
12 denial, any continuing use shall immediately terminate.

13 In order to approve such emergency use, the judge must
14 make a determination (1) that he would have granted an order
15 had the information been before the court prior to the use of
16 the device and (2) that there was an emergency situation as
17 defined in this Section.

18 (c) In the event that an application for approval under
19 this Section is denied the contents of the conversations
20 overheard or recorded shall be treated as having been
21 obtained in violation of this Article.

22 (Source: P.A. 86-763.)

23 (725 ILCS 5/108B-1) (from Ch. 38, par. 108B-1)

24 Sec. 108B-1. Definitions. For the purpose of this
25 Article:

26 (a) "Aggrieved person" means a person who was a party to
27 any intercepted private ~~wire--or--oral~~ communication or any
28 person against whom the intercept was directed.

29 (b) "Chief Judge" means, when referring to a judge
30 authorized to receive application for, and to enter orders
31 authorizing, interceptions of private ~~oral~~ communications,
32 the Chief Judge of the Circuit Court wherein the application
33 for order of interception is filed, or a Circuit Judge

1 designated by the Chief Judge to enter these orders. In
2 circuits other than the Cook County Circuit, "Chief Judge"
3 also means, when referring to a judge authorized to receive
4 application for, and to enter orders authorizing,
5 interceptions of private ~~oral~~ communications, an Associate
6 Judge authorized by Supreme Court Rule to try felony cases
7 who is assigned by the Chief Judge to enter these orders.
8 After assignment by the Chief Judge, an Associate Judge shall
9 have plenary authority to issue orders without additional
10 authorization for each specific application made to him by
11 the State's Attorney until the time the Associate Judge's
12 power is rescinded by the Chief Judge.

13 (c) "Communications common carrier" means any person
14 engaged as a common carrier ~~for-hire~~ in the transmission of
15 communications by wire or radio, not including radio
16 broadcasting.

17 (d) "Contents" includes information obtained from a
18 private ~~oral~~ communication concerning the existence,
19 substance, purport or meaning of the communication, or the
20 identity of a party of the communication.

21 (e) "Court of competent jurisdiction" means any circuit
22 court.

23 (f) "Department" means Illinois Department of State
24 Police.

25 (g) "Director" means Director of the Illinois Department
26 of State Police.

27 (g-1) "Electronic communication" means any transfer of
28 signs, signals, writing, images, sounds, data, or
29 intelligence of any nature transmitted in whole or part by a
30 wire, radio, pager, computer, or electromagnetic, photo
31 electronic, or photo optical system where the sending and
32 receiving parties intend the electronic communication to be
33 private and the interception, recording, or transcription of
34 the electronic communication is accomplished by a device in a

1 surreptitious manner contrary to the provisions of this
2 Article. "Electronic communication" does not include:

3 (1) any wire or oral communication; or

4 (2) any communication from a tracking device.

5 (h) "Electronic criminal surveillance device" or
6 "eavesdropping device" means any device or apparatus, or
7 computer program including an induction coil, that can be
8 used to intercept private communication human--speech other
9 than:

10 (1) Any telephone, telegraph or telecommunication
11 instrument, equipment or facility, or any component of
12 it, furnished to the subscriber or user by a
13 communication common carrier in the ordinary course of
14 its business, or purchased by any person and being used
15 by the subscriber, user or person in the ordinary course
16 of his business, or being used by a communications common
17 carrier in the ordinary course of its business, or by an
18 investigative or law enforcement officer in the ordinary
19 course of his duties; or

20 (2) A hearing aid or similar device being used to
21 correct subnormal hearing to not better than normal.

22 (i) "Electronic criminal surveillance officer" means any
23 law enforcement officer of the United States or of the State
24 or political subdivision of it, or of another State, or of a
25 political subdivision of it, who is certified by the Illinois
26 Department of State Police to intercept private oral
27 communications.

28 (j) "In-progress trace" means to determine the origin of
29 a wire communication to a telephone or telegraph instrument,
30 equipment or facility during the course of the communication.

31 (k) "Intercept" means the aural or other acquisition of
32 the contents of any private oral communication through the
33 use of any electronic criminal surveillance device.

34 (l) "Journalist" means a person engaged in, connected

1 with, or employed by news media, including newspapers,
2 magazines, press associations, news agencies, wire services,
3 radio, television or other similar media, for the purpose of
4 gathering, processing, transmitting, compiling, editing or
5 disseminating news for the general public.

6 (m) "Law enforcement agency" means any law enforcement
7 agency of the United States, or the State or a political
8 subdivision of it.

9 (n) "Oral communication" means human speech used to
10 communicate by one party to another, in person, by wire
11 communication or by any other means.

12 (o) "~~Private oral~~ communication" means a wire, ~~or~~ oral,
13 or electronic communication uttered or transmitted by a
14 person exhibiting an expectation that the communication is
15 not subject to interception, under circumstances reasonably
16 justifying the expectation. Circumstances that reasonably
17 justify the expectation that a communication is not subject
18 to interception include the use of a cordless telephone or
19 cellular communication device.

20 (p) "Wire communication" means any human speech used to
21 communicate by one party to another in whole or in part
22 through the use of facilities for the transmission of
23 communications by wire, cable or other like connection
24 between the point of origin and the point of reception
25 furnished or operated by a communications common carrier.

26 (q) "Privileged communications" means a private ~~oral~~
27 communication between:

28 (1) a licensed and practicing physician and a
29 patient within the scope of the profession of the
30 physician;

31 (2) a licensed and practicing psychologist to a
32 patient within the scope of the profession of the
33 psychologist;

34 (3) a licensed and practicing attorney-at-law and a

1 client within the scope of the profession of the lawyer;
2 (4) a practicing clergyman and a confidant within
3 the scope of the profession of the clergyman;
4 (5) a practicing journalist within the scope of his
5 profession;
6 (6) spouses within the scope of their marital
7 relationship; or
8 (7) a licensed and practicing social worker to a
9 client within the scope of the profession of the social
10 worker.

11 (Source: P.A. 86-391; 86-763; 86-1028; 86-1206; 87-530.)

12 (725 ILCS 5/108B-2) (from Ch. 38, par. 108B-2)

13 Sec. 108B-2. Request for application for interception.

14 (a) A State's Attorney may apply for an order authorizing
15 interception of private ~~oral~~ communications in accordance
16 with the provisions of this Article.

17 (b) The head of a law enforcement agency, including, for
18 purposes of this subsection, the acting head of such law
19 enforcement agency if the head of such agency is absent or
20 unable to serve, may request that a State's Attorney apply
21 for an order authorizing interception of private ~~oral~~
22 communications in accordance with the provisions of this
23 Article.

24 Upon request of a law enforcement agency, the Department
25 may provide technical assistance to such an agency which is
26 authorized to conduct an interception.

27 (Source: P.A. 85-1203.)

28 (725 ILCS 5/108B-3) (from Ch. 38, par. 108B-3)

29 Sec. 108B-3. Authorization for the interception of
30 private ~~oral~~ communication.

31 (a) The State's Attorney, or a person designated in
32 writing or by law to act for him and to perform his duties

1 during his absence or disability, may authorize, in writing,
2 an ex parte application to the chief judge of a court of
3 competent jurisdiction for an order authorizing the
4 interception of a private oral communication when no party
5 has consented to the interception and (i) the interception
6 may provide evidence of, or may assist in the apprehension of
7 a person who has committed, is committing or is about to
8 commit, a violation of Section 8-1.1 (solicitation of
9 murder), 8-1.2 (solicitation of murder for hire), 9-1 (first
10 degree murder), or 29B-1 (money laundering) of the Criminal
11 Code of 1961, Section 401, 401.1 (controlled substance
12 trafficking), 405, 405.1 (criminal drug conspiracy) or 407 of
13 the Illinois Controlled Substances Act, a violation of
14 Section 24-2.1, 24-2.2, 24-3, 24-3.1, 24-3.3, 24-3.4, 24-4,
15 or 24-5 or subsection 24-1(a)(4), 24-1(a)(6), 24-1(a)(7),
16 24-1(a)(9), 24-1(a)(10), or 24-1(c) of the Criminal Code of
17 1961 or conspiracy to commit money laundering or conspiracy
18 to commit first degree murder; (ii) in response to a clear
19 and present danger of imminent death or great bodily harm to
20 persons resulting from: (1) a kidnapping or the holding of a
21 hostage by force or the threat of the imminent use of force;
22 or (2) the occupation by force or the threat of the imminent
23 use of force of any premises, place, vehicle, vessel or
24 aircraft; (iii) to aid an investigation or prosecution of a
25 civil action brought under the Illinois Streetgang Terrorism
26 Omnibus Prevention Act when there is probable cause to
27 believe the interception of the private oral communication
28 will provide evidence that a streetgang is committing, has
29 committed, or will commit a second or subsequent gang-related
30 offense or that the interception of the private oral
31 communication will aid in the collection of a judgment
32 entered under that Act; or (iv) upon information and belief
33 that a streetgang has committed, is committing, or is about
34 to commit a felony.

1 (b) The State's Attorney or a person designated in
2 writing or by law to act for the State's Attorney and to
3 perform his or her duties during his or her absence or
4 disability, may authorize, in writing, an ex parte
5 application to the chief judge of a circuit court for an
6 order authorizing the interception of a private communication
7 when no party has consented to the interception and the
8 interception may provide evidence of, or may assist in the
9 apprehension of a person who has committed, is committing or
10 is about to commit, a violation of an offense under Article
11 29D of the Criminal Code of 1961.

12 (b-1) Subsection (b) is inoperative on and after January
13 1, 2005.

14 (b-2) No conversations recorded or monitored pursuant to
15 subsection (b) shall be made inadmissible in a court of law
16 by virtue of subsection (b-1).

17 (c) As used in this Section, "streetgang" and
18 "gang-related" have the meanings ascribed to them in Section
19 10 of the Illinois Streetgang Terrorism Omnibus Prevention
20 Act.

21 (Source: P.A. 88-249; 88-677, eff. 12-15-94.)

22 (725 ILCS 5/108B-4) (from Ch. 38, par. 108B-4)

23 Sec. 108B-4. Application for order of interception. (a)
24 Each application for an order of authorization to intercept a
25 private ~~oral~~ communication shall be made in writing upon oath
26 or affirmation and shall include:

27 (1) The authority of the applicant to make the
28 application;

29 (2) The identity of the electronic criminal surveillance
30 officer for whom the authority to intercept a private ~~oral~~
31 communication is sought;

32 (3) The facts relied upon by the applicant including:

33 (i) The identity of the particular person, if known, who

1 is committing, is about to commit, or has committed the
2 offense and whose private communication is to be intercepted;

3 (ii) The details as to the particular offense that has
4 been, is being, or is about to be committed;

5 (iii) The particular type of private communication to be
6 intercepted;

7 (iv) Except as provided in Section 108B-7.5, a showing
8 that there is probable cause to believe that the private
9 communication will be communicated on the particular wire or
10 electronic communication facility involved or at the
11 particular place where the oral communication is to be
12 intercepted;

13 (v) Except as provided in Section 108B-7.5, the
14 character and location of the particular wire or electronic
15 communication facilities involved or the particular place
16 where the oral communication is to be intercepted;

17 (vi) The objective of the investigation;

18 (vii) A statement of the period of time for which the
19 interception is required to be maintained, and, if the
20 objective of the investigation is such that the authorization
21 for interception should not automatically terminate when the
22 described type of communication has been first obtained, a
23 particular statement of facts establishing probable cause to
24 believe that additional communications of the same type will
25 continue to occur;

26 (viii) A particular statement of facts showing that
27 other normal investigative procedures with respect to the
28 offense have been tried and have failed, or reasonably appear
29 to be unlikely to succeed if tried, or are too dangerous to
30 employ;

31 (4) Where the application is for the extension of an
32 order, a statement of facts showing the results obtained from
33 the interception, or a reasonable explanation of the failure
34 to obtain results;

1 (5) A statement of the facts concerning all previous
2 applications known to the applicant made to any court for
3 authorization to intercept a private an-oral, -electronic, -or
4 wire communication involving any of the same facilities or
5 places specified in the application or involving any person
6 whose communication is to be intercepted, and the action
7 taken by the court on each application;

8 (6) A proposed order of authorization for consideration
9 by the judge; and

10 (7) Such additional statements of facts in support of
11 the application on which the applicant may rely or as the
12 chief judge may require.

13 (b) As part of the consideration of that part of an
14 application for which there is no corroborative evidence
15 offered, the chief judge may inquire in camera as to the
16 identity of any informant or request any other additional
17 information concerning the basis upon which the State's
18 Attorney, or the head of the law enforcement agency has
19 relied in making an application or a request for application
20 for the order of authorization which the chief judge finds
21 relevant to the determination of probable cause under this
22 Article.

23 (Source: P.A. 85-1203.)

24 (725 ILCS 5/108B-5) (from Ch. 38, par. 108B-5)

25 Sec. 108B-5. Requirements for order of interception.
26 Upon consideration of an application, the chief judge may
27 enter an ex parte order, as requested or as modified,
28 authorizing the interception of a private oral communication,
29 if the chief judge determines on the basis of the application
30 submitted by the applicant, that:

31 (1) There is probable cause for belief that (a) the
32 person whose private communication is to be intercepted is
33 committing, has committed, or is about to commit an offense

1 enumerated in Section 108B-3, or (b) the facilities from
2 which, or the place where, the private oral communication is
3 to be intercepted, is, has been, or is about to be used in
4 connection with the commission of the offense, or is leased
5 to, listed in the name of, or commonly used by, the person;
6 and

7 (2) There is probable cause for belief that a particular
8 private communication concerning such offense may be obtained
9 through the interception; and

10 (3) Normal investigative procedures with respect to the
11 offense have been tried and have failed or reasonably appear
12 to be unlikely to succeed if tried or too dangerous to
13 employ; and

14 (4) The electronic criminal surveillance officers to be
15 authorized to supervise the interception of the private oral
16 communication have been certified by the Department.

17 (b) In the case of an application, other than for an
18 extension, for an order to intercept a communication of a
19 person or on a wire communication facility that was the
20 subject of a previous order authorizing interception, the
21 application shall be based upon new evidence or information
22 different from and in addition to the evidence or information
23 offered to support the prior order, regardless of whether the
24 evidence was derived from prior interceptions or from other
25 sources.

26 (c) The chief judge may authorize interception of a
27 private oral communication anywhere in the judicial circuit.
28 If the court authorizes the use of an eavesdropping device
29 with respect to a vehicle, watercraft, or aircraft that is
30 within the judicial circuit at the time the order is issued,
31 the order may provide that the interception may continue
32 anywhere within the State if the vehicle, watercraft, or
33 aircraft leaves the judicial circuit.

34 (Source: P.A. 85-1203.)

1 (725 ILCS 5/108B-7) (from Ch. 38, par. 108B-7)

2 Sec. 108B-7. Contents of order for use of eavesdropping
3 device. (a) Each order authorizing the interception of a
4 private ~~oral~~ communication shall state:

5 (1) The chief judge is authorized to issue the order;

6 (2) The identity of, or a particular description of, the
7 person, if known, whose private communications are to be
8 intercepted;

9 (3) The character and location of the particular wire
10 communication facilities as to which, or the particular place
11 of the communications as to which, authority to intercept is
12 granted;

13 (4) A particular description of the type of private
14 communication to be intercepted and a statement of the
15 particular offense to which it relates;

16 (5) The identity and certification of the electronic
17 criminal surveillance officers to whom the authority to
18 intercept a private ~~oral~~ communication is given and the
19 identity of the person who authorized the application; and

20 (6) The period of time during which the interception is
21 authorized, including a statement as to whether or not the
22 interception shall automatically terminate when the described
23 communication has been first obtained.

24 (b) No order entered under this Section shall authorize
25 the interception of private ~~oral~~ communications for a period
26 of time in excess of that necessary to achieve the objective
27 of the authorization. Every order entered under this Section
28 shall require that the interception begin and terminate as
29 soon as practicable and be conducted in such a manner as to
30 minimize the interception of communications not otherwise
31 subject to interception. No order, other than for an
32 extension, entered under this Section may authorize the
33 interception of private ~~oral~~ communications for any period
34 exceeding 30 days. Extensions of an order may be granted for

1 periods of not more than 30 days. No extension shall be
2 granted unless an application for it is made in accordance
3 with Section 108B-4 and the judge makes the findings required
4 by Section 108B-5 and, where necessary, Section 108B-6.

5 (c) Whenever an order authorizing an interception is
6 entered, the order shall require reports to be made to the
7 chief judge who issued the order showing what progress has
8 been made toward achievement of the authorized objective and
9 the need for continued interception. The reports shall be
10 made at such intervals as the judge may require.

11 (d) An order authorizing the interception of a private
12 oral communication shall, upon request of the applicant,
13 direct that a communications common carrier, landlord, owner,
14 building operator, custodian, or other person furnish the
15 applicant forthwith all information, facilities and technical
16 assistance necessary to accomplish the interception
17 unobtrusively and with a minimum of interference with the
18 services that the carrier, owner, building operator,
19 landlord, custodian, or person is affording the person whose
20 communication is to be intercepted. The obligation of a
21 communications common carrier under the order may include
22 conducting an in-progress trace during an interception. Any
23 communications common carrier, landlord, owner, building
24 operator, custodian, or person furnishing the facilities or
25 technical assistance shall be compensated by the applicant at
26 the prevailing rates.

27 (e) A communications common carrier, landlord, owner,
28 building operator, custodian, or other person who has been
29 provided with an order issued under this Article shall not
30 disclose the existence of the order of interception, or of a
31 device used to accomplish the interception unless:

32 (1) He is required to do so by legal process; and

33 (2) He has given prior notification to the State's
34 Attorney, who has authorized the application for the order.

1 (f) An order authorizing the interception of a private
2 ~~oral~~ communication shall, upon the request of the applicant,
3 authorize the entry into the place or facilities by
4 electronic criminal surveillance officers as often as
5 necessary for the purpose of installing, maintaining or
6 removing an intercepting device where the entry is necessary
7 to conduct or complete the interception. The chief judge who
8 issues the order shall be notified of the fact of each entry
9 prior to entry, if practicable, and, in any case, within 48
10 hours of entry.

11 (g) (1) Notwithstanding any provision of this Article,
12 any chief judge of a court of competent jurisdiction to which
13 any application is made under this Article may take any
14 evidence, make any finding, or issue any order to conform the
15 proceedings or the issuance of any order to the Constitution
16 of the United States, or of any law of the United States or
17 to the Constitution of the State of Illinois or to the laws
18 of Illinois.

19 (2) When the language of this Article is the same or
20 similar to the language of Title III of P.L. 90-351 (82 Stat.
21 211 et seq., codified at, 18 U.S.C. 2510 et seq.), the courts
22 of this State in construing this Article shall follow the
23 construction given to Federal law by the United States
24 Supreme Court or United States Court of Appeals for the
25 Seventh Circuit.

26 (Source: P.A. 85-1203.)

27 (725 ILCS 5/108B-7.5 new)

28 Sec. 108B-7.5. Applicability.

29 (a) The requirements of subdivisions (a)(3)(iv) and
30 (a)(3)(v) of Section 108B-4, subdivision (1)(b) of Section
31 108B-5, and subdivision (a)(3) of Section 108B-7 of this
32 Article relating to the specification of the facilities from
33 which, or the place where, the communication is to be

1 intercepted do not apply if:

2 (1) in the case of an application with respect to
3 the interception of an oral communication:

4 (A) the application is by the State's
5 Attorney, or a person designated in writing or by
6 law to act for the State's Attorney and to perform
7 his or her duties during his or her absence or
8 disability;

9 (B) the application contains a full and
10 complete statement as to why such specification is
11 not practical and identifies the person committing
12 the offense and whose communications are to be
13 intercepted;

14 (C) the judge finds that such specification is
15 not practical; and

16 (D) the order sought is in connection with an
17 investigation of a violation of Article 29D of the
18 Criminal Code of 1961.

19 (2) in the case of an application with respect to a
20 wire or electronic communication:

21 (A) the application is by the State's
22 Attorney, or a person designated in writing or by
23 law to act for the State's Attorney and to perform
24 his or her duties during his or her absence or
25 disability;

26 (B) the application identifies the person
27 believed to be committing the offense and whose
28 communications are to be intercepted and the
29 applicant makes a showing that there is probable
30 cause to believe that the person's actions could
31 have the effect of thwarting interception from a
32 specified facility;

33 (C) the judge finds that such showing has been
34 adequately made;

1 (D) the order authorizing or approving the
 2 interception is limited to interception only for
 3 such time as it is reasonable to presume that the
 4 person identified in the application is or was
 5 reasonably proximate to the instrument through which
 6 such communication will be or was transmitted; and

7 (E) the order sought is in connection with an
 8 investigation of a violation of Article 29D of the
 9 Criminal Code of 1961.

10 (b) An interception of a communication under an order
 11 with respect to which the requirements of subdivisions
 12 (a)(3)(iv) and (a)(3)(v) of Section 108B-4, subdivision
 13 (1)(b) of Section 108B-5, and subdivision (a)(3) of Section
 14 108B-7 of this Article do not apply by reason of this Section
 15 shall not begin until the place where the communication is to
 16 be intercepted is ascertained by the person implementing the
 17 interception order. A provider of wire or electronic
 18 communications service that has received an order as provided
 19 for in subdivision (a)(2) may upon notice to the People move
 20 the court to modify or quash the order on the ground that its
 21 assistance with respect to the interception cannot be
 22 performed in a timely or reasonable fashion. The court shall
 23 decide such a motion expeditiously.

24 (725 ILCS 5/108B-8) (from Ch. 38, par. 108B-8)
 25 Sec. 108B-8. Emergency use of eavesdropping device. (a)
 26 Whenever, upon informal application by the State's Attorney,
 27 a chief judge of competent jurisdiction determines that:

28 (1) There may be grounds upon which an order could be
 29 issued under this Article;

30 (2) There is probable cause to believe that an emergency
 31 situation exists with respect to the investigation of an
 32 offense enumerated in Section 108B-3; and

33 (3) There is probable cause to believe that a

1 substantial danger to life or limb exists justifying the
2 authorization for immediate interception of a private oral
3 communication before formal application for an order could
4 with due diligence be submitted to him and acted upon; the
5 chief judge may grant oral approval for an interception,
6 without an order, conditioned upon the filing with him,
7 within 48 hours, of an application for an order under Section
8 108B-4 which shall also recite the oral approval under this
9 Section and be retroactive to the time of the oral approval.

10 (b) Interception under oral approval under this Section
11 shall immediately terminate when the communication sought is
12 obtained or when the application for an order is denied,
13 whichever is earlier.

14 (c) In the event no formal application for an order is
15 subsequently made under this Section, the content of any
16 private oral communication intercepted under oral approval
17 under this Section shall be treated as having been obtained
18 in violation of this Article.

19 (d) In the event no application for an order is made
20 under this Section or an application made under this Section
21 is subsequently denied, the judge shall cause an inventory to
22 be served under Section 108B-11 of this Article and shall
23 require the tape or other recording of the intercepted
24 communication to be delivered to, and sealed by, the judge.
25 The evidence shall be retained by the court, and it shall not
26 be used or disclosed in any legal proceeding, except a civil
27 action brought by an aggrieved person under Section 14-6 of
28 the Criminal Code of 1961, or as otherwise authorized by the
29 order of a court of competent jurisdiction. In addition to
30 other remedies or penalties provided by law, failure to
31 deliver any tape or other recording to the chief judge shall
32 be punishable as contempt by the judge directing the
33 delivery.

34 (Source: P.A. 85-1203.)

1 (725 ILCS 5/108B-9) (from Ch. 38, par. 108B-9)
2 Sec. 108B-9. Recordings, records and custody.

3 (a) Any private ~~oral~~ communication intercepted in
4 accordance with this Article shall, if practicable, be
5 recorded by tape or other comparable method. The recording
6 shall, if practicable, be done in such a way as will protect
7 it from editing or other alteration. During an interception,
8 the interception shall be carried out by an electronic
9 criminal surveillance officer, and, if practicable, such
10 officer shall keep a signed, written record, including:

11 (1) The date and hours of surveillance;

12 (2) The time and duration of each intercepted
13 communication;

14 (3) The parties, if known, to each intercepted
15 conversation; and

16 (4) A summary of the contents of each intercepted
17 communication.

18 (b) Immediately upon the expiration of the order or its
19 extensions, the tapes and other recordings shall be
20 transferred to the chief judge issuing the order and sealed
21 under his direction. Custody of the tapes, or other
22 recordings, shall be maintained wherever the chief judge
23 directs. They shall not be destroyed except upon an order of
24 a court of competent jurisdiction and in any event shall be
25 kept for 10 years. Duplicate tapes or other recordings may
26 be made for disclosure or use under paragraph (a) of Section
27 108B-2a of this Article. The presence of the seal provided
28 by this Section, or a satisfactory explanation for its
29 absence, shall be a prerequisite for the disclosure of the
30 contents of any private ~~oral~~ communication, or evidence
31 derived from it, under paragraph (b) of Section 108B-2a of
32 this Article.

33 (Source: P.A. 86-763.)

1 (725 ILCS 5/108B-10) (from Ch. 38, par. 108B-10)

2 Sec. 108B-10. Applications, orders, and custody.

3 (a) Applications made and orders granted under this
4 Article for the interception of private oral communications
5 shall be sealed by the chief judge issuing or denying them
6 and held in custody as the judge shall direct. The
7 applications and orders shall be kept for a period of 10
8 years. Destruction of the applications and orders prior to
9 the expiration of that period of time may be made only upon
10 the order of a court of competent jurisdiction. Disclosure
11 of the applications and orders may be ordered by a court of
12 competent jurisdiction on a showing of good cause.

13 (b) The electronic criminal surveillance officer shall
14 retain a copy of applications and orders for the interception
15 of private oral communications. The applications and orders
16 shall be kept for a period of 10 years. Destruction of the
17 applications and orders prior to the expiration of that
18 period of time may be made only upon an order of a court of
19 competent jurisdiction. Disclosure and use of the
20 applications and orders may be made by an electronic criminal
21 surveillance officer only in the proper performance of his
22 official duties.

23 (c) In addition to any other remedies or penalties
24 provided by law, any violation of this Section shall be
25 punishable as contempt of court.

26 (Source: P.A. 85-1203.)

27 (725 ILCS 5/108B-11) (from Ch. 38, par. 108B-11)

28 Sec. 108B-11. Inventory.

29 (a) Within a reasonable period of time but not later than
30 90 days after the termination of the period of the order, or
31 its extensions, or the date of the denial of an application
32 made under Section 108B-8, the chief judge issuing or denying
33 the order or extension shall cause an inventory to be served

1 on any person:

2 (1) Named in the order;

3 (2) Arrested as a result of the interception of his
4 private oral communication;

5 (3) Indicted or otherwise charged as a result of the
6 interception of his private oral communication;

7 (4) Any person whose private oral communication was
8 intercepted and who the judge issuing or denying the order or
9 application may in his discretion determine should be
10 informed in the interest of justice.

11 (b) The inventory under this Section shall include:

12 (1) Notice of the entry of the order or the application
13 for an order denied under Section 108B-8;

14 (2) The date of the entry of the order or the denial of
15 an order applied for under Section 108B-8;

16 (3) The period of authorized or disapproved
17 interception; and

18 (4) The fact that during the period a private oral
19 communication was or was not intercepted.

20 (c) A court of competent jurisdiction, upon filing of a
21 motion, may in its discretion make available to those persons
22 or their attorneys for inspection those portions of the
23 intercepted communications, applications and orders as the
24 court determines to be in the interest of justice.

25 (d) On an ex parte showing of good cause to a court of
26 competent jurisdiction, the serving of the inventories
27 required by this Section may be postponed for a period not to
28 exceed 12 months.

29 (Source: P.A. 85-1203.)

30 (725 ILCS 5/108B-12) (from Ch. 38, par. 108B-12)
31 Sec. 108B-12. Approval, notice, suppression.

32 (a) If an electronic criminal surveillance officer,
33 while intercepting a private oral communication in accordance

1 with the provision of this Article, intercepts a private oral
2 communication that relates to an offense other than an
3 offense enumerated in Section 108B-3 of the Act, or relates
4 to an offense enumerated in Section 108B-3 but not specified
5 in the order of authorization, the State's Attorney, or a
6 person designated in writing or by law to act for him, may,
7 in order to permit the disclosure or use of the information
8 under Section 108B-2a of this Act, make a motion for an order
9 approving the interception. The chief judge of a court of
10 competent jurisdiction shall enter an order approving the
11 interception if he finds that at the time of the application,
12 there existed probable cause to believe that a person whose
13 private oral communication was intercepted was committing or
14 had committed an offense and the content of the communication
15 relates to that offense, and that the communication was
16 otherwise intercepted in accordance with the provisions of
17 this Article.

18 (b) An intercepted private oral communication, or
19 evidence derived from it, may not be received in evidence or
20 otherwise disclosed in an official proceeding unless each
21 aggrieved person who is a party in the official proceeding,
22 including any proceeding before a legislative, judicial,
23 administrative or other governmental agency or official
24 authorized to hear evidence under oath or other person taking
25 testimony or depositions in any such proceeding, other than a
26 grand jury, has, not less than 10 days before the official
27 proceeding, been furnished with a copy of the court order,
28 and the accompanying application, under which the
29 interception was authorized or approved. The 10 day period
30 may be waived by the presiding official if he finds that it
31 was not practicable to furnish the person with the
32 information 10 days before the proceeding, and that the
33 person will not be or has not been prejudiced by delay in
34 receiving the information.

1 (c) An aggrieved person in an official proceeding may
2 make a motion under this Section to suppress the contents of
3 an intercepted private oral communication, or evidence
4 derived from it, on the grounds that:

5 (1) The communication was unlawfully intercepted;

6 (2) The order of authorization or approval under which
7 it was intercepted is insufficient on its face; or

8 (3) The interception was not made in conformity with the
9 order of authorization or approval or at the time of the
10 application there was not probable cause to believe that the
11 aggrieved person was committing or had committed the offense
12 to which the content of the private communication relates.

13 (d) If a motion under this Section duly alleges that the
14 evidence sought to be suppressed in an official proceeding,
15 including a grand jury, has been derived from an unlawfully
16 intercepted private oral communication, and if the aggrieved
17 person who is a party has not been served with notice of the
18 interception under this Section, the opponent of the
19 allegation shall, after conducting a thorough search of its
20 files, affirm or deny the occurrence of the alleged unlawful
21 interception, but no motion shall be considered if the
22 alleged unlawful interception took place more than 5 years
23 before the event to which the evidence relates.

24 (e) Where a motion is duly made under this Section prior
25 to the appearance of a witness before a grand jury, the
26 opponent of the motion may make such applications and orders
27 as it has available to the chief judge of a court of
28 competent jurisdiction in camera, and if the judge determines
29 that there is no defect in them sufficient on its face to
30 render them invalid, the judge shall inform the witness that
31 he has not been the subject of an unlawful interception. If
32 the judge determines that there is a defect in them
33 sufficient on its face to render them invalid, he shall enter
34 an order prohibiting any question being put to the witness

1 based on the unlawful interception.

2 (f) Motions under this Section shall be made prior to
3 the official proceeding unless there was no opportunity to
4 make the motion or unless the aggrieved person who is a party
5 was not aware of the grounds for the motion. Motions by
6 co-indictees shall, on motion of the People, be heard in a
7 single consolidated hearing.

8 (g) A chief judge of a court of competent jurisdiction,
9 upon the filing of a motion by an aggrieved person who is a
10 party under this Section, except before a grand jury, may
11 make available for inspection by the aggrieved person or his
12 attorney such portions of the intercepted private
13 communications, applications and orders or the evidence
14 derived from them as the judge determines to be in the
15 interest of justice.

16 (h) If a motion under this Section is granted, the
17 intercepted private oral communication, and evidence derived
18 from it, may not be received in evidence in an official
19 proceeding, including a grand jury.

20 (i) In addition to any other right of appeal, the People
21 shall have the right to appeal from an order granting a
22 motion to suppress if the official to whom the order
23 authorizing the interception was granted certifies to the
24 court that the appeal is not taken for purposes of delay.
25 The appeal shall otherwise be taken in accordance with the
26 law.

27 (Source: P.A. 85-1203.)

28 (725 ILCS 5/108B-14) (from Ch. 38, par. 108B-14)

29 Sec. 108B-14. Training.

30 (a) The Director of the Illinois Department of State
31 Police shall:

32 (1) Establish a course of training in the legal,
33 practical, and technical aspects of the interception of

1 private oral communications and related investigation and
2 prosecution techniques;

3 (2) Issue regulations as he finds necessary for the
4 training program;

5 (3) In cooperation with the Illinois Law
6 Enforcement Training Standards Board, set minimum
7 standards for certification and periodic recertification
8 of electronic criminal surveillance officers as eligible
9 to apply for orders authorizing the interception of
10 private oral communications, to conduct the
11 interceptions, and to use the private communications or
12 evidence derived from them in official proceedings; and

13 (4) In cooperation with the Illinois Law
14 Enforcement Training Standards Board, revoke or suspend
15 the certification of any electronic criminal surveillance
16 officer who has violated any law relating to electronic
17 criminal surveillance, or any of the guidelines
18 established by the Department for conducting electronic
19 criminal surveillance.

20 (b) The Executive Director of the Illinois Law
21 Enforcement Training Standards Board shall:

22 (1) Pursuant to the Illinois Police Training Act,
23 review the course of training prescribed by the
24 Department for the purpose of certification relating to
25 reimbursement of expenses incurred by local law
26 enforcement agencies participating in the electronic
27 criminal surveillance officer training process, and

28 (2) Assist the Department in establishing minimum
29 standards for certification and periodic recertification
30 of electronic criminal surveillance officers as being
31 eligible to apply for orders authorizing the interception
32 of private oral communications, to conduct the
33 interpretations, and to use the communications or
34 evidence derived from them in official proceedings.

1 (Source: P.A. 88-586, eff. 8-12-94.)

2 Section 21. The Statewide Grand Jury Act is amended by
3 changing Sections 2, 3, 4, and 10 as follows:

4 (725 ILCS 215/2) (from Ch. 38, par. 1702)

5 Sec. 2. (a) County grand juries and State's Attorneys
6 have always had and shall continue to have primary
7 responsibility for investigating, indicting, and prosecuting
8 persons who violate the criminal laws of the State of
9 Illinois. However, in recent years organized terrorist
10 activity directed against innocent civilians and certain
11 criminal enterprises have developed that require
12 investigation, indictment, and prosecution on a statewide or
13 multicounty level. The criminal These enterprises exist as a
14 result of the allure of profitability present in narcotic
15 activity, the unlawful sale and transfer of firearms, and
16 streetgang related felonies and organized terrorist activity
17 is supported by the contribution of money and expert
18 assistance from geographically diverse sources. In order to
19 shut off the life blood of terrorism and weaken or eliminate
20 the criminal these enterprises, assets, and property used to
21 further these offenses must be frozen, and any the profit
22 must be removed. State statutes exist that can accomplish
23 that goal. Among them are the offense of money laundering,
24 the Cannabis and Controlled Substances Tax Act, violations of
25 Article 29D of the Criminal Code of 1961, the Narcotics
26 Profit Forfeiture Act, and gunrunning. Local prosecutors
27 need investigative personnel and specialized training to
28 attack and eliminate these profits. In light of the
29 transitory and complex nature of conduct that constitutes
30 these criminal activities, the many diverse property
31 interests that may be used, acquired directly or indirectly
32 as a result of these criminal activities, and the many places

1 that illegally obtained property may be located, it is the
2 purpose of this Act to create a limited, multicounty
3 Statewide Grand Jury with authority to investigate, indict,
4 and prosecute: narcotic activity, including cannabis and
5 controlled substance trafficking, narcotics racketeering,
6 money laundering, and violations of the Cannabis and
7 Controlled Substances Tax Act, and violations of Article 29D
8 of the Criminal Code of 1961; the unlawful sale and transfer
9 of firearms; gunrunning; and streetgang related felonies.

10 (b) A Statewide Grand Jury may also investigate, indict,
11 and prosecute violations facilitated by the use of a computer
12 of any of the following offenses: indecent solicitation of a
13 child, sexual exploitation of a child, soliciting for a
14 juvenile prostitute, keeping a place of juvenile
15 prostitution, juvenile pimping, or child pornography.

16 (Source: P.A. 91-225, eff. 1-1-00.)

17 (725 ILCS 215/3) (from Ch. 38, par. 1703)

18 Sec. 3. Written application for the appointment of a
19 Circuit Judge to convene and preside over a Statewide Grand
20 Jury, with jurisdiction extending throughout the State, shall
21 be made to the Chief Justice of the Supreme Court. Upon such
22 written application, the Chief Justice of the Supreme Court
23 shall appoint a Circuit Judge from the circuit where the
24 Statewide Grand Jury is being sought to be convened, who
25 shall make a determination that the convening of a Statewide
26 Grand Jury is necessary.

27 In such application the Attorney General shall state that
28 the convening of a Statewide Grand Jury is necessary because
29 of an alleged offense or offenses set forth in this Section
30 involving more than one county of the State and identifying
31 any such offense alleged; and

32 (a) that he or she believes that the grand jury
33 function for the investigation and indictment of the

1 offense or offenses cannot effectively be performed by a
2 county grand jury together with the reasons for such
3 belief, and

4 (b)(1) that each State's Attorney with
5 jurisdiction over an offense or offenses to be
6 investigated has consented to the impaneling of the
7 Statewide Grand Jury, or

8 (2) if one or more of the State's Attorneys
9 having jurisdiction over an offense or offenses to
10 be investigated fails to consent to the impaneling
11 of the Statewide Grand Jury, the Attorney General
12 shall set forth good cause for impaneling the
13 Statewide Grand Jury.

14 If the Circuit Judge determines that the convening of a
15 Statewide Grand Jury is necessary, he or she shall convene
16 and impanel the Statewide Grand Jury with jurisdiction
17 extending throughout the State to investigate and return
18 indictments:

19 (a) For violations of any of the following or for
20 any other criminal offense committed in the course of
21 violating any of the following: Article 29D of the
22 Criminal Code of 1961, the Illinois Controlled Substances
23 Act, the Cannabis Control Act, the Narcotics Profit
24 Forfeiture Act, or the Cannabis and Controlled Substances
25 Tax Act; a streetgang related felony offense; Section
26 24-2.1, 24-2.2, 24-3, 24-3A, 24-3.1, 24-3.3, 24-3.4,
27 24-4, or 24-5 or subsection 24-1(a)(4), 24-1(a)(6),
28 24-1(a)(7), 24-1(a)(9), 24-1(a)(10), or 24-1(c) of the
29 Criminal Code of 1961; or a money laundering offense;
30 provided that the violation or offense involves acts
31 occurring in more than one county of this State; and

32 (a-5) For violations facilitated by the use of a
33 computer, including the use of the Internet, the World
34 Wide Web, electronic mail, message board, newsgroup, or

1 any other commercial or noncommercial on-line service, of
2 any of the following offenses: indecent solicitation of
3 a child, sexual exploitation of a child, soliciting for a
4 juvenile prostitute, keeping a place of juvenile
5 prostitution, juvenile pimping, or child pornography; and

6 (b) For the offenses of perjury, subornation of
7 perjury, communicating with jurors and witnesses, and
8 harassment of jurors and witnesses, as they relate to
9 matters before the Statewide Grand Jury.

10 "Streetgang related" has the meaning ascribed to it in
11 Section 10 of the Illinois Streetgang Terrorism Omnibus
12 Prevention Act.

13 Upon written application by the Attorney General for the
14 convening of an additional Statewide Grand Jury, the Chief
15 Justice of the Supreme Court shall appoint a Circuit Judge
16 from the circuit for which the additional Statewide Grand
17 Jury is sought. The Circuit Judge shall determine the
18 necessity for an additional Statewide Grand Jury in
19 accordance with the provisions of this Section. No more than
20 2 Statewide Grand Juries may be empaneled at any time.

21 (Source: P.A. 91-225, eff. 1-1-00; 91-947, eff. 2-9-01.)

22 (725 ILCS 215/4) (from Ch. 38, par. 1704)

23 Sec. 4. (a) The presiding judge of the Statewide Grand
24 Jury will receive recommendations from the Attorney General
25 as to the county in which the Grand Jury will sit. Prior to
26 making the recommendations, the Attorney General shall obtain
27 the permission of the local State's Attorney to use his or
28 her county for the site of the Statewide Grand Jury. Upon
29 receiving the Attorney General's recommendations, the
30 presiding judge will choose one of those recommended
31 locations as the site where the Grand Jury shall sit.

32 Any indictment by a Statewide Grand Jury shall be
33 returned to the Circuit Judge presiding over the Statewide

1 Grand Jury and shall include a finding as to the county or
 2 counties in which the alleged offense was committed.
 3 Thereupon, the judge shall, by order, designate the county of
 4 venue for the purpose of trial. The judge may also, by
 5 order, direct the consolidation of an indictment returned by
 6 a county grand jury with an indictment returned by the
 7 Statewide Grand Jury and set venue for trial.

8 (b) Venue for purposes of trial for the offense of
 9 narcotics racketeering shall be proper in any county where:

10 (1) Cannabis or a controlled substance which is the
 11 basis for the charge of narcotics racketeering was used;
 12 acquired; transferred or distributed to, from or through;
 13 or any county where any act was performed to further the
 14 use; acquisition, transfer or distribution of said
 15 cannabis or controlled substance; or

16 (2) Any money, property, property interest, or any
 17 other asset generated by narcotics activities was
 18 acquired, used, sold, transferred or distributed to, from
 19 or through; or,

20 (3) Any enterprise interest obtained as a result of
 21 narcotics racketeering was acquired, used, transferred or
 22 distributed to, from or through, or where any activity
 23 was conducted by the enterprise or any conduct to further
 24 the interests of such an enterprise.

25 (c) Venue for purposes of trial for the offense of money
 26 laundering shall be proper in any county where any part of a
 27 financial transaction in criminally derived property took
 28 place, or in any county where any money or monetary interest
 29 which is the basis for the offense, was acquired, used, sold,
 30 transferred or distributed to, from, or through.

31 (d) A person who commits the offense of cannabis
 32 trafficking or controlled substance trafficking may be tried
 33 in any county.

34 (e) Venue for purposes of trial for any violation of

1 Article 29D of the Criminal Code of 1961 may be in the county
 2 in which an act of terrorism occurs, the county in which
 3 material support or resources are provided or solicited, the
 4 county in which criminal assistance is rendered, or any
 5 county in which any act in furtherance of any violation of
 6 Article 29D of the Criminal Code of 1961 occurs.

7 (Source: P.A. 87-466.)

8 (725 ILCS 215/10) (from Ch. 38, par. 1710)

9 Sec. 10. The Attorney General shall, at the earliest
 10 opportunity, upon initiation of Grand Jury action, consult
 11 with and advise the State's Attorney of any county involved
 12 in a Statewide Grand Jury terrorist or narcotics
 13 investigation. Further, the State's Attorney may attend the
 14 Grand Jury proceedings or the trial of any party being
 15 investigated or indicted by the Statewide Grand Jury, and may
 16 assist in the prosecution, which in his or her judgment, is
 17 in the interest of the people of his or her county. Prior to
 18 granting transactional immunity to any witness before the
 19 Statewide Grand Jury, any State's Attorney with jurisdiction
 20 over the offense or offenses being investigated by the
 21 Statewide Grand Jury must consent to the granting of immunity
 22 to the witness. Prior to granting use immunity to any
 23 witness before the Statewide Grand Jury, the Attorney General
 24 shall consult with any State's Attorney with jurisdiction
 25 over the offense or offenses being investigated by the
 26 Statewide Grand Jury.

27 (Source: P.A. 87-466.)

28 Section 25. The Unified Code of Corrections is amended
 29 by changing Sections 3-6-3 and 5-4-3 as follows:

30 (730 ILCS 5/3-6-3) (from Ch. 38, par. 1003-6-3)

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

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

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

9 (i) that a prisoner who is serving a term of
10 imprisonment for first degree murder or for the
11 offense of terrorism shall receive no good conduct
12 credit and shall serve the entire sentence imposed
13 by the court;

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

26 (iii) that a prisoner serving a sentence for
27 home invasion, armed robbery, aggravated vehicular
28 hijacking, aggravated discharge of a firearm, or
29 armed violence with a category I weapon or category
30 II weapon, when the court has made and entered a
31 finding, pursuant to subsection (c-1) of Section
32 5-4-1 of this Code, that the conduct leading to
33 conviction for the enumerated offense resulted in
34 great bodily harm to a victim, shall receive no more

1 than 4.5 days of good conduct credit for each month
2 of his or her sentence of imprisonment.

3 (2.1) For all offenses, other than those enumerated
4 in subdivision (a)(2) committed on or after June 19,
5 1998, and other than the offense of reckless homicide as
6 defined in subsection (e) of Section 9-3 of the Criminal
7 Code of 1961 committed on or after January 1, 1999, the
8 rules and regulations shall provide that a prisoner who
9 is serving a term of imprisonment shall receive one day
10 of good conduct credit for each day of his or her
11 sentence of imprisonment or recommitment under Section
12 3-3-9. Each day of good conduct credit shall reduce by
13 one day the prisoner's period of imprisonment or
14 recommitment under Section 3-3-9.

15 (2.2) A prisoner serving a term of natural life
16 imprisonment or a prisoner who has been sentenced to
17 death shall receive no good conduct credit.

18 (2.3) The rules and regulations on early release
19 shall provide that a prisoner who is serving a sentence
20 for reckless homicide as defined in subsection (e) of
21 Section 9-3 of the Criminal Code of 1961 committed on or
22 after January 1, 1999 shall receive no more than 4.5 days
23 of good conduct credit for each month of his or her
24 sentence of imprisonment.

25 (2.4) The rules and regulations on early release
26 shall provide with respect to the offenses of aggravated
27 battery with a machine gun or a firearm equipped with any
28 device or attachment designed or used for silencing the
29 report of a firearm or aggravated discharge of a machine
30 gun or a firearm equipped with any device or attachment
31 designed or used for silencing the report of a firearm,
32 committed on or after the effective date of this
33 amendatory Act of 1999, that a prisoner serving a
34 sentence for any of these offenses shall receive no more

1 than 4.5 days of good conduct credit for each month of
2 his or her sentence of imprisonment.

3 (2.5) The rules and regulations on early release
4 shall provide that a prisoner who is serving a sentence
5 for aggravated arson committed on or after the effective
6 date of this amendatory Act of the 92nd General Assembly
7 shall receive no more than 4.5 days of good conduct
8 credit for each month of his or her sentence of
9 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, (iii) one of the
2 offenses enumerated in subdivision (a)(2.4) when the
3 offense is committed on or after the effective date of
4 this amendatory Act of 1999, or (iv) aggravated arson
5 when the offense is committed on or after the effective
6 date of this amendatory Act of the 92nd General Assembly.

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

1 relating to the foregoing offenses. No inmate shall be
2 eligible for the additional good conduct credit under
3 this paragraph (4) who (i) has previously received
4 increased good conduct credit under this paragraph (4)
5 and has subsequently been convicted of a felony, or (ii)
6 has previously served more than one prior sentence of
7 imprisonment for a felony in an adult correctional
8 facility.

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

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

30 (5) Whenever the Department is to release any
31 inmate earlier than it otherwise would because of a grant
32 of good conduct credit for meritorious service given at
33 any time during the term, the Department shall give
34 reasonable advance notice of the impending release to the

1 State's Attorney of the county where the prosecution of
2 the inmate took place.

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

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

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

33 The Director of the Department of Corrections, in
34 appropriate cases, may restore up to 30 days good conduct

1 credits which have been revoked, suspended or reduced. Any
2 restoration of good conduct credits in excess of 30 days
3 shall be subject to review by the Prisoner Review Board.
4 However, the Board may not restore good conduct credit in
5 excess of the amount requested by the Director.

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

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

25 For purposes of this subsection (d):

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

30 (A) it lacks an arguable basis either in law
31 or in fact;

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

1 litigation;

2 (C) the claims, defenses, and other legal
3 contentions therein are not warranted by existing
4 law or by a nonfrivolous argument for the extension,
5 modification, or reversal of existing law or the
6 establishment of new law;

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

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

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

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

26 (Source: P.A. 91-121, eff. 7-15-99; 91-357, eff. 7-29-99;
27 92-176, eff. 7-27-01.)

28 (730 ILCS 5/5-4-3) (from Ch. 38, par. 1005-4-3)

29 Sec. 5-4-3. Persons convicted of, or found delinquent
30 for, qualifying offenses or institutionalized as sexually
31 dangerous; blood specimens; genetic marker groups.

32 (a) Any person convicted of, found guilty under the
33 Juvenile Court Act of 1987 for, or who received a disposition

1 of court supervision for, a qualifying offense or attempt of
2 a qualifying offense, or institutionalized as a sexually
3 dangerous person under the Sexually Dangerous Persons Act, or
4 committed as a sexually violent person under the Sexually
5 Violent Persons Commitment Act shall, regardless of the
6 sentence or disposition imposed, be required to submit
7 specimens of blood to the Illinois Department of State Police
8 in accordance with the provisions of this Section, provided
9 such person is:

10 (1) convicted of a qualifying offense or attempt of
11 a qualifying offense on or after the effective date of
12 this amendatory Act of 1989, and sentenced to a term of
13 imprisonment, periodic imprisonment, fine, probation,
14 conditional discharge or any other form of sentence, or
15 given a disposition of court supervision for the offense,
16 or

17 (1.5) found guilty or given supervision under the
18 Juvenile Court Act of 1987 for a qualifying offense or
19 attempt of a qualifying offense on or after the effective
20 date of this amendatory Act of 1996, or

21 (2) ordered institutionalized as a sexually
22 dangerous person on or after the effective date of this
23 amendatory Act of 1989, or

24 (3) convicted of a qualifying offense or attempt of
25 a qualifying offense before the effective date of this
26 amendatory Act of 1989 and is presently confined as a
27 result of such conviction in any State correctional
28 facility or county jail or is presently serving a
29 sentence of probation, conditional discharge or periodic
30 imprisonment as a result of such conviction, or

31 (4) presently institutionalized as a sexually
32 dangerous person or presently institutionalized as a
33 person found guilty but mentally ill of a sexual offense
34 or attempt to commit a sexual offense; or

1 (4.5) ordered committed as a sexually violent
2 person on or after the effective date of the Sexually
3 Violent Persons Commitment Act; or

4 (5) seeking transfer to or residency in Illinois
5 under Sections 3-3-11 through 3-3-11.5 of the Unified
6 Code of Corrections (Interstate Compact for the
7 Supervision of Parolees and Probationers) or the
8 Interstate Agreements on Sexually Dangerous Persons Act.

9 (a-5) Any person who was otherwise convicted of or
10 received a disposition of court supervision for any other
11 offense under the Criminal Code of 1961 or any offense
12 classified as a felony under Illinois law or who was found
13 guilty or given supervision for such a violation under the
14 Juvenile Court Act of 1987, may, regardless of the sentence
15 imposed, be required by an order of the court to submit
16 specimens of blood to the Illinois Department of State Police
17 in accordance with the provisions of this Section.

18 (b) Any person required by paragraphs (a)(1), (a)(1.5),
19 (a)(2), and (a-5) to provide specimens of blood shall provide
20 specimens of blood within 45 days after sentencing or
21 disposition at a collection site designated by the Illinois
22 Department of State Police.

23 (c) Any person required by paragraphs (a)(3), (a)(4),
24 and (a)(4.5) to provide specimens of blood shall be required
25 to provide such samples prior to final discharge, parole, or
26 release at a collection site designated by the Illinois
27 Department of State Police.

28 (c-5) Any person required by paragraph (a)(5) to provide
29 specimens of blood shall, where feasible, be required to
30 provide the specimens before being accepted for conditioned
31 residency in Illinois under the interstate compact or
32 agreement, but no later than 45 days after arrival in this
33 State.

34 (d) The Illinois Department of State Police shall

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

10 (e) The genetic marker groupings shall be maintained by
11 the Illinois Department of State Police, Division of Forensic
12 Services.

13 (f) The genetic marker grouping analysis information
14 obtained pursuant to this Act shall be confidential and shall
15 be released only to peace officers of the United States, of
16 other states or territories, of the insular possessions of
17 the United States, of foreign countries duly authorized to
18 receive the same, to all peace officers of the State of
19 Illinois and to all prosecutorial agencies. Notwithstanding
20 any other statutory provision to the contrary, all
21 information obtained under this Section shall be maintained
22 in a single State data base, which may be uploaded into a
23 national database, and may not be subject to expungement.

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

26 (1) Any violation or inchoate violation of Section
27 11-6, 11-9.1, 11-11, 11-15.1, 11-17.1, 11-18.1, 11-19.1,
28 11-19.2, 11-20.1, 12-13, 12-14, 12-14.1, 12-15, 12-16, or
29 12-33 of the Criminal Code of 1961, or

30 (1.1) Any violation or inchoate violation of
31 Section 9-1, 9-2, 10-1, 10-2, 12-11, 12-11.1, 18-1, 18-2,
32 18-3, 18-4, 19-1, or 19-2 of the Criminal Code of 1961
33 for which persons are convicted on or after July 1, 2001,
34 or

1 (2) Any former statute of this State which defined
2 a felony sexual offense, or

3 (3) Any violation of paragraph (10) of subsection
4 (b) of Section 10-5 of the Criminal Code of 1961 when the
5 sentencing court, upon a motion by the State's Attorney
6 or Attorney General, makes a finding that the child
7 luring involved an intent to commit sexual penetration or
8 sexual conduct as defined in Section 12-12 of the
9 Criminal Code of 1961, or

10 (4) Any violation or inchoate violation of Section
11 9-3.1, 11-9.3, 12-3.3, 12-4.2, 12-4.3, 12-7.3, 12-7.4,
12 18-5, 19-3, 20-1.1, or 20.5-5 of the Criminal Code of
13 1961, or

14 (5) Any violation or inchoate violation of Article
15 29D of the Criminal Code of 1961.

16 (g-5) The Department of State Police is not required to
17 provide equipment to collect or to accept or process blood
18 specimens from individuals convicted of any offense listed in
19 paragraph (1.1) or (4) of subsection (g), until acquisition
20 of the resources necessary to process such blood specimens,
21 or in the case of paragraph (1.1) of subsection (g) until
22 July 1, 2003, whichever is earlier.

23 Upon acquisition of necessary resources, including an
24 appropriation for the purpose of implementing this amendatory
25 Act of the 91st General Assembly, but in the case of
26 paragraph (1.1) of subsection (g) no later than July 1, 2003,
27 the Department of State Police shall notify the Department of
28 Corrections, the Administrative Office of the Illinois
29 Courts, and any other entity deemed appropriate by the
30 Department of State Police, to begin blood specimen
31 collection from individuals convicted of offenses enumerated
32 in paragraphs (1.1) and (4) of subsection (g) that the
33 Department is prepared to provide collection equipment and
34 receive and process blood specimens from individuals

1 convicted of offenses enumerated in paragraph (1.1) of
2 subsection (g).

3 Until the Department of State Police provides
4 notification, designated collection agencies are not required
5 to collect blood specimen from individuals convicted of
6 offenses enumerated in paragraphs (1.1) and (4) of subsection
7 (g).

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

16 (i) A person required to provide a blood specimen shall
17 cooperate with the collection of the specimen and any
18 deliberate act by that person intended to impede, delay or
19 stop the collection of the blood specimen is a Class A
20 misdemeanor.

21 (j) Any person required by subsection (a) to submit
22 specimens of blood to the Illinois Department of State Police
23 for analysis and categorization into genetic marker grouping,
24 in addition to any other disposition, penalty, or fine
25 imposed, shall pay an analysis fee of \$500. Upon verified
26 petition of the person, the court may suspend payment of all
27 or part of the fee if it finds that the person does not have
28 the ability to pay the fee.

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

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

34 (2) All fees shall be collected by the clerk of the

1 court and forwarded to the State Offender DNA
2 Identification System Fund for deposit. The clerk of the
3 circuit court may retain the amount of \$10 from each
4 collected analysis fee to offset administrative costs
5 incurred in carrying out the clerk's responsibilities
6 under this Section.

7 (3) Fees deposited into the State Offender DNA
8 Identification System Fund shall be used by Illinois
9 State Police crime laboratories as designated by the
10 Director of State Police. These funds shall be in
11 addition to any allocations made pursuant to existing
12 laws and shall be designated for the exclusive use of
13 State crime laboratories. These uses may include, but
14 are not limited to, the following:

15 (A) Costs incurred in providing analysis and
16 genetic marker categorization as required by
17 subsection (d).

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

20 (C) Costs incurred in the purchase and
21 maintenance of equipment for use in performing
22 analyses.

23 (D) Costs incurred in continuing research and
24 development of new techniques for analysis and
25 genetic marker categorization.

26 (E) Costs incurred in continuing education,
27 training, and professional development of forensic
28 scientists regularly employed by these laboratories.

29 (1) The failure of a person to provide a specimen, or of
30 any person or agency to collect a specimen, within the 45 day
31 period shall in no way alter the obligation of the person to
32 submit such specimen, or the authority of the Illinois
33 Department of State Police or persons designated by the
34 Department to collect the specimen, or the authority of the

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

5 (Source: P.A. 91-528, eff. 1-1-00; 92-16, eff. 6-28-01;
6 92-40, eff. 6-29-01.)

7 Section 30. The Charitable Trust Act is amended by adding
8 Section 16.5 as follows:

9 (760 ILCS 55/16.5 new)

10 Sec. 16.5. Terrorist acts.

11 (a) Any person or organization subject to registration
12 under this Act, who knowingly acts to further, directly or
13 indirectly, or knowingly uses charitable assets to conduct or
14 further, directly or indirectly, an act or actions as set
15 forth in Article 29D of the Criminal Code of 1961, is thereby
16 engaged in an act or actions contrary to public policy and
17 antithetical to charity, and all of the funds, assets, and
18 records of the person or organization shall be subject to
19 temporary and permanent injunction from use or expenditure
20 and the appointment of a temporary and permanent receiver to
21 take possession of all of the assets and related records.

22 (b) An ex parte action may be commenced by the Attorney
23 General, and, upon a showing of probable cause of a violation
24 of this Section or Article 29D of the Criminal Code of 1961,
25 an immediate seizure of books and records by the Attorney
26 General by and through his or her assistants or investigators
27 or the Department of State Police and freezing of all assets
28 shall be made by order of a court to protect the public,
29 protect the assets, and allow a full review of the records.

30 (c) Upon a finding by a court after a hearing that a
31 person or organization has acted or is in violation of this
32 Section, the person or organization shall be permanently

1 enjoined from soliciting funds from the public, holding
2 charitable funds, or acting as a trustee or fiduciary within
3 Illinois. Upon a finding of violation all assets and funds
4 held by the person or organization shall be forfeited to the
5 People of the State of Illinois or otherwise ordered by the
6 court to be accounted for and marshaled and then delivered to
7 charitable causes and uses within the State of Illinois by
8 court order.

9 (d) A determination under this Section may be made by
10 any court separate and apart from any criminal proceedings
11 and the standard of proof shall be that for civil
12 proceedings.

13 (e) Any knowing use of charitable assets to conduct or
14 further, directly or indirectly, an act or actions set forth
15 in Article 29D of the Criminal Code of 1961 shall be a misuse
16 of charitable assets and breach of fiduciary duty relative to
17 all other Sections of this Act.

18 Section 40. The Code of Civil Procedure is amended by
19 changing Section 8-802 as follows:

20 (735 ILCS 5/8-802) (from Ch. 110, par. 8-802)

21 (Text of Section WITHOUT the changes made by P.A. 89-7,
22 which has been held unconstitutional)

23 Sec. 8-802. Physician and patient. No physician or
24 surgeon shall be permitted to disclose any information he or
25 she may have acquired in attending any patient in a
26 professional character, necessary to enable him or her
27 professionally to serve the patient, except only (1) in
28 trials for homicide when the disclosure relates directly to
29 the fact or immediate circumstances of the homicide, (2) in
30 actions, civil or criminal, against the physician for
31 malpractice, (3) with the expressed consent of the patient,
32 or in case of his or her death or disability, of his or her

1 personal representative or other person authorized to sue for
2 personal injury or of the beneficiary of an insurance policy
3 on his or her life, health, or physical condition, (4) in all
4 actions brought by or against the patient, his or her
5 personal representative, a beneficiary under a policy of
6 insurance, or the executor or administrator of his or her
7 estate wherein the patient's physical or mental condition is
8 an issue, (5) upon an issue as to the validity of a document
9 as a will of the patient, (6) in any criminal action where
10 the charge is either first degree murder by abortion,
11 attempted abortion or abortion, (7) in actions, civil or
12 criminal, arising from the filing of a report in compliance
13 with the Abused and Neglected Child Reporting Act, (8) to any
14 department, agency, institution or facility which has custody
15 of the patient pursuant to State statute or any court order
16 of commitment, (9) in prosecutions where written results of
17 blood alcohol tests are admissible pursuant to Section
18 11-501.4 of the Illinois Vehicle Code, or (10) in
19 prosecutions where written results of blood alcohol tests are
20 admissible under Section 5-11a of the Boat Registration and
21 Safety Act, or (11) in criminal actions arising from the
22 filing of a report of suspected terrorist offense in
23 compliance with Section 29D-10(p)(7) of the Criminal Code of
24 1961.

25 In the event of a conflict between the application of
26 this Section and the Mental Health and Developmental
27 Disabilities Confidentiality Act to a specific situation, the
28 provisions of the Mental Health and Developmental
29 Disabilities Confidentiality Act shall control.

30 (Source: P.A. 87-803.)

31 (720 ILCS 5/Article 29C rep.)

32 Section 95. The Criminal Code of 1961 is amended by
33 repealing Article 29C.

1 Section 96. The provisions of this Act are severable
2 under Section 1.31 of the Statute on Statutes.

3 Section 99. Effective date. This Act takes effect upon
4 becoming law.