

1 take possession of all of the assets and related records.

2 (b) An ex parte action may be commenced by the Attorney
3 General, and, upon a showing of probable cause of a violation
4 of this Section or Article 29D of the Criminal Code of 1961,
5 an immediate seizure of books and records by the Attorney
6 General by and through his or her assistants or investigators
7 or the Department of State Police and freezing of all assets
8 shall be made by order of a court to protect the public,
9 protect the assets, and allow a full review of the records.

10 (c) Upon a finding by a court after a hearing that a
11 person or organization has acted or is in violation of this
12 Section, the person or organization shall be permanently
13 enjoined from soliciting funds from the public, holding
14 charitable funds, or acting as a trustee or fiduciary within
15 Illinois. Upon a finding of violation all assets and funds
16 held by the person or organization shall be forfeited to the
17 People of the State of Illinois or otherwise ordered by the
18 court to be accounted for and marshaled and then delivered to
19 charitable causes and uses within the State of Illinois by
20 court order.

21 (d) A determination under this Section may be made by
22 any court separate and apart from any criminal proceedings
23 and the standard of proof shall be that for civil
24 proceedings.

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

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

32 (430 ILCS 65/4) (from Ch. 38, par. 83-4)

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

3 (1) Make application on blank forms prepared and
4 furnished at convenient locations throughout the State by
5 the Department of State Police, or by electronic means,
6 if and when made available by the Department of State
7 Police; and

8 (2) Submit evidence to the Department of State
9 Police that:

10 (i) He or she is 21 years of age or over, or
11 if he or she is under 21 years of age that he or she
12 has the written consent of his or her parent or
13 legal guardian to possess and acquire firearms and
14 firearm ammunition and that he or she has never been
15 convicted of a misdemeanor other than a traffic
16 offense or adjudged delinquent, provided, however,
17 that such parent or legal guardian is not an
18 individual prohibited from having a Firearm Owner's
19 Identification Card and files an affidavit with the
20 Department as prescribed by the Department stating
21 that he or she is not an individual prohibited from
22 having a Card;

23 (ii) He or she has not been convicted of a
24 felony under the laws of this or any other
25 jurisdiction;

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

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

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

30 (vi) He or she is not an alien who is
31 unlawfully present in the United States under the
32 laws of the United States;

33 (vii) He or she is not subject to an existing
34 order of protection prohibiting him or her from

1 possessing a firearm;

2 (viii) He or she has not been convicted within
3 the past 5 years of battery, assault, aggravated
4 assault, violation of an order of protection, or a
5 substantially similar offense in another
6 jurisdiction, in which a firearm was used or
7 possessed;

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

12 (x) He or she has not been convicted within
13 the past 5 years of domestic battery or a
14 substantially similar offense in another
15 jurisdiction committed before the effective date of
16 this amendatory Act of 1997; and

17 (xi) He or she is not an alien who has been
18 admitted to the United States under a non-immigrant
19 visa (as that term is defined in Section 101(a)(26)
20 of the Immigration and Nationality Act (8 U.S.C.
21 1101(a)(26))), or that he or she is an alien who has
22 been lawfully admitted to the United States under a
23 non-immigrant visa if that alien is:

24 (1) admitted to the United States for
25 lawful hunting or sporting purposes;

26 (2) an official representative of a
27 foreign government who is:

28 (A) accredited to the United States
29 Government or the Government's mission to
30 an international organization having its
31 headquarters in the United States; or

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

34 (3) an official of a foreign government

1 or distinguished foreign visitor who has been
2 so designated by the Department of State;

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

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

9 (3) Upon request by the Department of State Police,
10 sign a release on a form prescribed by the Department of
11 State Police waiving any right to confidentiality and
12 requesting the disclosure to the Department of State
13 Police of limited mental health institution admission
14 information from another state, the District of Columbia,
15 any other territory of the United States, or a foreign
16 nation concerning the applicant for the sole purpose of
17 determining whether the applicant is or was a patient in
18 a mental health institution and disqualified because of
19 that status from receiving a Firearm Owner's
20 Identification Card. No mental health care or treatment
21 records may be requested. The information received shall
22 be destroyed within one year of receipt.

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

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

33 (c) Upon such written consent, pursuant to Section 4,
34 paragraph (a) (2) (i), the parent or legal guardian giving

1 the consent shall be liable for any damages resulting from
2 the applicant's use of firearms or firearm ammunition.

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

5 (430 ILCS 65/8) (from Ch. 38, par. 83-8)

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

12 (a) A person under 21 years of age who has been
13 convicted of a misdemeanor other than a traffic offense or
14 adjudged delinquent;

15 (b) A person under 21 years of age who does not have the
16 written consent of his parent or guardian to acquire and
17 possess firearms and firearm ammunition, or whose parent or
18 guardian has revoked such written consent, or where such
19 parent or guardian does not qualify to have a Firearm Owner's
20 Identification Card;

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

23 (d) A person addicted to narcotics;

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

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

29 For the purposes of this Section, "mental condition"
30 means a state of mind manifested by violent, suicidal,
31 threatening or assaultive behavior.

32 (g) A person who is mentally retarded;

33 (h) A person who intentionally makes a false statement

1 in the Firearm Owner's Identification Card application;

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

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

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

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

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

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

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

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

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

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

31 (k) A person who has been convicted within the past 5
32 years of battery, assault, aggravated assault, violation of
33 an order of protection, or a substantially similar offense in
34 another jurisdiction, in which a firearm was used or

1 possessed;

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

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

8 (n) A person who is prohibited from acquiring or
9 possessing firearms or firearm ammunition by any Illinois
10 State statute or by federal law.

11 (Source: P.A. 90-130, eff. 1-1-98; 90-493, eff. 1-1-98;
12 90-655, eff. 7-30-98; 91-694, eff. 4-13-00.)

13 Section 15. The Criminal Code of 1961 is amended by
14 changing Sections 9-1, 14-3, and 29B-1 and adding Article 29D
15 as follows:

16 (720 ILCS 5/9-1) (from Ch. 38, par. 9-1)

17 Sec. 9-1. First degree Murder - Death penalties -
18 Exceptions - Separate Hearings - Proof - Findings - Appellate
19 procedures - Reversals.

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

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

26 (2) he knows that such acts create a strong
27 probability of death or great bodily harm to that
28 individual or another; or

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

31 (b) Aggravating Factors. A defendant who at the time of
32 the commission of the offense has attained the age of 18 or

1 more and who has been found guilty of first degree murder may
2 be sentenced to death if:

3 (1) the murdered individual was a peace officer or
4 fireman killed in the course of performing his official
5 duties, to prevent the performance of his official
6 duties, or in retaliation for performing his official
7 duties, and the defendant knew or should have known that
8 the murdered individual was a peace officer or fireman;
9 or

10 (2) the murdered individual was an employee of an
11 institution or facility of the Department of Corrections,
12 or any similar local correctional agency, killed in the
13 course of performing his official duties, to prevent the
14 performance of his official duties, or in retaliation for
15 performing his official duties, or the murdered
16 individual was an inmate at such institution or facility
17 and was killed on the grounds thereof, or the murdered
18 individual was otherwise present in such institution or
19 facility with the knowledge and approval of the chief
20 administrative officer thereof; or

21 (3) the defendant has been convicted of murdering
22 two or more individuals under subsection (a) of this
23 Section or under any law of the United States or of any
24 state which is substantially similar to subsection (a) of
25 this Section regardless of whether the deaths occurred
26 as the result of the same act or of several related or
27 unrelated acts so long as the deaths were the result of
28 either an intent to kill more than one person or of
29 separate acts which the defendant knew would cause death
30 or create a strong probability of death or great bodily
31 harm to the murdered individual or another; or

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

1 (5) the defendant committed the murder pursuant to
2 a contract, agreement or understanding by which he was to
3 receive money or anything of value in return for
4 committing the murder or procured another to commit the
5 murder for money or anything of value; or

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

8 (a) the murdered individual:

9 (i) was actually killed by the defendant,
10 or

11 (ii) received physical injuries
12 personally inflicted by the defendant
13 substantially contemporaneously with physical
14 injuries caused by one or more persons for
15 whose conduct the defendant is legally
16 accountable under Section 5-2 of this Code, and
17 the physical injuries inflicted by either the
18 defendant or the other person or persons for
19 whose conduct he is legally accountable caused
20 the death of the murdered individual; and

21 (b) in performing the acts which caused the
22 death of the murdered individual or which resulted
23 in physical injuries personally inflicted by the
24 defendant on the murdered individual under the
25 circumstances of subdivision (ii) of subparagraph
26 (a) of paragraph (6) of subsection (b) of this
27 Section, the defendant acted with the intent to kill
28 the murdered individual or with the knowledge that
29 his acts created a strong probability of death or
30 great bodily harm to the murdered individual or
31 another; and

32 (c) the other felony was one of the following:
33 armed robbery, armed violence, robbery, predatory
34 criminal sexual assault of a child, aggravated

1 criminal sexual assault, aggravated kidnapping,
2 aggravated vehicular hijacking, forcible detention,
3 arson, aggravated arson, aggravated stalking,
4 burglary, residential burglary, home invasion,
5 calculated criminal drug conspiracy as defined in
6 Section 405 of the Illinois Controlled Substances
7 Act, streetgang criminal drug conspiracy as defined
8 in Section 405.2 of the Illinois Controlled
9 Substances Act, or the attempt to commit any of the
10 felonies listed in this subsection (c); or

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

14 (8) the defendant committed the murder with intent
15 to prevent the murdered individual from testifying in any
16 criminal prosecution or giving material assistance to the
17 State in any investigation or prosecution, either against
18 the defendant or another; or the defendant committed the
19 murder because the murdered individual was a witness in
20 any prosecution or gave material assistance to the State
21 in any investigation or prosecution, either against the
22 defendant or another; or

23 (9) the defendant, while committing an offense
24 punishable under Sections 401, 401.1, 401.2, 405, 405.2,
25 407 or 407.1 or subsection (b) of Section 404 of the
26 Illinois Controlled Substances Act, or while engaged in a
27 conspiracy or solicitation to commit such offense,
28 intentionally killed an individual or counseled,
29 commanded, induced, procured or caused the intentional
30 killing of the murdered individual; or

31 (10) the defendant was incarcerated in an
32 institution or facility of the Department of Corrections
33 at the time of the murder, and while committing an
34 offense punishable as a felony under Illinois law, or

1 while engaged in a conspiracy or solicitation to commit
2 such offense, intentionally killed an individual or
3 counseled, commanded, induced, procured or caused the
4 intentional killing of the murdered individual; or

5 (11) the murder was committed in a cold, calculated
6 and premeditated manner pursuant to a preconceived plan,
7 scheme or design to take a human life by unlawful means,
8 and the conduct of the defendant created a reasonable
9 expectation that the death of a human being would result
10 therefrom; or

11 (12) the murdered individual was an emergency
12 medical technician - ambulance, emergency medical
13 technician - intermediate, emergency medical technician -
14 paramedic, ambulance driver, or other medical assistance
15 or first aid personnel, employed by a municipality or
16 other governmental unit, killed in the course of
17 performing his official duties, to prevent the
18 performance of his official duties, or in retaliation for
19 performing his official duties, and the defendant knew or
20 should have known that the murdered individual was an
21 emergency medical technician - ambulance, emergency
22 medical technician - intermediate, emergency medical
23 technician - paramedic, ambulance driver, or other
24 medical assistance or first aid personnel; or

25 (13) the defendant was a principal administrator,
26 organizer, or leader of a calculated criminal drug
27 conspiracy consisting of a hierarchical position of
28 authority superior to that of all other members of the
29 conspiracy, and the defendant counseled, commanded,
30 induced, procured, or caused the intentional killing of
31 the murdered person; or

32 (14) the murder was intentional and involved the
33 infliction of torture. For the purpose of this Section
34 torture means the infliction of or subjection to extreme

1 physical pain, motivated by an intent to increase or
2 prolong the pain, suffering or agony of the victim; or

3 (15) the murder was committed as a result of the
4 intentional discharge of a firearm by the defendant from
5 a motor vehicle and the victim was not present within the
6 motor vehicle; or

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

10 (17) the murdered individual was a disabled person
11 and the defendant knew or should have known that the
12 murdered individual was disabled. For purposes of this
13 paragraph (17), "disabled person" means a person who
14 suffers from a permanent physical or mental impairment
15 resulting from disease, an injury, a functional disorder,
16 or a congenital condition that renders the person
17 incapable of adequately providing for his or her own
18 health or personal care; or

19 (18) the murder was committed by reason of any
20 person's activity as a community policing volunteer or to
21 prevent any person from engaging in activity as a
22 community policing volunteer; or

23 (19) the murdered individual was subject to an
24 order of protection and the murder was committed by a
25 person against whom the same order of protection was
26 issued under the Illinois Domestic Violence Act of 1986;
27 or

28 (20) the murdered individual was known by the
29 defendant to be a teacher or other person employed in any
30 school and the teacher or other employee is upon the
31 grounds of a school or grounds adjacent to a school, or
32 is in any part of a building used for school purposes;
33 or-

34 (21) the murder was committed by the defendant in

1 connection with or as a result of the offense of
2 terrorism as defined in Section 29D-30 of this Code.

3 (c) Consideration of factors in Aggravation and
4 Mitigation.

5 The court shall consider, or shall instruct the jury to
6 consider any aggravating and any mitigating factors which are
7 relevant to the imposition of the death penalty. Aggravating
8 factors may include but need not be limited to those factors
9 set forth in subsection (b). Mitigating factors may include
10 but need not be limited to the following:

11 (1) the defendant has no significant history of
12 prior criminal activity;

13 (2) the murder was committed while the defendant
14 was under the influence of extreme mental or emotional
15 disturbance, although not such as to constitute a defense
16 to prosecution;

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

20 (4) the defendant acted under the compulsion of
21 threat or menace of the imminent infliction of death or
22 great bodily harm;

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

25 (d) Separate sentencing hearing.

26 Where requested by the State, the court shall conduct a
27 separate sentencing proceeding to determine the existence of
28 factors set forth in subsection (b) and to consider any
29 aggravating or mitigating factors as indicated in subsection
30 (c). The proceeding shall be conducted:

31 (1) before the jury that determined the defendant's
32 guilt; or

33 (2) before a jury impanelled for the purpose of the
34 proceeding if:

1 A. the defendant was convicted upon a plea of
2 guilty; or

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

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

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

9 (e) Evidence and Argument.

10 During the proceeding any information relevant to any of
11 the factors set forth in subsection (b) may be presented by
12 either the State or the defendant under the rules governing
13 the admission of evidence at criminal trials. Any
14 information relevant to any additional aggravating factors or
15 any mitigating factors indicated in subsection (c) may be
16 presented by the State or defendant regardless of its
17 admissibility under the rules governing the admission of
18 evidence at criminal trials. The State and the defendant
19 shall be given fair opportunity to rebut any information
20 received at the hearing.

21 (f) Proof.

22 The burden of proof of establishing the existence of any
23 of the factors set forth in subsection (b) is on the State
24 and shall not be satisfied unless established beyond a
25 reasonable doubt.

26 (g) Procedure - Jury.

27 If at the separate sentencing proceeding the jury finds
28 that none of the factors set forth in subsection (b) exists,
29 the court shall sentence the defendant to a term of
30 imprisonment under Chapter V of the Unified Code of
31 Corrections. If there is a unanimous finding by the jury
32 that one or more of the factors set forth in subsection (b)
33 exist, the jury shall consider aggravating and mitigating
34 factors as instructed by the court and shall determine

1 whether the sentence of death shall be imposed. If the jury
2 determines unanimously that there are no mitigating factors
3 sufficient to preclude the imposition of the death sentence,
4 the court shall sentence the defendant to death.

5 Unless the jury unanimously finds 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 a term of imprisonment under Chapter V of the Unified Code of
9 Corrections.

10 (h) Procedure - No Jury.

11 In a proceeding before the court alone, if the court
12 finds that none of the factors found in subsection (b)
13 exists, the court shall sentence the defendant to a term of
14 imprisonment under Chapter V of the Unified Code of
15 Corrections.

16 If the Court determines that one or more of the factors
17 set forth in subsection (b) exists, the Court shall consider
18 any aggravating and mitigating factors as indicated in
19 subsection (c). If the Court determines that there are no
20 mitigating factors sufficient to preclude the imposition of
21 the death sentence, the Court shall sentence the defendant to
22 death.

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

28 (i) Appellate Procedure.

29 The conviction and sentence of death shall be subject to
30 automatic review by the Supreme Court. Such review shall be
31 in accordance with rules promulgated by the Supreme Court.

32 (j) Disposition of reversed death sentence.

33 In the event that the death penalty in this Act is held
34 to be unconstitutional by the Supreme Court of the United

1 States or of the State of Illinois, any person convicted of
2 first degree murder shall be sentenced by the court to a term
3 of imprisonment under Chapter V of the Unified Code of
4 Corrections.

5 In the event that any death sentence pursuant to the
6 sentencing provisions of this Section is declared
7 unconstitutional by the Supreme Court of the United States or
8 of the State of Illinois, the court having jurisdiction over
9 a person previously sentenced to death shall cause the
10 defendant to be brought before the court, and the court shall
11 sentence the defendant to a term of imprisonment under
12 Chapter V of the Unified Code of Corrections.

13 (Source: P.A. 90-213, eff. 1-1-98; 90-651, eff. 1-1-99;
14 90-668, eff. 1-1-99; 91-357, eff. 7-29-99; 91-434, eff.
15 1-1-00.)

16 (720 ILCS 5/14-3) (from Ch. 38, par. 14-3)

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

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

21 (b) Hearing conversation when heard by employees of any
22 common carrier by wire incidental to the normal course of
23 their employment in the operation, maintenance or repair of
24 the equipment of such common carrier by wire so long as no
25 information obtained thereby is used or divulged by the
26 hearer;

27 (c) Any broadcast by radio, television or otherwise
28 whether it be a broadcast or recorded for the purpose of
29 later broadcasts of any function where the public is in
30 attendance and the conversations are overheard incidental to
31 the main purpose for which such broadcasts are then being
32 made;

33 (d) Recording or listening with the aid of any device to

1 any emergency communication made in the normal course of
2 operations by any federal, state or local law enforcement
3 agency or institutions dealing in emergency services,
4 including, but not limited to, hospitals, clinics, ambulance
5 services, fire fighting agencies, any public utility,
6 emergency repair facility, civilian defense establishment or
7 military installation;

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

10 (f) Recording or listening with the aid of any device to
11 incoming telephone calls of phone lines publicly listed or
12 advertised as consumer "hotlines" by manufacturers or
13 retailers of food and drug products. Such recordings must be
14 destroyed, erased or turned over to local law enforcement
15 authorities within 24 hours from the time of such recording
16 and shall not be otherwise disseminated. Failure on the part
17 of the individual or business operating any such recording or
18 listening device to comply with the requirements of this
19 subsection shall eliminate any civil or criminal immunity
20 conferred upon that individual or business by the operation
21 of this Section;

22 (g) With prior notification to the State's Attorney of
23 the county in which it is to occur, recording or listening
24 with the aid of any device to any conversation where a law
25 enforcement officer, or any person acting at the direction of
26 law enforcement, is a party to the conversation and has
27 consented to it being intercepted or recorded under
28 circumstances where the use of the device is necessary for
29 the protection of the law enforcement officer or any person
30 acting at the direction of law enforcement, in the course of
31 an investigation of a forcible felony, a felony violation of
32 the Illinois Controlled Substances Act, a felony violation of
33 the Cannabis Control Act, or any "streetgang related" or
34 "gang-related" felony as those terms are defined in the

1 Illinois Streetgang Terrorism Omnibus Prevention Act. Any
2 recording or evidence derived as the result of this exemption
3 shall be inadmissible in any proceeding, criminal, civil or
4 administrative, except (i) where a party to the conversation
5 suffers great bodily injury or is killed during such
6 conversation, or (ii) when used as direct impeachment of a
7 witness concerning matters contained in the interception or
8 recording. The Director of the Department of State Police
9 shall issue regulations as are necessary concerning the use
10 of devices, retention of tape recordings, and reports
11 regarding their use;

12 (g-5) With approval of the State's Attorney of the
13 county in which it is to occur, recording or listening with
14 the aid of any device to any conversation where a law
15 enforcement officer, or any person acting at the direction of
16 law enforcement, is a party to the conversation and has
17 consented to it being intercepted or recorded in the course
18 of an investigation of any offense defined in Article 29D of
19 this Code. In all such cases, an application for an order
20 approving the previous or continuing use of an eavesdropping
21 device must be made within 48 hours of the commencement of
22 such use. In the absence of such an order, or upon its
23 denial, any continuing use shall immediately terminate. The
24 Director of State Police shall issue rules as are necessary
25 concerning the use of devices, retention of tape recordings,
26 and reports regarding their use.

27 Any recording or evidence obtained or derived in the
28 course of an investigation of any offense defined in Article
29 29D of this Code shall, upon motion of the State's Attorney
30 or Attorney General prosecuting any violation of Article 29D,
31 be reviewed in camera with notice to all parties present by
32 the court presiding over the criminal case, and, if ruled by
33 the court to be relevant and otherwise admissible, it shall
34 be admissible at the trial of the criminal case.

1 This subsection (g-5) is inoperative on and after January
2 1, 2005. No conversations recorded or monitored pursuant to
3 this subsection (g-5) shall be inadmissible in a court of law
4 by virtue of the repeal of this subsection (g-5) on January
5 1, 2005.

6 (h) Recordings made simultaneously with a video
7 recording of an oral conversation between a peace officer,
8 who has identified his or her office, and a person stopped
9 for an investigation of an offense under the Illinois Vehicle
10 Code;

11 (i) Recording of a conversation made by or at the
12 request of a person, not a law enforcement officer or agent
13 of a law enforcement officer, who is a party to the
14 conversation, under reasonable suspicion that another party
15 to the conversation is committing, is about to commit, or has
16 committed a criminal offense against the person or a member
17 of his or her immediate household, and there is reason to
18 believe that evidence of the criminal offense may be obtained
19 by the recording; and

20 (j) The use of a telephone monitoring device by either
21 (1) a corporation or other business entity engaged in
22 marketing or opinion research or (2) a corporation or other
23 business entity engaged in telephone solicitation, as defined
24 in this subsection, to record or listen to oral telephone
25 solicitation conversations or marketing or opinion research
26 conversations by an employee of the corporation or other
27 business entity when:

28 (i) the monitoring is used for the purpose of
29 service quality control of marketing or opinion research
30 or telephone solicitation, the education or training of
31 employees or contractors engaged in marketing or opinion
32 research or telephone solicitation, or internal research
33 related to marketing or opinion research or telephone
34 solicitation; and

1 (ii) the monitoring is used with the consent of at
2 least one person who is an active party to the marketing
3 or opinion research conversation or telephone
4 solicitation conversation being monitored.

5 No communication or conversation or any part, portion, or
6 aspect of the communication or conversation made, acquired,
7 or obtained, directly or indirectly, under this exemption
8 (j), may be, directly or indirectly, furnished to any law
9 enforcement officer, agency, or official for any purpose or
10 used in any inquiry or investigation, or used, directly or
11 indirectly, in any administrative, judicial, or other
12 proceeding, or divulged to any third party.

13 When recording or listening authorized by this subsection
14 (j) on telephone lines used for marketing or opinion research
15 or telephone solicitation purposes results in recording or
16 listening to a conversation that does not relate to marketing
17 or opinion research or telephone solicitation; the person
18 recording or listening shall, immediately upon determining
19 that the conversation does not relate to marketing or opinion
20 research or telephone solicitation, terminate the recording
21 or listening and destroy any such recording as soon as is
22 practicable.

23 Business entities that use a telephone monitoring or
24 telephone recording system pursuant to this exemption (j)
25 shall provide current and prospective employees with notice
26 that the monitoring or recordings may occur during the course
27 of their employment. The notice shall include prominent
28 signage notification within the workplace.

29 Business entities that use a telephone monitoring or
30 telephone recording system pursuant to this exemption (j)
31 shall provide their employees or agents with access to
32 personal-only telephone lines which may be pay telephones,
33 that are not subject to telephone monitoring or telephone
34 recording.

1 For the purposes of this subsection (j), "telephone
2 solicitation" means a communication through the use of a
3 telephone by live operators:

- 4 (i) soliciting the sale of goods or services;
- 5 (ii) receiving orders for the sale of goods or
6 services;
- 7 (iii) assisting in the use of goods or services; or
- 8 (iv) engaging in the solicitation, administration,
9 or collection of bank or retail credit accounts.

10 For the purposes of this subsection (j), "marketing or
11 opinion research" means a marketing or opinion research
12 interview conducted by a live telephone interviewer engaged
13 by a corporation or other business entity whose principal
14 business is the design, conduct, and analysis of polls and
15 surveys measuring the opinions, attitudes, and responses of
16 respondents toward products and services, or social or
17 political issues, or both.

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

19 (720 ILCS 5/29B-1) (from Ch. 38, par. 29B-1)

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

22 (1) when he knowingly engages or attempts to engage
23 in a financial transaction in criminally derived property
24 with either the intent to promote the carrying on of the
25 unlawful activity from which the criminally derived
26 property was obtained or where he knows or reasonably
27 should know that the financial transaction is designed in
28 whole or in part to conceal or disguise the nature, the
29 location, the source, the ownership or the control of the
30 criminally derived property; or-

31 (2) when, with the intent to:

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

1 (B) conceal or disguise the nature, location,
 2 source, ownership, or control of property believed
 3 to be the proceeds of a specified criminal activity
 4 as defined by subdivision (b) (6),

5 he or she conducts or attempts to conduct a financial
 6 transaction involving property he or she believes to be
 7 the proceeds of specified criminal activity as defined by
 8 subdivision (b) (6) or property used to conduct or
 9 facilitate specified criminal activity as defined by
 10 subdivision (b) (6).

11 (b) As used in this Section:

12 (1) "Financial transaction" means a purchase, sale,
 13 loan, pledge, gift, transfer, delivery or other
 14 disposition utilizing criminally derived property, and
 15 with respect to financial institutions, includes a
 16 deposit, withdrawal, transfer between accounts, exchange
 17 of currency, loan, extension of credit, purchase or sale
 18 of any stock, bond, certificate of deposit or other
 19 monetary instrument or any other payment, transfer or
 20 delivery by, through, or to a financial institution. For
 21 purposes of clause (a)(2) of this Section, the term
 22 "financial transaction" also means a transaction which
 23 without regard to whether the funds, monetary
 24 instruments, or real or personal property involved in the
 25 transaction are criminally derived, any transaction which
 26 in any way or degree: (1) involves the movement of funds
 27 by wire or any other means; (2) involves one or more
 28 monetary instruments; or (3) the transfer of title to any
 29 real or personal property. The receipt by an attorney of
 30 bona fide fees for the purpose of legal representation is
 31 not a financial transaction for purposes of this Section.

32 (2) "Financial institution" means any bank; saving
 33 and loan association; trust company; agency or branch of
 34 a foreign bank in the United States; currency exchange;

1 credit union, mortgage banking institution; pawnbroker;
2 loan or finance company; operator of a credit card
3 system; issuer, redeemer or cashier of travelers checks,
4 checks or money orders; dealer in precious metals, stones
5 or jewels; broker or dealer in securities or commodities;
6 investment banker; or investment company.

7 (3) "Monetary instrument" means United States coins
8 and currency; coins and currency of a foreign country;
9 travelers checks; personal checks, bank checks, and money
10 orders; investment securities; bearer negotiable
11 instruments; bearer investment securities; or bearer
12 securities and certificates of stock in such form that
13 title thereto passes upon delivery.

14 (4) "Criminally derived property" means any
15 property constituting or derived from proceeds obtained,
16 directly or indirectly, pursuant to a violation of the
17 Criminal Code of 1961, the Illinois Controlled Substances
18 Act or the Cannabis Control Act.

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

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

25 (c) Sentence.

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

28 (2) Laundering of criminally derived property of a
29 value exceeding \$10,000 but not exceeding \$100,000 is a
30 Class 2 felony;

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

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

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

2 (720 ILCS 5/Article 29D heading new)

3 ARTICLE 29D. TERRORISM

4 (720 ILCS 5/29D-5 new)

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

11 A comprehensive State law is urgently needed to
12 complement federal laws in the fight against terrorism and to
13 better protect all citizens against terrorist acts.
14 Accordingly, the legislature finds that our laws must be
15 strengthened to ensure that terrorists, as well as those who
16 solicit or provide financial and other support to terrorists,
17 are prosecuted and punished in State courts with appropriate
18 severity. The legislature further finds that due to the grave
19 nature and global reach of terrorism that a comprehensive law
20 encompassing State criminal statutes and strong civil
21 remedies is needed.

22 An investigation may not be initiated or continued for
23 activities protected by the First Amendment to the United
24 States Constitution, including expressions of support or the
25 provision of financial support for the nonviolent political,
26 religious, philosophical, or ideological goals or beliefs of
27 any person or group.

28 (720 ILCS 5/29D-10 new)

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

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

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

8 (c) "Computer program" means a series of coded
9 instruction or statements in a form acceptable to a computer
10 which causes the computer to process data and supply the
11 results of data processing.

12 (d) "Data" means representations of information,
13 knowledge, facts, concepts or instructions, including program
14 documentation, that are prepared in a formalized manner and
15 are stored or processed in or transmitted by a computer. Data
16 may be in any form, including but not limited to magnetic or
17 optical storage media, punch cards, or data stored internally
18 in the memory of a computer.

19 (e) "Biological products used in or in connection with
20 agricultural production" includes, but is not limited to,
21 seeds, plants, and DNA of plants or animals altered for use
22 in crop or livestock breeding or production or which are
23 sold, intended, designed, or produced for use in crop
24 production or livestock breeding or production.

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

26 (g) "Agricultural production" means the breeding and
27 growing of livestock and crops.

28 (h) "Livestock" means animals bred or raised for human
29 consumption.

30 (i) "Crops" means plants raised for: (1) human
31 consumption, (2) fruits that are intended for human
32 consumption, (3) consumption by livestock, and (4) fruits
33 that are intended for consumption by livestock.

34 (j) "Communications systems" means any works, property,

1 or material of any radio, telegraph, telephone, microwave, or
2 cable line, station, or system.

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

5 (l) "Terrorist act" or "act of terrorism" means: (1) any
6 act that is intended to cause or create a risk and does cause
7 or create a risk of death or great bodily harm to one or more
8 persons; (2) any act that disables or destroys the usefulness
9 or operation of any communications system; (3) any act or any
10 series of 2 or more acts committed in furtherance of a single
11 intention, scheme, or design that disables or destroys the
12 usefulness or operation of a computer network, computers,
13 computer programs, or data used by any industry, by any class
14 of business, or by 5 or more businesses or by the federal
15 government, State government, any unit of local government, a
16 public utility, a manufacturer of pharmaceuticals, a national
17 defense contractor, or a manufacturer of chemical or
18 biological products used in or in connection with
19 agricultural production; (4) any act that disables or causes
20 substantial damage to or destruction of any structure or
21 facility used in or used in connection with ground, air, or
22 water transportation; the production or distribution of
23 electricity, gas, oil, or other fuel; the treatment of sewage
24 or the treatment or distribution of water; or controlling the
25 flow of any body of water; (5) any act that causes
26 substantial damage to or destruction of livestock or to crops
27 or a series of 2 or more acts committed in furtherance of a
28 single intention, scheme, or design which, in the aggregate,
29 causes substantial damage to or destruction of livestock or
30 crops; (6) any act that causes substantial damage to or
31 destruction of any hospital or any building or facility used
32 by the federal government, State government, any unit of
33 local government or by a national defense contractor or by a
34 public utility, a manufacturer of pharmaceuticals, a

1 manufacturer of chemical or biological products used in or in
2 connection with agricultural production or the storage or
3 processing of agricultural products or the preparation of
4 agricultural products for food or food products intended for
5 resale or for feed for livestock; or (7) any act that causes
6 substantial damage to any building containing 5 or more
7 businesses of any type or to any building in which 10 or more
8 people reside.

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

13 (n) "Material support or resources" means currency or
14 other financial securities, financial services, lodging,
15 training, safe houses, false documentation or identification,
16 communications equipment, facilities, weapons, lethal
17 substances, explosives, personnel, transportation, any other
18 kind of physical assets or intangible property, and expert
19 services or expert assistance.

20 (o) "Person" has the meaning given in Section 2-15 of
21 this Code and, in addition to that meaning, includes, without
22 limitation, any charitable organization, whether incorporated
23 or unincorporated, any professional fund raiser, professional
24 solicitor, limited liability company, association, joint
25 stock company, association, trust, trustee, or any group of
26 people formally or informally affiliated or associated for a
27 common purpose, and any officer, director, partner, member,
28 or agent of any person.

29 (p) "Render criminal assistance" means to do any of the
30 following with the intent to prevent, hinder, or delay the
31 discovery or apprehension of, or the lodging of a criminal
32 charge against, a person who he or she knows or believes has
33 committed an offense under this Article or is being sought by
34 law enforcement officials for the commission of an offense

1 under this Article, or with the intent to assist a person in
2 profiting or benefiting from the commission of an offense
3 under this Article:

4 (1) harbor or conceal the person;

5 (2) warn the person of impending discovery or
6 apprehension;

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

10 (4) prevent or obstruct, by means of force,
11 intimidation, or deception, anyone from performing an act
12 that might aid in the discovery or apprehension of the
13 person or in the lodging of a criminal charge against the
14 person;

15 (5) suppress, by any act of concealment,
16 alteration, or destruction, any physical evidence that
17 might aid in the discovery or apprehension of the person
18 or in the lodging of a criminal charge against the
19 person;

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

22 (7) provide expert services or expert assistance to
23 the person. Providing expert services or expert
24 assistance shall not be construed to apply to: (1) a
25 licensed attorney who discusses with a client the legal
26 consequences of a proposed course of conduct or advises a
27 client of legal or constitutional rights and (2) a
28 licensed medical doctor who provides emergency medical
29 treatment to a person whom he or she believes has
30 committed an offense under this Article if, as soon as
31 reasonably practicable either before or after providing
32 such treatment, he or she notifies a law enforcement
33 agency.

1 (720 ILCS 5/29D-15 new)

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

4 (a) A person is guilty of soliciting material support
5 for terrorism if he or she knowingly raises, solicits, or
6 collects material support or resources knowing that the
7 material support or resources will be used, in whole or in
8 part, to plan, prepare, carry out, or avoid apprehension for
9 committing terrorism as defined in Section 29D-30 or causing
10 a catastrophe as defined in Section 20.5-5 (720 ILCS
11 5/20.5-5) of this Code, or who knows and intends that the
12 material support or resources so raised, solicited, or
13 collected will be used in the commission of a terrorist act
14 as defined in Section 29D-10(1) of this Code by an
15 organization designated under 8 U.S.C. 1189, as amended. It
16 is not an element of the offense that the defendant actually
17 knows that an organization has been designated under 8 U.S.C.
18 1189, as amended.

19 (b) A person is guilty of providing material support for
20 terrorism if he or she knowingly provides material support or
21 resources to a person knowing that the person will use that
22 support or those resources in whole or in part to plan,
23 prepare, carry out, facilitate, or to avoid apprehension for
24 committing terrorism as defined in Section 29D-30 or to cause
25 a catastrophe as defined in Section 20.5-5 (720 ILCS
26 5/20.5-5) of this Code.

27 (c) Sentence. Soliciting material support for terrorism
28 is a Class X felony for which the sentence shall be a term of
29 imprisonment of no less than 9 years and no more than 40
30 years. Providing material support for a terrorist act is a
31 Class X felony for which the sentence shall be a term of
32 imprisonment of no less than 9 years and no more than 40
33 years.

1 (720 ILCS 5/29D-20 new)

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

3 (a) A person is guilty of making a terrorist threat
4 when, with the intent to intimidate or coerce a significant
5 portion of a civilian population, he or she in any manner
6 knowingly threatens to commit or threatens to cause the
7 commission of a terrorist act as defined in Section 29D-10(1)
8 and thereby causes a reasonable expectation or fear of the
9 imminent commission of a terrorist act as defined in Section
10 29D-10(1) or of another terrorist act as defined in Section
11 29D-10(1).

12 (b) It is not a defense to a prosecution under this
13 Section that at the time the defendant made the terrorist
14 threat, unknown to the defendant, it was impossible to carry
15 out the threat, nor is it a defense that the threat was not
16 made to a person who was a subject or intended victim of the
17 threatened act.

18 (c) Sentence. Making a terrorist threat is a Class X
19 felony.

20 (720 ILCS 5/29D-25 new)

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

22 (a) A person is guilty of falsely making a terrorist
23 threat when in any manner he or she knowingly makes a threat
24 to commit or cause to be committed a terrorist act as defined
25 in Section 29D-10(1) or otherwise knowingly creates the
26 impression or belief that a terrorist act is about to be or
27 has been committed, or in any manner knowingly makes a threat
28 to commit or cause to be committed a catastrophe as defined
29 in Section 20.5-5 (720 ILCS 5/20.5-5) of this Code which he
30 or she knows is false.

31 (b) Sentence. Falsely making a terrorist threat is a
32 Class 1 felony.

(720 ILCS 5/29D-30 new)

Sec. 29D-30. Terrorism.

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

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

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

(b) Sentence. Terrorism is a Class X felony. If no deaths are caused by the terrorist act, the sentence shall be a term of 20 years to natural life imprisonment; however, if the terrorist act caused the death of one or more persons, a mandatory term of natural life imprisonment shall be the sentence in the event the death penalty is not imposed.

(720 ILCS 5/29D-35 new)

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

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

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

1 life imprisonment if death was caused by the act of terrorism
2 committed by the person to whom the defendant rendered
3 criminal assistance.

4 (720 ILCS 5/29D-40 new)

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

11 (720 ILCS 5/29D-45 new)

12 Sec. 29D-45. Limitations. A prosecution for any offense
13 in this Article may be commenced at any time.

14 (720 ILCS 5/29D-60 new)

15 Sec. 29D-60. Injunctive relief. Whenever it appears to
16 the Attorney General or any State's Attorney that any person
17 is engaged in, or is about to engage in, any act that
18 constitutes or would constitute a violation of this Article,
19 the Attorney General or any State's Attorney may initiate a
20 civil action in the circuit court to enjoin the violation.

21 (720 ILCS 5/29D-65 new)

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

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

25 (1) Whenever it appears that there is probable
26 cause to believe that any person used, is using, is about
27 to use, or is intending to use property in any way that
28 constitutes or would constitute a violation of this
29 Article, the Attorney General or any State's Attorney may
30 make an ex parte application to the circuit court to

1 freeze or seize all the assets of that person and, upon a
2 showing of probable cause in the ex parte hearing, the
3 circuit court shall issue an order to freeze or seize all
4 assets of that person. A copy of the freeze or seize
5 order shall be served upon the person whose assets have
6 been frozen or seized and that person or any person
7 claiming an interest in the property may, at any time
8 within 30 days of service, file a motion to release his
9 or her assets. Within 10 days that person is entitled to
10 a hearing. In any proceeding to release assets, the
11 burden of proof shall be by a preponderance of evidence
12 and shall be on the State to show that the person used,
13 was using, is about to use, or is intending to use any
14 property in any way that constitutes or would constitute
15 a violation of this Article. If the court finds that any
16 property was being used, is about to be used, or is
17 intended to be used in violation of or in any way that
18 would constitute a violation of this Article, the court
19 shall order such property frozen or held until further
20 order of the court. Any property so ordered held or
21 frozen shall be subject to forfeiture under the following
22 procedure. Upon the request of the defendant, the court
23 may release frozen or seized assets sufficient to pay
24 attorney's fees for representation of the defendant at a
25 hearing conducted under this Section.

26 (2) If, within 60 days after any seizure or asset
27 freeze under subparagraph (1) of this Section, a person
28 having any property interest in the seized or frozen
29 property is charged with an offense, the court which
30 renders judgment upon the charge shall, within 30 days
31 after the judgment, conduct a forfeiture hearing to
32 determine whether the property was used, about to be
33 used, or intended to be used in violation of this Article
34 or in connection with any violation of this Article, or

1 was integrally related to any violation or intended
2 violation of this Article. The hearing shall be commenced
3 by a written petition by the State, including material
4 allegations of fact, the name and address of every person
5 determined by the State to have any property interest in
6 the seized or frozen property, a representation that
7 written notice of the date, time, and place of the
8 hearing has been mailed to every such person by certified
9 mail at least 10 days before the date, and a request for
10 forfeiture. Every such person may appear as a party and
11 present evidence at the hearing. The quantum of proof
12 required shall be preponderance of the evidence, and the
13 burden of proof shall be on the State. If the court
14 determines that the seized or frozen property was used,
15 about to be used, or intended to be used in violation of
16 this Article or in connection with any violation of this
17 Article, or was integrally related to any violation or
18 intended violation of this Article, an order of
19 forfeiture and disposition of the seized or frozen money
20 and property shall be entered. All property forfeited may
21 be liquidated and the resultant money together with any
22 money forfeited shall be allocated among the
23 participating law enforcement agencies in such
24 proportions as may be determined to be equitable by the
25 court entering the forfeiture order, any such property so
26 forfeited shall be received by the State's Attorney or
27 Attorney General and upon liquidation shall be allocated
28 among the participating law enforcement agencies in such
29 proportions as may be determined equitable by the court
30 entering the forfeiture order.

31 (3) If a seizure or asset freeze under subparagraph
32 (1) of this subsection (a) is not followed by a charge
33 under this Article within 60 days, or if the prosecution
34 of the charge is permanently terminated or indefinitely

1 discontinued without any judgment of conviction or a
2 judgment of acquittal is entered, the State's Attorney or
3 Attorney General shall immediately commence an in rem
4 proceeding for the forfeiture of any seized money or
5 other things of value, or both, in the circuit court and
6 any person having any property interest in the money or
7 property may commence separate civil proceedings in the
8 manner provided by law. Any property so forfeited shall
9 be allocated among the participating law enforcement
10 agencies in such proportions as may be determined to be
11 equitable by the court entering the forfeiture order.

12 (b) Forfeiture of property acquired in connection with a
13 violation of this Article.

14 (1) Any person who commits any offense under this
15 Article shall forfeit, according to the provisions of
16 this Section, any moneys, profits, or proceeds, and any
17 interest or property in which the sentencing court
18 determines he or she has acquired or maintained, directly
19 or indirectly, in whole or in part, as a result of, or
20 used, was about to be used, or was intended to be used in
21 connection with the offense. The person shall also
22 forfeit any interest in, security, claim against, or
23 contractual right of any kind which affords the person a
24 source of influence over any enterprise which he or she
25 has established, operated, controlled, conducted, or
26 participated in conducting, where his or her relationship
27 to or connection with any such thing or activity directly
28 or indirectly, in whole or in part, is traceable to any
29 item or benefit which he or she has obtained or acquired
30 through an offense under this Article or which he or she
31 used, about to use, or intended to use in connection with
32 any offense under this Article. Forfeiture under this
33 Section may be pursued in addition to or in lieu of
34 proceeding under subsection (a) of this Section.

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

4 (A) The sentencing court shall, upon petition
5 by the prosecuting agency, whether it is the
6 Attorney General or the State's Attorney, at any
7 time following sentencing, conduct a hearing to
8 determine whether any property or property interest
9 is subject to forfeiture under this subsection. At
10 the forfeiture hearing the People of the State of
11 Illinois shall have the burden of establishing, by a
12 preponderance of the evidence, that the property or
13 property interests are subject to forfeiture.

14 (B) In any action brought by the People of the
15 State of Illinois under this Section, the court
16 shall have jurisdiction to enter such restraining
17 orders, injunctions, or prohibitions, or to take
18 such other action in connection with any real,
19 personal, or mixed property, or other interest,
20 subject to forfeiture, as it shall consider proper.

21 (C) In any action brought by the People of the
22 State of Illinois under this subsection in which any
23 restraining order, injunction, or prohibition or any
24 other action in connection with any property or
25 interest subject to forfeiture under this subsection
26 is sought, the circuit court presiding over the
27 trial of the person or persons charged with a
28 violation under this Article shall first determine
29 whether there is probable cause to believe that the
30 person or persons so charged have committed an
31 offense under this Article and whether the property
32 or interest is subject to forfeiture under this
33 subsection. In order to make this determination,
34 prior to entering any such order, the court shall

1 conduct a hearing without a jury in which the People
2 shall establish: (i) probable cause that the person
3 or persons so charged have committed an offense
4 under this Article; and (ii) probable cause that any
5 property or interest may be subject to forfeiture
6 under this subsection. The hearing may be conducted
7 simultaneously with a preliminary hearing if the
8 prosecution is commenced by information, or by
9 motion of the People at any stage in the
10 proceedings. The court may enter a finding of
11 probable cause at a preliminary hearing following
12 the filing of an information charging a violation of
13 this Article or the return of an indictment by a
14 grand jury charging an offense under this Article as
15 sufficient probable cause for purposes of this
16 subsection. Upon such a finding, the circuit court
17 shall enter such restraining order, injunction, or
18 prohibition or shall take such other action in
19 connection with any such property or other interest
20 subject to forfeiture under this subsection as is
21 necessary to ensure that the property is not removed
22 from the jurisdiction of the court, concealed,
23 destroyed, or otherwise disposed of by the owner or
24 holder of that property or interest prior to a
25 forfeiture hearing under this subsection. The
26 Attorney General or State's Attorney shall file a
27 certified copy of the restraining order, injunction,
28 or other prohibition with the recorder of deeds or
29 registrar of titles of each county where any such
30 property of the defendant may be located. No such
31 injunction, restraining order, or other prohibition
32 shall affect the rights of any bona fide purchaser,
33 mortgagee, judgment creditor, or other lien holder
34 arising prior to the date of such filing. The court

1 may, at any time, upon verified petition by the
2 defendant, conduct a hearing to release all or
3 portions of any such property or interest which the
4 court previously determined to be subject to
5 forfeiture or subject to any restraining order,
6 injunction, prohibition, or other action. The court
7 may release the property to the defendant for good
8 cause shown and within the sound discretion of the
9 court.

10 (D) Upon a conviction of a person under this
11 Article, the court shall authorize the Attorney
12 General or State's Attorney to seize and sell all
13 property or other interest declared forfeited under
14 this Article, unless the property is required by law
15 to be destroyed or is harmful to the public. The
16 court may order the Attorney General or State's
17 Attorney to segregate funds from the proceeds of the
18 sale sufficient: (1) to satisfy any order of
19 restitution, as the court may deem appropriate; (2)
20 to satisfy any legal right, title, or interest which
21 the court deems superior to any right, title, or
22 interest of the defendant at the time of the
23 commission of the acts which gave rise to forfeiture
24 under this subsection; or (3) to satisfy any
25 bona-fide purchaser for value of the right, title,
26 or interest in the property who was without
27 reasonable notice that the property was subject to
28 forfeiture. Following the entry of an order of
29 forfeiture, the Attorney General or State's Attorney
30 shall publish notice of the order and his or her
31 intent to dispose of the property. Within 30 days
32 following the publication, any person may petition
33 the court to adjudicate the validity of his or her
34 alleged interest in the property. After the

1 deduction of all requisite expenses of
2 administration and sale, the Attorney General or
3 State's Attorney shall distribute the proceeds of
4 the sale, along with any moneys forfeited or seized,
5 among participating law enforcement agencies in such
6 equitable portions as the court shall determine.

7 (E) No judge shall release any property or
8 money seized under subdivision (A) or (B) for the
9 payment of attorney's fees of any person claiming an
10 interest in such money or property.

11 (c) Exemptions from forfeiture. A property interest is
12 exempt from forfeiture under this Section if its owner or
13 interest holder establishes by a preponderance of evidence
14 that the owner or interest holder:

15 (A)(i) in the case of personal property, is not
16 legally accountable for the conduct giving rise to the
17 forfeiture, did not acquiesce in it, and did not know and
18 could not reasonably have known of the conduct or that
19 the conduct was likely to occur, or

20 (ii) in the case of real property, is not legally
21 accountable for the conduct giving rise to the
22 forfeiture, or did not solicit, conspire, or attempt to
23 commit the conduct giving rise to the forfeiture; and

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

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

31 (D) does not hold the property for the benefit of
32 or as nominee for any person whose conduct gave rise to
33 its forfeiture, and, if the owner or interest holder
34 acquired the interest through any such person, the owner

1 or interest holder acquired it as a bona fide purchaser
2 for value without knowingly taking part in the conduct
3 giving rise to the forfeiture; and

4 (E) that the owner or interest holder acquired the
5 interest:

6 (i) before the commencement of the conduct
7 giving rise to its forfeiture and the person whose
8 conduct gave rise to its forfeiture did not have the
9 authority to convey the interest to a bona fide
10 purchaser for value at the time of the conduct; or

11 (ii) after the commencement of the conduct
12 giving rise to its forfeiture, and the owner or
13 interest holder acquired the interest as a
14 mortgagee, secured creditor, lien holder, or bona
15 fide purchaser for value without knowledge of the
16 conduct which gave rise to the forfeiture; and

17 (a) in the case of personal property,
18 without knowledge of the seizure of the
19 property for forfeiture; or

20 (b) in the case of real estate, before
21 the filing in the office of the Recorder of
22 Deeds of the county in which the real estate is
23 located of a notice of seizure for forfeiture
24 or a lis pendens notice.

25 (720 ILCS 5/29D-70 new)

26 Sec. 29D-70. Severability. If any clause, sentence,
27 Section, provision, or part of this Article or the
28 application thereof to any person or circumstance shall be
29 adjudged to be unconstitutional, the remainder of this
30 Article or its application to persons or circumstances other
31 than those to which it is held invalid, shall not be affected
32 thereby.

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

3 (720 ILCS 545/7) (from Ch. 38, par. 84-7)

4 Sec. 7. Sentence. Violation of this Act is a Class 4
5 felony A-misdemeanor.

6 (Source: P.A. 82-662.)

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

12 (725 ILCS 5/108-4) (from Ch. 38, par. 108-4)

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

14 (a) All warrants upon written complaint shall state the
15 time and date of issuance and be the warrants of the judge
16 issuing the same and not the warrants of the court in which
17 he is then sitting and such warrants need not bear the seal
18 of the court or clerk thereof. The complaint on which the
19 warrant is issued need not be filed with the clerk of the
20 court nor with the court if there is no clerk until the
21 warrant has been executed or has been returned "not
22 executed".

23 The search warrant upon written complaint may be issued
24 electronically or electromagnetically by use of a facsimile
25 transmission machine and any such warrant shall have the same
26 validity as a written search warrant.

27 (b) Warrant upon oral testimony.

28 (1) General rule. When the offense in connection
29 with which a search warrant is sought constitutes
30 terrorism or any related offense as defined in Article
31 29D of the Criminal Code of 1961, and if the

1 circumstances make it reasonable to dispense, in whole or
2 in part, with a written affidavit, a judge may issue a
3 warrant based upon sworn testimony communicated by
4 telephone or other appropriate means, including facsimile
5 transmission.

6 (2) Application. The person who is requesting the
7 warrant shall prepare a document to be known as a
8 duplicate original warrant and shall read such duplicate
9 original warrant, verbatim, to the judge. The judge shall
10 enter, verbatim, what is so read to the judge on a
11 document to be known as the original warrant. The judge
12 may direct that the warrant be modified.

13 (3) Issuance. If the judge is satisfied that the
14 offense in connection with which the search warrant is
15 sought constitutes terrorism or any related offense as
16 defined in Article 29D of the Criminal Code of 1961, that
17 the circumstances are such as to make it reasonable to
18 dispense with a written affidavit, and that grounds for
19 the application exist or that there is probable cause to
20 believe that they exist, the judge shall order the
21 issuance of a warrant by directing the person requesting
22 the warrant to sign the judge's name on the duplicate
23 original warrant. The judge shall immediately sign the
24 original warrant and enter on the face of the original
25 warrant the exact time when the warrant was ordered to be
26 issued. The finding of probable cause for a warrant upon
27 oral testimony may be based on the same kind of evidence
28 as is sufficient for a warrant upon affidavit.

29 (4) Recording and certification of testimony. When
30 a caller informs the judge that the purpose of the call
31 is to request a warrant, the judge shall immediately
32 place under oath each person whose testimony forms a
33 basis of the application and each person applying for
34 that warrant. If a voice recording device is available,

1 the judge shall record by means of the device all of the
2 call after the caller informs the judge that the purpose
3 of the call is to request a warrant, otherwise a
4 stenographic or longhand verbatim record shall be made.
5 If a voice recording device is used or a stenographic
6 record made, the judge shall have the record transcribed,
7 shall certify the accuracy of the transcription, and
8 shall file a copy of the original record and the
9 transcription with the court. If a longhand verbatim
10 record is made, the judge shall file a signed copy with
11 the court.

12 (5) Contents. The contents of a warrant upon oral
13 testimony shall be the same as the contents of a warrant
14 upon affidavit.

15 (6) Additional rule for execution. The person who
16 executes the warrant shall enter the exact time of
17 execution on the face of the duplicate original warrant.

18 (7) Motion to suppress based on failure to obtain a
19 written affidavit. Evidence obtained pursuant to a
20 warrant issued under this subsection (b) is not subject
21 to a motion to suppress on the ground that the
22 circumstances were not such as to make it reasonable to
23 dispense with a written affidavit, absent a finding of
24 bad faith. All other grounds to move to suppress are
25 preserved.

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

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

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

32 (725 ILCS 5/108A-6) (from Ch. 38, par. 108A-6)
33 Sec. 108A-6. Emergency Exception to Procedures. (a)

1 Notwithstanding any other provisions of this Article, any
2 investigative or law enforcement officer, upon approval of a
3 State's Attorney, or without it if a reasonable effort has
4 been made to contact the appropriate State's Attorney, may
5 use an eavesdropping device in an emergency situation as
6 defined in this Section. Such use must be in accordance with
7 the provisions of this Section and may be allowed only where
8 the officer reasonably believes that an order permitting the
9 use of the device would issue were there a prior hearing.

10 An emergency situation exists when, without previous
11 notice to the law enforcement officer sufficient to obtain
12 prior judicial approval, the conversation to be overheard or
13 recorded will occur within a short period of time, the use of
14 the device is necessary for the protection of the law
15 enforcement officer or it will occur in a situation involving
16 a clear and present danger of imminent death or great bodily
17 harm to persons resulting from: (1) a kidnapping or the
18 holding of a hostage by force or the threat of the imminent
19 use of force; or (2) the occupation by force or the threat of
20 the imminent use of force of any premises, place, vehicle,
21 vessel or aircraft; or (3) any violation of Article 29D.

22 (b) In all such cases, an application for an order
23 approving the previous or continuing use of an eavesdropping
24 device must be made within 48 hours of the commencement of
25 such use. In the absence of such an order, or upon its
26 denial, any continuing use shall immediately terminate.

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

32 (c) In the event that an application for approval under
33 this Section is denied the contents of the conversations
34 overheard or recorded shall be treated as having been

1 obtained in violation of this Article.

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

3 (725 ILCS 5/108B-1) (from Ch. 38, par. 108B-1)

4 Sec. 108B-1. Definitions. For the purpose of this
5 Article:

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

9 (b) "Chief Judge" means, when referring to a judge
10 authorized to receive application for, and to enter orders
11 authorizing, interceptions of private ~~oral~~ communications,
12 the Chief Judge of the Circuit Court wherein the application
13 for order of interception is filed, or a Circuit Judge
14 designated by the Chief Judge to enter these orders. In
15 circuits other than the Cook County Circuit, "Chief Judge"
16 also means, when referring to a judge authorized to receive
17 application for, and to enter orders authorizing,
18 interceptions of private ~~oral~~ communications, an Associate
19 Judge authorized by Supreme Court Rule to try felony cases
20 who is assigned by the Chief Judge to enter these orders.
21 After assignment by the Chief Judge, an Associate Judge shall
22 have plenary authority to issue orders without additional
23 authorization for each specific application made to him by
24 the State's Attorney until the time the Associate Judge's
25 power is rescinded by the Chief Judge.

26 (c) "Communications common carrier" means any person
27 engaged as a common carrier ~~for-hire~~ in the transmission of
28 communications by wire or radio, not including radio
29 broadcasting.

30 (d) "Contents" includes information obtained from a
31 private ~~oral~~ communication concerning the existence,
32 substance, purport or meaning of the communication, or the
33 identity of a party of the communication.

1 (e) "Court of competent jurisdiction" means any circuit
2 court.

3 (f) "Department" means Illinois Department of State
4 Police.

5 (g) "Director" means Director of the Illinois Department
6 of State Police.

7 (g-1) "Electronic communication" means any transfer of
8 signs, signals, writing, images, sounds, data, or
9 intelligence of any nature transmitted in whole or part by a
10 wire, radio, pager, computer, or electromagnetic, photo
11 electronic, or photo optical system where the sending and
12 receiving parties intend the electronic communication to be
13 private and the interception, recording, or transcription of
14 the electronic communication is accomplished by a device in a
15 surreptitious manner contrary to the provisions of this
16 Article. "Electronic communication" does not include:

17 (1) any wire or oral communication; or

18 (2) any communication from a tracking device.

19 (h) "Electronic criminal surveillance device" or
20 "eavesdropping device" means any device or apparatus, or
21 computer program including an induction coil, that can be
22 used to intercept private communication human--speech other
23 than:

24 (1) Any telephone, telegraph or telecommunication
25 instrument, equipment or facility, or any component of
26 it, furnished to the subscriber or user by a
27 communication common carrier in the ordinary course of
28 its business, or purchased by any person and being used
29 by the subscriber, user or person in the ordinary course
30 of his business, or being used by a communications common
31 carrier in the ordinary course of its business, or by an
32 investigative or law enforcement officer in the ordinary
33 course of his duties; or

34 (2) A hearing aid or similar device being used to

1 correct subnormal hearing to not better than normal.

2 (i) "Electronic criminal surveillance officer" means any
3 law enforcement officer of the United States or of the State
4 or political subdivision of it, or of another State, or of a
5 political subdivision of it, who is certified by the Illinois
6 Department of State Police to intercept private ~~oral~~
7 communications.

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

11 (k) "Intercept" means the aural or other acquisition of
12 the contents of any private ~~oral~~ communication through the
13 use of any electronic criminal surveillance device.

14 (l) "Journalist" means a person engaged in, connected
15 with, or employed by news media, including newspapers,
16 magazines, press associations, news agencies, wire services,
17 radio, television or other similar media, for the purpose of
18 gathering, processing, transmitting, compiling, editing or
19 disseminating news for the general public.

20 (m) "Law enforcement agency" means any law enforcement
21 agency of the United States, or the State or a political
22 subdivision of it.

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

26 (o) "Private ~~oral~~ communication" means a wire, ~~or~~ oral,
27 or electronic communication uttered or transmitted by a
28 person exhibiting an expectation that the communication is
29 not subject to interception, under circumstances reasonably
30 justifying the expectation. Circumstances that reasonably
31 justify the expectation that a communication is not subject
32 to interception include the use of a cordless telephone or
33 cellular communication device.

34 (p) "Wire communication" means any human speech used to

1 communicate by one party to another in whole or in part
2 through the use of facilities for the transmission of
3 communications by wire, cable or other like connection
4 between the point of origin and the point of reception
5 furnished or operated by a communications common carrier.

6 (q) "Privileged communications" means a private oral
7 communication between:

8 (1) a licensed and practicing physician and a
9 patient within the scope of the profession of the
10 physician;

11 (2) a licensed and practicing psychologist to a
12 patient within the scope of the profession of the
13 psychologist;

14 (3) a licensed and practicing attorney-at-law and a
15 client within the scope of the profession of the lawyer;

16 (4) a practicing clergyman and a confidant within
17 the scope of the profession of the clergyman;

18 (5) a practicing journalist within the scope of his
19 profession;

20 (6) spouses within the scope of their marital
21 relationship; or

22 (7) a licensed and practicing social worker to a
23 client within the scope of the profession of the social
24 worker.

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

26 (725 ILCS 5/108B-2) (from Ch. 38, par. 108B-2)

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

28 (a) A State's Attorney may apply for an order authorizing
29 interception of private oral communications in accordance
30 with the provisions of this Article.

31 (b) The head of a law enforcement agency, including, for
32 purposes of this subsection, the acting head of such law
33 enforcement agency if the head of such agency is absent or

1 unable to serve, may request that a State's Attorney apply
2 for an order authorizing interception of private oral
3 communications in accordance with the provisions of this
4 Article.

5 Upon request of a law enforcement agency, the Department
6 may provide technical assistance to such an agency which is
7 authorized to conduct an interception.

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

9 (725 ILCS 5/108B-3) (from Ch. 38, par. 108B-3)

10 Sec. 108B-3. Authorization for the interception of
11 private oral communication.

12 (a) The State's Attorney, or a person designated in
13 writing or by law to act for him and to perform his duties
14 during his absence or disability, may authorize, in writing,
15 an ex parte application to the chief judge of a court of
16 competent jurisdiction for an order authorizing the
17 interception of a private oral communication when no party
18 has consented to the interception and (i) the interception
19 may provide evidence of, or may assist in the apprehension of
20 a person who has committed, is committing or is about to
21 commit, a violation of Section 8-1.1 (solicitation of
22 murder), 8-1.2 (solicitation of murder for hire), 9-1 (first
23 degree murder), or 29B-1 (money laundering) of the Criminal
24 Code of 1961, Section 401, 401.1 (controlled substance
25 trafficking), 405, 405.1 (criminal drug conspiracy) or 407 of
26 the Illinois Controlled Substances Act, a violation of
27 Section 24-2.1, 24-2.2, 24-3, 24-3.1, 24-3.3, 24-3.4, 24-4,
28 or 24-5 or subsection 24-1(a)(4), 24-1(a)(6), 24-1(a)(7),
29 24-1(a)(9), 24-1(a)(10), or 24-1(c) of the Criminal Code of
30 1961 or conspiracy to commit money laundering or conspiracy
31 to commit first degree murder; (ii) in response to a clear
32 and present danger of imminent death or great bodily harm to
33 persons resulting from: (1) a kidnapping or the holding of a

1 hostage by force or the threat of the imminent use of force;
2 or (2) the occupation by force or the threat of the imminent
3 use of force of any premises, place, vehicle, vessel or
4 aircraft; (iii) to aid an investigation or prosecution of a
5 civil action brought under the Illinois Streetgang Terrorism
6 Omnibus Prevention Act when there is probable cause to
7 believe the interception of the private oral communication
8 will provide evidence that a streetgang is committing, has
9 committed, or will commit a second or subsequent gang-related
10 offense or that the interception of the private oral
11 communication will aid in the collection of a judgment
12 entered under that Act; or (iv) upon information and belief
13 that a streetgang has committed, is committing, or is about
14 to commit a felony.

15 (b) The State's Attorney or a person designated in
16 writing or by law to act for the State's Attorney and to
17 perform his or her duties during his or her absence or
18 disability, may authorize, in writing, an ex parte
19 application to the chief judge of a circuit court for an
20 order authorizing the interception of a private communication
21 when no party has consented to the interception and the
22 interception may provide evidence of, or may assist in the
23 apprehension of a person who has committed, is committing or
24 is about to commit, a violation of an offense under Article
25 29D of the Criminal Code of 1961.

26 (b-1) Subsection (b) is inoperative on and after January
27 1, 2005.

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

31 (c) As used in this Section, "streetgang" and
32 "gang-related" have the meanings ascribed to them in Section
33 10 of the Illinois Streetgang Terrorism Omnibus Prevention
34 Act.

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

2 (725 ILCS 5/108B-4) (from Ch. 38, par. 108B-4)

3 Sec. 108B-4. Application for order of interception. (a)

4 Each application for an order of authorization to intercept a
5 private ~~oral~~ communication shall be made in writing upon oath
6 or affirmation and shall include:

7 (1) The authority of the applicant to make the
8 application;

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

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

13 (i) The identity of the particular person, if known, who
14 is committing, is about to commit, or has committed the
15 offense and whose private communication is to be intercepted;

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

18 (iii) The particular type of private communication to be
19 intercepted;

20 (iv) Except as provided in Section 108B-7.5, a showing
21 that there is probable cause to believe that the private
22 communication will be communicated on the particular wire or
23 electronic communication facility involved or at the
24 particular place where the oral communication is to be
25 intercepted;

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

30 (vi) The objective of the investigation;

31 (vii) A statement of the period of time for which the
32 interception is required to be maintained, and, if the
33 objective of the investigation is such that the authorization

1 for interception should not automatically terminate when the
2 described type of communication has been first obtained, a
3 particular statement of facts establishing probable cause to
4 believe that additional communications of the same type will
5 continue to occur;

6 (viii) A particular statement of facts showing that
7 other normal investigative procedures with respect to the
8 offense have been tried and have failed, or reasonably appear
9 to be unlikely to succeed if tried, or are too dangerous to
10 employ;

11 (4) Where the application is for the extension of an
12 order, a statement of facts showing the results obtained from
13 the interception, or a reasonable explanation of the failure
14 to obtain results;

15 (5) A statement of the facts concerning all previous
16 applications known to the applicant made to any court for
17 authorization to intercept a private an-oral, -electronic, -or
18 wire communication involving any of the same facilities or
19 places specified in the application or involving any person
20 whose communication is to be intercepted, and the action
21 taken by the court on each application;

22 (6) A proposed order of authorization for consideration
23 by the judge; and

24 (7) Such additional statements of facts in support of
25 the application on which the applicant may rely or as the
26 chief judge may require.

27 (b) As part of the consideration of that part of an
28 application for which there is no corroborative evidence
29 offered, the chief judge may inquire in camera as to the
30 identity of any informant or request any other additional
31 information concerning the basis upon which the State's
32 Attorney, or the head of the law enforcement agency has
33 relied in making an application or a request for application
34 for the order of authorization which the chief judge finds

1 relevant to the determination of probable cause under this
2 Article.

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

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

5 Sec. 108B-5. Requirements for order of interception.
6 Upon consideration of an application, the chief judge may
7 enter an ex parte order, as requested or as modified,
8 authorizing the interception of a private ~~oral~~ communication,
9 if the chief judge determines on the basis of the application
10 submitted by the applicant, that:

11 (1) There is probable cause for belief that (a) the
12 person whose private communication is to be intercepted is
13 committing, has committed, or is about to commit an offense
14 enumerated in Section 108B-3, or (b) the facilities from
15 which, or the place where, the private ~~oral~~ communication is
16 to be intercepted, is, has been, or is about to be used in
17 connection with the commission of the offense, or is leased
18 to, listed in the name of, or commonly used by, the person;
19 and

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

23 (3) Normal investigative procedures with respect to the
24 offense have been tried and have failed or reasonably appear
25 to be unlikely to succeed if tried or too dangerous to
26 employ; and

27 (4) The electronic criminal surveillance officers to be
28 authorized to supervise the interception of the private ~~oral~~
29 communication have been certified by the Department.

30 (b) In the case of an application, other than for an
31 extension, for an order to intercept a communication of a
32 person or on a wire communication facility that was the
33 subject of a previous order authorizing interception, the

1 application shall be based upon new evidence or information
2 different from and in addition to the evidence or information
3 offered to support the prior order, regardless of whether the
4 evidence was derived from prior interceptions or from other
5 sources.

6 (c) The chief judge may authorize interception of a
7 private ~~oral~~ communication anywhere in the judicial circuit.
8 If the court authorizes the use of an eavesdropping device
9 with respect to a vehicle, watercraft, or aircraft that is
10 within the judicial circuit at the time the order is issued,
11 the order may provide that the interception may continue
12 anywhere within the State if the vehicle, watercraft, or
13 aircraft leaves the judicial circuit.

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

15 (725 ILCS 5/108B-7) (from Ch. 38, par. 108B-7)

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

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

20 (2) The identity of, or a particular description of, the
21 person, if known, whose private communications are to be
22 intercepted;

23 (3) The character and location of the particular wire
24 communication facilities as to which, or the particular place
25 of the communications as to which, authority to intercept is
26 granted;

27 (4) A particular description of the type of private
28 communication to be intercepted and a statement of the
29 particular offense to which it relates;

30 (5) The identity and certification of the electronic
31 criminal surveillance officers to whom the authority to
32 intercept a private ~~oral~~ communication is given and the
33 identity of the person who authorized the application; and

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

5 (b) No order entered under this Section shall authorize
6 the interception of private oral communications for a period
7 of time in excess of that necessary to achieve the objective
8 of the authorization. Every order entered under this Section
9 shall require that the interception begin and terminate as
10 soon as practicable and be conducted in such a manner as to
11 minimize the interception of communications not otherwise
12 subject to interception. No order, other than for an
13 extension, entered under this Section may authorize the
14 interception of private oral communications for any period
15 exceeding 30 days. Extensions of an order may be granted for
16 periods of not more than 30 days. No extension shall be
17 granted unless an application for it is made in accordance
18 with Section 108B-4 and the judge makes the findings required
19 by Section 108B-5 and, where necessary, Section 108B-6.

20 (c) Whenever an order authorizing an interception is
21 entered, the order shall require reports to be made to the
22 chief judge who issued the order showing what progress has
23 been made toward achievement of the authorized objective and
24 the need for continued interception. The reports shall be
25 made at such intervals as the judge may require.

26 (d) An order authorizing the interception of a private
27 oral communication shall, upon request of the applicant,
28 direct that a communications common carrier, landlord, owner,
29 building operator, custodian, or other person furnish the
30 applicant forthwith all information, facilities and technical
31 assistance necessary to accomplish the interception
32 unobtrusively and with a minimum of interference with the
33 services that the carrier, owner, building operator,
34 landlord, custodian, or person is affording the person whose

1 communication is to be intercepted. The obligation of a
2 communications common carrier under the order may include
3 conducting an in-progress trace during an interception. Any
4 communications common carrier, landlord, owner, building
5 operator, custodian, or person furnishing the facilities or
6 technical assistance shall be compensated by the applicant at
7 the prevailing rates.

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

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

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

16 (f) An order authorizing the interception of a private
17 oral communication shall, upon the request of the applicant,
18 authorize the entry into the place or facilities by
19 electronic criminal surveillance officers as often as
20 necessary for the purpose of installing, maintaining or
21 removing an intercepting device where the entry is necessary
22 to conduct or complete the interception. The chief judge who
23 issues the order shall be notified of the fact of each entry
24 prior to entry, if practicable, and, in any case, within 48
25 hours of entry.

26 (g) (1) Notwithstanding any provision of this Article,
27 any chief judge of a court of competent jurisdiction to which
28 any application is made under this Article may take any
29 evidence, make any finding, or issue any order to conform the
30 proceedings or the issuance of any order to the Constitution
31 of the United States, or of any law of the United States or
32 to the Constitution of the State of Illinois or to the laws
33 of Illinois.

34 (2) When the language of this Article is the same or

1 similar to the language of Title III of P.L. 90-351 (82 Stat.
 2 211 et seq., codified at, 18 U.S.C. 2510 et seq.), the courts
 3 of this State in construing this Article shall follow the
 4 construction given to Federal law by the United States
 5 Supreme Court or United States Court of Appeals for the
 6 Seventh Circuit.

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

8 (725 ILCS 5/108B-7.5 new)

9 Sec. 108B-7.5. Applicability.

10 (a) The requirements of subdivisions (a)(3)(iv) and
 11 (a)(3)(v) of Section 108B-4, subdivision (1)(b) of Section
 12 108B-5, and subdivision (a)(3) of Section 108B-7 of this
 13 Article relating to the specification of the facilities from
 14 which, or the place where, the communication is to be
 15 intercepted do not apply if:

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

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

23 (B) the application contains a full and
 24 complete statement as to why such specification is
 25 not practical and identifies the person committing
 26 the offense and whose communications are to be
 27 intercepted;

28 (C) the judge finds that such specification is
 29 not practical; and

30 (D) the order sought is in connection with an
 31 investigation of a violation of Article 29D of the
 32 Criminal Code of 1961.

33 (2) in the case of an application with respect to a

1 wire or electronic communication:

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

7 (B) the application identifies the person
8 believed to be committing the offense and whose
9 communications are to be intercepted and the
10 applicant makes a showing that there is probable
11 cause to believe that the person's actions could
12 have the effect of thwarting interception from a
13 specified facility;

14 (C) the judge finds that such showing has been
15 adequately made;

16 (D) the order authorizing or approving the
17 interception is limited to interception only for
18 such time as it is reasonable to presume that the
19 person identified in the application is or was
20 reasonably proximate to the instrument through which
21 such communication will be or was transmitted; and

22 (E) the order sought is in connection with an
23 investigation of a violation of Article 29D of the
24 Criminal Code of 1961.

25 (b) An interception of a communication under an order
26 with respect to which the requirements of subdivisions
27 (a)(3)(iv) and (a)(3)(v) of Section 108B-4, subdivision
28 (1)(b) of Section 108B-5, and subdivision (a)(3) of Section
29 108B-7 of this Article do not apply by reason of this Section
30 shall not begin until the place where the communication is to
31 be intercepted is ascertained by the person implementing the
32 interception order. A provider of wire or electronic
33 communications service that has received an order as provided
34 for in subdivision (a)(2) may upon notice to the People move

1 the court to modify or quash the order on the ground that its
2 assistance with respect to the interception cannot be
3 performed in a timely or reasonable fashion. The court shall
4 decide such a motion expeditiously.

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

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

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

14 (3) There is probable cause to believe that a
15 substantial danger to life or limb exists justifying the
16 authorization for immediate interception of a private oral
17 communication before formal application for an order could
18 with due diligence be submitted to him and acted upon; the
19 chief judge may grant oral approval for an interception,
20 without an order, conditioned upon the filing with him,
21 within 48 hours, of an application for an order under Section
22 108B-4 which shall also recite the oral approval under this
23 Section and be retroactive to the time of the oral approval.

24 (b) Interception under oral approval under this Section
25 shall immediately terminate when the communication sought is
26 obtained or when the application for an order is denied,
27 whichever is earlier.

28 (c) In the event no formal application for an order is
29 subsequently made under this Section, the content of any
30 private oral communication intercepted under oral approval
31 under this Section shall be treated as having been obtained
32 in violation of this Article.

33 (d) In the event no application for an order is made

1 under this Section or an application made under this Section
 2 is subsequently denied, the judge shall cause an inventory to
 3 be served under Section 108B-11 of this Article and shall
 4 require the tape or other recording of the intercepted
 5 communication to be delivered to, and sealed by, the judge.
 6 The evidence shall be retained by the court, and it shall not
 7 be used or disclosed in any legal proceeding, except a civil
 8 action brought by an aggrieved person under Section 14-6 of
 9 the Criminal Code of 1961, or as otherwise authorized by the
 10 order of a court of competent jurisdiction. In addition to
 11 other remedies or penalties provided by law, failure to
 12 deliver any tape or other recording to the chief judge shall
 13 be punishable as contempt by the judge directing the
 14 delivery.

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

16 (725 ILCS 5/108B-9) (from Ch. 38, par. 108B-9)

17 Sec. 108B-9. Recordings, records and custody.

18 (a) Any private oral communication intercepted in
 19 accordance with this Article shall, if practicable, be
 20 recorded by tape or other comparable method. The recording
 21 shall, if practicable, be done in such a way as will protect
 22 it from editing or other alteration. During an interception,
 23 the interception shall be carried out by an electronic
 24 criminal surveillance officer, and, if practicable, such
 25 officer shall keep a signed, written record, including:

- 26 (1) The date and hours of surveillance;
- 27 (2) The time and duration of each intercepted
 28 communication;
- 29 (3) The parties, if known, to each intercepted
 30 conversation; and
- 31 (4) A summary of the contents of each intercepted
 32 communication.

33 (b) Immediately upon the expiration of the order or its

1 extensions, the tapes and other recordings shall be
2 transferred to the chief judge issuing the order and sealed
3 under his direction. Custody of the tapes, or other
4 recordings, shall be maintained wherever the chief judge
5 directs. They shall not be destroyed except upon an order of
6 a court of competent jurisdiction and in any event shall be
7 kept for 10 years. Duplicate tapes or other recordings may
8 be made for disclosure or use under paragraph (a) of Section
9 108B-2a of this Article. The presence of the seal provided
10 by this Section, or a satisfactory explanation for its
11 absence, shall be a prerequisite for the disclosure of the
12 contents of any private oral communication, or evidence
13 derived from it, under paragraph (b) of Section 108B-2a of
14 this Article.

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

16 (725 ILCS 5/108B-10) (from Ch. 38, par. 108B-10)

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

18 (a) Applications made and orders granted under this
19 Article for the interception of private oral communications
20 shall be sealed by the chief judge issuing or denying them
21 and held in custody as the judge shall direct. The
22 applications and orders shall be kept for a period of 10
23 years. Destruction of the applications and orders prior to
24 the expiration of that period of time may be made only upon
25 the order of a court of competent jurisdiction. Disclosure
26 of the applications and orders may be ordered by a court of
27 competent jurisdiction on a showing of good cause.

28 (b) The electronic criminal surveillance officer shall
29 retain a copy of applications and orders for the interception
30 of private oral communications. The applications and orders
31 shall be kept for a period of 10 years. Destruction of the
32 applications and orders prior to the expiration of that
33 period of time may be made only upon an order of a court of

1 competent jurisdiction. Disclosure and use of the
2 applications and orders may be made by an electronic criminal
3 surveillance officer only in the proper performance of his
4 official duties.

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

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

9 (725 ILCS 5/108B-11) (from Ch. 38, par. 108B-11)
10 Sec. 108B-11. Inventory.

11 (a) Within a reasonable period of time but not later than
12 90 days after the termination of the period of the order, or
13 its extensions, or the date of the denial of an application
14 made under Section 108B-8, the chief judge issuing or denying
15 the order or extension shall cause an inventory to be served
16 on any person:

17 (1) Named in the order;

18 (2) Arrested as a result of the interception of his
19 private ~~oral~~ communication;

20 (3) Indicted or otherwise charged as a result of the
21 interception of his private ~~oral~~ communication;

22 (4) Any person whose private ~~oral~~ communication was
23 intercepted and who the judge issuing or denying the order or
24 application may in his discretion determine should be
25 informed in the interest of justice.

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

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

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

31 (3) The period of authorized or disapproved
32 interception; and

33 (4) The fact that during the period a private ~~oral~~

1 communication was or was not intercepted.

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

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

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

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

13 Sec. 108B-12. Approval, notice, suppression.

14 (a) If an electronic criminal surveillance officer,
15 while intercepting a private oral communication in accordance
16 with the provision of this Article, intercepts a private oral
17 communication that relates to an offense other than an
18 offense enumerated in Section 108B-3 of the Act, or relates
19 to an offense enumerated in Section 108B-3 but not specified
20 in the order of authorization, the State's Attorney, or a
21 person designated in writing or by law to act for him, may,
22 in order to permit the disclosure or use of the information
23 under Section 108B-2a of this Act, make a motion for an order
24 approving the interception. The chief judge of a court of
25 competent jurisdiction shall enter an order approving the
26 interception if he finds that at the time of the application,
27 there existed probable cause to believe that a person whose
28 private oral communication was intercepted was committing or
29 had committed an offense and the content of the communication
30 relates to that offense, and that the communication was
31 otherwise intercepted in accordance with the provisions of
32 this Article.

33 (b) An intercepted private oral communication, or

1 evidence derived from it, may not be received in evidence or
2 otherwise disclosed in an official proceeding unless each
3 aggrieved person who is a party in the official proceeding,
4 including any proceeding before a legislative, judicial,
5 administrative or other governmental agency or official
6 authorized to hear evidence under oath or other person taking
7 testimony or depositions in any such proceeding, other than a
8 grand jury, has, not less than 10 days before the official
9 proceeding, been furnished with a copy of the court order,
10 and the accompanying application, under which the
11 interception was authorized or approved. The 10 day period
12 may be waived by the presiding official if he finds that it
13 was not practicable to furnish the person with the
14 information 10 days before the proceeding, and that the
15 person will not be or has not been prejudiced by delay in
16 receiving the information.

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

- 21 (1) The communication was unlawfully intercepted;
- 22 (2) The order of authorization or approval under which
23 it was intercepted is insufficient on its face; or
- 24 (3) The interception was not made in conformity with the
25 order of authorization or approval or at the time of the
26 application there was not probable cause to believe that the
27 aggrieved person was committing or had committed the offense
28 to which the content of the private communication relates.

29 (d) If a motion under this Section duly alleges that the
30 evidence sought to be suppressed in an official proceeding,
31 including a grand jury, has been derived from an unlawfully
32 intercepted private oral communication, and if the aggrieved
33 person who is a party has not been served with notice of the
34 interception under this Section, the opponent of the

1 allegation shall, after conducting a thorough search of its
2 files, affirm or deny the occurrence of the alleged unlawful
3 interception, but no motion shall be considered if the
4 alleged unlawful interception took place more than 5 years
5 before the event to which the evidence relates.

6 (e) Where a motion is duly made under this Section prior
7 to the appearance of a witness before a grand jury, the
8 opponent of the motion may make such applications and orders
9 as it has available to the chief judge of a court of
10 competent jurisdiction in camera, and if the judge determines
11 that there is no defect in them sufficient on its face to
12 render them invalid, the judge shall inform the witness that
13 he has not been the subject of an unlawful interception. If
14 the judge determines that there is a defect in them
15 sufficient on its face to render them invalid, he shall enter
16 an order prohibiting any question being put to the witness
17 based on the unlawful interception.

18 (f) Motions under this Section shall be made prior to
19 the official proceeding unless there was no opportunity to
20 make the motion or unless the aggrieved person who is a party
21 was not aware of the grounds for the motion. Motions by
22 co-indictees shall, on motion of the People, be heard in a
23 single consolidated hearing.

24 (g) A chief judge of a court of competent jurisdiction,
25 upon the filing of a motion by an aggrieved person who is a
26 party under this Section, except before a grand jury, may
27 make available for inspection by the aggrieved person or his
28 attorney such portions of the intercepted private
29 communications, applications and orders or the evidence
30 derived from them as the judge determines to be in the
31 interest of justice.

32 (h) If a motion under this Section is granted, the
33 intercepted private oral communication, and evidence derived
34 from it, may not be received in evidence in an official

1 proceeding, including a grand jury.

2 (i) In addition to any other right of appeal, the People
3 shall have the right to appeal from an order granting a
4 motion to suppress if the official to whom the order
5 authorizing the interception was granted certifies to the
6 court that the appeal is not taken for purposes of delay.
7 The appeal shall otherwise be taken in accordance with the
8 law.

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

10 (725 ILCS 5/108B-14) (from Ch. 38, par. 108B-14)

11 Sec. 108B-14. Training.

12 (a) The Director of the Illinois Department of State
13 Police shall:

14 (1) Establish a course of training in the legal,
15 practical, and technical aspects of the interception of
16 private ~~oral~~ communications and related investigation and
17 prosecution techniques;

18 (2) Issue regulations as he finds necessary for the
19 training program;

20 (3) In cooperation with the Illinois Law
21 Enforcement Training Standards Board, set minimum
22 standards for certification and periodic recertification
23 of electronic criminal surveillance officers as eligible
24 to apply for orders authorizing the interception of
25 private ~~oral~~ communications, to conduct the
26 interceptions, and to use the private communications or
27 evidence derived from them in official proceedings; and

28 (4) In cooperation with the Illinois Law
29 Enforcement Training Standards Board, revoke or suspend
30 the certification of any electronic criminal surveillance
31 officer who has violated any law relating to electronic
32 criminal surveillance, or any of the guidelines
33 established by the Department for conducting electronic

1 criminal surveillance.

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

4 (1) Pursuant to the Illinois Police Training Act,
5 review the course of training prescribed by the
6 Department for the purpose of certification relating to
7 reimbursement of expenses incurred by local law
8 enforcement agencies participating in the electronic
9 criminal surveillance officer training process, and

10 (2) Assist the Department in establishing minimum
11 standards for certification and periodic recertification
12 of electronic criminal surveillance officers as being
13 eligible to apply for orders authorizing the interception
14 of private oral communications, to conduct the
15 interpretations, and to use the communications or
16 evidence derived from them in official proceedings.

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

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

20 (725 ILCS 215/2) (from Ch. 38, par. 1702)

21 Sec. 2. (a) County grand juries and State's Attorneys
22 have always had and shall continue to have primary
23 responsibility for investigating, indicting, and prosecuting
24 persons who violate the criminal laws of the State of
25 Illinois. However, in recent years organized terrorist
26 activity directed against innocent civilians and certain
27 criminal enterprises have developed that require
28 investigation, indictment, and prosecution on a statewide or
29 multicounty level. The criminal These enterprises exist as a
30 result of the allure of profitability present in narcotic
31 activity, the unlawful sale and transfer of firearms, and
32 streetgang related felonies and organized terrorist activity

1 is supported by the contribution of money and expert
2 assistance from geographically diverse sources. In order to
3 shut off the life blood of terrorism and weaken or eliminate
4 the criminal these enterprises, assets, and property used to
5 further these offenses must be frozen, and any the profit
6 must be removed. State statutes exist that can accomplish
7 that goal. Among them are the offense of money laundering,
8 the Cannabis and Controlled Substances Tax Act, violations of
9 Article 29D of the Criminal Code of 1961, the Narcotics
10 Profit Forfeiture Act, and gunrunning. Local prosecutors
11 need investigative personnel and specialized training to
12 attack and eliminate these profits. In light of the
13 transitory and complex nature of conduct that constitutes
14 these criminal activities, the many diverse property
15 interests that may be used, acquired directly or indirectly
16 as a result of these criminal activities, and the many places
17 that illegally obtained property may be located, it is the
18 purpose of this Act to create a limited, multicounty
19 Statewide Grand Jury with authority to investigate, indict,
20 and prosecute: narcotic activity, including cannabis and
21 controlled substance trafficking, narcotics racketeering,
22 money laundering, and violations of the Cannabis and
23 Controlled Substances Tax Act, and violations of Article 29D
24 of the Criminal Code of 1961; the unlawful sale and transfer
25 of firearms; gunrunning; and streetgang related felonies.

26 (b) A Statewide Grand Jury may also investigate, indict,
27 and prosecute violations facilitated by the use of a computer
28 of any of the following offenses: indecent solicitation of a
29 child, sexual exploitation of a child, soliciting for a
30 juvenile prostitute, keeping a place of juvenile
31 prostitution, juvenile pimping, or child pornography.

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

33 (725 ILCS 215/3) (from Ch. 38, par. 1703)

1 Sec. 3. Written application for the appointment of a
2 Circuit Judge to convene and preside over a Statewide Grand
3 Jury, with jurisdiction extending throughout the State, shall
4 be made to the Chief Justice of the Supreme Court. Upon such
5 written application, the Chief Justice of the Supreme Court
6 shall appoint a Circuit Judge from the circuit where the
7 Statewide Grand Jury is being sought to be convened, who
8 shall make a determination that the convening of a Statewide
9 Grand Jury is necessary.

10 In such application the Attorney General shall state that
11 the convening of a Statewide Grand Jury is necessary because
12 of an alleged offense or offenses set forth in this Section
13 involving more than one county of the State and identifying
14 any such offense alleged; and

15 (a) that he or she believes that the grand jury
16 function for the investigation and indictment of the
17 offense or offenses cannot effectively be performed by a
18 county grand jury together with the reasons for such
19 belief, and

20 (b)(1) that each State's Attorney with
21 jurisdiction over an offense or offenses to be
22 investigated has consented to the impaneling of the
23 Statewide Grand Jury, or

24 (2) if one or more of the State's Attorneys
25 having jurisdiction over an offense or offenses to
26 be investigated fails to consent to the impaneling
27 of the Statewide Grand Jury, the Attorney General
28 shall set forth good cause for impaneling the
29 Statewide Grand Jury.

30 If the Circuit Judge determines that the convening of a
31 Statewide Grand Jury is necessary, he or she shall convene
32 and impanel the Statewide Grand Jury with jurisdiction
33 extending throughout the State to investigate and return
34 indictments:

1 (a) For violations of any of the following or for
2 any other criminal offense committed in the course of
3 violating any of the following: Article 29D of the
4 Criminal Code of 1961, the Illinois Controlled Substances
5 Act, the Cannabis Control Act, the Narcotics Profit
6 Forfeiture Act, or the Cannabis and Controlled Substances
7 Tax Act; a streetgang related felony offense; Section
8 24-2.1, 24-2.2, 24-3, 24-3A, 24-3.1, 24-3.3, 24-3.4,
9 24-4, or 24-5 or subsection 24-1(a)(4), 24-1(a)(6),
10 24-1(a)(7), 24-1(a)(9), 24-1(a)(10), or 24-1(c) of the
11 Criminal Code of 1961; or a money laundering offense;
12 provided that the violation or offense involves acts
13 occurring in more than one county of this State; and

14 (a-5) For violations facilitated by the use of a
15 computer, including the use of the Internet, the World
16 Wide Web, electronic mail, message board, newsgroup, or
17 any other commercial or noncommercial on-line service, of
18 any of the following offenses: indecent solicitation of
19 a child, sexual exploitation of a child, soliciting for a
20 juvenile prostitute, keeping a place of juvenile
21 prostitution, juvenile pimping, or child pornography; and

22 (b) For the offenses of perjury, subornation of
23 perjury, communicating with jurors and witnesses, and
24 harassment of jurors and witnesses, as they relate to
25 matters before the Statewide Grand Jury.

26 "Streetgang related" has the meaning ascribed to it in
27 Section 10 of the Illinois Streetgang Terrorism Omnibus
28 Prevention Act.

29 Upon written application by the Attorney General for the
30 convening of an additional Statewide Grand Jury, the Chief
31 Justice of the Supreme Court shall appoint a Circuit Judge
32 from the circuit for which the additional Statewide Grand
33 Jury is sought. The Circuit Judge shall determine the
34 necessity for an additional Statewide Grand Jury in

1 accordance with the provisions of this Section. No more than
2 Statewide Grand Juries may be empaneled at any time.
3 (Source: P.A. 91-225, eff. 1-1-00; 91-947, eff. 2-9-01.)

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

5 Sec. 4. (a) The presiding judge of the Statewide Grand
6 Jury will receive recommendations from the Attorney General
7 as to the county in which the Grand Jury will sit. Prior to
8 making the recommendations, the Attorney General shall obtain
9 the permission of the local State's Attorney to use his or
10 her county for the site of the Statewide Grand Jury. Upon
11 receiving the Attorney General's recommendations, the
12 presiding judge will choose one of those recommended
13 locations as the site where the Grand Jury shall sit.

14 Any indictment by a Statewide Grand Jury shall be
15 returned to the Circuit Judge presiding over the Statewide
16 Grand Jury and shall include a finding as to the county or
17 counties in which the alleged offense was committed.
18 Thereupon, the judge shall, by order, designate the county of
19 venue for the purpose of trial. The judge may also, by
20 order, direct the consolidation of an indictment returned by
21 a county grand jury with an indictment returned by the
22 Statewide Grand Jury and set venue for trial.

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

25 (1) Cannabis or a controlled substance which is the
26 basis for the charge of narcotics racketeering was used;
27 acquired; transferred or distributed to, from or through;
28 or any county where any act was performed to further the
29 use; acquisition, transfer or distribution of said
30 cannabis or controlled substance; or

31 (2) Any money, property, property interest, or any
32 other asset generated by narcotics activities was
33 acquired, used, sold, transferred or distributed to, from

1 or through; or,

2 (3) Any enterprise interest obtained as a result of
3 narcotics racketeering was acquired, used, transferred or
4 distributed to, from or through, or where any activity
5 was conducted by the enterprise or any conduct to further
6 the interests of such an enterprise.

7 (c) Venue for purposes of trial for the offense of money
8 laundering shall be proper in any county where any part of a
9 financial transaction in criminally derived property took
10 place, or in any county where any money or monetary interest
11 which is the basis for the offense, was acquired, used, sold,
12 transferred or distributed to, from, or through.

13 (d) A person who commits the offense of cannabis
14 trafficking or controlled substance trafficking may be tried
15 in any county.

16 (e) Venue for purposes of trial for any violation of
17 Article 29D of the Criminal Code of 1961 may be in the county
18 in which an act of terrorism occurs, the county in which
19 material support or resources are provided or solicited, the
20 county in which criminal assistance is rendered, or any
21 county in which any act in furtherance of any violation of
22 Article 29D of the Criminal Code of 1961 occurs.

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

24 (725 ILCS 215/10) (from Ch. 38, par. 1710)

25 Sec. 10. The Attorney General shall, at the earliest
26 opportunity, upon initiation of Grand Jury action, consult
27 with and advise the State's Attorney of any county involved
28 in a Statewide Grand Jury terrorist or narcotics
29 investigation. Further, the State's Attorney may attend the
30 Grand Jury proceedings or the trial of any party being
31 investigated or indicted by the Statewide Grand Jury, and may
32 assist in the prosecution, which in his or her judgment, is
33 in the interest of the people of his or her county. Prior to

1 granting transactional immunity to any witness before the
2 Statewide Grand Jury, any State's Attorney with jurisdiction
3 over the offense or offenses being investigated by the
4 Statewide Grand Jury must consent to the granting of immunity
5 to the witness. Prior to granting use immunity to any
6 witness before the Statewide Grand Jury, the Attorney General
7 shall consult with any State's Attorney with jurisdiction
8 over the offense or offenses being investigated by the
9 Statewide Grand Jury.

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

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

13 (730 ILCS 5/3-6-3) (from Ch. 38, par. 1003-6-3)

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

15 (a) (1) The Department of Corrections shall
16 prescribe rules and regulations for the early release on
17 account of good conduct of persons committed to the
18 Department which shall be subject to review by the
19 Prisoner Review Board.

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

23 (i) that a prisoner who is serving a term of
24 imprisonment for first degree murder or for the
25 offense of terrorism shall receive no good conduct
26 credit and shall serve the entire sentence imposed
27 by the court;

28 (ii) that a prisoner serving a sentence for
29 attempt to commit first degree murder, solicitation
30 of murder, solicitation of murder for hire,
31 intentional homicide of an unborn child, predatory
32 criminal sexual assault of a child, aggravated

1 criminal sexual assault, criminal sexual assault,
2 aggravated kidnapping, aggravated battery with a
3 firearm, heinous battery, aggravated battery of a
4 senior citizen, or aggravated battery of a child
5 shall receive no more than 4.5 days of good conduct
6 credit for each month of his or her sentence of
7 imprisonment; and

8 (iii) that a prisoner serving a sentence for
9 home invasion, armed robbery, aggravated vehicular
10 hijacking, aggravated discharge of a firearm, or
11 armed violence with a category I weapon or category
12 II weapon, when the court has made and entered a
13 finding, pursuant to subsection (c-1) of Section
14 5-4-1 of this Code, that the conduct leading to
15 conviction for the enumerated offense resulted in
16 great bodily harm to a victim, shall receive no more
17 than 4.5 days of good conduct credit for each month
18 of his or her sentence of imprisonment.

19 (2.1) For all offenses, other than those enumerated
20 in subdivision (a)(2) committed on or after June 19,
21 1998, and other than the offense of reckless homicide as
22 defined in subsection (e) of Section 9-3 of the Criminal
23 Code of 1961 committed on or after January 1, 1999, the
24 rules and regulations shall provide that a prisoner who
25 is serving a term of imprisonment shall receive one day
26 of good conduct credit for each day of his or her
27 sentence of imprisonment or recommitment under Section
28 3-3-9. Each day of good conduct credit shall reduce by
29 one day the prisoner's period of imprisonment or
30 recommitment under Section 3-3-9.

31 (2.2) A prisoner serving a term of natural life
32 imprisonment or a prisoner who has been sentenced to
33 death shall receive no good conduct credit.

34 (2.3) The rules and regulations on early release

1 shall provide that a prisoner who is serving a sentence
2 for reckless homicide as defined in subsection (e) of
3 Section 9-3 of the Criminal Code of 1961 committed on or
4 after January 1, 1999 shall receive no more than 4.5 days
5 of good conduct credit for each month of his or her
6 sentence of imprisonment.

7 (2.4) The rules and regulations on early release
8 shall provide with respect to the offenses of aggravated
9 battery with a machine gun or a firearm equipped with any
10 device or attachment designed or used for silencing the
11 report of a firearm or aggravated discharge of a machine
12 gun or a firearm equipped with any device or attachment
13 designed or used for silencing the report of a firearm,
14 committed on or after the effective date of this
15 amendatory Act of 1999, that a prisoner serving a
16 sentence for any of these offenses shall receive no more
17 than 4.5 days of good conduct credit for each month of
18 his or her sentence of imprisonment.

19 (2.5) The rules and regulations on early release
20 shall provide that a prisoner who is serving a sentence
21 for aggravated arson committed on or after the effective
22 date of this amendatory Act of the 92nd General Assembly
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.

26 (3) The rules and regulations shall also provide
27 that the Director may award up to 180 days additional
28 good conduct credit for meritorious service in specific
29 instances as the Director deems proper; except that no
30 more than 90 days of good conduct credit for meritorious
31 service shall be awarded to any prisoner who is serving a
32 sentence for conviction of first degree murder, reckless
33 homicide while under the influence of alcohol or any
34 other drug, aggravated kidnapping, kidnapping, predatory

1 criminal sexual assault of a child, aggravated criminal
2 sexual assault, criminal sexual assault, deviate sexual
3 assault, aggravated criminal sexual abuse, aggravated
4 indecent liberties with a child, indecent liberties with
5 a child, child pornography, heinous battery, aggravated
6 battery of a spouse, aggravated battery of a spouse with
7 a firearm, stalking, aggravated stalking, aggravated
8 battery of a child, endangering the life or health of a
9 child, cruelty to a child, or narcotic racketeering.
10 Notwithstanding the foregoing, good conduct credit for
11 meritorious service shall not be awarded on a sentence of
12 imprisonment imposed for conviction of: (i) one of the
13 offenses enumerated in subdivision (a)(2) when the
14 offense is committed on or after June 19, 1998, (ii)
15 reckless homicide as defined in subsection (e) of Section
16 9-3 of the Criminal Code of 1961 when the offense is
17 committed on or after January 1, 1999, (iii) one of the
18 offenses enumerated in subdivision (a)(2.4) when the
19 offense is committed on or after the effective date of
20 this amendatory Act of 1999, or (iv) aggravated arson
21 when the offense is committed on or after the effective
22 date of this amendatory Act of the 92nd General Assembly.

23 (4) The rules and regulations shall also provide
24 that the good conduct credit accumulated and retained
25 under paragraph (2.1) of subsection (a) of this Section
26 by any inmate during specific periods of time in which
27 such inmate is engaged full-time in substance abuse
28 programs, correctional industry assignments, or
29 educational programs provided by the Department under
30 this paragraph (4) and satisfactorily completes the
31 assigned program as determined by the standards of the
32 Department, shall be multiplied by a factor of 1.25 for
33 program participation before August 11, 1993 and 1.50 for
34 program participation on or after that date. However, no

1 inmate shall be eligible for the additional good conduct
2 credit under this paragraph (4) while assigned to a boot
3 camp, mental health unit, or electronic detention, or if
4 convicted of an offense enumerated in paragraph (a)(2) of
5 this Section that is committed on or after June 19, 1998,
6 or if convicted of reckless homicide as defined in
7 subsection (e) of Section 9-3 of the Criminal Code of
8 1961 if the offense is committed on or after January 1,
9 1999, or if convicted of an offense enumerated in
10 paragraph (a)(2.4) of this Section that is committed on
11 or after the effective date of this amendatory Act of
12 1999, or first degree murder, a Class X felony, criminal
13 sexual assault, felony criminal sexual abuse, aggravated
14 criminal sexual abuse, aggravated battery with a firearm,
15 or any predecessor or successor offenses with the same or
16 substantially the same elements, or any inchoate offenses
17 relating to the foregoing offenses. No inmate shall be
18 eligible for the additional good conduct credit under
19 this paragraph (4) who (i) has previously received
20 increased good conduct credit under this paragraph (4)
21 and has subsequently been convicted of a felony, or (ii)
22 has previously served more than one prior sentence of
23 imprisonment for a felony in an adult correctional
24 facility.

25 Educational, vocational, substance abuse and
26 correctional industry programs under which good conduct
27 credit may be increased under this paragraph (4) shall be
28 evaluated by the Department on the basis of documented
29 standards. The Department shall report the results of
30 these evaluations to the Governor and the General
31 Assembly by September 30th of each year. The reports
32 shall include data relating to the recidivism rate among
33 program participants.

34 Availability of these programs shall be subject to

1 the limits of fiscal resources appropriated by the
2 General Assembly for these purposes. Eligible inmates
3 who are denied immediate admission shall be placed on a
4 waiting list under criteria established by the
5 Department. The inability of any inmate to become engaged
6 in any such programs by reason of insufficient program
7 resources or for any other reason established under the
8 rules and regulations of the Department shall not be
9 deemed a cause of action under which the Department or
10 any employee or agent of the Department shall be liable
11 for damages to the inmate.

12 (5) Whenever the Department is to release any
13 inmate earlier than it otherwise would because of a grant
14 of good conduct credit for meritorious service given at
15 any time during the term, the Department shall give
16 reasonable advance notice of the impending release to the
17 State's Attorney of the county where the prosecution of
18 the inmate took place.

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

23 (c) The Department shall prescribe rules and regulations
24 for revoking good conduct credit, or suspending or reducing
25 the rate of accumulation of good conduct credit for specific
26 rule violations, during imprisonment. These rules and
27 regulations shall provide that no inmate may be penalized
28 more than one year of good conduct credit for any one
29 infraction.

30 When the Department seeks to revoke, suspend or reduce
31 the rate of accumulation of any good conduct credits for an
32 alleged infraction of its rules, it shall bring charges
33 therefor against the prisoner sought to be so deprived of
34 good conduct credits before the Prisoner Review Board as

1 provided in subparagraph (a)(4) of Section 3-3-2 of this
2 Code, if the amount of credit at issue exceeds 30 days or
3 when during any 12 month period, the cumulative amount of
4 credit revoked exceeds 30 days except where the infraction is
5 committed or discovered within 60 days of scheduled release.
6 In those cases, the Department of Corrections may revoke up
7 to 30 days of good conduct credit. The Board may subsequently
8 approve the revocation of additional good conduct credit, if
9 the Department seeks to revoke good conduct credit in excess
10 of 30 days. However, the Board shall not be empowered to
11 review the Department's decision with respect to the loss of
12 30 days of good conduct credit within any calendar year for
13 any prisoner or to increase any penalty beyond the length
14 requested by the Department.

15 The Director of the Department of Corrections, in
16 appropriate cases, may restore up to 30 days good conduct
17 credits which have been revoked, suspended or reduced. Any
18 restoration of good conduct credits in excess of 30 days
19 shall be subject to review by the Prisoner Review Board.
20 However, the Board may not restore good conduct credit in
21 excess of the amount requested by the Director.

22 Nothing contained in this Section shall prohibit the
23 Prisoner Review Board from ordering, pursuant to Section
24 3-3-9(a)(3)(i)(B), that a prisoner serve up to one year of
25 the sentence imposed by the court that was not served due to
26 the accumulation of good conduct credit.

27 (d) If a lawsuit is filed by a prisoner in an Illinois
28 or federal court against the State, the Department of
29 Corrections, or the Prisoner Review Board, or against any of
30 their officers or employees, and the court makes a specific
31 finding that a pleading, motion, or other paper filed by the
32 prisoner is frivolous, the Department of Corrections shall
33 conduct a hearing to revoke up to 180 days of good conduct
34 credit by bringing charges against the prisoner sought to be

1 deprived of the good conduct credits before the Prisoner
2 Review Board as provided in subparagraph (a)(8) of Section
3 3-3-2 of this Code. If the prisoner has not accumulated 180
4 days of good conduct credit at the time of the finding, then
5 the Prisoner Review Board may revoke all good conduct credit
6 accumulated by the prisoner.

7 For purposes of this subsection (d):

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

12 (A) it lacks an arguable basis either in law
13 or in fact;

14 (B) it is being presented for any improper
15 purpose, such as to harass or to cause unnecessary
16 delay or needless increase in the cost of
17 litigation;

18 (C) the claims, defenses, and other legal
19 contentions therein are not warranted by existing
20 law or by a nonfrivolous argument for the extension,
21 modification, or reversal of existing law or the
22 establishment of new law;

23 (D) the allegations and other factual
24 contentions do not have evidentiary support or, if
25 specifically so identified, are not likely to have
26 evidentiary support after a reasonable opportunity
27 for further investigation or discovery; or

28 (E) the denials of factual contentions are not
29 warranted on the evidence, or if specifically so
30 identified, are not reasonably based on a lack of
31 information or belief.

32 (2) "Lawsuit" means a petition for post-conviction
33 relief under Article 122 of the Code of Criminal
34 Procedure of 1963, a motion pursuant to Section 116-3 of

1 the Code of Criminal Procedure of 1963, a habeas corpus
2 action under Article X of the Code of Civil Procedure or
3 under federal law (28 U.S.C. 2254), a petition for claim
4 under the Court of Claims Act or an action under the
5 federal Civil Rights Act (42 U.S.C. 1983).

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

8 (Source: P.A. 91-121, eff. 7-15-99; 91-357, eff. 7-29-99;
9 92-176, eff. 7-27-01.)

10 (730 ILCS 5/5-4-3) (from Ch. 38, par. 1005-4-3)

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

14 (a) Any person convicted of, found guilty under the
15 Juvenile Court Act of 1987 for, or who received a disposition
16 of court supervision for, a qualifying offense or attempt of
17 a qualifying offense, or institutionalized as a sexually
18 dangerous person under the Sexually Dangerous Persons Act, or
19 committed as a sexually violent person under the Sexually
20 Violent Persons Commitment Act shall, regardless of the
21 sentence or disposition imposed, be required to submit
22 specimens of blood to the Illinois Department of State Police
23 in accordance with the provisions of this Section, provided
24 such person is:

25 (1) convicted of a qualifying offense or attempt of
26 a qualifying offense on or after the effective date of
27 this amendatory Act of 1989, and sentenced to a term of
28 imprisonment, periodic imprisonment, fine, probation,
29 conditional discharge or any other form of sentence, or
30 given a disposition of court supervision for the offense,
31 or

32 (1.5) found guilty or given supervision under the
33 Juvenile Court Act of 1987 for a qualifying offense or

1 attempt of a qualifying offense on or after the effective
2 date of this amendatory Act of 1996, or

3 (2) ordered institutionalized as a sexually
4 dangerous person on or after the effective date of this
5 amendatory Act of 1989, or

6 (3) convicted of a qualifying offense or attempt of
7 a qualifying offense before the effective date of this
8 amendatory Act of 1989 and is presently confined as a
9 result of such conviction in any State correctional
10 facility or county jail or is presently serving a
11 sentence of probation, conditional discharge or periodic
12 imprisonment as a result of such conviction, or

13 (4) presently institutionalized as a sexually
14 dangerous person or presently institutionalized as a
15 person found guilty but mentally ill of a sexual offense
16 or attempt to commit a sexual offense; or

17 (4.5) ordered committed as a sexually violent
18 person on or after the effective date of the Sexually
19 Violent Persons Commitment Act; or

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

25 (a-5) Any person who was otherwise convicted of or
26 received a disposition of court supervision for any other
27 offense under the Criminal Code of 1961 or any offense
28 classified as a felony under Illinois law or who was found
29 guilty or given supervision for such a violation under the
30 Juvenile Court Act of 1987, may, regardless of the sentence
31 imposed, be required by an order of the court to submit
32 specimens of blood to the Illinois Department of State Police
33 in accordance with the provisions of this Section.

34 (b) Any person required by paragraphs (a)(1), (a)(1.5),

1 (a)(2), and (a-5) to provide specimens of blood shall provide
2 specimens of blood within 45 days after sentencing or
3 disposition at a collection site designated by the Illinois
4 Department of State Police.

5 (c) Any person required by paragraphs (a)(3), (a)(4),
6 and (a)(4.5) to provide specimens of blood shall be required
7 to provide such samples prior to final discharge, parole, or
8 release at a collection site designated by the Illinois
9 Department of State Police.

10 (c-5) Any person required by paragraph (a)(5) to provide
11 specimens of blood shall, where feasible, be required to
12 provide the specimens before being accepted for conditioned
13 residency in Illinois under the interstate compact or
14 agreement, but no later than 45 days after arrival in this
15 State.

16 (d) The Illinois Department of State Police shall
17 provide all equipment and instructions necessary for the
18 collection of blood samples. The collection of samples shall
19 be performed in a medically approved manner. Only a
20 physician authorized to practice medicine, a registered nurse
21 or other qualified person trained in venipuncture may
22 withdraw blood for the purposes of this Act. The samples
23 shall thereafter be forwarded to the Illinois Department of
24 State Police, Division of Forensic Services, for analysis and
25 categorizing into genetic marker groupings.

26 (e) The genetic marker groupings shall be maintained by
27 the Illinois Department of State Police, Division of Forensic
28 Services.

29 (f) The genetic marker grouping analysis information
30 obtained pursuant to this Act shall be confidential and shall
31 be released only to peace officers of the United States, of
32 other states or territories, of the insular possessions of
33 the United States, of foreign countries duly authorized to
34 receive the same, to all peace officers of the State of

1 Illinois and to all prosecutorial agencies. Notwithstanding
2 any other statutory provision to the contrary, all
3 information obtained under this Section shall be maintained
4 in a single State data base, which may be uploaded into a
5 national database, and may not be subject to expungement.

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

8 (1) Any violation or inchoate violation of Section
9 11-6, 11-9.1, 11-11, 11-15.1, 11-17.1, 11-18.1, 11-19.1,
10 11-19.2, 11-20.1, 12-13, 12-14, 12-14.1, 12-15, 12-16, or
11 12-33 of the Criminal Code of 1961, or

12 (1.1) Any violation or inchoate violation of
13 Section 9-1, 9-2, 10-1, 10-2, 12-11, 12-11.1, 18-1, 18-2,
14 18-3, 18-4, 19-1, or 19-2 of the Criminal Code of 1961
15 for which persons are convicted on or after July 1, 2001,
16 or

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

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

26 (4) Any violation or inchoate violation of Section
27 9-3.1, 11-9.3, 12-3.3, 12-4.2, 12-4.3, 12-7.3, 12-7.4,
28 18-5, 19-3, 20-1.1, or 20.5-5 of the Criminal Code of
29 1961, or

30 (5) Any violation or inchoate violation of Article
31 29D of the Criminal Code of 1961.

32 (g-5) The Department of State Police is not required to
33 provide equipment to collect or to accept or process blood
34 specimens from individuals convicted of any offense listed in

1 paragraph (1.1) or (4) of subsection (g), until acquisition
2 of the resources necessary to process such blood specimens,
3 or in the case of paragraph (1.1) of subsection (g) until
4 July 1, 2003, whichever is earlier.

5 Upon acquisition of necessary resources, including an
6 appropriation for the purpose of implementing this amendatory
7 Act of the 91st General Assembly, but in the case of
8 paragraph (1.1) of subsection (g) no later than July 1, 2003,
9 the Department of State Police shall notify the Department of
10 Corrections, the Administrative Office of the Illinois
11 Courts, and any other entity deemed appropriate by the
12 Department of State Police, to begin blood specimen
13 collection from individuals convicted of offenses enumerated
14 in paragraphs (1.1) and (4) of subsection (g) that the
15 Department is prepared to provide collection equipment and
16 receive and process blood specimens from individuals
17 convicted of offenses enumerated in paragraph (1.1) of
18 subsection (g).

19 Until the Department of State Police provides
20 notification, designated collection agencies are not required
21 to collect blood specimen from individuals convicted of
22 offenses enumerated in paragraphs (1.1) and (4) of subsection
23 (g).

24 (h) The Illinois Department of State Police shall be the
25 State central repository for all genetic marker grouping
26 analysis information obtained pursuant to this Act. The
27 Illinois Department of State Police may promulgate rules for
28 the form and manner of the collection of blood samples and
29 other procedures for the operation of this Act. The
30 provisions of the Administrative Review Law shall apply to
31 all actions taken under the rules so promulgated.

32 (i) A person required to provide a blood specimen shall
33 cooperate with the collection of the specimen and any
34 deliberate act by that person intended to impede, delay or

1 stop the collection of the blood specimen is a Class A
2 misdemeanor.

3 (j) Any person required by subsection (a) to submit
4 specimens of blood to the Illinois Department of State Police
5 for analysis and categorization into genetic marker grouping,
6 in addition to any other disposition, penalty, or fine
7 imposed, shall pay an analysis fee of \$500. Upon verified
8 petition of the person, the court may suspend payment of all
9 or part of the fee if it finds that the person does not have
10 the ability to pay the fee.

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

13 (1) The State Offender DNA Identification System
14 Fund is hereby created as a special fund in the State
15 Treasury.

16 (2) All fees shall be collected by the clerk of the
17 court and forwarded to the State Offender DNA
18 Identification System Fund for deposit. The clerk of the
19 circuit court may retain the amount of \$10 from each
20 collected analysis fee to offset administrative costs
21 incurred in carrying out the clerk's responsibilities
22 under this Section.

23 (3) Fees deposited into the State Offender DNA
24 Identification System Fund shall be used by Illinois
25 State Police crime laboratories as designated by the
26 Director of State Police. These funds shall be in
27 addition to any allocations made pursuant to existing
28 laws and shall be designated for the exclusive use of
29 State crime laboratories. These uses may include, but
30 are not limited to, the following:

31 (A) Costs incurred in providing analysis and
32 genetic marker categorization as required by
33 subsection (d).

34 (B) Costs incurred in maintaining genetic

1 marker groupings as required by subsection (e).

2 (C) Costs incurred in the purchase and
3 maintenance of equipment for use in performing
4 analyses.

5 (D) Costs incurred in continuing research and
6 development of new techniques for analysis and
7 genetic marker categorization.

8 (E) Costs incurred in continuing education,
9 training, and professional development of forensic
10 scientists regularly employed by these laboratories.

11 (1) The failure of a person to provide a specimen, or of
12 any person or agency to collect a specimen, within the 45 day
13 period shall in no way alter the obligation of the person to
14 submit such specimen, or the authority of the Illinois
15 Department of State Police or persons designated by the
16 Department to collect the specimen, or the authority of the
17 Illinois Department of State Police to accept, analyze and
18 maintain the specimen or to maintain or upload results of
19 genetic marker grouping analysis information into a State or
20 national database.

21 (Source: P.A. 91-528, eff. 1-1-00; 92-16, eff. 6-28-01;
22 92-40, eff. 6-29-01.)

23 Section 30. The Charitable Trust Act is amended by adding
24 Section 16.5 as follows:

25 (760 ILCS 55/16.5 new)

26 Sec. 16.5. Terrorist acts.

27 (a) Any person or organization subject to registration
28 under this Act, who knowingly acts to further, directly or
29 indirectly, or knowingly uses charitable assets to conduct or
30 further, directly or indirectly, an act or actions as set
31 forth in Article 29D of the Criminal Code of 1961, is thereby
32 engaged in an act or actions contrary to public policy and

1 antithetical to charity, and all of the funds, assets, and
2 records of the person or organization shall be subject to
3 temporary and permanent injunction from use or expenditure
4 and the appointment of a temporary and permanent receiver to
5 take possession of all of the assets and related records.

6 (b) An ex parte action may be commenced by the Attorney
7 General, and, upon a showing of probable cause of a violation
8 of this Section or Article 29D of the Criminal Code of 1961,
9 an immediate seizure of books and records by the Attorney
10 General by and through his or her assistants or investigators
11 or the Department of State Police and freezing of all assets
12 shall be made by order of a court to protect the public,
13 protect the assets, and allow a full review of the records.

14 (c) Upon a finding by a court after a hearing that a
15 person or organization has acted or is in violation of this
16 Section, the person or organization shall be permanently
17 enjoined from soliciting funds from the public, holding
18 charitable funds, or acting as a trustee or fiduciary within
19 Illinois. Upon a finding of violation all assets and funds
20 held by the person or organization shall be forfeited to the
21 People of the State of Illinois or otherwise ordered by the
22 court to be accounted for and marshaled and then delivered to
23 charitable causes and uses within the State of Illinois by
24 court order.

25 (d) A determination under this Section may be made by
26 any court separate and apart from any criminal proceedings
27 and the standard of proof shall be that for civil
28 proceedings.

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

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

3 (735 ILCS 5/8-802) (from Ch. 110, par. 8-802)

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

6 Sec. 8-802. Physician and patient. No physician or
7 surgeon shall be permitted to disclose any information he or
8 she may have acquired in attending any patient in a
9 professional character, necessary to enable him or her
10 professionally to serve the patient, except only (1) in
11 trials for homicide when the disclosure relates directly to
12 the fact or immediate circumstances of the homicide, (2) in
13 actions, civil or criminal, against the physician for
14 malpractice, (3) with the expressed consent of the patient,
15 or in case of his or her death or disability, of his or her
16 personal representative or other person authorized to sue for
17 personal injury or of the beneficiary of an insurance policy
18 on his or her life, health, or physical condition, (4) in all
19 actions brought by or against the patient, his or her
20 personal representative, a beneficiary under a policy of
21 insurance, or the executor or administrator of his or her
22 estate wherein the patient's physical or mental condition is
23 an issue, (5) upon an issue as to the validity of a document
24 as a will of the patient, (6) in any criminal action where
25 the charge is either first degree murder by abortion,
26 attempted abortion or abortion, (7) in actions, civil or
27 criminal, arising from the filing of a report in compliance
28 with the Abused and Neglected Child Reporting Act, (8) to any
29 department, agency, institution or facility which has custody
30 of the patient pursuant to State statute or any court order
31 of commitment, (9) in prosecutions where written results of
32 blood alcohol tests are admissible pursuant to Section
33 11-501.4 of the Illinois Vehicle Code, or (10) in

1 prosecutions where written results of blood alcohol tests are
2 admissible under Section 5-11a of the Boat Registration and
3 Safety Act, or (11) in criminal actions arising from the
4 filing of a report of suspected terrorist offense in
5 compliance with Section 29D-10(p)(7) of the Criminal Code of
6 1961.

7 In the event of a conflict between the application of
8 this Section and the Mental Health and Developmental
9 Disabilities Confidentiality Act to a specific situation, the
10 provisions of the Mental Health and Developmental
11 Disabilities Confidentiality Act shall control.

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

13 (720 ILCS 5/Article 29C rep.)

14 Section 95. The Criminal Code of 1961 is amended by
15 repealing Article 29C.

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

18 Section 99. Effective date. This Act takes effect upon
19 becoming law."