

1 AN ACT in relation to criminal law.

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

4 Section 5. The Criminal Code of 1961 is amended by
5 changing Sections 11-20.1, 12-3.2, 12-7.3, and 12-30 as
6 follows:

7 (720 ILCS 5/11-20.1) (from Ch. 38, par. 11-20.1)
8 Sec. 11-20.1. Child pornography.

9 (a) A person commits the offense of child pornography
10 who:

11 (1) films, videotapes, photographs, or otherwise
12 depicts or portrays by means of any similar visual medium
13 or reproduction or depicts by computer any child whom he
14 knows or reasonably should know to be under the age of 18
15 or any severely or profoundly mentally retarded person
16 where such child or severely or profoundly mentally
17 retarded person is:

18 (i) actually or by simulation engaged in any
19 act of sexual penetration or sexual conduct
20 ~~intere~~urse with any person or animal; or

21 (ii) actually or by simulation engaged in any
22 act of sexual penetration or sexual conduct ~~contact~~
23 involving the sex organs of the child or severely or
24 profoundly mentally retarded person and the mouth,
25 anus, or sex organs of another person or animal; or
26 which involves the mouth, anus or sex organs of the
27 child or severely or profoundly mentally retarded
28 person and the sex organs of another person or
29 animal; or

30 (iii) actually or by simulation engaged in any
31 act of masturbation; or

1 (iv) actually or by simulation portrayed as
2 being the object of, or otherwise engaged in, any
3 act of lewd fondling, touching, or caressing
4 involving another person or animal; or

5 (v) actually or by simulation engaged in any
6 act of excretion or urination within a sexual
7 context; or

8 (vi) actually or by simulation portrayed or
9 depicted as bound, fettered, or subject to sadistic,
10 masochistic, or sadomasochistic abuse in any sexual
11 context; or

12 (vii) depicted or portrayed in any pose,
13 posture or setting involving a lewd exhibition of
14 the unclothed genitals, pubic area, buttocks, or, if
15 such person is female, a fully or partially
16 developed breast of the child or other person; or

17 (2) with the knowledge of the nature or content
18 thereof, reproduces, disseminates, offers to disseminate,
19 exhibits or possesses with intent to disseminate any
20 film, videotape, photograph or other similar visual
21 reproduction or depiction by computer of any child or
22 severely or profoundly mentally retarded person whom the
23 person knows or reasonably should know to be under the
24 age of 18 or to be a severely or profoundly mentally
25 retarded person, engaged in any activity described in
26 subparagraphs (i) through (vii) of paragraph (1) of this
27 subsection; or

28 (3) with knowledge of the subject matter or theme
29 thereof, produces any stage play, live performance, film,
30 videotape or other similar visual portrayal or depiction
31 by computer which includes a child whom the person knows
32 or reasonably should know to be under the age of 18 or a
33 severely or profoundly mentally retarded person engaged
34 in any activity described in subparagraphs (i) through

1 (vii) of paragraph (1) of this subsection; or
2 (4) solicits, uses, persuades, induces, entices, or
3 coerces any child whom he knows or reasonably should know
4 to be under the age of 18 or a severely or profoundly
5 mentally retarded person to appear in any stage play,
6 live presentation, film, videotape, photograph or other
7 similar visual reproduction or depiction by computer in
8 which the child or severely or profoundly mentally
9 retarded person is or will be depicted, actually or by
10 simulation, in any act, pose or setting described in
11 subparagraphs (i) through (vii) of paragraph (1) of this
12 subsection; or
13 (5) is a parent, step-parent, legal guardian or
14 other person having care or custody of a child whom the
15 person knows or reasonably should know to be under the
16 age of 18 or a severely or profoundly mentally retarded
17 person and who knowingly permits, induces, promotes, or
18 arranges for such child or severely or profoundly
19 mentally retarded person to appear in any stage play,
20 live performance, film, videotape, photograph or other
21 similar visual presentation, portrayal or simulation or
22 depiction by computer of any act or activity described in
23 subparagraphs (i) through (vii) of paragraph (1) of this
24 subsection; or
25 (6) with knowledge of the nature or content
26 thereof, possesses any film, videotape, photograph or
27 other similar visual reproduction or depiction by
28 computer of any child or severely or profoundly mentally
29 retarded person whom the person knows or reasonably
30 should know to be under the age of 18 or to be a severely
31 or profoundly mentally retarded person, engaged in any
32 activity described in subparagraphs (i) through (vii) of
33 paragraph (1) of this subsection; or
34 (7) solicits, uses, persuades, induces, entices, or

1 coerces a person to provide a child under the age of 18
2 or a severely or profoundly mentally retarded person to
3 appear in any videotape, photograph, film, stage play,
4 live presentation, or other similar visual reproduction
5 or depiction by computer in which the child or severely
6 or profoundly mentally retarded person will be depicted,
7 actually or by simulation, in any act, pose, or setting
8 described in subparagraphs (i) through (vii) of paragraph
9 (1) of this subsection.

10 (b) (1) It shall be an affirmative defense to a charge
11 of child pornography that the defendant reasonably believed,
12 under all of the circumstances, that the child was 18 years
13 of age or older or that the person was not a severely or
14 profoundly mentally retarded person but only where, prior to
15 the act or acts giving rise to a prosecution under this
16 Section, he took some affirmative action or made a bonafide
17 inquiry designed to ascertain whether the child was 18 years
18 of age or older or that the person was not a severely or
19 profoundly mentally retarded person and his reliance upon the
20 information so obtained was clearly reasonable.

21 (2) (Blank).

22 (3) The charge of child pornography shall not apply
23 to the performance of official duties by law enforcement
24 or prosecuting officers, court personnel or attorneys,
25 nor to bonafide treatment or professional education
26 programs conducted by licensed physicians, psychologists
27 or social workers.

28 (4) Possession by the defendant of more than one of
29 the same film, videotape or visual reproduction or
30 depiction by computer in which child pornography is
31 depicted shall raise a rebuttable presumption that the
32 defendant possessed such materials with the intent to
33 disseminate them.

34 (5) The charge of child pornography does not apply

1 to a person who does not voluntarily possess a film,
2 videotape, or visual reproduction or depiction by
3 computer in which child pornography is depicted.
4 Possession is voluntary if the defendant knowingly
5 procures or receives a film, videotape, or visual
6 reproduction or depiction for a sufficient time to be
7 able to terminate his or her possession.

8 (c) Violation of paragraph (1), (4), (5), or (7) of
9 subsection (a) is a Class 1 felony with a mandatory minimum
10 fine of \$2,000 and a maximum fine of \$100,000. Violation of
11 paragraph (3) of subsection (a) is a Class 1 felony with a
12 mandatory minimum fine of \$1500 and a maximum fine of
13 \$100,000. Violation of paragraph (2) of subsection (a) is a
14 Class 1 felony with a mandatory minimum fine of \$1000 and a
15 maximum fine of \$100,000. Violation of paragraph (6) of
16 subsection (a) is a Class 3 felony with a mandatory minimum
17 fine of \$1000 and a maximum fine of \$100,000.

18 (d) If a person is convicted of a second or subsequent
19 violation of this Section within 10 years of a prior
20 conviction, the court shall order a presentence psychiatric
21 examination of the person. The examiner shall report to the
22 court whether treatment of the person is necessary.

23 (e) Any film, videotape, photograph or other similar
24 visual reproduction or depiction by computer which includes a
25 child under the age of 18 or a severely or profoundly
26 mentally retarded person engaged in any activity described in
27 subparagraphs (i) through (vii) or paragraph 1 of subsection
28 (a), and any material or equipment used or intended for use
29 in photographing, filming, printing, producing, reproducing,
30 manufacturing, projecting, exhibiting, depiction by computer,
31 or disseminating such material shall be seized and forfeited
32 in the manner, method and procedure provided by Section 36-1
33 of this Code for the seizure and forfeiture of vessels,
34 vehicles and aircraft.

1 (e-5) Upon the conclusion of a case brought under this
2 Section, the court shall seal all evidence depicting a victim
3 or witness that is sexually explicit. The evidence may be
4 unsealed and viewed, on a motion of the party seeking to
5 unseal and view the evidence, only for good cause shown and
6 in the discretion of the court. The motion must expressly
7 set forth the purpose for viewing the material. The State's
8 attorney and the victim, if possible, shall be provided
9 reasonable notice of the hearing on the motion to unseal the
10 evidence. Any person entitled to notice of a hearing under
11 this subsection (e-5) may object to the motion.

12 (f) Definitions. For the purposes of this Section:

13 (1) "Disseminate" means (i) to sell, distribute,
14 exchange or transfer possession, whether with or without
15 consideration or (ii) to make a depiction by computer
16 available for distribution or downloading through the
17 facilities of any telecommunications network or through
18 any other means of transferring computer programs or data
19 to a computer.

20 (2) "Produce" means to direct, promote, advertise,
21 publish, manufacture, issue, present or show.

22 (3) "Reproduce" means to make a duplication or
23 copy.

24 (4) "Depict by computer" means to generate or
25 create, or cause to be created or generated, a computer
26 program or data that, after being processed by a computer
27 either alone or in conjunction with one or more computer
28 programs, results in a visual depiction on a computer
29 monitor, screen, or display.

30 (5) "Depiction by computer" means a computer
31 program or data that, after being processed by a computer
32 either alone or in conjunction with one or more computer
33 programs, results in a visual depiction on a computer
34 monitor, screen, or display.

1 (6) "Computer", "computer program", and "data" have
2 the meanings ascribed to them in Section 16D-2 of this
3 Code.

4 (7) "Child" includes a film, videotape, photograph,
5 or other similar visual medium or reproduction or
6 depiction by computer that is, or appears to be, that of
7 a person, either in part, or in total, under the age of
8 18, regardless of the method by which the film,
9 videotape, photograph, or other similar visual medium or
10 reproduction or depiction by computer is created,
11 adopted, or modified to appear as such. "Child" also
12 includes a film, videotape, photograph, or other similar
13 visual medium or reproduction or depiction by computer
14 that is advertised, promoted, presented, described, or
15 distributed in such a manner that conveys the impression
16 that the film, videotape, photograph, or other similar
17 visual medium or reproduction or depiction by computer is
18 of a person under the age of 18.

19 (8) "Sexual penetration" and "sexual conduct" have
20 the meanings ascribed to them in Section 12-12 of this
21 Code.

22 (g) Re-enactment; findings; purposes.

23 (1) The General Assembly finds and declares that:

24 (i) Section 50-5 of Public Act 88-680,
25 effective January 1, 1995, contained provisions
26 amending the child pornography statute, Section
27 11-20.1 of the Criminal Code of 1961. Section 50-5
28 also contained other provisions.

29 (ii) In addition, Public Act 88-680 was
30 entitled "AN ACT to create a Safe Neighborhoods
31 Law". (A) Article 5 was entitled JUVENILE JUSTICE
32 and amended the Juvenile Court Act of 1987. (B)
33 Article 15 was entitled GANGS and amended various
34 provisions of the Criminal Code of 1961 and the

1 Unified Code of Corrections. (C) Article 20 was
2 entitled ALCOHOL ABUSE and amended various
3 provisions of the Illinois Vehicle Code. (D)
4 Article 25 was entitled DRUG ABUSE and amended the
5 Cannabis Control Act and the Illinois Controlled
6 Substances Act. (E) Article 30 was entitled FIREARMS
7 and amended the Criminal Code of 1961 and the Code
8 of Criminal Procedure of 1963. (F) Article 35
9 amended the Criminal Code of 1961, the Rights of
10 Crime Victims and Witnesses Act, and the Unified
11 Code of Corrections. (G) Article 40 amended the
12 Criminal Code of 1961 to increase the penalty for
13 compelling organization membership of persons. (H)
14 Article 45 created the Secure Residential Youth Care
15 Facility Licensing Act and amended the State Finance
16 Act, the Juvenile Court Act of 1987, the Unified
17 Code of Corrections, and the Private Correctional
18 Facility Moratorium Act. (I) Article 50 amended the
19 WIC Vendor Management Act, the Firearm Owners
20 Identification Card Act, the Juvenile Court Act of
21 1987, the Criminal Code of 1961, the Wrongs to
22 Children Act, and the Unified Code of Corrections.

23 (iii) On September 22, 1998, the Third
24 District Appellate Court in *People v. Dainty*, 701
25 N.E. 2d 118, ruled that Public Act 88-680 violates
26 the single subject clause of the Illinois
27 Constitution (Article IV, Section 8 (d)) and was
28 unconstitutional in its entirety. As of the time
29 this amendatory Act of 1999 was prepared, *People v.*
30 *Dainty* was still subject to appeal.

31 (iv) Child pornography is a vital concern to
32 the people of this State and the validity of future
33 prosecutions under the child pornography statute of
34 the Criminal Code of 1961 is in grave doubt.

1 (2) It is the purpose of this amendatory Act of
2 1999 to prevent or minimize any problems relating to
3 prosecutions for child pornography that may result from
4 challenges to the constitutional validity of Public Act
5 88-680 by re-enacting the Section relating to child
6 pornography that was included in Public Act 88-680.

7 (3) This amendatory Act of 1999 re-enacts Section
8 11-20.1 of the Criminal Code of 1961, as it has been
9 amended. This re-enactment is intended to remove any
10 question as to the validity or content of that Section;
11 it is not intended to supersede any other Public Act that
12 amends the text of the Section as set forth in this
13 amendatory Act of 1999. The material is shown as
14 existing text (i.e., without underscoring) because, as
15 of the time this amendatory Act of 1999 was prepared,
16 People v. Dainty was subject to appeal to the Illinois
17 Supreme Court.

18 (4) The re-enactment by this amendatory Act of 1999
19 of Section 11-20.1 of the Criminal Code of 1961 relating
20 to child pornography that was amended by Public Act
21 88-680 is not intended, and shall not be construed, to
22 imply that Public Act 88-680 is invalid or to limit or
23 impair any legal argument concerning whether those
24 provisions were substantially re-enacted by other Public
25 Acts.

26 (Source: P.A. 91-54, eff. 6-30-99; 91-229, eff. 1-1-00;
27 91-357, eff. 7-29-99; 92-16, eff. 6-28-01; 92-434, eff.
28 1-1-02.)

29 (720 ILCS 5/12-3.2) (from Ch. 38, par. 12-3.2)
30 Sec. 12-3.2. Domestic Battery.

31 (a) A person commits domestic battery if he
32 intentionally or knowingly without legal justification by any
33 means:

1 (1) Causes bodily harm to any family or household
2 member as defined in subsection (3) of Section 112A-3 of
3 the Code of Criminal Procedure of 1963, as amended;

4 (2) Makes physical contact of an insulting or
5 provoking nature with any family or household member as
6 defined in subsection (3) of Section 112A-3 of the Code
7 of Criminal Procedure of 1963, as amended.

8 (b) Sentence. Domestic battery is a Class A
9 Misdemeanor. Domestic battery is a Class 4 felony if the
10 defendant has any prior conviction under this Code for
11 domestic battery (Section 12-3.2) or violation of an order of
12 protection (Section 12-30). Domestic battery is a Class 4
13 felony if the defendant has any prior conviction under this
14 Code for first degree murder (Section 9-1), attempt to commit
15 first degree murder (Section 8-4), aggravated domestic
16 battery (Section 12-3.3), aggravated battery (Section 12-4),
17 heinous battery (Section 12-4.1), aggravated battery with a
18 firearm (Section 12-4.2), aggravated battery of a child
19 (Section 12-4.3), aggravated battery of an unborn child
20 (Section 12-4.4), aggravated battery of a senior citizen
21 (Section 12-4.6), stalking (Section 12-7.3), aggravated
22 stalking (Section 12-7.4), criminal sexual assault (Section
23 12-13), aggravated criminal sexual assault (12-14),
24 kidnapping (Section 10-1), aggravated kidnapping (Section
25 10-2), predatory criminal sexual assault of a child (Section
26 12-14.1), aggravated criminal sexual abuse (Section 12-16),
27 unlawful restraint (Section 10-3), or aggravated unlawful
28 restraint (Section 10-3.1), aggravated arson (Section
29 20-1.1), or aggravated discharge of a firearm (Section
30 24-1.2), when any of these offenses have been committed
31 against a family or household member as defined in Section
32 112A-3 of the Code of Criminal Procedure of 1963. In addition
33 to any other sentencing alternatives, for any second
34 conviction of violating this Section within 5 years of a

1 previous conviction for violating this Section, the offender
2 shall be mandatorily sentenced to a minimum of 48 consecutive
3 hours of imprisonment. The imprisonment shall not be subject
4 to suspension, nor shall the person be eligible for probation
5 in order to reduce the sentence.

6 (c) Domestic battery committed in the presence of a
7 child. In addition to any other sentencing alternatives, a
8 defendant who commits, in the presence of a child, a felony
9 domestic battery (enhanced under subsection (b)), aggravated
10 domestic battery (Section 12-3.3), aggravated battery
11 (Section 12-4), unlawful restraint (Section 10-3), or
12 aggravated unlawful restraint (Section 10-3.1) against a
13 family or household member, as defined in Section 112A-3 of
14 the Code of Criminal Procedure of 1963, shall be required to
15 serve a mandatory minimum imprisonment of 10 days or perform
16 300 hours of community service, or both. The defendant shall
17 further be liable for the cost of any counseling required for
18 the child at the discretion of the court in accordance with
19 subsection (b) of Section 5-5-6 of the Unified Code of
20 Corrections. For purposes of this Section, "child" means a
21 person under 16 years of age who is the defendant's or
22 victim's child or step-child or who is a minor child residing
23 within the household of the defendant or victim. For
24 purposes of this Section, "in the presence of a child" means
25 in the physical presence of a child or knowing or having
26 reason to know that a child is present and may see or hear an
27 act constituting one of the offenses listed in this
28 subsection.

29 (Source: P.A. 91-112, eff. 10-1-99; 91-262, eff. 1-1-00;
30 91-928, eff. 6-1-01; 92-16, eff. 6-28-01.)

31 (720 ILCS 5/12-7.3) (from Ch. 38, par. 12-7.3)
32 Sec. 12-7.3. Stalking.

33 (a) A person commits stalking when he or she, knowingly

1 and without lawful justification, on at least 2 separate
2 occasions follows another person or places the person under
3 surveillance or any combination thereof and:

4 (1) at any time transmits a threat of immediate or
5 future bodily harm, sexual assault, confinement or
6 restraint and the threat is directed towards that person
7 or a family member of that person; or

8 (2) places that person in reasonable apprehension
9 of immediate or future bodily harm, sexual assault,
10 confinement or restraint; or

11 (3) places that person in reasonable apprehension
12 that a family member will receive immediate or future
13 bodily harm, sexual assault, confinement, or restraint.

14 (a-5) A person commits stalking when he or she has
15 previously been convicted of stalking another person and
16 knowingly and without lawful justification on one occasion:

17 (1) follows that same person or places that same
18 person under surveillance; and

19 (2) transmits a threat of immediate or future
20 bodily harm, sexual assault, confinement or restraint;
21 and

22 (3) the threat is directed towards that person or a
23 family member of that person.

24 (b) Sentence. Stalking is a Class 4 felony. A second or
25 subsequent conviction for stalking is a Class 3 felony.

26 (b-5) The incarceration of a person in a penal
27 institution who transmits a threat is not a bar to
28 prosecution under this Section.

29 (c) Exemption. This Section does not apply to picketing
30 occurring at the workplace that is otherwise lawful and
31 arises out of a bona fide labor dispute, or any exercise of
32 the right of free speech or assembly that is otherwise
33 lawful.

34 (d) For the purpose of this Section, a defendant "places

1 a person under surveillance" by remaining present outside the
2 person's school, place of employment, vehicle, other place
3 occupied by the person, or residence other than the residence
4 of the defendant.

5 (e) For the purpose of this Section, "follows another
6 person" means (i) to move in relative proximity to a person
7 as that person moves from place to place or (ii) to remain in
8 relative proximity to a person who is stationary or whose
9 movements are confined to a small area. "Follows another
10 person" does not include a following within the residence of
11 the defendant.

12 (f) For the purposes of this Section and Section 12-7.4,
13 "bona fide labor dispute" means any controversy concerning
14 wages, salaries, hours, working conditions, or benefits,
15 including health and welfare, sick leave, insurance, and
16 pension or retirement provisions, the making or maintaining
17 of collective bargaining agreements, and the terms to be
18 included in those agreements.

19 (g) For the purposes of this Section, "transmits a
20 threat" means a verbal or written threat or a threat implied
21 by a pattern of conduct or a combination of verbal or written
22 statements or conduct.

23 (h) For the purposes of this Section, "family member"
24 means a parent, grandparent, brother, sister, or child,
25 whether by whole blood, half-blood, or adoption and includes
26 a step-grandparent, step-parent, step-brother, step-sister or
27 step-child. "Family member" also means any other person who
28 regularly resides in the household, or who, within the prior
29 6 months, regularly resided in the household.

30 (Source: P.A. 91-640, eff. 8-20-99.)

31 (720 ILCS 5/12-30) (from Ch. 38, par. 12-30)

32 Sec. 12-30. Violation of an order of protection.

33 (a) A person commits violation of an order of protection

1 if:

2 (1) He or she commits an act which was prohibited
3 by a court or fails to commit an act which was ordered by
4 a court in violation of:

5 (i) a remedy in a valid order of protection
6 authorized under paragraphs (1), (2), (3), (14), or
7 (14.5) of subsection (b) of Section 214 of the
8 Illinois Domestic Violence Act of 1986,

9 (ii) a remedy, which is substantially similar
10 to the remedies authorized under paragraphs (1),
11 (2), (3), (14) or (14.5) of subsection (b) of
12 Section 214 of the Illinois Domestic Violence Act of
13 1986, in a valid order of protection, which is
14 authorized under the laws of another state, tribe or
15 United States territory,

16 (iii) any other remedy when the act
17 constitutes a crime against the protected parties as
18 the term protected parties is defined in Section
19 112A-4 of the Code of Criminal Procedure of 1963;
20 and

21 (2) Such violation occurs after the offender has
22 been served notice of the contents of the order, pursuant
23 to the Illinois Domestic Violence Act of 1986 or any
24 substantially similar statute of another state, tribe or
25 United States territory, or otherwise has acquired actual
26 knowledge of the contents of the order.

27 An order of protection issued by a state, tribal or
28 territorial court related to domestic or family violence
29 shall be deemed valid if the issuing court had jurisdiction
30 over the parties and matter under the law of the state, tribe
31 or territory. There shall be a presumption of validity where
32 an order is certified and appears authentic on its face.

33 (a-5) Failure to provide reasonable notice and
34 opportunity to be heard shall be an affirmative defense to

1 any charge or process filed seeking enforcement of a foreign
2 order of protection.

3 (b) For purposes of this Section, an "order of
4 protection" may have been issued in a criminal or civil
5 proceeding.

6 (c) Nothing in this Section shall be construed to
7 diminish the inherent authority of the courts to enforce
8 their lawful orders through civil or criminal contempt
9 proceedings.

10 (d) Violation of an order of protection under subsection
11 (a) of this Section is a Class A misdemeanor. Violation of an
12 order of protection under subsection (a) of this Section is a
13 Class 4 felony if the defendant has any prior conviction
14 under this Code for domestic battery (Section 12-3.2) or
15 violation of an order of protection (Section 12-30).
16 Violation of an order of protection is a Class 4 felony if
17 the defendant has any prior conviction under this Code for
18 first degree murder (Section 9-1), attempt to commit first
19 degree murder (Section 8-4), aggravated domestic battery
20 (Section 12-3.3), aggravated battery (Section 12-4), heinous
21 battery (Section 12-4.1), aggravated battery with a firearm
22 (Section 12-4.2), aggravated battery of a child (Section
23 12-4.3), aggravated battery of an unborn child (Section
24 12-4.4), aggravated battery of a senior citizen (Section
25 12-4.6), stalking (Section 12-7.3), aggravated stalking
26 (Section 12-7.4), criminal sexual assault (Section 12-13),
27 aggravated criminal sexual assault (12-14), kidnapping
28 (Section 10-1), aggravated kidnapping (Section 10-2),
29 predatory criminal sexual assault of a child (Section
30 12-14.1), aggravated criminal sexual abuse (Section 12-16),
31 unlawful restraint (Section 10-3), or aggravated unlawful
32 restraint (Section 10-3.1), aggravated arson (Section
33 20-1.1), or aggravated discharge of a firearm (Section
34 24-1.2), when any of these offenses have been committed

1 against a family or household member as defined in Section
2 112A-3 of the Code of Criminal Procedure of 1963. The court
3 shall impose a minimum penalty of 24 hours imprisonment for
4 defendant's second or subsequent violation of any order of
5 protection; unless the court explicitly finds that an
6 increased penalty or such period of imprisonment would be
7 manifestly unjust. In addition to any other penalties, the
8 court may order the defendant to pay a fine as authorized
9 under Section 5-9-1 of the Unified Code of Corrections or to
10 make restitution to the victim under Section 5-5-6 of the
11 Unified Code of Corrections. In addition to any other
12 penalties, including those imposed by Section 5-9-1.5 of the
13 Unified Code of Corrections, the court shall impose an
14 additional fine of \$20 as authorized by Section 5-9-1.11 of
15 the Unified Code of Corrections upon any person convicted of
16 or placed on supervision for a violation of this Section.
17 The additional fine shall be imposed for each violation of
18 this Section.

19 (e) The limitations placed on law enforcement liability
20 by Section 305 of the Illinois Domestic Violence Act of 1986
21 apply to actions taken under this Section.

22 (Source: P.A. 90-241, eff. 1-1-98; 90-732, eff. 8-11-98;
23 90-734, eff. 1-1-99; 91-112, eff. 10-1-99; 91-357, eff.
24 7-29-99.)

25 Section 10. The Wrongs to Children Act is amended by
26 changing Section 5.1 as follows:

27 (720 ILCS 150/5.1) (from Ch. 23, par. 2355.1)

28 Sec. 5.1. Permitting sexual abuse of a child.

29 (a) A person responsible for a child's welfare commits
30 the offense of permitting sexual abuse of a child if he or
31 she has actual knowledge of and permits an act of sexual
32 abuse upon the child, or permits the child to engage in

1 prostitution as defined in Section 11-14 of the Criminal Code
2 of 1961.

3 (b) In this Section:

4 "Child" means a minor under the age of 17 years.

5 "Person responsible for the child's welfare" means the
6 child's parent, step-parent, legal guardian, or other person
7 having custody of a child, who is responsible for the child's
8 care at the time of the alleged sexual abuse.

9 "Sexual abuse" includes criminal sexual abuse or criminal
10 sexual assault as defined in Section 12-13, 12-14, 12-14.1,
11 12-15, or 12-16 of the Criminal Code of 1961.

12 "Prostitution" means prostitution as defined in Section
13 11-14 of the Criminal Code of 1961.

14 "Actual knowledge" includes credible allegations made by
15 the child.

16 (c) This Section does not apply to a person responsible
17 for the child's welfare who, having reason to believe that
18 sexual abuse has occurred, makes timely and reasonable
19 efforts to stop the sexual abuse by reporting the sexual
20 abuse in conformance with the Abused and Neglected Child
21 Reporting Act or by reporting the sexual abuse, or causing a
22 report to be made, to medical or law enforcement authorities
23 or anyone who is a mandated reporter under Section 4 of the
24 Abused and Neglected Child Reporting Act.

25 (d) Whenever a law enforcement officer has reason to
26 believe that the child or the person responsible for the
27 child's welfare has been abused by a family or household
28 member as defined by the Illinois Domestic Violence Act of
29 1986, the officer shall immediately use all reasonable means
30 to prevent further abuse under Section 112A-30 of the Code of
31 Criminal Procedure of 1963.

32 (e) An order of protection under Section 111-8 of the
33 Code of Criminal Procedure of 1963 shall be sought in all
34 cases where there is reason to believe that a child has been

1 sexually abused by a family or household member. In
 2 considering appropriate available remedies, it shall be
 3 presumed that awarding physical care or custody to the abuser
 4 is not in the child's best interest.

5 (f) A person may not be charged with the offense of
 6 permitting sexual abuse of a child under this Section until
 7 the person who committed the offense is charged with criminal
 8 sexual assault, aggravated criminal sexual assault, predatory
 9 criminal sexual assault of a child, criminal sexual abuse,
 10 aggravated criminal sexual abuse, or prostitution.

11 (g) A person convicted of permitting the sexual abuse of
 12 a child is guilty of a Class 1 felony. As a condition of any
 13 sentence of supervision, probation, conditional discharge, or
 14 mandatory supervised release, any person convicted under this
 15 Section shall be ordered to undergo child sexual abuse,
 16 domestic violence, or other appropriate counseling for a
 17 specified duration with a qualified social or mental health
 18 worker.

19 (h) It is an affirmative defense to a charge of
 20 permitting sexual abuse of a child under this Section that
 21 the person responsible for the child's welfare had a
 22 reasonable apprehension that timely action to stop the abuse
 23 or prostitution would result in the imminent infliction of
 24 death, great bodily harm, permanent disfigurement, or
 25 permanent disability to that person or another in retaliation
 26 for reporting. A--A-parent,--step-parent,--legal--guardian,--or
 27 other--person--having-custody-of-a-child-who-knowingly-allows
 28 or-permits-an-act-of-criminal-sexual-abuse-or-criminal-sexual
 29 assault-as-defined-in-Section-12-13,--12-14,--12-14.1,--12-15-or
 30 12-16-of-the-Criminal-Code-of-1961,--upon-his-or-her-child,--or
 31 knowingly-permits,--induces,--promotes,--or--arranges--for--the
 32 child--to--engage-in-prostitution-as-defined-in-Section-11-14
 33 of-the-Criminal-Code-of-1961,--and-fails--to--take--reasonable
 34 steps-to-prevent-its-commission-or-future-occurrences-of-such

1 acts--commits-the-offense-of-permitting-the-sexual-abuse-of-a
2 ehild.--For-purposes-of-this-Section, "child" means--a--minor
3 under-the-age-of-17-years.

4 B.--Any--person--convicted-of-permitting-the-sexual-abuse
5 of-a-child-is-guilty-of-a-Class-1-felony.

6 (Source: P.A. 91-696, eff. 4-13-00.)

7 Section 99. Effective date. This Act takes effect upon
8 becoming law.