

AN ACT concerning criminal law.

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

Section 5. The Counties Code is amended by changing Section 3-4011 as follows:

(55 ILCS 5/3-4011) (from Ch. 34, par. 3-4011)

Sec. 3-4011. Expenses and legal services for indigent defendants in felony cases. It shall be the duty of the county board in counties containing fewer than 500,000 inhabitants to appropriate a sufficient sum for the purpose of paying for the legal services necessarily rendered for the defense of indigent persons in felony cases, ~~and for costs, expenses and legal services necessary in the prosecution of an appeal when the sentence is death,~~ which is to be paid upon the orders of a court of competent jurisdiction. It shall likewise be the duty of the county board in counties containing fewer than 500,000 inhabitants to appropriate a sufficient sum for the payment of out of pocket expenses necessarily incurred by appointed counsel in the prosecution of an appeal on behalf of an indigent incarcerated defendant in felony cases. In such cases payment shall be made upon the order of the reviewing court.

(Source: P.A. 86-962.)

Section 10. The School Code is amended by changing Section 21B-85 as follows:

(105 ILCS 5/21B-85)

Sec. 21B-85. Conviction of felony.

(a) Whenever the holder of any license issued under this Article is employed by the school board of a school district, including a special charter district or a school district organized under Article 34 of this Code, and is convicted, either after a bench trial, trial by jury, or plea of guilty, of any offense for which a sentence to ~~death~~ or a term of imprisonment in a penitentiary for one year or more is provided, the school board shall promptly notify the State Superintendent of Education, in writing, of the name of the license holder, the fact of the conviction, and the name and location of the court in which the conviction occurred.

(b) Whenever the school board of a school district, including a special charter district or a school district organized under Article 34 of this Code, learns that any person who is a teacher, as that term is defined in Section 16-106 of the Illinois Pension Code, has been convicted, either after a bench trial, trial by jury, or plea of guilty, of any offense for which a sentence to ~~death~~ or a term of imprisonment in a penitentiary for one year or more is provided, the school board shall promptly notify, in writing, the board of trustees of the Teachers' Retirement System of

the State of Illinois and the board of trustees of the Public School Teachers' Pension and Retirement Fund of the City of Chicago of the name of the license holder, the fact of the conviction, the name and location of the court in which the conviction occurred, and the number assigned in that court to the case in which the conviction occurred.

(Source: P.A. 102-552, eff. 1-1-22.)

Section 15. The Illinois Public Aid Code is amended by changing Section 1-8 as follows:

(305 ILCS 5/1-8)

Sec. 1-8. Fugitives ineligible.

(a) The following persons are not eligible for aid under this Code, or federal food stamps or federal food stamp benefits:

(1) A person who has fled from the jurisdiction of any court of record of this or any other state or of the United States to avoid prosecution for a felony or to avoid giving testimony in any criminal proceeding involving the alleged commission of a felony.

(2) A person who has fled to avoid imprisonment in a correctional facility of this or any other state or the United States for having committed a felony.

(3) A person who has escaped from a correctional facility of this or any other state or the United States if

the person was incarcerated for having committed a felony.

(4) A person who is violating a condition of probation or parole imposed under federal or State law.

In this Section, "felony" means a violation of a penal statute of this or any other state or the United States for which a sentence ~~to death or~~ to a term of imprisonment in a penitentiary for one year or more is provided or in which the death penalty may be imposed in another state.

To implement this Section, the Illinois Department may exchange necessary information with an appropriate law enforcement agency of this or any other state, a political subdivision of this or any other state, or the United States.

(b) (Blank).

(Source: P.A. 92-111, eff. 1-1-02.)

Section 20. The Criminal Code of 2012 is amended by changing Sections 2-7, 8-4, 9-1, 9-1.2, 12-3.05, and 30-1 as follows:

(720 ILCS 5/2-7) (from Ch. 38, par. 2-7)

Sec. 2-7. "Felony".

"Felony" means an offense for which a sentence ~~to death or~~ to a term of imprisonment in a penitentiary for one year or more is provided.

(Source: P.A. 77-2638.)

(720 ILCS 5/8-4) (from Ch. 38, par. 8-4)

Sec. 8-4. Attempt.

(a) Elements of the offense.

A person commits the offense of attempt when, with intent to commit a specific offense, he or she does any act that constitutes a substantial step toward the commission of that offense.

(b) Impossibility.

It is not a defense to a charge of attempt that because of a misapprehension of the circumstances it would have been impossible for the accused to commit the offense attempted.

(c) Sentence.

A person convicted of attempt may be fined or imprisoned or both not to exceed the maximum provided for the offense attempted but, except for an attempt to commit the offense defined in Section 33A-2 of this Code:

(1) the sentence for attempt to commit first degree murder is the sentence for a Class X felony, except that

(A) an attempt to commit first degree murder when at least one of the aggravating factors specified in clauses (iii), (iv), and (v) of subsection (a)(1)(c) of Section 5-8-1 of the Unified Code of Corrections ~~paragraphs (1), (2), and (12) of subsection (b) of Section 9-1~~ is present is a Class X felony for which the sentence shall be a term of imprisonment of not less than 20 years and not more than 80 years;

(B) an attempt to commit first degree murder while armed with a firearm is a Class X felony for which 15 years shall be added to the term of imprisonment imposed by the court;

(C) an attempt to commit first degree murder during which the person personally discharged a firearm is a Class X felony for which 20 years shall be added to the term of imprisonment imposed by the court;

(D) an attempt to commit first degree murder during which the person personally discharged a firearm that proximately caused great bodily harm, permanent disability, permanent disfigurement, or death to another person is a Class X felony for which 25 years or up to a term of natural life shall be added to the term of imprisonment imposed by the court; and

(E) if the defendant proves by a preponderance of the evidence at sentencing that, at the time of the attempted murder, he or she was acting under a sudden and intense passion resulting from serious provocation by the individual whom the defendant endeavored to kill, or another, and, had the individual the defendant endeavored to kill died, the defendant would have negligently or accidentally caused that death, then the sentence for the attempted murder is the sentence for a Class 1 felony;

(2) the sentence for attempt to commit a Class X felony is the sentence for a Class 1 felony;

(3) the sentence for attempt to commit a Class 1 felony is the sentence for a Class 2 felony;

(4) the sentence for attempt to commit a Class 2 felony is the sentence for a Class 3 felony; and

(5) the sentence for attempt to commit any felony other than those specified in items (1), (2), (3), and (4) of this subsection (c) is the sentence for a Class A misdemeanor.

(Source: P.A. 96-710, eff. 1-1-10.)

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

Sec. 9-1. First degree murder; ~~death penalties; exceptions; separate hearings; proof; findings; appellate procedures; reversals.~~

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

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

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

(3) he or she, acting alone or with one or more

participants, commits or attempts to commit a forcible felony other than second degree murder, and in the course of or in furtherance of such crime or flight therefrom, he or she or another participant causes the death of a person.

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

~~(1) the murdered individual was a peace officer or fireman killed in the course of performing his official duties, to prevent the performance of his or her official duties, or in retaliation for performing his or her official duties, and the defendant knew or should have known that the murdered individual was a peace officer or fireman; or~~

~~(2) the murdered individual was an employee of an institution or facility of the Department of Corrections, or any similar local correctional agency, killed in the course of performing his or her official duties, to prevent the performance of his or her official duties, or in retaliation for performing his or her official duties, or the murdered individual was an inmate at such institution or facility and was killed on the grounds thereof, or the murdered individual was otherwise present in such institution or facility with the knowledge and~~

~~approval of the chief administrative officer thereof; or~~

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

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

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

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

~~(a) the murdered individual:~~

~~(i) was actually killed by the defendant, or~~

~~(ii) received physical injuries personally inflicted by the defendant substantially~~

~~contemporaneously with physical injuries caused by one or more persons for whose conduct the defendant is legally accountable under Section 5-2 of this Code, and the physical injuries inflicted by either the defendant or the other person or persons for whose conduct he is legally accountable caused the death of the murdered individual; and~~

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

~~(c) the other felony was an inherently violent crime or the attempt to commit an inherently violent crime. In this subparagraph (c), "inherently violent crime" includes, but is not limited to, armed robbery, robbery, predatory criminal sexual assault of a child, aggravated criminal sexual assault, aggravated kidnapping, aggravated vehicular hijacking, aggravated arson, aggravated stalking, residential burglary, and~~

~~home invasion; or~~

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

~~(8) the defendant committed the murder with intent to prevent the murdered individual from testifying or participating in any criminal investigation or prosecution or giving material assistance to the State in any investigation or prosecution, either against the defendant or another; or the defendant committed the murder because the murdered individual was a witness in any prosecution or gave material assistance to the State in any investigation or prosecution, either against the defendant or another; for purposes of this paragraph (8), "participating in any criminal investigation or prosecution" is intended to include those appearing in the proceedings in any capacity such as trial judges, prosecutors, defense attorneys, investigators, witnesses, or jurors; or~~

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

~~killing of the murdered individual; or~~

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

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

~~(12) the murdered individual was an emergency medical technician ambulance, emergency medical technician intermediate, emergency medical technician paramedic, ambulance driver, or other medical assistance or first aid personnel, employed by a municipality or other governmental unit, killed in the course of performing his official duties, to prevent the performance of his official duties, or in retaliation for performing his official duties, and the defendant knew or should have known that the murdered individual was an emergency medical technician ambulance, emergency medical~~

~~technician, intermediate, emergency medical technician, paramedic, ambulance driver, or other medical assistance or first aid personnel; or~~

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

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

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

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

~~(17) the murdered individual was a person with a disability and the defendant knew or should have known that the murdered individual was a person with a disability. For purposes of this paragraph (17), "person~~

~~with a disability" means a person who suffers from a permanent physical or mental impairment resulting from disease, an injury, a functional disorder, or a congenital condition that renders the person incapable of adequately providing for his or her own health or personal care; or~~

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

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

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

~~(21) the murder was committed by the defendant in connection with or as a result of the offense of terrorism as defined in Section 29D-14.9 of this Code; or~~

~~(22) the murdered individual was a member of a congregation engaged in prayer or other religious activities at a church, synagogue, mosque, or other building, structure, or place used for religious worship.~~

(b-5) (Blank). ~~Aggravating Factor; Natural Life~~

~~Imprisonment. A defendant who has been found guilty of first degree murder and who at the time of the commission of the offense had attained the age of 18 years or more may be sentenced to natural life imprisonment if (i) the murdered individual was a physician, physician assistant, psychologist, nurse, or advanced practice registered nurse, (ii) the defendant knew or should have known that the murdered individual was a physician, physician assistant, psychologist, nurse, or advanced practice registered nurse, and (iii) the murdered individual was killed in the course of acting in his or her capacity as a physician, physician assistant, psychologist, nurse, or advanced practice registered nurse, or to prevent him or her from acting in that capacity, or in retaliation for his or her acting in that capacity.~~

~~(c) (Blank). Consideration of factors in Aggravation and Mitigation.~~

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

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

~~(2) the murder was committed while the defendant was under the influence of extreme mental or emotional~~

~~disturbance, although not such as to constitute a defense to prosecution;~~

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

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

~~(5) the defendant was not personally present during commission of the act or acts causing death;~~

~~(6) the defendant's background includes a history of extreme emotional or physical abuse;~~

~~(7) the defendant suffers from a reduced mental capacity.~~

~~Provided, however, that an action that does not otherwise mitigate first degree murder cannot qualify as a mitigating factor for first degree murder because of the discovery, knowledge, or disclosure of the victim's sexual orientation as defined in Section 1-103 of the Illinois Human Rights Act.~~

~~(d) (Blank). Separate sentencing hearing.~~

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

~~(1) before the jury that determined the defendant's~~

~~guilt; or~~

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

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

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

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

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

~~(e) (Blank). Evidence and Argument.~~

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

~~(f) (Blank). Proof.~~

~~The burden of proof of establishing the existence of any of the factors set forth in subsection (b) is on the State and~~

~~shall not be satisfied unless established beyond a reasonable doubt.~~

(g) (Blank). ~~Procedure — Jury.~~

~~If at the separate sentencing proceeding the jury finds that none of the factors set forth in subsection (b) exists, the court shall sentence the defendant to a term of imprisonment under Chapter V of the Unified Code of Corrections. If there is a unanimous finding by the jury that one or more of the factors set forth in subsection (b) exist, the jury shall consider aggravating and mitigating factors as instructed by the court and shall determine whether the sentence of death shall be imposed. If the jury determines unanimously, after weighing the factors in aggravation and mitigation, that death is the appropriate sentence, the court shall sentence the defendant to death. If the court does not concur with the jury determination that death is the appropriate sentence, the court shall set forth reasons in writing including what facts or circumstances the court relied upon, along with any relevant documents, that compelled the court to non-concur with the sentence. This document and any attachments shall be part of the record for appellate review. The court shall be bound by the jury's sentencing determination.~~

~~If after weighing the factors in aggravation and mitigation, one or more jurors determines that death is not the appropriate sentence, the court shall sentence the~~

~~defendant to a term of imprisonment under Chapter V of the Unified Code of Corrections.~~

(h) (Blank). ~~Procedure - No Jury.~~

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

~~If the Court determines that one or more of the factors set forth in subsection (b) exists, the Court shall consider any aggravating and mitigating factors as indicated in subsection (c). If the Court determines, after weighing the factors in aggravation and mitigation, that death is the appropriate sentence, the Court shall sentence the defendant to death.~~

~~If the court finds that death is not the appropriate sentence, the court shall sentence the defendant to a term of imprisonment under Chapter V of the Unified Code of Corrections.~~

(h-5) (Blank). ~~Decertification as a capital case.~~

~~In a case in which the defendant has been found guilty of first degree murder by a judge or jury, or a case on remand for resentencing, and the State seeks the death penalty as an appropriate sentence, on the court's own motion or the written motion of the defendant, the court may decertify the case as a death penalty case if the court finds that the only evidence supporting the defendant's conviction is the uncorroborated testimony of an informant witness, as defined in Section~~

~~115-21 of the Code of Criminal Procedure of 1963, concerning the confession or admission of the defendant or that the sole evidence against the defendant is a single eyewitness or single accomplice without any other corroborating evidence. If the court decertifies the case as a capital case under either of the grounds set forth above, the court shall issue a written finding. The State may pursue its right to appeal the decertification pursuant to Supreme Court Rule 604(a)(1). If the court does not decertify the case as a capital case, the matter shall proceed to the eligibility phase of the sentencing hearing.~~

~~(i) (Blank). Appellate Procedure.~~

~~The conviction and sentence of death shall be subject to automatic review by the Supreme Court. Such review shall be in accordance with rules promulgated by the Supreme Court. The Illinois Supreme Court may overturn the death sentence, and order the imposition of imprisonment under Chapter V of the Unified Code of Corrections if the court finds that the death sentence is fundamentally unjust as applied to the particular case. If the Illinois Supreme Court finds that the death sentence is fundamentally unjust as applied to the particular case, independent of any procedural grounds for relief, the Illinois Supreme Court shall issue a written opinion explaining this finding.~~

~~(j) (Blank). Disposition of reversed death sentence.~~

~~In the event that the death penalty in this Act is held to~~

~~be unconstitutional by the Supreme Court of the United States or of the State of Illinois, any person convicted of first degree murder shall be sentenced by the court to a term of imprisonment under Chapter V of the Unified Code of Corrections.~~

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

(k) (Blank). ~~Guidelines for seeking the death penalty.~~

~~The Attorney General and State's Attorneys Association shall consult on voluntary guidelines for procedures governing whether or not to seek the death penalty. The guidelines do not have the force of law and are only advisory in nature.~~

(Source: P.A. 100-460, eff. 1-1-18; 100-513, eff. 1-1-18; 100-863, eff. 8-14-18; 101-223, eff. 1-1-20; 101-652, eff. 7-1-21.)

(720 ILCS 5/9-1.2) (from Ch. 38, par. 9-1.2)

Sec. 9-1.2. Intentional homicide of an unborn child.

(a) A person commits the offense of intentional homicide of an unborn child if, in performing acts which cause the death

of an unborn child, he without lawful justification:

(1) either intended to cause the death of or do great bodily harm to the pregnant individual or unborn child or knew that such acts would cause death or great bodily harm to the pregnant individual or unborn child; or

(2) knew that his acts created a strong probability of death or great bodily harm to the pregnant individual or unborn child; and

(3) knew that the individual was pregnant.

(b) For purposes of this Section, (1) "unborn child" shall mean any individual of the human species from the implantation of an embryo until birth, and (2) "person" shall not include the pregnant woman whose unborn child is killed.

(c) This Section shall not apply to acts which cause the death of an unborn child if those acts were committed during any abortion, as defined in Section 1-10 of the Reproductive Health Act, to which the pregnant individual has consented. This Section shall not apply to acts which were committed pursuant to usual and customary standards of medical practice during diagnostic testing or therapeutic treatment.

(d) Penalty. The sentence for intentional homicide of an unborn child shall be the same as for first degree murder, except that:

(1) (blank) ~~the death penalty may not be imposed;~~

(2) if the person committed the offense while armed with a firearm, 15 years shall be added to the term of

imprisonment imposed by the court;

(3) if, during the commission of the offense, the person personally discharged a firearm, 20 years shall be added to the term of imprisonment imposed by the court;

(4) if, during the commission of the offense, the person personally discharged a firearm that proximately caused great bodily harm, permanent disability, permanent disfigurement, or death to another person, 25 years or up to a term of natural life shall be added to the term of imprisonment imposed by the court.

(e) The provisions of this Act shall not be construed to prohibit the prosecution of any person under any other provision of law.

(Source: P.A. 101-13, eff. 6-12-19.)

(720 ILCS 5/12-3.05) (was 720 ILCS 5/12-4)

Sec. 12-3.05. Aggravated battery.

(a) Offense based on injury. A person commits aggravated battery when, in committing a battery, other than by the discharge of a firearm, he or she knowingly does any of the following:

(1) Causes great bodily harm or permanent disability or disfigurement.

(2) Causes severe and permanent disability, great bodily harm, or disfigurement by means of a caustic or flammable substance, a poisonous gas, a deadly biological

or chemical contaminant or agent, a radioactive substance, or a bomb or explosive compound.

(3) Causes great bodily harm or permanent disability or disfigurement to an individual whom the person knows to be a peace officer, community policing volunteer, fireman, private security officer, correctional institution employee, or Department of Human Services employee supervising or controlling sexually dangerous persons or sexually violent persons:

(i) performing his or her official duties;

(ii) battered to prevent performance of his or her official duties; or

(iii) battered in retaliation for performing his or her official duties.

(4) Causes great bodily harm or permanent disability or disfigurement to an individual 60 years of age or older.

(5) Strangles another individual.

(b) Offense based on injury to a child or person with an intellectual disability. A person who is at least 18 years of age commits aggravated battery when, in committing a battery, he or she knowingly and without legal justification by any means:

(1) causes great bodily harm or permanent disability or disfigurement to any child under the age of 13 years, or to any person with a severe or profound intellectual

disability; or

(2) causes bodily harm or disability or disfigurement to any child under the age of 13 years or to any person with a severe or profound intellectual disability.

(c) Offense based on location of conduct. A person commits aggravated battery when, in committing a battery, other than by the discharge of a firearm, he or she is or the person battered is on or about a public way, public property, a public place of accommodation or amusement, a sports venue, or a domestic violence shelter, or in a church, synagogue, mosque, or other building, structure, or place used for religious worship.

(d) Offense based on status of victim. A person commits aggravated battery when, in committing a battery, other than by discharge of a firearm, he or she knows the individual battered to be any of the following:

(1) A person 60 years of age or older.

(2) A person who is pregnant or has a physical disability.

(3) A teacher or school employee upon school grounds or grounds adjacent to a school or in any part of a building used for school purposes.

(4) A peace officer, community policing volunteer, fireman, private security officer, correctional institution employee, or Department of Human Services employee supervising or controlling sexually dangerous

persons or sexually violent persons:

(i) performing his or her official duties;

(ii) battered to prevent performance of his or her official duties; or

(iii) battered in retaliation for performing his or her official duties.

(5) A judge, emergency management worker, emergency medical services personnel, or utility worker:

(i) performing his or her official duties;

(ii) battered to prevent performance of his or her official duties; or

(iii) battered in retaliation for performing his or her official duties.

(6) An officer or employee of the State of Illinois, a unit of local government, or a school district, while performing his or her official duties.

(7) A transit employee performing his or her official duties, or a transit passenger.

(8) A taxi driver on duty.

(9) A merchant who detains the person for an alleged commission of retail theft under Section 16-26 of this Code and the person without legal justification by any means causes bodily harm to the merchant.

(10) A person authorized to serve process under Section 2-202 of the Code of Civil Procedure or a special process server appointed by the circuit court while that

individual is in the performance of his or her duties as a process server.

(11) A nurse while in the performance of his or her duties as a nurse.

(12) A merchant: (i) while performing his or her duties, including, but not limited to, relaying directions for healthcare or safety from his or her supervisor or employer or relaying health or safety guidelines, recommendations, regulations, or rules from a federal, State, or local public health agency; and (ii) during a disaster declared by the Governor, or a state of emergency declared by the mayor of the municipality in which the merchant is located, due to a public health emergency and for a period of 6 months after such declaration.

(e) Offense based on use of a firearm. A person commits aggravated battery when, in committing a battery, he or she knowingly does any of the following:

(1) Discharges a firearm, other than a machine gun or a firearm equipped with a silencer, and causes any injury to another person.

(2) Discharges a firearm, other than a machine gun or a firearm equipped with a silencer, and causes any injury to a person he or she knows to be a peace officer, community policing volunteer, person summoned by a police officer, fireman, private security officer, correctional institution employee, or emergency management worker:

(i) performing his or her official duties;

(ii) battered to prevent performance of his or her official duties; or

(iii) battered in retaliation for performing his or her official duties.

(3) Discharges a firearm, other than a machine gun or a firearm equipped with a silencer, and causes any injury to a person he or she knows to be emergency medical services personnel:

(i) performing his or her official duties;

(ii) battered to prevent performance of his or her official duties; or

(iii) battered in retaliation for performing his or her official duties.

(4) Discharges a firearm and causes any injury to a person he or she knows to be a teacher, a student in a school, or a school employee, and the teacher, student, or employee is upon school grounds or grounds adjacent to a school or in any part of a building used for school purposes.

(5) Discharges a machine gun or a firearm equipped with a silencer, and causes any injury to another person.

(6) Discharges a machine gun or a firearm equipped with a silencer, and causes any injury to a person he or she knows to be a peace officer, community policing volunteer, person summoned by a police officer, fireman,

private security officer, correctional institution employee or emergency management worker:

(i) performing his or her official duties;

(ii) battered to prevent performance of his or her official duties; or

(iii) battered in retaliation for performing his or her official duties.

(7) Discharges a machine gun or a firearm equipped with a silencer, and causes any injury to a person he or she knows to be emergency medical services personnel:

(i) performing his or her official duties;

(ii) battered to prevent performance of his or her official duties; or

(iii) battered in retaliation for performing his or her official duties.

(8) Discharges a machine gun or a firearm equipped with a silencer, and causes any injury to a person he or she knows to be a teacher, or a student in a school, or a school employee, and the teacher, student, or employee is upon school grounds or grounds adjacent to a school or in any part of a building used for school purposes.

(f) Offense based on use of a weapon or device. A person commits aggravated battery when, in committing a battery, he or she does any of the following:

(1) Uses a deadly weapon other than by discharge of a firearm, or uses an air rifle as defined in Section

24.8-0.1 of this Code.

(2) Wears a hood, robe, or mask to conceal his or her identity.

(3) Knowingly and without lawful justification shines or flashes a laser gunsight or other laser device attached to a firearm, or used in concert with a firearm, so that the laser beam strikes upon or against the person of another.

(4) Knowingly video or audio records the offense with the intent to disseminate the recording.

(g) Offense based on certain conduct. A person commits aggravated battery when, other than by discharge of a firearm, he or she does any of the following:

(1) Violates Section 401 of the Illinois Controlled Substances Act by unlawfully delivering a controlled substance to another and any user experiences great bodily harm or permanent disability as a result of the injection, inhalation, or ingestion of any amount of the controlled substance.

(2) Knowingly administers to an individual or causes him or her to take, without his or her consent or by threat or deception, and for other than medical purposes, any intoxicating, poisonous, stupefying, narcotic, anesthetic, or controlled substance, or gives to another person any food containing any substance or object intended to cause physical injury if eaten.

(3) Knowingly causes or attempts to cause a correctional institution employee or Department of Human Services employee to come into contact with blood, seminal fluid, urine, or feces by throwing, tossing, or expelling the fluid or material, and the person is an inmate of a penal institution or is a sexually dangerous person or sexually violent person in the custody of the Department of Human Services.

(h) Sentence. Unless otherwise provided, aggravated battery is a Class 3 felony.

Aggravated battery as defined in subdivision (a)(4), (d)(4), or (g)(3) is a Class 2 felony.

Aggravated battery as defined in subdivision (a)(3) or (g)(1) is a Class 1 felony.

Aggravated battery as defined in subdivision (a)(1) is a Class 1 felony when the aggravated battery was intentional and involved the infliction of torture, as defined in paragraph (10) ~~(14)~~ of subsection (b-5) ~~(b)~~ of Section 5-8-1 of the Unified Code of Corrections ~~Section 9-1 of this Code~~, as the infliction of or subjection to extreme physical pain, motivated by an intent to increase or prolong the pain, suffering, or agony of the victim.

Aggravated battery as defined in subdivision (a)(1) is a Class 2 felony when the person causes great bodily harm or permanent disability to an individual whom the person knows to be a member of a congregation engaged in prayer or other

religious activities at a church, synagogue, mosque, or other building, structure, or place used for religious worship.

Aggravated battery under subdivision (a)(5) is a Class 1 felony if:

(A) the person used or attempted to use a dangerous instrument while committing the offense;

(B) the person caused great bodily harm or permanent disability or disfigurement to the other person while committing the offense; or

(C) the person has been previously convicted of a violation of subdivision (a)(5) under the laws of this State or laws similar to subdivision (a)(5) of any other state.

Aggravated battery as defined in subdivision (e)(1) is a Class X felony.

Aggravated battery as defined in subdivision (a)(2) is a Class X felony for which a person shall be sentenced to a term of imprisonment of a minimum of 6 years and a maximum of 45 years.

Aggravated battery as defined in subdivision (e)(5) is a Class X felony for which a person shall be sentenced to a term of imprisonment of a minimum of 12 years and a maximum of 45 years.

Aggravated battery as defined in subdivision (e)(2), (e)(3), or (e)(4) is a Class X felony for which a person shall be sentenced to a term of imprisonment of a minimum of 15 years

and a maximum of 60 years.

Aggravated battery as defined in subdivision (e)(6), (e)(7), or (e)(8) is a Class X felony for which a person shall be sentenced to a term of imprisonment of a minimum of 20 years and a maximum of 60 years.

Aggravated battery as defined in subdivision (b)(1) is a Class X felony, except that:

(1) if the person committed the offense while armed with a firearm, 15 years shall be added to the term of imprisonment imposed by the court;

(2) if, during the commission of the offense, the person personally discharged a firearm, 20 years shall be added to the term of imprisonment imposed by the court;

(3) if, during the commission of the offense, the person personally discharged a firearm that proximately caused great bodily harm, permanent disability, permanent disfigurement, or death to another person, 25 years or up to a term of natural life shall be added to the term of imprisonment imposed by the court.

(i) Definitions. In this Section:

"Building or other structure used to provide shelter" has the meaning ascribed to "shelter" in Section 1 of the Domestic Violence Shelters Act.

"Domestic violence" has the meaning ascribed to it in Section 103 of the Illinois Domestic Violence Act of 1986.

"Domestic violence shelter" means any building or other

structure used to provide shelter or other services to victims or to the dependent children of victims of domestic violence pursuant to the Illinois Domestic Violence Act of 1986 or the Domestic Violence Shelters Act, or any place within 500 feet of such a building or other structure in the case of a person who is going to or from such a building or other structure.

"Firearm" has the meaning provided under Section 1.1 of the Firearm Owners Identification Card Act, and does not include an air rifle as defined by Section 24.8-0.1 of this Code.

"Machine gun" has the meaning ascribed to it in Section 24-1 of this Code.

"Merchant" has the meaning ascribed to it in Section 16-0.1 of this Code.

"Strangle" means intentionally impeding the normal breathing or circulation of the blood of an individual by applying pressure on the throat or neck of that individual or by blocking the nose or mouth of that individual.

(Source: P.A. 101-223, eff. 1-1-20; 101-651, eff. 8-7-20.)

(720 ILCS 5/30-1) (from Ch. 38, par. 30-1)

Sec. 30-1. Treason.

(a) A person owing allegiance to this State commits treason when he or she knowingly:

- (1) levies war against this State; or
- (2) adheres to the enemies of this State, giving them

aid or comfort.

(b) No person may be convicted of treason except on the testimony of 2 witnesses to the same overt act, or on his confession in open court.

(c) Sentence. Treason is a Class X felony ~~for which an offender may be sentenced to death under Section 5-5-3 of the Unified Code of Corrections.~~

(Source: P.A. 80-1099.)

Section 25. The Cannabis Control Act is amended by changing Section 9 as follows:

(720 ILCS 550/9) (from Ch. 56 1/2, par. 709)

Sec. 9. (a) Any person who engages in a calculated criminal cannabis conspiracy, as defined in subsection (b), is guilty of a Class 3 felony, and fined not more than \$200,000 and shall be subject to the forfeitures prescribed in subsection (c); except that, if any person engages in such offense after one or more prior convictions under this Section, Section 4 (d), Section 5 (d), Section 8 (d) or any law of the United States or of any State relating to cannabis, or controlled substances as defined in the Illinois Controlled Substances Act, in addition to the fine and forfeiture authorized above, he shall be guilty of a Class 1 felony ~~for which an offender may not be sentenced to death.~~

(b) For purposes of this section, a person engages in a

calculated criminal cannabis conspiracy when:

(1) he violates Section 4 (d), 4 (e), 5 (d), 5 (e), 8 (c) or 8 (d) of this Act; and

(2) such violation is a part of a conspiracy undertaken or carried on with 2 or more other persons; and

(3) he obtains anything of value greater than \$500 from, or organizes, directs or finances such violation or conspiracy.

(c) Any person who is convicted under this Section of engaging in a calculated criminal cannabis conspiracy shall forfeit to the State of Illinois:

(1) the receipts obtained by him in such conspiracy; and

(2) any of his interests in, claims against, receipts from, or property or rights of any kind affording a source of influence over, such conspiracy.

(d) The circuit court may enter such injunctions, restraining orders, directions, or prohibitions, or take such other actions, including the acceptance of satisfactory performance bonds, in connection with any property, claim, receipt, right or other interest subject to forfeiture under this Section, as it deems proper.

(Source: P.A. 84-1233.)

Section 30. The Code of Criminal Procedure of 1963 is amended by changing Sections 104-26, 111-3, 116-4, 121-13, 122-1, 122-2.1, 122-2.2, and 122-4 as follows:

(725 ILCS 5/104-26) (from Ch. 38, par. 104-26)

Sec. 104-26. Disposition of Defendants suffering disabilities.

(a) A defendant convicted following a trial conducted under the provisions of Section 104-22 shall not be sentenced before a written presentence report of investigation is presented to and considered by the court. The presentence report shall be prepared pursuant to Sections 5-3-2, 5-3-3 and 5-3-4 of the Unified Code of Corrections, as now or hereafter amended, and shall include a physical and mental examination unless the court finds that the reports of prior physical and mental examinations conducted pursuant to this Article are adequate and recent enough so that additional examinations would be unnecessary.

(b) (Blank). ~~A defendant convicted following a trial under Section 104-22 shall not be subject to the death penalty.~~

(c) A defendant convicted following a trial under Section 104-22 shall be sentenced according to the procedures and dispositions authorized under the Unified Code of Corrections, as now or hereafter amended, subject to the following provisions:

(1) The court shall not impose a sentence of imprisonment upon the offender if the court believes that because of his disability a sentence of imprisonment would not serve the ends of justice and the interests of society

and the offender or that because of his disability a sentence of imprisonment would subject the offender to excessive hardship. In addition to any other conditions of a sentence of conditional discharge or probation the court may require that the offender undergo treatment appropriate to his mental or physical condition.

(2) After imposing a sentence of imprisonment upon an offender who has a mental disability, the court may remand him to the custody of the Department of Human Services and order a hearing to be conducted pursuant to the provisions of the Mental Health and Developmental Disabilities Code, as now or hereafter amended. If the offender is committed following such hearing, he shall be treated in the same manner as any other civilly committed patient for all purposes except as provided in this Section. If the defendant is not committed pursuant to such hearing, he shall be remanded to the sentencing court for disposition according to the sentence imposed.

(3) If the court imposes a sentence of imprisonment upon an offender who has a mental disability but does not proceed under subparagraph (2) of paragraph (c) of this Section, it shall order the Department of Corrections to proceed pursuant to Section 3-8-5 of the Unified Code of Corrections, as now or hereafter amended.

(3.5) If the court imposes a sentence of imprisonment upon an offender who has a mental disability, the court

shall direct the circuit court clerk to immediately notify the Illinois State Police, Firearm Owner's Identification (FOID) Office, in a form and manner prescribed by the Illinois State Police and shall forward a copy of the court order to the Department.

(4) If the court imposes a sentence of imprisonment upon an offender who has a physical disability, it may authorize the Department of Corrections to place the offender in a public or private facility which is able to provide care or treatment for the offender's disability and which agrees to do so.

(5) When an offender is placed with the Department of Human Services or another facility pursuant to subparagraph (2) or (4) of this paragraph (c), the Department or private facility shall not discharge or allow the offender to be at large in the community without prior approval of the court. If the defendant is placed in the custody of the Department of Human Services, the defendant shall be placed in a secure setting unless the court determines that there are compelling reasons why such placement is not necessary. The offender shall accrue good time and shall be eligible for parole in the same manner as if he were serving his sentence within the Department of Corrections. When the offender no longer requires hospitalization, care, or treatment, the Department of Human Services or the facility shall

transfer him, if his sentence has not expired, to the Department of Corrections. If an offender is transferred to the Department of Corrections, the Department of Human Services shall transfer to the Department of Corrections all related records pertaining to length of custody and treatment services provided during the time the offender was held.

(6) The Department of Corrections shall notify the Department of Human Services or a facility in which an offender has been placed pursuant to subparagraph (2) or (4) of paragraph (c) of this Section of the expiration of his sentence. Thereafter, an offender in the Department of Human Services shall continue to be treated pursuant to his commitment order and shall be considered a civilly committed patient for all purposes including discharge. An offender who is in a facility pursuant to subparagraph (4) of paragraph (c) of this Section shall be informed by the facility of the expiration of his sentence, and shall either consent to the continuation of his care or treatment by the facility or shall be discharged.

(Source: P.A. 102-538, eff. 8-20-21.)

(725 ILCS 5/111-3) (from Ch. 38, par. 111-3)

Sec. 111-3. Form of charge.

(a) A charge shall be in writing and allege the commission of an offense by:

- (1) Stating the name of the offense;
- (2) Citing the statutory provision alleged to have been violated;
- (3) Setting forth the nature and elements of the offense charged;
- (4) Stating the date and county of the offense as definitely as can be done; and
- (5) Stating the name of the accused, if known, and if not known, designate the accused by any name or description by which he can be identified with reasonable certainty.

(a-5) If the victim is alleged to have been subjected to an offense involving an illegal sexual act including, but not limited to, a sexual offense defined in Article 11 or Section 10-9 of the Criminal Code of 2012, the charge shall state the identity of the victim by name, initials, or description.

(b) An indictment shall be signed by the foreman of the Grand Jury and an information shall be signed by the State's Attorney and sworn to by him or another. A complaint shall be sworn to and signed by the complainant; provided, that when a peace officer observes the commission of a misdemeanor and is the complaining witness, the signing of the complaint by the peace officer is sufficient to charge the defendant with the commission of the offense, and the complaint need not be sworn to if the officer signing the complaint certifies that the statements set forth in the complaint are true and correct and

are subject to the penalties provided by law for false certification under Section 1-109 of the Code of Civil Procedure and perjury under Section 32-2 of the Criminal Code of 2012; and further provided, however, that when a citation is issued on a Uniform Traffic Ticket or Uniform Conservation Ticket (in a form prescribed by the Conference of Chief Circuit Judges and filed with the Supreme Court), the copy of such Uniform Ticket which is filed with the circuit court constitutes a complaint to which the defendant may plead, unless he specifically requests that a verified complaint be filed.

(c) When the State seeks an enhanced sentence because of a prior conviction, the charge shall also state the intention to seek an enhanced sentence and shall state such prior conviction so as to give notice to the defendant. However, the fact of such prior conviction and the State's intention to seek an enhanced sentence are not elements of the offense and may not be disclosed to the jury during trial unless otherwise permitted by issues properly raised during such trial. For the purposes of this Section, "enhanced sentence" means a sentence which is increased by a prior conviction from one classification of offense to another higher level classification of offense set forth in Section 5-4.5-10 of the Unified Code of Corrections (730 ILCS 5/5-4.5-10); it does not include an increase in the sentence applied within the same level of classification of offense.

(c-5) Notwithstanding any other provision of law, in all cases ~~in which the imposition of the death penalty is not a possibility,~~ if an alleged fact (other than the fact of a prior conviction) is not an element of an offense but is sought to be used to increase the range of penalties for the offense beyond the statutory maximum that could otherwise be imposed for the offense, the alleged fact must be included in the charging instrument or otherwise provided to the defendant through a written notification before trial, submitted to a trier of fact as an aggravating factor, and proved beyond a reasonable doubt. Failure to prove the fact beyond a reasonable doubt is not a bar to a conviction for commission of the offense, but is a bar to increasing, based on that fact, the range of penalties for the offense beyond the statutory maximum that could otherwise be imposed for that offense. Nothing in this subsection (c-5) requires the imposition of a sentence that increases the range of penalties for the offense beyond the statutory maximum that could otherwise be imposed for the offense if the imposition of that sentence is not required by law.

(d) At any time prior to trial, the State on motion shall be permitted to amend the charge, whether brought by indictment, information or complaint, to make the charge comply with subsection (c) or (c-5) of this Section. Nothing in Section 103-5 of this Code precludes such an amendment or a written notification made in accordance with subsection (c-5)

of this Section.

(e) The provisions of subsection (a) of Section 5-4.5-95 of the Unified Code of Corrections ~~(730 ILCS 5/5-4.5-95)~~ shall not be affected by this Section.

(Source: P.A. 97-1150, eff. 1-25-13; 98-416, eff. 1-1-14.)

(725 ILCS 5/116-4)

Sec. 116-4. Preservation of evidence for forensic testing.

(a) Before or after the trial in a prosecution for a violation of Section 11-1.20, 11-1.30, 11-1.40, 11-1.50, 11-1.60, 12-13, 12-14, 12-14.1, 12-15, or 12-16 of the Criminal Code of 1961 or the Criminal Code of 2012 or in a prosecution for an offense defined in Article 9 of that Code, or in a prosecution for an attempt in violation of Section 8-4 of that Code of any of the above-enumerated offenses, unless otherwise provided herein under subsection (b) or (c), a law enforcement agency or an agent acting on behalf of the law enforcement agency shall preserve, subject to a continuous chain of custody, any physical evidence in their possession or control that is reasonably likely to contain forensic evidence, including, but not limited to, fingerprints or biological material secured in relation to a trial and with sufficient documentation to locate that evidence.

(b) After a judgment of conviction is entered, the evidence shall either be impounded with the Clerk of the Circuit Court or shall be securely retained by a law

enforcement agency. ~~Retention shall be permanent in cases where a sentence of death is imposed.~~ Retention shall be until the completion of the sentence, including the period of mandatory supervised release for the offense, or January 1, 2006, whichever is later, for any conviction for an offense or an attempt of an offense defined in Article 9 of the Criminal Code of 1961 or the Criminal Code of 2012 or in Section 11-1.20, 11-1.30, 11-1.40, 11-1.50, 11-1.60, 12-13, 12-14, 12-14.1, 12-15, or 12-16 of the Criminal Code of 1961 or the Criminal Code of 2012 or for 7 years following any conviction for any other felony for which the defendant's genetic profile may be taken by a law enforcement agency and submitted for comparison in a forensic DNA database for unsolved offenses.

(c) After a judgment of conviction is entered, the law enforcement agency required to retain evidence described in subsection (a) may petition the court with notice to the defendant or, in cases where the defendant has died, his estate, his attorney of record, or an attorney appointed for that purpose by the court for entry of an order allowing it to dispose of evidence if, after a hearing, the court determines by a preponderance of the evidence that:

(1) it has no significant value for forensic science analysis and should be returned to its rightful owner, destroyed, used for training purposes, or as otherwise provided by law; or

(2) it has no significant value for forensic science

analysis and is of a size, bulk, or physical character not usually retained by the law enforcement agency and cannot practicably be retained by the law enforcement agency; or

(3) there no longer exists a reasonable basis to require the preservation of the evidence because of the death of the defendant; ~~however, this paragraph (3) does not apply if a sentence of death was imposed.~~

(d) The court may order the disposition of the evidence if the defendant is allowed the opportunity to take reasonable measures to remove or preserve portions of the evidence in question for future testing.

(d-5) Any order allowing the disposition of evidence pursuant to subsection (c) or (d) shall be a final and appealable order. No evidence shall be disposed of until 30 days after the order is entered, and if a notice of appeal is filed, no evidence shall be disposed of until the mandate has been received by the circuit court from the appellate court.

(d-10) All records documenting the possession, control, storage, and destruction of evidence and all police reports, evidence control or inventory records, and other reports cited in this Section, including computer records, must be retained for as long as the evidence exists and may not be disposed of without the approval of the Local Records Commission.

(e) In this Section, "law enforcement agency" includes any of the following or an agent acting on behalf of any of the following: a municipal police department, county sheriff's

office, any prosecuting authority, the Illinois State Police, or any other State, university, county, federal, or municipal police unit or police force.

"Biological material" includes, but is not limited to, any blood, hair, saliva, or semen from which genetic marker groupings may be obtained.

(Source: P.A. 102-538, eff. 8-20-21.)

(725 ILCS 5/121-13) (from Ch. 38, par. 121-13)

Sec. 121-13. Pauper Appeals.

(a) In any case wherein the defendant was convicted of a felony, if the court determines that the defendant desires counsel on appeal but is indigent the Public Defender or the State Appellate Defender shall be appointed as counsel, unless with the consent of the defendant and for good cause shown, the court may appoint counsel other than the Public Defender or the State Appellate Defender.

(b) In any case wherein the defendant was convicted of a felony ~~and a sentence of death was not imposed in the trial court~~ the reviewing court, upon petition of the defendant's counsel made not more frequently than every 60 days after appointment, shall determine a reasonable amount to be allowed an indigent defendant's counsel other than the Public Defender or the State Appellate Defender for compensation and reimbursement of expenditures necessarily incurred in the prosecution of the appeal or review proceedings. The

compensation shall not exceed \$1500 in each case, except that, in extraordinary circumstances, payment in excess of the limits herein stated may be made if the reviewing court certifies that the payment is necessary to provide fair compensation for protracted representation. The reviewing court shall enter an order directing the county treasurer of the county where the case was tried to pay the amount allowed by the court. The reviewing court may order the provisional payment of sums during the pendency of the cause.

(c) (blank). ~~In any case in which a sentence of death was imposed in the trial court, the Supreme Court, upon written petition of the defendant's counsel made not more than every 60 days after appointment, shall determine reasonable compensation for an indigent defendant's attorneys on appeal. The compensation shall not exceed \$2,000 in each case, except that, in extraordinary circumstances, payment in excess of the limits herein stated may be made if the reviewing court certifies that the payment is necessary to provide fair compensation for protracted representation. The Supreme Court shall enter an order directing the county treasurer of the county where the case was tried to pay compensation and reimburse expenditures necessarily incurred in the prosecution of the appeal or review proceedings. The Supreme Court may order the provisional payment of sums during the pendency of the cause.~~

(Source: P.A. 86-318; 87-580.)

(725 ILCS 5/122-1) (from Ch. 38, par. 122-1)

Sec. 122-1. Petition in the trial court.

(a) Any person imprisoned in the penitentiary may institute a proceeding under this Article if the person asserts that:

(1) in the proceedings which resulted in his or her conviction there was a substantial denial of his or her rights under the Constitution of the United States or of the State of Illinois or both;

(2) (blank) ~~the death penalty was imposed and there is newly discovered evidence not available to the person at the time of the proceeding that resulted in his or her conviction that establishes a substantial basis to believe that the defendant is actually innocent by clear and convincing evidence;~~ or

(3) (blank).

(a-5) A proceeding under paragraph (2) of subsection (a) may be commenced within a reasonable period of time after the person's conviction notwithstanding any other provisions of this Article. In such a proceeding regarding actual innocence, if the court determines the petition is frivolous or is patently without merit, it shall dismiss the petition in a written order, specifying the findings of fact and conclusions of law it made in reaching its decision. Such order of dismissal is a final judgment and shall be served upon the

petitioner by certified mail within 10 days of its entry.

(b) The proceeding shall be commenced by filing with the clerk of the court in which the conviction took place a petition (together with a copy thereof) verified by affidavit. Petitioner shall also serve another copy upon the State's Attorney by any of the methods provided in Rule 7 of the Supreme Court. The clerk shall docket the petition for consideration by the court pursuant to Section 122-2.1 upon his or her receipt thereof and bring the same promptly to the attention of the court.

~~(c) Except as otherwise provided in subsection (a-5), if the petitioner is under sentence of death and a petition for writ of certiorari is filed, no proceedings under this Article shall be commenced more than 6 months after the conclusion of proceedings in the United States Supreme Court, unless the petitioner alleges facts showing that the delay was not due to his or her culpable negligence. If a petition for certiorari is not filed, no proceedings under this Article shall be commenced more than 6 months from the date for filing a certiorari petition, unless the petitioner alleges facts showing that the delay was not due to his or her culpable negligence.~~

No ~~When a defendant has a sentence other than death, no~~ proceedings under this Article shall be commenced more than 6 months after the conclusion of proceedings in the United States Supreme Court, unless the petitioner alleges facts

showing that the delay was not due to his or her culpable negligence. If a petition for certiorari is not filed, no proceedings under this Article shall be commenced more than 6 months from the date for filing a certiorari petition, unless the petitioner alleges facts showing that the delay was not due to his or her culpable negligence. If a defendant does not file a direct appeal, the post-conviction petition shall be filed no later than 3 years from the date of conviction, unless the petitioner alleges facts showing that the delay was not due to his or her culpable negligence.

This limitation does not apply to a petition advancing a claim of actual innocence.

(d) A person seeking relief by filing a petition under this Section must specify in the petition or its heading that it is filed under this Section. A trial court that has received a petition complaining of a conviction or sentence that fails to specify in the petition or its heading that it is filed under this Section need not evaluate the petition to determine whether it could otherwise have stated some grounds for relief under this Article.

(e) (Blank). ~~A proceeding under this Article may not be commenced on behalf of a defendant who has been sentenced to death without the written consent of the defendant, unless the defendant, because of a mental or physical condition, is incapable of asserting his or her own claim.~~

(f) Only one petition may be filed by a petitioner under

this Article without leave of the court. Leave of court may be granted only if a petitioner demonstrates cause for his or her failure to bring the claim in his or her initial post-conviction proceedings and prejudice results from that failure. For purposes of this subsection (f): (1) a prisoner shows cause by identifying an objective factor that impeded his or her ability to raise a specific claim during his or her initial post-conviction proceedings; and (2) a prisoner shows prejudice by demonstrating that the claim not raised during his or her initial post-conviction proceedings so infected the trial that the resulting conviction or sentence violated due process.

(Source: P.A. 101-411, eff. 8-16-19; 102-639, eff. 8-27-21.)

(725 ILCS 5/122-2.1) (from Ch. 38, par. 122-2.1)

Sec. 122-2.1. (a) Within 90 days after the filing and docketing of each petition, the court shall examine such petition and enter an order thereon pursuant to this Section.

(1) (Blank). ~~If the petitioner is under sentence of death and is without counsel and alleges that he is without means to procure counsel, he shall state whether or not he wishes counsel to be appointed to represent him. If appointment of counsel is so requested, the court shall appoint counsel if satisfied that the petitioner has no means to procure counsel.~~

(2) If the petitioner is sentenced to imprisonment and

the court determines the petition is frivolous or is patently without merit, it shall dismiss the petition in a written order, specifying the findings of fact and conclusions of law it made in reaching its decision. Such order of dismissal is a final judgment and shall be served upon the petitioner by certified mail within 10 days of its entry.

(b) If the petition is not dismissed pursuant to this Section, the court shall order the petition to be docketed for further consideration in accordance with Sections 122-4 through 122-6. ~~If the petitioner is under sentence of death, the court shall order the petition to be docketed for further consideration and hearing within one year of the filing of the petition. Continuances may be granted as the court deems appropriate.~~

(c) In considering a petition pursuant to this Section, the court may examine the court file of the proceeding in which the petitioner was convicted, any action taken by an appellate court in such proceeding and any transcripts of such proceeding.

(Source: P.A. 93-605, eff. 11-19-03.)

(725 ILCS 5/122-2.2)

Sec. 122-2.2. Intellectual disability and post-conviction relief.

(a) (Blank). ~~In cases where no determination of an~~

~~intellectual disability was made and a defendant has been convicted of first degree murder, sentenced to death, and is in custody pending execution of the sentence of death, the following procedures shall apply:~~

~~(1) Notwithstanding any other provision of law or rule of court, a defendant may seek relief from the death sentence through a petition for post conviction relief under this Article alleging that the defendant was a person with an intellectual disability as defined in Section 114 15 at the time the offense was alleged to have been committed.~~

~~(2) The petition must be filed within 180 days of the effective date of this amendatory Act of the 93rd General Assembly or within 180 days of the issuance of the mandate by the Illinois Supreme Court setting the date of execution, whichever is later.~~

(b) All other provisions of this Article governing petitions for post-conviction relief shall apply to a petition for post-conviction relief alleging an intellectual disability.

(Source: P.A. 99-78, eff. 7-20-15; 99-143, eff. 7-27-15.)

(725 ILCS 5/122-4) (from Ch. 38, par. 122-4)

Sec. 122-4. Pauper Petitions. If the petition is not dismissed pursuant to Section 122-2.1, and alleges that the petitioner is unable to pay the costs of the proceeding, the

court may order that the petitioner be permitted to proceed as a poor person and order a transcript of the proceedings delivered to petitioner in accordance with Rule of the Supreme Court. If the petitioner is without counsel and alleges that he is without means to procure counsel, he shall state whether or not he wishes counsel to be appointed to represent him. If appointment of counsel is so requested, and the petition is not dismissed pursuant to Section 122-2.1, the court shall appoint counsel if satisfied that the petitioner has no means to procure counsel. A petitioner who is a prisoner in an Illinois Department of Corrections facility who files a pleading, motion, or other filing that purports to be a legal document seeking post-conviction relief under this Article against the State, the Illinois Department of Corrections, the Prisoner Review Board, or any of their officers or employees in which the court makes a specific finding that the pleading, motion, or other filing that purports to be a legal document is frivolous shall not proceed as a poor person and shall be liable for the full payment of filing fees and actual court costs as provided in Article XXII of the Code of Civil Procedure.

~~A Circuit Court or the Illinois Supreme Court may appoint the State Appellate Defender to provide post conviction representation in a case in which the defendant is sentenced to death. Any attorney assigned by the Office of the State Appellate Defender to provide post conviction representation~~

~~for indigent defendants in cases in which a sentence of death was imposed in the trial court may, from time to time submit bills and time sheets to the Office of the State Appellate Defender for payment of services rendered and the Office of the State Appellate Defender shall pay bills from funds appropriated for this purpose in accordance with rules promulgated by the State Appellate Defender.~~

The court, at the conclusion of the proceedings upon receipt of a petition by the appointed counsel, shall determine a reasonable amount to be allowed an indigent defendant's counsel other than the Public Defender or the State Appellate Defender for compensation and reimbursement of expenditures necessarily incurred in the proceedings. The compensation shall not exceed \$500 in each case, except that, in extraordinary circumstances, payment in excess of the limits herein stated may be made if the trial court certifies that the payment is necessary to provide fair compensation for protracted representation, and the amount is approved by the chief judge of the circuit. The court shall enter an order directing the county treasurer of the county where the case was tried to pay the amount thereby allowed by the court. The court may order the provisional payment of sums during the pendency of the cause.

(Source: P.A. 90-505, eff. 8-19-97.)

(725 ILCS 5/119-5 rep.)

Section 35. The Code of Criminal Procedure of 1963 is amended by repealing Sections 114-15 and 119-5.

Section 40. The State Appellate Defender Act is amended by changing Section 10.5 as follows:

(725 ILCS 105/10.5)

Sec. 10.5. Competitive bidding for appellate services.

(a) The State Appellate Defender may, to the extent necessary to dispose of its backlog of indigent criminal appeals, institute a competitive bidding program under which contracts for the services of attorneys in ~~non-death penalty~~ criminal appeals are awarded to the lowest responsible bidder.

(b) The State Appellate Defender, before letting out bids for contracts for the services of attorneys to represent indigent defendants on appeal in criminal cases, shall advertise the letting of the bids in a publication or publications of the Illinois State Bar Association, the Chicago Daily Law Bulletin, and the Chicago Lawyer. The State Appellate Defender shall also advertise the letting of the bids in newspapers of general circulation in major municipalities to be determined by the State Appellate Defender. The State Appellate Defender shall mail notices of the letting of the bids to county and local bar associations.

(c) Bids may be let in packages of one to 5, appeals.

Additional cases may be assigned, in the discretion of the State Appellate Defender, after a successful bidder completes work on existing packages.

(d) A bid for services of an attorney under this Section shall be let only to an attorney licensed to practice law in Illinois who has prior criminal appellate experience or to an attorney who is a member or employee of a law firm which has at least one member with that experience. Prospective bidders must furnish legal writing samples that are deemed acceptable to the State Appellate Defender.

(e) An attorney who is awarded a contract under this Section shall communicate with each of his or her clients and shall file each initial brief before the due date established by Supreme Court Rule or by the Appellate Court. The State Appellate Defender may rescind the contract for attorney services and may require the return of the record on appeal if the contracted attorney fails to make satisfactory progress, in the opinion of the State Appellate Defender, toward filing a brief.

(f) Gross compensation for completing of a case shall be \$40 per hour but shall not exceed \$2,000 per case. The contract shall specify the manner of payment.

(g) (Blank).

(h) (Blank).

(Source: P.A. 89-689, eff. 12-31-96; 90-505, eff. 8-19-97.)

Section 45. The Uniform Rendition of Prisoners as Witnesses in Criminal Proceedings Act is amended by changing Section 5 as follows:

(725 ILCS 235/5) (from Ch. 38, par. 157-5)

Sec. 5. Exceptions.

This act does not apply to any person in this State confined as mentally ill or ~~and~~ in need of mental treatment, ~~or under sentence of death.~~

(Source: Laws 1963, p. 2171.)

Section 50. The Unified Code of Corrections is amended by changing Sections 3-3-13, 3-6-3, 3-8-10, 5-1-9, 5-4-1, 5-4-3, 5-4.5-20, 5-5-3, and 5-8-1 as follows:

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

Sec. 3-3-13. Procedure for executive clemency.

(a) Petitions seeking pardon, commutation, or reprieve shall be addressed to the Governor and filed with the Prisoner Review Board. The petition shall be in writing and signed by the person under conviction or by a person on his behalf. It shall contain a brief history of the case, the reasons for seeking executive clemency, and other relevant information the Board may require.

(a-5) After a petition has been denied by the Governor, the Board may not accept a repeat petition for executive

clemency for the same person until one full year has elapsed from the date of the denial. The Chairman of the Board may waive the one-year requirement if the petitioner offers in writing new information that was unavailable to the petitioner at the time of the filing of the prior petition and which the Chairman determines to be significant. The Chairman also may waive the one-year waiting period if the petitioner can show that a change in circumstances of a compelling humanitarian nature has arisen since the denial of the prior petition.

(b) Notice of the proposed application shall be given by the Board to the committing court and the state's attorney of the county where the conviction was had.

(b-5) Victims registered with the Board shall receive reasonable written notice not less than 30 days prior to the executive clemency hearing date. The victim has the right to submit a victim statement to the Prisoner Review Board for consideration at an executive clemency hearing as provided in subsection (c) of this Section. Victim statements provided to the Board shall be confidential and privileged, including any statements received prior to the effective date of this amendatory Act of the 101st General Assembly, except if the statement was an oral statement made by the victim at a hearing open to the public.

(c) The Board shall, upon due notice, give a hearing to each application, allowing representation by counsel, if desired, after which it shall confidentially advise the

Governor by a written report of its recommendations which shall be determined by majority vote. The written report to the Governor shall be confidential and privileged, including any reports made prior to the effective date of this amendatory Act of the 101st General Assembly. The Board shall meet to consider such petitions no less than 4 times each year.

~~Application for executive clemency under this Section may not be commenced on behalf of a person who has been sentenced to death without the written consent of the defendant, unless the defendant, because of a mental or physical condition, is incapable of asserting his or her own claim.~~

(d) The Governor shall decide each application and communicate his decision to the Board which shall notify the petitioner.

In the event a petitioner who has been convicted of a Class X felony is granted a release, after the Governor has communicated such decision to the Board, the Board shall give written notice to the Sheriff of the county from which the offender was sentenced if such sheriff has requested that such notice be given on a continuing basis. In cases where arrest of the offender or the commission of the offense took place in any municipality with a population of more than 10,000 persons, the Board shall also give written notice to the proper law enforcement agency for said municipality which has requested notice on a continuing basis.

(e) Nothing in this Section shall be construed to limit

the power of the Governor under the constitution to grant a reprieve, commutation of sentence, or pardon.

(Source: P.A. 101-288, eff. 1-1-20.)

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

Sec. 3-6-3. Rules and regulations for sentence credit.

(a) (1) The Department of Corrections shall prescribe rules and regulations for awarding and revoking sentence credit for persons committed to the Department of Corrections and the Department of Juvenile Justice shall prescribe rules and regulations for awarding and revoking sentence credit for persons committed to the Department of Juvenile Justice under Section 5-8-6 of the Unified Code of Corrections, which shall be subject to review by the Prisoner Review Board.

(1.5) As otherwise provided by law, sentence credit may be awarded for the following:

(A) successful completion of programming while in custody of the Department of Corrections or the Department of Juvenile Justice or while in custody prior to sentencing;

(B) compliance with the rules and regulations of the Department; or

(C) service to the institution, service to a community, or service to the State.

(2) Except as provided in paragraph (4.7) of this subsection (a), the rules and regulations on sentence credit

shall provide, with respect to offenses listed in clause (i), (ii), or (iii) of this paragraph (2) committed on or after June 19, 1998 or with respect to the offense listed in clause (iv) of this paragraph (2) committed on or after June 23, 2005 (the effective date of Public Act 94-71) or with respect to offense listed in clause (vi) committed on or after June 1, 2008 (the effective date of Public Act 95-625) or with respect to the offense of being an armed habitual criminal committed on or after August 2, 2005 (the effective date of Public Act 94-398) or with respect to the offenses listed in clause (v) of this paragraph (2) committed on or after August 13, 2007 (the effective date of Public Act 95-134) or with respect to the offense of aggravated domestic battery committed on or after July 23, 2010 (the effective date of Public Act 96-1224) or with respect to the offense of attempt to commit terrorism committed on or after January 1, 2013 (the effective date of Public Act 97-990), the following:

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

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

sexual assault, criminal sexual assault, aggravated kidnapping, aggravated battery with a firearm as described in Section 12-4.2 or subdivision (e) (1), (e) (2), (e) (3), or (e) (4) of Section 12-3.05, heinous battery as described in Section 12-4.1 or subdivision (a) (2) of Section 12-3.05, being an armed habitual criminal, aggravated battery of a senior citizen as described in Section 12-4.6 or subdivision (a) (4) of Section 12-3.05, or aggravated battery of a child as described in Section 12-4.3 or subdivision (b) (1) of Section 12-3.05 shall receive no more than 4.5 days of sentence credit for each month of his or her sentence of imprisonment;

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

(iv) that a prisoner serving a sentence for aggravated discharge of a firearm, whether or not the conduct leading to conviction for the offense resulted in great bodily harm to the victim, shall receive no more than 4.5 days of

sentence credit for each month of his or her sentence of imprisonment;

(v) that a person serving a sentence for gunrunning, narcotics racketeering, controlled substance trafficking, methamphetamine trafficking, drug-induced homicide, aggravated methamphetamine-related child endangerment, money laundering pursuant to clause (c) (4) or (5) of Section 29B-1 of the Criminal Code of 1961 or the Criminal Code of 2012, or a Class X felony conviction for delivery of a controlled substance, possession of a controlled substance with intent to manufacture or deliver, calculated criminal drug conspiracy, criminal drug conspiracy, street gang criminal drug conspiracy, participation in methamphetamine manufacturing, aggravated participation in methamphetamine manufacturing, delivery of methamphetamine, possession with intent to deliver methamphetamine, aggravated delivery of methamphetamine, aggravated possession with intent to deliver methamphetamine, methamphetamine conspiracy when the substance containing the controlled substance or methamphetamine is 100 grams or more shall receive no more than 7.5 days sentence credit for each month of his or her sentence of imprisonment;

(vi) that a prisoner serving a sentence for a second or subsequent offense of luring a minor shall receive no more than 4.5 days of sentence credit for each month of his

or her sentence of imprisonment; and

(vii) that a prisoner serving a sentence for aggravated domestic battery shall receive no more than 4.5 days of sentence credit for each month of his or her sentence of imprisonment.

(2.1) For all offenses, other than those enumerated in subdivision (a)(2)(i), (ii), or (iii) committed on or after June 19, 1998 or subdivision (a)(2)(iv) committed on or after June 23, 2005 (the effective date of Public Act 94-71) or subdivision (a)(2)(v) committed on or after August 13, 2007 (the effective date of Public Act 95-134) or subdivision (a)(2)(vi) committed on or after June 1, 2008 (the effective date of Public Act 95-625) or subdivision (a)(2)(vii) committed on or after July 23, 2010 (the effective date of Public Act 96-1224), and other than the offense of aggravated driving under the influence of alcohol, other drug or drugs, or intoxicating compound or compounds, or any combination thereof as defined in subparagraph (F) of paragraph (1) of subsection (d) of Section 11-501 of the Illinois Vehicle Code, and other than the offense of aggravated driving under the influence of alcohol, other drug or drugs, or intoxicating compound or compounds, or any combination thereof as defined in subparagraph (C) of paragraph (1) of subsection (d) of Section 11-501 of the Illinois Vehicle Code committed on or after January 1, 2011 (the effective date of Public Act 96-1230), the rules and regulations shall provide that a

prisoner who is serving a term of imprisonment shall receive one day of sentence credit for each day of his or her sentence of imprisonment or recommitment under Section 3-3-9. Each day of sentence credit shall reduce by one day the prisoner's period of imprisonment or recommitment under Section 3-3-9.

(2.2) A prisoner serving a term of natural life imprisonment ~~or a prisoner who has been sentenced to death~~ shall receive no sentence credit.

(2.3) Except as provided in paragraph (4.7) of this subsection (a), the rules and regulations on sentence credit shall provide that a prisoner who is serving a sentence for aggravated driving under the influence of alcohol, other drug or drugs, or intoxicating compound or compounds, or any combination thereof as defined in subparagraph (F) of paragraph (1) of subsection (d) of Section 11-501 of the Illinois Vehicle Code, shall receive no more than 4.5 days of sentence credit for each month of his or her sentence of imprisonment.

(2.4) Except as provided in paragraph (4.7) of this subsection (a), the rules and regulations on sentence credit shall provide with respect to the offenses of aggravated battery with a machine gun or a firearm equipped with any device or attachment designed or used for silencing the report of a firearm or aggravated discharge of a machine gun or a firearm equipped with any device or attachment designed or used for silencing the report of a firearm, committed on or

after July 15, 1999 (the effective date of Public Act 91-121), that a prisoner serving a sentence for any of these offenses shall receive no more than 4.5 days of sentence credit for each month of his or her sentence of imprisonment.

(2.5) Except as provided in paragraph (4.7) of this subsection (a), the rules and regulations on sentence credit shall provide that a prisoner who is serving a sentence for aggravated arson committed on or after July 27, 2001 (the effective date of Public Act 92-176) shall receive no more than 4.5 days of sentence credit for each month of his or her sentence of imprisonment.

(2.6) Except as provided in paragraph (4.7) of this subsection (a), the rules and regulations on sentence credit shall provide that a prisoner who is serving a sentence for aggravated driving under the influence of alcohol, other drug or drugs, or intoxicating compound or compounds or any combination thereof as defined in subparagraph (C) of paragraph (1) of subsection (d) of Section 11-501 of the Illinois Vehicle Code committed on or after January 1, 2011 (the effective date of Public Act 96-1230) shall receive no more than 4.5 days of sentence credit for each month of his or her sentence of imprisonment.

(3) In addition to the sentence credits earned under paragraphs (2.1), (4), (4.1), (4.2), and (4.7) of this subsection (a), the rules and regulations shall also provide that the Director of Corrections or the Director of Juvenile

Justice may award up to 180 days of earned sentence credit for prisoners serving a sentence of incarceration of less than 5 years, and up to 365 days of earned sentence credit for prisoners serving a sentence of 5 years or longer. The Director may grant this credit for good conduct in specific instances as either Director deems proper for eligible persons in the custody of each Director's respective Department. The good conduct may include, but is not limited to, compliance with the rules and regulations of the Department, service to the Department, service to a community, or service to the State.

Eligible inmates for an award of earned sentence credit under this paragraph (3) may be selected to receive the credit at either Director's or his or her designee's sole discretion. Eligibility for the additional earned sentence credit under this paragraph (3) may be based on, but is not limited to, participation in programming offered by the Department as appropriate for the prisoner based on the results of any available risk/needs assessment or other relevant assessments or evaluations administered by the Department using a validated instrument, the circumstances of the crime, demonstrated commitment to rehabilitation by a prisoner with a history of conviction for a forcible felony enumerated in Section 2-8 of the Criminal Code of 2012, the inmate's behavior and improvements in disciplinary history while incarcerated, and the inmate's commitment to rehabilitation,

including participation in programming offered by the Department.

The Director of Corrections or the Director of Juvenile Justice shall not award sentence credit under this paragraph (3) to an inmate unless the inmate has served a minimum of 60 days of the sentence; except nothing in this paragraph shall be construed to permit either Director to extend an inmate's sentence beyond that which was imposed by the court. Prior to awarding credit under this paragraph (3), each Director shall make a written determination that the inmate:

(A) is eligible for the earned sentence credit;

(B) has served a minimum of 60 days, or as close to 60 days as the sentence will allow;

(B-1) has received a risk/needs assessment or other relevant evaluation or assessment administered by the Department using a validated instrument; and

(C) has met the eligibility criteria established by rule for earned sentence credit.

The Director of Corrections or the Director of Juvenile Justice shall determine the form and content of the written determination required in this subsection.

(3.5) The Department shall provide annual written reports to the Governor and the General Assembly on the award of earned sentence credit no later than February 1 of each year. The Department must publish both reports on its website within 48 hours of transmitting the reports to the Governor and the

General Assembly. The reports must include:

(A) the number of inmates awarded earned sentence credit;

(B) the average amount of earned sentence credit awarded;

(C) the holding offenses of inmates awarded earned sentence credit; and

(D) the number of earned sentence credit revocations.

(4) (A) Except as provided in paragraph (4.7) of this subsection (a), the rules and regulations shall also provide that any prisoner who is engaged full-time in substance abuse programs, correctional industry assignments, educational programs, work-release programs or activities in accordance with Article 13 of Chapter III of this Code, behavior modification programs, life skills courses, or re-entry planning provided by the Department under this paragraph (4) and satisfactorily completes the assigned program as determined by the standards of the Department, shall receive one day of sentence credit for each day in which that prisoner is engaged in the activities described in this paragraph. The rules and regulations shall also provide that sentence credit may be provided to an inmate who was held in pre-trial detention prior to his or her current commitment to the Department of Corrections and successfully completed a full-time, 60-day or longer substance abuse program, educational program, behavior modification program, life

skills course, or re-entry planning provided by the county department of corrections or county jail. Calculation of this county program credit shall be done at sentencing as provided in Section 5-4.5-100 of this Code and shall be included in the sentencing order. The rules and regulations shall also provide that sentence credit may be provided to an inmate who is in compliance with programming requirements in an adult transition center.

(B) The Department shall award sentence credit under this paragraph (4) accumulated prior to January 1, 2020 (the effective date of Public Act 101-440) in an amount specified in subparagraph (C) of this paragraph (4) to an inmate serving a sentence for an offense committed prior to June 19, 1998, if the Department determines that the inmate is entitled to this sentence credit, based upon:

(i) documentation provided by the Department that the inmate engaged in any full-time substance abuse programs, correctional industry assignments, educational programs, behavior modification programs, life skills courses, or re-entry planning provided by the Department under this paragraph (4) and satisfactorily completed the assigned program as determined by the standards of the Department during the inmate's current term of incarceration; or

(ii) the inmate's own testimony in the form of an affidavit or documentation, or a third party's documentation or testimony in the form of an affidavit

that the inmate likely engaged in any full-time substance abuse programs, correctional industry assignments, educational programs, behavior modification programs, life skills courses, or re-entry planning provided by the Department under paragraph (4) and satisfactorily completed the assigned program as determined by the standards of the Department during the inmate's current term of incarceration.

(C) If the inmate can provide documentation that he or she is entitled to sentence credit under subparagraph (B) in excess of 45 days of participation in those programs, the inmate shall receive 90 days of sentence credit. If the inmate cannot provide documentation of more than 45 days of participation in those programs, the inmate shall receive 45 days of sentence credit. In the event of a disagreement between the Department and the inmate as to the amount of credit accumulated under subparagraph (B), if the Department provides documented proof of a lesser amount of days of participation in those programs, that proof shall control. If the Department provides no documentary proof, the inmate's proof as set forth in clause (ii) of subparagraph (B) shall control as to the amount of sentence credit provided.

(D) If the inmate has been convicted of a sex offense as defined in Section 2 of the Sex Offender Registration Act, sentencing credits under subparagraph (B) of this paragraph (4) shall be awarded by the Department only if the conditions

set forth in paragraph (4.6) of subsection (a) are satisfied. No inmate serving a term of natural life imprisonment shall receive sentence credit under subparagraph (B) of this paragraph (4).

Educational, vocational, substance abuse, behavior modification programs, life skills courses, re-entry planning, and correctional industry programs under which sentence credit may be earned under this paragraph (4) and paragraph (4.1) of this subsection (a) shall be evaluated by the Department on the basis of documented standards. The Department shall report the results of these evaluations to the Governor and the General Assembly by September 30th of each year. The reports shall include data relating to the recidivism rate among program participants.

Availability of these programs shall be subject to the limits of fiscal resources appropriated by the General Assembly for these purposes. Eligible inmates who are denied immediate admission shall be placed on a waiting list under criteria established by the Department. The rules and regulations shall provide that a prisoner who has been placed on a waiting list but is transferred for non-disciplinary reasons before beginning a program shall receive priority placement on the waitlist for appropriate programs at the new facility. The inability of any inmate to become engaged in any such programs by reason of insufficient program resources or for any other reason established under the rules and

regulations of the Department shall not be deemed a cause of action under which the Department or any employee or agent of the Department shall be liable for damages to the inmate. The rules and regulations shall provide that a prisoner who begins an educational, vocational, substance abuse, work-release programs or activities in accordance with Article 13 of Chapter III of this Code, behavior modification program, life skills course, re-entry planning, or correctional industry programs but is unable to complete the program due to illness, disability, transfer, lockdown, or another reason outside of the prisoner's control shall receive prorated sentence credits for the days in which the prisoner did participate.

(4.1) Except as provided in paragraph (4.7) of this subsection (a), the rules and regulations shall also provide that an additional 90 days of sentence credit shall be awarded to any prisoner who passes high school equivalency testing while the prisoner is committed to the Department of Corrections. The sentence credit awarded under this paragraph (4.1) shall be in addition to, and shall not affect, the award of sentence credit under any other paragraph of this Section, but shall also be pursuant to the guidelines and restrictions set forth in paragraph (4) of subsection (a) of this Section. The sentence credit provided for in this paragraph shall be available only to those prisoners who have not previously earned a high school diploma or a State of Illinois High School Diploma. If, after an award of the high school equivalency

testing sentence credit has been made, the Department determines that the prisoner was not eligible, then the award shall be revoked. The Department may also award 90 days of sentence credit to any committed person who passed high school equivalency testing while he or she was held in pre-trial detention prior to the current commitment to the Department of Corrections. Except as provided in paragraph (4.7) of this subsection (a), the rules and regulations shall provide that an additional 120 days of sentence credit shall be awarded to any prisoner who obtains an associate degree while the prisoner is committed to the Department of Corrections, regardless of the date that the associate degree was obtained, including if prior to July 1, 2021 (the effective date of Public Act 101-652). The sentence credit awarded under this paragraph (4.1) shall be in addition to, and shall not affect, the award of sentence credit under any other paragraph of this Section, but shall also be under the guidelines and restrictions set forth in paragraph (4) of subsection (a) of this Section. The sentence credit provided for in this paragraph (4.1) shall be available only to those prisoners who have not previously earned an associate degree prior to the current commitment to the Department of Corrections. If, after an award of the associate degree sentence credit has been made and the Department determines that the prisoner was not eligible, then the award shall be revoked. The Department may also award 120 days of sentence credit to any committed person

who earned an associate degree while he or she was held in pre-trial detention prior to the current commitment to the Department of Corrections.

Except as provided in paragraph (4.7) of this subsection (a), the rules and regulations shall provide that an additional 180 days of sentence credit shall be awarded to any prisoner who obtains a bachelor's degree while the prisoner is committed to the Department of Corrections. The sentence credit awarded under this paragraph (4.1) shall be in addition to, and shall not affect, the award of sentence credit under any other paragraph of this Section, but shall also be under the guidelines and restrictions set forth in paragraph (4) of this subsection (a). The sentence credit provided for in this paragraph shall be available only to those prisoners who have not earned a bachelor's degree prior to the current commitment to the Department of Corrections. If, after an award of the bachelor's degree sentence credit has been made, the Department determines that the prisoner was not eligible, then the award shall be revoked. The Department may also award 180 days of sentence credit to any committed person who earned a bachelor's degree while he or she was held in pre-trial detention prior to the current commitment to the Department of Corrections.

Except as provided in paragraph (4.7) of this subsection (a), the rules and regulations shall provide that an additional 180 days of sentence credit shall be awarded to any

prisoner who obtains a master's or professional degree while the prisoner is committed to the Department of Corrections. The sentence credit awarded under this paragraph (4.1) shall be in addition to, and shall not affect, the award of sentence credit under any other paragraph of this Section, but shall also be under the guidelines and restrictions set forth in paragraph (4) of this subsection (a). The sentence credit provided for in this paragraph shall be available only to those prisoners who have not previously earned a master's or professional degree prior to the current commitment to the Department of Corrections. If, after an award of the master's or professional degree sentence credit has been made, the Department determines that the prisoner was not eligible, then the award shall be revoked. The Department may also award 180 days of sentence credit to any committed person who earned a master's or professional degree while he or she was held in pre-trial detention prior to the current commitment to the Department of Corrections.

(4.2) The rules and regulations shall also provide that any prisoner engaged in self-improvement programs, volunteer work, or work assignments that are not otherwise eligible activities under paragraph (4), shall receive up to 0.5 days of sentence credit for each day in which the prisoner is engaged in activities described in this paragraph.

(4.5) The rules and regulations on sentence credit shall also provide that when the court's sentencing order recommends

a prisoner for substance abuse treatment and the crime was committed on or after September 1, 2003 (the effective date of Public Act 93-354), the prisoner shall receive no sentence credit awarded under clause (3) of this subsection (a) unless he or she participates in and completes a substance abuse treatment program. The Director of Corrections may waive the requirement to participate in or complete a substance abuse treatment program in specific instances if the prisoner is not a good candidate for a substance abuse treatment program for medical, programming, or operational reasons. Availability of substance abuse treatment shall be subject to the limits of fiscal resources appropriated by the General Assembly for these purposes. If treatment is not available and the requirement to participate and complete the treatment has not been waived by the Director, the prisoner shall be placed on a waiting list under criteria established by the Department. The Director may allow a prisoner placed on a waiting list to participate in and complete a substance abuse education class or attend substance abuse self-help meetings in lieu of a substance abuse treatment program. A prisoner on a waiting list who is not placed in a substance abuse program prior to release may be eligible for a waiver and receive sentence credit under clause (3) of this subsection (a) at the discretion of the Director.

(4.6) The rules and regulations on sentence credit shall also provide that a prisoner who has been convicted of a sex

offense as defined in Section 2 of the Sex Offender Registration Act shall receive no sentence credit unless he or she either has successfully completed or is participating in sex offender treatment as defined by the Sex Offender Management Board. However, prisoners who are waiting to receive treatment, but who are unable to do so due solely to the lack of resources on the part of the Department, may, at either Director's sole discretion, be awarded sentence credit at a rate as the Director shall determine.

(4.7) On or after January 1, 2018 (the effective date of Public Act 100-3), sentence credit under paragraph (3), (4), or (4.1) of this subsection (a) may be awarded to a prisoner who is serving a sentence for an offense described in paragraph (2), (2.3), (2.4), (2.5), or (2.6) for credit earned on or after January 1, 2018 (the effective date of Public Act 100-3); provided, the award of the credits under this paragraph (4.7) shall not reduce the sentence of the prisoner to less than the following amounts:

(i) 85% of his or her sentence if the prisoner is required to serve 85% of his or her sentence; or

(ii) 60% of his or her sentence if the prisoner is required to serve 75% of his or her sentence, except if the prisoner is serving a sentence for gunrunning his or her sentence shall not be reduced to less than 75%.

(iii) 100% of his or her sentence if the prisoner is required to serve 100% of his or her sentence.

(5) Whenever the Department is to release any inmate earlier than it otherwise would because of a grant of earned sentence credit under paragraph (3) of subsection (a) of this Section given at any time during the term, the Department shall give reasonable notice of the impending release not less than 14 days prior to the date of the release to the State's Attorney of the county where the prosecution of the inmate took place, and if applicable, the State's Attorney of the county into which the inmate will be released. The Department must also make identification information and a recent photo of the inmate being released accessible on the Internet by means of a hyperlink labeled "Community Notification of Inmate Early Release" on the Department's World Wide Web homepage. The identification information shall include the inmate's: name, any known alias, date of birth, physical characteristics, commitment offense, and county where conviction was imposed. The identification information shall be placed on the website within 3 days of the inmate's release and the information may not be removed until either: completion of the first year of mandatory supervised release or return of the inmate to custody of the Department.

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

(c) (1) The Department shall prescribe rules and

regulations for revoking sentence credit, including revoking sentence credit awarded under paragraph (3) of subsection (a) of this Section. The Department shall prescribe rules and regulations establishing and requiring the use of a sanctions matrix for revoking sentence credit. The Department shall prescribe rules and regulations for suspending or reducing the rate of accumulation of sentence credit for specific rule violations, during imprisonment. These rules and regulations shall provide that no inmate may be penalized more than one year of sentence credit for any one infraction.

(2) When the Department seeks to revoke, suspend, or reduce the rate of accumulation of any sentence credits for an alleged infraction of its rules, it shall bring charges therefor against the prisoner sought to be so deprived of sentence credits before the Prisoner Review Board as provided in subparagraph (a)(4) of Section 3-3-2 of this Code, if the amount of credit at issue exceeds 30 days, whether from one infraction or cumulatively from multiple infractions arising out of a single event, or when, during any 12-month period, the cumulative amount of credit revoked exceeds 30 days except where the infraction is committed or discovered within 60 days of scheduled release. In those cases, the Department of Corrections may revoke up to 30 days of sentence credit. The Board may subsequently approve the revocation of additional sentence credit, if the Department seeks to revoke sentence credit in excess of 30 days. However, the Board shall not be

empowered to review the Department's decision with respect to the loss of 30 days of sentence credit within any calendar year for any prisoner or to increase any penalty beyond the length requested by the Department.

(3) The Director of Corrections or the Director of Juvenile Justice, in appropriate cases, may restore sentence credits which have been revoked, suspended, or reduced. The Department shall prescribe rules and regulations governing the restoration of sentence credits. These rules and regulations shall provide for the automatic restoration of sentence credits following a period in which the prisoner maintains a record without a disciplinary violation.

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

(d) If a lawsuit is filed by a prisoner in an Illinois or federal court against the State, the Department of Corrections, or the Prisoner Review Board, or against any of their officers or employees, and the court makes a specific finding that a pleading, motion, or other paper filed by the prisoner is frivolous, the Department of Corrections shall conduct a hearing to revoke up to 180 days of sentence credit by bringing charges against the prisoner sought to be deprived of the sentence credits before the Prisoner Review Board as

provided in subparagraph (a) (8) of Section 3-3-2 of this Code. If the prisoner has not accumulated 180 days of sentence credit at the time of the finding, then the Prisoner Review Board may revoke all sentence credit accumulated by the prisoner.

For purposes of this subsection (d):

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

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

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

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

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

(E) the denials of factual contentions are not

warranted on the evidence, or if specifically so identified, are not reasonably based on a lack of information or belief.

(2) "Lawsuit" means a motion pursuant to Section 116-3 of the Code of Criminal Procedure of 1963, a habeas corpus action under Article X of the Code of Civil Procedure or under federal law (28 U.S.C. 2254), a petition for claim under the Court of Claims Act, an action under the federal Civil Rights Act (42 U.S.C. 1983), or a second or subsequent petition for post-conviction relief under Article 122 of the Code of Criminal Procedure of 1963 whether filed with or without leave of court or a second or subsequent petition for relief from judgment under Section 2-1401 of the Code of Civil Procedure.

(e) Nothing in Public Act 90-592 or 90-593 affects the validity of Public Act 89-404.

(f) Whenever the Department is to release any inmate who has been convicted of a violation of an order of protection under Section 12-3.4 or 12-30 of the Criminal Code of 1961 or the Criminal Code of 2012, earlier than it otherwise would because of a grant of sentence credit, the Department, as a condition of release, shall require that the person, upon release, be placed under electronic surveillance as provided in Section 5-8A-7 of this Code.

(Source: P.A. 101-440, eff. 1-1-20; 101-652, eff. 7-1-21; 102-28, eff. 6-25-21; 102-558, eff. 8-20-21; 102-784, eff.

5-13-22; 102-1100, eff. 1-1-23; revised 12-14-22.)

(730 ILCS 5/3-8-10) (from Ch. 38, par. 1003-8-10)

Sec. 3-8-10. Intrastate Detainers. Subsection ~~Except for persons sentenced to death, subsection~~ (b), (c) and (e) of Section 103-5 of the Code of Criminal Procedure of 1963 shall also apply to persons committed to any institution or facility or program of the Illinois Department of Corrections who have untried complaints, charges or indictments pending in any county of this State, and such person shall include in the demand under subsection (b), a statement of the place of present commitment, the term, and length of the remaining term, the charges pending against him or her to be tried and the county of the charges, and the demand shall be addressed to the state's attorney of the county where he or she is charged with a copy to the clerk of that court and a copy to the chief administrative officer of the Department of Corrections institution or facility to which he or she is committed. The state's attorney shall then procure the presence of the defendant for trial in his county by habeas corpus. Additional time may be granted by the court for the process of bringing and serving an order of habeas corpus ad prosequendum. In the event that the person is not brought to trial within the allotted time, then the charge for which he or she has requested a speedy trial shall be dismissed. The provisions of this Section do not apply to persons no longer committed to a

facility or program of the Illinois Department of Corrections. A person serving a period of parole or mandatory supervised release under the supervision of the Department of Corrections, for the purpose of this Section, shall not be deemed to be committed to the Department.

(Source: P.A. 96-642, eff. 8-24-09.)

(730 ILCS 5/5-1-9) (from Ch. 38, par. 1005-1-9)

Sec. 5-1-9. Felony.

"Felony" means an offense for which a sentence to ~~death or~~
~~to~~ a term of imprisonment in a penitentiary for one year or more is provided.

(Source: P.A. 77-2097.)

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

Sec. 5-4-1. Sentencing hearing.

(a) After ~~Except when the death penalty is sought under hearing procedures otherwise specified,~~ after a determination of guilt, a hearing shall be held to impose the sentence. However, prior to the imposition of sentence on an individual being sentenced for an offense based upon a charge for a violation of Section 11-501 of the Illinois Vehicle Code or a similar provision of a local ordinance, the individual must undergo a professional evaluation to determine if an alcohol or other drug abuse problem exists and the extent of such a problem. Programs conducting these evaluations shall be

licensed by the Department of Human Services. However, if the individual is not a resident of Illinois, the court may, in its discretion, accept an evaluation from a program in the state of such individual's residence. The court shall make a specific finding about whether the defendant is eligible for participation in a Department impact incarceration program as provided in Section 5-8-1.1 or 5-8-1.3, and if not, provide an explanation as to why a sentence to impact incarceration is not an appropriate sentence. The court may in its sentencing order recommend a defendant for placement in a Department of Corrections substance abuse treatment program as provided in paragraph (a) of subsection (1) of Section 3-2-2 conditioned upon the defendant being accepted in a program by the Department of Corrections. At the hearing the court shall:

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

(2) consider any presentence reports;

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

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

(4.5) consider substance abuse treatment, eligibility screening, and an assessment, if any, of the defendant by an agent designated by the State of Illinois to provide assessment services for the Illinois courts;

(5) hear arguments as to sentencing alternatives;

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

(7) afford the victim of a violent crime or a violation of Section 11-501 of the Illinois Vehicle Code, or a similar provision of a local ordinance, the opportunity to present an oral or written statement, as guaranteed by Article I, Section 8.1 of the Illinois Constitution and provided in Section 6 of the Rights of Crime Victims and Witnesses Act. The court shall allow a victim to make an oral statement if the victim is present in the courtroom and requests to make an oral or written statement. An oral or written statement includes the victim or a representative of the victim reading the written statement. The court may allow persons impacted by the crime who are not victims under subsection (a) of Section 3 of the Rights of Crime Victims and Witnesses Act to present an oral or written statement. A victim and any person making an oral statement shall not be put under oath or subject to cross-examination. All statements offered under this paragraph (7) shall become part of the record of the court. In this paragraph (7), "victim of a violent crime" means a person who is a victim of a violent crime for which the defendant has been convicted after a bench or jury trial or a person who is the victim of a violent crime with which the defendant was charged and the

defendant has been convicted under a plea agreement of a crime that is not a violent crime as defined in subsection (c) of 3 of the Rights of Crime Victims and Witnesses Act;

(7.5) afford a qualified person affected by: (i) a violation of Section 405, 405.1, 405.2, or 407 of the Illinois Controlled Substances Act or a violation of Section 55 or Section 65 of the Methamphetamine Control and Community Protection Act; or (ii) a Class 4 felony violation of Section 11-14, 11-14.3 except as described in subdivisions (a)(2)(A) and (a)(2)(B), 11-15, 11-17, 11-18, 11-18.1, or 11-19 of the Criminal Code of 1961 or the Criminal Code of 2012, committed by the defendant the opportunity to make a statement concerning the impact on the qualified person and to offer evidence in aggravation or mitigation; provided that the statement and evidence offered in aggravation or mitigation shall first be prepared in writing in conjunction with the State's Attorney before it may be presented orally at the hearing. Sworn testimony offered by the qualified person is subject to the defendant's right to cross-examine. All statements and evidence offered under this paragraph (7.5) shall become part of the record of the court. In this paragraph (7.5), "qualified person" means any person who: (i) lived or worked within the territorial jurisdiction where the offense took place when the offense took place; or (ii) is familiar with various public places within the territorial

jurisdiction where the offense took place when the offense took place. "Qualified person" includes any peace officer or any member of any duly organized State, county, or municipal peace officer unit assigned to the territorial jurisdiction where the offense took place when the offense took place;

(8) in cases of reckless homicide afford the victim's spouse, guardians, parents or other immediate family members an opportunity to make oral statements;

(9) in cases involving a felony sex offense as defined under the Sex Offender Management Board Act, consider the results of the sex offender evaluation conducted pursuant to Section 5-3-2 of this Act; and

(10) make a finding of whether a motor vehicle was used in the commission of the offense for which the defendant is being sentenced.

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

who have been sentenced.

(b-1) In imposing a sentence of imprisonment or periodic imprisonment for a Class 3 or Class 4 felony for which a sentence of probation or conditional discharge is an available sentence, if the defendant has no prior sentence of probation or conditional discharge and no prior conviction for a violent crime, the defendant shall not be sentenced to imprisonment before review and consideration of a presentence report and determination and explanation of why the particular evidence, information, factor in aggravation, factual finding, or other reasons support a sentencing determination that one or more of the factors under subsection (a) of Section 5-6-1 of this Code apply and that probation or conditional discharge is not an appropriate sentence.

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

(c-1) In imposing a sentence for the offense of aggravated

kidnapping for ransom, home invasion, armed robbery, aggravated vehicular hijacking, aggravated discharge of a firearm, or armed violence with a category I weapon or category II weapon, the trial judge shall make a finding as to whether the conduct leading to conviction for the offense resulted in great bodily harm to a victim, and shall enter that finding and the basis for that finding in the record.

(c-1.5) Notwithstanding any other provision of law to the contrary, in imposing a sentence for an offense that requires a mandatory minimum sentence of imprisonment, the court may instead sentence the offender to probation, conditional discharge, or a lesser term of imprisonment it deems appropriate if: (1) the offense involves the use or possession of drugs, retail theft, or driving on a revoked license due to unpaid financial obligations; (2) the court finds that the defendant does not pose a risk to public safety; and (3) the interest of justice requires imposing a term of probation, conditional discharge, or a lesser term of imprisonment. The court must state on the record its reasons for imposing probation, conditional discharge, or a lesser term of imprisonment.

(c-2) If the defendant is sentenced to prison, other than when a sentence of natural life imprisonment ~~or a sentence of death~~ is imposed, at the time the sentence is imposed the judge shall state on the record in open court the approximate period of time the defendant will serve in custody according to the

then current statutory rules and regulations for sentence credit found in Section 3-6-3 and other related provisions of this Code. This statement is intended solely to inform the public, has no legal effect on the defendant's actual release, and may not be relied on by the defendant on appeal.

The judge's statement, to be given after pronouncing the sentence, other than when the sentence is imposed for one of the offenses enumerated in paragraph (a)(4) of Section 3-6-3, shall include the following:

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

When the sentence is imposed for one of the offenses

enumerated in paragraph (a)(2) of Section 3-6-3, other than first degree murder, and the offense was committed on or after June 19, 1998, and when the sentence is imposed for reckless homicide as defined in subsection (e) of Section 9-3 of the Criminal Code of 1961 or the Criminal Code of 2012 if the offense was committed on or after January 1, 1999, and when the sentence is imposed for aggravated driving under the influence of alcohol, other drug or drugs, or intoxicating compound or compounds, or any combination thereof as defined in subparagraph (F) of paragraph (1) of subsection (d) of Section 11-501 of the Illinois Vehicle Code, and when the sentence is imposed for aggravated arson if the offense was committed on or after July 27, 2001 (the effective date of Public Act 92-176), and when the sentence is imposed for aggravated driving under the influence of alcohol, other drug or drugs, or intoxicating compound or compounds, or any combination thereof as defined in subparagraph (C) of paragraph (1) of subsection (d) of Section 11-501 of the Illinois Vehicle Code committed on or after January 1, 2011 (the effective date of Public Act 96-1230), the judge's statement, to be given after pronouncing the sentence, shall include the following:

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

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

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

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

When the sentencing order recommends placement in a substance abuse program for any offense that results in

incarceration in a Department of Corrections facility and the crime was committed on or after September 1, 2003 (the effective date of Public Act 93-354), the judge's statement, in addition to any other judge's statement required under this Section, to be given after pronouncing the sentence, shall include the following:

"The purpose of this statement is to inform the public of the actual period of time this defendant is likely to spend in prison as a result of this sentence. The actual period of prison time served is determined by the statutes of Illinois as applied to this sentence by the Illinois Department of Corrections and the Illinois Prisoner Review Board. In this case, the defendant shall receive no earned sentence credit under clause (3) of subsection (a) of Section 3-6-3 until he or she participates in and completes a substance abuse treatment program or receives a waiver from the Director of Corrections pursuant to clause (4.5) of subsection (a) of Section 3-6-3."

(c-4) Before the sentencing hearing and as part of the presentence investigation under Section 5-3-1, the court shall inquire of the defendant whether the defendant is currently serving in or is a veteran of the Armed Forces of the United States. If the defendant is currently serving in the Armed Forces of the United States or is a veteran of the Armed Forces of the United States and has been diagnosed as having a mental illness by a qualified psychiatrist or clinical psychologist or physician, the court may:

(1) order that the officer preparing the presentence report consult with the United States Department of Veterans Affairs, Illinois Department of Veterans' Affairs, or another agency or person with suitable knowledge or experience for the purpose of providing the court with information regarding treatment options available to the defendant, including federal, State, and local programming; and

(2) consider the treatment recommendations of any diagnosing or treating mental health professionals together with the treatment options available to the defendant in imposing sentence.

For the purposes of this subsection (c-4), "qualified psychiatrist" means a reputable physician licensed in Illinois to practice medicine in all its branches, who has specialized in the diagnosis and treatment of mental and nervous disorders for a period of not less than 5 years.

(c-6) In imposing a sentence, the trial judge shall specify, on the record, the particular evidence and other reasons which led to his or her determination that a motor vehicle was used in the commission of the offense.

(c-7) In imposing a sentence for a Class 3 or 4 felony, other than a violent crime as defined in Section 3 of the Rights of Crime Victims and Witnesses Act, the court shall determine and indicate in the sentencing order whether the defendant has 4 or more or fewer than 4 months remaining on his

or her sentence accounting for time served.

(d) When the defendant is committed to the Department of Corrections, the State's Attorney shall and counsel for the defendant may file a statement with the clerk of the court to be transmitted to the department, agency or institution to which the defendant is committed to furnish such department, agency or institution with the facts and circumstances of the offense for which the person was committed together with all other factual information accessible to them in regard to the person prior to his commitment relative to his habits, associates, disposition and reputation and any other facts and circumstances which may aid such department, agency or institution during its custody of such person. The clerk shall within 10 days after receiving any such statements transmit a copy to such department, agency or institution and a copy to the other party, provided, however, that this shall not be cause for delay in conveying the person to the department, agency or institution to which he has been committed.

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

- (1) the sentence imposed;
- (2) any statement by the court of the basis for imposing the sentence;
- (3) any presentence reports;
- (3.5) any sex offender evaluations;

(3.6) any substance abuse treatment eligibility screening and assessment of the defendant by an agent designated by the State of Illinois to provide assessment services for the Illinois courts;

(4) the number of days, if any, which the defendant has been in custody and for which he is entitled to credit against the sentence, which information shall be provided to the clerk by the sheriff;

(4.1) any finding of great bodily harm made by the court with respect to an offense enumerated in subsection (c-1);

(5) all statements filed under subsection (d) of this Section;

(6) any medical or mental health records or summaries of the defendant;

(7) the municipality where the arrest of the offender or the commission of the offense has occurred, where such municipality has a population of more than 25,000 persons;

(8) all statements made and evidence offered under paragraph (7) of subsection (a) of this Section; and

(9) all additional matters which the court directs the clerk to transmit.

(f) In cases in which the court finds that a motor vehicle was used in the commission of the offense for which the defendant is being sentenced, the clerk of the court shall, within 5 days thereafter, forward a report of such conviction

to the Secretary of State.

(Source: P.A. 101-81, eff. 7-12-19; 101-105, eff. 1-1-20; 101-652, Article 10, Section 10-281, eff. 7-1-21; 101-652, Article 20, Section 20-5, eff. 7-1-21; 102-813, eff. 5-13-22.)

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

Sec. 5-4-3. Specimens; genetic marker groups.

(a) Any person convicted of, found guilty under the Juvenile Court Act of 1987 for, or who received a disposition of court supervision for, a qualifying offense or attempt of a qualifying offense, convicted or found guilty of any offense classified as a felony under Illinois law, convicted or found guilty of any offense requiring registration under the Sex Offender Registration Act, found guilty or given supervision for any offense classified as a felony under the Juvenile Court Act of 1987, convicted or found guilty of, under the Juvenile Court Act of 1987, any offense requiring registration under the Sex Offender Registration Act, or institutionalized as a sexually dangerous person under the Sexually Dangerous Persons Act, or committed as a sexually violent person under the Sexually Violent Persons Commitment Act shall, regardless of the sentence or disposition imposed, be required to submit specimens of blood, saliva, or tissue to the Illinois State Police in accordance with the provisions of this Section, provided such person is:

(1) convicted of a qualifying offense or attempt of a

qualifying offense on or after July 1, 1990 and sentenced to a term of imprisonment, periodic imprisonment, fine, probation, conditional discharge or any other form of sentence, or given a disposition of court supervision for the offense;

(1.5) found guilty or given supervision under the Juvenile Court Act of 1987 for a qualifying offense or attempt of a qualifying offense on or after January 1, 1997;

(2) ordered institutionalized as a sexually dangerous person on or after July 1, 1990;

(3) convicted of a qualifying offense or attempt of a qualifying offense before July 1, 1990 and is presently confined as a result of such conviction in any State correctional facility or county jail or is presently serving a sentence of probation, conditional discharge or periodic imprisonment as a result of such conviction;

(3.5) convicted or found guilty of any offense classified as a felony under Illinois law or found guilty or given supervision for such an offense under the Juvenile Court Act of 1987 on or after August 22, 2002;

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

(4.5) ordered committed as a sexually violent person

on or after the effective date of the Sexually Violent Persons Commitment Act.

(a-1) Any person incarcerated in a facility of the Illinois Department of Corrections or the Illinois Department of Juvenile Justice on or after August 22, 2002, whether for a term of years or ~~7~~ natural life, ~~or a sentence of death,~~ who has not yet submitted a specimen of blood, saliva, or tissue shall be required to submit a specimen of blood, saliva, or tissue prior to his or her final discharge, or release on parole, aftercare release, or mandatory supervised release, as a condition of his or her parole, aftercare release, or mandatory supervised release, or within 6 months from August 13, 2009 (the effective date of Public Act 96-426), whichever is sooner. A person incarcerated on or after August 13, 2009 (the effective date of Public Act 96-426) shall be required to submit a specimen within 45 days of incarceration, or prior to his or her final discharge, or release on parole, aftercare release, or mandatory supervised release, as a condition of his or her parole, aftercare release, or mandatory supervised release, whichever is sooner. These specimens shall be placed into the State or national DNA database, to be used in accordance with other provisions of this Section, by the Illinois State Police.

(a-2) Any person sentenced to life imprisonment in a facility of the Illinois Department of Corrections after the effective date of this amendatory Act of the 94th General

~~Assembly or sentenced to death after the effective date of this amendatory Act of the 94th General Assembly~~ shall be required to provide a specimen of blood, saliva, or tissue within 45 days after sentencing or disposition at a collection site designated by the Illinois State Police. Any person serving a sentence of life imprisonment in a facility of the Illinois Department of Corrections on the effective date of this amendatory Act of the 94th General Assembly or any person who is under a sentence of death on the effective date of this amendatory Act of the 94th General Assembly shall be required to provide a specimen of blood, saliva, or tissue upon request at a collection site designated by the Illinois State Police.

(a-3) Any person seeking transfer to or residency in Illinois under Sections 3-3-11.05 through 3-3-11.5 of this Code, the Interstate Compact for Adult Offender Supervision, or the Interstate Agreements on Sexually Dangerous Persons Act shall be required to provide a specimen of blood, saliva, or tissue within 45 days after transfer to or residency in Illinois at a collection site designated by the Illinois State Police.

(a-3.1) Any person required by an order of the court to submit a DNA specimen shall be required to provide a specimen of blood, saliva, or tissue within 45 days after the court order at a collection site designated by the Illinois State Police.

(a-3.2) On or after January 1, 2012 (the effective date of

Public Act 97-383), any person arrested for any of the following offenses, after an indictment has been returned by a grand jury, or following a hearing pursuant to Section 109-3 of the Code of Criminal Procedure of 1963 and a judge finds there is probable cause to believe the arrestee has committed one of the designated offenses, or an arrestee has waived a preliminary hearing shall be required to provide a specimen of blood, saliva, or tissue within 14 days after such indictment or hearing at a collection site designated by the Illinois State Police:

- (A) first degree murder;
- (B) home invasion;
- (C) predatory criminal sexual assault of a child;
- (D) aggravated criminal sexual assault; or
- (E) criminal sexual assault.

(a-3.3) Any person required to register as a sex offender under the Sex Offender Registration Act, regardless of the date of conviction as set forth in subsection (c-5.2) shall be required to provide a specimen of blood, saliva, or tissue within the time period prescribed in subsection (c-5.2) at a collection site designated by the Illinois State Police.

(a-5) Any person who was otherwise convicted of or received a disposition of court supervision for any other offense under the Criminal Code of 1961 or the Criminal Code of 2012 or who was found guilty or given supervision for such a violation under the Juvenile Court Act of 1987, may,

regardless of the sentence imposed, be required by an order of the court to submit specimens of blood, saliva, or tissue to the Illinois State Police in accordance with the provisions of this Section.

(b) Any person required by paragraphs (a)(1), (a)(1.5), (a)(2), (a)(3.5), and (a-5) to provide specimens of blood, saliva, or tissue shall provide specimens of blood, saliva, or tissue within 45 days after sentencing or disposition at a collection site designated by the Illinois State Police.

(c) Any person required by paragraphs (a)(3), (a)(4), and (a)(4.5) to provide specimens of blood, saliva, or tissue shall be required to provide such specimens prior to final discharge or within 6 months from August 13, 2009 (the effective date of Public Act 96-426), whichever is sooner. These specimens shall be placed into the State or national DNA database, to be used in accordance with other provisions of this Act, by the Illinois State Police.

(c-5) Any person required by paragraph (a-3) to provide specimens of blood, saliva, or tissue shall, where feasible, be required to provide the specimens before being accepted for conditioned residency in Illinois under the interstate compact or agreement, but no later than 45 days after arrival in this State.

(c-5.2) Unless it is determined that a registered sex offender has previously submitted a specimen of blood, saliva, or tissue that has been placed into the State DNA database, a

person registering as a sex offender shall be required to submit a specimen at the time of his or her initial registration pursuant to the Sex Offender Registration Act or, for a person registered as a sex offender on or prior to January 1, 2012 (the effective date of Public Act 97-383), within one year of January 1, 2012 (the effective date of Public Act 97-383) or at the time of his or her next required registration.

(c-6) The Illinois State Police may determine which type of specimen or specimens, blood, saliva, or tissue, is acceptable for submission to the Division of Forensic Services for analysis. The Illinois State Police may require the submission of fingerprints from anyone required to give a specimen under this Act.

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

(d-1) The Illinois State Police shall provide all equipment and instructions necessary for the collection of

saliva specimens. The collection of saliva specimens shall be performed in a medically approved manner. Only a person trained in the instructions promulgated by the Illinois State Police on collecting saliva may collect saliva for the purposes of this Section. The specimens shall thereafter be forwarded to the Illinois State Police, Division of Forensic Services, for analysis and categorizing into genetic marker groupings.

(d-2) The Illinois State Police shall provide all equipment and instructions necessary for the collection of tissue specimens. The collection of tissue specimens shall be performed in a medically approved manner. Only a person trained in the instructions promulgated by the Illinois State Police on collecting tissue may collect tissue for the purposes of this Section. The specimens shall thereafter be forwarded to the Illinois State Police, Division of Forensic Services, for analysis and categorizing into genetic marker groupings.

(d-5) To the extent that funds are available, the Illinois State Police shall contract with qualified personnel and certified laboratories for the collection, analysis, and categorization of known specimens, except as provided in subsection (n) of this Section.

(d-6) Agencies designated by the Illinois State Police and the Illinois State Police may contract with third parties to provide for the collection or analysis of DNA, or both, of an

offender's blood, saliva, and tissue specimens, except as provided in subsection (n) of this Section.

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

(f) The genetic marker grouping analysis information obtained pursuant to this Act shall be confidential and shall be released only to peace officers of the United States, of other states or territories, of the insular possessions of the United States, of foreign countries duly authorized to receive the same, to all peace officers of the State of Illinois and to all prosecutorial agencies, and to defense counsel as provided by Section 116-5 of the Code of Criminal Procedure of 1963. The genetic marker grouping analysis information obtained pursuant to this Act shall be used only for (i) valid law enforcement identification purposes and as required by the Federal Bureau of Investigation for participation in the National DNA database, (ii) technology validation purposes, (iii) a population statistics database, (iv) quality assurance purposes if personally identifying information is removed, (v) assisting in the defense of the criminally accused pursuant to Section 116-5 of the Code of Criminal Procedure of 1963, or (vi) identifying and assisting in the prosecution of a person who is suspected of committing a sexual assault as defined in Section 1a of the Sexual Assault Survivors Emergency Treatment Act. Notwithstanding any other statutory provision to the contrary, all information obtained under this Section shall be

maintained in a single State data base, which may be uploaded into a national database, and which information may be subject to expungement only as set forth in subsection (f-1).

(f-1) Upon receipt of notification of a reversal of a conviction based on actual innocence, or of the granting of a pardon pursuant to Section 12 of Article V of the Illinois Constitution, if that pardon document specifically states that the reason for the pardon is the actual innocence of an individual whose DNA record has been stored in the State or national DNA identification index in accordance with this Section by the Illinois State Police, the DNA record shall be expunged from the DNA identification index, and the Department shall by rule prescribe procedures to ensure that the record and any specimens, analyses, or other documents relating to such record, whether in the possession of the Department or any law enforcement or police agency, or any forensic DNA laboratory, including any duplicates or copies thereof, are destroyed and a letter is sent to the court verifying the expungement is completed. For specimens required to be collected prior to conviction, unless the individual has other charges or convictions that require submission of a specimen, the DNA record for an individual shall be expunged from the DNA identification databases and the specimen destroyed upon receipt of a certified copy of a final court order for each charge against an individual in which the charge has been dismissed, resulted in acquittal, or that the charge was not

filed within the applicable time period. The Department shall by rule prescribe procedures to ensure that the record and any specimens in the possession or control of the Department are destroyed and a letter is sent to the court verifying the expungement is completed.

(f-5) Any person who intentionally uses genetic marker grouping analysis information, or any other information derived from a DNA specimen, beyond the authorized uses as provided under this Section, or any other Illinois law, is guilty of a Class 4 felony, and shall be subject to a fine of not less than \$5,000.

(f-6) The Illinois State Police may contract with third parties for the purposes of implementing this amendatory Act of the 93rd General Assembly, except as provided in subsection (n) of this Section. Any other party contracting to carry out the functions of this Section shall be subject to the same restrictions and requirements of this Section insofar as applicable, as the Illinois State Police, and to any additional restrictions imposed by the Illinois State Police.

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

(1) any violation or inchoate violation of Section 11-1.50, 11-1.60, 11-6, 11-9.1, 11-11, 11-18.1, 12-15, or 12-16 of the Criminal Code of 1961 or the Criminal Code of 2012;

(1.1) any violation or inchoate violation of Section

9-1, 9-2, 10-1, 10-2, 12-11, 12-11.1, 18-1, 18-2, 18-3, 18-4, 18-6, 19-1, 19-2, or 19-6 of the Criminal Code of 1961 or the Criminal Code of 2012 for which persons are convicted on or after July 1, 2001;

(2) any former statute of this State which defined a felony sexual offense;

(3) (blank);

(4) any inchoate violation of Section 9-3.1, 9-3.4, 11-9.3, 12-7.3, or 12-7.4 of the Criminal Code of 1961 or the Criminal Code of 2012; or

(5) any violation or inchoate violation of Article 29D of the Criminal Code of 1961 or the Criminal Code of 2012.

(g-5) (Blank).

(h) The Illinois State Police shall be the State central repository for all genetic marker grouping analysis information obtained pursuant to this Act. The Illinois State Police may promulgate rules for the form and manner of the collection of blood, saliva, or tissue specimens and other procedures for the operation of this Act. The provisions of the Administrative Review Law shall apply to all actions taken under the rules so promulgated.

(i)(1) A person required to provide a blood, saliva, or tissue specimen shall cooperate with the collection of the specimen and any deliberate act by that person intended to impede, delay or stop the collection of the blood, saliva, or tissue specimen is a Class 4 felony.

(2) In the event that a person's DNA specimen is not adequate for any reason, the person shall provide another DNA specimen for analysis. Duly authorized law enforcement and corrections personnel may employ reasonable force in cases in which an individual refuses to provide a DNA specimen required under this Act.

(j) (Blank).

(k) All analysis and categorization assessments provided under the Criminal and Traffic Assessments Act to the State Crime Laboratory Fund shall be regulated as follows:

(1) (Blank).

(2) (Blank).

(3) Moneys deposited into the State Crime Laboratory Fund shall be used by Illinois State Police crime laboratories as designated by the Director of the Illinois State Police. These funds shall be in addition to any allocations made pursuant to existing laws and shall be designated for the exclusive use of State crime laboratories. These uses may include, but are not limited to, the following:

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

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

(C) Costs incurred in the purchase and maintenance

of equipment for use in performing analyses.

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

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

(l) The failure of a person to provide a specimen, or of any person or agency to collect a specimen, shall in no way alter the obligation of the person to submit such specimen, or the authority of the Illinois State Police or persons designated by the Illinois State Police to collect the specimen, or the authority of the Illinois State Police to accept, analyze and maintain the specimen or to maintain or upload results of genetic marker grouping analysis information into a State or national database.

(m) If any provision of this amendatory Act of the 93rd General Assembly is held unconstitutional or otherwise invalid, the remainder of this amendatory Act of the 93rd General Assembly is not affected.

(n) Neither the Illinois State Police, the Division of Forensic Services, nor any laboratory of the Division of Forensic Services may contract out forensic testing for the purpose of an active investigation or a matter pending before a court of competent jurisdiction without the written consent of the prosecuting agency. For the purposes of this subsection

(n), "forensic testing" includes the analysis of physical evidence in an investigation or other proceeding for the prosecution of a violation of the Criminal Code of 1961 or the Criminal Code of 2012 or for matters adjudicated under the Juvenile Court Act of 1987, and includes the use of forensic databases and databanks, including DNA, firearm, and fingerprint databases, and expert testimony.

(o) Mistake does not invalidate a database match. The detention, arrest, or conviction of a person based upon a database match or database information is not invalidated if it is determined that the specimen was obtained or placed in the database by mistake.

(p) This Section may be referred to as the Illinois DNA Database Law of 2011.

(Source: P.A. 102-505, eff. 8-20-21; 102-538, eff. 8-20-21.)

(730 ILCS 5/5-4.5-20)

Sec. 5-4.5-20. FIRST DEGREE MURDER; SENTENCE. For first degree murder:

(a) TERM. The defendant shall be sentenced to imprisonment ~~or, if appropriate, death~~ under Section 9-1 of the Criminal Code of 1961 or the Criminal Code of 2012 ~~(720 ILCS 5/9-1)~~. Imprisonment shall be for a determinate term, subject to Section 5-4.5-115 of this Code, of (1) not less than 20 years and not more than 60 years; (2) not less than 60 years and not more than 100 years when an extended term is imposed under

Section 5-8-2 ~~(730 ILCS 5/5-8-2)~~; or (3) natural life as provided in Section 5-8-1 ~~(730 ILCS 5/5-8-1)~~.

(b) PERIODIC IMPRISONMENT. A term of periodic imprisonment shall not be imposed.

(c) IMPACT INCARCERATION. The impact incarceration program or the county impact incarceration program is not an authorized disposition.

(d) PROBATION; CONDITIONAL DISCHARGE. A period of probation or conditional discharge shall not be imposed.

(e) FINE. Fines may be imposed as provided in Section 5-4.5-50(b) ~~(730 ILCS 5/5-4.5-50(b))~~.

(f) RESTITUTION. See Section 5-5-6 ~~(730 ILCS 5/5-5-6)~~ concerning restitution.

(g) CONCURRENT OR CONSECUTIVE SENTENCE. The sentence shall be concurrent or consecutive as provided in Section 5-8-4 ~~(730 ILCS 5/5-8-4)~~ and Section 5-4.5-50 ~~(730 ILCS 5/5-4.5-50)~~.

(h) DRUG COURT. Drug court is not an authorized disposition.

(i) CREDIT FOR HOME DETENTION. See Section 5-4.5-100 ~~(730 ILCS 5/5-4.5-100)~~ concerning no credit for time spent in home detention prior to judgment.

(j) SENTENCE CREDIT. See Section 3-6-3 ~~(730 ILCS 5/3-6-3)~~ for rules and regulations for sentence credit.

(k) ELECTRONIC MONITORING AND HOME DETENTION. Electronic monitoring and home detention are not authorized dispositions, except in limited circumstances as provided in Section 5-8A-3

~~(730 ILCS 5/5-8A-3).~~

(1) PAROLE; MANDATORY SUPERVISED RELEASE. Except as provided in Section 3-3-8 ~~(730 ILCS 5/3-3-8)~~, the parole or mandatory supervised release term shall be 3 years upon release from imprisonment.

(Source: P.A. 100-431, eff. 8-25-17; 100-1182, eff. 6-1-19; 101-288, eff. 1-1-20.)

(730 ILCS 5/5-5-3)

Sec. 5-5-3. Disposition.

(a) (Blank).

(b) (Blank).

(c) (1) (Blank).

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

(A) First degree murder ~~where the death penalty is not imposed.~~

(B) Attempted first degree murder.

(C) A Class X felony.

(D) A violation of Section 401.1 or 407 of the Illinois Controlled Substances Act, or a violation of

subdivision (c)(1.5) of Section 401 of that Act which relates to more than 5 grams of a substance containing fentanyl or an analog thereof.

(D-5) A violation of subdivision (c)(1) of Section 401 of the Illinois Controlled Substances Act which relates to 3 or more grams of a substance containing heroin or an analog thereof.

(E) (Blank).

(F) A Class 1 or greater felony if the offender had been convicted of a Class 1 or greater felony, including any state or federal conviction for an offense that contained, at the time it was committed, the same elements as an offense now (the date of the offense committed after the prior Class 1 or greater felony) classified as a Class 1 or greater felony, within 10 years of the date on which the offender committed the offense for which he or she is being sentenced, except as otherwise provided in Section 40-10 of the Substance Use Disorder Act.

(F-3) A Class 2 or greater felony sex offense or felony firearm offense if the offender had been convicted of a Class 2 or greater felony, including any state or federal conviction for an offense that contained, at the time it was committed, the same elements as an offense now (the date of the offense committed after the prior Class 2 or greater felony) classified as a Class 2 or greater felony, within 10 years of the date on which the offender

committed the offense for which he or she is being sentenced, except as otherwise provided in Section 40-10 of the Substance Use Disorder Act.

(F-5) A violation of Section 24-1, 24-1.1, or 24-1.6 of the Criminal Code of 1961 or the Criminal Code of 2012 for which imprisonment is prescribed in those Sections.

(G) Residential burglary, except as otherwise provided in Section 40-10 of the Substance Use Disorder Act.

(H) Criminal sexual assault.

(I) Aggravated battery of a senior citizen as described in Section 12-4.6 or subdivision (a)(4) of Section 12-3.05 of the Criminal Code of 1961 or the Criminal Code of 2012.

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

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

Beginning July 1, 1994, for the purposes of this paragraph, "organized gang" has the meaning ascribed to it in Section 10 of the Illinois Streetgang Terrorism Omnibus Prevention Act.

(K) Vehicular hijacking.

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

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

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

(O) A violation of Section 12-6.1 or 12-6.5 of the Criminal Code of 1961 or the Criminal Code of 2012.

(P) A violation of paragraph (1), (2), (3), (4), (5), or (7) of subsection (a) of Section 11-20.1 of the Criminal Code of 1961 or the Criminal Code of 2012.

(P-5) A violation of paragraph (6) of subsection (a) of Section 11-20.1 of the Criminal Code of 1961 or the Criminal Code of 2012 if the victim is a household or family member of the defendant.

(Q) A violation of subsection (b) or (b-5) of Section 20-1, Section 20-1.2, or Section 20-1.3 of the Criminal Code of 1961 or the Criminal Code of 2012.

(R) A violation of Section 24-3A of the Criminal Code of 1961 or the Criminal Code of 2012.

(S) (Blank).

(T) (Blank).

(U) A second or subsequent violation of Section 6-303 of the Illinois Vehicle Code committed while his or her driver's license, permit, or privilege was revoked because of a violation of Section 9-3 of the Criminal Code of 1961 or the Criminal Code of 2012, relating to the offense of reckless homicide, or a similar provision of a law of another state.

(V) A violation of paragraph (4) of subsection (c) of Section 11-20.1B or paragraph (4) of subsection (c) of Section 11-20.3 of the Criminal Code of 1961, or paragraph (6) of subsection (a) of Section 11-20.1 of the Criminal Code of 2012 when the victim is under 13 years of age and the defendant has previously been convicted under the laws of this State or any other state of the offense of child pornography, aggravated child pornography, aggravated criminal sexual abuse, aggravated criminal sexual assault, predatory criminal sexual assault of a child, or any of the offenses formerly known as rape, deviate sexual assault, indecent liberties with a child, or aggravated indecent liberties with a child where the victim was under the age of 18 years or an offense that is substantially equivalent to those offenses.

(W) A violation of Section 24-3.5 of the Criminal Code of 1961 or the Criminal Code of 2012.

(X) A violation of subsection (a) of Section 31-1a of the Criminal Code of 1961 or the Criminal Code of 2012.

(Y) A conviction for unlawful possession of a firearm by a street gang member when the firearm was loaded or contained firearm ammunition.

(Z) A Class 1 felony committed while he or she was serving a term of probation or conditional discharge for a felony.

(AA) Theft of property exceeding \$500,000 and not exceeding \$1,000,000 in value.

(BB) Laundering of criminally derived property of a value exceeding \$500,000.

(CC) Knowingly selling, offering for sale, holding for sale, or using 2,000 or more counterfeit items or counterfeit items having a retail value in the aggregate of \$500,000 or more.

(DD) A conviction for aggravated assault under paragraph (6) of subsection (c) of Section 12-2 of the Criminal Code of 1961 or the Criminal Code of 2012 if the firearm is aimed toward the person against whom the firearm is being used.

(EE) A conviction for a violation of paragraph (2) of subsection (a) of Section 24-3B of the Criminal Code of 2012.

(3) (Blank).

(4) A minimum term of imprisonment of not less than 10 consecutive days or 30 days of community service shall be imposed for a violation of paragraph (c) of Section 6-303 of

the Illinois Vehicle Code.

(4.1) (Blank).

(4.2) Except as provided in paragraphs (4.3) and (4.8) of this subsection (c), a minimum of 100 hours of community service shall be imposed for a second violation of Section 6-303 of the Illinois Vehicle Code.

(4.3) A minimum term of imprisonment of 30 days or 300 hours of community service, as determined by the court, shall be imposed for a second violation of subsection (c) of Section 6-303 of the Illinois Vehicle Code.

(4.4) Except as provided in paragraphs (4.5), (4.6), and (4.9) of this subsection (c), a minimum term of imprisonment of 30 days or 300 hours of community service, as determined by the court, shall be imposed for a third or subsequent violation of Section 6-303 of the Illinois Vehicle Code. The court may give credit toward the fulfillment of community service hours for participation in activities and treatment as determined by court services.

(4.5) A minimum term of imprisonment of 30 days shall be imposed for a third violation of subsection (c) of Section 6-303 of the Illinois Vehicle Code.

(4.6) Except as provided in paragraph (4.10) of this subsection (c), a minimum term of imprisonment of 180 days shall be imposed for a fourth or subsequent violation of subsection (c) of Section 6-303 of the Illinois Vehicle Code.

(4.7) A minimum term of imprisonment of not less than 30

consecutive days, or 300 hours of community service, shall be imposed for a violation of subsection (a-5) of Section 6-303 of the Illinois Vehicle Code, as provided in subsection (b-5) of that Section.

(4.8) A mandatory prison sentence shall be imposed for a second violation of subsection (a-5) of Section 6-303 of the Illinois Vehicle Code, as provided in subsection (c-5) of that Section. The person's driving privileges shall be revoked for a period of not less than 5 years from the date of his or her release from prison.

(4.9) A mandatory prison sentence of not less than 4 and not more than 15 years shall be imposed for a third violation of subsection (a-5) of Section 6-303 of the Illinois Vehicle Code, as provided in subsection (d-2.5) of that Section. The person's driving privileges shall be revoked for the remainder of his or her life.

(4.10) A mandatory prison sentence for a Class 1 felony shall be imposed, and the person shall be eligible for an extended term sentence, for a fourth or subsequent violation of subsection (a-5) of Section 6-303 of the Illinois Vehicle Code, as provided in subsection (d-3.5) of that Section. The person's driving privileges shall be revoked for the remainder of his or her life.

(5) The court may sentence a corporation or unincorporated association convicted of any offense to:

- (A) a period of conditional discharge;

(B) a fine;

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

(5.1) In addition to any other penalties imposed, and except as provided in paragraph (5.2) or (5.3), a person convicted of violating subsection (c) of Section 11-907 of the Illinois Vehicle Code shall have his or her driver's license, permit, or privileges suspended for at least 90 days but not more than one year, if the violation resulted in damage to the property of another person.

(5.2) In addition to any other penalties imposed, and except as provided in paragraph (5.3), a person convicted of violating subsection (c) of Section 11-907 of the Illinois Vehicle Code shall have his or her driver's license, permit, or privileges suspended for at least 180 days but not more than 2 years, if the violation resulted in injury to another person.

(5.3) In addition to any other penalties imposed, a person convicted of violating subsection (c) of Section 11-907 of the Illinois Vehicle Code shall have his or her driver's license, permit, or privileges suspended for 2 years, if the violation resulted in the death of another person.

(5.4) In addition to any other penalties imposed, a person convicted of violating Section 3-707 of the Illinois Vehicle Code shall have his or her driver's license, permit, or privileges suspended for 3 months and until he or she has paid

a reinstatement fee of \$100.

(5.5) In addition to any other penalties imposed, a person convicted of violating Section 3-707 of the Illinois Vehicle Code during a period in which his or her driver's license, permit, or privileges were suspended for a previous violation of that Section shall have his or her driver's license, permit, or privileges suspended for an additional 6 months after the expiration of the original 3-month suspension and until he or she has paid a reinstatement fee of \$100.

(6) (Blank).

(7) (Blank).

(8) (Blank).

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

(10) (Blank).

(11) The court shall impose a minimum fine of \$1,000 for a first offense and \$2,000 for a second or subsequent offense upon a person convicted of or placed on supervision for battery when the individual harmed was a sports official or coach at any level of competition and the act causing harm to the sports official or coach occurred within an athletic facility or within the immediate vicinity of the athletic facility at which the sports official or coach was an active participant of the athletic contest held at the athletic facility. For the purposes of this paragraph (11), "sports

official" means a person at an athletic contest who enforces the rules of the contest, such as an umpire or referee; "athletic facility" means an indoor or outdoor playing field or recreational area where sports activities are conducted; and "coach" means a person recognized as a coach by the sanctioning authority that conducted the sporting event.

(12) A person may not receive a disposition of court supervision for a violation of Section 5-16 of the Boat Registration and Safety Act if that person has previously received a disposition of court supervision for a violation of that Section.

(13) A person convicted of or placed on court supervision for an assault or aggravated assault when the victim and the offender are family or household members as defined in Section 103 of the Illinois Domestic Violence Act of 1986 or convicted of domestic battery or aggravated domestic battery may be required to attend a Partner Abuse Intervention Program under protocols set forth by the Illinois Department of Human Services under such terms and conditions imposed by the court. The costs of such classes shall be paid by the offender.

(d) In any case in which a sentence originally imposed is vacated, the case shall be remanded to the trial court. The trial court shall hold a hearing under Section 5-4-1 of this Code which may include evidence of the defendant's life, moral character and occupation during the time since the original sentence was passed. The trial court shall then impose

sentence upon the defendant. The trial court may impose any sentence which could have been imposed at the original trial subject to Section 5-5-4 of this Code. If a sentence is vacated on appeal or on collateral attack due to the failure of the trier of fact at trial to determine beyond a reasonable doubt the existence of a fact (other than a prior conviction) necessary to increase the punishment for the offense beyond the statutory maximum otherwise applicable, either the defendant may be re-sentenced to a term within the range otherwise provided or, if the State files notice of its intention to again seek the extended sentence, the defendant shall be afforded a new trial.

(e) In cases where prosecution for aggravated criminal sexual abuse under Section 11-1.60 or 12-16 of the Criminal Code of 1961 or the Criminal Code of 2012 results in conviction of a defendant who was a family member of the victim at the time of the commission of the offense, the court shall consider the safety and welfare of the victim and may impose a sentence of probation only where:

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

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

(B) the defendant is willing to participate in a court approved plan, including, but not limited to,

the defendant's:

- (i) removal from the household;
 - (ii) restricted contact with the victim;
 - (iii) continued financial support of the family;
 - (iv) restitution for harm done to the victim;
- and
- (v) compliance with any other measures that the court may deem appropriate; and

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

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

For the purposes of this Section, "family member" and "victim" shall have the meanings ascribed to them in Section 11-0.1 of the Criminal Code of 2012.

(f) (Blank).

(g) Whenever a defendant is convicted of an offense under Sections 11-1.20, 11-1.30, 11-1.40, 11-1.50, 11-1.60, 11-14, 11-14.3, 11-14.4 except for an offense that involves keeping a place of juvenile prostitution, 11-15, 11-15.1, 11-16, 11-17, 11-18, 11-18.1, 11-19, 11-19.1, 11-19.2, 12-13, 12-14, 12-14.1, 12-15, or 12-16 of the Criminal Code of 1961 or the Criminal Code of 2012, the defendant shall undergo medical testing to determine whether the defendant has any sexually transmissible disease, including a test for infection with human immunodeficiency virus (HIV) or any other identified causative agent of acquired immunodeficiency syndrome (AIDS). Any such medical test shall be performed only by appropriately licensed medical practitioners and may include an analysis of any bodily fluids as well as an examination of the defendant's person. Except as otherwise provided by law, the results of such test shall be kept strictly confidential by all medical personnel involved in the testing and must be personally delivered in a sealed envelope to the judge of the court in which the conviction was entered for the judge's inspection in camera. Acting in accordance with the best interests of the victim and the public, the judge shall have the discretion to determine to whom, if anyone, the results of the testing may be revealed. The court shall notify the defendant of the test results. The court shall also notify the victim if requested by the victim, and if the victim is under the age of 15 and if

requested by the victim's parents or legal guardian, the court shall notify the victim's parents or legal guardian of the test results. The court shall provide information on the availability of HIV testing and counseling at Department of Public Health facilities to all parties to whom the results of the testing are revealed and shall direct the State's Attorney to provide the information to the victim when possible. The court shall order that the cost of any such test shall be paid by the county and may be taxed as costs against the convicted defendant.

(g-5) When an inmate is tested for an airborne communicable disease, as determined by the Illinois Department of Public Health, including, but not limited to, tuberculosis, the results of the test shall be personally delivered by the warden or his or her designee in a sealed envelope to the judge of the court in which the inmate must appear for the judge's inspection in camera if requested by the judge. Acting in accordance with the best interests of those in the courtroom, the judge shall have the discretion to determine what if any precautions need to be taken to prevent transmission of the disease in the courtroom.

(h) Whenever a defendant is convicted of an offense under Section 1 or 2 of the Hypodermic Syringes and Needles Act, the defendant shall undergo medical testing to determine whether the defendant has been exposed to human immunodeficiency virus (HIV) or any other identified causative agent of acquired

immunodeficiency syndrome (AIDS). Except as otherwise provided by law, the results of such test shall be kept strictly confidential by all medical personnel involved in the testing and must be personally delivered in a sealed envelope to the judge of the court in which the conviction was entered for the judge's inspection in camera. Acting in accordance with the best interests of the public, the judge shall have the discretion to determine to whom, if anyone, the results of the testing may be revealed. The court shall notify the defendant of a positive test showing an infection with the human immunodeficiency virus (HIV). The court shall provide information on the availability of HIV testing and counseling at Department of Public Health facilities to all parties to whom the results of the testing are revealed and shall direct the State's Attorney to provide the information to the victim when possible. The court shall order that the cost of any such test shall be paid by the county and may be taxed as costs against the convicted defendant.

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

(j) In cases when prosecution for any violation of Section

11-1.20, 11-1.30, 11-1.40, 11-1.50, 11-1.60, 11-6, 11-8, 11-9, 11-11, 11-14, 11-14.3, 11-14.4, 11-15, 11-15.1, 11-16, 11-17, 11-17.1, 11-18, 11-18.1, 11-19, 11-19.1, 11-19.2, 11-20.1, 11-20.1B, 11-20.3, 11-21, 11-30, 11-40, 12-13, 12-14, 12-14.1, 12-15, or 12-16 of the Criminal Code of 1961 or the Criminal Code of 2012, any violation of the Illinois Controlled Substances Act, any violation of the Cannabis Control Act, or any violation of the Methamphetamine Control and Community Protection Act results in conviction, a disposition of court supervision, or an order of probation granted under Section 10 of the Cannabis Control Act, Section 410 of the Illinois Controlled Substances Act, or Section 70 of the Methamphetamine Control and Community Protection Act of a defendant, the court shall determine whether the defendant is employed by a facility or center as defined under the Child Care Act of 1969, a public or private elementary or secondary school, or otherwise works with children under 18 years of age on a daily basis. When a defendant is so employed, the court shall order the Clerk of the Court to send a copy of the judgment of conviction or order of supervision or probation to the defendant's employer by certified mail. If the employer of the defendant is a school, the Clerk of the Court shall direct the mailing of a copy of the judgment of conviction or order of supervision or probation to the appropriate regional superintendent of schools. The regional superintendent of schools shall notify the State Board of Education of any

notification under this subsection.

(j-5) A defendant at least 17 years of age who is convicted of a felony and who has not been previously convicted of a misdemeanor or felony and who is sentenced to a term of imprisonment in the Illinois Department of Corrections shall as a condition of his or her sentence be required by the court to attend educational courses designed to prepare the defendant for a high school diploma and to work toward a high school diploma or to work toward passing high school equivalency testing or to work toward completing a vocational training program offered by the Department of Corrections. If a defendant fails to complete the educational training required by his or her sentence during the term of incarceration, the Prisoner Review Board shall, as a condition of mandatory supervised release, require the defendant, at his or her own expense, to pursue a course of study toward a high school diploma or passage of high school equivalency testing. The Prisoner Review Board shall revoke the mandatory supervised release of a defendant who wilfully fails to comply with this subsection (j-5) upon his or her release from confinement in a penal institution while serving a mandatory supervised release term; however, the inability of the defendant after making a good faith effort to obtain financial aid or pay for the educational training shall not be deemed a wilful failure to comply. The Prisoner Review Board shall recommit the defendant whose mandatory supervised release term

has been revoked under this subsection (j-5) as provided in Section 3-3-9. This subsection (j-5) does not apply to a defendant who has a high school diploma or has successfully passed high school equivalency testing. This subsection (j-5) does not apply to a defendant who is determined by the court to be a person with a developmental disability or otherwise mentally incapable of completing the educational or vocational program.

(k) (Blank).

(l) (A) Except as provided in paragraph (C) of subsection (l), whenever a defendant, who is not a citizen or national of the United States, is convicted of any felony or misdemeanor offense, the court after sentencing the defendant may, upon motion of the State's Attorney, hold sentence in abeyance and remand the defendant to the custody of the Attorney General of the United States or his or her designated agent to be deported when:

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

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

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

(B) If the defendant has already been sentenced for a

felony or misdemeanor offense, or has been placed on probation under Section 10 of the Cannabis Control Act, Section 410 of the Illinois Controlled Substances Act, or Section 70 of the Methamphetamine Control and Community Protection Act, the court may, upon motion of the State's Attorney to suspend the sentence imposed, commit the defendant to the custody of the Attorney General of the United States or his or her designated agent when:

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

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

(C) This subsection (1) does not apply to offenders who are subject to the provisions of paragraph (2) of subsection (a) of Section 3-6-3.

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

Section 3-6-3.

(m) A person convicted of criminal defacement of property under Section 21-1.3 of the Criminal Code of 1961 or the Criminal Code of 2012, in which the property damage exceeds \$300 and the property damaged is a school building, shall be ordered to perform community service that may include cleanup, removal, or painting over the defacement.

(n) The court may sentence a person convicted of a violation of Section 12-19, 12-21, 16-1.3, or 17-56, or subsection (a) or (b) of Section 12-4.4a, of the Criminal Code of 1961 or the Criminal Code of 2012 (i) to an impact incarceration program if the person is otherwise eligible for that program under Section 5-8-1.1, (ii) to community service, or (iii) if the person has a substance use disorder, as defined in the Substance Use Disorder Act, to a treatment program licensed under that Act.

(o) Whenever a person is convicted of a sex offense as defined in Section 2 of the Sex Offender Registration Act, the defendant's driver's license or permit shall be subject to renewal on an annual basis in accordance with the provisions of license renewal established by the Secretary of State.

(Source: P.A. 101-81, eff. 7-12-19; 102-168, eff. 7-27-21; 102-531, eff. 1-1-22; 102-813, eff. 5-13-22; 102-1030, eff. 5-27-22.)

Sec. 5-8-1. Natural life imprisonment; enhancements for use of a firearm; mandatory supervised release terms.

(a) Except as otherwise provided in the statute defining the offense or in Article 4.5 of Chapter V, a sentence of imprisonment for a felony shall be a determinate sentence set by the court under this Section, subject to Section 5-4.5-115 of this Code, according to the following limitations:

(1) for first degree murder,

(a) (blank),

(b) if a trier of fact finds beyond a reasonable doubt that the murder was accompanied by exceptionally brutal or heinous behavior indicative of wanton cruelty or, except as set forth in subsection (a) (1) (c) of this Section, that any of the aggravating factors listed in subparagraph (b-5) ~~subsection (b) or (b-5) of Section 9-1 of the Criminal Code of 1961 or the Criminal Code of 2012~~ are present, the court may sentence the defendant, subject to Section 5-4.5-105, to a term of natural life imprisonment, or

(b-5) A defendant who at the time of the commission of the offense has attained the age of 18 or more and who has been found guilty of first degree murder may be sentenced to a term of natural life imprisonment if:

(1) the murdered individual was an inmate at an institution or facility of the Department of

Corrections, or any similar local correctional agency and was killed on the grounds thereof, or the murdered individual was otherwise present in such institution or facility with the knowledge and approval of the chief administrative officer thereof;

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

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

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

(A) the murdered individual:

(i) was actually killed by the defendant, or

(ii) received physical injuries personally inflicted by the defendant substantially contemporaneously with physical injuries caused by one or more persons for whose conduct the defendant is legally accountable under Section 5-2 of

this Code, and the physical injuries inflicted by either the defendant or the other person or persons for whose conduct he is legally accountable caused the death of the murdered individual; and (B) in performing the acts which caused the death of the murdered individual or which resulted in physical injuries personally inflicted by the defendant on the murdered individual under the circumstances of subdivision (ii) of clause (A) of this clause (4), the defendant acted with the intent to kill the murdered individual or with the knowledge that his or her acts created a strong probability of death or great bodily harm to the murdered individual or another; and

(B) in performing the acts which caused the death of the murdered individual or which resulted in physical injuries personally inflicted by the defendant on the murdered individual under the circumstances of subdivision (ii) of clause (A) of this clause (4), the defendant acted with the intent to kill the murdered individual or with the knowledge that his or her acts created a

strong probability of death or great bodily harm to the murdered individual or another; and

(C) the other felony was an inherently violent crime or the attempt to commit an inherently violent crime. In this clause (C), "inherently violent crime" includes, but is not limited to, armed robbery, robbery, predatory criminal sexual assault of a child, aggravated criminal sexual assault, aggravated kidnapping, aggravated vehicular hijacking, aggravated arson, aggravated stalking, residential burglary, and home invasion;

(5) the defendant committed the murder with intent to prevent the murdered individual from testifying or participating in any criminal investigation or prosecution or giving material assistance to the State in any investigation or prosecution, either against the defendant or another; or the defendant committed the murder because the murdered individual was a witness in any prosecution or gave material assistance to the State in any investigation or prosecution, either against the defendant or another; for purposes of this clause (5), "participating in any criminal investigation or prosecution" is intended to

include those appearing in the proceedings in any capacity such as trial judges, prosecutors, defense attorneys, investigators, witnesses, or jurors;

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

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

(8) the murder was committed in a cold, calculated and premeditated manner pursuant to a preconceived plan, scheme or design to take a human life by unlawful means, and the conduct of

the defendant created a reasonable expectation that the death of a human being would result therefrom;

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

(10) the murder was intentional and involved the infliction of torture. For the purpose of this clause (10), torture means the infliction of or subjection to extreme physical pain, motivated by an intent to increase or prolong the pain, suffering or agony of the victim;

(11) the murder was committed as a result of the intentional discharge of a firearm by the defendant from a motor vehicle and the victim was not present within the motor vehicle;

(12) the murdered individual was a person with a disability and the defendant knew or should have known that the murdered individual was a person with a disability. For purposes of this clause (12), "person with a disability" means a person

who suffers from a permanent physical or mental impairment resulting from disease, an injury, a functional disorder, or a congenital condition that renders the person incapable of adequately providing for his or her own health or personal care;

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

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

(15) the murder was committed by the defendant in connection with or as a result of the offense of terrorism as defined in Section 29D-14.9 of this Code;

(16) the murdered individual was a member of a congregation engaged in prayer or other religious activities at a church, synagogue, mosque, or other building, structure, or place used for religious worship; or

(17)(i) the murdered individual was a physician, physician assistant, psychologist, nurse, or advanced practice registered nurse;

(ii) the defendant knew or should have known that the murdered individual was a physician, physician assistant, psychologist, nurse, or advanced practice registered nurse; and

(iii) the murdered individual was killed in the course of acting in his or her capacity as a physician, physician assistant, psychologist, nurse, or advanced practice registered nurse, or to prevent him or her from acting in that capacity, or in retaliation for his or her acting in that capacity.

(c) the court shall sentence the defendant to a term of natural life imprisonment if the defendant, at the time of the commission of the murder, had attained the age of 18, and:

(i) has previously been convicted of first degree murder under any state or federal law, or

(ii) is found guilty of murdering more than one victim, or

(iii) is found guilty of murdering a peace officer, fireman, or emergency management worker when the peace officer, fireman, or emergency management worker was killed in the course of

performing his official duties, or to prevent the peace officer or fireman from performing his official duties, or in retaliation for the peace officer, fireman, or emergency management worker from performing his official duties, and the defendant knew or should have known that the murdered individual was a peace officer, fireman, or emergency management worker, or

(iv) is found guilty of murdering an employee of an institution or facility of the Department of Corrections, or any similar local correctional agency, when the employee was killed in the course of performing his official duties, or to prevent the employee from performing his official duties, or in retaliation for the employee performing his official duties, or

(v) is found guilty of murdering an emergency medical technician - ambulance, emergency medical technician - intermediate, emergency medical technician - paramedic, ambulance driver or other medical assistance or first aid person while employed by a municipality or other governmental unit when the person was killed in the course of performing official duties or to prevent the person from performing official duties or in retaliation for performing official duties and the

defendant knew or should have known that the murdered individual was an emergency medical technician - ambulance, emergency medical technician - intermediate, emergency medical technician - paramedic, ambulance driver, or other medical assistant or first aid personnel, or

(vi) (blank), or

(vii) is found guilty of first degree murder and the murder was committed by reason of any person's activity as a community policing volunteer or to prevent any person from engaging in activity as a community policing volunteer. For the purpose of this Section, "community policing volunteer" has the meaning ascribed to it in Section 2-3.5 of the Criminal Code of 2012.

For purposes of clause (v), "emergency medical technician - ambulance", "emergency medical technician - intermediate", "emergency medical technician - paramedic", have the meanings ascribed to them in the Emergency Medical Services (EMS) Systems Act.

(d) (i) if the person committed the offense while armed with a firearm, 15 years shall be added to the term of imprisonment imposed by the court;

(ii) if, during the commission of the offense, the person personally discharged a firearm, 20 years shall be added to the term of imprisonment imposed by the

court;

(iii) if, during the commission of the offense, the person personally discharged a firearm that proximately caused great bodily harm, permanent disability, permanent disfigurement, or death to another person, 25 years or up to a term of natural life shall be added to the term of imprisonment imposed by the court.

(2) (blank);

(2.5) for a person who has attained the age of 18 years at the time of the commission of the offense and who is convicted under the circumstances described in subdivision (b)(1)(B) of Section 11-1.20 or paragraph (3) of subsection (b) of Section 12-13, subdivision (d)(2) of Section 11-1.30 or paragraph (2) of subsection (d) of Section 12-14, subdivision (b)(1.2) of Section 11-1.40 or paragraph (1.2) of subsection (b) of Section 12-14.1, subdivision (b)(2) of Section 11-1.40 or paragraph (2) of subsection (b) of Section 12-14.1 of the Criminal Code of 1961 or the Criminal Code of 2012, the sentence shall be a term of natural life imprisonment.

(b) (Blank).

(c) (Blank).

(d) Subject to earlier termination under Section 3-3-8, the parole or mandatory supervised release term shall be written as part of the sentencing order and shall be as

follows:

(1) for first degree murder or for the offenses of predatory criminal sexual assault of a child, aggravated criminal sexual assault, and criminal sexual assault if committed on or before December 12, 2005, 3 years;

(1.5) except as provided in paragraph (7) of this subsection (d), for a Class X felony except for the offenses of predatory criminal sexual assault of a child, aggravated criminal sexual assault, and criminal sexual assault if committed on or after December 13, 2005 (the effective date of Public Act 94-715) and except for the offense of aggravated child pornography under Section 11-20.1B, 11-20.3, or 11-20.1 with sentencing under subsection (c-5) of Section 11-20.1 of the Criminal Code of 1961 or the Criminal Code of 2012, if committed on or after January 1, 2009, 18 months;

(2) except as provided in paragraph (7) of this subsection (d), for a Class 1 felony or a Class 2 felony except for the offense of criminal sexual assault if committed on or after December 13, 2005 (the effective date of Public Act 94-715) and except for the offenses of manufacture and dissemination of child pornography under clauses (a)(1) and (a)(2) of Section 11-20.1 of the Criminal Code of 1961 or the Criminal Code of 2012, if committed on or after January 1, 2009, 12 months;

(3) except as provided in paragraph (4), (6), or (7)

of this subsection (d), for a Class 3 felony or a Class 4 felony, 6 months; no later than 45 days after the onset of the term of mandatory supervised release, the Prisoner Review Board shall conduct a discretionary discharge review pursuant to the provisions of Section 3-3-8, which shall include the results of a standardized risk and needs assessment tool administered by the Department of Corrections; the changes to this paragraph (3) made by this amendatory Act of the 102nd General Assembly apply to all individuals released on mandatory supervised release on or after the effective date of this amendatory Act of the 102nd General Assembly, including those individuals whose sentences were imposed prior to the effective date of this amendatory Act of the 102nd General Assembly;

(4) for defendants who commit the offense of predatory criminal sexual assault of a child, aggravated criminal sexual assault, or criminal sexual assault, on or after December 13, 2005 (the effective date of Public Act 94-715), or who commit the offense of aggravated child pornography under Section 11-20.1B, 11-20.3, or 11-20.1 with sentencing under subsection (c-5) of Section 11-20.1 of the Criminal Code of 1961 or the Criminal Code of 2012, manufacture of child pornography, or dissemination of child pornography after January 1, 2009, the term of mandatory supervised release shall range from a minimum of 3 years to a maximum of the natural life of the defendant;

(5) if the victim is under 18 years of age, for a second or subsequent offense of aggravated criminal sexual abuse or felony criminal sexual abuse, 4 years, at least the first 2 years of which the defendant shall serve in an electronic monitoring or home detention program under Article 8A of Chapter V of this Code;

(6) for a felony domestic battery, aggravated domestic battery, stalking, aggravated stalking, and a felony violation of an order of protection, 4 years;

(7) for any felony described in paragraph (a)(2)(ii), (a)(2)(iii), (a)(2)(iv), (a)(2)(vi), (a)(2.1), (a)(2.3), (a)(2.4), (a)(2.5), or (a)(2.6) of Article 5, Section 3-6-3 of the Unified Code of Corrections requiring an inmate to serve a minimum of 85% of their court-imposed sentence, except for the offenses of predatory criminal sexual assault of a child, aggravated criminal sexual assault, and criminal sexual assault if committed on or after December 13, 2005 (the effective date of Public Act 94-715) and except for the offense of aggravated child pornography under Section 11-20.1B, 11-20.3, or 11-20.1 with sentencing under subsection (c-5) of Section 11-20.1 of the Criminal Code of 1961 or the Criminal Code of 2012, if committed on or after January 1, 2009 and except as provided in paragraph (4) or paragraph (6) of this subsection (d), the term of mandatory supervised release shall be as follows:

- (A) Class X felony, 3 years;
- (B) Class 1 or Class 2 felonies, 2 years;
- (C) Class 3 or Class 4 felonies, 1 year.

(e) (Blank).

(f) (Blank).

(g) Notwithstanding any other provisions of this Act and of Public Act 101-652: (i) the provisions of paragraph (3) of subsection (d) are effective on July 1, 2022 and shall apply to all individuals convicted on or after the effective date of paragraph (3) of subsection (d); and (ii) the provisions of paragraphs (1.5) and (2) of subsection (d) are effective on July 1, 2021 and shall apply to all individuals convicted on or after the effective date of paragraphs (1.5) and (2) of subsection (d).

(Source: P.A. 101-288, eff. 1-1-20; 101-652, eff. 7-1-21; 102-28, eff. 6-25-21; 102-687, eff. 12-17-21; 102-694, eff. 1-7-22; 102-1104, eff. 12-6-22.)

Section 55. The County Jail Act is amended by changing Section 13 as follows:

(730 ILCS 125/13) (from Ch. 75, par. 113)

Sec. 13. Whenever the Warden of any jail shall have in his custody any person charged with a ~~capital offense or other~~ high crime, and there is no jail in his county, or the jail is insufficient, he may, with the advice of the judge of the

circuit court of such county, employ a sufficient guard, not exceeding 3 persons, for the guarding and safe keeping of such prisoner in his own county. The expense of such guard shall be audited and paid as other county expenses.

(Source: P.A. 83-1073.)

Section 60. The Code of Civil Procedure is amended by changing Section 10-103 as follows:

(735 ILCS 5/10-103) (from Ch. 110, par. 10-103)

Sec. 10-103. Application. Application for the relief shall be made to the Supreme Court or to the circuit court of the county in which the person in whose behalf the application is made, is imprisoned or restrained, or to the circuit court of the county from which such person was sentenced or committed. Application shall be made by complaint signed by the person for whose relief it is intended, or by some person in his or her behalf, and verified by affidavit. ~~Application for relief under this Article may not be commenced on behalf of a person who has been sentenced to death without the written consent of that person, unless the person, because of a mental or physical condition, is incapable of asserting his or her own claim.~~

(Source: P.A. 89-684, eff. 6-1-97.)

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| 720 ILCS 5/2-7 | from Ch. 38, par. 2-7 |
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| 720 ILCS 5/9-1 | from Ch. 38, par. 9-1 |
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| 720 ILCS 5/12-3.05 | was 720 ILCS 5/12-4 |
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