

AN ACT to revise the law by combining multiple enactments and making technical corrections.

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

Section 1. Nature of this Act.

(a) This Act may be cited as the First 2008 General Revisory Act.

(b) This Act is not intended to make any substantive change in the law. It reconciles conflicts that have arisen from multiple amendments and enactments and makes technical corrections and revisions in the law.

This Act revises and, where appropriate, renumbers certain Sections that have been added or amended by more than one Public Act. In certain cases in which a repealed Act or Section has been replaced with a successor law, this Act may incorporate amendments to the repealed Act or Section into the successor law. This Act also corrects errors, revises cross-references, and deletes obsolete text.

(c) In this Act, the reference at the end of each amended Section indicates the sources in the Session Laws of Illinois that were used in the preparation of the text of that Section. The text of the Section included in this Act is intended to include the different versions of the Section found in the Public Acts included in the list of sources, but may not

include other versions of the Section to be found in Public Acts not included in the list of sources. The list of sources is not a part of the text of the Section.

(d) Public Acts 94-1069 through 95-702 were considered in the preparation of the combining revisories included in this Act. Many of those combining revisories contain no striking or underscoring because no additional changes are being made in the material that is being combined.

Section 5. The Regulatory Sunset Act is amended by changing Sections 4.18, 4.26, 4.27, and 4.28 as follows:

(5 ILCS 80/4.18)

Sec. 4.18. Acts repealed January 1, 2008 and December 31, 2008.

(a) The following Acts are repealed on January 1, 2008:

The Home Medical Equipment and Services Provider License Act.

The Marriage and Family Therapy Licensing Act.

The Nursing Home Administrators Licensing and Disciplinary Act.

The Physician Assistant Practice Act of 1987.

The Structural Pest Control Act.

(b) The following Acts are repealed on December 31, 2008:

The Medical Practice Act of 1987.

The Environmental Health Practitioner Licensing Act.

(Source: P.A. 94-754, eff. 5-10-06; 94-1075, eff. 12-29-06; 94-1085, eff. 1-19-07; 95-187, eff. 8-16-07; 95-235, eff. 8-17-07; 95-450, eff. 8-27-07; 95-465, eff. 8-27-07; 95-639, eff. 10-5-07; 95-687, eff. 10-23-07; 95-689, eff. 10-29-07; revised 12-17-07.)

(5 ILCS 80/4.26)

Sec. 4.26. Acts repealed on January 1, 2016. The following Acts are repealed on January 1, 2016:

The Illinois Athletic Trainers Practice Act.

The Illinois Roofing Industry Licensing Act.

The Illinois Dental Practice Act.

The Collection Agency Act.

The Barber, Cosmetology, Esthetics, and Nail Technology Act of 1985.

The Respiratory Care Practice Act.

The Hearing Instrument Consumer Protection Act.

The Illinois Physical Therapy Act.

The Professional Geologist Licensing Act.

~~The Illinois Petroleum Education and Marketing Act.~~

(Source: P.A. 94-246, eff. 1-1-06; 94-254, eff. 7-19-05; 94-409, eff. 12-31-05; 94-414, eff. 12-31-05; 94-451, eff. 12-31-05; 94-523, eff. 1-1-06; 94-527, eff. 12-31-05; 94-651, eff. 1-1-06; 94-708, eff. 12-5-05; 94-1085, eff. 1-19-07; 95-331, eff. 8-21-07; revised 12-18-07.)

(5 ILCS 80/4.27)

Sec. 4.27. Acts repealed on January 1, 2017. The following ~~Acts~~ are repealed on January 1, 2017:

The Illinois Optometric Practice Act of 1987.

The Clinical Psychologist Licensing Act.

The Boiler and Pressure Vessel Repairer Regulation Act.

Articles II, III, IV, V, V 1/2, VI, VIIA, VIIB, VIIC, XVII, XXXI, XXXI 1/4, and XXXI 3/4 of the Illinois Insurance Code.

(Source: P.A. 94-787, eff. 5-19-06; 94-870, eff. 6-16-06; 94-956, eff. 6-27-06; 94-1076, eff. 12-29-06; 95-331, eff. 8-21-07; revised 10-29-07.)

(5 ILCS 80/4.28)

Sec. 4.28. Acts ~~Act~~ repealed on January 1, 2018. The following Acts are ~~Act is~~ repealed on January 1, 2018:

The Illinois Petroleum Education and Marketing Act.

The Podiatric Medical Practice Act of 1987.

The Acupuncture Practice Act.

The Illinois Speech-Language Pathology and Audiology Practice Act.

The Interpreter for the Deaf Licensure Act of 2007.

The Nurse Practice Act.

The Clinical Social Work and Social Work Practice Act.

The Pharmacy Practice Act.

(Source: P.A. 95-187, eff. 8-16-07; 95-235, eff. 8-17-07; 95-450, eff. 8-27-07; 95-465, eff. 8-27-07; 95-617, eff.

9-12-07; 95-639, eff. 10-5-07; 95-687, eff. 10-23-07; 95-689, eff. 10-29-07; revised 12-17-07.)

(5 ILCS 80/4.17 rep.)

Section 7. The Regulatory Sunset Act is amended by repealing Section 4.17.

Section 10. The State Employees Group Insurance Act of 1971 is amended by changing Section 6.11 as follows:

(5 ILCS 375/6.11)

Sec. 6.11. Required health benefits; Illinois Insurance Code requirements. The program of health benefits shall provide the post-mastectomy care benefits required to be covered by a policy of accident and health insurance under Section 356t of the Illinois Insurance Code. The program of health benefits shall provide the coverage required under Sections 356g.5, 356u, 356w, 356x, 356z.2, 356z.4, 356z.6, ~~and~~ 356z.9, and 356z.10 ~~356z.9~~ of the Illinois Insurance Code. The program of health benefits must comply with Section 155.37 of the Illinois Insurance Code.

(Source: P.A. 95-189, eff. 8-16-07; 95-422, eff. 8-24-07; 95-520, eff. 8-28-07; revised 12-4-07.)

Section 15. The Election Code is amended by changing Section 17-23 as follows:

(10 ILCS 5/17-23) (from Ch. 46, par. 17-23)

Sec. 17-23. Pollwatchers in a general election shall be authorized in the following manner:

(1) Each established political party shall be entitled to appoint two pollwatchers per precinct. Such pollwatchers must be affiliated with the political party for which they are pollwatching. For all elections, the pollwatchers must be registered to vote in Illinois.

(2) Each candidate shall be entitled to appoint two pollwatchers per precinct. For all elections, the pollwatchers must be registered to vote in Illinois.

(3) Each organization of citizens within the county or political subdivision, which has among its purposes or interests the investigation or prosecution of election frauds, and which shall have registered its name and address and the name and addresses of its principal officers with the proper election authority at least 40 days before the election, shall be entitled to appoint one pollwatcher per precinct. For all elections, the pollwatcher must be registered to vote in Illinois.

(3.5) Each State nonpartisan civic organization within the county or political subdivision shall be entitled to appoint one pollwatcher per precinct, provided that no more than 2 pollwatchers appointed by State nonpartisan civic organizations shall be present in a precinct polling place at

the same time. Each organization shall have registered the names and addresses of its principal officers with the proper election authority at least 40 days before the election. The pollwatchers must be registered to vote in Illinois. For the purpose of this paragraph, a "State nonpartisan civic organization" means any corporation, unincorporated association, or organization that:

(i) as part of its written articles of incorporation, bylaws, or charter or by separate written declaration, has among its stated purposes the provision of voter information and education, the protection of individual voters' rights, and the promotion of free and equal elections;

(ii) is organized or primarily conducts its activities within the State of Illinois; and

(iii) continuously maintains an office or business location within the State of Illinois, together with a current listed telephone number (a post office box number without a current listed telephone number is not sufficient).

(4) In any general election held to elect candidates for the offices of a municipality of less than 3,000,000 population that is situated in 2 or more counties, a pollwatcher who is a resident of Illinois shall be eligible to serve as a pollwatcher in any poll located within such municipality, provided that such pollwatcher otherwise complies with the

respective requirements of subsections (1) through (3) of this Section and is a registered voter in Illinois.

(5) Each organized group of proponents or opponents of a ballot proposition, which shall have registered the name and address of its organization or committee and the name and address of its chairman with the proper election authority at least 40 days before the election, shall be entitled to appoint one pollwatcher per precinct. The pollwatcher must be registered to vote in Illinois.

All pollwatchers shall be required to have proper credentials. Such credentials shall be printed in sufficient quantities, shall be issued by and under the facsimile signature(s) of the election authority and shall be available for distribution at least 2 weeks prior to the election. Such credentials shall be authorized by the real or facsimile signature of the State or local party official or the candidate or the presiding officer of the civic organization or the chairman of the proponent or opponent group, as the case may be. The election authority may not require any such party official or the candidate or the presiding officer of the civic organization or the chairman of the proponent or opponent group to submit the names or other information concerning pollwatchers before making credentials available to such persons or organizations.

Pollwatcher credentials shall be in substantially the following form:

POLLWATCHER CREDENTIALS

TO THE JUDGES OF ELECTION:

In accordance with the provisions of the Election Code, the undersigned hereby appoints (name of pollwatcher) who resides at (address) in the county of, (township or municipality) of (name), State of Illinois and who is duly registered to vote from this address, to act as a pollwatcher in the precinct of the ward (if applicable) of the (township or municipality) of at the election to be held on (insert date).

..... (Signature of Appointing Authority)
..... TITLE (party official, candidate, civic organization president, proponent or opponent group chairman)

Under penalties provided by law pursuant to Section 29-10 of the Election Code, the undersigned pollwatcher certifies that he or she resides at (address) in the county of, (township or municipality) of (name), State of Illinois, and is duly registered to vote in Illinois.

.....
(Precinct and/or Ward in (Signature of Pollwatcher)

Which Pollwatcher Resides)

Pollwatchers must present their credentials to the Judges of Election upon entering the polling place. Pollwatcher credentials properly executed and signed shall be proof of the qualifications of the pollwatcher authorized thereby. Such credentials are retained by the Judges and returned to the Election Authority at the end of the day of election with the other election materials. Once a pollwatcher has surrendered a valid credential, he may leave and reenter the polling place provided that such continuing action does not disrupt the conduct of the election. Pollwatchers may be substituted during the course of the day, but established political parties, candidates and qualified civic organizations can have only as many pollwatchers at any given time as are authorized in this Article. A substitute must present his signed credential to the judges of election upon entering the polling place. Election authorities must provide a sufficient number of credentials to allow for substitution of pollwatchers. After the polls have closed pollwatchers shall be allowed to remain until the canvass of votes is completed; but may leave and reenter only in cases of necessity, provided that such action is not so continuous as to disrupt the canvass of votes.

Candidates seeking office in a district or municipality encompassing 2 or more counties shall be admitted to any and all polling places throughout such district or municipality

without regard to the counties in which such candidates are registered to vote. Actions of such candidates shall be governed in each polling place by the same privileges and limitations that apply to pollwatchers as provided in this Section. Any such candidate who engages in an activity in a polling place which could reasonably be construed by a majority of the judges of election as campaign activity shall be removed forthwith from such polling place.

Candidates seeking office in a district or municipality encompassing 2 or more counties who desire to be admitted to polling places on election day in such district or municipality shall be required to have proper credentials. Such credentials shall be printed in sufficient quantities, shall be issued by and under the facsimile signature of the election authority of the election jurisdiction where the polling place in which the candidate seeks admittance is located, and shall be available for distribution at least 2 weeks prior to the election. Such credentials shall be signed by the candidate.

Candidate credentials shall be in substantially the following form:

CANDIDATE CREDENTIALS

TO THE JUDGES OF ELECTION:

In accordance with the provisions of the Election Code, I (name of candidate) hereby certify that I am a candidate for (name of office) and seek admittance to

precinct of the ward (if applicable) of the
(township or municipality) of at the election
to be held on (insert date).

.....

(Signature of Candidate)

.....

OFFICE FOR WHICH
CANDIDATE SEEKS
NOMINATION OR
ELECTION

Pollwatchers shall be permitted to observe all proceedings and view all reasonably requested records relating to the conduct of the election, provided the secrecy of the ballot is not impinged, and to station themselves in a position in the voting room as will enable them to observe the judges making the signature comparison between the voter application and the voter registration record card; provided, however, that such pollwatchers shall not be permitted to station themselves in such close proximity to the judges of election so as to interfere with the orderly conduct of the election and shall not, in any event, be permitted to handle election materials. Pollwatchers may challenge for cause the voting qualifications of a person offering to vote and may call to the attention of the judges of election any incorrect procedure or apparent violations of this Code.

If a majority of the judges of election determine that the polling place has become too overcrowded with pollwatchers so

as to interfere with the orderly conduct of the election, the judges shall, by lot, limit such pollwatchers to a reasonable number, except that each established or new political party shall be permitted to have at least one pollwatcher present.

Representatives of an election authority, with regard to an election under its jurisdiction, the State Board of Elections, and law enforcement agencies, including but not limited to a United States Attorney, a State's attorney, the Attorney General, and a State, county, or local police department, in the performance of their official election duties, shall be permitted at all times to enter and remain in the polling place. Upon entering the polling place, such representatives shall display their official credentials or other identification to the judges of election.

Uniformed police officers assigned to polling place duty shall follow all lawful instructions of the judges of election.

The provisions of this Section shall also apply to supervised casting of absentee ballots as provided in Section 19-12.2 of this Act.

(Source: P.A. 94-645, eff. 8-22-05; 95-267, eff. 8-17-07; 95-699, eff. 11-9-07; revised 11-14-07.)

Section 20. The Attorney General Act is amended by changing Section 6.5 as follows:

(15 ILCS 205/6.5)

Sec. 6.5. Consumer Utilities Unit.

(a) The General Assembly finds that the health, welfare, and prosperity of all Illinois citizens, and the public's interest in adequate, safe, reliable, cost-effective electric, natural gas, water, cable, video, and telecommunications services, requires effective public representation by the Attorney General to protect the rights and interests of the public in the provision of all elements of electric, natural gas, water, cable, video, and telecommunications service both during and after the transition to a competitive market, and that to ensure that the benefits of competition in the provision of electric, natural gas, water, cable, video, and telecommunications services to all consumers are attained, there shall be created within the Office of the Attorney General a Consumer Utilities Unit.

(b) As used in this Section: "Electric services" means services sold by an electric service provider. "Electric service provider" shall mean anyone who sells, contracts to sell, or markets electric power, generation, distribution, transmission, or services (including metering and billing) in connection therewith. Electric service providers shall include any electric utility and any alternative retail electric supplier as defined in Section 16-102 of the Public Utilities Act.

(b-5) As used in this Section: "Telecommunications services" means services sold by a telecommunications carrier,

as provided for in Section 13-203 of the Public Utilities Act. "Telecommunications carrier" means anyone who sells, contracts to sell, or markets telecommunications services, whether noncompetitive or competitive, including access services, interconnection services, or any services in connection therewith. Telecommunications carriers include any carrier as defined in Section 13-202 of the Public Utilities Act.

(b-10) As used in this Section, ~~+~~ "natural gas services" means natural gas services sold by a "gas utility" or by an "alternative gas supplier", as those terms are defined in Section 19-105 of the Public Utilities Act.

(b-15) As used in this Section, ~~+~~ "water services" means services sold by any corporation, company, limited liability company, association, joint stock company or association, firm, partnership, or individual, its lessees, trustees, or receivers appointed by any court and that owns, controls, operates, or manages within this State, directly or indirectly, for public use, any plant, equipment, or property used or to be used for or in connection with (i) the production, storage, transmission, sale, delivery, or furnishing of water or (ii) the treatment, storage, transmission, disposal, sale of services, delivery, or furnishing of sewage or sewage services.

(b-20) As used in this Section, ~~+~~ "cable service and video service" means services sold by anyone who sells, contracts to sell, ~~+~~ or markets cable services or video services pursuant to a State-issued authorization under the Cable and Video

Competition Law of 2007.

(c) There is created within the Office of the Attorney General a Consumer Utilities Unit, consisting of Assistant Attorneys General appointed by the Attorney General, who, together with such other staff as is deemed necessary by the Attorney General, shall have the power and duty on behalf of the people of the State to intervene in, initiate, enforce, and defend all legal proceedings on matters relating to the provision, marketing, and sale of electric, natural gas, water, and telecommunications service whenever the Attorney General determines that such action is necessary to promote or protect the rights and interests of all Illinois citizens, classes of customers, and users of electric, natural gas, water, and telecommunications services.

(d) In addition to the investigative and enforcement powers available to the Attorney General, including without limitation those under the Consumer Fraud and Deceptive Business Practices Act, the Illinois Antitrust Act, and any other law of this State, the Attorney General shall be a party as a matter of right to all proceedings, investigations, and related matters involving the provision of electric, natural gas, water, and telecommunications services before the Illinois Commerce Commission, the courts, and other public bodies. Upon request, the Office of the Attorney General shall have access to and the use of all files, records, data, and documents in the possession or control of the Commission. The

Office of the Attorney General may use information obtained under this Section, including information that is designated as and that qualifies for confidential treatment, which information the Attorney General's office shall maintain as confidential, to be used for law enforcement purposes only, which information may be shared with other law enforcement officials. Nothing in this Section is intended to take away or limit any of the powers the Attorney General has pursuant to common law or other statutory law.

(Source: P.A. 94-291, eff. 7-21-05; 95-9, eff. 6-30-07; revised 7-9-07.)

Section 25. The State Treasurer Act is amended by changing Section 16.5 as follows:

(15 ILCS 505/16.5)

Sec. 16.5. College Savings Pool. The State Treasurer may establish and administer a College Savings Pool to supplement and enhance the investment opportunities otherwise available to persons seeking to finance the costs of higher education. The State Treasurer, in administering the College Savings Pool, may receive moneys paid into the pool by a participant and may serve as the fiscal agent of that participant for the purpose of holding and investing those moneys.

"Participant", as used in this Section, means any person who has authority to withdraw funds, change the designated

beneficiary, or otherwise exercise control over an account. "Donor", as used in this Section, means any person who makes investments in the pool. "Designated beneficiary", as used in this Section, means any person on whose behalf an account is established in the College Savings Pool by a participant. Both in-state and out-of-state persons may be participants, donors, and designated beneficiaries in the College Savings Pool.

New accounts in the College Savings Pool may be processed through participating financial institutions. "Participating financial institution", as used in this Section, means any financial institution insured by the Federal Deposit Insurance Corporation and lawfully doing business in the State of Illinois and any credit union approved by the State Treasurer and lawfully doing business in the State of Illinois that agrees to process new accounts in the College Savings Pool. Participating financial institutions may charge a processing fee to participants to open an account in the pool that shall not exceed \$30 until the year 2001. Beginning in 2001 and every year thereafter, the maximum fee limit shall be adjusted by the Treasurer based on the Consumer Price Index for the North Central Region as published by the United States Department of Labor, Bureau of Labor Statistics for the immediately preceding calendar year. Every contribution received by a financial institution for investment in the College Savings Pool shall be transferred from the financial institution to a location selected by the State Treasurer within one business day

following the day that the funds must be made available in accordance with federal law. All communications from the State Treasurer to participants and donors shall reference the participating financial institution at which the account was processed.

The Treasurer may invest the moneys in the College Savings Pool in the same manner and~~r~~ in the same types of investments provided for the investment of moneys by the Illinois State Board of Investment. To enhance the safety and liquidity of the College Savings Pool, to ensure the diversification of the investment portfolio of the pool, and in an effort to keep investment dollars in the State of Illinois, the State Treasurer may make a percentage of each account available for investment in participating financial institutions doing business in the State. The State Treasurer may deposit with the participating financial institution at which the account was processed the following percentage of each account at a prevailing rate offered by the institution, provided that the deposit is federally insured or fully collateralized and the institution accepts the deposit: 10% of the total amount of each account for which the current age of the beneficiary is less than 7 years of age, 20% of the total amount of each account for which the beneficiary is at least 7 years of age and less than 12 years of age, and 50% of the total amount of each account for which the current age of the beneficiary is at least 12 years of age. The Treasurer shall develop, publish,

and implement an investment policy covering the investment of the moneys in the College Savings Pool. The policy shall be published (i) at least once each year in at least one newspaper of general circulation in both Springfield and Chicago and (ii) each year as part of the audit of the College Savings Pool by the Auditor General, which shall be distributed to all participants. The Treasurer shall notify all participants in writing, and the Treasurer shall publish in a newspaper of general circulation in both Chicago and Springfield, any changes to the previously published investment policy at least 30 calendar days before implementing the policy. Any investment policy adopted by the Treasurer shall be reviewed and updated if necessary within 90 days following the date that the State Treasurer takes office.

Participants shall be required to use moneys distributed from the College Savings Pool for qualified expenses at eligible educational institutions. "Qualified expenses", as used in this Section, means the following: (i) tuition, fees, and the costs of books, supplies, and equipment required for enrollment or attendance at an eligible educational institution and (ii) certain room and board expenses incurred while attending an eligible educational institution at least half-time. "Eligible educational institutions", as used in this Section, means public and private colleges, junior colleges, graduate schools, and certain vocational institutions that are described in Section 481 of the Higher

Education Act of 1965 (20 U.S.C. 1088) and that are eligible to participate in Department of Education student aid programs. A student shall be considered to be enrolled at least half-time if the student is enrolled for at least half the full-time academic work load for the course of study the student is pursuing as determined under the standards of the institution at which the student is enrolled. Distributions made from the pool for qualified expenses shall be made directly to the eligible educational institution, directly to a vendor, or in the form of a check payable to both the beneficiary and the institution or vendor. Any moneys that are distributed in any other manner or that are used for expenses other than qualified expenses at an eligible educational institution shall be subject to a penalty of 10% of the earnings unless the beneficiary dies, becomes disabled, or receives a scholarship that equals or exceeds the distribution. Penalties shall be withheld at the time the distribution is made.

The Treasurer shall limit the contributions that may be made on behalf of a designated beneficiary based on the limitations established by the Internal Revenue Service. The contributions made on behalf of a beneficiary who is also a beneficiary under the Illinois Prepaid Tuition Program shall be further restricted to ensure that the contributions in both programs combined do not exceed the limit established for the College Savings Pool. The Treasurer shall provide the Illinois Student Assistance Commission each year at a time designated by

the Commission, an electronic report of all participant accounts in the Treasurer's College Savings Pool, listing total contributions and disbursements from each individual account during the previous calendar year. As soon thereafter as is possible following receipt of the Treasurer's report, the Illinois Student Assistance Commission shall, in turn, provide the Treasurer with an electronic report listing those College Savings Pool participants who also participate in the State's prepaid tuition program, administered by the Commission. The Commission shall be responsible for filing any combined tax reports regarding State qualified savings programs required by the United States Internal Revenue Service. The Treasurer shall work with the Illinois Student Assistance Commission to coordinate the marketing of the College Savings Pool and the Illinois Prepaid Tuition Program when considered beneficial by the Treasurer and the Director of the Illinois Student Assistance Commission. The Treasurer's office shall not publicize or otherwise market the College Savings Pool or accept any moneys into the College Savings Pool prior to March 1, 2000. The Treasurer shall provide a separate accounting for each designated beneficiary to each participant, the Illinois Student Assistance Commission, and the participating financial institution at which the account was processed. No interest in the program may be pledged as security for a loan. Moneys held in an account invested in the Illinois College Savings Pool shall be exempt from all claims of the creditors of the

participant, donor, or designated beneficiary of that account, except for the non-exempt College Savings Pool transfers to or from the account as defined under subsection (j) of Section 12-1001 of the Code of Civil Procedure (735 ILCS 5/12-1001(j)).

The assets of the College Savings Pool and its income and operation shall be exempt from all taxation by the State of Illinois and any of its subdivisions. The accrued earnings on investments in the Pool once disbursed on behalf of a designated beneficiary shall be similarly exempt from all taxation by the State of Illinois and its subdivisions, so long as they are used for qualified expenses. Contributions to a College Savings Pool account during the taxable year may be deducted from adjusted gross income as provided in Section 203 of the Illinois Income Tax Act. The provisions of this paragraph are exempt from Section 250 of the Illinois Income Tax Act.

The Treasurer shall adopt rules he or she considers necessary for the efficient administration of the College Savings Pool. The rules shall provide whatever additional parameters and restrictions are necessary to ensure that the College Savings Pool meets all of the requirements for a qualified state tuition program under Section 529 of the Internal Revenue Code (26 U.S.C. 529). The rules shall provide for the administration expenses of the pool to be paid from its earnings and for the investment earnings in excess of the expenses and all moneys collected as penalties to be credited

or paid monthly to the several participants in the pool in a manner which equitably reflects the differing amounts of their respective investments in the pool and the differing periods of time for which those amounts were in the custody of the pool. Also, the rules shall require the maintenance of records that enable the Treasurer's office to produce a report for each account in the pool at least annually that documents the account balance and investment earnings. Notice of any proposed amendments to the rules and regulations shall be provided to all participants prior to adoption. Amendments to rules and regulations shall apply only to contributions made after the adoption of the amendment.

Upon creating the College Savings Pool, the State Treasurer shall give bond with 2 or more sufficient sureties, payable to and for the benefit of the participants in the College Savings Pool, in the penal sum of \$1,000,000, conditioned upon the faithful discharge of his or her duties in relation to the College Savings Pool.

(Source: P.A. 95-23, eff. 8-3-07; 95-306, eff. 1-1-08; 95-521, eff. 8-28-07; revised 10-30-07.)

Section 30. The Illinois Act on the Aging is amended by changing Sections 4.01 and 4.02 and by setting forth and renumbering multiple versions of Section 4.08 as follows:

(20 ILCS 105/4.01) (from Ch. 23, par. 6104.01)

Sec. 4.01. Additional powers and duties of the Department. In addition to powers and duties otherwise provided by law, the Department shall have the following powers and duties:

(1) To evaluate all programs, services, and facilities for the aged and for minority senior citizens within the State and determine the extent to which present public or private programs, services and facilities meet the needs of the aged.

(2) To coordinate and evaluate all programs, services, and facilities for the Aging and for minority senior citizens presently furnished by State agencies and make appropriate recommendations regarding such services, programs and facilities to the Governor and/or the General Assembly.

(3) To function as the sole State agency to develop a comprehensive plan to meet the needs of the State's senior citizens and the State's minority senior citizens.

(4) To receive and disburse State and federal funds made available directly to the Department including those funds made available under the Older Americans Act and the Senior Community Service Employment Program for providing services for senior citizens and minority senior citizens or for purposes related thereto, and shall develop and administer any State Plan for the Aging required by federal law.

(5) To solicit, accept, hold, and administer in behalf of the State any grants or legacies of money, securities, or property to the State of Illinois for services to senior citizens and minority senior citizens or purposes related

thereto.

(6) To provide consultation and assistance to communities, area agencies on aging, and groups developing local services for senior citizens and minority senior citizens.

(7) To promote community education regarding the problems of senior citizens and minority senior citizens through institutes, publications, radio, television and the local press.

(8) To cooperate with agencies of the federal government in studies and conferences designed to examine the needs of senior citizens and minority senior citizens and to prepare programs and facilities to meet those needs.

(9) To establish and maintain information and referral sources throughout the State when not provided by other agencies.

(10) To provide the staff support as may reasonably be required by the Council and the Coordinating Committee of State Agencies Serving Older Persons.

(11) To make and enforce rules and regulations necessary and proper to the performance of its duties.

(12) To establish and fund programs or projects or experimental facilities that are specially designed as alternatives to institutional care.

(13) To develop a training program to train the counselors presently employed by the Department's aging network to provide Medicare beneficiaries with counseling and advocacy in

Medicare, private health insurance, and related health care coverage plans. The Department shall report to the General Assembly on the implementation of the training program on or before December 1, 1986.

(14) To make a grant to an institution of higher learning to study the feasibility of establishing and implementing an affirmative action employment plan for the recruitment, hiring, training and retraining of persons 60 or more years old for jobs for which their employment would not be precluded by law.

(15) To present one award annually in each of the categories of community service, education, the performance and graphic arts, and the labor force to outstanding Illinois senior citizens and minority senior citizens in recognition of their individual contributions to either community service, education, the performance and graphic arts, or the labor force. The awards shall be presented to four senior citizens and minority senior citizens selected from a list of 44 nominees compiled annually by the Department. Nominations shall be solicited from senior citizens' service providers, area agencies on aging, senior citizens' centers, and senior citizens' organizations. The Department shall consult with the Coordinating Committee of State Agencies Serving Older Persons to determine which of the nominees shall be the recipient in each category of community service. The Department shall establish a central location within the State to be designated

as the Senior Illinoisans Hall of Fame for the public display of all the annual awards, or replicas thereof.

(16) To establish multipurpose senior centers through area agencies on aging and to fund those new and existing multipurpose senior centers through area agencies on aging, the establishment and funding to begin in such areas of the State as the Department shall designate by rule and as specifically appropriated funds become available.

(17) To develop the content and format of the acknowledgment regarding non-recourse reverse mortgage loans under Section 6.1 of the Illinois Banking Act; to provide independent consumer information on reverse mortgages and alternatives; and to refer consumers to independent counseling services with expertise in reverse mortgages.

(18) To develop a pamphlet in English and Spanish which may be used by physicians licensed to practice medicine in all of its branches pursuant to the Medical Practice Act of 1987, pharmacists licensed pursuant to the Pharmacy Practice Act, and Illinois residents 65 years of age or older for the purpose of assisting physicians, pharmacists, and patients in monitoring prescriptions provided by various physicians and to aid persons 65 years of age or older in complying with directions for proper use of pharmaceutical prescriptions. The pamphlet may provide space for recording information including but not limited to the following:

- (a) name and telephone number of the patient;

(b) name and telephone number of the prescribing physician;

(c) date of prescription;

(d) name of drug prescribed;

(e) directions for patient compliance; and

(f) name and telephone number of dispensing pharmacy.

In developing the pamphlet, the Department shall consult with the Illinois State Medical Society, the Center for Minority Health Services, the Illinois Pharmacists Association and senior citizens organizations. The Department shall distribute the pamphlets to physicians, pharmacists and persons 65 years of age or older or various senior citizen organizations throughout the State.

(19) To conduct a study by April 1, 1994 of the feasibility of implementing the Senior Companion Program throughout the State for the fiscal year beginning July 1, 1994.

(20) With respect to contracts in effect on July 1, 1994, the Department shall increase the grant amounts so that the reimbursement rates paid through the community care program for chore housekeeping services and home care aides are at the same rate, which shall be the higher of the 2 rates currently paid. With respect to all contracts entered into, renewed, or extended on or after July 1, 1994, the reimbursement rates paid through the community care program for chore housekeeping services and home care aides shall be the same.

(21) From funds appropriated to the Department from the

Meals on Wheels Fund, a special fund in the State treasury that is hereby created, and in accordance with State and federal guidelines and the intrastate funding formula, to make grants to area agencies on aging, designated by the Department, for the sole purpose of delivering meals to homebound persons 60 years of age and older.

(22) To distribute, through its area agencies on aging, information alerting seniors on safety issues regarding emergency weather conditions, including extreme heat and cold, flooding, tornadoes, electrical storms, and other severe storm weather. The information shall include all necessary instructions for safety and all emergency telephone numbers of organizations that will provide additional information and assistance.

(23) To develop guidelines for the organization and implementation of Volunteer Services Credit Programs to be administered by Area Agencies on Aging or community based senior service organizations. The Department shall hold public hearings on the proposed guidelines for public comment, suggestion, and determination of public interest. The guidelines shall be based on the findings of other states and of community organizations in Illinois that are currently operating volunteer services credit programs or demonstration volunteer services credit programs. The Department shall offer guidelines for all aspects of the programs including, but not limited to, the following:

- (a) types of services to be offered by volunteers;
 - (b) types of services to be received upon the redemption of service credits;
 - (c) issues of liability for the volunteers and the administering organizations;
 - (d) methods of tracking service credits earned and service credits redeemed;
 - (e) issues of time limits for redemption of service credits;
 - (f) methods of recruitment of volunteers;
 - (g) utilization of community volunteers, community service groups, and other resources for delivering services to be received by service credit program clients;
 - (h) accountability and assurance that services will be available to individuals who have earned service credits;
- and
- (i) volunteer screening and qualifications.

The Department shall submit a written copy of the guidelines to the General Assembly by July 1, 1998.

(Source: P.A. 95-298, eff. 8-20-07; 95-689, eff. 10-29-07; revised 10-30-07.)

(20 ILCS 105/4.02) (from Ch. 23, par. 6104.02)

(Text of Section before amendment by P.A. 95-565)

Sec. 4.02. The Department shall establish a program of services to prevent unnecessary institutionalization of

persons age 60 and older in need of long term care or who are established as persons who suffer from Alzheimer's disease or a related disorder under the Alzheimer's Disease Assistance Act, thereby enabling them to remain in their own homes or in other living arrangements. Such preventive services, which may be coordinated with other programs for the aged and monitored by area agencies on aging in cooperation with the Department, may include, but are not limited to, any or all of the following:

- (a) home health services;
- (b) home nursing services;
- (c) home care aide services;
- (d) chore and housekeeping services;
- (e) adult day services;
- (f) home-delivered meals;
- (g) education in self-care;
- (h) personal care services;
- (i) adult day health services;
- (j) habilitation services;
- (k) respite care;
- (k-5) community reintegration services;
- (l) other nonmedical social services that may enable the person to become self-supporting; or
- (m) clearinghouse for information provided by senior citizen home owners who want to rent rooms to or share living space with other senior citizens.

The Department shall establish eligibility standards for

such services taking into consideration the unique economic and social needs of the target population for whom they are to be provided. Such eligibility standards shall be based on the recipient's ability to pay for services; provided, however, that in determining the amount and nature of services for which a person may qualify, consideration shall not be given to the value of cash, property or other assets held in the name of the person's spouse pursuant to a written agreement dividing marital property into equal but separate shares or pursuant to a transfer of the person's interest in a home to his spouse, provided that the spouse's share of the marital property is not made available to the person seeking such services.

Beginning July 1, 2002, the Department shall require as a condition of eligibility that all financially eligible applicants and recipients apply for medical assistance under Article V of the Illinois Public Aid Code in accordance with rules promulgated by the Department.

The Department shall, in conjunction with the Department of Public Aid (now Department of Healthcare and Family Services), seek appropriate amendments under Sections 1915 and 1924 of the Social Security Act. The purpose of the amendments shall be to extend eligibility for home and community based services under Sections 1915 and 1924 of the Social Security Act to persons who transfer to or for the benefit of a spouse those amounts of income and resources allowed under Section 1924 of the Social Security Act. Subject to the approval of such amendments, the

Department shall extend the provisions of Section 5-4 of the Illinois Public Aid Code to persons who, but for the provision of home or community-based services, would require the level of care provided in an institution, as is provided for in federal law. Those persons no longer found to be eligible for receiving noninstitutional services due to changes in the eligibility criteria shall be given 60 days notice prior to actual termination. Those persons receiving notice of termination may contact the Department and request the determination be appealed at any time during the 60 day notice period. With the exception of the lengthened notice and time frame for the appeal request, the appeal process shall follow the normal procedure. In addition, each person affected regardless of the circumstances for discontinued eligibility shall be given notice and the opportunity to purchase the necessary services through the Community Care Program. If the individual does not elect to purchase services, the Department shall advise the individual of alternative services. The target population identified for the purposes of this Section are persons age 60 and older with an identified service need. Priority shall be given to those who are at imminent risk of institutionalization. The services shall be provided to eligible persons age 60 and older to the extent that the cost of the services together with the other personal maintenance expenses of the persons are reasonably related to the standards established for care in a group facility appropriate to the

person's condition. These non-institutional services, pilot projects or experimental facilities may be provided as part of or in addition to those authorized by federal law or those funded and administered by the Department of Human Services. The Departments of Human Services, Healthcare and Family Services, Public Health, Veterans' Affairs, and Commerce and Economic Opportunity and other appropriate agencies of State, federal and local governments shall cooperate with the Department on Aging in the establishment and development of the non-institutional services. The Department shall require an annual audit from all chore/housekeeping and home care aide vendors contracting with the Department under this Section. The annual audit shall assure that each audited vendor's procedures are in compliance with Department's financial reporting guidelines requiring an administrative and employee wage and benefits cost split as defined in administrative rules. The audit is a public record under the Freedom of Information Act. The Department shall execute, relative to the nursing home prescreening project, written inter-agency agreements with the Department of Human Services and the Department of Healthcare and Family Services, to effect the following: (1) intake procedures and common eligibility criteria for those persons who are receiving non-institutional services; and (2) the establishment and development of non-institutional services in areas of the State where they are not currently available or are undeveloped. On and after July 1, 1996, all nursing home

prescreenings for individuals 60 years of age or older shall be conducted by the Department.

As part of the Department on Aging's routine training of case managers and case manager supervisors, the Department may include information on family futures planning for persons who are age 60 or older and who are caregivers of their adult children with developmental disabilities. The content of the training shall be at the Department's discretion.

The Department is authorized to establish a system of recipient copayment for services provided under this Section, such copayment to be based upon the recipient's ability to pay but in no case to exceed the actual cost of the services provided. Additionally, any portion of a person's income which is equal to or less than the federal poverty standard shall not be considered by the Department in determining the copayment. The level of such copayment shall be adjusted whenever necessary to reflect any change in the officially designated federal poverty standard.

The Department, or the Department's authorized representative, shall recover the amount of moneys expended for services provided to or in behalf of a person under this Section by a claim against the person's estate or against the estate of the person's surviving spouse, but no recovery may be had until after the death of the surviving spouse, if any, and then only at such time when there is no surviving child who is under age 21, blind, or permanently and totally disabled. This

paragraph, however, shall not bar recovery, at the death of the person, of moneys for services provided to the person or in behalf of the person under this Section to which the person was not entitled; provided that such recovery shall not be enforced against any real estate while it is occupied as a homestead by the surviving spouse or other dependent, if no claims by other creditors have been filed against the estate, or, if such claims have been filed, they remain dormant for failure of prosecution or failure of the claimant to compel administration of the estate for the purpose of payment. This paragraph shall not bar recovery from the estate of a spouse, under Sections 1915 and 1924 of the Social Security Act and Section 5-4 of the Illinois Public Aid Code, who precedes a person receiving services under this Section in death. All moneys for services paid to or in behalf of the person under this Section shall be claimed for recovery from the deceased spouse's estate. "Homestead", as used in this paragraph, means the dwelling house and contiguous real estate occupied by a surviving spouse or relative, as defined by the rules and regulations of the Department of Healthcare and Family Services, regardless of the value of the property.

The Department shall develop procedures to enhance availability of services on evenings, weekends, and on an emergency basis to meet the respite needs of caregivers. Procedures shall be developed to permit the utilization of services in successive blocks of 24 hours up to the monthly

maximum established by the Department. Workers providing these services shall be appropriately trained.

Beginning on the effective date of this Amendatory Act of 1991, no person may perform chore/housekeeping and home care aide services under a program authorized by this Section unless that person has been issued a certificate of pre-service to do so by his or her employing agency. Information gathered to effect such certification shall include (i) the person's name, (ii) the date the person was hired by his or her current employer, and (iii) the training, including dates and levels. Persons engaged in the program authorized by this Section before the effective date of this amendatory Act of 1991 shall be issued a certificate of all pre- and in-service training from his or her employer upon submitting the necessary information. The employing agency shall be required to retain records of all staff pre- and in-service training, and shall provide such records to the Department upon request and upon termination of the employer's contract with the Department. In addition, the employing agency is responsible for the issuance of certifications of in-service training completed to their employees.

The Department is required to develop a system to ensure that persons working as home care aides and chore housekeepers receive increases in their wages when the federal minimum wage is increased by requiring vendors to certify that they are meeting the federal minimum wage statute for home care aides

and chore housekeepers. An employer that cannot ensure that the minimum wage increase is being given to home care aides and chore housekeepers shall be denied any increase in reimbursement costs.

The Community Care Program Advisory Committee is created in the Department on Aging. The Director shall appoint individuals to serve in the Committee, who shall serve at their own expense. Members of the Committee must abide by all applicable ethics laws. The Committee shall advise the Department on issues related to the Department's program of services to prevent unnecessary institutionalization. The Committee shall meet on a bi-monthly basis and shall serve to identify and advise the Department on present and potential issues affecting the service delivery network, the program's clients, and the Department and to recommend solution strategies. Persons appointed to the Committee shall be appointed on, but not limited to, their own and their agency's experience with the program, geographic representation, and willingness to serve. The Director shall appoint members to the Committee to represent provider, advocacy, policy research, and other constituencies committed to the delivery of high quality home and community-based services to older adults. Representatives shall be appointed to ensure representation from community care providers including, but not limited to, adult day service providers, homemaker providers, case coordination and case management units, emergency home response providers, statewide

trade or labor unions that represent home care ~~homecare~~ aides and direct care staff, area agencies on aging, adults over age 60, membership organizations representing older adults, and other organizational entities, providers of care, or individuals with demonstrated interest and expertise in the field of home and community care as determined by the Director.

Nominations may be presented from any agency or State association with interest in the program. The Director, or his or her designee, shall serve as the permanent co-chair of the advisory committee. One other co-chair shall be nominated and approved by the members of the committee on an annual basis. Committee members' terms of appointment shall be for 4 years with one-quarter of the appointees' terms expiring each year. A member shall continue to serve until his or her replacement is named. The Department shall fill vacancies that have a remaining term of over one year, and this replacement shall occur through the annual replacement of expiring terms. The Director shall designate Department staff to provide technical assistance and staff support to the committee. Department representation shall not constitute membership of the committee. All Committee papers, issues, recommendations, reports, and meeting memoranda are advisory only. The Director, or his or her designee, shall make a written report, as requested by the Committee, regarding issues before the Committee.

The Department on Aging and the Department of Human

Services shall cooperate in the development and submission of an annual report on programs and services provided under this Section. Such joint report shall be filed with the Governor and the General Assembly on or before September 30 each year.

The requirement for reporting to the General Assembly shall be satisfied by filing copies of the report with the Speaker, the Minority Leader and the Clerk of the House of Representatives and the President, the Minority Leader and the Secretary of the Senate and the Legislative Research Unit, as required by Section 3.1 of the General Assembly Organization Act and filing such additional copies with the State Government Report Distribution Center for the General Assembly as is required under paragraph (t) of Section 7 of the State Library Act.

Those persons previously found eligible for receiving non-institutional services whose services were discontinued under the Emergency Budget Act of Fiscal Year 1992, and who do not meet the eligibility standards in effect on or after July 1, 1992, shall remain ineligible on and after July 1, 1992. Those persons previously not required to cost-share and who were required to cost-share effective March 1, 1992, shall continue to meet cost-share requirements on and after July 1, 1992. Beginning July 1, 1992, all clients will be required to meet eligibility, cost-share, and other requirements and will have services discontinued or altered when they fail to meet these requirements.

(Source: P.A. 94-48, eff. 7-1-05; 94-269, eff. 7-19-05; 94-336, eff. 7-26-05; 94-954, eff. 6-27-06; 95-298, eff. 8-20-07; 95-473, eff. 8-27-07; revised 10-30-07.)

(Text of Section after amendment by P.A. 95-565)

Sec. 4.02. Community Care Program. The Department shall establish a program of services to prevent unnecessary institutionalization of persons age 60 and older in need of long term care or who are established as persons who suffer from Alzheimer's disease or a related disorder under the Alzheimer's Disease Assistance Act, thereby enabling them to remain in their own homes or in other living arrangements. Such preventive services, which may be coordinated with other programs for the aged and monitored by area agencies on aging in cooperation with the Department, may include, but are not limited to, any or all of the following:

- (a) (blank);
- (b) (blank);
- (c) home care aide services;
- (d) personal assistant services;
- (e) adult day services;
- (f) home-delivered meals;
- (g) education in self-care;
- (h) personal care services;
- (i) adult day health services;
- (j) habilitation services;

(k) respite care;

(k-5) community reintegration services;

(k-6) flexible senior services;

(k-7) medication management;

(k-8) emergency home response;

(l) other nonmedical social services that may enable the person to become self-supporting; or

(m) clearinghouse for information provided by senior citizen home owners who want to rent rooms to or share living space with other senior citizens.

The Department shall establish eligibility standards for such services taking into consideration the unique economic and social needs of the target population for whom they are to be provided. Such eligibility standards shall be based on the recipient's ability to pay for services; provided, however, that in determining the amount and nature of services for which a person may qualify, consideration shall not be given to the value of cash, property or other assets held in the name of the person's spouse pursuant to a written agreement dividing marital property into equal but separate shares or pursuant to a transfer of the person's interest in a home to his spouse, provided that the spouse's share of the marital property is not made available to the person seeking such services.

Beginning July 1, 2002, the Department shall require as a condition of eligibility that all financially eligible applicants apply for medical assistance under Article V of the

Illinois Public Aid Code in accordance with rules promulgated by the Department.

Beginning January 1, 2008, the Department shall require as a condition of eligibility that all new financially eligible applicants apply for and enroll in medical assistance under Article V of the Illinois Public Aid Code in accordance with rules promulgated by the Department.

The Department shall, in conjunction with the Department of Public Aid (now Department of Healthcare and Family Services), seek appropriate amendments under Sections 1915 and 1924 of the Social Security Act. The purpose of the amendments shall be to extend eligibility for home and community based services under Sections 1915 and 1924 of the Social Security Act to persons who transfer to or for the benefit of a spouse those amounts of income and resources allowed under Section 1924 of the Social Security Act. Subject to the approval of such amendments, the Department shall extend the provisions of Section 5-4 of the Illinois Public Aid Code to persons who, but for the provision of home or community-based services, would require the level of care provided in an institution, as is provided for in federal law. Those persons no longer found to be eligible for receiving noninstitutional services due to changes in the eligibility criteria shall be given 60 days notice prior to actual termination. Those persons receiving notice of termination may contact the Department and request the determination be appealed at any time during the 60 day notice period. With the

exception of the lengthened notice and time frame for the appeal request, the appeal process shall follow the normal procedure. In addition, each person affected regardless of the circumstances for discontinued eligibility shall be given notice and the opportunity to purchase the necessary services through the Community Care Program. If the individual does not elect to purchase services, the Department shall advise the individual of alternative services. The target population identified for the purposes of this Section are persons age 60 and older with an identified service need. Priority shall be given to those who are at imminent risk of institutionalization. The services shall be provided to eligible persons age 60 and older to the extent that the cost of the services together with the other personal maintenance expenses of the persons are reasonably related to the standards established for care in a group facility appropriate to the person's condition. These non-institutional services, pilot projects or experimental facilities may be provided as part of or in addition to those authorized by federal law or those funded and administered by the Department of Human Services. The Departments of Human Services, Healthcare and Family Services, Public Health, Veterans' Affairs, and Commerce and Economic Opportunity and other appropriate agencies of State, federal and local governments shall cooperate with the Department on Aging in the establishment and development of the non-institutional services. The Department shall require an

annual audit from all personal assistant ~~chore/housekeeping~~ and home care aide vendors contracting with the Department under this Section. The annual audit shall assure that each audited vendor's procedures are in compliance with Department's financial reporting guidelines requiring an administrative and employee wage and benefits cost split as defined in administrative rules. The audit is a public record under the Freedom of Information Act. The Department shall execute, relative to the nursing home prescreening project, written inter-agency agreements with the Department of Human Services and the Department of Healthcare and Family Services, to effect the following: (1) intake procedures and common eligibility criteria for those persons who are receiving non-institutional services; and (2) the establishment and development of non-institutional services in areas of the State where they are not currently available or are undeveloped. On and after July 1, 1996, all nursing home prescreenings for individuals 60 years of age or older shall be conducted by the Department.

As part of the Department on Aging's routine training of case managers and case manager supervisors, the Department may include information on family futures planning for persons who are age 60 or older and who are caregivers of their adult children with developmental disabilities. The content of the training shall be at the Department's discretion.

The Department is authorized to establish a system of

recipient copayment for services provided under this Section, such copayment to be based upon the recipient's ability to pay but in no case to exceed the actual cost of the services provided. Additionally, any portion of a person's income which is equal to or less than the federal poverty standard shall not be considered by the Department in determining the copayment. The level of such copayment shall be adjusted whenever necessary to reflect any change in the officially designated federal poverty standard.

The Department, or the Department's authorized representative, shall recover the amount of moneys expended for services provided to or in behalf of a person under this Section by a claim against the person's estate or against the estate of the person's surviving spouse, but no recovery may be had until after the death of the surviving spouse, if any, and then only at such time when there is no surviving child who is under age 21, blind, or permanently and totally disabled. This paragraph, however, shall not bar recovery, at the death of the person, of moneys for services provided to the person or in behalf of the person under this Section to which the person was not entitled; provided that such recovery shall not be enforced against any real estate while it is occupied as a homestead by the surviving spouse or other dependent, if no claims by other creditors have been filed against the estate, or, if such claims have been filed, they remain dormant for failure of prosecution or failure of the claimant to compel administration

of the estate for the purpose of payment. This paragraph shall not bar recovery from the estate of a spouse, under Sections 1915 and 1924 of the Social Security Act and Section 5-4 of the Illinois Public Aid Code, who precedes a person receiving services under this Section in death. All moneys for services paid to or in behalf of the person under this Section shall be claimed for recovery from the deceased spouse's estate. "Homestead", as used in this paragraph, means the dwelling house and contiguous real estate occupied by a surviving spouse or relative, as defined by the rules and regulations of the Department of Healthcare and Family Services, regardless of the value of the property.

The Department shall increase the effectiveness of the existing Community Care Program by:

(1) ensuring that in-home services included in the care plan are available on evenings and weekends;

(2) ensuring that care plans contain the services that eligible participants ~~participants~~ need based on the number of days in a month, not limited to specific blocks of time, as identified by the comprehensive assessment tool selected by the Department for use statewide, not to exceed the total monthly service cost maximum allowed for each service; the. ~~The~~ Department shall develop administrative rules to implement this item (2);

(3) ensuring that the participants have the right to choose the services contained in their care plan and to

direct how those services are provided, based on administrative rules established by the Department;

(4) ensuring that the determination of need tool is accurate in determining the participants' level of need; to achieve this, the Department, in conjunction with the Older Adult Services Advisory Committee, shall institute a study of the relationship between the Determination of Need scores, level of need, service cost maximums, and the development and utilization of service plans no later than May 1, 2008; findings and recommendations shall be presented to the Governor and the General Assembly no later than January 1, 2009; recommendations shall include all needed changes to the service cost maximums schedule and additional covered services;

(5) ensuring that homemakers can provide personal care services that may or may not involve contact with clients, including but not limited to:

- (A) bathing;
- (B) grooming;
- (C) toileting;
- (D) nail care;
- (E) transferring;
- (F) respiratory services;
- (G) exercise; or
- (H) positioning;

(6) ensuring that homemaker program vendors are not

restricted from hiring homemakers who are family members of clients or recommended by clients; the Department may not, by rule or policy, require homemakers who are family members of clients or recommended by clients to accept assignments in homes other than the client; and

(7) ensuring that the State may access maximum federal matching funds by seeking approval for the Centers for Medicare and Medicaid Services for modifications to the State's home and community based services waiver and additional waiver opportunities in order to maximize federal matching funds; this shall include, but not be limited to, modification that reflects all changes in the Community Care Program services and all increases in the services cost maximum.

By January 1, 2009 or as soon after the end of the Cash and Counseling Demonstration Project as is practicable, the Department may, based on its evaluation of the demonstration project, promulgate rules concerning personal assistant services, to include, but need not be limited to, qualifications, employment screening, rights under fair labor standards, training, fiduciary agent, and supervision requirements. All applicants shall be subject to the provisions of the Health Care Worker Background Check Act.

The Department shall develop procedures to enhance availability of services on evenings, weekends, and on an emergency basis to meet the respite needs of caregivers.

Procedures shall be developed to permit the utilization of services in successive blocks of 24 hours up to the monthly maximum established by the Department. Workers providing these services shall be appropriately trained.

Beginning on the effective date of this Amendatory Act of 1991, no person may perform chore/housekeeping and home care aide services under a program authorized by this Section unless that person has been issued a certificate of pre-service to do so by his or her employing agency. Information gathered to effect such certification shall include (i) the person's name, (ii) the date the person was hired by his or her current employer, and (iii) the training, including dates and levels. Persons engaged in the program authorized by this Section before the effective date of this amendatory Act of 1991 shall be issued a certificate of all pre- and in-service training from his or her employer upon submitting the necessary information. The employing agency shall be required to retain records of all staff pre- and in-service training, and shall provide such records to the Department upon request and upon termination of the employer's contract with the Department. In addition, the employing agency is responsible for the issuance of certifications of in-service training completed to their employees.

The Department is required to develop a system to ensure that persons working as home care aides and personal assistants ~~chore housekeepers~~ receive increases in their wages when the

federal minimum wage is increased by requiring vendors to certify that they are meeting the federal minimum wage statute for home care aides and personal assistants ~~chore housekeepers~~. An employer that cannot ensure that the minimum wage increase is being given to home care aides and personal assistants ~~chore housekeepers~~ shall be denied any increase in reimbursement costs.

The Community Care Program Advisory Committee is created in the Department on Aging. The Director shall appoint individuals to serve in the Committee, who shall serve at their own expense. Members of the Committee must abide by all applicable ethics laws. The Committee shall advise the Department on issues related to the Department's program of services to prevent unnecessary institutionalization. The Committee shall meet on a bi-monthly basis and shall serve to identify and advise the Department on present and potential issues affecting the service delivery network, the program's clients, and the Department and to recommend solution strategies. Persons appointed to the Committee shall be appointed on, but not limited to, their own and their agency's experience with the program, geographic representation, and willingness to serve. The Director shall appoint members to the Committee to represent provider, advocacy, policy research, and other constituencies committed to the delivery of high quality home and community-based services to older adults. Representatives shall be appointed to ensure representation from community care

providers including, but not limited to, adult day service providers, homemaker providers, case coordination and case management units, emergency home response providers, statewide trade or labor unions that represent home care ~~homecare~~ aides and direct care staff, area agencies on aging, adults over age 60, membership organizations representing older adults, and other organizational entities, providers of care, or individuals with demonstrated interest and expertise in the field of home and community care as determined by the Director.

Nominations may be presented from any agency or State association with interest in the program. The Director, or his or her designee, shall serve as the permanent co-chair of the advisory committee. One other co-chair shall be nominated and approved by the members of the committee on an annual basis. Committee members' terms of appointment shall be for 4 years with one-quarter of the appointees' terms expiring each year. A member shall continue to serve until his or her replacement is named. The Department shall fill vacancies that have a remaining term of over one year, and this replacement shall occur through the annual replacement of expiring terms. The Director shall designate Department staff to provide technical assistance and staff support to the committee. Department representation shall not constitute membership of the committee. All Committee papers, issues, recommendations, reports, and meeting memoranda are advisory only. The Director, or his or her designee, shall make a written report, as

requested by the Committee, regarding issues before the Committee.

The Department on Aging and the Department of Human Services shall cooperate in the development and submission of an annual report on programs and services provided under this Section. Such joint report shall be filed with the Governor and the General Assembly on or before September 30 each year.

The requirement for reporting to the General Assembly shall be satisfied by filing copies of the report with the Speaker, the Minority Leader and the Clerk of the House of Representatives and the President, the Minority Leader and the Secretary of the Senate and the Legislative Research Unit, as required by Section 3.1 of the General Assembly Organization Act and filing such additional copies with the State Government Report Distribution Center for the General Assembly as is required under paragraph (t) of Section 7 of the State Library Act.

Those persons previously found eligible for receiving non-institutional services whose services were discontinued under the Emergency Budget Act of Fiscal Year 1992, and who do not meet the eligibility standards in effect on or after July 1, 1992, shall remain ineligible on and after July 1, 1992. Those persons previously not required to cost-share and who were required to cost-share effective March 1, 1992, shall continue to meet cost-share requirements on and after July 1, 1992. Beginning July 1, 1992, all clients will be required to

meet eligibility, cost-share, and other requirements and will have services discontinued or altered when they fail to meet these requirements.

For the purposes of this Section, "flexible senior services" refers to services that require one-time or periodic expenditures including, but not limited to, respite care, home modification, assistive technology, housing assistance, and transportation.

(Source: P.A. 94-48, eff. 7-1-05; 94-269, eff. 7-19-05; 94-336, eff. 7-26-05; 94-954, eff. 6-27-06; 95-298, eff. 8-20-07; 95-473, eff. 8-27-07; 95-565, eff. 6-1-08; revised 10-30-07.)

(20 ILCS 105/4.08)

Sec. 4.08. Rural and small town meals program. Subject to appropriation, the Department may establish a program to ensure the availability of congregate or home-delivered meals in communities with populations of under 5,000 that are not located within the large urban counties of Cook, DuPage, Kane, Lake, or Will.

The Department may meet these requirements by entering into agreements with Area Agencies on Aging or Department designees, which shall in turn enter into grants or contractual agreements with such local entities as restaurants, cafes, churches, facilities licensed under the Nursing Home Care Act, the Assisted Living and Shared Housing Act, or the Hospital Licensing Act, facilities certified by the Department of

Healthcare and Family Services, senior centers, or Older American Act designated nutrition service providers.

First consideration shall be given to entities that can cost effectively meet the needs of seniors in the community by preparing the food locally.

In no instance shall funds provided pursuant to this Section be used to replace funds allocated to a given area or program as of the effective date of this amendatory Act of the 95th General Assembly.

The Department shall establish guidelines and standards by administrative rule, which shall include submission of an expenditure plan by the recipient of the funds.

(Source: P.A. 95-68, eff. 8-13-07.)

(20 ILCS 105/4.09)

Sec. 4.09 ~~4.08~~. Medication management program. Subject to appropriation, the Department shall establish a program to assist persons 60 years of age or older in managing their medications. The Department shall establish guidelines and standards for the program by rule.

(Source: P.A. 95-535, eff. 8-28-07; revised 12-5-07.)

Section 35. The Children and Family Services Act is amended by changing Section 5 as follows:

(20 ILCS 505/5) (from Ch. 23, par. 5005)

(Text of Section before amendment by P.A. 95-642)

Sec. 5. Direct child welfare services; Department of Children and Family Services. To provide direct child welfare services when not available through other public or private child care or program facilities.

(a) For purposes of this Section:

(1) "Children" means persons found within the State who are under the age of 18 years. The term also includes persons under age 19 who:

(A) were committed to the Department pursuant to the Juvenile Court Act or the Juvenile Court Act of 1987, as amended, prior to the age of 18 and who continue under the jurisdiction of the court; or

(B) were accepted for care, service and training by the Department prior to the age of 18 and whose best interest in the discretion of the Department would be served by continuing that care, service and training because of severe emotional disturbances, physical disability, social adjustment or any combination thereof, or because of the need to complete an educational or vocational training program.

(2) "Homeless youth" means persons found within the State who are under the age of 19, are not in a safe and stable living situation and cannot be reunited with their families.

(3) "Child welfare services" means public social

services which are directed toward the accomplishment of the following purposes:

(A) protecting and promoting the health, safety and welfare of children, including homeless, dependent or neglected children;

(B) remedying, or assisting in the solution of problems which may result in, the neglect, abuse, exploitation or delinquency of children;

(C) preventing the unnecessary separation of children from their families by identifying family problems, assisting families in resolving their problems, and preventing the breakup of the family where the prevention of child removal is desirable and possible when the child can be cared for at home without endangering the child's health and safety;

(D) restoring to their families children who have been removed, by the provision of services to the child and the families when the child can be cared for at home without endangering the child's health and safety;

(E) placing children in suitable adoptive homes, in cases where restoration to the biological family is not safe, possible or appropriate;

(F) assuring safe and adequate care of children away from their homes, in cases where the child cannot be returned home or cannot be placed for adoption. At

the time of placement, the Department shall consider concurrent planning, as described in subsection (1-1) of this Section so that permanency may occur at the earliest opportunity. Consideration should be given so that if reunification fails or is delayed, the placement made is the best available placement to provide permanency for the child;

(G) (blank);

(H) (blank); and

(I) placing and maintaining children in facilities that provide separate living quarters for children under the age of 18 and for children 18 years of age and older, unless a child 18 years of age is in the last year of high school education or vocational training, in an approved individual or group treatment program, in a licensed shelter facility, or secure child care facility. The Department is not required to place or maintain children:

(i) who are in a foster home, or

(ii) who are persons with a developmental disability, as defined in the Mental Health and Developmental Disabilities Code, or

(iii) who are female children who are pregnant, pregnant and parenting or parenting, or

(iv) who are siblings, in facilities that provide separate living quarters for children 18

years of age and older and for children under 18 years of age.

(b) Nothing in this Section shall be construed to authorize the expenditure of public funds for the purpose of performing abortions.

(c) The Department shall establish and maintain tax-supported child welfare services and extend and seek to improve voluntary services throughout the State, to the end that services and care shall be available on an equal basis throughout the State to children requiring such services.

(d) The Director may authorize advance disbursements for any new program initiative to any agency contracting with the Department. As a prerequisite for an advance disbursement, the contractor must post a surety bond in the amount of the advance disbursement and have a purchase of service contract approved by the Department. The Department may pay up to 2 months operational expenses in advance. The amount of the advance disbursement shall be prorated over the life of the contract or the remaining months of the fiscal year, whichever is less, and the installment amount shall then be deducted from future bills. Advance disbursement authorizations for new initiatives shall not be made to any agency after that agency has operated during 2 consecutive fiscal years. The requirements of this Section concerning advance disbursements shall not apply with respect to the following: payments to local public agencies for child day care services as authorized by Section 5a of this

Act; and youth service programs receiving grant funds under Section 17a-4.

(e) (Blank).

(f) (Blank).

(g) The Department shall establish rules and regulations concerning its operation of programs designed to meet the goals of child safety and protection, family preservation, family reunification, and adoption, including but not limited to:

(1) adoption;

(2) foster care;

(3) family counseling;

(4) protective services;

(5) (blank);

(6) homemaker service;

(7) return of runaway children;

(8) (blank);

(9) placement under Section 5-7 of the Juvenile Court Act or Section 2-27, 3-28, 4-25 or 5-740 of the Juvenile Court Act of 1987 in accordance with the federal Adoption Assistance and Child Welfare Act of 1980; and

(10) interstate services.

Rules and regulations established by the Department shall include provisions for training Department staff and the staff of Department grantees, through contracts with other agencies or resources, in alcohol and drug abuse screening techniques approved by the Department of Human Services, as a successor to

the Department of Alcoholism and Substance Abuse, for the purpose of identifying children and adults who should be referred to an alcohol and drug abuse treatment program for professional evaluation.

(h) If the Department finds that there is no appropriate program or facility within or available to the Department for a ward and that no licensed private facility has an adequate and appropriate program or none agrees to accept the ward, the Department shall create an appropriate individualized, program-oriented plan for such ward. The plan may be developed within the Department or through purchase of services by the Department to the extent that it is within its statutory authority to do.

(i) Service programs shall be available throughout the State and shall include but not be limited to the following services:

- (1) case management;
- (2) homemakers;
- (3) counseling;
- (4) parent education;
- (5) day care; and
- (6) emergency assistance and advocacy.

In addition, the following services may be made available to assess and meet the needs of children and families:

- (1) comprehensive family-based services;
- (2) assessments;

- (3) respite care; and
- (4) in-home health services.

The Department shall provide transportation for any of the services it makes available to children or families or for which it refers children or families.

(j) The Department may provide categories of financial assistance and education assistance grants, and shall establish rules and regulations concerning the assistance and grants, to persons who adopt physically or mentally handicapped, older and other hard-to-place children who (i) immediately prior to their adoption were legal wards of the Department or (ii) were determined eligible for financial assistance with respect to a prior adoption and who become available for adoption because the prior adoption has been dissolved and the parental rights of the adoptive parents have been terminated or because the child's adoptive parents have died. The Department may continue to provide financial assistance and education assistance grants for a child who was determined eligible for financial assistance under this subsection (j) in the interim period beginning when the child's adoptive parents died and ending with the finalization of the new adoption of the child by another adoptive parent or parents. The Department may also provide categories of financial assistance and education assistance grants, and shall establish rules and regulations for the assistance and grants, to persons appointed guardian of the person under

Section 5-7 of the Juvenile Court Act or Section 2-27, 3-28, 4-25 or 5-740 of the Juvenile Court Act of 1987 for children who were wards of the Department for 12 months immediately prior to the appointment of the guardian.

The amount of assistance may vary, depending upon the needs of the child and the adoptive parents, as set forth in the annual assistance agreement. Special purpose grants are allowed where the child requires special service but such costs may not exceed the amounts which similar services would cost the Department if it were to provide or secure them as guardian of the child.

Any financial assistance provided under this subsection is inalienable by assignment, sale, execution, attachment, garnishment, or any other remedy for recovery or collection of a judgment or debt.

(j-5) The Department shall not deny or delay the placement of a child for adoption if an approved family is available either outside of the Department region handling the case, or outside of the State of Illinois.

(k) The Department shall accept for care and training any child who has been adjudicated neglected or abused, or dependent committed to it pursuant to the Juvenile Court Act or the Juvenile Court Act of 1987.

(l) Before July 1, 2000, the Department may provide, and beginning July 1, 2000, the Department shall offer family preservation services, as defined in Section 8.2 of the Abused

and Neglected Child Reporting Act, to help families, including adoptive and extended families. Family preservation services shall be offered (i) to prevent the placement of children in substitute care when the children can be cared for at home or in the custody of the person responsible for the children's welfare, (ii) to reunite children with their families, or (iii) to maintain an adoptive placement. Family preservation services shall only be offered when doing so will not endanger the children's health or safety. With respect to children who are in substitute care pursuant to the Juvenile Court Act of 1987, family preservation services shall not be offered if a goal other than those of subdivisions (A), (B), or (B-1) of subsection (2) of Section 2-28 of that Act has been set. Nothing in this paragraph shall be construed to create a private right of action or claim on the part of any individual or child welfare agency.

The Department shall notify the child and his family of the Department's responsibility to offer and provide family preservation services as identified in the service plan. The child and his family shall be eligible for services as soon as the report is determined to be "indicated". The Department may offer services to any child or family with respect to whom a report of suspected child abuse or neglect has been filed, prior to concluding its investigation under Section 7.12 of the Abused and Neglected Child Reporting Act. However, the child's or family's willingness to accept services shall not be

considered in the investigation. The Department may also provide services to any child or family who is the subject of any report of suspected child abuse or neglect or may refer such child or family to services available from other agencies in the community, even if the report is determined to be unfounded, if the conditions in the child's or family's home are reasonably likely to subject the child or family to future reports of suspected child abuse or neglect. Acceptance of such services shall be voluntary.

The Department may, at its discretion except for those children also adjudicated neglected or dependent, accept for care and training any child who has been adjudicated addicted, as a truant minor in need of supervision or as a minor requiring authoritative intervention, under the Juvenile Court Act or the Juvenile Court Act of 1987, but no such child shall be committed to the Department by any court without the approval of the Department. A minor charged with a criminal offense under the Criminal Code of 1961 or adjudicated delinquent shall not be placed in the custody of or committed to the Department by any court, except a minor less than 13 years of age committed to the Department under Section 5-710 of the Juvenile Court Act of 1987.

(1-1) The legislature recognizes that the best interests of the child require that the child be placed in the most permanent living arrangement as soon as is practically possible. To achieve this goal, the legislature directs the

Department of Children and Family Services to conduct concurrent planning so that permanency may occur at the earliest opportunity. Permanent living arrangements may include prevention of placement of a child outside the home of the family when the child can be cared for at home without endangering the child's health or safety; reunification with the family, when safe and appropriate, if temporary placement is necessary; or movement of the child toward the most permanent living arrangement and permanent legal status.

When determining reasonable efforts to be made with respect to a child, as described in this subsection, and in making such reasonable efforts, the child's health and safety shall be the paramount concern.

When a child is placed in foster care, the Department shall ensure and document that reasonable efforts were made to prevent or eliminate the need to remove the child from the child's home. The Department must make reasonable efforts to reunify the family when temporary placement of the child occurs unless otherwise required, pursuant to the Juvenile Court Act of 1987. At any time after the dispositional hearing where the Department believes that further reunification services would be ineffective, it may request a finding from the court that reasonable efforts are no longer appropriate. The Department is not required to provide further reunification services after such a finding.

A decision to place a child in substitute care shall be

made with considerations of the child's health, safety, and best interests. At the time of placement, consideration should also be given so that if reunification fails or is delayed, the placement made is the best available placement to provide permanency for the child.

The Department shall adopt rules addressing concurrent planning for reunification and permanency. The Department shall consider the following factors when determining appropriateness of concurrent planning:

- (1) the likelihood of prompt reunification;
- (2) the past history of the family;
- (3) the barriers to reunification being addressed by the family;
- (4) the level of cooperation of the family;
- (5) the foster parents' willingness to work with the family to reunite;
- (6) the willingness and ability of the foster family to provide an adoptive home or long-term placement;
- (7) the age of the child;
- (8) placement of siblings.

(m) The Department may assume temporary custody of any child if:

- (1) it has received a written consent to such temporary custody signed by the parents of the child or by the parent having custody of the child if the parents are not living together or by the guardian or custodian of the child if

the child is not in the custody of either parent, or

(2) the child is found in the State and neither a parent, guardian nor custodian of the child can be located.

If the child is found in his or her residence without a parent, guardian, custodian or responsible caretaker, the Department may, instead of removing the child and assuming temporary custody, place an authorized representative of the Department in that residence until such time as a parent, guardian or custodian enters the home and expresses a willingness and apparent ability to ensure the child's health and safety and resume permanent charge of the child, or until a relative enters the home and is willing and able to ensure the child's health and safety and assume charge of the child until a parent, guardian or custodian enters the home and expresses such willingness and ability to ensure the child's safety and resume permanent charge. After a caretaker has remained in the home for a period not to exceed 12 hours, the Department must follow those procedures outlined in Section 2-9, 3-11, 4-8, or 5-415 of the Juvenile Court Act of 1987.

The Department shall have the authority, responsibilities and duties that a legal custodian of the child would have pursuant to subsection (9) of Section 1-3 of the Juvenile Court Act of 1987. Whenever a child is taken into temporary custody pursuant to an investigation under the Abused and Neglected Child Reporting Act, or pursuant to a referral and acceptance under the Juvenile Court Act of 1987 of a minor in limited

custody, the Department, during the period of temporary custody and before the child is brought before a judicial officer as required by Section 2-9, 3-11, 4-8, or 5-415 of the Juvenile Court Act of 1987, shall have the authority, responsibilities and duties that a legal custodian of the child would have under subsection (9) of Section 1-3 of the Juvenile Court Act of 1987.

The Department shall ensure that any child taken into custody is scheduled for an appointment for a medical examination.

A parent, guardian or custodian of a child in the temporary custody of the Department who would have custody of the child if he were not in the temporary custody of the Department may deliver to the Department a signed request that the Department surrender the temporary custody of the child. The Department may retain temporary custody of the child for 10 days after the receipt of the request, during which period the Department may cause to be filed a petition pursuant to the Juvenile Court Act of 1987. If a petition is so filed, the Department shall retain temporary custody of the child until the court orders otherwise. If a petition is not filed within the 10 day period, the child shall be surrendered to the custody of the requesting parent, guardian or custodian not later than the expiration of the 10 day period, at which time the authority and duties of the Department with respect to the temporary custody of the child shall terminate.

(m-1) The Department may place children under 18 years of age in a secure child care facility licensed by the Department that cares for children who are in need of secure living arrangements for their health, safety, and well-being after a determination is made by the facility director and the Director or the Director's designate prior to admission to the facility subject to Section 2-27.1 of the Juvenile Court Act of 1987. This subsection (m-1) does not apply to a child who is subject to placement in a correctional facility operated pursuant to Section 3-15-2 of the Unified Code of Corrections, unless the child is a ward who was placed under the care of the Department before being subject to placement in a correctional facility and a court of competent jurisdiction has ordered placement of the child in a secure care facility.

(n) The Department may place children under 18 years of age in licensed child care facilities when in the opinion of the Department, appropriate services aimed at family preservation have been unsuccessful and cannot ensure the child's health and safety or are unavailable and such placement would be for their best interest. Payment for board, clothing, care, training and supervision of any child placed in a licensed child care facility may be made by the Department, by the parents or guardians of the estates of those children, or by both the Department and the parents or guardians, except that no payments shall be made by the Department for any child placed in a licensed child care facility for board, clothing, care,

training and supervision of such a child that exceed the average per capita cost of maintaining and of caring for a child in institutions for dependent or neglected children operated by the Department. However, such restriction on payments does not apply in cases where children require specialized care and treatment for problems of severe emotional disturbance, physical disability, social adjustment, or any combination thereof and suitable facilities for the placement of such children are not available at payment rates within the limitations set forth in this Section. All reimbursements for services delivered shall be absolutely inalienable by assignment, sale, attachment, garnishment or otherwise.

(o) The Department shall establish an administrative review and appeal process for children and families who request or receive child welfare services from the Department. Children who are wards of the Department and are placed by private child welfare agencies, and foster families with whom those children are placed, shall be afforded the same procedural and appeal rights as children and families in the case of placement by the Department, including the right to an initial review of a private agency decision by that agency. The Department shall insure that any private child welfare agency, which accepts wards of the Department for placement, affords those rights to children and foster families. The Department shall accept for administrative review and an appeal hearing a complaint made by (i) a child or foster family concerning a decision following an

initial review by a private child welfare agency or (ii) a prospective adoptive parent who alleges a violation of subsection (j-5) of this Section. An appeal of a decision concerning a change in the placement of a child shall be conducted in an expedited manner.

(p) There is hereby created the Department of Children and Family Services Emergency Assistance Fund from which the Department may provide special financial assistance to families which are in economic crisis when such assistance is not available through other public or private sources and the assistance is deemed necessary to prevent dissolution of the family unit or to reunite families which have been separated due to child abuse and neglect. The Department shall establish administrative rules specifying the criteria for determining eligibility for and the amount and nature of assistance to be provided. The Department may also enter into written agreements with private and public social service agencies to provide emergency financial services to families referred by the Department. Special financial assistance payments shall be available to a family no more than once during each fiscal year and the total payments to a family may not exceed \$500 during a fiscal year.

(q) The Department may receive and use, in their entirety, for the benefit of children any gift, donation or bequest of money or other property which is received on behalf of such children, or any financial benefits to which such children are

or may become entitled while under the jurisdiction or care of the Department.

The Department shall set up and administer no-cost, interest-bearing accounts in appropriate financial institutions for children for whom the Department is legally responsible and who have been determined eligible for Veterans' Benefits, Social Security benefits, assistance allotments from the armed forces, court ordered payments, parental voluntary payments, Supplemental Security Income, Railroad Retirement payments, Black Lung benefits, or other miscellaneous payments. Interest earned by each account shall be credited to the account, unless disbursed in accordance with this subsection.

In disbursing funds from children's accounts, the Department shall:

(1) Establish standards in accordance with State and federal laws for disbursing money from children's accounts. In all circumstances, the Department's "Guardianship Administrator" or his or her designee must approve disbursements from children's accounts. The Department shall be responsible for keeping complete records of all disbursements for each account for any purpose.

(2) Calculate on a monthly basis the amounts paid from State funds for the child's board and care, medical care not covered under Medicaid, and social services; and

utilize funds from the child's account, as covered by regulation, to reimburse those costs. Monthly, disbursements from all children's accounts, up to 1/12 of \$13,000,000, shall be deposited by the Department into the General Revenue Fund and the balance over 1/12 of \$13,000,000 into the DCFS Children's Services Fund.

(3) Maintain any balance remaining after reimbursing for the child's costs of care, as specified in item (2). The balance shall accumulate in accordance with relevant State and federal laws and shall be disbursed to the child or his or her guardian, or to the issuing agency.

(r) The Department shall promulgate regulations encouraging all adoption agencies to voluntarily forward to the Department or its agent names and addresses of all persons who have applied for and have been approved for adoption of a hard-to-place or handicapped child and the names of such children who have not been placed for adoption. A list of such names and addresses shall be maintained by the Department or its agent, and coded lists which maintain the confidentiality of the person seeking to adopt the child and of the child shall be made available, without charge, to every adoption agency in the State to assist the agencies in placing such children for adoption. The Department may delegate to an agent its duty to maintain and make available such lists. The Department shall ensure that such agent maintains the confidentiality of the person seeking to adopt the child and of the child.

(s) The Department of Children and Family Services may establish and implement a program to reimburse Department and private child welfare agency foster parents licensed by the Department of Children and Family Services for damages sustained by the foster parents as a result of the malicious or negligent acts of foster children, as well as providing third party coverage for such foster parents with regard to actions of foster children to other individuals. Such coverage will be secondary to the foster parent liability insurance policy, if applicable. The program shall be funded through appropriations from the General Revenue Fund, specifically designated for such purposes.

(t) The Department shall perform home studies and investigations and shall exercise supervision over visitation as ordered by a court pursuant to the Illinois Marriage and Dissolution of Marriage Act or the Adoption Act only if:

(1) an order entered by an Illinois court specifically directs the Department to perform such services; and

(2) the court has ordered one or both of the parties to the proceeding to reimburse the Department for its reasonable costs for providing such services in accordance with Department rules, or has determined that neither party is financially able to pay.

The Department shall provide written notification to the court of the specific arrangements for supervised visitation and projected monthly costs within 60 days of the court order.

The Department shall send to the court information related to the costs incurred except in cases where the court has determined the parties are financially unable to pay. The court may order additional periodic reports as appropriate.

(u) In addition to other information that must be provided, whenever the Department places a child with a prospective adoptive parent or parents or in a licensed foster home, group home, child care institution, or in a relative home, the Department shall provide to the prospective adoptive parent or parents or other caretaker:

(1) available detailed information concerning the child's educational and health history, copies of immunization records (including insurance and medical card information), a history of the child's previous placements, if any, and reasons for placement changes excluding any information that identifies or reveals the location of any previous caretaker;

(2) a copy of the child's portion of the client service plan, including any visitation arrangement, and all amendments or revisions to it as related to the child; and

(3) information containing details of the child's individualized educational plan when the child is receiving special education services.

The caretaker shall be informed of any known social or behavioral information (including, but not limited to, criminal background, fire setting, perpetuation of sexual

abuse, destructive behavior, and substance abuse) necessary to care for and safeguard the children to be placed or currently in the home. The Department may prepare a written summary of the information required by this paragraph, which may be provided to the foster or prospective adoptive parent in advance of a placement. The foster or prospective adoptive parent may review the supporting documents in the child's file in the presence of casework staff. In the case of an emergency placement, casework staff shall at least provide known information verbally, if necessary, and must subsequently provide the information in writing as required by this subsection.

The information described in this subsection shall be provided in writing. In the case of emergency placements when time does not allow prior review, preparation, and collection of written information, the Department shall provide such information as it becomes available. Within 10 business days after placement, the Department shall obtain from the prospective adoptive parent or parents or other caretaker a signed verification of receipt of the information provided. Within 10 business days after placement, the Department shall provide to the child's guardian ad litem a copy of the information provided to the prospective adoptive parent or parents or other caretaker. The information provided to the prospective adoptive parent or parents or other caretaker shall be reviewed and approved regarding accuracy at the supervisory

level.

(u-5) Effective July 1, 1995, only foster care placements licensed as foster family homes pursuant to the Child Care Act of 1969 shall be eligible to receive foster care payments from the Department. Relative caregivers who, as of July 1, 1995, were approved pursuant to approved relative placement rules previously promulgated by the Department at 89 Ill. Adm. Code 335 and had submitted an application for licensure as a foster family home may continue to receive foster care payments only until the Department determines that they may be licensed as a foster family home or that their application for licensure is denied or until September 30, 1995, whichever occurs first.

(v) The Department shall access criminal history record information as defined in the Illinois Uniform Conviction Information Act and information maintained in the adjudicatory and dispositional record system as defined in Section 2605-355 of the Department of State Police Law (20 ILCS 2605/2605-355) if the Department determines the information is necessary to perform its duties under the Abused and Neglected Child Reporting Act, the Child Care Act of 1969, and the Children and Family Services Act. The Department shall provide for interactive computerized communication and processing equipment that permits direct on-line communication with the Department of State Police's central criminal history data repository. The Department shall comply with all certification requirements and provide certified operators who have been

trained by personnel from the Department of State Police. In addition, one Office of the Inspector General investigator shall have training in the use of the criminal history information access system and have access to the terminal. The Department of Children and Family Services and its employees shall abide by rules and regulations established by the Department of State Police relating to the access and dissemination of this information.

(v-1) Prior to final approval for placement of a child, the Department shall conduct a criminal records background check of the prospective foster or adoptive parent, including fingerprint-based checks of national crime information databases. Final approval for placement shall not be granted if the record check reveals a felony conviction for child abuse or neglect, for spousal abuse, for a crime against children, or for a crime involving violence, including rape, sexual assault, or homicide, but not including other physical assault or battery, or if there is a felony conviction for physical assault, battery, or a drug-related offense committed within the past 5 years.

(v-2) Prior to final approval for placement of a child, the Department shall check its child abuse and neglect registry for information concerning prospective foster and adoptive parents, and any adult living in the home. If any prospective foster or adoptive parent or other adult living in the home has resided in another state in the preceding 5 years, the

Department shall request a check of that other state's child abuse and neglect registry.

(w) Within 120 days of August 20, 1995 (the effective date of Public Act 89-392), the Department shall prepare and submit to the Governor and the General Assembly, a written plan for the development of in-state licensed secure child care facilities that care for children who are in need of secure living arrangements for their health, safety, and well-being. For purposes of this subsection, secure care facility shall mean a facility that is designed and operated to ensure that all entrances and exits from the facility, a building or a distinct part of the building, are under the exclusive control of the staff of the facility, whether or not the child has the freedom of movement within the perimeter of the facility, building, or distinct part of the building. The plan shall include descriptions of the types of facilities that are needed in Illinois; the cost of developing these secure care facilities; the estimated number of placements; the potential cost savings resulting from the movement of children currently out-of-state who are projected to be returned to Illinois; the necessary geographic distribution of these facilities in Illinois; and a proposed timetable for development of such facilities.

(Source: P.A. 94-215, eff. 1-1-06; 94-1010, eff. 10-1-06; 95-10, eff. 6-30-07; 95-601, eff. 9-11-07; revised 10-30-07.)

(Text of Section after amendment by P.A. 95-642)

Sec. 5. Direct child welfare services; Department of Children and Family Services. To provide direct child welfare services when not available through other public or private child care or program facilities.

(a) For purposes of this Section:

(1) "Children" means persons found within the State who are under the age of 18 years. The term also includes persons under age 19 who:

(A) were committed to the Department pursuant to the Juvenile Court Act or the Juvenile Court Act of 1987, as amended, prior to the age of 18 and who continue under the jurisdiction of the court; or

(B) were accepted for care, service and training by the Department prior to the age of 18 and whose best interest in the discretion of the Department would be served by continuing that care, service and training because of severe emotional disturbances, physical disability, social adjustment or any combination thereof, or because of the need to complete an educational or vocational training program.

(2) "Homeless youth" means persons found within the State who are under the age of 19, are not in a safe and stable living situation and cannot be reunited with their families.

(3) "Child welfare services" means public social

services which are directed toward the accomplishment of the following purposes:

(A) protecting and promoting the health, safety and welfare of children, including homeless, dependent or neglected children;

(B) remedying, or assisting in the solution of problems which may result in, the neglect, abuse, exploitation or delinquency of children;

(C) preventing the unnecessary separation of children from their families by identifying family problems, assisting families in resolving their problems, and preventing the breakup of the family where the prevention of child removal is desirable and possible when the child can be cared for at home without endangering the child's health and safety;

(D) restoring to their families children who have been removed, by the provision of services to the child and the families when the child can be cared for at home without endangering the child's health and safety;

(E) placing children in suitable adoptive homes, in cases where restoration to the biological family is not safe, possible or appropriate;

(F) assuring safe and adequate care of children away from their homes, in cases where the child cannot be returned home or cannot be placed for adoption. At

the time of placement, the Department shall consider concurrent planning, as described in subsection (1-1) of this Section so that permanency may occur at the earliest opportunity. Consideration should be given so that if reunification fails or is delayed, the placement made is the best available placement to provide permanency for the child;

(G) (blank);

(H) (blank); and

(I) placing and maintaining children in facilities that provide separate living quarters for children under the age of 18 and for children 18 years of age and older, unless a child 18 years of age is in the last year of high school education or vocational training, in an approved individual or group treatment program, in a licensed shelter facility, or secure child care facility. The Department is not required to place or maintain children:

(i) who are in a foster home, or

(ii) who are persons with a developmental disability, as defined in the Mental Health and Developmental Disabilities Code, or

(iii) who are female children who are pregnant, pregnant and parenting or parenting, or

(iv) who are siblings, in facilities that provide separate living quarters for children 18

years of age and older and for children under 18 years of age.

(b) Nothing in this Section shall be construed to authorize the expenditure of public funds for the purpose of performing abortions.

(c) The Department shall establish and maintain tax-supported child welfare services and extend and seek to improve voluntary services throughout the State, to the end that services and care shall be available on an equal basis throughout the State to children requiring such services.

(d) The Director may authorize advance disbursements for any new program initiative to any agency contracting with the Department. As a prerequisite for an advance disbursement, the contractor must post a surety bond in the amount of the advance disbursement and have a purchase of service contract approved by the Department. The Department may pay up to 2 months operational expenses in advance. The amount of the advance disbursement shall be prorated over the life of the contract or the remaining months of the fiscal year, whichever is less, and the installment amount shall then be deducted from future bills. Advance disbursement authorizations for new initiatives shall not be made to any agency after that agency has operated during 2 consecutive fiscal years. The requirements of this Section concerning advance disbursements shall not apply with respect to the following: payments to local public agencies for child day care services as authorized by Section 5a of this

Act; and youth service programs receiving grant funds under Section 17a-4.

(e) (Blank).

(f) (Blank).

(g) The Department shall establish rules and regulations concerning its operation of programs designed to meet the goals of child safety and protection, family preservation, family reunification, and adoption, including but not limited to:

(1) adoption;

(2) foster care;

(3) family counseling;

(4) protective services;

(5) (blank);

(6) homemaker service;

(7) return of runaway children;

(8) (blank);

(9) placement under Section 5-7 of the Juvenile Court Act or Section 2-27, 3-28, 4-25 or 5-740 of the Juvenile Court Act of 1987 in accordance with the federal Adoption Assistance and Child Welfare Act of 1980; and

(10) interstate services.

Rules and regulations established by the Department shall include provisions for training Department staff and the staff of Department grantees, through contracts with other agencies or resources, in alcohol and drug abuse screening techniques approved by the Department of Human Services, as a successor to

the Department of Alcoholism and Substance Abuse, for the purpose of identifying children and adults who should be referred to an alcohol and drug abuse treatment program for professional evaluation.

(h) If the Department finds that there is no appropriate program or facility within or available to the Department for a ward and that no licensed private facility has an adequate and appropriate program or none agrees to accept the ward, the Department shall create an appropriate individualized, program-oriented plan for such ward. The plan may be developed within the Department or through purchase of services by the Department to the extent that it is within its statutory authority to do.

(i) Service programs shall be available throughout the State and shall include but not be limited to the following services:

- (1) case management;
- (2) homemakers;
- (3) counseling;
- (4) parent education;
- (5) day care; and
- (6) emergency assistance and advocacy.

In addition, the following services may be made available to assess and meet the needs of children and families:

- (1) comprehensive family-based services;
- (2) assessments;

- (3) respite care; and
- (4) in-home health services.

The Department shall provide transportation for any of the services it makes available to children or families or for which it refers children or families.

(j) The Department may provide categories of financial assistance and education assistance grants, and shall establish rules and regulations concerning the assistance and grants, to persons who adopt physically or mentally handicapped, older and other hard-to-place children who (i) immediately prior to their adoption were legal wards of the Department or (ii) were determined eligible for financial assistance with respect to a prior adoption and who become available for adoption because the prior adoption has been dissolved and the parental rights of the adoptive parents have been terminated or because the child's adoptive parents have died. The Department may continue to provide financial assistance and education assistance grants for a child who was determined eligible for financial assistance under this subsection (j) in the interim period beginning when the child's adoptive parents died and ending with the finalization of the new adoption of the child by another adoptive parent or parents. The Department may also provide categories of financial assistance and education assistance grants, and shall establish rules and regulations for the assistance and grants, to persons appointed guardian of the person under

Section 5-7 of the Juvenile Court Act or Section 2-27, 3-28, 4-25 or 5-740 of the Juvenile Court Act of 1987 for children who were wards of the Department for 12 months immediately prior to the appointment of the guardian.

The amount of assistance may vary, depending upon the needs of the child and the adoptive parents, as set forth in the annual assistance agreement. Special purpose grants are allowed where the child requires special service but such costs may not exceed the amounts which similar services would cost the Department if it were to provide or secure them as guardian of the child.

Any financial assistance provided under this subsection is inalienable by assignment, sale, execution, attachment, garnishment, or any other remedy for recovery or collection of a judgment or debt.

(j-5) The Department shall not deny or delay the placement of a child for adoption if an approved family is available either outside of the Department region handling the case, or outside of the State of Illinois.

(k) The Department shall accept for care and training any child who has been adjudicated neglected or abused, or dependent committed to it pursuant to the Juvenile Court Act or the Juvenile Court Act of 1987.

(l) Before July 1, 2000, the Department may provide, and beginning July 1, 2000, the Department shall offer family preservation services, as defined in Section 8.2 of the Abused

and Neglected Child Reporting Act, to help families, including adoptive and extended families. Family preservation services shall be offered (i) to prevent the placement of children in substitute care when the children can be cared for at home or in the custody of the person responsible for the children's welfare, (ii) to reunite children with their families, or (iii) to maintain an adoptive placement. Family preservation services shall only be offered when doing so will not endanger the children's health or safety. With respect to children who are in substitute care pursuant to the Juvenile Court Act of 1987, family preservation services shall not be offered if a goal other than those of subdivisions (A), (B), or (B-1) of subsection (2) of Section 2-28 of that Act has been set. Nothing in this paragraph shall be construed to create a private right of action or claim on the part of any individual or child welfare agency.

The Department shall notify the child and his family of the Department's responsibility to offer and provide family preservation services as identified in the service plan. The child and his family shall be eligible for services as soon as the report is determined to be "indicated". The Department may offer services to any child or family with respect to whom a report of suspected child abuse or neglect has been filed, prior to concluding its investigation under Section 7.12 of the Abused and Neglected Child Reporting Act. However, the child's or family's willingness to accept services shall not be

considered in the investigation. The Department may also provide services to any child or family who is the subject of any report of suspected child abuse or neglect or may refer such child or family to services available from other agencies in the community, even if the report is determined to be unfounded, if the conditions in the child's or family's home are reasonably likely to subject the child or family to future reports of suspected child abuse or neglect. Acceptance of such services shall be voluntary.

The Department may, at its discretion except for those children also adjudicated neglected or dependent, accept for care and training any child who has been adjudicated addicted, as a truant minor in need of supervision or as a minor requiring authoritative intervention, under the Juvenile Court Act or the Juvenile Court Act of 1987, but no such child shall be committed to the Department by any court without the approval of the Department. A minor charged with a criminal offense under the Criminal Code of 1961 or adjudicated delinquent shall not be placed in the custody of or committed to the Department by any court, except a minor less than 15 years of age committed to the Department under Section 5-710 of the Juvenile Court Act of 1987 or a minor for whom an independent basis of abuse, neglect, or dependency exists, which must be defined by departmental rule. An independent basis exists when the allegations or adjudication of abuse, neglect, or dependency do not arise from the same facts,

incident, or circumstances which give rise to a charge or adjudication of delinquency.

(1-1) The legislature recognizes that the best interests of the child require that the child be placed in the most permanent living arrangement as soon as is practically possible. To achieve this goal, the legislature directs the Department of Children and Family Services to conduct concurrent planning so that permanency may occur at the earliest opportunity. Permanent living arrangements may include prevention of placement of a child outside the home of the family when the child can be cared for at home without endangering the child's health or safety; reunification with the family, when safe and appropriate, if temporary placement is necessary; or movement of the child toward the most permanent living arrangement and permanent legal status.

When determining reasonable efforts to be made with respect to a child, as described in this subsection, and in making such reasonable efforts, the child's health and safety shall be the paramount concern.

When a child is placed in foster care, the Department shall ensure and document that reasonable efforts were made to prevent or eliminate the need to remove the child from the child's home. The Department must make reasonable efforts to reunify the family when temporary placement of the child occurs unless otherwise required, pursuant to the Juvenile Court Act of 1987. At any time after the dispositional hearing where the

Department believes that further reunification services would be ineffective, it may request a finding from the court that reasonable efforts are no longer appropriate. The Department is not required to provide further reunification services after such a finding.

A decision to place a child in substitute care shall be made with considerations of the child's health, safety, and best interests. At the time of placement, consideration should also be given so that if reunification fails or is delayed, the placement made is the best available placement to provide permanency for the child.

The Department shall adopt rules addressing concurrent planning for reunification and permanency. The Department shall consider the following factors when determining appropriateness of concurrent planning:

- (1) the likelihood of prompt reunification;
- (2) the past history of the family;
- (3) the barriers to reunification being addressed by the family;
- (4) the level of cooperation of the family;
- (5) the foster parents' willingness to work with the family to reunite;
- (6) the willingness and ability of the foster family to provide an adoptive home or long-term placement;
- (7) the age of the child;
- (8) placement of siblings.

(m) The Department may assume temporary custody of any child if:

(1) it has received a written consent to such temporary custody signed by the parents of the child or by the parent having custody of the child if the parents are not living together or by the guardian or custodian of the child if the child is not in the custody of either parent, or

(2) the child is found in the State and neither a parent, guardian nor custodian of the child can be located.

If the child is found in his or her residence without a parent, guardian, custodian or responsible caretaker, the Department may, instead of removing the child and assuming temporary custody, place an authorized representative of the Department in that residence until such time as a parent, guardian or custodian enters the home and expresses a willingness and apparent ability to ensure the child's health and safety and resume permanent charge of the child, or until a relative enters the home and is willing and able to ensure the child's health and safety and assume charge of the child until a parent, guardian or custodian enters the home and expresses such willingness and ability to ensure the child's safety and resume permanent charge. After a caretaker has remained in the home for a period not to exceed 12 hours, the Department must follow those procedures outlined in Section 2-9, 3-11, 4-8, or 5-415 of the Juvenile Court Act of 1987.

The Department shall have the authority, responsibilities

and duties that a legal custodian of the child would have pursuant to subsection (9) of Section 1-3 of the Juvenile Court Act of 1987. Whenever a child is taken into temporary custody pursuant to an investigation under the Abused and Neglected Child Reporting Act, or pursuant to a referral and acceptance under the Juvenile Court Act of 1987 of a minor in limited custody, the Department, during the period of temporary custody and before the child is brought before a judicial officer as required by Section 2-9, 3-11, 4-8, or 5-415 of the Juvenile Court Act of 1987, shall have the authority, responsibilities and duties that a legal custodian of the child would have under subsection (9) of Section 1-3 of the Juvenile Court Act of 1987.

The Department shall ensure that any child taken into custody is scheduled for an appointment for a medical examination.

A parent, guardian or custodian of a child in the temporary custody of the Department who would have custody of the child if he were not in the temporary custody of the Department may deliver to the Department a signed request that the Department surrender the temporary custody of the child. The Department may retain temporary custody of the child for 10 days after the receipt of the request, during which period the Department may cause to be filed a petition pursuant to the Juvenile Court Act of 1987. If a petition is so filed, the Department shall retain temporary custody of the child until the court orders

otherwise. If a petition is not filed within the 10 day period, the child shall be surrendered to the custody of the requesting parent, guardian or custodian not later than the expiration of the 10 day period, at which time the authority and duties of the Department with respect to the temporary custody of the child shall terminate.

(m-1) The Department may place children under 18 years of age in a secure child care facility licensed by the Department that cares for children who are in need of secure living arrangements for their health, safety, and well-being after a determination is made by the facility director and the Director or the Director's designate prior to admission to the facility subject to Section 2-27.1 of the Juvenile Court Act of 1987. This subsection (m-1) does not apply to a child who is subject to placement in a correctional facility operated pursuant to Section 3-15-2 of the Unified Code of Corrections, unless the child is a ward who was placed under the care of the Department before being subject to placement in a correctional facility and a court of competent jurisdiction has ordered placement of the child in a secure care facility.

(n) The Department may place children under 18 years of age in licensed child care facilities when in the opinion of the Department, appropriate services aimed at family preservation have been unsuccessful and cannot ensure the child's health and safety or are unavailable and such placement would be for their best interest. Payment for board, clothing, care, training and

supervision of any child placed in a licensed child care facility may be made by the Department, by the parents or guardians of the estates of those children, or by both the Department and the parents or guardians, except that no payments shall be made by the Department for any child placed in a licensed child care facility for board, clothing, care, training and supervision of such a child that exceed the average per capita cost of maintaining and of caring for a child in institutions for dependent or neglected children operated by the Department. However, such restriction on payments does not apply in cases where children require specialized care and treatment for problems of severe emotional disturbance, physical disability, social adjustment, or any combination thereof and suitable facilities for the placement of such children are not available at payment rates within the limitations set forth in this Section. All reimbursements for services delivered shall be absolutely inalienable by assignment, sale, attachment, garnishment or otherwise.

(o) The Department shall establish an administrative review and appeal process for children and families who request or receive child welfare services from the Department. Children who are wards of the Department and are placed by private child welfare agencies, and foster families with whom those children are placed, shall be afforded the same procedural and appeal rights as children and families in the case of placement by the Department, including the right to an initial review of a

private agency decision by that agency. The Department shall insure that any private child welfare agency, which accepts wards of the Department for placement, affords those rights to children and foster families. The Department shall accept for administrative review and an appeal hearing a complaint made by (i) a child or foster family concerning a decision following an initial review by a private child welfare agency or (ii) a prospective adoptive parent who alleges a violation of subsection (j-5) of this Section. An appeal of a decision concerning a change in the placement of a child shall be conducted in an expedited manner.

(p) There is hereby created the Department of Children and Family Services Emergency Assistance Fund from which the Department may provide special financial assistance to families which are in economic crisis when such assistance is not available through other public or private sources and the assistance is deemed necessary to prevent dissolution of the family unit or to reunite families which have been separated due to child abuse and neglect. The Department shall establish administrative rules specifying the criteria for determining eligibility for and the amount and nature of assistance to be provided. The Department may also enter into written agreements with private and public social service agencies to provide emergency financial services to families referred by the Department. Special financial assistance payments shall be available to a family no more than once during each fiscal year

and the total payments to a family may not exceed \$500 during a fiscal year.

(q) The Department may receive and use, in their entirety, for the benefit of children any gift, donation or bequest of money or other property which is received on behalf of such children, or any financial benefits to which such children are or may become entitled while under the jurisdiction or care of the Department.

The Department shall set up and administer no-cost, interest-bearing accounts in appropriate financial institutions for children for whom the Department is legally responsible and who have been determined eligible for Veterans' Benefits, Social Security benefits, assistance allotments from the armed forces, court ordered payments, parental voluntary payments, Supplemental Security Income, Railroad Retirement payments, Black Lung benefits, or other miscellaneous payments. Interest earned by each account shall be credited to the account, unless disbursed in accordance with this subsection.

In disbursing funds from children's accounts, the Department shall:

- (1) Establish standards in accordance with State and federal laws for disbursing money from children's accounts. In all circumstances, the Department's "Guardianship Administrator" or his or her designee must approve disbursements from children's accounts. The

Department shall be responsible for keeping complete records of all disbursements for each account for any purpose.

(2) Calculate on a monthly basis the amounts paid from State funds for the child's board and care, medical care not covered under Medicaid, and social services; and utilize funds from the child's account, as covered by regulation, to reimburse those costs. Monthly, disbursements from all children's accounts, up to 1/12 of \$13,000,000, shall be deposited by the Department into the General Revenue Fund and the balance over 1/12 of \$13,000,000 into the DCFS Children's Services Fund.

(3) Maintain any balance remaining after reimbursing for the child's costs of care, as specified in item (2). The balance shall accumulate in accordance with relevant State and federal laws and shall be disbursed to the child or his or her guardian, or to the issuing agency.

(r) The Department shall promulgate regulations encouraging all adoption agencies to voluntarily forward to the Department or its agent names and addresses of all persons who have applied for and have been approved for adoption of a hard-to-place or handicapped child and the names of such children who have not been placed for adoption. A list of such names and addresses shall be maintained by the Department or its agent, and coded lists which maintain the confidentiality of the person seeking to adopt the child and of the child shall

be made available, without charge, to every adoption agency in the State to assist the agencies in placing such children for adoption. The Department may delegate to an agent its duty to maintain and make available such lists. The Department shall ensure that such agent maintains the confidentiality of the person seeking to adopt the child and of the child.

(s) The Department of Children and Family Services may establish and implement a program to reimburse Department and private child welfare agency foster parents licensed by the Department of Children and Family Services for damages sustained by the foster parents as a result of the malicious or negligent acts of foster children, as well as providing third party coverage for such foster parents with regard to actions of foster children to other individuals. Such coverage will be secondary to the foster parent liability insurance policy, if applicable. The program shall be funded through appropriations from the General Revenue Fund, specifically designated for such purposes.

(t) The Department shall perform home studies and investigations and shall exercise supervision over visitation as ordered by a court pursuant to the Illinois Marriage and Dissolution of Marriage Act or the Adoption Act only if:

(1) an order entered by an Illinois court specifically directs the Department to perform such services; and

(2) the court has ordered one or both of the parties to the proceeding to reimburse the Department for its

reasonable costs for providing such services in accordance with Department rules, or has determined that neither party is financially able to pay.

The Department shall provide written notification to the court of the specific arrangements for supervised visitation and projected monthly costs within 60 days of the court order. The Department shall send to the court information related to the costs incurred except in cases where the court has determined the parties are financially unable to pay. The court may order additional periodic reports as appropriate.

(u) In addition to other information that must be provided, whenever the Department places a child with a prospective adoptive parent or parents or in a licensed foster home, group home, child care institution, or in a relative home, the Department shall provide to the prospective adoptive parent or parents or other caretaker:

(1) available detailed information concerning the child's educational and health history, copies of immunization records (including insurance and medical card information), a history of the child's previous placements, if any, and reasons for placement changes excluding any information that identifies or reveals the location of any previous caretaker;

(2) a copy of the child's portion of the client service plan, including any visitation arrangement, and all amendments or revisions to it as related to the child; and

(3) information containing details of the child's individualized educational plan when the child is receiving special education services.

The caretaker shall be informed of any known social or behavioral information (including, but not limited to, criminal background, fire setting, perpetuation of sexual abuse, destructive behavior, and substance abuse) necessary to care for and safeguard the children to be placed or currently in the home. The Department may prepare a written summary of the information required by this paragraph, which may be provided to the foster or prospective adoptive parent in advance of a placement. The foster or prospective adoptive parent may review the supporting documents in the child's file in the presence of casework staff. In the case of an emergency placement, casework staff shall at least provide known information verbally, if necessary, and must subsequently provide the information in writing as required by this subsection.

The information described in this subsection shall be provided in writing. In the case of emergency placements when time does not allow prior review, preparation, and collection of written information, the Department shall provide such information as it becomes available. Within 10 business days after placement, the Department shall obtain from the prospective adoptive parent or parents or other caretaker a signed verification of receipt of the information provided.

Within 10 business days after placement, the Department shall provide to the child's guardian ad litem a copy of the information provided to the prospective adoptive parent or parents or other caretaker. The information provided to the prospective adoptive parent or parents or other caretaker shall be reviewed and approved regarding accuracy at the supervisory level.

(u-5) Effective July 1, 1995, only foster care placements licensed as foster family homes pursuant to the Child Care Act of 1969 shall be eligible to receive foster care payments from the Department. Relative caregivers who, as of July 1, 1995, were approved pursuant to approved relative placement rules previously promulgated by the Department at 89 Ill. Adm. Code 335 and had submitted an application for licensure as a foster family home may continue to receive foster care payments only until the Department determines that they may be licensed as a foster family home or that their application for licensure is denied or until September 30, 1995, whichever occurs first.

(v) The Department shall access criminal history record information as defined in the Illinois Uniform Conviction Information Act and information maintained in the adjudicatory and dispositional record system as defined in Section 2605-355 of the Department of State Police Law (20 ILCS 2605/2605-355) if the Department determines the information is necessary to perform its duties under the Abused and Neglected Child Reporting Act, the Child Care Act of 1969, and the Children and

Family Services Act. The Department shall provide for interactive computerized communication and processing equipment that permits direct on-line communication with the Department of State Police's central criminal history data repository. The Department shall comply with all certification requirements and provide certified operators who have been trained by personnel from the Department of State Police. In addition, one Office of the Inspector General investigator shall have training in the use of the criminal history information access system and have access to the terminal. The Department of Children and Family Services and its employees shall abide by rules and regulations established by the Department of State Police relating to the access and dissemination of this information.

(v-1) Prior to final approval for placement of a child, the Department shall conduct a criminal records background check of the prospective foster or adoptive parent, including fingerprint-based checks of national crime information databases. Final approval for placement shall not be granted if the record check reveals a felony conviction for child abuse or neglect, for spousal abuse, for a crime against children, or for a crime involving violence, including rape, sexual assault, or homicide, but not including other physical assault or battery, or if there is a felony conviction for physical assault, battery, or a drug-related offense committed within the past 5 years.

(v-2) Prior to final approval for placement of a child, the Department shall check its child abuse and neglect registry for information concerning prospective foster and adoptive parents, and any adult living in the home. If any prospective foster or adoptive parent or other adult living in the home has resided in another state in the preceding 5 years, the Department shall request a check of that other state's child abuse and neglect registry.

(w) Within 120 days of August 20, 1995 (the effective date of Public Act 89-392), the Department shall prepare and submit to the Governor and the General Assembly, a written plan for the development of in-state licensed secure child care facilities that care for children who are in need of secure living arrangements for their health, safety, and well-being. For purposes of this subsection, secure care facility shall mean a facility that is designed and operated to ensure that all entrances and exits from the facility, a building or a distinct part of the building, are under the exclusive control of the staff of the facility, whether or not the child has the freedom of movement within the perimeter of the facility, building, or distinct part of the building. The plan shall include descriptions of the types of facilities that are needed in Illinois; the cost of developing these secure care facilities; the estimated number of placements; the potential cost savings resulting from the movement of children currently out-of-state who are projected to be returned to Illinois; the

necessary geographic distribution of these facilities in Illinois; and a proposed timetable for development of such facilities.

(Source: P.A. 94-215, eff. 1-1-06; 94-1010, eff. 10-1-06; 95-10, eff. 6-30-07; 95-601, eff. 9-11-07; 95-642, eff. 6-1-08; revised 10-30-07.)

Section 40. The Child Death Review Team Act is amended by changing Sections 20 and 40 as follows:

(20 ILCS 515/20)

(Text of Section before amendment by P.A. 95-405 and 95-527)

Sec. 20. Reviews of child deaths.

(a) Every child death shall be reviewed by the team in the subregion which has primary case management responsibility. The deceased child must be one of the following:

(1) A ward of the Department.

(2) The subject of an open service case maintained by the Department.

(3) The subject of a pending child abuse or neglect investigation.

(4) A child who was the subject of an abuse or neglect investigation at any time during the 12 months preceding the child's death.

(5) Any other child whose death is reported to the

State central register as a result of alleged child abuse or neglect which report is subsequently indicated.

A child death review team may, at its discretion, review other sudden, unexpected, or unexplained child deaths.

(b) A child death review team's purpose in conducting reviews of child deaths is to do the following:

(1) Assist in determining the cause and manner of the child's death, when requested.

(2) Evaluate means by which the death might have been prevented.

(3) Report its findings to appropriate agencies and make recommendations that may help to reduce the number of child deaths caused by abuse or neglect.

(4) Promote continuing education for professionals involved in investigating, treating, and preventing child abuse and neglect as a means of preventing child deaths due to abuse or neglect.

(5) Make specific recommendations to the Director and the Inspector General of the Department concerning the prevention of child deaths due to abuse or neglect and the establishment of protocols for investigating child deaths.

(c) A child death review team shall review a child death as soon as practical and not later than 90 days following the completion by the Department of the investigation of the death under the Abused and Neglected Child Reporting Act. When there has been no investigation by the Department, the child death

review team shall review a child's death within 90 days after obtaining the information necessary to complete the review from the coroner, pathologist, medical examiner, or law enforcement agency, depending on the nature of the case. A child death review team shall meet at least once in each calendar quarter.

(d) The Director shall, within 90 days, review and reply to recommendations made by a team under item (5) of subsection (b). The Director shall implement recommendations as feasible and appropriate and shall respond in writing to explain the implementation or nonimplementation of the recommendations.

(Source: P.A. 90-239, eff. 7-28-97; 90-608, eff. 6-30-98.)

(Text of Section after amendment by P.A. 95-405 and 95-527)
Sec. 20. Reviews of child deaths.

(a) Every child death shall be reviewed by the team in the subregion which has primary case management responsibility. The deceased child must be one of the following:

(1) A ward of the Department.

(2) The subject of an open service case maintained by the Department.

(3) The subject of a pending child abuse or neglect investigation.

(4) A child who was the subject of an abuse or neglect investigation at any time during the 12 months preceding the child's death.

(5) Any other child whose death is reported to the

State central register as a result of alleged child abuse or neglect which report is subsequently indicated.

A child death review team may, at its discretion, review other sudden, unexpected, or unexplained child deaths, and cases of serious or fatal injuries to a child identified under the Child Advocacy Center Act.

(b) A child death review team's purpose in conducting reviews of child deaths is to do the following:

(1) Assist in determining the cause and manner of the child's death, when requested.

(2) Evaluate means by which the death might have been prevented.

(3) Report its findings to appropriate agencies and make recommendations that may help to reduce the number of child deaths caused by abuse or neglect.

(4) Promote continuing education for professionals involved in investigating, treating, and preventing child abuse and neglect as a means of preventing child deaths due to abuse or neglect.

(5) Make specific recommendations to the Director and the Inspector General of the Department concerning the prevention of child deaths due to abuse or neglect and the establishment of protocols for investigating child deaths.

(c) A child death review team shall review a child death as soon as practical and not later than 90 days following the completion by the Department of the investigation of the death

under the Abused and Neglected Child Reporting Act. When there has been no investigation by the Department, the child death review team shall review a child's death within 90 days after obtaining the information necessary to complete the review from the coroner, pathologist, medical examiner, or law enforcement agency, depending on the nature of the case. A child death review team shall meet at least once in each calendar quarter.

(d) The Director shall, within 90 days, review and reply to recommendations made by a team under item (5) of subsection (b). With respect to each recommendation made by a team, the Director shall submit his or her reply both to the chairperson of that team and to the chairperson of the Executive Council. The Director's reply to each recommendation must include a statement as to whether the Director intends to implement the recommendation.

The Director shall implement recommendations as feasible and appropriate and shall respond in writing to explain the implementation or nonimplementation of the recommendations.

(e) Within 90 days after the Director submits a reply with respect to a recommendation as required by subsection (d), the Director must submit an additional report that sets forth in detail the way, if any, in which the Director will implement the recommendation and the schedule for implementing the recommendation. The Director shall submit this report to the chairperson of the team that made the recommendation and to the chairperson of the Executive Council.

(f) Within 180 days after the Director submits a report under subsection (e) concerning the implementation of a recommendation, the Director shall submit a further report to the chairperson of the team that made the recommendation and to the chairperson of the Executive Council. This report shall set forth the specific changes in the Department's policies and procedures that have been made in response to the recommendation.

(Source: P.A. 95-405, eff. 6-1-08; 95-527, eff. 6-1-08; revised 10-30-07.)

(20 ILCS 515/40)

(Text of Section before amendment by P.A. 95-405 and 95-527)

Sec. 40. Illinois Child Death Review Teams Executive Council.

(a) The Illinois Child Death Review Teams Executive Council, consisting of the chairpersons of the 9 child death review teams in Illinois, is the coordinating and oversight body for child death review teams and activities in Illinois. The vice-chairperson of a child death review team, as designated by the chairperson, may serve as a back-up member or an alternate member of the Executive Council, if the chairperson of the child death review team is unavailable to serve on the Executive Council. The Inspector General of the Department, ex officio, is a non-voting member of the Executive

Council. The Director may appoint to the Executive Council any ex-officio members deemed necessary. Persons with expertise needed by the Executive Council may be invited to meetings. The Executive Council must select from its members a chairperson and a vice-chairperson, each to serve a 2-year, renewable term.

The Executive Council must meet at least 4 times during each calendar year.

(b) The Department must provide or arrange for the staff support necessary for the Executive Council to carry out its duties. The Director, in cooperation and consultation with the Executive Council, shall appoint, reappoint, and remove team members.

(c) The Executive Council has, but is not limited to, the following duties:

(1) To serve as the voice of child death review teams in Illinois.

(2) To oversee the regional teams in order to ensure that the teams' work is coordinated and in compliance with the statutes and the operating protocol.

(3) To ensure that the data, results, findings, and recommendations of the teams are adequately used to make any necessary changes in the policies, procedures, and statutes in order to protect children in a timely manner.

(4) To collaborate with the General Assembly, the Department, and others in order to develop any legislation needed to prevent child fatalities and to protect children.

(5) To assist in the development of quarterly and annual reports based on the work and the findings of the teams.

(6) To ensure that the regional teams' review processes are standardized in order to convey data, findings, and recommendations in a usable format.

(7) To serve as a link with child death review teams throughout the country and to participate in national child death review team activities.

(8) To develop an annual statewide symposium to update the knowledge and skills of child death review team members and to promote the exchange of information between teams.

(9) To provide the child death review teams with the most current information and practices concerning child death review and related topics.

(10) To perform any other functions necessary to enhance the capability of the child death review teams to reduce and prevent child injuries and fatalities.

(d) In any instance when a child death review team does not operate in accordance with established protocol, the Director, in consultation and cooperation with the Executive Council, must take any necessary actions to bring the team into compliance with the protocol.

(Source: P.A. 92-468, eff. 8-22-01.)

(Text of Section after amendment by P.A. 95-405 and 95-527)

Sec. 40. Illinois Child Death Review Teams Executive Council.

(a) The Illinois Child Death Review Teams Executive Council, consisting of the chairpersons of the 9 child death review teams in Illinois, is the coordinating and oversight body for child death review teams and activities in Illinois. The vice-chairperson of a child death review team, as designated by the chairperson, may serve as a back-up member or an alternate member of the Executive Council, if the chairperson of the child death review team is unavailable to serve on the Executive Council. The Inspector General of the Department, ex officio, is a non-voting member of the Executive Council. The Director may appoint to the Executive Council any ex-officio members deemed necessary. Persons with expertise needed by the Executive Council may be invited to meetings. The Executive Council must select from its members a chairperson and a vice-chairperson, each to serve a 2-year, renewable term.

The Executive Council must meet at least 4 times during each calendar year. At each such meeting, in addition to any other matters under consideration, the Executive Council shall review all replies and reports received from the Director pursuant to subsections (d), (e), and (f) of Section 20 since the Executive Council's previous meeting. The Executive Council's review must include consideration of the Director's proposed manner of and schedule for implementing each recommendation made by a child death review team.

(b) The Department must provide or arrange for the staff support necessary for the Executive Council to carry out its duties. The Director, in cooperation and consultation with the Executive Council, shall appoint, reappoint, and remove team members. From funds available, the Director may select from a list of 2 or more candidates recommended by the Executive Council to serve as the Child Death Review Teams Executive Director. The Child Death Review Teams Executive Director shall oversee the operations of the child death review teams and shall report directly to the Executive Council.

(c) The Executive Council has, but is not limited to, the following duties:

(1) To serve as the voice of child death review teams in Illinois.

(2) To oversee the regional teams in order to ensure that the teams' work is coordinated and in compliance with the statutes and the operating protocol.

(3) To ensure that the data, results, findings, and recommendations of the teams are adequately used to make any necessary changes in the policies, procedures, and statutes in order to protect children in a timely manner.

(4) To collaborate with the General Assembly, the Department, and others in order to develop any legislation needed to prevent child fatalities and to protect children.

(5) To assist in the development of quarterly and annual reports based on the work and the findings of the

teams.

(6) To ensure that the regional teams' review processes are standardized in order to convey data, findings, and recommendations in a usable format.

(7) To serve as a link with child death review teams throughout the country and to participate in national child death review team activities.

(8) To develop an annual statewide symposium to update the knowledge and skills of child death review team members and to promote the exchange of information between teams.

(9) To provide the child death review teams with the most current information and practices concerning child death review and related topics.

(10) To perform any other functions necessary to enhance the capability of the child death review teams to reduce and prevent child injuries and fatalities.

(c-5) The Executive Council shall prepare an annual report. The report must include, but need not be limited to, (i) each recommendation made by a child death review team pursuant to item (5) of subsection (b) of Section 20 during the period covered by the report, (ii) the Director's proposed schedule for implementing each such recommendation, and (iii) a description of the specific changes in the Department's policies and procedures that have been made in response to the recommendation. The Executive Council shall send a copy of its annual report to each of the following:

(1) The Governor.

(2) Each member of the Senate or the House of Representatives whose legislative district lies wholly or partly within the region covered by any child death review team whose recommendation is addressed in the annual report.

(3) Each member of each child death review team in the State.

(d) In any instance when a child death review team does not operate in accordance with established protocol, the Director, in consultation and cooperation with the Executive Council, must take any necessary actions to bring the team into compliance with the protocol.

(Source: P.A. 95-405, eff. 6-1-08; 95-527, eff. 6-1-08; revised 10-30-07.)

Section 45. The Illinois Lottery Law is amended by changing Sections 2 and 20 and by setting forth and renumbering multiple versions of Section 21.7 as follows:

(20 ILCS 1605/2) (from Ch. 120, par. 1152)

Sec. 2. This Act is enacted to implement and establish within the State a lottery to be operated by the State, the entire net proceeds of which are to be used for the support of the State's Common School Fund, except as provided in Sections 21.2, 21.5, 21.6, ~~and~~ 21.7, and 21.8 ~~21.7~~.

(Source: P.A. 94-120, eff. 7-6-05; 94-585, eff. 8-15-05; 95-331, eff. 8-21-07; 95-673, eff. 10-11-07; 95-674, eff. 10-11-07; revised 12-5-07.)

(20 ILCS 1605/20) (from Ch. 120, par. 1170)

Sec. 20. State Lottery Fund.

(a) There is created in the State Treasury a special fund to be known as the "State Lottery Fund". Such fund shall consist of all revenues received from (1) the sale of lottery tickets or shares, (net of commissions, fees representing those expenses that are directly proportionate to the sale of tickets or shares at the agent location, and prizes of less than \$600 which have been validly paid at the agent level), (2) application fees, and (3) all other sources including moneys credited or transferred thereto from any other fund or source pursuant to law. Interest earnings of the State Lottery Fund shall be credited to the Common School Fund.

(b) The receipt and distribution of moneys under Section 21.5 of this Act shall be in accordance with Section 21.5.

(c) The receipt and distribution of moneys under Section 21.6 of this Act shall be in accordance with Section 21.6.

(d) The receipt and distribution of moneys under Section 21.7 of this Act shall be in accordance with Section 21.7.

(e) ~~(d)~~ The receipt and distribution of moneys under Section 21.8 ~~21.7~~ of this Act shall be in accordance with Section 21.8 ~~21.7~~.

(Source: P.A. 94-120, eff. 7-6-05; 94-585, eff. 8-15-05; 95-331, eff. 8-21-07; 95-673, eff. 10-11-07; 95-674, eff. 10-11-07; revised 12-5-07.)

(20 ILCS 1605/21.7)

Sec. 21.7. Scratch-out Multiple Sclerosis scratch-off game.

(a) The Department shall offer a special instant scratch-off game for the benefit of research pertaining to multiple sclerosis. The game shall commence on July 1, 2008 or as soon thereafter, in the discretion of the Director, as is reasonably practical. The operation of the game shall be governed by this Act and any rules adopted by the Department. If any provision of this Section is inconsistent with any other provision of this Act, then this Section governs.

(b) The Multiple Sclerosis Research Fund is created as a special fund in the State treasury. The net revenue from the scratch-out multiple sclerosis scratch-off game created under this Section shall be deposited into the Fund for appropriation by the General Assembly to the Department of Public Health for the purpose of making grants to organizations in Illinois that conduct research pertaining to the repair of damage caused by an acquired demyelinating disease of the central nervous system.

Moneys received for the purposes of this Section, including, without limitation, net revenue from the special

instant scratch-off game and from gifts, grants, and awards from any public or private entity, must be deposited into the Fund. Any interest earned on moneys in the Fund must be deposited into the Fund.

For purposes of this Section, the term "research" includes, without limitation, expenditures to develop and advance the understanding, techniques, and modalities effective for maintaining function, mobility, and strength through preventive physical therapy or other treatments and to develop and advance the repair of myelin, neuron, and axon damage caused by an acquired demyelinating disease of the central nervous system and the restoration of function, including but not limited to, nervous system repair or neuroregeneration.

The grant funds may not be used for institutional, organizational, or community-based overhead costs, indirect costs, or levies.

For purposes of this subsection, "net revenue" means the total amount for which tickets have been sold less the sum of the amount paid out in the prizes and the actual administrative expenses of the Department solely related to the scratch-off game under this Section.

(c) During the time that tickets are sold for the scratch-out multiple sclerosis scratch-off game, the Department shall not unreasonably diminish the efforts devoted to marketing any other instant scratch-off lottery game.

(d) The Department may adopt any rules necessary to

implement and administer the provisions of this Section.

(Source: P.A. 95-673, eff. 10-11-07.)

(20 ILCS 1605/21.8)

Sec. 21.8 ~~21.7~~. Quality of Life scratch-off game.

(a) The Department shall offer a special instant scratch-off game with the title of "Quality of Life". The game shall commence on July 1, 2007 or as soon thereafter, in the discretion of the Director, as is reasonably practical, and shall be discontinued on December 31, 2012. The operation of the game is governed by this Act and by any rules adopted by the Department. The Department must consult with the Quality of Life Board, which is established under Section 2310-348 of the Department of Public Health Powers and Duties Law of the Civil Administrative Code of Illinois, regarding the design and promotion of the game. If any provision of this Section is inconsistent with any other provision of this Act, then this Section governs.

(b) The Quality of Life Endowment Fund is created as a special fund in the State treasury. The net revenue from the Quality of Life special instant scratch-off game must be deposited into the Fund for appropriation by the General Assembly solely to the Department of Public Health for the purpose of HIV/AIDS-prevention education and for making grants to public or private entities in Illinois for the purpose of funding organizations that serve the highest at-risk

categories for contracting HIV or developing AIDS. Grants shall be targeted to serve at-risk populations in proportion to the distribution of recent reported Illinois HIV/AIDS cases among risk groups as reported by the Illinois Department of Public Health. The recipient organizations must be engaged in HIV/AIDS-prevention education and HIV/AIDS healthcare treatment. The Department must, before grants are awarded, provide copies of all grant applications to the Quality of Life Board, receive and review the Board's recommendations and comments, and consult with the Board regarding the grants. Organizational size will determine an organization's competitive slot in the "Request for Proposal" process. Organizations with an annual budget of \$300,000 or less will compete with like size organizations for 50% of the Quality of Life annual fund. Organizations with an annual budget of \$300,001 to \$700,000 will compete with like organizations for 25% of the Quality of Life annual fund, and organizations with an annual budget of \$700,001 and upward will compete with like organizations for 25% of the Quality of Life annual fund. The lottery may designate a percentage of proceeds for marketing purpose. The grant funds may not be used for institutional, organizational, or community-based overhead costs, indirect costs, or levies.

Grants awarded from the Fund are intended to augment the current and future State funding for the prevention and treatment of HIV/AIDS and are not intended to replace that

funding.

Moneys received for the purposes of this Section, including, without limitation, net revenue from the special instant scratch-off game and gifts, grants, and awards from any public or private entity, must be deposited into the Fund. Any interest earned on moneys in the Fund must be deposited into the Fund.

For purposes of this subsection, "net revenue" means the total amount for which tickets have been sold less the sum of the amount paid out in prizes and the actual administrative expenses of the Department solely related to the Quality of Life game.

(c) During the time that tickets are sold for the Quality of Life game, the Department shall not unreasonably diminish the efforts devoted to marketing any other instant scratch-off lottery game.

(d) The Department may adopt any rules necessary to implement and administer the provisions of this Section in consultation with the Quality of Life Board.

(Source: P.A. 95-674, eff. 10-11-07; revised 12-5-07.)

Section 50. The Mental Health and Developmental Disabilities Administrative Act is amended by changing Section 56 as follows:

(20 ILCS 1705/56) (from Ch. 91 1/2, par. 100-56)

Sec. 56. The Secretary, upon making a determination based upon information in the possession of the Department, that continuation in practice of a licensed health care professional would constitute an immediate danger to the public, shall submit a written communication to the Director of Professional Regulation indicating such determination and additionally providing a complete summary of the information upon which such determination is based, and recommending that the Director of Professional Regulation immediately suspend such person's license. All relevant evidence, or copies thereof, in the Department's possession may also be submitted in conjunction with the written communication. A copy of such written communication, which is exempt from the copying and inspection provisions of the Freedom of Information Act, shall at the time of submittal to the Director of Professional Regulation be simultaneously mailed to the last known business address of such licensed health care professional by certified or registered postage, United States Mail, return receipt requested. Any evidence, or copies thereof, which is submitted in conjunction with the written communication is also exempt from the copying and inspection provisions of the Freedom of Information Act.

For the purposes of this Section, "licensed health care professional" means any person licensed under the Illinois Dental Practice Act, the Nurse Practice Act, the Medical Practice Act of 1987, the Pharmacy Practice Act, the Podiatric

Medical Practice Act of 1987, and the Illinois Optometric Practice Act of 1987.

(Source: P.A. 95-639, eff. 10-5-07; 95-689, eff. 10-29-07; revised 12-5-07.)

Section 55. The Department of Human Services (Mental Health and Developmental Disabilities) Law of the Civil Administrative Code of Illinois is amended by changing Section 1710-100 as follows:

(20 ILCS 1710/1710-100) (was 20 ILCS 1710/53d)

(Text of Section before amendment by P.A. 95-523)

Sec. 1710-100. Grants to Illinois Special Olympics. The Department shall make grants to the Illinois Special Olympics for area and statewide athletic competitions from appropriations to the Department from the Illinois Special Olympics Checkoff Fund, a special fund created in the State treasury.

(Source: P.A. 91-239, eff. 1-1-00.)

(Text of Section after amendment by P.A. 95-523)

Sec. 1710-100. Grants to Special Olympics Illinois. The Department shall make grants to ~~the~~ Special Olympics Illinois for area and statewide athletic competitions from appropriations to the Department from the Special Olympics Illinois Fund, a special fund created in the State treasury.

(Source: P.A. 95-523, eff. 6-1-08; revised 11-13-07.)

Section 60. The Department of Public Health Powers and Duties Law of the Civil Administrative Code of Illinois is amended by changing Section 2310-140, by renumbering Section 216, and by setting forth and renumbering multiple versions of Section 2310-361 as follows:

(20 ILCS 2310/2310-140) (was 20 ILCS 2310/55.37a)

Sec. 2310-140. Recommending suspension of licensed health care professional. The Director, upon making a determination based upon information in the possession of the Department that continuation in practice of a licensed health care professional would constitute an immediate danger to the public, shall submit a written communication to the Director of Professional Regulation indicating that determination and additionally (i) providing a complete summary of the information upon which the determination is based and (ii) recommending that the Director of Professional Regulation immediately suspend the person's license. All relevant evidence, or copies thereof, in the Department's possession may also be submitted in conjunction with the written communication. A copy of the written communication, which is exempt from the copying and inspection provisions of the Freedom of Information Act, shall at the time of submittal to the Director of Professional Regulation be simultaneously mailed to the last known business address of the

licensed health care professional by certified or registered postage, United States Mail, return receipt requested. Any evidence, or copies thereof, that is submitted in conjunction with the written communication is also exempt from the copying and inspection provisions of the Freedom of Information Act.

For the purposes of this Section, "licensed health care professional" means any person licensed under the Illinois Dental Practice Act, the Nurse Practice Act, the Medical Practice Act of 1987, the Pharmacy Practice Act, the Podiatric Medical Practice Act of 1987, or the Illinois Optometric Practice Act of 1987.

(Source: P.A. 95-639, eff. 10-5-07; 95-689, eff. 10-29-07; revised 12-5-07.)

(20 ILCS 2310/2310-216)

Sec. 2310-216 ~~216~~. Culturally Competent Healthcare Demonstration Program.

(a) Research demonstrates that racial and ethnic minorities generally receive health care that is of a lesser quality than the majority population and have poorer health outcomes on a number of measures. The 2007 State Health Improvement Plan calls for increased cultural competence in Illinois health care settings, based on national standards that indicate cultural competence is an important aspect of the quality of health care delivered to racial, ethnic, religious, and other minorities. Based on the research and national

standards, the General Assembly finds that increasing cultural competence among health care providers will improve the quality of health care delivered to minorities in Illinois.

(b) Subject to appropriation for this purpose, the Department shall establish the Culturally Competent Health Care Demonstration Program. For purposes of this Section, "culturally competent health care" means the ability of health care providers to understand and respond to the cultural and linguistic needs brought by patients to the health care encounter. The Program shall establish models that reflect best practices in culturally competent health care and that expand the delivery of culturally competent health care in Illinois.

(c) The Program shall consist of (i) demonstration grants awarded by the Department to public or private health care entities geographically distributed around the State; (ii) an ongoing collaborative learning project among the grantees; and (iii) an evaluation of the effect of the demonstration grants in improving the quality of health care for racial and ethnic minorities. The Department may contract with a vendor with experience in racial and ethnic health disparities and cultural competency to conduct the evaluation and provide support for the collaborative learning project. The vendor shall be a not-for-profit organization that represents a partnership of public, private, and voluntary health organizations that focuses on prevention, development of the public health system, and the reduction of racial and ethnic health disparities, and

that engages health disparities stakeholders in its efforts.

(Source: P.A. 95-630, eff. 9-25-07; revised 12-5-07.)

(20 ILCS 2310/2310-361)

Sec. 2310-361. The Lung Cancer Research Fund. The Lung Cancer Research Fund is created as a special fund in the State treasury. From appropriations to the Department from the Fund, the Department shall make grants to public or private not-for-profit entities for the purpose of lung cancer research.

(Source: P.A. 95-434, eff. 8-27-07.)

(20 ILCS 2310/2310-362)

Sec. 2310-362 ~~2310-361~~. The Autoimmune Disease Research Fund.

(a) The Autoimmune Disease Research Fund is created as a special fund in the State treasury. From appropriations to the Department from the Fund, the Department shall make grants to public and private entities in the State for the purpose of funding research for the treatment and cure of autoimmune diseases.

(b) For the purposes of this Section:

"Autoimmune disease" means any disease that results from an aberrant immune response, including, without limitation, rheumatoid arthritis, systemic lupus erythematosus, and scleroderma.

"Research" includes, without limitation, expenditures to develop and advance the understanding, techniques, and modalities effective in the detection, prevention, screening, and treatment of autoimmune disease and may include clinical trials. "Research" does not include institutional overhead costs, indirect costs, other organizational levies, or costs of community-based support services.

(c) Moneys received for the purposes of this Section, including, without limitation, income tax checkoff receipts and gifts, grants, and awards from any public or private entity, must be deposited into the Fund. Any interest earnings that are attributable to moneys in the Fund must be deposited into the Fund.

(Source: P.A. 95-435, eff. 8-27-07; revised 12-5-07.)

Section 65. The Disabilities Services Act of 2003 is amended by adding a heading to Article 99 immediately before Section 90 of the Act as follows:

(20 ILCS 2407/Art. 99 heading new)

ARTICLE 99. AMENDATORY PROVISIONS; EFFECTIVE DATE

Section 70. The Department of Veterans Affairs Act is amended by changing Section 2.07 and by setting forth and renumbering multiple versions of Section 20 as follows:

(20 ILCS 2805/2.07) (from Ch. 126 1/2, par. 67.07)

Sec. 2.07. The Department shall employ and maintain sufficient and qualified staff at the veterans' homes to fulfill the requirements of this Act. The Department shall report to the General Assembly, by January 1 and July 1 of each year, the number of staff employed in providing direct patient care at their veterans' homes, the compliance or noncompliance with staffing standards established by the United States Department of Veterans Affairs for such care, and in the event of noncompliance with such standards, the number of staff required for compliance. For purposes of this Section, a nurse who has a license application pending with the State shall not be deemed unqualified by the Department if the nurse is in compliance with Section 50-15 of the Nurse Practice Act ~~65/5-15(i)~~.

All contracts between the State and outside contractors to provide workers to staff and service the Anna Veterans Home shall be canceled in accordance with the terms of those contracts. Upon cancellation, each worker or staff member shall be offered certified employment status under the Illinois Personnel Code with the State of Illinois. To the extent it is reasonably practicable, the position offered to each person shall be at the same facility and shall consist of the same duties and hours as previously existed under the canceled contract or contracts.

(Source: P.A. 94-703, eff. 6-1-06; 95-331, eff. 8-21-07;

95-639, eff. 10-5-07; revised 12-6-07.)

(20 ILCS 2805/20)

Sec. 20. Illinois Discharged Servicemember Task Force. The Illinois Discharged Servicemember Task Force is hereby created within the Department of Veterans Affairs. The Task Force shall investigate the re-entry process for service members who return to civilian life after being engaged in an active theater. The investigation shall include the effects of post-traumatic stress disorder, homelessness, disabilities, and other issues the Task Force finds relevant to the re-entry process. The Task Force shall include the following members:

(a) a representative of the Department of Veterans Affairs, who shall chair the committee;

(b) a representative from the Department of Military Affairs;

(c) a representative from the Office of the Illinois Attorney General;

(d) a member of the General Assembly appointed by the Speaker of the House;

(e) a member of the General Assembly appointed by the House Minority Leader;

(f) a member of the General Assembly appointed by the President of the Senate;

(g) a member of the General Assembly appointed by the Senate Minority Leader;

(h) 4 members chosen by the Department of Veterans Affairs, who shall represent statewide veterans' organizations or veterans' homeless shelters;

(i) one member appointed by the Lieutenant Governor;
and

(j) a representative of the United States Department of Veterans Affairs shall be invited to participate.

Vacancies in the Task Force shall be filled by the initial appointing authority. Task Force members shall serve without compensation, but may be reimbursed for necessary expenses incurred in performing duties associated with the Task Force.

By July 1, 2008 and by July 1 of each year thereafter, the Task Force shall present an annual report of its findings to the Governor, the Attorney General, the Director of Veterans' Affairs, the Lieutenant Governor, and the Secretary of the United States Department of Veterans Affairs.

If the Task Force becomes inactive because active theaters cease, the Director of Veterans Affairs may reactivate the Task Force if active theaters are reestablished.

(Source: P.A. 95-294, eff. 8-20-07.)

(20 ILCS 2805/25)

Sec. 25 ~~20~~. Payments to veterans service organizations.

(a) In this Section:

"Veterans service officer" means an individual employed by a veterans service organization and accredited by the United

States Department of Veterans Affairs to process claims and other benefits for veterans and their spouses and beneficiaries.

"Veterans service organization" means an organization that meets all of the following criteria:

(1) It is formed by and for United States military veterans.

(2) It is chartered by the United States Congress and incorporated in the State of Illinois.

(3) It maintained a state headquarters office in Illinois for the 10-year period immediately preceding July 1, 2006.

(4) It maintains at least one office in this State staffed by a veterans service officer.

(5) It is capable of preparing a power of attorney for a veteran and processing claims for veterans services.

(6) It is not funded by the State of Illinois or by any county in this State.

"Veterans services" means the representation of veterans in federal hearings to secure benefits for veterans and their spouses and beneficiaries:

(1) Disability compensation benefits.

(2) Disability pension benefits.

(3) Dependents' indemnity compensation.

(4) Widow's death pension.

(5) Burial benefits.

- (6) Confirmed and continued claims.
- (7) Vocational rehabilitation and education.
- (8) Waivers of indebtedness.
- (9) Miscellaneous.

(b) The Veterans Service Organization Reimbursement Fund is created as a special fund in the State treasury. Subject to appropriation, the Department shall use moneys appropriated from the Fund to make payments to a veterans service organization for veterans services rendered on behalf of veterans and their spouses and beneficiaries by a veterans service officer employed by the organization. The payment shall be computed at the rate of \$0.010 for each dollar of benefits obtained for veterans or their spouses or beneficiaries residing in Illinois as a result of the efforts of the veterans service officer. There shall be no payment under this Section for the value of health care received in a health care facility under the jurisdiction of the United States Veterans Administration. A veterans service organization may receive compensation under this Fund or it may apply for grants from the Illinois Veterans Assistance Fund, but in no event may a veterans service organization receive moneys from both funds during the same fiscal year. Funding for each applicant is subject to renewal by the Department on an annual basis.

(c) To be eligible for a payment under this Section, a veterans service organization must document the amount of moneys obtained for veterans and their spouses and

beneficiaries in the form and manner required by the Department. The documentation must include the submission to the Department of a copy of the organization's report or reports to the United States Department of Veterans Affairs stating the amount of moneys obtained by the organization for veterans and their spouses and beneficiaries in the State fiscal year for which payment under this Section is requested. The organization must submit the copy of the report or reports to the Department no later than July 31 following the end of the State fiscal year for which payment is requested.

(d) The Department shall make the payment under this Section to a veterans service organization in a single annual payment for each State fiscal year, beginning with the State fiscal year that begins on July 1, 2007. The Department must make the payment for a State fiscal year on or before December 31 of the succeeding State fiscal year.

(e) A veterans service organization shall use moneys received under this Section only for the purpose of paying the salary and expenses of one or more veterans service officers and the organization's related expenses incurred in employing the officer or officers for the processing of claims and other benefits for veterans and their spouses and beneficiaries.

(Source: P.A. 95-629, eff. 9-25-07; revised 12-6-07.)

Section 75. The Building Authority Act is amended by changing Section 5 as follows:

(20 ILCS 3110/5) (from Ch. 127, par. 213.5)

Sec. 5. Powers. To accomplish projects of the kind listed in Section 3 above, the Authority shall possess the following powers:

(a) Acquire by purchase or otherwise (including the power of condemnation in the manner provided for the exercise of the right of eminent domain under the Eminent Domain Act), construct, complete, remodel and install fixed equipment in any and all buildings and other facilities as the General Assembly by law declares to be in the public interest.

Whenever the General Assembly has by law declared it to be in the public interest for the Authority to acquire any real estate, construct, complete, remodel and install fixed equipment in buildings and other facilities for public community college districts, the Director of the Department of Central Management Services shall, when requested by any such public community college district board, enter into a lease by and on behalf of and for the use of such public community college district board to the extent appropriations have been made by the General Assembly to pay the rents under the terms of such lease.

In the course of such activities, acquire property of any and every kind and description, whether real, personal or mixed, by gift, purchase or otherwise. It may also acquire real estate of the State of Illinois controlled by any officer,

department, board, commission, or other agency of the State, or the Board of Trustees of the University of Illinois, the Board of Trustees of Southern Illinois University, the Board of Trustees of Chicago State University, the Board of Trustees of Eastern Illinois University, the Board of Trustees of Governors State University, the Board of Trustees of Illinois State University, the Board of Trustees of Northeastern Illinois University, the Board of Trustees of Northern Illinois University, the Board of Trustees of Western Illinois University, or any public community college district board, the jurisdiction of which is transferred by such officer, department, board, commission, or other agency or the Board of Trustees of Southern Illinois University, the Board of Trustees of Chicago State University, the Board of Trustees of Eastern Illinois University, the Board of Trustees of Governors State University, the Board of Trustees of Illinois State University, the Board of Trustees of Northeastern Illinois University, the Board of Trustees of Northern Illinois University, the Board of Trustees of Western Illinois University, or any public community college district board to the Authority. The Board of Trustees of the University of Illinois, the Board of Trustees of Southern Illinois University, the Board of Trustees of Chicago State University, the Board of Trustees of Eastern Illinois University, the Board of Trustees of Governors State University, the Board of Trustees of Illinois State University, the Board of Trustees of Northeastern Illinois University, the

Board of Trustees of Northern Illinois University, the Board of Trustees of Western Illinois University, and any public community college district board, respectively, shall prepare plans and specifications for and have supervision over any project to be undertaken by the Authority for their use. Before any other particular construction is undertaken, plans and specifications shall be approved by the lessee provided for under (b) below, except as indicated above.

(b) Execute leases of facilities and sites to, and charge for the use of any such facilities and sites by, any officer, department, board, commission or other agency of the State of Illinois, or the Director of the Department of Central Management Services when the Director is requested to, by and on behalf of, or for the use of, any officer, department, board, commission or other agency of the State of Illinois, or by the Board of Trustees of the University of Illinois, the Board of Trustees of Southern Illinois University, the Board of Trustees of Chicago State University, the Board of Trustees of Eastern Illinois University, the Board of Trustees of Governors State University, the Board of Trustees of Illinois State University, the Board of Trustees of Northeastern Illinois University, the Board of Trustees of Northern Illinois University, the Board of Trustees of Western Illinois University, or any public community college district board. Such leases may be entered into contemporaneously with any financing to be done by the Authority and payments under the

terms of the lease shall begin at any time after execution of any such lease.

(c) In the event of non-payment of rents reserved in such leases, maintain and operate such facilities and sites or execute leases thereof to others for any suitable purposes. Such leases to the officers, departments, boards, commissions, other agencies, the respective Boards of Trustees, or any public community college district board shall contain the provision that rents under such leases shall be payable solely from appropriations to be made by the General Assembly for the payment of such rent and any revenues derived from the operation of the leased premises.

(d) Borrow money and issue and sell bonds in such amount or amounts as the Authority may determine for the purpose of acquiring, constructing, completing or remodeling, or putting fixed equipment in any such facility; refund and refinance the same from time to time as often as advantageous and in the public interest to do so; and pledge any and all income of such Authority, and any revenues derived from such facilities, or any combination thereof, to secure the payment of such bonds and to redeem such bonds. All such bonds are subject to the provisions of Section 6 of this Act.

In addition to the permanent financing authorized by Sections 5 and 6 of this Act, the Illinois Building Authority may borrow money and issue interim notes in evidence thereof for any of the projects, or to perform any of the duties

authorized under this Act, and in addition may borrow money and issue interim notes for planning, architectural and engineering, acquisition of land, and purchase of fixed equipment as follows:

1. Whenever the Authority considers it advisable and in the interests of the Authority to borrow funds temporarily for any of the purposes enumerated in this Section, the Authority may from time to time, and pursuant to appropriate resolution, issue interim notes to evidence such borrowings including funds for the payment of interest on such borrowings and funds for all necessary and incidental expenses in connection with any of the purposes provided for by this Section and this Act until the date of the permanent financing. Any resolution authorizing the issuance of such notes shall describe the project to be undertaken and shall specify the principal amount, rate of interest (not exceeding the maximum rate authorized by the Bond Authorization Act, as amended at the time of the making of the contract,) and maturity date, but not to exceed 5 years from date of issue, and such other terms as may be specified in such resolution; however, time of payment of any such notes may be extended for a period of not exceeding 3 years from the maturity date thereof.

The Authority may provide for the registration of the notes in the name of the owner either as to principal alone, or as to both principal and interest, on such terms

and conditions as the Authority may determine by the resolution authorizing their issue. The notes shall be issued from time to time by the Authority as funds are borrowed, in the manner the Authority may determine. Interest on the notes may be made payable semiannually, annually or at maturity. The notes may be made redeemable, prior to maturity, at the option of the Authority, in the manner and upon the terms fixed by the resolution authorizing their issuance. The notes may be executed in the name of the Authority by the Chairman of the Authority or by any other officer or officers of the Authority as the Authority by resolution may direct, shall be attested by the Secretary or such other officer or officers of the Authority as the Authority may by resolution direct, and be sealed with the Authority's corporate seal. All such notes and the interest thereon may be secured by a pledge of any income and revenue derived by the Authority from the project to be undertaken with the proceeds of the notes and shall be payable solely from such income and revenue and from the proceeds to be derived from the sale of any revenue bonds for permanent financing authorized to be issued under Sections 5 and 6 of this Act, and from the property acquired with the proceeds of the notes.

Contemporaneously with the issue of revenue bonds as provided by this Act, all interim notes, even though they may not then have matured, shall be paid, both principal

and interest to date of payment, from the funds derived from the sale of revenue bonds for the permanent financing and such interim notes shall be surrendered and canceled.

2. The Authority, in order further to secure the payment of the interim notes, is, in addition to the foregoing, authorized and empowered to make any other or additional covenants, terms and conditions not inconsistent with the provisions of subparagraph (a) of this Section, and do any and all acts and things as may be necessary or convenient or desirable in order to secure payment of its interim notes, or in the discretion of the Authority, as will tend to make the interim notes more acceptable to lenders, notwithstanding that the covenants, acts or things may not be enumerated herein; however, nothing contained in this subparagraph shall authorize the Authority to secure the payment of the interim notes out of property or facilities, other than the facilities acquired with the proceeds of the interim notes, and any net income and revenue derived from the facilities and the proceeds of revenue bonds as hereinabove provided.

(e) Convey property, without charge, to the State or to the appropriate corporate agency of the State or to any public community college district board if and when all debts which have been secured by the income from such property have been paid.

(f) Enter into contracts regarding any matter connected

with any corporate purpose within the objects and purposes of this Act.

(g) Employ agents and employees necessary to carry out the duties and purposes of the Authority.

(h) Adopt all necessary by-laws, rules and regulations for the conduct of the business and affairs of the Authority, and for the management and use of facilities and sites acquired under the powers granted by this Act.

(i) Have and use a common seal and alter the same at pleasure.

The Interim notes shall constitute State debt of the State of Illinois within the meaning of any of the provisions of the Constitution and statutes of the State of Illinois.

No member, officer, agent or employee of the Authority, nor any other person who executes interim notes, shall be liable personally by reason of the issuance thereof.

With respect to instruments for the payment of money issued under this Section either before, on, or after the effective date of this amendatory Act of 1989, it is and always has been the intention of the General Assembly (i) that the Omnibus Bond Acts are and always have been supplementary grants of power to issue instruments in accordance with the Omnibus Bond Acts, regardless of any provision of this Act that may appear to be or to have been more restrictive than those Acts, (ii) that the provisions of this Section are not a limitation on the supplementary authority granted by the Omnibus Bond Acts, and

(iii) that instruments issued under this Section within the supplementary authority granted by the Omnibus Bond Acts are not invalid because of any provision of this Act that may appear to be or to have been more restrictive than those Acts.

(Source: P.A. 94-1055, eff. 1-1-07; 94-1105, eff. 6-1-07; revised 12-26-07.)

Section 80. The Illinois Finance Authority Act is amended by changing Sections 801-40 and 845-5 and by setting forth and renumbering multiple versions of Section 825-90 as follows:

(20 ILCS 3501/801-40)

Sec. 801-40. In addition to the powers otherwise authorized by law and in addition to the foregoing general corporate powers, the Authority shall also have the following additional specific powers to be exercised in furtherance of the purposes of this Act.

(a) The Authority shall have power (i) to accept grants, loans or appropriations from the federal government or the State, or any agency or instrumentality thereof, to be used for the operating expenses of the Authority, or for any purposes of the Authority, including the making of direct loans of such funds with respect to projects, and (ii) to enter into any agreement with the federal government or the State, or any agency or instrumentality thereof, in relationship to such grants, loans or appropriations.

(b) The Authority shall have power to procure and enter into contracts for any type of insurance and indemnity agreements covering loss or damage to property from any cause, including loss of use and occupancy, or covering any other insurable risk.

(c) The Authority shall have the continuing power to issue bonds for its corporate purposes. Bonds may be issued by the Authority in one or more series and may provide for the payment of any interest deemed necessary on such bonds, of the costs of issuance of such bonds, of any premium on any insurance, or of the cost of any guarantees, letters of credit or other similar documents, may provide for the funding of the reserves deemed necessary in connection with such bonds, and may provide for the refunding or advance refunding of any bonds or for accounts deemed necessary in connection with any purpose of the Authority. The bonds may bear interest payable at any time or times and at any rate or rates, notwithstanding any other provision of law to the contrary, and such rate or rates may be established by an index or formula which may be implemented or established by persons appointed or retained therefor by the Authority, or may bear no interest or may bear interest payable at maturity or upon redemption prior to maturity, may bear such date or dates, may be payable at such time or times and at such place or places, may mature at any time or times not later than 40 years from the date of issuance, may be sold at public or private sale at such time or times and at such price or prices,

may be secured by such pledges, reserves, guarantees, letters of credit, insurance contracts or other similar credit support or liquidity instruments, may be executed in such manner, may be subject to redemption prior to maturity, may provide for the registration of the bonds, and may be subject to such other terms and conditions all as may be provided by the resolution or indenture authorizing the issuance of such bonds. The holder or holders of any bonds issued by the Authority may bring suits at law or proceedings in equity to compel the performance and observance by any person or by the Authority or any of its agents or employees of any contract or covenant made with the holders of such bonds and to compel such person or the Authority and any of its agents or employees to perform any duties required to be performed for the benefit of the holders of any such bonds by the provision of the resolution authorizing their issuance, and to enjoin such person or the Authority and any of its agents or employees from taking any action in conflict with any such contract or covenant. Notwithstanding the form and tenor of any such bonds and in the absence of any express recital on the face thereof that it is non-negotiable, all such bonds shall be negotiable instruments. Pending the preparation and execution of any such bonds, temporary bonds may be issued as provided by the resolution. The bonds shall be sold by the Authority in such manner as it shall determine. The bonds may be secured as provided in the authorizing resolution by the receipts,

revenues, income and other available funds of the Authority and by any amounts derived by the Authority from the loan agreement or lease agreement with respect to the project or projects; and bonds may be issued as general obligations of the Authority payable from such revenues, funds and obligations of the Authority as the bond resolution shall provide, or may be issued as limited obligations with a claim for payment solely from such revenues, funds and obligations as the bond resolution shall provide. The Authority may grant a specific pledge or assignment of and lien on or security interest in such rights, revenues, income, or amounts and may grant a specific pledge or assignment of and lien on or security interest in any reserves, funds or accounts established in the resolution authorizing the issuance of bonds. Any such pledge, assignment, lien or security interest for the benefit of the holders of the Authority's bonds shall be valid and binding from the time the bonds are issued without any physical delivery or further act, and shall be valid and binding as against and prior to the claims of all other parties having claims against the Authority or any other person irrespective of whether the other parties have notice of the pledge, assignment, lien or security interest. As evidence of such pledge, assignment, lien and security interest, the Authority may execute and deliver a mortgage, trust agreement, indenture or security agreement or an assignment thereof. A remedy for any breach or default of the terms of any such agreement by the

Authority may be by mandamus proceedings in any court of competent jurisdiction to compel the performance and compliance therewith, but the agreement may prescribe by whom or on whose behalf such action may be instituted. It is expressly understood that the Authority may, but need not, acquire title to any project with respect to which it exercises its authority.

(d) With respect to the powers granted by this Act, the Authority may adopt rules and regulations prescribing the procedures by which persons may apply for assistance under this Act. Nothing herein shall be deemed to preclude the Authority, prior to the filing of any formal application, from conducting preliminary discussions and investigations with respect to the subject matter of any prospective application.

(e) The Authority shall have power to acquire by purchase, lease, gift or otherwise any property or rights therein from any person useful for its purposes, whether improved for the purposes of any prospective project, or unimproved. The Authority may also accept any donation of funds for its purposes from any such source. The Authority shall have no independent power of condemnation but may acquire any property or rights therein obtained upon condemnation by any other authority, governmental entity or unit of local government with such power.

(f) The Authority shall have power to develop, construct and improve either under its own direction, or through

collaboration with any approved applicant, or to acquire through purchase or otherwise, any project, using for such purpose the proceeds derived from the sale of its bonds or from governmental loans or grants, and to hold title in the name of the Authority to such projects.

(g) The Authority shall have power to lease pursuant to a lease agreement any project so developed and constructed or acquired to the approved tenant on such terms and conditions as may be appropriate to further the purposes of this Act and to maintain the credit of the Authority. Any such lease may provide for either the Authority or the approved tenant to assume initially, in whole or in part, the costs of maintenance, repair and improvements during the leasehold period. In no case, however, shall the total rentals from any project during any initial leasehold period or the total loan repayments to be made pursuant to any loan agreement, be less than an amount necessary to return over such lease or loan period (1) all costs incurred in connection with the development, construction, acquisition or improvement of the project and for repair, maintenance and improvements thereto during the period of the lease or loan; provided, however, that the rentals or loan repayments need not include costs met through the use of funds other than those obtained by the Authority through the issuance of its bonds or governmental loans; (2) a reasonable percentage additive to be agreed upon by the Authority and the borrower or tenant to cover a properly

allocable portion of the Authority's general expenses, including, but not limited to, administrative expenses, salaries and general insurance, and (3) an amount sufficient to pay when due all principal of, interest and premium, if any on, any bonds issued by the Authority with respect to the project. The portion of total rentals payable under clause (3) of this subsection (g) shall be deposited in such special accounts, including all sinking funds, acquisition or construction funds, debt service and other funds as provided by any resolution, mortgage or trust agreement of the Authority pursuant to which any bond is issued.

(h) The Authority has the power, upon the termination of any leasehold period of any project, to sell or lease for a further term or terms such project on such terms and conditions as the Authority shall deem reasonable and consistent with the purposes of the Act. The net proceeds from all such sales and the revenues or income from such leases shall be used to satisfy any indebtedness of the Authority with respect to such project and any balance may be used to pay any expenses of the Authority or be used for the further development, construction, acquisition or improvement of projects. In the event any project is vacated by a tenant prior to the termination of the initial leasehold period, the Authority shall sell or lease the facilities of the project on the most advantageous terms available. The net proceeds of any such disposition shall be treated in the same manner as the proceeds from sales or the

revenues or income from leases subsequent to the termination of any initial leasehold period.

(i) The Authority shall have the power to make loans to persons to finance a project, to enter into loan agreements with respect thereto, and to accept guarantees from persons of its loans or the resultant evidences of obligations of the Authority.

(j) The Authority may fix, determine, charge and collect any premiums, fees, charges, costs and expenses, including, without limitation, any application fees, commitment fees, program fees, financing charges or publication fees from any person in connection with its activities under this Act.

(k) In addition to the funds established as provided herein, the Authority shall have the power to create and establish such reserve funds and accounts as may be necessary or desirable to accomplish its purposes under this Act and to deposit its available monies into the funds and accounts.

(l) At the request of the governing body of any unit of local government, the Authority is authorized to market such local government's revenue bond offerings by preparing bond issues for sale, advertising for sealed bids, receiving bids at its offices, making the award to the bidder that offers the most favorable terms or arranging for negotiated placements or underwritings of such securities. The Authority may, at its discretion, offer for concurrent sale the revenue bonds of several local governments. Sales by the Authority of revenue

bonds under this Section shall in no way imply State guarantee of such debt issue. The Authority may require such financial information from participating local governments as it deems necessary in order to carry out the purposes of this subsection (1).

(m) The Authority may make grants to any county to which Division 5-37 of the Counties Code is applicable to assist in the financing of capital development, construction and renovation of new or existing facilities for hospitals and health care facilities under that Act. Such grants may only be made from funds appropriated for such purposes from the Build Illinois Bond Fund.

(n) The Authority may establish an urban development action grant program for the purpose of assisting municipalities in Illinois which are experiencing severe economic distress to help stimulate economic development activities needed to aid in economic recovery. The Authority shall determine the types of activities and projects for which the urban development action grants may be used, provided that such projects and activities are broadly defined to include all reasonable projects and activities the primary objectives of which are the development of viable urban communities, including decent housing and a suitable living environment, and expansion of economic opportunity, principally for persons of low and moderate incomes. The Authority shall enter into grant agreements from monies appropriated for such purposes from the Build Illinois

Bond Fund. The Authority shall monitor the use of the grants, and shall provide for audits of the funds as well as recovery by the Authority of any funds determined to have been spent in violation of this subsection (n) or any rule or regulation promulgated hereunder. The Authority shall provide technical assistance with regard to the effective use of the urban development action grants. The Authority shall file an annual report to the General Assembly concerning the progress of the grant program.

(o) The Authority may establish a Housing Partnership Program whereby the Authority provides zero-interest loans to municipalities for the purpose of assisting in the financing of projects for the rehabilitation of affordable multi-family housing for low and moderate income residents. The Authority may provide such loans only upon a municipality's providing evidence that it has obtained private funding for the rehabilitation project. The Authority shall provide 3 State dollars for every 7 dollars obtained by the municipality from sources other than the State of Illinois. The loans shall be made from monies appropriated for such purpose from the Build Illinois Bond Fund. The total amount of loans available under the Housing Partnership Program shall not exceed \$30,000,000. State loan monies under this subsection shall be used only for the acquisition and rehabilitation of existing buildings containing 4 or more dwelling units. The terms of any loan made by the municipality under this subsection shall require

repayment of the loan to the municipality upon any sale or other transfer of the project.

(p) The Authority may award grants to universities and research institutions, research consortiums and other not-for-profit entities for the purposes of: remodeling or otherwise physically altering existing laboratory or research facilities, expansion or physical additions to existing laboratory or research facilities, construction of new laboratory or research facilities or acquisition of modern equipment to support laboratory or research operations provided that such grants (i) be used solely in support of project and equipment acquisitions which enhance technology transfer, and (ii) not constitute more than 60 percent of the total project or acquisition cost.

(q) Grants may be awarded by the Authority to units of local government for the purpose of developing the appropriate infrastructure or defraying other costs to the local government in support of laboratory or research facilities provided that such grants may not exceed 40% of the cost to the unit of local government.

(r) The Authority may establish a Direct Loan Program to make loans to individuals, partnerships or corporations for the purpose of an industrial project, as defined in Section 801-10 of this Act. For the purposes of such program and not by way of limitation on any other program of the Authority, the Authority shall have the power to issue bonds, notes, or other evidences

of indebtedness including commercial paper for purposes of providing a fund of capital from which it may make such loans. The Authority shall have the power to use any appropriations from the State made especially for the Authority's Direct Loan Program for additional capital to make such loans or for the purposes of reserve funds or pledged funds which secure the Authority's obligations of repayment of any bond, note or other form of indebtedness established for the purpose of providing capital for which it intends to make such loans under the Direct Loan Program. For the purpose of obtaining such capital, the Authority may also enter into agreements with financial institutions and other persons for the purpose of selling loans and developing a secondary market for such loans. Loans made under the Direct Loan Program may be in an amount not to exceed \$300,000 and shall be made for a portion of an industrial project which does not exceed 50% of the total project. No loan may be made by the Authority unless approved by the affirmative vote of at least 8 members of the board. The Authority shall establish procedures and publish rules which shall provide for the submission, review, and analysis of each direct loan application and which shall preserve the ability of each board member to reach an individual business judgment regarding the propriety of making each direct loan. The collective discretion of the board to approve or disapprove each loan shall be unencumbered. The Authority may establish and collect such fees and charges, determine and enforce such terms and conditions,

and charge such interest rates as it determines to be necessary and appropriate to the successful administration of the Direct Loan Program. The Authority may require such interests in collateral and such guarantees as it determines are necessary to protect the Authority's interest in the repayment of the principal and interest of each loan made under the Direct Loan Program.

(s) The Authority may guarantee private loans to third parties up to a specified dollar amount in order to promote economic development in this State.

(t) The Authority may adopt rules and regulations as may be necessary or advisable to implement the powers conferred by this Act.

(u) The Authority shall have the power to issue bonds, notes or other evidences of indebtedness, which may be used to make loans to units of local government which are authorized to enter into loan agreements and other documents and to issue bonds, notes and other evidences of indebtedness for the purpose of financing the protection of storm sewer outfalls, the construction of adequate storm sewer outfalls, and the provision for flood protection of sanitary sewage treatment plants, in counties that have established a stormwater management planning committee in accordance with Section 5-1062 of the Counties Code. Any such loan shall be made by the Authority pursuant to the provisions of Section 820-5 to 820-60 of this Act. The unit of local government shall pay back to the

Authority the principal amount of the loan, plus annual interest as determined by the Authority. The Authority shall have the power, subject to appropriations by the General Assembly, to subsidize or buy down a portion of the interest on such loans, up to 4% per annum.

(v) The Authority may accept security interests as provided in Sections 11-3 and 11-3.3 of the Illinois Public Aid Code.

(w) Moral Obligation. In the event that the Authority determines that monies of the Authority will not be sufficient for the payment of the principal of and interest on its bonds during the next State fiscal year, the Chairperson, as soon as practicable, shall certify to the Governor the amount required by the Authority to enable it to pay such principal of and interest on the bonds. The Governor shall submit the amount so certified to the General Assembly as soon as practicable, but no later than the end of the current State fiscal year. This subsection shall apply only to any bonds or notes as to which the Authority shall have determined, in the resolution authorizing the issuance of the bonds or notes, that this subsection shall apply. Whenever the Authority makes such a determination, that fact shall be plainly stated on the face of the bonds or notes and that fact shall also be reported to the Governor. In the event of a withdrawal of moneys from a reserve fund established with respect to any issue or issues of bonds of the Authority to pay principal or interest on those bonds, the Chairperson of the Authority, as soon as practicable, shall

certify to the Governor the amount required to restore the reserve fund to the level required in the resolution or indenture securing those bonds. The Governor shall submit the amount so certified to the General Assembly as soon as practicable, but no later than the end of the current State fiscal year. The Authority shall obtain written approval from the Governor for any bonds and notes to be issued under this Section. In addition to any other bonds authorized to be issued under Sections 825-60, 825-65(e), 830-25 and 845-5, the principal amount of Authority bonds outstanding issued under this Section 801-40(w) or under 20 ILCS 3850/1-80 or 30 ILCS 360/2-6(c), which have been assumed by the Authority, shall not exceed \$150,000,000. This subsection (w) shall in no way be applied to any bonds issued by the Authority on behalf of the Illinois Power Agency under Section 825-90 of this Act.

(x) The Authority may enter into agreements or contracts with any person necessary or appropriate to place the payment obligations of the Authority under any of its bonds in whole or in part on any interest rate basis, cash flow basis, or other basis desired by the Authority, including without limitation agreements or contracts commonly known as "interest rate swap agreements", "forward payment conversion agreements", and "futures", or agreements or contracts to exchange cash flows or a series of payments, or agreements or contracts, including without limitation agreements or contracts commonly known as "options", "puts", or "calls", to hedge payment, rate spread,

or similar exposure; provided that any such agreement or contract shall not constitute an obligation for borrowed money and shall not be taken into account under Section 845-5 of this Act or any other debt limit of the Authority or the State of Illinois.

(Source: P.A. 94-91, eff. 7-1-05; 95-470, eff. 8-27-07; 95-481, eff. 8-28-07; revised 10-30-07.)

(20 ILCS 3501/825-90)

Sec. 825-90. Illinois Power Agency Bonds.

(a) In this Section:

"Agency" means the Illinois Power Agency.

"Agency loan agreement" means any agreement pursuant to which the Illinois Finance Authority agrees to loan the proceeds of its revenue bonds issued with respect to a specific Illinois Power Agency project to the Illinois Power Agency upon terms providing for loan repayment installments at least sufficient to pay when due all principal of, interest and premium, if any, on any revenue bonds of the Authority, if any, issued with respect to the Illinois Power Agency project, and providing for maintenance, insurance, and other matters as may be deemed desirable by the Authority.

"Authority" means the Illinois Finance Authority.

"Director" means the Director of the Illinois Power Agency.

"Facility" means an electric generating unit or a co-generating unit that produces electricity along with

related equipment necessary to connect the facility to an electric transmission or distribution system.

"Governmental aggregator" means one or more units of local government that individually or collectively procures electricity to serve residential retail electrical loads located within its or their jurisdiction.

"Local government" means a unit of local government as defined in Section 1 of Article VII of the Illinois Constitution of 1970.

"Project" means any project as defined in the Illinois Power Agency Act.

"Real property" means any interest in land, together with all structures, fixtures, and improvements thereon, including lands under water and riparian rights, any easements, covenants, licenses, leases, rights-of-way, uses, and other interests, together with any liens, judgments, mortgages, or other claims or security interests related to real property.

"Revenue bond" means any bond, note, or other evidence of indebtedness issued by the Illinois Finance Authority on behalf of the Illinois Power Agency, the principal and interest of which is payable solely from revenues or income derived from any project or activity of the Agency.

(b) Powers and duties; Illinois Power Agency Program. The Authority has the power:

- (1) To accept from time to time pursuant to an Agency loan agreement any pledge or a pledge agreement by the

Agency subject to the requirements and limitations of the Illinois Power Agency Act.

(2) To issue revenue bonds in one or more series pursuant to one or more resolutions of the Authority to loan funds to the Agency pursuant to one or more Agency loan agreements meeting the requirements of the Illinois Power Agency Act and providing for the payment of any interest deemed necessary on those revenue bonds, paying for the cost of issuance of those revenue bonds, providing for the payment of the cost of any guarantees, letters of credit, insurance contracts or other similar credit support or liquidity instruments, or providing for the funding of any reserves deemed necessary in connection with those revenue bonds and refunding or advance refunding of any such revenue bonds and the interest and any premium thereon, pursuant to this Act. Authority for the agreements shall conform to the requirements of the Illinois Power Agency Act. The Authority may issue up to \$4,000,000,000 aggregate principal amount of revenue bonds, the net proceeds of which shall be loaned to the Agency pursuant to one or more Agency loan agreements. No revenue bonds issued to refund or advance refund revenue bonds issued under this Section may mature later than the longest maturity date of the series of bonds being refunded. After the aggregate original principal amount of revenue bonds authorized in this Section has been issued, the payment of any principal

amount of those revenue bonds does not authorize the issuance of additional revenue bonds (except refunding revenue bonds). Such revenue bond authorization is in addition to any other bonds authorized in this Act. All bonds issued on behalf of the Agency must be issued by the Authority and must be revenue bonds. These revenue bonds may be taxable or tax-exempt.

(3) To provide for the funding of any reserves or other funds or accounts deemed necessary by the Authority on behalf of the Agency in connection with its issuance of Agency revenue bonds.

(4) To accept the pledge of any Agency revenue, including any payments thereon, and any other property or funds of the Agency or funds made available to the Authority through the applicable Agency loan agreement with the Agency that may be applied to such purpose, as security for any revenue bonds or any guarantees, letters of credit, insurance contracts, or similar credit support or liquidity instruments securing the revenue bonds.

(5) To enter into agreements or contracts with third parties, whether public or private, including without limitation the United States of America, the State, or any department or agency thereof, to obtain any grants, loans, or guarantees that are deemed necessary or desirable by the Authority. Any such guarantee, agreement, or contract may contain terms and provisions necessary or desirable in

connection with the program, subject to the requirements established by this Article.

(6) To charge reasonable fees to defray the cost of obtaining letters of credit, insurance contracts, or other similar documents, and to charge such other reasonable fees to defray the cost of trustees, depositories, paying agents, legal counsel, bond registrars, escrow agents, and other administrative expenses. Any such fees shall be payable by the Agency, in such amounts and at such times as the Authority shall determine.

(7) To obtain and maintain guarantees, letters of credit, insurance contracts, or similar credit support or liquidity instruments that are deemed necessary or desirable in connection with any revenue bonds or other obligations of the Authority for any Agency revenue bonds.

(8) To provide technical assistance, at the request of the Agency, with respect to the financing or refinancing for any public purpose.

(9) To sell, transfer, or otherwise defease revenue bonds issued on behalf of the Agency at the request and authorization of the Agency.

(10) To enter into agreements or contracts with any person necessary or appropriate to place the payment obligations of the Agency relating to revenue bonds in whole or in part on any interest rate basis, cash flow basis, or other basis desired by the Authority, including

without limitation agreements or contracts commonly known as "interest rate swap agreements", "forward payment conversion agreements", and "futures", or agreements or contracts to exchange cash flows or a series of payments, or agreements or contracts, including without limitation agreements or contracts commonly known as "options", "puts" or "calls", to hedge payment, rate spread, or similar exposure; provided, that any such agreement or contract shall not constitute an obligation for borrowed money, and shall not be taken into account under Section 845-5 of this Act or any other debt limit of the Authority or the State of Illinois.

(11) To make and enter into all other agreements and contracts and execute all instruments necessary or incidental to performance of its duties and the execution of its powers under this Article.

(12) To contract for and finance the costs of audits and to contract for and finance the cost of project monitoring. Any such contract shall be executed only after it has been jointly negotiated by the Authority and the Agency.

(13) To exercise such other powers as are necessary or incidental to the foregoing.

(c) Illinois Power Agency participation. The Agency is authorized to voluntarily participate in this program as described in the Illinois Power Agency Act. The Authority may

issue revenue bonds on behalf of the Agency pursuant to an Agency loan agreement entered into by the parties as set forth in the Illinois Power Agency Act. Any proceeds from the sale of those revenue bonds shall be deposited into the Illinois Power Agency Facilities Fund to be used by the Agency for the purposes set forth in the Illinois Power Agency Act.

(d) Pledge of revenues by the Agency. Any pledge of revenues or other moneys made by the Agency shall be binding from the time the pledge is made. Revenues and other moneys so pledged shall be held in the Illinois Power Agency Facilities Fund, Illinois Power Agency Debt Service Fund, or other funds as directed by the Agency loan agreement. Revenues or other moneys so pledged and thereafter received by the State Treasurer shall immediately be subject to the lien of the pledge without any physical delivery thereof or further act, and the lien of any pledge shall be binding against all parties having claims of any kind of tort, contract, or otherwise against the Authority, irrespective of whether the parties have notice thereof. Neither the resolution nor any other instrument by which a pledge is created need be filed or recorded except in the records of the Authority. The State pledges to and agrees with the holders of revenue bonds, and the beneficial owners of the revenue bonds issued on behalf of the Agency, that the State shall not limit or restrict the rights hereby vested in the Authority to purchase, acquire, hold, sell, or defease revenue bonds or other investments or to establish and

collect such fees or other charges as may be convenient or necessary to produce sufficient revenues to meet the expenses of operation of the Authority, and to fulfill the terms of any agreement made with the holders of the revenue bonds issued by the Authority on behalf of the Agency or in any way impair the rights or remedies of the holders of those revenue bonds or the beneficial owners of the revenue bonds until those revenue bonds are fully paid and discharged or provision for their payment has been made. The revenue bonds shall not be a debt of the State, the Authority, any political subdivision thereof (other than the Agency to the extent provided therein), any governmental aggregator as defined in the Illinois Power Agency Act, or any local government, and neither the State, the Authority, any political subdivision thereof (other than the Agency to the extent provided therein), any governmental aggregator, nor any local government shall be liable thereon. The Authority shall not have the power to pledge the credit, the revenues, or the taxing power of the State, any political subdivision thereof (other than the Agency to the extent provided in the Agency loan agreement relating to the revenue bonds in question), any governmental aggregator, or of any local government, and neither the credit, the revenues, nor the taxing power of the State, any political subdivision thereof (other than the Agency to the extent provided in the Agency loan agreement relating to the revenue bonds in question), any governmental aggregator, or of any local government shall be,

or shall be deemed to be, pledged to the payment of any revenue bonds, or obligations of the Agency.

(e) Exemption from taxation. The creation of the Illinois Power Agency is in all respects for the benefit of the people of Illinois and for the improvement of their health, safety, welfare, comfort, and security, and its purposes are public purposes. In consideration thereof, the revenue bonds issued on behalf of the Agency pursuant to this Act and the income from these revenue bonds may be free from all taxation by the State or its political subdivisions, except for estate, transfer, and inheritance taxes. The exemption from taxation provided by the preceding sentence shall apply to the income on any revenue bonds issued on behalf of the Agency only if the Authority with concurrence of the Agency in its sole judgment determines that the exemption enhances the marketability of the revenue bonds or reduces the interest rates that would otherwise be borne by the revenue bonds and that the project for which the revenue bonds will be issued will be owned by the Agency or another governmental entity and that the project is used for public consumption. For purposes of Section 250 of the Illinois Income Tax Act, the exemption of the Agency shall terminate after all of the revenue bonds have been paid. The amount of the income that shall be added and then subtracted on the Illinois income tax return of a taxpayer, subject to Section 203 of the Illinois Income Tax Act, from federal adjusted gross income or federal taxable income in computing Illinois base income shall

be the interest net of any bond premium amortization.

(Source: P.A. 95-481, eff. 8-28-07.)

(20 ILCS 3501/825-95)

Sec. 825-95 ~~825-90~~. Emerald ash borer revolving loan program.

(a) The Illinois Finance Authority shall administer an emerald ash borer revolving loan program. The program shall provide low-interest or zero-interest loans to units of local government for the replanting of trees on public lands that are within emerald ash borer quarantine areas as established by the Illinois Department of Agriculture. The Authority shall make loans based on the recommendation of the Department of Agriculture.

(b) The loan funds, subject to appropriation, must be paid out of the Emerald Ash Borer Revolving Loan Fund, a special fund created in the State treasury. The moneys in the Fund consist of any moneys transferred or appropriated into the Fund as well as all repayments of loans made under this program. Moneys in the Fund may be used only for loans to units of local government for the replanting of trees within emerald ash borer quarantine areas established by the Department of Agriculture and for no other purpose. All interest earned on moneys in the Fund must be deposited into the Fund.

(c) A loan for the replanting of trees on public lands within emerald ash borer quarantine areas established by the

Department of Agriculture may not exceed \$5,000,000 to any one unit of local government. The repayment period for the loan may not exceed 20 years. The unit of local government shall repay, each year, at least 5% of the principal amount borrowed or the remaining balance of the loan, whichever is less. All repayments of loans must be deposited into the Emerald Ash Borer Revolving Loan Fund.

(d) Any loan under this Section to a unit of local government may not exceed the moneys that the unit of local government expends or dedicates for the reforestation project for which the loan is made.

(e) The Department of Agriculture may enter into agreements with a unit of local government under which the unit of local government is authorized to assist the Department in carrying out its duties in a quarantined area, including inspection and eradication of any dangerous insect or dangerous plant disease, and including the transportation, processing, and disposal of diseased material. The Department is authorized to provide compensation or financial assistance to the unit of local government for its costs.

(f) The Authority, with the assistance of the Department of Agriculture and the Department of Natural Resources, shall adopt rules to administer the program under this Section.

(Source: P.A. 95-588, eff. 9-4-07; revised 12-6-07.)

Sec. 845-5. Bond limitations.

(a) The Authority may not have outstanding at any one time bonds for any of its corporate purposes in an aggregate principal amount exceeding \$26,650,000,000, excluding bonds issued to refund the bonds of the Authority or bonds of the Predecessor Authorities.

(b) The Authority may not have outstanding at any one time revenue bonds in an aggregate principal amount exceeding \$4,000,000,000 on behalf of the Illinois Power Agency as set forth in Section 825-90. Any such revenue bonds issued on behalf of the Illinois Power Agency pursuant to this Act shall not be counted against the bond authorization limit set forth in subsection (a).

(Source: P.A. 94-1068, eff. 8-1-06; 95-481, eff. 8-28-07; 95-697, eff. 11-6-07; revised 12-6-07.)

Section 85. The Illinois Power Agency Act is amended by changing Section 1-65 as follows:

(20 ILCS 3855/1-65)

Sec. 1-65. Appropriations for operations. ~~(a)~~ The General Assembly may appropriate moneys from the General Revenue Fund for the operation of the Illinois Power Agency in Fiscal Year 2008 not to exceed \$1,250,000 and in Fiscal Year 2009 not to exceed \$1,500,000. These appropriated funds shall constitute an advance that the Agency shall repay without interest to the

State in Fiscal Year 2010 and in Fiscal Year 2011. Beginning with Fiscal Year 2010, the operation of the Agency shall be funded solely from moneys in the Illinois Power Agency Operations Fund with no liability or obligation imposed on the State by those operations.

(Source: P.A. 95-481, eff. 8-28-07; revised 11-9-07.)

Section 90. The Illinois Health Facilities Planning Act is amended by changing Section 3 as follows:

(20 ILCS 3960/3) (from Ch. 111 1/2, par. 1153)

(Section scheduled to be repealed on August 31, 2008)

Sec. 3. Definitions. As used in this Act:

"Health care facilities" means and includes the following facilities and organizations:

1. An ambulatory surgical treatment center required to be licensed pursuant to the Ambulatory Surgical Treatment Center Act;
2. An institution, place, building, or agency required to be licensed pursuant to the Hospital Licensing Act;
3. Skilled and intermediate long term care facilities licensed under the Nursing Home Care Act;
4. Hospitals, nursing homes, ambulatory surgical treatment centers, or kidney disease treatment centers maintained by the State or any department or agency thereof;

5. Kidney disease treatment centers, including a free-standing hemodialysis unit required to be licensed under the End Stage Renal Disease Facility Act; and

6. An institution, place, building, or room used for the performance of outpatient surgical procedures that is leased, owned, or operated by or on behalf of an out-of-state facility.

No federally owned facility shall be subject to the provisions of this Act, nor facilities used solely for healing by prayer or spiritual means.

No facility licensed under the Supportive Residences Licensing Act or the Assisted Living and Shared Housing Act shall be subject to the provisions of this Act.

A facility designated as a supportive living facility that is in good standing with the program established under Section 5-5.01a of the Illinois Public Aid Code shall not be subject to the provisions of this Act.

This Act does not apply to facilities granted waivers under Section 3-102.2 of the Nursing Home Care Act. However, if a demonstration project under that Act applies for a certificate of need to convert to a nursing facility, it shall meet the licensure and certificate of need requirements in effect as of the date of application.

This Act does not apply to a dialysis facility that provides only dialysis training, support, and related services to individuals with end stage renal disease who have elected to

receive home dialysis. This Act does not apply to a dialysis unit located in a licensed nursing home that offers or provides dialysis-related services to residents with end stage renal disease who have elected to receive home dialysis within the nursing home. The Board, however, may require these dialysis facilities and licensed nursing homes to report statistical information on a quarterly basis to the Board to be used by the Board to conduct analyses on the need for proposed kidney disease treatment centers.

This Act shall not apply to the closure of an entity or a portion of an entity licensed under the Nursing Home Care Act, with the exceptions of facilities operated by a county or Illinois Veterans Homes, that elects to convert, in whole or in part, to an assisted living or shared housing establishment licensed under the Assisted Living and Shared Housing Act.

This Act does not apply to any change of ownership of a healthcare facility that is licensed under the Nursing Home Care Act, with the exceptions of facilities operated by a county or Illinois Veterans Homes. Changes of ownership of facilities licensed under the Nursing Home Care Act must meet the requirements set forth in Sections 3-101 through 3-119 of the Nursing Home Care Act.

With the exception of those health care facilities specifically included in this Section, nothing in this Act shall be intended to include facilities operated as a part of the practice of a physician or other licensed health care

professional, whether practicing in his individual capacity or within the legal structure of any partnership, medical or professional corporation, or unincorporated medical or professional group. Further, this Act shall not apply to physicians or other licensed health care professional's practices where such practices are carried out in a portion of a health care facility under contract with such health care facility by a physician or by other licensed health care professionals, whether practicing in his individual capacity or within the legal structure of any partnership, medical or professional corporation, or unincorporated medical or professional groups. This Act shall apply to construction or modification and to establishment by such health care facility of such contracted portion which is subject to facility licensing requirements, irrespective of the party responsible for such action or attendant financial obligation.

"Person" means any one or more natural persons, legal entities, governmental bodies other than federal, or any combination thereof.

"Consumer" means any person other than a person (a) whose major occupation currently involves or whose official capacity within the last 12 months has involved the providing, administering or financing of any type of health care facility, (b) who is engaged in health research or the teaching of health, (c) who has a material financial interest in any activity which involves the providing, administering or

financing of any type of health care facility, or (d) who is or ever has been a member of the immediate family of the person defined by (a), (b), or (c).

"State Board" means the Health Facilities Planning Board.

"Construction or modification" means the establishment, erection, building, alteration, reconstruction, modernization, improvement, extension, discontinuation, change of ownership, of or by a health care facility, or the purchase or acquisition by or through a health care facility of equipment or service for diagnostic or therapeutic purposes or for facility administration or operation, or any capital expenditure made by or on behalf of a health care facility which exceeds the capital expenditure minimum; however, any capital expenditure made by or on behalf of a health care facility for (i) the construction or modification of a facility licensed under the Assisted Living and Shared Housing Act or (ii) a conversion project undertaken in accordance with Section 30 of the Older Adult Services Act shall be excluded from any obligations under this Act.

"Establish" means the construction of a health care facility or the replacement of an existing facility on another site.

"Major medical equipment" means medical equipment which is used for the provision of medical and other health services and which costs in excess of the capital expenditure minimum, except that such term does not include medical equipment

acquired by or on behalf of a clinical laboratory to provide clinical laboratory services if the clinical laboratory is independent of a physician's office and a hospital and it has been determined under Title XVIII of the Social Security Act to meet the requirements of paragraphs (10) and (11) of Section 1861(s) of such Act. In determining whether medical equipment has a value in excess of the capital expenditure minimum, the value of studies, surveys, designs, plans, working drawings, specifications, and other activities essential to the acquisition of such equipment shall be included.

"Capital Expenditure" means an expenditure: (A) made by or on behalf of a health care facility (as such a facility is defined in this Act); and (B) which under generally accepted accounting principles is not properly chargeable as an expense of operation and maintenance, or is made to obtain by lease or comparable arrangement any facility or part thereof or any equipment for a facility or part; and which exceeds the capital expenditure minimum.

For the purpose of this paragraph, the cost of any studies, surveys, designs, plans, working drawings, specifications, and other activities essential to the acquisition, improvement, expansion, or replacement of any plant or equipment with respect to which an expenditure is made shall be included in determining if such expenditure exceeds the capital expenditures minimum. Donations of equipment or facilities to a health care facility which if acquired directly by such

facility would be subject to review under this Act shall be considered capital expenditures, and a transfer of equipment or facilities for less than fair market value shall be considered a capital expenditure for purposes of this Act if a transfer of the equipment or facilities at fair market value would be subject to review.

"Capital expenditure minimum" means \$6,000,000, which shall be annually adjusted to reflect the increase in construction costs due to inflation, for major medical equipment and for all other capital expenditures; provided, however, that when a capital expenditure is for the construction or modification of a health and fitness center, "capital expenditure minimum" means the capital expenditure minimum for all other capital expenditures in effect on March 1, 2000, which shall be annually adjusted to reflect the increase in construction costs due to inflation.

"Non-clinical service area" means an area (i) for the benefit of the patients, visitors, staff, or employees of a health care facility and (ii) not directly related to the diagnosis, treatment, or rehabilitation of persons receiving services from the health care facility. "Non-clinical service areas" include, but are not limited to, chapels; gift shops; news stands; computer systems; tunnels, walkways, and elevators; telephone systems; projects to comply with life safety codes; educational facilities; student housing; patient, employee, staff, and visitor dining areas;

administration and volunteer offices; modernization of structural components (such as roof replacement and masonry work); boiler repair or replacement; vehicle maintenance and storage facilities; parking facilities; mechanical systems for heating, ventilation, and air conditioning; loading docks; and repair or replacement of carpeting, tile, wall coverings, window coverings or treatments, or furniture. Solely for the purpose of this definition, "non-clinical service area" does not include health and fitness centers.

"Areawide" means a major area of the State delineated on a geographic, demographic, and functional basis for health planning and for health service and having within it one or more local areas for health planning and health service. The term "region", as contrasted with the term "subregion", and the word "area" may be used synonymously with the term "areawide".

"Local" means a subarea of a delineated major area that on a geographic, demographic, and functional basis may be considered to be part of such major area. The term "subregion" may be used synonymously with the term "local".

"Areawide health planning organization" or "Comprehensive health planning organization" means the health systems agency designated by the Secretary, Department of Health and Human Services or any successor agency.

"Local health planning organization" means those local health planning organizations that are designated as such by the areawide health planning organization of the appropriate

area.

"Physician" means a person licensed to practice in accordance with the Medical Practice Act of 1987, as amended.

"Licensed health care professional" means a person licensed to practice a health profession under pertinent licensing statutes of the State of Illinois.

"Director" means the Director of the Illinois Department of Public Health.

"Agency" means the Illinois Department of Public Health.

"Comprehensive health planning" means health planning concerned with the total population and all health and associated problems that affect the well-being of people and that encompasses health services, health manpower, and health facilities; and the coordination among these and with those social, economic, and environmental factors that affect health.

"Alternative health care model" means a facility or program authorized under the Alternative Health Care Delivery Act.

"Out-of-state facility" means a person that is both (i) licensed as a hospital or as an ambulatory surgery center under the laws of another state or that qualifies as a hospital or an ambulatory surgery center under regulations adopted pursuant to the Social Security Act and (ii) not licensed under the Ambulatory Surgical Treatment Center Act, the Hospital Licensing Act, or the Nursing Home Care Act. Affiliates of out-of-state facilities shall be considered out-of-state

facilities. Affiliates of Illinois licensed health care facilities 100% owned by an Illinois licensed health care facility, its parent, or Illinois physicians licensed to practice medicine in all its branches shall not be considered out-of-state facilities. Nothing in this definition shall be construed to include an office or any part of an office of a physician licensed to practice medicine in all its branches in Illinois that is not required to be licensed under the Ambulatory Surgical Treatment Center Act.

"Change of ownership of a health care facility" means a change in the person who has ownership or control of a health care facility's physical plant and capital assets. A change in ownership is indicated by the following transactions: sale, transfer, acquisition, lease, change of sponsorship, or other means of transferring control.

"Related person" means any person that: (i) is at least 50% owned, directly or indirectly, by either the health care facility or a person owning, directly or indirectly, at least 50% of the health care facility; or (ii) owns, directly or indirectly, at least 50% of the health care facility.

"Charity care" means care provided by a health care facility for which the provider does not expect to receive payment from the patient or a third-party payer.

"Freestanding emergency center" means a facility subject to licensure under Section 32.5 of the Emergency Medical Services (EMS) Systems Act.

(Source: P.A. 94-342, eff. 7-26-05; 95-331, eff. 8-21-07; 95-543, eff. 8-28-07; 95-584, eff. 8-31-07; revised 10-30-07.)

Section 95. The Illinois Latino Family Commission Act is amended by changing Section 15 as follows:

(20 ILCS 3983/15)

Sec. 15. Purpose and objectives. ~~(a)~~ The purpose of the Illinois Latino Family Commission is to advise the Governor and General Assembly, as well as work directly with State agencies to improve and expand existing policies, services, programs, and opportunities for Latino families. Subject to appropriation, the Illinois Latino Family Commission shall guide the efforts of and collaborate with State agencies, including: the Department on Aging, the Department of Children and Family Services, the Department of Commerce and Economic Opportunity, the Department of Corrections, the Department of Human Services, the Department of Public Aid, the Department of Public Health, the Department of Transportation, the Department of Employment Security, and others. This shall be achieved primarily by:

(1) monitoring and commenting on existing and proposed legislation and programs designed to address the needs of Latinos in Illinois;

(2) assisting State agencies in developing programs, services, public policies, and research strategies that

will expand and enhance the social and economic well-being of Latino children and families;

(3) facilitating the participation and representation of Latinos in the development, implementation, and planning of policies, programs, and services; and

(4) promoting research efforts to document the impact of policies and programs on Latino families.

The work of the Illinois Latino Family Commission shall include the use of existing reports, research, and planning efforts, procedures, and programs.

(Source: P.A. 95-619, eff. 9-14-07; revised 10-30-07.)

Section 100. The State Finance Act is amended by setting forth and renumbering multiple versions of Sections 5.663 and 5.675 and by changing Section 8h as follows:

(30 ILCS 105/5.663)

Sec. 5.663. The Pension Stabilization Fund.

(Source: P.A. 94-839, eff. 6-6-06; 95-331, eff. 8-21-07.)

(30 ILCS 105/5.675)

Sec. 5.675. The Employee Classification Fund.

(Source: P.A. 95-26, eff. 1-1-08.)

(30 ILCS 105/5.677)

Sec. 5.677 ~~5.663~~. The Sheet Metal Workers International

Association of Illinois Fund.

(Source: P.A. 95-531, eff. 1-1-08; revised 12-6-07.)

(30 ILCS 105/5.678)

Sec. 5.678 ~~5.675~~. The Agriculture in the Classroom Fund.

(Source: P.A. 95-94, eff. 8-13-07; revised 12-18-07.)

(30 ILCS 105/5.679)

Sec. 5.679 ~~5.675~~. The Autism Awareness Fund.

(Source: P.A. 95-226, eff. 1-1-08; revised 12-18-07.)

(30 ILCS 105/5.684)

Sec. 5.684 ~~5.675~~. The Boy Scout and Girl Scout Fund.

(Source: P.A. 95-320, eff. 1-1-08; revised 12-18-07.)

(30 ILCS 105/5.685)

(This Section may contain text from a Public Act with a delayed effective date)

Sec. 5.685 ~~5.675~~. The Indigent BAIID Fund.

(Source: P.A. 95-400, eff. 1-1-09; revised 12-18-07.)

(30 ILCS 105/5.686)

Sec. 5.686 ~~5.675~~. The Supreme Court Historic Preservation Fund.

(Source: P.A. 95-410, eff. 8-24-07; revised 12-18-07.)

(30 ILCS 105/5.687)

Sec. 5.687 ~~5.675~~. The Lung Cancer Research Fund.

(Source: P.A. 95-434, eff. 8-27-07; revised 12-18-07.)

(30 ILCS 105/5.688)

Sec. 5.688 ~~5.675~~. The Autoimmune Disease Research Fund.

(Source: P.A. 95-435, eff. 8-27-07; revised 12-18-07.)

(30 ILCS 105/5.689)

Sec. 5.689 ~~5.675~~. The Illinois Professional Golfers Association Foundation Junior Golf Fund.

(Source: P.A. 95-444, eff. 8-27-07; revised 12-18-07.)

(30 ILCS 105/5.690)

(This Section may contain text from a Public Act with a delayed effective date)

Sec. 5.690 ~~5.675~~. The Rotary Club Fund.

(Source: P.A. 95-523, eff. 6-1-08; revised 12-18-07.)

(30 ILCS 105/5.691)

Sec. 5.691 ~~5.675~~. The Support Our Troops Fund.

(Source: P.A. 95-534, eff. 8-28-07; revised 12-18-07.)

(30 ILCS 105/5.692)

Sec. 5.692 ~~5.675~~. The Ovarian Cancer Awareness Fund.

(Source: P.A. 95-552, eff. 8-30-07; revised 12-18-07.)

(30 ILCS 105/5.693)

Sec. 5.693 ~~5.675~~. The Emerald Ash Borer Revolving Loan Fund.

(Source: P.A. 95-588, eff. 9-4-07; revised 12-18-07.)

(30 ILCS 105/5.694)

(This Section may contain text from a Public Act with a delayed effective date)

Sec. 5.694 ~~5.675~~. The Sex Offender Investigation Fund.

(Source: P.A. 95-600, eff. 6-1-08; revised 12-18-07.)

(30 ILCS 105/5.695)

Sec. 5.695 ~~5.675~~. The Interpreters for the Deaf Fund.

(Source: P.A. 95-617, eff. 9-12-07; revised 12-18-07.)

(30 ILCS 105/5.696)

Sec. 5.696 ~~5.675~~. The Veterans Service Organization Reimbursement Fund.

(Source: P.A. 95-629, eff. 9-25-07; revised 12-18-07.)

(30 ILCS 105/5.697)

(This Section may contain text from a Public Act with a delayed effective date)

Sec. 5.697 ~~5.675~~. The Charitable Trust Stabilization Fund.

(Source: P.A. 95-655, eff. 6-1-08; revised 12-18-07.)

(30 ILCS 105/5.698)

Sec. 5.698 ~~5.675~~. The Multiple Sclerosis Research Fund.
(Source: P.A. 95-673, eff. 10-11-07; revised 12-18-07.)

(30 ILCS 105/5.699)

Sec. 5.699 ~~5.675~~. The Quality of Life Endowment Fund.
(Source: P.A. 95-674, eff. 10-11-07; revised 12-18-07.)

(30 ILCS 105/5.701)

Sec. 5.701 ~~5.675~~. Comprehensive Regional Planning Fund.
(Source: P.A. 95-677, eff. 10-11-07; revised 12-18-07.)

(30 ILCS 105/5.702)

Sec. 5.702 ~~5.675~~. The High Speed Internet Services and
Information Technology Fund.
(Source: P.A. 95-684, eff. 10-19-07; revised 12-18-07.)

(30 ILCS 105/8h)

Sec. 8h. Transfers to General Revenue Fund.
(a) Except as otherwise provided in this Section and
Section 8n of this Act, and notwithstanding any other State law
to the contrary, the Governor may, through June 30, 2007, from
time to time direct the State Treasurer and Comptroller to
transfer a specified sum from any fund held by the State
Treasurer to the General Revenue Fund in order to help defray

the State's operating costs for the fiscal year. The total transfer under this Section from any fund in any fiscal year shall not exceed the lesser of (i) 8% of the revenues to be deposited into the fund during that fiscal year or (ii) an amount that leaves a remaining fund balance of 25% of the July 1 fund balance of that fiscal year. In fiscal year 2005 only, prior to calculating the July 1, 2004 final balances, the Governor may calculate and direct the State Treasurer with the Comptroller to transfer additional amounts determined by applying the formula authorized in Public Act 93-839 to the funds balances on July 1, 2003. No transfer may be made from a fund under this Section that would have the effect of reducing the available balance in the fund to an amount less than the amount remaining unexpended and unreserved from the total appropriation from that fund estimated to be expended for that fiscal year. This Section does not apply to any funds that are restricted by federal law to a specific use, to any funds in the Motor Fuel Tax Fund, the Intercity Passenger Rail Fund, the Hospital Provider Fund, the Medicaid Provider Relief Fund, the Teacher Health Insurance Security Fund, the Reviewing Court Alternative Dispute Resolution Fund, the Voters' Guide Fund, the Foreign Language Interpreter Fund, the Lawyers' Assistance Program Fund, the Supreme Court Federal Projects Fund, the Supreme Court Special State Projects Fund, the Supplemental Low-Income Energy Assistance Fund, the Good Samaritan Energy Trust Fund, the Low-Level Radioactive Waste Facility

Development and Operation Fund, the Horse Racing Equity Trust Fund, the Metabolic Screening and Treatment Fund, or the Hospital Basic Services Preservation Fund, or to any funds to which Section 70-50 of the Nurse Practice Act applies. No transfers may be made under this Section from the Pet Population Control Fund. Notwithstanding any other provision of this Section, for fiscal year 2004, the total transfer under this Section from the Road Fund or the State Construction Account Fund shall not exceed the lesser of (i) 5% of the revenues to be deposited into the fund during that fiscal year or (ii) 25% of the beginning balance in the fund. For fiscal year 2005 through fiscal year 2007, no amounts may be transferred under this Section from the Road Fund, the State Construction Account Fund, the Criminal Justice Information Systems Trust Fund, the Wireless Service Emergency Fund, or the Mandatory Arbitration Fund.

In determining the available balance in a fund, the Governor may include receipts, transfers into the fund, and other resources anticipated to be available in the fund in that fiscal year.

The State Treasurer and Comptroller shall transfer the amounts designated under this Section as soon as may be practicable after receiving the direction to transfer from the Governor.

(a-5) Transfers directed to be made under this Section on or before February 28, 2006 that are still pending on May 19,

2006 (the effective date of Public Act 94-774) shall be redirected as provided in Section 8n of this Act.

(b) This Section does not apply to: (i) the Ticket For The Cure Fund; (ii) any fund established under the Community Senior Services and Resources Act; or (iii) on or after January 1, 2006 (the effective date of Public Act 94-511), the Child Labor and Day and Temporary Labor Enforcement Fund.

(c) This Section does not apply to the Demutualization Trust Fund established under the Uniform Disposition of Unclaimed Property Act.

(d) This Section does not apply to moneys set aside in the Illinois State Podiatric Disciplinary Fund for podiatric scholarships and residency programs under the Podiatric Scholarship and Residency Act.

(e) Subsection (a) does not apply to, and no transfer may be made under this Section from, the Pension Stabilization Fund.

(f) Subsection (a) does not apply to, and no transfer may be made under this Section from, the Illinois Power Agency Operations Fund, the Illinois Power Agency Facilities Fund, the Illinois Power Agency Debt Service Fund, and the Illinois Power Agency Trust Fund.

(g) ~~(f)~~ This Section does not apply to the Veterans Service Organization Reimbursement Fund.

(h) ~~(f)~~ This Section does not apply to the Supreme Court Historic Preservation Fund.

(Source: P.A. 94-91, eff. 7-1-05; 94-120, eff. 7-6-05; 94-511, eff. 1-1-06; 94-535, eff. 8-10-05; 94-639, eff. 8-22-05; 94-645, eff. 8-22-05; 94-648, eff. 1-1-06; 94-686, eff. 11-2-05; 94-691, eff. 11-2-05; 94-726, eff. 1-20-06; 94-773, eff. 5-18-06; 94-774, eff. 5-19-06; 94-804, eff. 5-26-06; 94-839, eff. 6-6-06; 95-331, eff. 8-21-07; 95-410, eff. 8-24-07; 95-481, eff. 8-28-07; 95-629, eff. 9-25-07; 95-639, eff. 10-5-07; 95-695, eff. 11-5-07; revised 11-2-07.)

Section 105. The Illinois Procurement Code is amended by changing Sections 1-10 and 50-70 and by setting forth and renumbering multiple versions of Section 45-75 as follows:

(30 ILCS 500/1-10)

Sec. 1-10. Application.

(a) This Code applies only to procurements for which contractors were first solicited on or after July 1, 1998. This Code shall not be construed to affect or impair any contract, or any provision of a contract, entered into based on a solicitation prior to the implementation date of this Code as described in Article 99, including but not limited to any covenant entered into with respect to any revenue bonds or similar instruments. All procurements for which contracts are solicited between the effective date of Articles 50 and 99 and July 1, 1998 shall be substantially in accordance with this Code and its intent.

(b) This Code shall apply regardless of the source of the funds with which the contracts are paid, including federal assistance moneys. This Code shall not apply to:

(1) Contracts between the State and its political subdivisions or other governments, or between State governmental bodies except as specifically provided in this Code.

(2) Grants, except for the filing requirements of Section 20-80.

(3) Purchase of care.

(4) Hiring of an individual as employee and not as an independent contractor, whether pursuant to an employment code or policy or by contract directly with that individual.

(5) Collective bargaining contracts.

(6) Purchase of real estate, except that notice of this type of contract with a value of more than \$25,000 must be published in the Procurement Bulletin within 7 days after the deed is recorded in the county of jurisdiction. The notice shall identify the real estate purchased, the names of all parties to the contract, the value of the contract, and the effective date of the contract.

(7) Contracts necessary to prepare for anticipated litigation, enforcement actions, or investigations, provided that the chief legal counsel to the Governor shall give his or her prior approval when the procuring agency is

one subject to the jurisdiction of the Governor, and provided that the chief legal counsel of any other procuring entity subject to this Code shall give his or her prior approval when the procuring entity is not one subject to the jurisdiction of the Governor.

(8) Contracts for services to Northern Illinois University by a person, acting as an independent contractor, who is qualified by education, experience, and technical ability and is selected by negotiation for the purpose of providing non-credit educational service activities or products by means of specialized programs offered by the university.

(9) Procurement expenditures by the Illinois Conservation Foundation when only private funds are used.

(c) This Code does not apply to the electric power procurement process provided for under Section 1-75 of the Illinois Power Agency Act and Section 16-111.5 of the Public Utilities Act.

(Source: P.A. 95-481, eff. 8-28-07; 95-615, eff. 9-11-07; revised 11-2-07.)

(30 ILCS 500/45-75)

Sec. 45-75. Biobased products. When a State contract is to be awarded to the lowest responsible bidder, an otherwise qualified bidder who will fulfill the contract through the use of biobased products may be given preference over other bidders

unable to do so, provided that the cost included in the bid of biobased products is not more than 5% greater than the cost of products that are not biobased.

For the purpose of this Section, a biobased product is defined as in the federal Biobased Products Preferred Procurement Program.

This Section does not apply to contracts for construction projects awarded by the Capital Development Board or the Department of Transportation.

(Source: P.A. 95-71, eff. 1-1-08.)

(30 ILCS 500/45-80)

Sec. 45-80 ~~45-75~~. Historic area preference. State agencies with responsibilities for leasing, acquiring, or maintaining State facilities shall take all reasonable steps to minimize any regulations, policies, and procedures that impede the goals of Section 17 of the Capital Development Board Act.

(Source: P.A. 95-101, eff. 8-13-07; revised 12-6-07.)

(30 ILCS 500/50-70)

Sec. 50-70. Additional provisions. This Code is subject to applicable provisions of the following Acts:

- (1) Article 33E of the Criminal Code of 1961;
- (2) the Illinois Human Rights Act;
- (3) the Discriminatory Club Act;
- (4) the Illinois Governmental Ethics Act;

- (5) the State Prompt Payment Act;
- (6) the Public Officer Prohibited Activities Act;
- (7) the Drug Free Workplace Act; ~~and~~
- (8) the Illinois Power Agency Act; ~~and~~
- (9) ~~(8)~~ the Employee Classification Act.

(Source: P.A. 95-26, eff. 1-1-08; 95-481, eff. 8-28-07; revised 11-2-07.)

Section 110. The State Mandates Act is amended by changing Sections 8.30 and 8.31 as follows:

(30 ILCS 805/8.30)

Sec. 8.30. Exempt mandate.

(a) Notwithstanding Sections 6 and 8 of this Act, no reimbursement by the State is required for the implementation of any mandate created by Public Act 94-750, 94-792, 94-794, 94-806, 94-823, 94-834, 94-856, 94-875, 94-933, ~~or~~ 94-1055, 94-1074, or 94-1111.

(b) Notwithstanding Sections 6 and 8 of this Act, no reimbursement by the State is required for the implementation of any mandate created by the Volunteer Emergency Worker Higher Education Protection Act.

(Source: P.A. 94-750, eff. 5-9-06; 94-792, eff. 5-19-06; 94-794, eff. 5-22-06; 94-806, eff. 1-1-07; 94-823, eff. 1-1-07; 94-834, eff. 6-6-06; 94-856, eff. 6-15-06; 94-875, eff. 7-1-06; 94-933, eff. 6-26-06; 94-957, eff. 7-1-06; 94-1055, eff.

1-1-07; 94-1074, eff. 12-26-06; 94-1111, eff. 2-27-07; 95-331, eff. 8-21-07; revised 12-6-07.)

(30 ILCS 805/8.31)

Sec. 8.31. Exempt mandate.

(a) Notwithstanding Sections 6 and 8 of this Act, no reimbursement by the State is required for the implementation of any mandate created by Public Act 95-9, 95-17, 95-148, 95-151, 95-194, 95-232, 95-241, 95-279, 95-349, 95-369, 95-483, 95-486, 95-504, 95-521, 95-530, 95-586, 95-644, 95-654, 95-671, 95-677, or 95-681 ~~this amendatory Act of the 95th General Assembly.~~

(b) Notwithstanding Sections 6 and 8 of this Act, no reimbursement by the State is required for the implementation of any mandate created by the Green Cleaning Schools Act.

(Source: P.A. 95-9, eff. 6-30-07; 95-17, eff. 1-1-08; 95-84, eff. 8-13-07; 95-148, eff. 8-14-07; 95-151, eff. 8-14-07; 95-194, eff. 1-1-08; 95-232, eff. 8-16-07; 95-241, eff. 8-17-07; 95-279, eff. 1-1-08; 95-349, eff. 8-23-07; 95-369, eff. 8-23-07; 95-483, eff. 8-28-07; 95-486, eff. 8-28-07; 95-504, eff. 8-28-07; 95-521, eff. 8-28-07; 95-530, eff. 8-28-07; 95-586, eff. 8-31-07; 95-644, eff. 10-12-07; 95-654, eff. 1-1-08; 95-671, eff. 1-1-08; 95-677, eff. 10-11-07; 95-681, eff. 10-11-07; revised 12-18-07.)

Section 115. The Illinois Income Tax Act is amended by

changing Section 203 and by renumbering multiple versions of Section 50700 as follows:

(35 ILCS 5/203) (from Ch. 120, par. 2-203)

Sec. 203. Base income defined.

(a) Individuals.

(1) In general. In the case of an individual, base income means an amount equal to the taxpayer's adjusted gross income for the taxable year as modified by paragraph (2).

(2) Modifications. The adjusted gross income referred to in paragraph (1) shall be modified by adding thereto the sum of the following amounts:

(A) An amount equal to all amounts paid or accrued to the taxpayer as interest or dividends during the taxable year to the extent excluded from gross income in the computation of adjusted gross income, except stock dividends of qualified public utilities described in Section 305(e) of the Internal Revenue Code;

(B) An amount equal to the amount of tax imposed by this Act to the extent deducted from gross income in the computation of adjusted gross income for the taxable year;

(C) An amount equal to the amount received during the taxable year as a recovery or refund of real

property taxes paid with respect to the taxpayer's principal residence under the Revenue Act of 1939 and for which a deduction was previously taken under subparagraph (L) of this paragraph (2) prior to July 1, 1991, the retrospective application date of Article 4 of Public Act 87-17. In the case of multi-unit or multi-use structures and farm dwellings, the taxes on the taxpayer's principal residence shall be that portion of the total taxes for the entire property which is attributable to such principal residence;

(D) An amount equal to the amount of the capital gain deduction allowable under the Internal Revenue Code, to the extent deducted from gross income in the computation of adjusted gross income;

(D-5) An amount, to the extent not included in adjusted gross income, equal to the amount of money withdrawn by the taxpayer in the taxable year from a medical care savings account and the interest earned on the account in the taxable year of a withdrawal pursuant to subsection (b) of Section 20 of the Medical Care Savings Account Act or subsection (b) of Section 20 of the Medical Care Savings Account Act of 2000;

(D-10) For taxable years ending after December 31, 1997, an amount equal to any eligible remediation costs that the individual deducted in computing adjusted gross income and for which the individual claims a

credit under subsection (l) of Section 201;

(D-15) For taxable years 2001 and thereafter, an amount equal to the bonus depreciation deduction taken on the taxpayer's federal income tax return for the taxable year under subsection (k) of Section 168 of the Internal Revenue Code;

(D-16) If the taxpayer sells, transfers, abandons, or otherwise disposes of property for which the taxpayer was required in any taxable year to make an addition modification under subparagraph (D-15), then an amount equal to the aggregate amount of the deductions taken in all taxable years under subparagraph (Z) with respect to that property.

If the taxpayer continues to own property through the last day of the last tax year for which the taxpayer may claim a depreciation deduction for federal income tax purposes and for which the taxpayer was allowed in any taxable year to make a subtraction modification under subparagraph (Z), then an amount equal to that subtraction modification.

The taxpayer is required to make the addition modification under this subparagraph only once with respect to any one piece of property;

(D-17) An amount equal to the amount otherwise allowed as a deduction in computing base income for interest paid, accrued, or incurred, directly or

indirectly, (i) for taxable years ending on or after December 31, 2004, to a foreign person who would be a member of the same unitary business group but for the fact that foreign person's business activity outside the United States is 80% or more of the foreign person's total business activity and (ii) for taxable years ending on or after December 31, 2008, to a person who would be a member of the same unitary business group but for the fact that the person is prohibited under Section 1501(a)(27) from being included in the unitary business group because he or she is ordinarily required to apportion business income under different subsections of Section 304. The addition modification required by this subparagraph shall be reduced to the extent that dividends were included in base income of the unitary group for the same taxable year and received by the taxpayer or by a member of the taxpayer's unitary business group (including amounts included in gross income under Sections 951 through 964 of the Internal Revenue Code and amounts included in gross income under Section 78 of the Internal Revenue Code) with respect to the stock of the same person to whom the interest was paid, accrued, or incurred.

This paragraph shall not apply to the following:

- (i) an item of interest paid, accrued, or incurred, directly or indirectly, to a foreign

person who is subject in a foreign country or state, other than a state which requires mandatory unitary reporting, to a tax on or measured by net income with respect to such interest; or

(ii) an item of interest paid, accrued, or incurred, directly or indirectly, to a foreign person if the taxpayer can establish, based on a preponderance of the evidence, both of the following:

(a) the foreign person, during the same taxable year, paid, accrued, or incurred, the interest to a person that is not a related member, and

(b) the transaction giving rise to the interest expense between the taxpayer and the foreign person did not have as a principal purpose the avoidance of Illinois income tax, and is paid pursuant to a contract or agreement that reflects an arm's-length interest rate and terms; or

(iii) the taxpayer can establish, based on clear and convincing evidence, that the interest paid, accrued, or incurred relates to a contract or agreement entered into at arm's-length rates and terms and the principal purpose for the payment is not federal or Illinois tax avoidance; or

(iv) an item of interest paid, accrued, or incurred, directly or indirectly, to a foreign person if the taxpayer establishes by clear and convincing evidence that the adjustments are unreasonable; or if the taxpayer and the Director agree in writing to the application or use of an alternative method of apportionment under Section 304(f).

Nothing in this subsection shall preclude the Director from making any other adjustment otherwise allowed under Section 404 of this Act for any tax year beginning after the effective date of this amendment provided such adjustment is made pursuant to regulation adopted by the Department and such regulations provide methods and standards by which the Department will utilize its authority under Section 404 of this Act;

(D-18) An amount equal to the amount of intangible expenses and costs otherwise allowed as a deduction in computing base income, and that were paid, accrued, or incurred, directly or indirectly, (i) for taxable years ending on or after December 31, 2004, to a foreign person who would be a member of the same unitary business group but for the fact that the foreign person's business activity outside the United States is 80% or more of that person's total business

activity and (ii) for taxable years ending on or after December 31, 2008, to a person who would be a member of the same unitary business group but for the fact that the person is prohibited under Section 1501(a)(27) from being included in the unitary business group because he or she is ordinarily required to apportion business income under different subsections of Section 304. The addition modification required by this subparagraph shall be reduced to the extent that dividends were included in base income of the unitary group for the same taxable year and received by the taxpayer or by a member of the taxpayer's unitary business group (including amounts included in gross income under Sections 951 through 964 of the Internal Revenue Code and amounts included in gross income under Section 78 of the Internal Revenue Code) with respect to the stock of the same person to whom the intangible expenses and costs were directly or indirectly paid, incurred, or accrued. The preceding sentence does not apply to the extent that the same dividends caused a reduction to the addition modification required under Section 203(a)(2)(D-17) of this Act. As used in this subparagraph, the term "intangible expenses and costs" includes (1) expenses, losses, and costs for, or related to, the direct or indirect acquisition, use, maintenance or management, ownership, sale, exchange,

or any other disposition of intangible property; (2) losses incurred, directly or indirectly, from factoring transactions or discounting transactions; (3) royalty, patent, technical, and copyright fees; (4) licensing fees; and (5) other similar expenses and costs. For purposes of this subparagraph, "intangible property" includes patents, patent applications, trade names, trademarks, service marks, copyrights, mask works, trade secrets, and similar types of intangible assets.

This paragraph shall not apply to the following:

(i) any item of intangible expenses or costs paid, accrued, or incurred, directly or indirectly, from a transaction with a foreign person who is subject in a foreign country or state, other than a state which requires mandatory unitary reporting, to a tax on or measured by net income with respect to such item; or

(ii) any item of intangible expense or cost paid, accrued, or incurred, directly or indirectly, if the taxpayer can establish, based on a preponderance of the evidence, both of the following:

(a) the foreign person during the same taxable year paid, accrued, or incurred, the intangible expense or cost to a person that is

not a related member, and

(b) the transaction giving rise to the intangible expense or cost between the taxpayer and the foreign person did not have as a principal purpose the avoidance of Illinois income tax, and is paid pursuant to a contract or agreement that reflects arm's-length terms; or

(iii) any item of intangible expense or cost paid, accrued, or incurred, directly or indirectly, from a transaction with a foreign person if the taxpayer establishes by clear and convincing evidence, that the adjustments are unreasonable; or if the taxpayer and the Director agree in writing to the application or use of an alternative method of apportionment under Section 304(f);

Nothing in this subsection shall preclude the Director from making any other adjustment otherwise allowed under Section 404 of this Act for any tax year beginning after the effective date of this amendment provided such adjustment is made pursuant to regulation adopted by the Department and such regulations provide methods and standards by which the Department will utilize its authority under Section 404 of this Act;

(D-19) For taxable years ending on or after December 31, 2008, an amount equal to the amount of insurance premium expenses and costs otherwise allowed as a deduction in computing base income, and that were paid, accrued, or incurred, directly or indirectly, to a person who would be a member of the same unitary business group but for the fact that the person is prohibited under Section 1501(a)(27) from being included in the unitary business group because he or she is ordinarily required to apportion business income under different subsections of Section 304. The addition modification required by this subparagraph shall be reduced to the extent that dividends were included in base income of the unitary group for the same taxable year and received by the taxpayer or by a member of the taxpayer's unitary business group (including amounts included in gross income under Sections 951 through 964 of the Internal Revenue Code and amounts included in gross income under Section 78 of the Internal Revenue Code) with respect to the stock of the same person to whom the intangible expenses and costs were directly or indirectly paid, incurred, or accrued. The preceding sentence does not apply to the extent that the same dividends caused a reduction to the addition modification required under Section 203(a)(2)(D-17) of this Act.

(D-20) For taxable years beginning on or after January 1, 2002 and ending on or before December 31, 2006, in the case of a distribution from a qualified tuition program under Section 529 of the Internal Revenue Code, other than (i) a distribution from a College Savings Pool created under Section 16.5 of the State Treasurer Act or (ii) a distribution from the Illinois Prepaid Tuition Trust Fund, an amount equal to the amount excluded from gross income under Section 529(c)(3)(B). For taxable years beginning on or after January 1, 2007, in the case of a distribution from a qualified tuition program under Section 529 of the Internal Revenue Code, other than (i) a distribution from a College Savings Pool created under Section 16.5 of the State Treasurer Act, (ii) a distribution from the Illinois Prepaid Tuition Trust Fund, or (iii) a distribution from a qualified tuition program under Section 529 of the Internal Revenue Code that (I) adopts and determines that its offering materials comply with the College Savings Plans Network's disclosure principles and (II) has made reasonable efforts to inform in-state residents of the existence of in-state qualified tuition programs by informing Illinois residents directly and, where applicable, to inform financial intermediaries distributing the program to inform in-state residents of the existence

of in-state qualified tuition programs at least annually, an amount equal to the amount excluded from gross income under Section 529(c)(3)(B).

For the purposes of this subparagraph (D-20), a qualified tuition program has made reasonable efforts if it makes disclosures (which may use the term "in-state program" or "in-state plan" and need not specifically refer to Illinois or its qualified programs by name) (i) directly to prospective participants in its offering materials or makes a public disclosure, such as a website posting; and (ii) where applicable, to intermediaries selling the out-of-state program in the same manner that the out-of-state program distributes its offering materials;

(D-21) For taxable years beginning on or after January 1, 2007, in the case of transfer of moneys from a qualified tuition program under Section 529 of the Internal Revenue Code that is administered by the State to an out-of-state program, an amount equal to the amount of moneys previously deducted from base income under subsection (a)(2)(Y) of this Section.

and by deducting from the total so obtained the sum of the following amounts:

(E) For taxable years ending before December 31, 2001, any amount included in such total in respect of

any compensation (including but not limited to any compensation paid or accrued to a serviceman while a prisoner of war or missing in action) paid to a resident by reason of being on active duty in the Armed Forces of the United States and in respect of any compensation paid or accrued to a resident who as a governmental employee was a prisoner of war or missing in action, and in respect of any compensation paid to a resident in 1971 or thereafter for annual training performed pursuant to Sections 502 and 503, Title 32, United States Code as a member of the Illinois National Guard or, beginning with taxable years ending on or after December 31, 2007, the National Guard of any other state. For taxable years ending on or after December 31, 2001, any amount included in such total in respect of any compensation (including but not limited to any compensation paid or accrued to a serviceman while a prisoner of war or missing in action) paid to a resident by reason of being a member of any component of the Armed Forces of the United States and in respect of any compensation paid or accrued to a resident who as a governmental employee was a prisoner of war or missing in action, and in respect of any compensation paid to a resident in 2001 or thereafter by reason of being a member of the Illinois National Guard or, beginning with taxable years ending on or after

December 31, 2007, the National Guard of any other state. The provisions of this amendatory Act of the 92nd General Assembly are exempt from the provisions of Section 250;

(F) An amount equal to all amounts included in such total pursuant to the provisions of Sections 402(a), 402(c), 403(a), 403(b), 406(a), 407(a), and 408 of the Internal Revenue Code, or included in such total as distributions under the provisions of any retirement or disability plan for employees of any governmental agency or unit, or retirement payments to retired partners, which payments are excluded in computing net earnings from self employment by Section 1402 of the Internal Revenue Code and regulations adopted pursuant thereto;

(G) The valuation limitation amount;

(H) An amount equal to the amount of any tax imposed by this Act which was refunded to the taxpayer and included in such total for the taxable year;

(I) An amount equal to all amounts included in such total pursuant to the provisions of Section 111 of the Internal Revenue Code as a recovery of items previously deducted from adjusted gross income in the computation of taxable income;

(J) An amount equal to those dividends included in such total which were paid by a corporation which

conducts business operations in an Enterprise Zone or zones created under the Illinois Enterprise Zone Act or a River Edge Redevelopment Zone or zones created under the River Edge Redevelopment Zone Act, and conducts substantially all of its operations in an Enterprise Zone or zones or a River Edge Redevelopment Zone or zones. This subparagraph (J) is exempt from the provisions of Section 250;

(K) An amount equal to those dividends included in such total that were paid by a corporation that conducts business operations in a federally designated Foreign Trade Zone or Sub-Zone and that is designated a High Impact Business located in Illinois; provided that dividends eligible for the deduction provided in subparagraph (J) of paragraph (2) of this subsection shall not be eligible for the deduction provided under this subparagraph (K);

(L) For taxable years ending after December 31, 1983, an amount equal to all social security benefits and railroad retirement benefits included in such total pursuant to Sections 72(r) and 86 of the Internal Revenue Code;

(M) With the exception of any amounts subtracted under subparagraph (N), an amount equal to the sum of all amounts disallowed as deductions by (i) Sections 171(a) (2), and 265(2) of the Internal Revenue Code of

1954, as now or hereafter amended, and all amounts of expenses allocable to interest and disallowed as deductions by Section 265(1) of the Internal Revenue Code of 1954, as now or hereafter amended; and (ii) for taxable years ending on or after August 13, 1999, Sections 171(a)(2), 265, 280C, and 832(b)(5)(B)(i) of the Internal Revenue Code; the provisions of this subparagraph are exempt from the provisions of Section 250;

(N) An amount equal to all amounts included in such total which are exempt from taxation by this State either by reason of its statutes or Constitution or by reason of the Constitution, treaties or statutes of the United States; provided that, in the case of any statute of this State or, for taxable years ending on or after December 31, 2008, of the United States, any treaty of the United States, the Illinois Constitution, or the United States Constitution that exempts income derived from bonds or other obligations from the tax imposed under this Act, the amount exempted shall be the income net of bond premium amortization, and, for taxable years ending on or after December 31, 2008, interest expense incurred on indebtedness to carry the bond or other obligation, expenses incurred in producing the income to be deducted, and all other related expenses. The amount of

expenses to be taken into account under this provision may not exceed the amount of income that is exempted;

(O) An amount equal to any contribution made to a job training project established pursuant to the Tax Increment Allocation Redevelopment Act;

(P) An amount equal to the amount of the deduction used to compute the federal income tax credit for restoration of substantial amounts held under claim of right for the taxable year pursuant to Section 1341 of the Internal Revenue Code of 1986;

(Q) An amount equal to any amounts included in such total, received by the taxpayer as an acceleration in the payment of life, endowment or annuity benefits in advance of the time they would otherwise be payable as an indemnity for a terminal illness;

(R) An amount equal to the amount of any federal or State bonus paid to veterans of the Persian Gulf War;

(S) An amount, to the extent included in adjusted gross income, equal to the amount of a contribution made in the taxable year on behalf of the taxpayer to a medical care savings account established under the Medical Care Savings Account Act or the Medical Care Savings Account Act of 2000 to the extent the contribution is accepted by the account administrator as provided in that Act;

(T) An amount, to the extent included in adjusted

gross income, equal to the amount of interest earned in the taxable year on a medical care savings account established under the Medical Care Savings Account Act or the Medical Care Savings Account Act of 2000 on behalf of the taxpayer, other than interest added pursuant to item (D-5) of this paragraph (2);

(U) For one taxable year beginning on or after January 1, 1994, an amount equal to the total amount of tax imposed and paid under subsections (a) and (b) of Section 201 of this Act on grant amounts received by the taxpayer under the Nursing Home Grant Assistance Act during the taxpayer's taxable years 1992 and 1993;

(V) Beginning with tax years ending on or after December 31, 1995 and ending with tax years ending on or before December 31, 2004, an amount equal to the amount paid by a taxpayer who is a self-employed taxpayer, a partner of a partnership, or a shareholder in a Subchapter S corporation for health insurance or long-term care insurance for that taxpayer or that taxpayer's spouse or dependents, to the extent that the amount paid for that health insurance or long-term care insurance may be deducted under Section 213 of the Internal Revenue Code of 1986, has not been deducted on the federal income tax return of the taxpayer, and does not exceed the taxable income attributable to that taxpayer's income, self-employment income, or

Subchapter S corporation income; except that no deduction shall be allowed under this item (V) if the taxpayer is eligible to participate in any health insurance or long-term care insurance plan of an employer of the taxpayer or the taxpayer's spouse. The amount of the health insurance and long-term care insurance subtracted under this item (V) shall be determined by multiplying total health insurance and long-term care insurance premiums paid by the taxpayer times a number that represents the fractional percentage of eligible medical expenses under Section 213 of the Internal Revenue Code of 1986 not actually deducted on the taxpayer's federal income tax return;

(W) For taxable years beginning on or after January 1, 1998, all amounts included in the taxpayer's federal gross income in the taxable year from amounts converted from a regular IRA to a Roth IRA. This paragraph is exempt from the provisions of Section 250;

(X) For taxable year 1999 and thereafter, an amount equal to the amount of any (i) distributions, to the extent includible in gross income for federal income tax purposes, made to the taxpayer because of his or her status as a victim of persecution for racial or religious reasons by Nazi Germany or any other Axis regime or as an heir of the victim and (ii) items of income, to the extent includible in gross income for

federal income tax purposes, attributable to, derived from or in any way related to assets stolen from, hidden from, or otherwise lost to a victim of persecution for racial or religious reasons by Nazi Germany or any other Axis regime immediately prior to, during, and immediately after World War II, including, but not limited to, interest on the proceeds receivable as insurance under policies issued to a victim of persecution for racial or religious reasons by Nazi Germany or any other Axis regime by European insurance companies immediately prior to and during World War II; provided, however, this subtraction from federal adjusted gross income does not apply to assets acquired with such assets or with the proceeds from the sale of such assets; provided, further, this paragraph shall only apply to a taxpayer who was the first recipient of such assets after their recovery and who is a victim of persecution for racial or religious reasons by Nazi Germany or any other Axis regime or as an heir of the victim. The amount of and the eligibility for any public assistance, benefit, or similar entitlement is not affected by the inclusion of items (i) and (ii) of this paragraph in gross income for federal income tax purposes. This paragraph is exempt from the provisions of Section 250;

(Y) For taxable years beginning on or after January

1, 2002 and ending on or before December 31, 2004, moneys contributed in the taxable year to a College Savings Pool account under Section 16.5 of the State Treasurer Act, except that amounts excluded from gross income under Section 529(c)(3)(C)(i) of the Internal Revenue Code shall not be considered moneys contributed under this subparagraph (Y). For taxable years beginning on or after January 1, 2005, a maximum of \$10,000 contributed in the taxable year to (i) a College Savings Pool account under Section 16.5 of the State Treasurer Act or (ii) the Illinois Prepaid Tuition Trust Fund, except that amounts excluded from gross income under Section 529(c)(3)(C)(i) of the Internal Revenue Code shall not be considered moneys contributed under this subparagraph (Y). This subparagraph (Y) is exempt from the provisions of Section 250;

(Z) For taxable years 2001 and thereafter, for the taxable year in which the bonus depreciation deduction is taken on the taxpayer's federal income tax return under subsection (k) of Section 168 of the Internal Revenue Code and for each applicable taxable year thereafter, an amount equal to "x", where:

(1) "y" equals the amount of the depreciation deduction taken for the taxable year on the taxpayer's federal income tax return on property

for which the bonus depreciation deduction was taken in any year under subsection (k) of Section 168 of the Internal Revenue Code, but not including the bonus depreciation deduction;

(2) for taxable years ending on or before December 31, 2005, "x" equals "y" multiplied by 30 and then divided by 70 (or "y" multiplied by 0.429); and

(3) for taxable years ending after December 31, 2005:

(i) for property on which a bonus depreciation deduction of 30% of the adjusted basis was taken, "x" equals "y" multiplied by 30 and then divided by 70 (or "y" multiplied by 0.429); and

(ii) for property on which a bonus depreciation deduction of 50% of the adjusted basis was taken, "x" equals "y" multiplied by 1.0.

The aggregate amount deducted under this subparagraph in all taxable years for any one piece of property may not exceed the amount of the bonus depreciation deduction taken on that property on the taxpayer's federal income tax return under subsection (k) of Section 168 of the Internal Revenue Code. This subparagraph (Z) is exempt from the provisions of

Section 250;

(AA) If the taxpayer sells, transfers, abandons, or otherwise disposes of property for which the taxpayer was required in any taxable year to make an addition modification under subparagraph (D-15), then an amount equal to that addition modification.

If the taxpayer continues to own property through the last day of the last tax year for which the taxpayer may claim a depreciation deduction for federal income tax purposes and for which the taxpayer was required in any taxable year to make an addition modification under subparagraph (D-15), then an amount equal to that addition modification.

The taxpayer is allowed to take the deduction under this subparagraph only once with respect to any one piece of property.

This subparagraph (AA) is exempt from the provisions of Section 250;

(BB) Any amount included in adjusted gross income, other than salary, received by a driver in a ridesharing arrangement using a motor vehicle;

(CC) The amount of (i) any interest income (net of the deductions allocable thereto) taken into account for the taxable year with respect to a transaction with a taxpayer that is required to make an addition modification with respect to such transaction under

Section 203(a)(2)(D-17), 203(b)(2)(E-12), 203(c)(2)(G-12), or 203(d)(2)(D-7), but not to exceed the amount of that addition modification, and (ii) any income from intangible property (net of the deductions allocable thereto) taken into account for the taxable year with respect to a transaction with a taxpayer that is required to make an addition modification with respect to such transaction under Section 203(a)(2)(D-18), 203(b)(2)(E-13), 203(c)(2)(G-13), or 203(d)(2)(D-8), but not to exceed the amount of that addition modification;

(DD) An amount equal to the interest income taken into account for the taxable year (net of the deductions allocable thereto) with respect to transactions with (i) a foreign person who would be a member of the taxpayer's unitary business group but for the fact that the foreign person's business activity outside the United States is 80% or more of that person's total business activity and (ii) for taxable years ending on or after December 31, 2008, to a person who would be a member of the same unitary business group but for the fact that the person is prohibited under Section 1501(a)(27) from being included in the unitary business group because he or she is ordinarily required to apportion business income under different subsections of Section 304, but not to exceed the

addition modification required to be made for the same taxable year under Section 203(a)(2)(D-17) for interest paid, accrued, or incurred, directly or indirectly, to the same person;

(EE) An amount equal to the income from intangible property taken into account for the taxable year (net of the deductions allocable thereto) with respect to transactions with (i) a foreign person who would be a member of the taxpayer's unitary business group but for the fact that the foreign person's business activity outside the United States is 80% or more of that person's total business activity and (ii) for taxable years ending on or after December 31, 2008, to a person who would be a member of the same unitary business group but for the fact that the person is prohibited under Section 1501(a)(27) from being included in the unitary business group because he or she is ordinarily required to apportion business income under different subsections of Section 304, but not to exceed the addition modification required to be made for the same taxable year under Section 203(a)(2)(D-18) for intangible expenses and costs paid, accrued, or incurred, directly or indirectly, to the same foreign person; and

(FF) An amount equal to the income from insurance premiums taken into account for the taxable year (net

of the deductions allocable thereto) with respect to transactions with a person who would be a member of the same unitary business group but for the fact that the person is prohibited under Section 1501(a)(27) from being included in the unitary business group because he or she is ordinarily required to apportion business income under different subsections of Section 304, but not to exceed the addition modification required to be made for the same taxable year under Section 203(a)(2)(D-18) for intangible expenses and costs paid, accrued, or incurred, directly or indirectly, to the same person.

(b) Corporations.

(1) In general. In the case of a corporation, base income means an amount equal to the taxpayer's taxable income for the taxable year as modified by paragraph (2).

(2) Modifications. The taxable income referred to in paragraph (1) shall be modified by adding thereto the sum of the following amounts:

(A) An amount equal to all amounts paid or accrued to the taxpayer as interest and all distributions received from regulated investment companies during the taxable year to the extent excluded from gross income in the computation of taxable income;

(B) An amount equal to the amount of tax imposed by

this Act to the extent deducted from gross income in the computation of taxable income for the taxable year;

(C) In the case of a regulated investment company, an amount equal to the excess of (i) the net long-term capital gain for the taxable year, over (ii) the amount of the capital gain dividends designated as such in accordance with Section 852(b)(3)(C) of the Internal Revenue Code and any amount designated under Section 852(b)(3)(D) of the Internal Revenue Code, attributable to the taxable year (this amendatory Act of 1995 (Public Act 89-89) is declarative of existing law and is not a new enactment);

(D) The amount of any net operating loss deduction taken in arriving at taxable income, other than a net operating loss carried forward from a taxable year ending prior to December 31, 1986;

(E) For taxable years in which a net operating loss carryback or carryforward from a taxable year ending prior to December 31, 1986 is an element of taxable income under paragraph (1) of subsection (e) or subparagraph (E) of paragraph (2) of subsection (e), the amount by which addition modifications other than those provided by this subparagraph (E) exceeded subtraction modifications in such earlier taxable year, with the following limitations applied in the order that they are listed:

(i) the addition modification relating to the net operating loss carried back or forward to the taxable year from any taxable year ending prior to December 31, 1986 shall be reduced by the amount of addition modification under this subparagraph (E) which related to that net operating loss and which was taken into account in calculating the base income of an earlier taxable year, and

(ii) the addition modification relating to the net operating loss carried back or forward to the taxable year from any taxable year ending prior to December 31, 1986 shall not exceed the amount of such carryback or carryforward;

For taxable years in which there is a net operating loss carryback or carryforward from more than one other taxable year ending prior to December 31, 1986, the addition modification provided in this subparagraph (E) shall be the sum of the amounts computed independently under the preceding provisions of this subparagraph (E) for each such taxable year;

(E-5) For taxable years ending after December 31, 1997, an amount equal to any eligible remediation costs that the corporation deducted in computing adjusted gross income and for which the corporation claims a credit under subsection (1) of Section 201;

(E-10) For taxable years 2001 and thereafter, an

amount equal to the bonus depreciation deduction taken on the taxpayer's federal income tax return for the taxable year under subsection (k) of Section 168 of the Internal Revenue Code; and

(E-11) If the taxpayer sells, transfers, abandons, or otherwise disposes of property for which the taxpayer was required in any taxable year to make an addition modification under subparagraph (E-10), then an amount equal to the aggregate amount of the deductions taken in all taxable years under subparagraph (T) with respect to that property.

If the taxpayer continues to own property through the last day of the last tax year for which the taxpayer may claim a depreciation deduction for federal income tax purposes and for which the taxpayer was allowed in any taxable year to make a subtraction modification under subparagraph (T), then an amount equal to that subtraction modification.

The taxpayer is required to make the addition modification under this subparagraph only once with respect to any one piece of property;

(E-12) An amount equal to the amount otherwise allowed as a deduction in computing base income for interest paid, accrued, or incurred, directly or indirectly, (i) for taxable years ending on or after December 31, 2004, to a foreign person who would be a

member of the same unitary business group but for the fact the foreign person's business activity outside the United States is 80% or more of the foreign person's total business activity and (ii) for taxable years ending on or after December 31, 2008, to a person who would be a member of the same unitary business group but for the fact that the person is prohibited under Section 1501(a)(27) from being included in the unitary business group because he or she is ordinarily required to apportion business income under different subsections of Section 304. The addition modification required by this subparagraph shall be reduced to the extent that dividends were included in base income of the unitary group for the same taxable year and received by the taxpayer or by a member of the taxpayer's unitary business group (including amounts included in gross income pursuant to Sections 951 through 964 of the Internal Revenue Code and amounts included in gross income under Section 78 of the Internal Revenue Code) with respect to the stock of the same person to whom the interest was paid, accrued, or incurred.

This paragraph shall not apply to the following:

(i) an item of interest paid, accrued, or incurred, directly or indirectly, to a foreign person who is subject in a foreign country or

state, other than a state which requires mandatory unitary reporting, to a tax on or measured by net income with respect to such interest; or

(ii) an item of interest paid, accrued, or incurred, directly or indirectly, to a foreign person if the taxpayer can establish, based on a preponderance of the evidence, both of the following:

(a) the foreign person, during the same taxable year, paid, accrued, or incurred, the interest to a person that is not a related member, and

(b) the transaction giving rise to the interest expense between the taxpayer and the foreign person did not have as a principal purpose the avoidance of Illinois income tax, and is paid pursuant to a contract or agreement that reflects an arm's-length interest rate and terms; or

(iii) the taxpayer can establish, based on clear and convincing evidence, that the interest paid, accrued, or incurred relates to a contract or agreement entered into at arm's-length rates and terms and the principal purpose for the payment is not federal or Illinois tax avoidance; or

(iv) an item of interest paid, accrued, or

incurred, directly or indirectly, to a foreign person if the taxpayer establishes by clear and convincing evidence that the adjustments are unreasonable; or if the taxpayer and the Director agree in writing to the application or use of an alternative method of apportionment under Section 304(f).

Nothing in this subsection shall preclude the Director from making any other adjustment otherwise allowed under Section 404 of this Act for any tax year beginning after the effective date of this amendment provided such adjustment is made pursuant to regulation adopted by the Department and such regulations provide methods and standards by which the Department will utilize its authority under Section 404 of this Act;

(E-13) An amount equal to the amount of intangible expenses and costs otherwise allowed as a deduction in computing base income, and that were paid, accrued, or incurred, directly or indirectly, (i) for taxable years ending on or after December 31, 2004, to a foreign person who would be a member of the same unitary business group but for the fact that the foreign person's business activity outside the United States is 80% or more of that person's total business activity and (ii) for taxable years ending on or after

December 31, 2008, to a person who would be a member of the same unitary business group but for the fact that the person is prohibited under Section 1501(a)(27) from being included in the unitary business group because he or she is ordinarily required to apportion business income under different subsections of Section 304. The addition modification required by this subparagraph shall be reduced to the extent that dividends were included in base income of the unitary group for the same taxable year and received by the taxpayer or by a member of the taxpayer's unitary business group (including amounts included in gross income pursuant to Sections 951 through 964 of the Internal Revenue Code and amounts included in gross income under Section 78 of the Internal Revenue Code) with respect to the stock of the same person to whom the intangible expenses and costs were directly or indirectly paid, incurred, or accrued. The preceding sentence shall not apply to the extent that the same dividends caused a reduction to the addition modification required under Section 203(b)(2)(E-12) of this Act. As used in this subparagraph, the term "intangible expenses and costs" includes (1) expenses, losses, and costs for, or related to, the direct or indirect acquisition, use, maintenance or management, ownership, sale, exchange, or any other disposition of

intangible property; (2) losses incurred, directly or indirectly, from factoring transactions or discounting transactions; (3) royalty, patent, technical, and copyright fees; (4) licensing fees; and (5) other similar expenses and costs. For purposes of this subparagraph, "intangible property" includes patents, patent applications, trade names, trademarks, service marks, copyrights, mask works, trade secrets, and similar types of intangible assets.

This paragraph shall not apply to the following:

(i) any item of intangible expenses or costs paid, accrued, or incurred, directly or indirectly, from a transaction with a foreign person who is subject in a foreign country or state, other than a state which requires mandatory unitary reporting, to a tax on or measured by net income with respect to such item; or

(ii) any item of intangible expense or cost paid, accrued, or incurred, directly or indirectly, if the taxpayer can establish, based on a preponderance of the evidence, both of the following:

(a) the foreign person during the same taxable year paid, accrued, or incurred, the intangible expense or cost to a person that is not a related member, and

(b) the transaction giving rise to the intangible expense or cost between the taxpayer and the foreign person did not have as a principal purpose the avoidance of Illinois income tax, and is paid pursuant to a contract or agreement that reflects arm's-length terms; or

(iii) any item of intangible expense or cost paid, accrued, or incurred, directly or indirectly, from a transaction with a foreign person if the taxpayer establishes by clear and convincing evidence, that the adjustments are unreasonable; or if the taxpayer and the Director agree in writing to the application or use of an alternative method of apportionment under Section 304(f);

Nothing in this subsection shall preclude the Director from making any other adjustment otherwise allowed under Section 404 of this Act for any tax year beginning after the effective date of this amendment provided such adjustment is made pursuant to regulation adopted by the Department and such regulations provide methods and standards by which the Department will utilize its authority under Section 404 of this Act;

(E-14) For taxable years ending on or after

December 31, 2008, an amount equal to the amount of insurance premium expenses and costs otherwise allowed as a deduction in computing base income, and that were paid, accrued, or incurred, directly or indirectly, to a person who would be a member of the same unitary business group but for the fact that the person is prohibited under Section 1501(a)(27) from being included in the unitary business group because he or she is ordinarily required to apportion business income under different subsections of Section 304. The addition modification required by this subparagraph shall be reduced to the extent that dividends were included in base income of the unitary group for the same taxable year and received by the taxpayer or by a member of the taxpayer's unitary business group (including amounts included in gross income under Sections 951 through 964 of the Internal Revenue Code and amounts included in gross income under Section 78 of the Internal Revenue Code) with respect to the stock of the same person to whom the intangible expenses and costs were directly or indirectly paid, incurred, or accrued. The preceding sentence does not apply to the extent that the same dividends caused a reduction to the addition modification required under Section 203(a)(2)(D-17) of this Act;

(E-15) For taxable years beginning after December

31, 2008, any deduction for dividends paid to a corporation by a captive real estate trust that is allowed to a real estate investment trust under Section 857(b)(2)(B) of the Internal Revenue Code for dividends paid;

and by deducting from the total so obtained the sum of the following amounts:

(F) An amount equal to the amount of any tax imposed by this Act which was refunded to the taxpayer and included in such total for the taxable year;

(G) An amount equal to any amount included in such total under Section 78 of the Internal Revenue Code;

(H) In the case of a regulated investment company, an amount equal to the amount of exempt interest dividends as defined in subsection (b)(5) of Section 852 of the Internal Revenue Code, paid to shareholders for the taxable year;

(I) With the exception of any amounts subtracted under subparagraph (J), an amount equal to the sum of all amounts disallowed as deductions by (i) Sections 171(a)(2), and 265(a)(2) and amounts disallowed as interest expense by Section 291(a)(3) of the Internal Revenue Code, as now or hereafter amended, and all amounts of expenses allocable to interest and disallowed as deductions by Section 265(a)(1) of the Internal Revenue Code, as now or hereafter amended; and

(ii) for taxable years ending on or after August 13, 1999, Sections 171(a)(2), 265, 280C, 291(a)(3), and 832(b)(5)(B)(i) of the Internal Revenue Code; the provisions of this subparagraph are exempt from the provisions of Section 250;

(J) An amount equal to all amounts included in such total which are exempt from taxation by this State either by reason of its statutes or Constitution or by reason of the Constitution, treaties or statutes of the United States; provided that, in the case of any statute of this State or, for taxable years ending on or after December 31, 2008, of the United States, any treaty of the United States, the Illinois Constitution, or the United States Constitution that exempts income derived from bonds or other obligations from the tax imposed under this Act, the amount exempted shall be the income net of bond premium amortization, and, for taxable years ending on or after December 31, 2008, interest expense incurred on indebtedness to carry the bond or other obligation, expenses incurred in producing the income to be deducted, and all other related expenses. The amount of expenses to be taken into account under this provision may not exceed the amount of income that is exempted;

(K) An amount equal to those dividends included in such total which were paid by a corporation which

conducts business operations in an Enterprise Zone or zones created under the Illinois Enterprise Zone Act or a River Edge Redevelopment Zone or zones created under the River Edge Redevelopment Zone Act and conducts substantially all of its operations in an Enterprise Zone or zones or a River Edge Redevelopment Zone or zones. This subparagraph (K) is exempt from the provisions of Section 250;

(L) An amount equal to those dividends included in such total that were paid by a corporation that conducts business operations in a federally designated Foreign Trade Zone or Sub-Zone and that is designated a High Impact Business located in Illinois; provided that dividends eligible for the deduction provided in subparagraph (K) of paragraph 2 of this subsection shall not be eligible for the deduction provided under this subparagraph (L);

(M) For any taxpayer that is a financial organization within the meaning of Section 304(c) of this Act, an amount included in such total as interest income from a loan or loans made by such taxpayer to a borrower, to the extent that such a loan is secured by property which is eligible for the Enterprise Zone Investment Credit or the River Edge Redevelopment Zone Investment Credit. To determine the portion of a loan or loans that is secured by property eligible for a

Section 201(f) investment credit to the borrower, the entire principal amount of the loan or loans between the taxpayer and the borrower should be divided into the basis of the Section 201(f) investment credit property which secures the loan or loans, using for this purpose the original basis of such property on the date that it was placed in service in the Enterprise Zone or the River Edge Redevelopment Zone. The subtraction modification available to taxpayer in any year under this subsection shall be that portion of the total interest paid by the borrower with respect to such loan attributable to the eligible property as calculated under the previous sentence. This subparagraph (M) is exempt from the provisions of Section 250;

(M-1) For any taxpayer that is a financial organization within the meaning of Section 304(c) of this Act, an amount included in such total as interest income from a loan or loans made by such taxpayer to a borrower, to the extent that such a loan is secured by property which is eligible for the High Impact Business Investment Credit. To determine the portion of a loan or loans that is secured by property eligible for a Section 201(h) investment credit to the borrower, the entire principal amount of the loan or loans between the taxpayer and the borrower should be divided into

the basis of the Section 201(h) investment credit property which secures the loan or loans, using for this purpose the original basis of such property on the date that it was placed in service in a federally designated Foreign Trade Zone or Sub-Zone located in Illinois. No taxpayer that is eligible for the deduction provided in subparagraph (M) of paragraph (2) of this subsection shall be eligible for the deduction provided under this subparagraph (M-1). The subtraction modification available to taxpayers in any year under this subsection shall be that portion of the total interest paid by the borrower with respect to such loan attributable to the eligible property as calculated under the previous sentence;

(N) Two times any contribution made during the taxable year to a designated zone organization to the extent that the contribution (i) qualifies as a charitable contribution under subsection (c) of Section 170 of the Internal Revenue Code and (ii) must, by its terms, be used for a project approved by the Department of Commerce and Economic Opportunity under Section 11 of the Illinois Enterprise Zone Act or under Section 10-10 of the River Edge Redevelopment Zone Act. This subparagraph (N) is exempt from the provisions of Section 250;

(O) An amount equal to: (i) 85% for taxable years

ending on or before December 31, 1992, or, a percentage equal to the percentage allowable under Section 243(a)(1) of the Internal Revenue Code of 1986 for taxable years ending after December 31, 1992, of the amount by which dividends included in taxable income and received from a corporation that is not created or organized under the laws of the United States or any state or political subdivision thereof, including, for taxable years ending on or after December 31, 1988, dividends received or deemed received or paid or deemed paid under Sections 951 through 964 of the Internal Revenue Code, exceed the amount of the modification provided under subparagraph (G) of paragraph (2) of this subsection (b) which is related to such dividends, and including, for taxable years ending on or after December 31, 2008, dividends received from a real estate investment trust; plus (ii) 100% of the amount by which dividends, included in taxable income and received, including, for taxable years ending on or after December 31, 1988, dividends received or deemed received or paid or deemed paid under Sections 951 through 964 of the Internal Revenue Code and including, for taxable years ending on or after December 31, 2008, dividends received from a real estate investment trust, from any such corporation specified in clause (i) that would but for the provisions of Section 1504

(b) (3) of the Internal Revenue Code be treated as a member of the affiliated group which includes the dividend recipient, exceed the amount of the modification provided under subparagraph (G) of paragraph (2) of this subsection (b) which is related to such dividends;

(P) An amount equal to any contribution made to a job training project established pursuant to the Tax Increment Allocation Redevelopment Act;

(Q) An amount equal to the amount of the deduction used to compute the federal income tax credit for restoration of substantial amounts held under claim of right for the taxable year pursuant to Section 1341 of the Internal Revenue Code of 1986;

(R) On and after July 20, 1999, in the case of an attorney-in-fact with respect to whom an interinsurer or a reciprocal insurer has made the election under Section 835 of the Internal Revenue Code, 26 U.S.C. 835, an amount equal to the excess, if any, of the amounts paid or incurred by that interinsurer or reciprocal insurer in the taxable year to the attorney-in-fact over the deduction allowed to that interinsurer or reciprocal insurer with respect to the attorney-in-fact under Section 835(b) of the Internal Revenue Code for the taxable year; the provisions of this subparagraph are exempt from the provisions of

Section 250;

(S) For taxable years ending on or after December 31, 1997, in the case of a Subchapter S corporation, an amount equal to all amounts of income allocable to a shareholder subject to the Personal Property Tax Replacement Income Tax imposed by subsections (c) and (d) of Section 201 of this Act, including amounts allocable to organizations exempt from federal income tax by reason of Section 501(a) of the Internal Revenue Code. This subparagraph (S) is exempt from the provisions of Section 250;

(T) For taxable years 2001 and thereafter, for the taxable year in which the bonus depreciation deduction is taken on the taxpayer's federal income tax return under subsection (k) of Section 168 of the Internal Revenue Code and for each applicable taxable year thereafter, an amount equal to "x", where:

(1) "y" equals the amount of the depreciation deduction taken for the taxable year on the taxpayer's federal income tax return on property for which the bonus depreciation deduction was taken in any year under subsection (k) of Section 168 of the Internal Revenue Code, but not including the bonus depreciation deduction;

(2) for taxable years ending on or before December 31, 2005, "x" equals "y" multiplied by 30

and then divided by 70 (or "y" multiplied by 0.429); and

(3) for taxable years ending after December 31, 2005:

(i) for property on which a bonus depreciation deduction of 30% of the adjusted basis was taken, "x" equals "y" multiplied by 30 and then divided by 70 (or "y" multiplied by 0.429); and

(ii) for property on which a bonus depreciation deduction of 50% of the adjusted basis was taken, "x" equals "y" multiplied by 1.0.

The aggregate amount deducted under this subparagraph in all taxable years for any one piece of property may not exceed the amount of the bonus depreciation deduction taken on that property on the taxpayer's federal income tax return under subsection (k) of Section 168 of the Internal Revenue Code. This subparagraph (T) is exempt from the provisions of Section 250;

(U) If the taxpayer sells, transfers, abandons, or otherwise disposes of property for which the taxpayer was required in any taxable year to make an addition modification under subparagraph (E-10), then an amount equal to that addition modification.

If the taxpayer continues to own property through the last day of the last tax year for which the taxpayer may claim a depreciation deduction for federal income tax purposes and for which the taxpayer was required in any taxable year to make an addition modification under subparagraph (E-10), then an amount equal to that addition modification.

The taxpayer is allowed to take the deduction under this subparagraph only once with respect to any one piece of property.

This subparagraph (U) is exempt from the provisions of Section 250;

(V) The amount of: (i) any interest income (net of the deductions allocable thereto) taken into account for the taxable year with respect to a transaction with a taxpayer that is required to make an addition modification with respect to such transaction under Section 203(a)(2)(D-17), 203(b)(2)(E-12), 203(c)(2)(G-12), or 203(d)(2)(D-7), but not to exceed the amount of such addition modification and (ii) any income from intangible property (net of the deductions allocable thereto) taken into account for the taxable year with respect to a transaction with a taxpayer that is required to make an addition modification with respect to such transaction under Section 203(a)(2)(D-18), 203(b)(2)(E-13), 203(c)(2)(G-13), or

203(d)(2)(D-8), but not to exceed the amount of such addition modification;

(W) An amount equal to the interest income taken into account for the taxable year (net of the deductions allocable thereto) with respect to transactions with (i) a foreign person who would be a member of the taxpayer's unitary business group but for the fact that the foreign person's business activity outside the United States is 80% or more of that person's total business activity and (ii) for taxable years ending on or after December 31, 2008, to a person who would be a member of the same unitary business group but for the fact that the person is prohibited under Section 1501(a)(27) from being included in the unitary business group because he or she is ordinarily required to apportion business income under different subsections of Section 304, but not to exceed the addition modification required to be made for the same taxable year under Section 203(b)(2)(E-12) for interest paid, accrued, or incurred, directly or indirectly, to the same person;

(X) An amount equal to the income from intangible property taken into account for the taxable year (net of the deductions allocable thereto) with respect to transactions with (i) a foreign person who would be a member of the taxpayer's unitary business group but for

the fact that the foreign person's business activity outside the United States is 80% or more of that person's total business activity and (ii) for taxable years ending on or after December 31, 2008, to a person who would be a member of the same unitary business group but for the fact that the person is prohibited under Section 1501(a)(27) from being included in the unitary business group because he or she is ordinarily required to apportion business income under different subsections of Section 304, but not to exceed the addition modification required to be made for the same taxable year under Section 203(b)(2)(E-13) for intangible expenses and costs paid, accrued, or incurred, directly or indirectly, to the same foreign person; and

(Y) ~~(FF)~~ An amount equal to the income from insurance premiums taken into account for the taxable year (net of the deductions allocable thereto) with respect to transactions with a person who would be a member of the same unitary business group but for the fact that the person is prohibited under Section 1501(a)(27) from being included in the unitary business group because he or she is ordinarily required to apportion business income under different subsections of Section 304, but not to exceed the addition modification required to be made for the same

taxable year under Section 203(a)(2)(D-18) for intangible expenses and costs paid, accrued, or incurred, directly or indirectly, to the same person.

(3) Special rule. For purposes of paragraph (2) (A), "gross income" in the case of a life insurance company, for tax years ending on and after December 31, 1994, shall mean the gross investment income for the taxable year.

(c) Trusts and estates.

(1) In general. In the case of a trust or estate, base income means an amount equal to the taxpayer's taxable income for the taxable year as modified by paragraph (2).

(2) Modifications. Subject to the provisions of paragraph (3), the taxable income referred to in paragraph (1) shall be modified by adding thereto the sum of the following amounts:

(A) An amount equal to all amounts paid or accrued to the taxpayer as interest or dividends during the taxable year to the extent excluded from gross income in the computation of taxable income;

(B) In the case of (i) an estate, \$600; (ii) a trust which, under its governing instrument, is required to distribute all of its income currently, \$300; and (iii) any other trust, \$100, but in each such case, only to the extent such amount was deducted in the computation of taxable income;

(C) An amount equal to the amount of tax imposed by this Act to the extent deducted from gross income in the computation of taxable income for the taxable year;

(D) The amount of any net operating loss deduction taken in arriving at taxable income, other than a net operating loss carried forward from a taxable year ending prior to December 31, 1986;

(E) For taxable years in which a net operating loss carryback or carryforward from a taxable year ending prior to December 31, 1986 is an element of taxable income under paragraph (1) of subsection (e) or subparagraph (E) of paragraph (2) of subsection (e), the amount by which addition modifications other than those provided by this subparagraph (E) exceeded subtraction modifications in such taxable year, with the following limitations applied in the order that they are listed:

(i) the addition modification relating to the net operating loss carried back or forward to the taxable year from any taxable year ending prior to December 31, 1986 shall be reduced by the amount of addition modification under this subparagraph (E) which related to that net operating loss and which was taken into account in calculating the base income of an earlier taxable year, and

(ii) the addition modification relating to the

net operating loss carried back or forward to the taxable year from any taxable year ending prior to December 31, 1986 shall not exceed the amount of such carryback or carryforward;

For taxable years in which there is a net operating loss carryback or carryforward from more than one other taxable year ending prior to December 31, 1986, the addition modification provided in this subparagraph (E) shall be the sum of the amounts computed independently under the preceding provisions of this subparagraph (E) for each such taxable year;

(F) For taxable years ending on or after January 1, 1989, an amount equal to the tax deducted pursuant to Section 164 of the Internal Revenue Code if the trust or estate is claiming the same tax for purposes of the Illinois foreign tax credit under Section 601 of this Act;

(G) An amount equal to the amount of the capital gain deduction allowable under the Internal Revenue Code, to the extent deducted from gross income in the computation of taxable income;

(G-5) For taxable years ending after December 31, 1997, an amount equal to any eligible remediation costs that the trust or estate deducted in computing adjusted gross income and for which the trust or estate claims a credit under subsection (1) of Section 201;

(G-10) For taxable years 2001 and thereafter, an amount equal to the bonus depreciation deduction taken on the taxpayer's federal income tax return for the taxable year under subsection (k) of Section 168 of the Internal Revenue Code; and

(G-11) If the taxpayer sells, transfers, abandons, or otherwise disposes of property for which the taxpayer was required in any taxable year to make an addition modification under subparagraph (G-10), then an amount equal to the aggregate amount of the deductions taken in all taxable years under subparagraph (R) with respect to that property.

If the taxpayer continues to own property through the last day of the last tax year for which the taxpayer may claim a depreciation deduction for federal income tax purposes and for which the taxpayer was allowed in any taxable year to make a subtraction modification under subparagraph (R), then an amount equal to that subtraction modification.

The taxpayer is required to make the addition modification under this subparagraph only once with respect to any one piece of property;

(G-12) An amount equal to the amount otherwise allowed as a deduction in computing base income for interest paid, accrued, or incurred, directly or indirectly, (i) for taxable years ending on or after

December 31, 2004, to a foreign person who would be a member of the same unitary business group but for the fact that the foreign person's business activity outside the United States is 80% or more of the foreign person's total business activity and (ii) for taxable years ending on or after December 31, 2008, to a person who would be a member of the same unitary business group but for the fact that the person is prohibited under Section 1501(a)(27) from being included in the unitary business group because he or she is ordinarily required to apportion business income under different subsections of Section 304. The addition modification required by this subparagraph shall be reduced to the extent that dividends were included in base income of the unitary group for the same taxable year and received by the taxpayer or by a member of the taxpayer's unitary business group (including amounts included in gross income pursuant to Sections 951 through 964 of the Internal Revenue Code and amounts included in gross income under Section 78 of the Internal Revenue Code) with respect to the stock of the same person to whom the interest was paid, accrued, or incurred.

This paragraph shall not apply to the following:

- (i) an item of interest paid, accrued, or incurred, directly or indirectly, to a foreign

person who is subject in a foreign country or state, other than a state which requires mandatory unitary reporting, to a tax on or measured by net income with respect to such interest; or

(ii) an item of interest paid, accrued, or incurred, directly or indirectly, to a foreign person if the taxpayer can establish, based on a preponderance of the evidence, both of the following:

(a) the foreign person, during the same taxable year, paid, accrued, or incurred, the interest to a person that is not a related member, and

(b) the transaction giving rise to the interest expense between the taxpayer and the foreign person did not have as a principal purpose the avoidance of Illinois income tax, and is paid pursuant to a contract or agreement that reflects an arm's-length interest rate and terms; or

(iii) the taxpayer can establish, based on clear and convincing evidence, that the interest paid, accrued, or incurred relates to a contract or agreement entered into at arm's-length rates and terms and the principal purpose for the payment is not federal or Illinois tax avoidance; or

(iv) an item of interest paid, accrued, or incurred, directly or indirectly, to a foreign person if the taxpayer establishes by clear and convincing evidence that the adjustments are unreasonable; or if the taxpayer and the Director agree in writing to the application or use of an alternative method of apportionment under Section 304(f).

Nothing in this subsection shall preclude the Director from making any other adjustment otherwise allowed under Section 404 of this Act for any tax year beginning after the effective date of this amendment provided such adjustment is made pursuant to regulation adopted by the Department and such regulations provide methods and standards by which the Department will utilize its authority under Section 404 of this Act;

(G-13) An amount equal to the amount of intangible expenses and costs otherwise allowed as a deduction in computing base income, and that were paid, accrued, or incurred, directly or indirectly, (i) for taxable years ending on or after December 31, 2004, to a foreign person who would be a member of the same unitary business group but for the fact that the foreign person's business activity outside the United States is 80% or more of that person's total business

activity and (ii) for taxable years ending on or after December 31, 2008, to a person who would be a member of the same unitary business group but for the fact that the person is prohibited under Section 1501(a)(27) from being included in the unitary business group because he or she is ordinarily required to apportion business income under different subsections of Section 304. The addition modification required by this subparagraph shall be reduced to the extent that dividends were included in base income of the unitary group for the same taxable year and received by the taxpayer or by a member of the taxpayer's unitary business group (including amounts included in gross income pursuant to Sections 951 through 964 of the Internal Revenue Code and amounts included in gross income under Section 78 of the Internal Revenue Code) with respect to the stock of the same person to whom the intangible expenses and costs were directly or indirectly paid, incurred, or accrued. The preceding sentence shall not apply to the extent that the same dividends caused a reduction to the addition modification required under Section 203(c)(2)(G-12) of this Act. As used in this subparagraph, the term "intangible expenses and costs" includes: (1) expenses, losses, and costs for or related to the direct or indirect acquisition, use, maintenance or

management, ownership, sale, exchange, or any other disposition of intangible property; (2) losses incurred, directly or indirectly, from factoring transactions or discounting transactions; (3) royalty, patent, technical, and copyright fees; (4) licensing fees; and (5) other similar expenses and costs. For purposes of this subparagraph, "intangible property" includes patents, patent applications, trade names, trademarks, service marks, copyrights, mask works, trade secrets, and similar types of intangible assets.

This paragraph shall not apply to the following:

(i) any item of intangible expenses or costs paid, accrued, or incurred, directly or indirectly, from a transaction with a foreign person who is subject in a foreign country or state, other than a state which requires mandatory unitary reporting, to a tax on or measured by net income with respect to such item; or

(ii) any item of intangible expense or cost paid, accrued, or incurred, directly or indirectly, if the taxpayer can establish, based on a preponderance of the evidence, both of the following:

(a) the foreign person during the same taxable year paid, accrued, or incurred, the intangible expense or cost to a person that is

not a related member, and

(b) the transaction giving rise to the intangible expense or cost between the taxpayer and the foreign person did not have as a principal purpose the avoidance of Illinois income tax, and is paid pursuant to a contract or agreement that reflects arm's-length terms; or

(iii) any item of intangible expense or cost paid, accrued, or incurred, directly or indirectly, from a transaction with a foreign person if the taxpayer establishes by clear and convincing evidence, that the adjustments are unreasonable; or if the taxpayer and the Director agree in writing to the application or use of an alternative method of apportionment under Section 304(f);

Nothing in this subsection shall preclude the Director from making any other adjustment otherwise allowed under Section 404 of this Act for any tax year beginning after the effective date of this amendment provided such adjustment is made pursuant to regulation adopted by the Department and such regulations provide methods and standards by which the Department will utilize its authority under Section 404 of this Act;

(G-14) For taxable years ending on or after December 31, 2008, an amount equal to the amount of insurance premium expenses and costs otherwise allowed as a deduction in computing base income, and that were paid, accrued, or incurred, directly or indirectly, to a person who would be a member of the same unitary business group but for the fact that the person is prohibited under Section 1501(a)(27) from being included in the unitary business group because he or she is ordinarily required to apportion business income under different subsections of Section 304. The addition modification required by this subparagraph shall be reduced to the extent that dividends were included in base income of the unitary group for the same taxable year and received by the taxpayer or by a member of the taxpayer's unitary business group (including amounts included in gross income under Sections 951 through 964 of the Internal Revenue Code and amounts included in gross income under Section 78 of the Internal Revenue Code) with respect to the stock of the same person to whom the intangible expenses and costs were directly or indirectly paid, incurred, or accrued. The preceding sentence does not apply to the extent that the same dividends caused a reduction to the addition modification required under Section 203(a)(2)(D-17) of this Act.

and by deducting from the total so obtained the sum of the following amounts:

(H) An amount equal to all amounts included in such total pursuant to the provisions of Sections 402(a), 402(c), 403(a), 403(b), 406(a), 407(a) and 408 of the Internal Revenue Code or included in such total as distributions under the provisions of any retirement or disability plan for employees of any governmental agency or unit, or retirement payments to retired partners, which payments are excluded in computing net earnings from self employment by Section 1402 of the Internal Revenue Code and regulations adopted pursuant thereto;

(I) The valuation limitation amount;

(J) An amount equal to the amount of any tax imposed by this Act which was refunded to the taxpayer and included in such total for the taxable year;

(K) An amount equal to all amounts included in taxable income as modified by subparagraphs (A), (B), (C), (D), (E), (F) and (G) which are exempt from taxation by this State either by reason of its statutes or Constitution or by reason of the Constitution, treaties or statutes of the United States; provided that, in the case of any statute of this State or, for taxable years ending on or after December 31, 2008, of the United States, any treaty of the United States, the

Illinois Constitution, or the United States Constitution that exempts income derived from bonds or other obligations from the tax imposed under this Act, the amount exempted shall be the income net of bond premium amortization, and, for taxable years ending on or after December 31, 2008, interest expense incurred on indebtedness to carry the bond or other obligation, expenses incurred in producing the income to be deducted, and all other related expenses. The amount of expenses to be taken into account under this provision may not exceed the amount of income that is exempted;

(L) With the exception of any amounts subtracted under subparagraph (K), an amount equal to the sum of all amounts disallowed as deductions by (i) Sections 171(a) (2) and 265(a) (2) of the Internal Revenue Code, as now or hereafter amended, and all amounts of expenses allocable to interest and disallowed as deductions by Section 265(1) of the Internal Revenue Code of 1954, as now or hereafter amended; and (ii) for taxable years ending on or after August 13, 1999, Sections 171(a) (2), 265, 280C, and 832(b) (5) (B) (i) of the Internal Revenue Code; the provisions of this subparagraph are exempt from the provisions of Section 250;

(M) An amount equal to those dividends included in such total which were paid by a corporation which

conducts business operations in an Enterprise Zone or zones created under the Illinois Enterprise Zone Act or a River Edge Redevelopment Zone or zones created under the River Edge Redevelopment Zone Act and conducts substantially all of its operations in an Enterprise Zone or Zones or a River Edge Redevelopment Zone or zones. This subparagraph (M) is exempt from the provisions of Section 250;

(N) An amount equal to any contribution made to a job training project established pursuant to the Tax Increment Allocation Redevelopment Act;

(O) An amount equal to those dividends included in such total that were paid by a corporation that conducts business operations in a federally designated Foreign Trade Zone or Sub-Zone and that is designated a High Impact Business located in Illinois; provided that dividends eligible for the deduction provided in subparagraph (M) of paragraph (2) of this subsection shall not be eligible for the deduction provided under this subparagraph (O);

(P) An amount equal to the amount of the deduction used to compute the federal income tax credit for restoration of substantial amounts held under claim of right for the taxable year pursuant to Section 1341 of the Internal Revenue Code of 1986;

(Q) For taxable year 1999 and thereafter, an amount

equal to the amount of any (i) distributions, to the extent includible in gross income for federal income tax purposes, made to the taxpayer because of his or her status as a victim of persecution for racial or religious reasons by Nazi Germany or any other Axis regime or as an heir of the victim and (ii) items of income, to the extent includible in gross income for federal income tax purposes, attributable to, derived from or in any way related to assets stolen from, hidden from, or otherwise lost to a victim of persecution for racial or religious reasons by Nazi Germany or any other Axis regime immediately prior to, during, and immediately after World War II, including, but not limited to, interest on the proceeds receivable as insurance under policies issued to a victim of persecution for racial or religious reasons by Nazi Germany or any other Axis regime by European insurance companies immediately prior to and during World War II; provided, however, this subtraction from federal adjusted gross income does not apply to assets acquired with such assets or with the proceeds from the sale of such assets; provided, further, this paragraph shall only apply to a taxpayer who was the first recipient of such assets after their recovery and who is a victim of persecution for racial or religious reasons by Nazi Germany or any other Axis regime or as an heir of the

victim. The amount of and the eligibility for any public assistance, benefit, or similar entitlement is not affected by the inclusion of items (i) and (ii) of this paragraph in gross income for federal income tax purposes. This paragraph is exempt from the provisions of Section 250;

(R) For taxable years 2001 and thereafter, for the taxable year in which the bonus depreciation deduction is taken on the taxpayer's federal income tax return under subsection (k) of Section 168 of the Internal Revenue Code and for each applicable taxable year thereafter, an amount equal to "x", where:

(1) "y" equals the amount of the depreciation deduction taken for the taxable year on the taxpayer's federal income tax return on property for which the bonus depreciation deduction was taken in any year under subsection (k) of Section 168 of the Internal Revenue Code, but not including the bonus depreciation deduction;

(2) for taxable years ending on or before December 31, 2005, "x" equals "y" multiplied by 30 and then divided by 70 (or "y" multiplied by 0.429); and

(3) for taxable years ending after December 31, 2005:

(i) for property on which a bonus

depreciation deduction of 30% of the adjusted basis was taken, "x" equals "y" multiplied by 30 and then divided by 70 (or "y" multiplied by 0.429); and

(ii) for property on which a bonus depreciation deduction of 50% of the adjusted basis was taken, "x" equals "y" multiplied by 1.0.

The aggregate amount deducted under this subparagraph in all taxable years for any one piece of property may not exceed the amount of the bonus depreciation deduction taken on that property on the taxpayer's federal income tax return under subsection (k) of Section 168 of the Internal Revenue Code. This subparagraph (R) is exempt from the provisions of Section 250;

(S) If the taxpayer sells, transfers, abandons, or otherwise disposes of property for which the taxpayer was required in any taxable year to make an addition modification under subparagraph (G-10), then an amount equal to that addition modification.

If the taxpayer continues to own property through the last day of the last tax year for which the taxpayer may claim a depreciation deduction for federal income tax purposes and for which the taxpayer was required in any taxable year to make an addition

modification under subparagraph (G-10), then an amount equal to that addition modification.

The taxpayer is allowed to take the deduction under this subparagraph only once with respect to any one piece of property.

This subparagraph (S) is exempt from the provisions of Section 250;

(T) The amount of (i) any interest income (net of the deductions allocable thereto) taken into account for the taxable year with respect to a transaction with a taxpayer that is required to make an addition modification with respect to such transaction under Section 203(a)(2)(D-17), 203(b)(2)(E-12), 203(c)(2)(G-12), or 203(d)(2)(D-7), but not to exceed the amount of such addition modification and (ii) any income from intangible property (net of the deductions allocable thereto) taken into account for the taxable year with respect to a transaction with a taxpayer that is required to make an addition modification with respect to such transaction under Section 203(a)(2)(D-18), 203(b)(2)(E-13), 203(c)(2)(G-13), or 203(d)(2)(D-8), but not to exceed the amount of such addition modification;

(U) An amount equal to the interest income taken into account for the taxable year (net of the deductions allocable thereto) with respect to

transactions with (i) a foreign person who would be a member of the taxpayer's unitary business group but for the fact the foreign person's business activity outside the United States is 80% or more of that person's total business activity and (ii) for taxable years ending on or after December 31, 2008, to a person who would be a member of the same unitary business group but for the fact that the person is prohibited under Section 1501(a)(27) from being included in the unitary business group because he or she is ordinarily required to apportion business income under different subsections of Section 304, but not to exceed the addition modification required to be made for the same taxable year under Section 203(c)(2)(G-12) for interest paid, accrued, or incurred, directly or indirectly, to the same person;

(V) An amount equal to the income from intangible property taken into account for the taxable year (net of the deductions allocable thereto) with respect to transactions with a foreign person who would be a member of the taxpayer's unitary business group but for the fact that the foreign person's business activity outside the United States is 80% or more of that person's total business activity, but not to exceed the addition modification required to be made for the same taxable year under Section 203(c)(2)(G-13) for

intangible expenses and costs paid, accrued, or incurred, directly or indirectly, to the same foreign person; and

(W) ~~(FF)~~ An amount equal to the income from insurance premiums taken into account for the taxable year (net of the deductions allocable thereto) with respect to transactions with a person who would be a member of the same unitary business group but for the fact that the person is prohibited under Section 1501(a)(27) from being included in the unitary business group because he or she is ordinarily required to apportion business income under different subsections of Section 304, but not to exceed the addition modification required to be made for the same taxable year under Section 203(a)(2)(D-18) for intangible expenses and costs paid, accrued, or incurred, directly or indirectly, to the same person.

(3) Limitation. The amount of any modification otherwise required under this subsection shall, under regulations prescribed by the Department, be adjusted by any amounts included therein which were properly paid, credited, or required to be distributed, or permanently set aside for charitable purposes pursuant to Internal Revenue Code Section 642(c) during the taxable year.

(d) Partnerships.

(1) In general. In the case of a partnership, base income means an amount equal to the taxpayer's taxable income for the taxable year as modified by paragraph (2).

(2) Modifications. The taxable income referred to in paragraph (1) shall be modified by adding thereto the sum of the following amounts:

(A) An amount equal to all amounts paid or accrued to the taxpayer as interest or dividends during the taxable year to the extent excluded from gross income in the computation of taxable income;

(B) An amount equal to the amount of tax imposed by this Act to the extent deducted from gross income for the taxable year;

(C) The amount of deductions allowed to the partnership pursuant to Section 707 (c) of the Internal Revenue Code in calculating its taxable income;

(D) An amount equal to the amount of the capital gain deduction allowable under the Internal Revenue Code, to the extent deducted from gross income in the computation of taxable income;

(D-5) For taxable years 2001 and thereafter, an amount equal to the bonus depreciation deduction taken on the taxpayer's federal income tax return for the taxable year under subsection (k) of Section 168 of the Internal Revenue Code;

(D-6) If the taxpayer sells, transfers, abandons,

or otherwise disposes of property for which the taxpayer was required in any taxable year to make an addition modification under subparagraph (D-5), then an amount equal to the aggregate amount of the deductions taken in all taxable years under subparagraph (O) with respect to that property.

If the taxpayer continues to own property through the last day of the last tax year for which the taxpayer may claim a depreciation deduction for federal income tax purposes and for which the taxpayer was allowed in any taxable year to make a subtraction modification under subparagraph (O), then an amount equal to that subtraction modification.

The taxpayer is required to make the addition modification under this subparagraph only once with respect to any one piece of property;

(D-7) An amount equal to the amount otherwise allowed as a deduction in computing base income for interest paid, accrued, or incurred, directly or indirectly, (i) for taxable years ending on or after December 31, 2004, to a foreign person who would be a member of the same unitary business group but for the fact the foreign person's business activity outside the United States is 80% or more of the foreign person's total business activity and (ii) for taxable years ending on or after December 31, 2008, to a person

who would be a member of the same unitary business group but for the fact that the person is prohibited under Section 1501(a)(27) from being included in the unitary business group because he or she is ordinarily required to apportion business income under different subsections of Section 304. The addition modification required by this subparagraph shall be reduced to the extent that dividends were included in base income of the unitary group for the same taxable year and received by the taxpayer or by a member of the taxpayer's unitary business group (including amounts included in gross income pursuant to Sections 951 through 964 of the Internal Revenue Code and amounts included in gross income under Section 78 of the Internal Revenue Code) with respect to the stock of the same person to whom the interest was paid, accrued, or incurred.

This paragraph shall not apply to the following:

- (i) an item of interest paid, accrued, or incurred, directly or indirectly, to a foreign person who is subject in a foreign country or state, other than a state which requires mandatory unitary reporting, to a tax on or measured by net income with respect to such interest; or
- (ii) an item of interest paid, accrued, or incurred, directly or indirectly, to a foreign

person if the taxpayer can establish, based on a preponderance of the evidence, both of the following:

(a) the foreign person, during the same taxable year, paid, accrued, or incurred, the interest to a person that is not a related member, and

(b) the transaction giving rise to the interest expense between the taxpayer and the foreign person did not have as a principal purpose the avoidance of Illinois income tax, and is paid pursuant to a contract or agreement that reflects an arm's-length interest rate and terms; or

(iii) the taxpayer can establish, based on clear and convincing evidence, that the interest paid, accrued, or incurred relates to a contract or agreement entered into at arm's-length rates and terms and the principal purpose for the payment is not federal or Illinois tax avoidance; or

(iv) an item of interest paid, accrued, or incurred, directly or indirectly, to a foreign person if the taxpayer establishes by clear and convincing evidence that the adjustments are unreasonable; or if the taxpayer and the Director agree in writing to the application or use of an

alternative method of apportionment under Section 304(f).

Nothing in this subsection shall preclude the Director from making any other adjustment otherwise allowed under Section 404 of this Act for any tax year beginning after the effective date of this amendment provided such adjustment is made pursuant to regulation adopted by the Department and such regulations provide methods and standards by which the Department will utilize its authority under Section 404 of this Act; and

(D-8) An amount equal to the amount of intangible expenses and costs otherwise allowed as a deduction in computing base income, and that were paid, accrued, or incurred, directly or indirectly, (i) for taxable years ending on or after December 31, 2004, to a foreign person who would be a member of the same unitary business group but for the fact that the foreign person's business activity outside the United States is 80% or more of that person's total business activity and (ii) for taxable years ending on or after December 31, 2008, to a person who would be a member of the same unitary business group but for the fact that the person is prohibited under Section 1501(a)(27) from being included in the unitary business group because he or she is ordinarily required to apportion

business income under different subsections of Section 304. The addition modification required by this subparagraph shall be reduced to the extent that dividends were included in base income of the unitary group for the same taxable year and received by the taxpayer or by a member of the taxpayer's unitary business group (including amounts included in gross income pursuant to Sections 951 through 964 of the Internal Revenue Code and amounts included in gross income under Section 78 of the Internal Revenue Code) with respect to the stock of the same person to whom the intangible expenses and costs were directly or indirectly paid, incurred or accrued. The preceding sentence shall not apply to the extent that the same dividends caused a reduction to the addition modification required under Section 203(d)(2)(D-7) of this Act. As used in this subparagraph, the term "intangible expenses and costs" includes (1) expenses, losses, and costs for, or related to, the direct or indirect acquisition, use, maintenance or management, ownership, sale, exchange, or any other disposition of intangible property; (2) losses incurred, directly or indirectly, from factoring transactions or discounting transactions; (3) royalty, patent, technical, and copyright fees; (4) licensing fees; and (5) other similar expenses and costs. For purposes of this

subparagraph, "intangible property" includes patents, patent applications, trade names, trademarks, service marks, copyrights, mask works, trade secrets, and similar types of intangible assets;

This paragraph shall not apply to the following:

(i) any item of intangible expenses or costs paid, accrued, or incurred, directly or indirectly, from a transaction with a foreign person who is subject in a foreign country or state, other than a state which requires mandatory unitary reporting, to a tax on or measured by net income with respect to such item; or

(ii) any item of intangible expense or cost paid, accrued, or incurred, directly or indirectly, if the taxpayer can establish, based on a preponderance of the evidence, both of the following:

(a) the foreign person during the same taxable year paid, accrued, or incurred, the intangible expense or cost to a person that is not a related member, and

(b) the transaction giving rise to the intangible expense or cost between the taxpayer and the foreign person did not have as a principal purpose the avoidance of Illinois income tax, and is paid pursuant to a contract

or agreement that reflects arm's-length terms;

or

(iii) any item of intangible expense or cost paid, accrued, or incurred, directly or indirectly, from a transaction with a foreign person if the taxpayer establishes by clear and convincing evidence, that the adjustments are unreasonable; or if the taxpayer and the Director agree in writing to the application or use of an alternative method of apportionment under Section 304(f);

Nothing in this subsection shall preclude the Director from making any other adjustment otherwise allowed under Section 404 of this Act for any tax year beginning after the effective date of this amendment provided such adjustment is made pursuant to regulation adopted by the Department and such regulations provide methods and standards by which the Department will utilize its authority under Section 404 of this Act;

(D-9) For taxable years ending on or after December 31, 2008, an amount equal to the amount of insurance premium expenses and costs otherwise allowed as a deduction in computing base income, and that were paid, accrued, or incurred, directly or indirectly, to a person who would be a member of the same unitary

business group but for the fact that the person is prohibited under Section 1501(a)(27) from being included in the unitary business group because he or she is ordinarily required to apportion business income under different subsections of Section 304. The addition modification required by this subparagraph shall be reduced to the extent that dividends were included in base income of the unitary group for the same taxable year and received by the taxpayer or by a member of the taxpayer's unitary business group (including amounts included in gross income under Sections 951 through 964 of the Internal Revenue Code and amounts included in gross income under Section 78 of the Internal Revenue Code) with respect to the stock of the same person to whom the intangible expenses and costs were directly or indirectly paid, incurred, or accrued. The preceding sentence does not apply to the extent that the same dividends caused a reduction to the addition modification required under Section 203(a)(2)(D-17) of this Act.

and by deducting from the total so obtained the following amounts:

(E) The valuation limitation amount;

(F) An amount equal to the amount of any tax imposed by this Act which was refunded to the taxpayer and included in such total for the taxable year;

(G) An amount equal to all amounts included in taxable income as modified by subparagraphs (A), (B), (C) and (D) which are exempt from taxation by this State either by reason of its statutes or Constitution or by reason of the Constitution, treaties or statutes of the United States; provided that, in the case of any statute of this State or, for taxable years ending on or after December 31, 2008, of the United States, any treaty of the United States, the Illinois Constitution, or the United States Constitution that exempts income derived from bonds or other obligations from the tax imposed under this Act, the amount exempted shall be the income net of bond premium amortization, and, for taxable years ending on or after December 31, 2008, interest expense incurred on indebtedness to carry the bond or other obligation, expenses incurred in producing the income to be deducted, and all other related expenses. The amount of expenses to be taken into account under this provision may not exceed the amount of income that is exempted;

(H) Any income of the partnership which constitutes personal service income as defined in Section 1348 (b) (1) of the Internal Revenue Code (as in effect December 31, 1981) or a reasonable allowance for compensation paid or accrued for services rendered by partners to the partnership, whichever is greater;

(I) An amount equal to all amounts of income distributable to an entity subject to the Personal Property Tax Replacement Income Tax imposed by subsections (c) and (d) of Section 201 of this Act including amounts distributable to organizations exempt from federal income tax by reason of Section 501(a) of the Internal Revenue Code;

(J) With the exception of any amounts subtracted under subparagraph (G), an amount equal to the sum of all amounts disallowed as deductions by (i) Sections 171(a) (2), and 265(2) of the Internal Revenue Code of 1954, as now or hereafter amended, and all amounts of expenses allocable to interest and disallowed as deductions by Section 265(1) of the Internal Revenue Code, as now or hereafter amended; and (ii) for taxable years ending on or after August 13, 1999, Sections 171(a) (2), 265, 280C, and 832(b) (5) (B) (i) of the Internal Revenue Code; the provisions of this subparagraph are exempt from the provisions of Section 250;

(K) An amount equal to those dividends included in such total which were paid by a corporation which conducts business operations in an Enterprise Zone or zones created under the Illinois Enterprise Zone Act, enacted by the 82nd General Assembly, or a River Edge Redevelopment Zone or zones created under the River

Edge Redevelopment Zone Act and conducts substantially all of its operations in an Enterprise Zone or Zones or from a River Edge Redevelopment Zone or zones. This subparagraph (K) is exempt from the provisions of Section 250;

(L) An amount equal to any contribution made to a job training project established pursuant to the Real Property Tax Increment Allocation Redevelopment Act;

(M) An amount equal to those dividends included in such total that were paid by a corporation that conducts business operations in a federally designated Foreign Trade Zone or Sub-Zone and that is designated a High Impact Business located in Illinois; provided that dividends eligible for the deduction provided in subparagraph (K) of paragraph (2) of this subsection shall not be eligible for the deduction provided under this subparagraph (M);

(N) An amount equal to the amount of the deduction used to compute the federal income tax credit for restoration of substantial amounts held under claim of right for the taxable year pursuant to Section 1341 of the Internal Revenue Code of 1986;

(O) For taxable years 2001 and thereafter, for the taxable year in which the bonus depreciation deduction is taken on the taxpayer's federal income tax return under subsection (k) of Section 168 of the Internal

Revenue Code and for each applicable taxable year thereafter, an amount equal to "x", where:

(1) "y" equals the amount of the depreciation deduction taken for the taxable year on the taxpayer's federal income tax return on property for which the bonus depreciation deduction was taken in any year under subsection (k) of Section 168 of the Internal Revenue Code, but not including the bonus depreciation deduction;

(2) for taxable years ending on or before December 31, 2005, "x" equals "y" multiplied by 30 and then divided by 70 (or "y" multiplied by 0.429); and

(3) for taxable years ending after December 31, 2005:

(i) for property on which a bonus depreciation deduction of 30% of the adjusted basis was taken, "x" equals "y" multiplied by 30 and then divided by 70 (or "y" multiplied by 0.429); and

(ii) for property on which a bonus depreciation deduction of 50% of the adjusted basis was taken, "x" equals "y" multiplied by 1.0.

The aggregate amount deducted under this subparagraph in all taxable years for any one piece of

property may not exceed the amount of the bonus depreciation deduction taken on that property on the taxpayer's federal income tax return under subsection (k) of Section 168 of the Internal Revenue Code. This subparagraph (O) is exempt from the provisions of Section 250;

(P) If the taxpayer sells, transfers, abandons, or otherwise disposes of property for which the taxpayer was required in any taxable year to make an addition modification under subparagraph (D-5), then an amount equal to that addition modification.

If the taxpayer continues to own property through the last day of the last tax year for which the taxpayer may claim a depreciation deduction for federal income tax purposes and for which the taxpayer was required in any taxable year to make an addition modification under subparagraph (D-5), then an amount equal to that addition modification.

The taxpayer is allowed to take the deduction under this subparagraph only once with respect to any one piece of property.

This subparagraph (P) is exempt from the provisions of Section 250;

(Q) The amount of (i) any interest income (net of the deductions allocable thereto) taken into account for the taxable year with respect to a transaction with

a taxpayer that is required to make an addition modification with respect to such transaction under Section 203(a)(2)(D-17), 203(b)(2)(E-12), 203(c)(2)(G-12), or 203(d)(2)(D-7), but not to exceed the amount of such addition modification and (ii) any income from intangible property (net of the deductions allocable thereto) taken into account for the taxable year with respect to a transaction with a taxpayer that is required to make an addition modification with respect to such transaction under Section 203(a)(2)(D-18), 203(b)(2)(E-13), 203(c)(2)(G-13), or 203(d)(2)(D-8), but not to exceed the amount of such addition modification;

(R) An amount equal to the interest income taken into account for the taxable year (net of the deductions allocable thereto) with respect to transactions with (i) a foreign person who would be a member of the taxpayer's unitary business group but for the fact that the foreign person's business activity outside the United States is 80% or more of that person's total business activity and (ii) for taxable years ending on or after December 31, 2008, to a person who would be a member of the same unitary business group but for the fact that the person is prohibited under Section 1501(a)(27) from being included in the unitary business group because he or she is ordinarily

required to apportion business income under different subsections of Section 304, but not to exceed the addition modification required to be made for the same taxable year under Section 203(d)(2)(D-7) for interest paid, accrued, or incurred, directly or indirectly, to the same person;

(S) An amount equal to the income from intangible property taken into account for the taxable year (net of the deductions allocable thereto) with respect to transactions with (i) a foreign person who would be a member of the taxpayer's unitary business group but for the fact that the foreign person's business activity outside the United States is 80% or more of that person's total business activity and (ii) for taxable years ending on or after December 31, 2008, to a person who would be a member of the same unitary business group but for the fact that the person is prohibited under Section 1501(a)(27) from being included in the unitary business group because he or she is ordinarily required to apportion business income under different subsections of Section 304, but not to exceed the addition modification required to be made for the same taxable year under Section 203(d)(2)(D-8) for intangible expenses and costs paid, accrued, or incurred, directly or indirectly, to the same foreign person; and

(T) ~~(FF)~~ An amount equal to the income from insurance premiums taken into account for the taxable year (net of the deductions allocable thereto) with respect to transactions with a person who would be a member of the same unitary business group but for the fact that the person is prohibited under Section 1501(a)(27) from being included in the unitary business group because he or she is ordinarily required to apportion business income under different subsections of Section 304, but not to exceed the addition modification required to be made for the same taxable year under Section 203(a)(2)(D-18) for intangible expenses and costs paid, accrued, or incurred, directly or indirectly, to the same person.

(e) Gross income; adjusted gross income; taxable income.

(1) In general. Subject to the provisions of paragraph (2) and subsection (b) (3), for purposes of this Section and Section 803(e), a taxpayer's gross income, adjusted gross income, or taxable income for the taxable year shall mean the amount of gross income, adjusted gross income or taxable income properly reportable for federal income tax purposes for the taxable year under the provisions of the Internal Revenue Code. Taxable income may be less than zero. However, for taxable years ending on or after December 31, 1986, net operating loss carryforwards from

taxable years ending prior to December 31, 1986, may not exceed the sum of federal taxable income for the taxable year before net operating loss deduction, plus the excess of addition modifications over subtraction modifications for the taxable year. For taxable years ending prior to December 31, 1986, taxable income may never be an amount in excess of the net operating loss for the taxable year as defined in subsections (c) and (d) of Section 172 of the Internal Revenue Code, provided that when taxable income of a corporation (other than a Subchapter S corporation), trust, or estate is less than zero and addition modifications, other than those provided by subparagraph (E) of paragraph (2) of subsection (b) for corporations or subparagraph (E) of paragraph (2) of subsection (c) for trusts and estates, exceed subtraction modifications, an addition modification must be made under those subparagraphs for any other taxable year to which the taxable income less than zero (net operating loss) is applied under Section 172 of the Internal Revenue Code or under subparagraph (E) of paragraph (2) of this subsection (e) applied in conjunction with Section 172 of the Internal Revenue Code.

(2) Special rule. For purposes of paragraph (1) of this subsection, the taxable income properly reportable for federal income tax purposes shall mean:

(A) Certain life insurance companies. In the case

of a life insurance company subject to the tax imposed by Section 801 of the Internal Revenue Code, life insurance company taxable income, plus the amount of distribution from pre-1984 policyholder surplus accounts as calculated under Section 815a of the Internal Revenue Code;

(B) Certain other insurance companies. In the case of mutual insurance companies subject to the tax imposed by Section 831 of the Internal Revenue Code, insurance company taxable income;

(C) Regulated investment companies. In the case of a regulated investment company subject to the tax imposed by Section 852 of the Internal Revenue Code, investment company taxable income;

(D) Real estate investment trusts. In the case of a real estate investment trust subject to the tax imposed by Section 857 of the Internal Revenue Code, real estate investment trust taxable income;

(E) Consolidated corporations. In the case of a corporation which is a member of an affiliated group of corporations filing a consolidated income tax return for the taxable year for federal income tax purposes, taxable income determined as if such corporation had filed a separate return for federal income tax purposes for the taxable year and each preceding taxable year for which it was a member of an affiliated group. For

purposes of this subparagraph, the taxpayer's separate taxable income shall be determined as if the election provided by Section 243(b) (2) of the Internal Revenue Code had been in effect for all such years;

(F) Cooperatives. In the case of a cooperative corporation or association, the taxable income of such organization determined in accordance with the provisions of Section 1381 through 1388 of the Internal Revenue Code;

(G) Subchapter S corporations. In the case of: (i) a Subchapter S corporation for which there is in effect an election for the taxable year under Section 1362 of the Internal Revenue Code, the taxable income of such corporation determined in accordance with Section 1363(b) of the Internal Revenue Code, except that taxable income shall take into account those items which are required by Section 1363(b)(1) of the Internal Revenue Code to be separately stated; and (ii) a Subchapter S corporation for which there is in effect a federal election to opt out of the provisions of the Subchapter S Revision Act of 1982 and have applied instead the prior federal Subchapter S rules as in effect on July 1, 1982, the taxable income of such corporation determined in accordance with the federal Subchapter S rules as in effect on July 1, 1982; and

(H) Partnerships. In the case of a partnership,

taxable income determined in accordance with Section 703 of the Internal Revenue Code, except that taxable income shall take into account those items which are required by Section 703(a)(1) to be separately stated but which would be taken into account by an individual in calculating his taxable income.

(3) Recapture of business expenses on disposition of asset or business. Notwithstanding any other law to the contrary, if in prior years income from an asset or business has been classified as business income and in a later year is demonstrated to be non-business income, then all expenses, without limitation, deducted in such later year and in the 2 immediately preceding taxable years related to that asset or business that generated the non-business income shall be added back and recaptured as business income in the year of the disposition of the asset or business. Such amount shall be apportioned to Illinois using the greater of the apportionment fraction computed for the business under Section 304 of this Act for the taxable year or the average of the apportionment fractions computed for the business under Section 304 of this Act for the taxable year and for the 2 immediately preceding taxable years.

(f) Valuation limitation amount.

(1) In general. The valuation limitation amount referred to in subsections (a) (2) (G), (c) (2) (I) and

(d) (2) (E) is an amount equal to:

(A) The sum of the pre-August 1, 1969 appreciation amounts (to the extent consisting of gain reportable under the provisions of Section 1245 or 1250 of the Internal Revenue Code) for all property in respect of which such gain was reported for the taxable year; plus

(B) The lesser of (i) the sum of the pre-August 1, 1969 appreciation amounts (to the extent consisting of capital gain) for all property in respect of which such gain was reported for federal income tax purposes for the taxable year, or (ii) the net capital gain for the taxable year, reduced in either case by any amount of such gain included in the amount determined under subsection (a) (2) (F) or (c) (2) (H).

(2) Pre-August 1, 1969 appreciation amount.

(A) If the fair market value of property referred to in paragraph (1) was readily ascertainable on August 1, 1969, the pre-August 1, 1969 appreciation amount for such property is the lesser of (i) the excess of such fair market value over the taxpayer's basis (for determining gain) for such property on that date (determined under the Internal Revenue Code as in effect on that date), or (ii) the total gain realized and reportable for federal income tax purposes in respect of the sale, exchange or other disposition of such property.

(B) If the fair market value of property referred to in paragraph (1) was not readily ascertainable on August 1, 1969, the pre-August 1, 1969 appreciation amount for such property is that amount which bears the same ratio to the total gain reported in respect of the property for federal income tax purposes for the taxable year, as the number of full calendar months in that part of the taxpayer's holding period for the property ending July 31, 1969 bears to the number of full calendar months in the taxpayer's entire holding period for the property.

(C) The Department shall prescribe such regulations as may be necessary to carry out the purposes of this paragraph.

(g) Double deductions. Unless specifically provided otherwise, nothing in this Section shall permit the same item to be deducted more than once.

(h) Legislative intention. Except as expressly provided by this Section there shall be no modifications or limitations on the amounts of income, gain, loss or deduction taken into account in determining gross income, adjusted gross income or taxable income for federal income tax purposes for the taxable year, or in the amount of such items entering into the computation of base income and net income under this Act for

such taxable year, whether in respect of property values as of August 1, 1969 or otherwise.

(Source: P.A. 94-776, eff. 5-19-06; 94-789, eff. 5-19-06; 94-1021, eff. 7-12-06; 94-1074, eff. 12-26-06; 95-23, eff. 8-3-07; 95-233, eff. 8-16-07; 95-286, eff. 8-20-07; 95-331, eff. 8-21-07; revised 10-31-07.)

(35 ILCS 5/507PP)

Sec. 507PP ~~50700~~. The lung cancer research checkoff. For taxable years ending on or after December 31, 2007, the Department shall print, on its standard individual income tax form, a provision indicating that, if the taxpayer wishes to contribute to the Lung Cancer Research Fund, as authorized by this amendatory Act of the 95th General Assembly, then he or she may do so by stating the amount of the contribution (not less than \$1) on the return and indicating that the contribution will reduce the taxpayer's refund or increase the amount of payment to accompany the return. The taxpayer's failure to remit any amount of the increased payment reduces the contribution accordingly. This Section does not apply to any amended return.

(Source: P.A. 95-434, eff. 8-27-07; revised 12-6-07.)

(35 ILCS 5/507QQ)

Sec. 507QQ ~~50700~~. The autoimmune disease research checkoff. For taxable years ending on or after December 31,

2007, the Department shall print, on its standard individual income tax form, a provision indicating that, if the taxpayer wishes to contribute to the Autoimmune Disease Research Fund, as authorized by this amendatory Act of the 95th General Assembly, then he or she may do so by stating the amount of the contribution (not less than \$1) on the return and indicating that the contribution will reduce the taxpayer's refund or increase the amount of payment to accompany the return. The taxpayer's failure to remit any amount of the increased payment reduces the contribution accordingly. This Section does not apply to any amended return.

(Source: P.A. 95-435, eff. 8-27-07; revised 12-6-07.)

Section 120. The Use Tax Act is amended by changing Section 3-5 as follows:

(35 ILCS 105/3-5) (from Ch. 120, par. 439.3-5)

Sec. 3-5. Exemptions. Use of the following tangible personal property is exempt from the tax imposed by this Act:

(1) Personal property purchased from a corporation, society, association, foundation, institution, or organization, other than a limited liability company, that is organized and operated as a not-for-profit service enterprise for the benefit of persons 65 years of age or older if the personal property was not purchased by the enterprise for the purpose of resale by the enterprise.

(2) Personal property purchased by a not-for-profit Illinois county fair association for use in conducting, operating, or promoting the county fair.

(3) Personal property purchased by a not-for-profit arts or cultural organization that establishes, by proof required by the Department by rule, that it has received an exemption under Section 501(c)(3) of the Internal Revenue Code and that is organized and operated primarily for the presentation or support of arts or cultural programming, activities, or services. These organizations include, but are not limited to, music and dramatic arts organizations such as symphony orchestras and theatrical groups, arts and cultural service organizations, local arts councils, visual arts organizations, and media arts organizations. On and after the effective date of this amendatory Act of the 92nd General Assembly, however, an entity otherwise eligible for this exemption shall not make tax-free purchases unless it has an active identification number issued by the Department.

(4) Personal property purchased by a governmental body, by a corporation, society, association, foundation, or institution organized and operated exclusively for charitable, religious, or educational purposes, or by a not-for-profit corporation, society, association, foundation, institution, or organization that has no compensated officers or employees and that is organized and operated primarily for the recreation of persons 55 years of age or older. A limited liability company

may qualify for the exemption under this paragraph only if the limited liability company is organized and operated exclusively for educational purposes. On and after July 1, 1987, however, no entity otherwise eligible for this exemption shall make tax-free purchases unless it has an active exemption identification number issued by the Department.

(5) Until July 1, 2003, a passenger car that is a replacement vehicle to the extent that the purchase price of the car is subject to the Replacement Vehicle Tax.

(6) Until July 1, 2003 and beginning again on September 1, 2004, graphic arts machinery and equipment, including repair and replacement parts, both new and used, and including that manufactured on special order, certified by the purchaser to be used primarily for graphic arts production, and including machinery and equipment purchased for lease. Equipment includes chemicals or chemicals acting as catalysts but only if the chemicals or chemicals acting as catalysts effect a direct and immediate change upon a graphic arts product.

(7) Farm chemicals.

(8) Legal tender, currency, medallions, or gold or silver coinage issued by the State of Illinois, the government of the United States of America, or the government of any foreign country, and bullion.

(9) Personal property purchased from a teacher-sponsored student organization affiliated with an elementary or secondary school located in Illinois.

(10) A motor vehicle of the first division, a motor vehicle of the second division that is a self-contained motor vehicle designed or permanently converted to provide living quarters for recreational, camping, or travel use, with direct walk through to the living quarters from the driver's seat, or a motor vehicle of the second division that is of the van configuration designed for the transportation of not less than 7 nor more than 16 passengers, as defined in Section 1-146 of the Illinois Vehicle Code, that is used for automobile renting, as defined in the Automobile Renting Occupation and Use Tax Act.

(11) Farm machinery and equipment, both new and used, including that manufactured on special order, certified by the purchaser to be used primarily for production agriculture or State or federal agricultural programs, including individual replacement parts for the machinery and equipment, including machinery and equipment purchased for lease, and including implements of husbandry defined in Section 1-130 of the Illinois Vehicle Code, farm machinery and agricultural chemical and fertilizer spreaders, and nurse wagons required to be registered under Section 3-809 of the Illinois Vehicle Code, but excluding other motor vehicles required to be registered under the Illinois Vehicle Code. Horticultural polyhouses or hoop houses used for propagating, growing, or overwintering plants shall be considered farm machinery and equipment under this item (11). Agricultural chemical tender tanks and dry

boxes shall include units sold separately from a motor vehicle required to be licensed and units sold mounted on a motor vehicle required to be licensed if the selling price of the tender is separately stated.

Farm machinery and equipment shall include precision farming equipment that is installed or purchased to be installed on farm machinery and equipment including, but not limited to, tractors, harvesters, sprayers, planters, seeders, or spreaders. Precision farming equipment includes, but is not limited to, soil testing sensors, computers, monitors, software, global positioning and mapping systems, and other such equipment.

Farm machinery and equipment also includes computers, sensors, software, and related equipment used primarily in the computer-assisted operation of production agriculture facilities, equipment, and activities such as, but not limited to, the collection, monitoring, and correlation of animal and crop data for the purpose of formulating animal diets and agricultural chemicals. This item (11) is exempt from the provisions of Section 3-90.

(12) Fuel and petroleum products sold to or used by an air common carrier, certified by the carrier to be used for consumption, shipment, or storage in the conduct of its business as an air common carrier, for a flight destined for or returning from a location or locations outside the United States without regard to previous or subsequent domestic

stopovers.

(13) Proceeds of mandatory service charges separately stated on customers' bills for the purchase and consumption of food and beverages purchased at retail from a retailer, to the extent that the proceeds of the service charge are in fact turned over as tips or as a substitute for tips to the employees who participate directly in preparing, serving, hosting or cleaning up the food or beverage function with respect to which the service charge is imposed.

(14) Until July 1, 2003, oil field exploration, drilling, and production equipment, including (i) rigs and parts of rigs, rotary rigs, cable tool rigs, and workover rigs, (ii) pipe and tubular goods, including casing and drill strings, (iii) pumps and pump-jack units, (iv) storage tanks and flow lines, (v) any individual replacement part for oil field exploration, drilling, and production equipment, and (vi) machinery and equipment purchased for lease; but excluding motor vehicles required to be registered under the Illinois Vehicle Code.

(15) Photoprocessing machinery and equipment, including repair and replacement parts, both new and used, including that manufactured on special order, certified by the purchaser to be used primarily for photoprocessing, and including photoprocessing machinery and equipment purchased for lease.

(16) Until July 1, 2003, coal exploration, mining, offhighway hauling, processing, maintenance, and reclamation equipment, including replacement parts and equipment, and

including equipment purchased for lease, but excluding motor vehicles required to be registered under the Illinois Vehicle Code.

(17) Until July 1, 2003, distillation machinery and equipment, sold as a unit or kit, assembled or installed by the retailer, certified by the user to be used only for the production of ethyl alcohol that will be used for consumption as motor fuel or as a component of motor fuel for the personal use of the user, and not subject to sale or resale.

(18) Manufacturing and assembling machinery and equipment used primarily in the process of manufacturing or assembling tangible personal property for wholesale or retail sale or lease, whether that sale or lease is made directly by the manufacturer or by some other person, whether the materials used in the process are owned by the manufacturer or some other person, or whether that sale or lease is made apart from or as an incident to the seller's engaging in the service occupation of producing machines, tools, dies, jigs, patterns, gauges, or other similar items of no commercial value on special order for a particular purchaser.

(19) Personal property delivered to a purchaser or purchaser's donee inside Illinois when the purchase order for that personal property was received by a florist located outside Illinois who has a florist located inside Illinois deliver the personal property.

(20) Semen used for artificial insemination of livestock

for direct agricultural production.

(21) Horses, or interests in horses, registered with and meeting the requirements of any of the Arabian Horse Club Registry of America, Appaloosa Horse Club, American Quarter Horse Association, United States Trotting Association, or Jockey Club, as appropriate, used for purposes of breeding or racing for prizes. This item (21) is exempt from the provisions of Section 3-90, and the exemption provided for under this item (21) applies for all periods beginning May 30, 1995, but no claim for credit or refund is allowed on or after January 1, 2008 ~~the effective date of this amendatory Act of the 95th General Assembly~~ for such taxes paid during the period beginning May 30, 2000 and ending on January 1, 2008 ~~the effective date of this amendatory Act of the 95th General Assembly~~.

(22) Computers and communications equipment utilized for any hospital purpose and equipment used in the diagnosis, analysis, or treatment of hospital patients purchased by a lessor who leases the equipment, under a lease of one year or longer executed or in effect at the time the lessor would otherwise be subject to the tax imposed by this Act, to a hospital that has been issued an active tax exemption identification number by the Department under Section 1g of the Retailers' Occupation Tax Act. If the equipment is leased in a manner that does not qualify for this exemption or is used in any other non-exempt manner, the lessor shall be liable for the

tax imposed under this Act or the Service Use Tax Act, as the case may be, based on the fair market value of the property at the time the non-qualifying use occurs. No lessor shall collect or attempt to collect an amount (however designated) that purports to reimburse that lessor for the tax imposed by this Act or the Service Use Tax Act, as the case may be, if the tax has not been paid by the lessor. If a lessor improperly collects any such amount from the lessee, the lessee shall have a legal right to claim a refund of that amount from the lessor. If, however, that amount is not refunded to the lessee for any reason, the lessor is liable to pay that amount to the Department.

(23) Personal property purchased by a lessor who leases the property, under a lease of one year or longer executed or in effect at the time the lessor would otherwise be subject to the tax imposed by this Act, to a governmental body that has been issued an active sales tax exemption identification number by the Department under Section 1g of the Retailers' Occupation Tax Act. If the property is leased in a manner that does not qualify for this exemption or used in any other non-exempt manner, the lessor shall be liable for the tax imposed under this Act or the Service Use Tax Act, as the case may be, based on the fair market value of the property at the time the non-qualifying use occurs. No lessor shall collect or attempt to collect an amount (however designated) that purports to reimburse that lessor for the tax imposed by this Act or the

Service Use Tax Act, as the case may be, if the tax has not been paid by the lessor. If a lessor improperly collects any such amount from the lessee, the lessee shall have a legal right to claim a refund of that amount from the lessor. If, however, that amount is not refunded to the lessee for any reason, the lessor is liable to pay that amount to the Department.

(24) Beginning with taxable years ending on or after December 31, 1995 and ending with taxable years ending on or before December 31, 2004, personal property that is donated for disaster relief to be used in a State or federally declared disaster area in Illinois or bordering Illinois by a manufacturer or retailer that is registered in this State to a corporation, society, association, foundation, or institution that has been issued a sales tax exemption identification number by the Department that assists victims of the disaster who reside within the declared disaster area.

(25) Beginning with taxable years ending on or after December 31, 1995 and ending with taxable years ending on or before December 31, 2004, personal property that is used in the performance of infrastructure repairs in this State, including but not limited to municipal roads and streets, access roads, bridges, sidewalks, waste disposal systems, water and sewer line extensions, water distribution and purification facilities, storm water drainage and retention facilities, and sewage treatment facilities, resulting from a State or federally declared disaster in Illinois or bordering Illinois

when such repairs are initiated on facilities located in the declared disaster area within 6 months after the disaster.

(26) Beginning July 1, 1999, game or game birds purchased at a "game breeding and hunting preserve area" or an "exotic game hunting area" as those terms are used in the Wildlife Code or at a hunting enclosure approved through rules adopted by the Department of Natural Resources. This paragraph is exempt from the provisions of Section 3-90.

(27) A motor vehicle, as that term is defined in Section 1-146 of the Illinois Vehicle Code, that is donated to a corporation, limited liability company, society, association, foundation, or institution that is determined by the Department to be organized and operated exclusively for educational purposes. For purposes of this exemption, "a corporation, limited liability company, society, association, foundation, or institution organized and operated exclusively for educational purposes" means all tax-supported public schools, private schools that offer systematic instruction in useful branches of learning by methods common to public schools and that compare favorably in their scope and intensity with the course of study presented in tax-supported schools, and vocational or technical schools or institutes organized and operated exclusively to provide a course of study of not less than 6 weeks duration and designed to prepare individuals to follow a trade or to pursue a manual, technical, mechanical, industrial, business, or commercial occupation.

(28) Beginning January 1, 2000, personal property, including food, purchased through fundraising events for the benefit of a public or private elementary or secondary school, a group of those schools, or one or more school districts if the events are sponsored by an entity recognized by the school district that consists primarily of volunteers and includes parents and teachers of the school children. This paragraph does not apply to fundraising events (i) for the benefit of private home instruction or (ii) for which the fundraising entity purchases the personal property sold at the events from another individual or entity that sold the property for the purpose of resale by the fundraising entity and that profits from the sale to the fundraising entity. This paragraph is exempt from the provisions of Section 3-90.

(29) Beginning January 1, 2000 and through December 31, 2001, new or used automatic vending machines that prepare and serve hot food and beverages, including coffee, soup, and other items, and replacement parts for these machines. Beginning January 1, 2002 and through June 30, 2003, machines and parts for machines used in commercial, coin-operated amusement and vending business if a use or occupation tax is paid on the gross receipts derived from the use of the commercial, coin-operated amusement and vending machines. This paragraph is exempt from the provisions of Section 3-90.

(30) Beginning January 1, 2001 and through June 30, 2011, food for human consumption that is to be consumed off the

premises where it is sold (other than alcoholic beverages, soft drinks, and food that has been prepared for immediate consumption) and prescription and nonprescription medicines, drugs, medical appliances, and insulin, urine testing materials, syringes, and needles used by diabetics, for human use, when purchased for use by a person receiving medical assistance under Article 5 of the Illinois Public Aid Code who resides in a licensed long-term care facility, as defined in the Nursing Home Care Act.

(31) Beginning on the effective date of this amendatory Act of the 92nd General Assembly, computers and communications equipment utilized for any hospital purpose and equipment used in the diagnosis, analysis, or treatment of hospital patients purchased by a lessor who leases the equipment, under a lease of one year or longer executed or in effect at the time the lessor would otherwise be subject to the tax imposed by this Act, to a hospital that has been issued an active tax exemption identification number by the Department under Section 1g of the Retailers' Occupation Tax Act. If the equipment is leased in a manner that does not qualify for this exemption or is used in any other nonexempt manner, the lessor shall be liable for the tax imposed under this Act or the Service Use Tax Act, as the case may be, based on the fair market value of the property at the time the nonqualifying use occurs. No lessor shall collect or attempt to collect an amount (however designated) that purports to reimburse that lessor for the tax imposed by this

Act or the Service Use Tax Act, as the case may be, if the tax has not been paid by the lessor. If a lessor improperly collects any such amount from the lessee, the lessee shall have a legal right to claim a refund of that amount from the lessor. If, however, that amount is not refunded to the lessee for any reason, the lessor is liable to pay that amount to the Department. This paragraph is exempt from the provisions of Section 3-90.

(32) Beginning on the effective date of this amendatory Act of the 92nd General Assembly, personal property purchased by a lessor who leases the property, under a lease of one year or longer executed or in effect at the time the lessor would otherwise be subject to the tax imposed by this Act, to a governmental body that has been issued an active sales tax exemption identification number by the Department under Section 1g of the Retailers' Occupation Tax Act. If the property is leased in a manner that does not qualify for this exemption or used in any other nonexempt manner, the lessor shall be liable for the tax imposed under this Act or the Service Use Tax Act, as the case may be, based on the fair market value of the property at the time the nonqualifying use occurs. No lessor shall collect or attempt to collect an amount (however designated) that purports to reimburse that lessor for the tax imposed by this Act or the Service Use Tax Act, as the case may be, if the tax has not been paid by the lessor. If a lessor improperly collects any such amount from the lessee, the

lessee shall have a legal right to claim a refund of that amount from the lessor. If, however, that amount is not refunded to the lessee for any reason, the lessor is liable to pay that amount to the Department. This paragraph is exempt from the provisions of Section 3-90.

(33) On and after July 1, 2003 and through June 30, 2004, the use in this State of motor vehicles of the second division with a gross vehicle weight in excess of 8,000 pounds and that are subject to the commercial distribution fee imposed under Section 3-815.1 of the Illinois Vehicle Code. Beginning on July 1, 2004 and through June 30, 2005, the use in this State of motor vehicles of the second division: (i) with a gross vehicle weight rating in excess of 8,000 pounds; (ii) that are subject to the commercial distribution fee imposed under Section 3-815.1 of the Illinois Vehicle Code; and (iii) that are primarily used for commercial purposes. Through June 30, 2005, this exemption applies to repair and replacement parts added after the initial purchase of such a motor vehicle if that motor vehicle is used in a manner that would qualify for the rolling stock exemption otherwise provided for in this Act. For purposes of this paragraph, the term "used for commercial purposes" means the transportation of persons or property in furtherance of any commercial or industrial enterprise, whether for-hire or not.

(34) Beginning January 1, 2008, tangible personal property used in the construction or maintenance of a community water

supply, as defined under Section 3.145 of the Environmental Protection Act, that is operated by a not-for-profit corporation that holds a valid water supply permit issued under Title IV of the Environmental Protection Act. This paragraph is exempt from the provisions of Section 3-90.

(Source: P.A. 94-1002, eff. 7-3-06; 95-88, eff. 1-1-08; 95-538, eff. 1-1-08; revised 10-31-07.)

Section 125. The Service Use Tax Act is amended by changing Section 3-5 as follows:

(35 ILCS 110/3-5) (from Ch. 120, par. 439.33-5)

Sec. 3-5. Exemptions. Use of the following tangible personal property is exempt from the tax imposed by this Act:

(1) Personal property purchased from a corporation, society, association, foundation, institution, or organization, other than a limited liability company, that is organized and operated as a not-for-profit service enterprise for the benefit of persons 65 years of age or older if the personal property was not purchased by the enterprise for the purpose of resale by the enterprise.

(2) Personal property purchased by a non-profit Illinois county fair association for use in conducting, operating, or promoting the county fair.

(3) Personal property purchased by a not-for-profit arts or cultural organization that establishes, by proof required by

the Department by rule, that it has received an exemption under Section 501(c)(3) of the Internal Revenue Code and that is organized and operated primarily for the presentation or support of arts or cultural programming, activities, or services. These organizations include, but are not limited to, music and dramatic arts organizations such as symphony orchestras and theatrical groups, arts and cultural service organizations, local arts councils, visual arts organizations, and media arts organizations. On and after the effective date of this amendatory Act of the 92nd General Assembly, however, an entity otherwise eligible for this exemption shall not make tax-free purchases unless it has an active identification number issued by the Department.

(4) Legal tender, currency, medallions, or gold or silver coinage issued by the State of Illinois, the government of the United States of America, or the government of any foreign country, and bullion.

(5) Until July 1, 2003 and beginning again on September 1, 2004, graphic arts machinery and equipment, including repair and replacement parts, both new and used, and including that manufactured on special order or purchased for lease, certified by the purchaser to be used primarily for graphic arts production. Equipment includes chemicals or chemicals acting as catalysts but only if the chemicals or chemicals acting as catalysts effect a direct and immediate change upon a graphic arts product.

(6) Personal property purchased from a teacher-sponsored student organization affiliated with an elementary or secondary school located in Illinois.

(7) Farm machinery and equipment, both new and used, including that manufactured on special order, certified by the purchaser to be used primarily for production agriculture or State or federal agricultural programs, including individual replacement parts for the machinery and equipment, including machinery and equipment purchased for lease, and including implements of husbandry defined in Section 1-130 of the Illinois Vehicle Code, farm machinery and agricultural chemical and fertilizer spreaders, and nurse wagons required to be registered under Section 3-809 of the Illinois Vehicle Code, but excluding other motor vehicles required to be registered under the Illinois Vehicle Code. Horticultural polyhouses or hoop houses used for propagating, growing, or overwintering plants shall be considered farm machinery and equipment under this item (7). Agricultural chemical tender tanks and dry boxes shall include units sold separately from a motor vehicle required to be licensed and units sold mounted on a motor vehicle required to be licensed if the selling price of the tender is separately stated.

Farm machinery and equipment shall include precision farming equipment that is installed or purchased to be installed on farm machinery and equipment including, but not limited to, tractors, harvesters, sprayers, planters, seeders,

or spreaders. Precision farming equipment includes, but is not limited to, soil testing sensors, computers, monitors, software, global positioning and mapping systems, and other such equipment.

Farm machinery and equipment also includes computers, sensors, software, and related equipment used primarily in the computer-assisted operation of production agriculture facilities, equipment, and activities such as, but not limited to, the collection, monitoring, and correlation of animal and crop data for the purpose of formulating animal diets and agricultural chemicals. This item (7) is exempt from the provisions of Section 3-75.

(8) Fuel and petroleum products sold to or used by an air common carrier, certified by the carrier to be used for consumption, shipment, or storage in the conduct of its business as an air common carrier, for a flight destined for or returning from a location or locations outside the United States without regard to previous or subsequent domestic stopovers.

(9) Proceeds of mandatory service charges separately stated on customers' bills for the purchase and consumption of food and beverages acquired as an incident to the purchase of a service from a serviceman, to the extent that the proceeds of the service charge are in fact turned over as tips or as a substitute for tips to the employees who participate directly in preparing, serving, hosting or cleaning up the food or

beverage function with respect to which the service charge is imposed.

(10) Until July 1, 2003, oil field exploration, drilling, and production equipment, including (i) rigs and parts of rigs, rotary rigs, cable tool rigs, and workover rigs, (ii) pipe and tubular goods, including casing and drill strings, (iii) pumps and pump-jack units, (iv) storage tanks and flow lines, (v) any individual replacement part for oil field exploration, drilling, and production equipment, and (vi) machinery and equipment purchased for lease; but excluding motor vehicles required to be registered under the Illinois Vehicle Code.

(11) Proceeds from the sale of photoprocessing machinery and equipment, including repair and replacement parts, both new and used, including that manufactured on special order, certified by the purchaser to be used primarily for photoprocessing, and including photoprocessing machinery and equipment purchased for lease.

(12) Until July 1, 2003, coal exploration, mining, offhighway hauling, processing, maintenance, and reclamation equipment, including replacement parts and equipment, and including equipment purchased for lease, but excluding motor vehicles required to be registered under the Illinois Vehicle Code.

(13) Semen used for artificial insemination of livestock for direct agricultural production.

(14) Horses, or interests in horses, registered with and

meeting the requirements of any of the Arabian Horse Club Registry of America, Appaloosa Horse Club, American Quarter Horse Association, United States Trotting Association, or Jockey Club, as appropriate, used for purposes of breeding or racing for prizes. This item (14) is exempt from the provisions of Section 3-75, and the exemption provided for under this item (14) applies for all periods beginning May 30, 1995, but no claim for credit or refund is allowed on or after the effective date of this amendatory Act of the 95th General Assembly for such taxes paid during the period beginning May 30, 2000 and ending on the effective date of this amendatory Act of the 95th General Assembly.

(15) Computers and communications equipment utilized for any hospital purpose and equipment used in the diagnosis, analysis, or treatment of hospital patients purchased by a lessor who leases the equipment, under a lease of one year or longer executed or in effect at the time the lessor would otherwise be subject to the tax imposed by this Act, to a hospital that has been issued an active tax exemption identification number by the Department under Section 1g of the Retailers' Occupation Tax Act. If the equipment is leased in a manner that does not qualify for this exemption or is used in any other non-exempt manner, the lessor shall be liable for the tax imposed under this Act or the Use Tax Act, as the case may be, based on the fair market value of the property at the time the non-qualifying use occurs. No lessor shall collect or

attempt to collect an amount (however designated) that purports to reimburse that lessor for the tax imposed by this Act or the Use Tax Act, as the case may be, if the tax has not been paid by the lessor. If a lessor improperly collects any such amount from the lessee, the lessee shall have a legal right to claim a refund of that amount from the lessor. If, however, that amount is not refunded to the lessee for any reason, the lessor is liable to pay that amount to the Department.

(16) Personal property purchased by a lessor who leases the property, under a lease of one year or longer executed or in effect at the time the lessor would otherwise be subject to the tax imposed by this Act, to a governmental body that has been issued an active tax exemption identification number by the Department under Section 1g of the Retailers' Occupation Tax Act. If the property is leased in a manner that does not qualify for this exemption or is used in any other non-exempt manner, the lessor shall be liable for the tax imposed under this Act or the Use Tax Act, as the case may be, based on the fair market value of the property at the time the non-qualifying use occurs. No lessor shall collect or attempt to collect an amount (however designated) that purports to reimburse that lessor for the tax imposed by this Act or the Use Tax Act, as the case may be, if the tax has not been paid by the lessor. If a lessor improperly collects any such amount from the lessee, the lessee shall have a legal right to claim a refund of that amount from the lessor. If, however, that amount

is not refunded to the lessee for any reason, the lessor is liable to pay that amount to the Department.

(17) Beginning with taxable years ending on or after December 31, 1995 and ending with taxable years ending on or before December 31, 2004, personal property that is donated for disaster relief to be used in a State or federally declared disaster area in Illinois or bordering Illinois by a manufacturer or retailer that is registered in this State to a corporation, society, association, foundation, or institution that has been issued a sales tax exemption identification number by the Department that assists victims of the disaster who reside within the declared disaster area.

(18) Beginning with taxable years ending on or after December 31, 1995 and ending with taxable years ending on or before December 31, 2004, personal property that is used in the performance of infrastructure repairs in this State, including but not limited to municipal roads and streets, access roads, bridges, sidewalks, waste disposal systems, water and sewer line extensions, water distribution and purification facilities, storm water drainage and retention facilities, and sewage treatment facilities, resulting from a State or federally declared disaster in Illinois or bordering Illinois when such repairs are initiated on facilities located in the declared disaster area within 6 months after the disaster.

(19) Beginning July 1, 1999, game or game birds purchased at a "game breeding and hunting preserve area" or an "exotic

game hunting area" as those terms are used in the Wildlife Code or at a hunting enclosure approved through rules adopted by the Department of Natural Resources. This paragraph is exempt from the provisions of Section 3-75.

(20) A motor vehicle, as that term is defined in Section 1-146 of the Illinois Vehicle Code, that is donated to a corporation, limited liability company, society, association, foundation, or institution that is determined by the Department to be organized and operated exclusively for educational purposes. For purposes of this exemption, "a corporation, limited liability company, society, association, foundation, or institution organized and operated exclusively for educational purposes" means all tax-supported public schools, private schools that offer systematic instruction in useful branches of learning by methods common to public schools and that compare favorably in their scope and intensity with the course of study presented in tax-supported schools, and vocational or technical schools or institutes organized and operated exclusively to provide a course of study of not less than 6 weeks duration and designed to prepare individuals to follow a trade or to pursue a manual, technical, mechanical, industrial, business, or commercial occupation.

(21) Beginning January 1, 2000, personal property, including food, purchased through fundraising events for the benefit of a public or private elementary or secondary school, a group of those schools, or one or more school districts if

the events are sponsored by an entity recognized by the school district that consists primarily of volunteers and includes parents and teachers of the school children. This paragraph does not apply to fundraising events (i) for the benefit of private home instruction or (ii) for which the fundraising entity purchases the personal property sold at the events from another individual or entity that sold the property for the purpose of resale by the fundraising entity and that profits from the sale to the fundraising entity. This paragraph is exempt from the provisions of Section 3-75.

(22) Beginning January 1, 2000 and through December 31, 2001, new or used automatic vending machines that prepare and serve hot food and beverages, including coffee, soup, and other items, and replacement parts for these machines. Beginning January 1, 2002 and through June 30, 2003, machines and parts for machines used in commercial, coin-operated amusement and vending business if a use or occupation tax is paid on the gross receipts derived from the use of the commercial, coin-operated amusement and vending machines. This paragraph is exempt from the provisions of Section 3-75.

(23) Beginning August 23, 2001 and through June 30, 2011, food for human consumption that is to be consumed off the premises where it is sold (other than alcoholic beverages, soft drinks, and food that has been prepared for immediate consumption) and prescription and nonprescription medicines, drugs, medical appliances, and insulin, urine testing

materials, syringes, and needles used by diabetics, for human use, when purchased for use by a person receiving medical assistance under Article 5 of the Illinois Public Aid Code who resides in a licensed long-term care facility, as defined in the Nursing Home Care Act.

(24) Beginning on the effective date of this amendatory Act of the 92nd General Assembly, computers and communications equipment utilized for any hospital purpose and equipment used in the diagnosis, analysis, or treatment of hospital patients purchased by a lessor who leases the equipment, under a lease of one year or longer executed or in effect at the time the lessor would otherwise be subject to the tax imposed by this Act, to a hospital that has been issued an active tax exemption identification number by the Department under Section 1g of the Retailers' Occupation Tax Act. If the equipment is leased in a manner that does not qualify for this exemption or is used in any other nonexempt manner, the lessor shall be liable for the tax imposed under this Act or the Use Tax Act, as the case may be, based on the fair market value of the property at the time the nonqualifying use occurs. No lessor shall collect or attempt to collect an amount (however designated) that purports to reimburse that lessor for the tax imposed by this Act or the Use Tax Act, as the case may be, if the tax has not been paid by the lessor. If a lessor improperly collects any such amount from the lessee, the lessee shall have a legal right to claim a refund of that amount from the lessor. If, however, that amount

is not refunded to the lessee for any reason, the lessor is liable to pay that amount to the Department. This paragraph is exempt from the provisions of Section 3-75.

(25) Beginning on the effective date of this amendatory Act of the 92nd General Assembly, personal property purchased by a lessor who leases the property, under a lease of one year or longer executed or in effect at the time the lessor would otherwise be subject to the tax imposed by this Act, to a governmental body that has been issued an active tax exemption identification number by the Department under Section 1g of the Retailers' Occupation Tax Act. If the property is leased in a manner that does not qualify for this exemption or is used in any other nonexempt manner, the lessor shall be liable for the tax imposed under this Act or the Use Tax Act, as the case may be, based on the fair market value of the property at the time the nonqualifying use occurs. No lessor shall collect or attempt to collect an amount (however designated) that purports to reimburse that lessor for the tax imposed by this Act or the Use Tax Act, as the case may be, if the tax has not been paid by the lessor. If a lessor improperly collects any such amount from the lessee, the lessee shall have a legal right to claim a refund of that amount from the lessor. If, however, that amount is not refunded to the lessee for any reason, the lessor is liable to pay that amount to the Department. This paragraph is exempt from the provisions of Section 3-75.

(26) Beginning January 1, 2008, tangible personal property

used in the construction or maintenance of a community water supply, as defined under Section 3.145 of the Environmental Protection Act, that is operated by a not-for-profit corporation that holds a valid water supply permit issued under Title IV of the Environmental Protection Act. This paragraph is exempt from the provisions of Section 3-75.

(Source: P.A. 94-1002, eff. 7-3-06; 95-88, eff. 1-1-08; 95-538, eff. 1-1-08; revised 11-2-07.)

Section 130. The Service Occupation Tax Act is amended by changing Section 3-5 as follows:

(35 ILCS 115/3-5) (from Ch. 120, par. 439.103-5)

Sec. 3-5. Exemptions. The following tangible personal property is exempt from the tax imposed by this Act:

(1) Personal property sold by a corporation, society, association, foundation, institution, or organization, other than a limited liability company, that is organized and operated as a not-for-profit service enterprise for the benefit of persons 65 years of age or older if the personal property was not purchased by the enterprise for the purpose of resale by the enterprise.

(2) Personal property purchased by a not-for-profit Illinois county fair association for use in conducting, operating, or promoting the county fair.

(3) Personal property purchased by any not-for-profit arts

or cultural organization that establishes, by proof required by the Department by rule, that it has received an exemption under Section 501(c)(3) of the Internal Revenue Code and that is organized and operated primarily for the presentation or support of arts or cultural programming, activities, or services. These organizations include, but are not limited to, music and dramatic arts organizations such as symphony orchestras and theatrical groups, arts and cultural service organizations, local arts councils, visual arts organizations, and media arts organizations. On and after the effective date of this amendatory Act of the 92nd General Assembly, however, an entity otherwise eligible for this exemption shall not make tax-free purchases unless it has an active identification number issued by the Department.

(4) Legal tender, currency, medallions, or gold or silver coinage issued by the State of Illinois, the government of the United States of America, or the government of any foreign country, and bullion.

(5) Until July 1, 2003 and beginning again on September 1, 2004, graphic arts machinery and equipment, including repair and replacement parts, both new and used, and including that manufactured on special order or purchased for lease, certified by the purchaser to be used primarily for graphic arts production. Equipment includes chemicals or chemicals acting as catalysts but only if the chemicals or chemicals acting as catalysts effect a direct and immediate change upon a graphic

arts product.

(6) Personal property sold by a teacher-sponsored student organization affiliated with an elementary or secondary school located in Illinois.

(7) Farm machinery and equipment, both new and used, including that manufactured on special order, certified by the purchaser to be used primarily for production agriculture or State or federal agricultural programs, including individual replacement parts for the machinery and equipment, including machinery and equipment purchased for lease, and including implements of husbandry defined in Section 1-130 of the Illinois Vehicle Code, farm machinery and agricultural chemical and fertilizer spreaders, and nurse wagons required to be registered under Section 3-809 of the Illinois Vehicle Code, but excluding other motor vehicles required to be registered under the Illinois Vehicle Code. Horticultural polyhouses or hoop houses used for propagating, growing, or overwintering plants shall be considered farm machinery and equipment under this item (7). Agricultural chemical tender tanks and dry boxes shall include units sold separately from a motor vehicle required to be licensed and units sold mounted on a motor vehicle required to be licensed if the selling price of the tender is separately stated.

Farm machinery and equipment shall include precision farming equipment that is installed or purchased to be installed on farm machinery and equipment including, but not

limited to, tractors, harvesters, sprayers, planters, seeders, or spreaders. Precision farming equipment includes, but is not limited to, soil testing sensors, computers, monitors, software, global positioning and mapping systems, and other such equipment.

Farm machinery and equipment also includes computers, sensors, software, and related equipment used primarily in the computer-assisted operation of production agriculture facilities, equipment, and activities such as, but not limited to, the collection, monitoring, and correlation of animal and crop data for the purpose of formulating animal diets and agricultural chemicals. This item (7) is exempt from the provisions of Section 3-55.

(8) Fuel and petroleum products sold to or used by an air common carrier, certified by the carrier to be used for consumption, shipment, or storage in the conduct of its business as an air common carrier, for a flight destined for or returning from a location or locations outside the United States without regard to previous or subsequent domestic stopovers.

(9) Proceeds of mandatory service charges separately stated on customers' bills for the purchase and consumption of food and beverages, to the extent that the proceeds of the service charge are in fact turned over as tips or as a substitute for tips to the employees who participate directly in preparing, serving, hosting or cleaning up the food or

beverage function with respect to which the service charge is imposed.

(10) Until July 1, 2003, oil field exploration, drilling, and production equipment, including (i) rigs and parts of rigs, rotary rigs, cable tool rigs, and workover rigs, (ii) pipe and tubular goods, including casing and drill strings, (iii) pumps and pump-jack units, (iv) storage tanks and flow lines, (v) any individual replacement part for oil field exploration, drilling, and production equipment, and (vi) machinery and equipment purchased for lease; but excluding motor vehicles required to be registered under the Illinois Vehicle Code.

(11) Photoprocessing machinery and equipment, including repair and replacement parts, both new and used, including that manufactured on special order, certified by the purchaser to be used primarily for photoprocessing, and including photoprocessing machinery and equipment purchased for lease.

(12) Until July 1, 2003, coal exploration, mining, offhighway hauling, processing, maintenance, and reclamation equipment, including replacement parts and equipment, and including equipment purchased for lease, but excluding motor vehicles required to be registered under the Illinois Vehicle Code.

(13) Beginning January 1, 1992 and through June 30, 2011, food for human consumption that is to be consumed off the premises where it is sold (other than alcoholic beverages, soft drinks and food that has been prepared for immediate

consumption) and prescription and non-prescription medicines, drugs, medical appliances, and insulin, urine testing materials, syringes, and needles used by diabetics, for human use, when purchased for use by a person receiving medical assistance under Article 5 of the Illinois Public Aid Code who resides in a licensed long-term care facility, as defined in the Nursing Home Care Act.

(14) Semen used for artificial insemination of livestock for direct agricultural production.

(15) Horses, or interests in horses, registered with and meeting the requirements of any of the Arabian Horse Club Registry of America, Appaloosa Horse Club, American Quarter Horse Association, United States Trotting Association, or Jockey Club, as appropriate, used for purposes of breeding or racing for prizes. This item (15) is exempt from the provisions of Section 3-55, and the exemption provided for under this item (15) applies for all periods beginning May 30, 1995, but no claim for credit or refund is allowed on or after January 1, 2008 (the effective date of Public Act 95-88) ~~this amendatory Act of the 95th General Assembly~~ for such taxes paid during the period beginning May 30, 2000 and ending on January 1, 2008 (the effective date of Public Act 95-88) ~~this amendatory Act of the 95th General Assembly~~.

(16) Computers and communications equipment utilized for any hospital purpose and equipment used in the diagnosis, analysis, or treatment of hospital patients sold to a lessor

who leases the equipment, under a lease of one year or longer executed or in effect at the time of the purchase, to a hospital that has been issued an active tax exemption identification number by the Department under Section 1g of the Retailers' Occupation Tax Act.

(17) Personal property sold to a lessor who leases the property, under a lease of one year or longer executed or in effect at the time of the purchase, to a governmental body that has been issued an active tax exemption identification number by the Department under Section 1g of the Retailers' Occupation Tax Act.

(18) Beginning with taxable years ending on or after December 31, 1995 and ending with taxable years ending on or before December 31, 2004, personal property that is donated for disaster relief to be used in a State or federally declared disaster area in Illinois or bordering Illinois by a manufacturer or retailer that is registered in this State to a corporation, society, association, foundation, or institution that has been issued a sales tax exemption identification number by the Department that assists victims of the disaster who reside within the declared disaster area.

(19) Beginning with taxable years ending on or after December 31, 1995 and ending with taxable years ending on or before December 31, 2004, personal property that is used in the performance of infrastructure repairs in this State, including but not limited to municipal roads and streets, access roads,

bridges, sidewalks, waste disposal systems, water and sewer line extensions, water distribution and purification facilities, storm water drainage and retention facilities, and sewage treatment facilities, resulting from a State or federally declared disaster in Illinois or bordering Illinois when such repairs are initiated on facilities located in the declared disaster area within 6 months after the disaster.

(20) Beginning July 1, 1999, game or game birds sold at a "game breeding and hunting preserve area" or an "exotic game hunting area" as those terms are used in the Wildlife Code or at a hunting enclosure approved through rules adopted by the Department of Natural Resources. This paragraph is exempt from the provisions of Section 3-55.

(21) A motor vehicle, as that term is defined in Section 1-146 of the Illinois Vehicle Code, that is donated to a corporation, limited liability company, society, association, foundation, or institution that is determined by the Department to be organized and operated exclusively for educational purposes. For purposes of this exemption, "a corporation, limited liability company, society, association, foundation, or institution organized and operated exclusively for educational purposes" means all tax-supported public schools, private schools that offer systematic instruction in useful branches of learning by methods common to public schools and that compare favorably in their scope and intensity with the course of study presented in tax-supported schools, and

vocational or technical schools or institutes organized and operated exclusively to provide a course of study of not less than 6 weeks duration and designed to prepare individuals to follow a trade or to pursue a manual, technical, mechanical, industrial, business, or commercial occupation.

(22) Beginning January 1, 2000, personal property, including food, purchased through fundraising events for the benefit of a public or private elementary or secondary school, a group of those schools, or one or more school districts if the events are sponsored by an entity recognized by the school district that consists primarily of volunteers and includes parents and teachers of the school children. This paragraph does not apply to fundraising events (i) for the benefit of private home instruction or (ii) for which the fundraising entity purchases the personal property sold at the events from another individual or entity that sold the property for the purpose of resale by the fundraising entity and that profits from the sale to the fundraising entity. This paragraph is exempt from the provisions of Section 3-55.

(23) Beginning January 1, 2000 and through December 31, 2001, new or used automatic vending machines that prepare and serve hot food and beverages, including coffee, soup, and other items, and replacement parts for these machines. Beginning January 1, 2002 and through June 30, 2003, machines and parts for machines used in commercial, coin-operated amusement and vending business if a use or occupation tax is paid on the

gross receipts derived from the use of the commercial, coin-operated amusement and vending machines. This paragraph is exempt from the provisions of Section 3-55.

(24) Beginning on the effective date of this amendatory Act of the 92nd General Assembly, computers and communications equipment utilized for any hospital purpose and equipment used in the diagnosis, analysis, or treatment of hospital patients sold to a lessor who leases the equipment, under a lease of one year or longer executed or in effect at the time of the purchase, to a hospital that has been issued an active tax exemption identification number by the Department under Section 1g of the Retailers' Occupation Tax Act. This paragraph is exempt from the provisions of Section 3-55.

(25) Beginning on the effective date of this amendatory Act of the 92nd General Assembly, personal property sold to a lessor who leases the property, under a lease of one year or longer executed or in effect at the time of the purchase, to a governmental body that has been issued an active tax exemption identification number by the Department under Section 1g of the Retailers' Occupation Tax Act. This paragraph is exempt from the provisions of Section 3-55.

(26) Beginning on January 1, 2002 and through June 30, 2011, tangible personal property purchased from an Illinois retailer by a taxpayer engaged in centralized purchasing activities in Illinois who will, upon receipt of the property in Illinois, temporarily store the property in Illinois (i) for

the purpose of subsequently transporting it outside this State for use or consumption thereafter solely outside this State or (ii) for the purpose of being processed, fabricated, or manufactured into, attached to, or incorporated into other tangible personal property to be transported outside this State and thereafter used or consumed solely outside this State. The Director of Revenue shall, pursuant to rules adopted in accordance with the Illinois Administrative Procedure Act, issue a permit to any taxpayer in good standing with the Department who is eligible for the exemption under this paragraph (26). The permit issued under this paragraph (26) shall authorize the holder, to the extent and in the manner specified in the rules adopted under this Act, to purchase tangible personal property from a retailer exempt from the taxes imposed by this Act. Taxpayers shall maintain all necessary books and records to substantiate the use and consumption of all such tangible personal property outside of the State of Illinois.

(27) Beginning January 1, 2008, tangible personal property used in the construction or maintenance of a community water supply, as defined under Section 3.145 of the Environmental Protection Act, that is operated by a not-for-profit corporation that holds a valid water supply permit issued under Title IV of the Environmental Protection Act. This paragraph is exempt from the provisions of Section 3-55.

(Source: P.A. 94-1002, eff. 7-3-06; 95-88, eff. 1-1-08; 95-538,

eff. 1-1-08; revised 11-2-07.)

Section 135. The Retailers' Occupation Tax Act is amended by changing Section 2-5 as follows:

(35 ILCS 120/2-5) (from Ch. 120, par. 441-5)

Sec. 2-5. Exemptions. Gross receipts from proceeds from the sale of the following tangible personal property are exempt from the tax imposed by this Act:

(1) Farm chemicals.

(2) Farm machinery and equipment, both new and used, including that manufactured on special order, certified by the purchaser to be used primarily for production agriculture or State or federal agricultural programs, including individual replacement parts for the machinery and equipment, including machinery and equipment purchased for lease, and including implements of husbandry defined in Section 1-130 of the Illinois Vehicle Code, farm machinery and agricultural chemical and fertilizer spreaders, and nurse wagons required to be registered under Section 3-809 of the Illinois Vehicle Code, but excluding other motor vehicles required to be registered under the Illinois Vehicle Code. Horticultural polyhouses or hoop houses used for propagating, growing, or overwintering plants shall be considered farm machinery and equipment under this item (2). Agricultural chemical tender tanks and dry boxes shall include units sold separately from a motor vehicle

required to be licensed and units sold mounted on a motor vehicle required to be licensed, if the selling price of the tender is separately stated.

Farm machinery and equipment shall include precision farming equipment that is installed or purchased to be installed on farm machinery and equipment including, but not limited to, tractors, harvesters, sprayers, planters, seeders, or spreaders. Precision farming equipment includes, but is not limited to, soil testing sensors, computers, monitors, software, global positioning and mapping systems, and other such equipment.

Farm machinery and equipment also includes computers, sensors, software, and related equipment used primarily in the computer-assisted operation of production agriculture facilities, equipment, and activities such as, but not limited to, the collection, monitoring, and correlation of animal and crop data for the purpose of formulating animal diets and agricultural chemicals. This item (7) is exempt from the provisions of Section 2-70.

(3) Until July 1, 2003, distillation machinery and equipment, sold as a unit or kit, assembled or installed by the retailer, certified by the user to be used only for the production of ethyl alcohol that will be used for consumption as motor fuel or as a component of motor fuel for the personal use of the user, and not subject to sale or resale.

(4) Until July 1, 2003 and beginning again September 1,

2004, graphic arts machinery and equipment, including repair and replacement parts, both new and used, and including that manufactured on special order or purchased for lease, certified by the purchaser to be used primarily for graphic arts production. Equipment includes chemicals or chemicals acting as catalysts but only if the chemicals or chemicals acting as catalysts effect a direct and immediate change upon a graphic arts product.

(5) (Blank).

(6) Personal property sold by a teacher-sponsored student organization affiliated with an elementary or secondary school located in Illinois.

(7) Until July 1, 2003, proceeds of that portion of the selling price of a passenger car the sale of which is subject to the Replacement Vehicle Tax.

(8) Personal property sold to an Illinois county fair association for use in conducting, operating, or promoting the county fair.

(9) Personal property sold to a not-for-profit arts or cultural organization that establishes, by proof required by the Department by rule, that it has received an exemption under Section 501(c)(3) of the Internal Revenue Code and that is organized and operated primarily for the presentation or support of arts or cultural programming, activities, or services. These organizations include, but are not limited to, music and dramatic arts organizations such as symphony

orchestras and theatrical groups, arts and cultural service organizations, local arts councils, visual arts organizations, and media arts organizations. On and after the effective date of this amendatory Act of the 92nd General Assembly, however, an entity otherwise eligible for this exemption shall not make tax-free purchases unless it has an active identification number issued by the Department.

(10) Personal property sold by a corporation, society, association, foundation, institution, or organization, other than a limited liability company, that is organized and operated as a not-for-profit service enterprise for the benefit of persons 65 years of age or older if the personal property was not purchased by the enterprise for the purpose of resale by the enterprise.

(11) Personal property sold to a governmental body, to a corporation, society, association, foundation, or institution organized and operated exclusively for charitable, religious, or educational purposes, or to a not-for-profit corporation, society, association, foundation, institution, or organization that has no compensated officers or employees and that is organized and operated primarily for the recreation of persons 55 years of age or older. A limited liability company may qualify for the exemption under this paragraph only if the limited liability company is organized and operated exclusively for educational purposes. On and after July 1, 1987, however, no entity otherwise eligible for this exemption

shall make tax-free purchases unless it has an active identification number issued by the Department.

(12) Tangible personal property sold to interstate carriers for hire for use as rolling stock moving in interstate commerce or to lessors under leases of one year or longer executed or in effect at the time of purchase by interstate carriers for hire for use as rolling stock moving in interstate commerce and equipment operated by a telecommunications provider, licensed as a common carrier by the Federal Communications Commission, which is permanently installed in or affixed to aircraft moving in interstate commerce.

(12-5) On and after July 1, 2003 and through June 30, 2004, motor vehicles of the second division with a gross vehicle weight in excess of 8,000 pounds that are subject to the commercial distribution fee imposed under Section 3-815.1 of the Illinois Vehicle Code. Beginning on July 1, 2004 and through June 30, 2005, the use in this State of motor vehicles of the second division: (i) with a gross vehicle weight rating in excess of 8,000 pounds; (ii) that are subject to the commercial distribution fee imposed under Section 3-815.1 of the Illinois Vehicle Code; and (iii) that are primarily used for commercial purposes. Through June 30, 2005, this exemption applies to repair and replacement parts added after the initial purchase of such a motor vehicle if that motor vehicle is used in a manner that would qualify for the rolling stock exemption otherwise provided for in this Act. For purposes of this

paragraph, "used for commercial purposes" means the transportation of persons or property in furtherance of any commercial or industrial enterprise whether for-hire or not.

(13) Proceeds from sales to owners, lessors, or shippers of tangible personal property that is utilized by interstate carriers for hire for use as rolling stock moving in interstate commerce and equipment operated by a telecommunications provider, licensed as a common carrier by the Federal Communications Commission, which is permanently installed in or affixed to aircraft moving in interstate commerce.

(14) Machinery and equipment that will be used by the purchaser, or a lessee of the purchaser, primarily in the process of manufacturing or assembling tangible personal property for wholesale or retail sale or lease, whether the sale or lease is made directly by the manufacturer or by some other person, whether the materials used in the process are owned by the manufacturer or some other person, or whether the sale or lease is made apart from or as an incident to the seller's engaging in the service occupation of producing machines, tools, dies, jigs, patterns, gauges, or other similar items of no commercial value on special order for a particular purchaser.

(15) Proceeds of mandatory service charges separately stated on customers' bills for purchase and consumption of food and beverages, to the extent that the proceeds of the service charge are in fact turned over as tips or as a substitute for

tips to the employees who participate directly in preparing, serving, hosting or cleaning up the food or beverage function with respect to which the service charge is imposed.

(16) Petroleum products sold to a purchaser if the seller is prohibited by federal law from charging tax to the purchaser.

(17) Tangible personal property sold to a common carrier by rail or motor that receives the physical possession of the property in Illinois and that transports the property, or shares with another common carrier in the transportation of the property, out of Illinois on a standard uniform bill of lading showing the seller of the property as the shipper or consignor of the property to a destination outside Illinois, for use outside Illinois.

(18) Legal tender, currency, medallions, or gold or silver coinage issued by the State of Illinois, the government of the United States of America, or the government of any foreign country, and bullion.

(19) Until July 1 2003, oil field exploration, drilling, and production equipment, including (i) rigs and parts of rigs, rotary rigs, cable tool rigs, and workover rigs, (ii) pipe and tubular goods, including casing and drill strings, (iii) pumps and pump-jack units, (iv) storage tanks and flow lines, (v) any individual replacement part for oil field exploration, drilling, and production equipment, and (vi) machinery and equipment purchased for lease; but excluding motor vehicles

required to be registered under the Illinois Vehicle Code.

(20) Photoprocessing machinery and equipment, including repair and replacement parts, both new and used, including that manufactured on special order, certified by the purchaser to be used primarily for photoprocessing, and including photoprocessing machinery and equipment purchased for lease.

(21) Until July 1, 2003, coal exploration, mining, offhighway hauling, processing, maintenance, and reclamation equipment, including replacement parts and equipment, and including equipment purchased for lease, but excluding motor vehicles required to be registered under the Illinois Vehicle Code.

(22) Fuel and petroleum products sold to or used by an air carrier, certified by the carrier to be used for consumption, shipment, or storage in the conduct of its business as an air common carrier, for a flight destined for or returning from a location or locations outside the United States without regard to previous or subsequent domestic stopovers.

(23) A transaction in which the purchase order is received by a florist who is located outside Illinois, but who has a florist located in Illinois deliver the property to the purchaser or the purchaser's donee in Illinois.

(24) Fuel consumed or used in the operation of ships, barges, or vessels that are used primarily in or for the transportation of property or the conveyance of persons for hire on rivers bordering on this State if the fuel is delivered

by the seller to the purchaser's barge, ship, or vessel while it is afloat upon that bordering river.

(25) Except as provided in item (25-5) of this Section, a motor vehicle sold in this State to a nonresident even though the motor vehicle is delivered to the nonresident in this State, if the motor vehicle is not to be titled in this State, and if a drive-away permit is issued to the motor vehicle as provided in Section 3-603 of the Illinois Vehicle Code or if the nonresident purchaser has vehicle registration plates to transfer to the motor vehicle upon returning to his or her home state. The issuance of the drive-away permit or having the out-of-state registration plates to be transferred is prima facie evidence that the motor vehicle will not be titled in this State.

(25-5) The exemption under item (25) does not apply if the state in which the motor vehicle will be titled does not allow a reciprocal exemption for a motor vehicle sold and delivered in that state to an Illinois resident but titled in Illinois. The tax collected under this Act on the sale of a motor vehicle in this State to a resident of another state that does not allow a reciprocal exemption shall be imposed at a rate equal to the state's rate of tax on taxable property in the state in which the purchaser is a resident, except that the tax shall not exceed the tax that would otherwise be imposed under this Act. At the time of the sale, the purchaser shall execute a statement, signed under penalty of perjury, of his or her

intent to title the vehicle in the state in which the purchaser is a resident within 30 days after the sale and of the fact of the payment to the State of Illinois of tax in an amount equivalent to the state's rate of tax on taxable property in his or her state of residence and shall submit the statement to the appropriate tax collection agency in his or her state of residence. In addition, the retailer must retain a signed copy of the statement in his or her records. Nothing in this item shall be construed to require the removal of the vehicle from this state following the filing of an intent to title the vehicle in the purchaser's state of residence if the purchaser titles the vehicle in his or her state of residence within 30 days after the date of sale. The tax collected under this Act in accordance with this item (25-5) shall be proportionately distributed as if the tax were collected at the 6.25% general rate imposed under this Act.

(25-7) Beginning on July 1, 2007, no tax is imposed under this Act on the sale of an aircraft, as defined in Section 3 of the Illinois Aeronautics Act, if all of the following conditions are met:

(1) the aircraft leaves this State within 15 days after the later of either the issuance of the final billing for the sale of the aircraft, or the authorized approval for return to service, completion of the maintenance record entry, and completion of the test flight and ground test for inspection, as required by 14 C.F.R. 91.407;

(2) the aircraft is not based or registered in this State after the sale of the aircraft; and

(3) the seller retains in his or her books and records and provides to the Department a signed and dated certification from the purchaser, on a form prescribed by the Department, certifying that the requirements of this item (25-7) are met. The certificate must also include the name and address of the purchaser, the address of the location where the aircraft is to be titled or registered, the address of the primary physical location of the aircraft, and other information that the Department may reasonably require.

For purposes of this item (25-7):

"Based in this State" means hangared, stored, or otherwise used, excluding post-sale customizations as defined in this Section, for 10 or more days in each 12-month period immediately following the date of the sale of the aircraft.

"Registered in this State" means an aircraft registered with the Department of Transportation, Aeronautics Division, or titled or registered with the Federal Aviation Administration to an address located in this State.

This paragraph (25-7) is exempt from the provisions of Section 2-70.

(26) Semen used for artificial insemination of livestock for direct agricultural production.

(27) Horses, or interests in horses, registered with and

meeting the requirements of any of the Arabian Horse Club Registry of America, Appaloosa Horse Club, American Quarter Horse Association, United States Trotting Association, or Jockey Club, as appropriate, used for purposes of breeding or racing for prizes. This item (27) is exempt from the provisions of Section 2-70, and the exemption provided for under this item (27) applies for all periods beginning May 30, 1995, but no claim for credit or refund is allowed on or after January 1, 2008 (the effective date of Public Act 95-88) ~~this amendatory Act of the 95th General Assembly~~ for such taxes paid during the period beginning May 30, 2000 and ending on January 1, 2008 (the effective date of Public Act 95-88) ~~this amendatory Act of the 95th General Assembly~~.

(28) Computers and communications equipment utilized for any hospital purpose and equipment used in the diagnosis, analysis, or treatment of hospital patients sold to a lessor who leases the equipment, under a lease of one year or longer executed or in effect at the time of the purchase, to a hospital that has been issued an active tax exemption identification number by the Department under Section 1g of this Act.

(29) Personal property sold to a lessor who leases the property, under a lease of one year or longer executed or in effect at the time of the purchase, to a governmental body that has been issued an active tax exemption identification number by the Department under Section 1g of this Act.

(30) Beginning with taxable years ending on or after December 31, 1995 and ending with taxable years ending on or before December 31, 2004, personal property that is donated for disaster relief to be used in a State or federally declared disaster area in Illinois or bordering Illinois by a manufacturer or retailer that is registered in this State to a corporation, society, association, foundation, or institution that has been issued a sales tax exemption identification number by the Department that assists victims of the disaster who reside within the declared disaster area.

(31) Beginning with taxable years ending on or after December 31, 1995 and ending with taxable years ending on or before December 31, 2004, personal property that is used in the performance of infrastructure repairs in this State, including but not limited to municipal roads and streets, access roads, bridges, sidewalks, waste disposal systems, water and sewer line extensions, water distribution and purification facilities, storm water drainage and retention facilities, and sewage treatment facilities, resulting from a State or federally declared disaster in Illinois or bordering Illinois when such repairs are initiated on facilities located in the declared disaster area within 6 months after the disaster.

(32) Beginning July 1, 1999, game or game birds sold at a "game breeding and hunting preserve area" or an "exotic game hunting area" as those terms are used in the Wildlife Code or at a hunting enclosure approved through rules adopted by the

Department of Natural Resources. This paragraph is exempt from the provisions of Section 2-70.

(33) A motor vehicle, as that term is defined in Section 1-146 of the Illinois Vehicle Code, that is donated to a corporation, limited liability company, society, association, foundation, or institution that is determined by the Department to be organized and operated exclusively for educational purposes. For purposes of this exemption, "a corporation, limited liability company, society, association, foundation, or institution organized and operated exclusively for educational purposes" means all tax-supported public schools, private schools that offer systematic instruction in useful branches of learning by methods common to public schools and that compare favorably in their scope and intensity with the course of study presented in tax-supported schools, and vocational or technical schools or institutes organized and operated exclusively to provide a course of study of not less than 6 weeks duration and designed to prepare individuals to follow a trade or to pursue a manual, technical, mechanical, industrial, business, or commercial occupation.

(34) Beginning January 1, 2000, personal property, including food, purchased through fundraising events for the benefit of a public or private elementary or secondary school, a group of those schools, or one or more school districts if the events are sponsored by an entity recognized by the school district that consists primarily of volunteers and includes

parents and teachers of the school children. This paragraph does not apply to fundraising events (i) for the benefit of private home instruction or (ii) for which the fundraising entity purchases the personal property sold at the events from another individual or entity that sold the property for the purpose of resale by the fundraising entity and that profits from the sale to the fundraising entity. This paragraph is exempt from the provisions of Section 2-70.

(35) Beginning January 1, 2000 and through December 31, 2001, new or used automatic vending machines that prepare and serve hot food and beverages, including coffee, soup, and other items, and replacement parts for these machines. Beginning January 1, 2002 and through June 30, 2003, machines and parts for machines used in commercial, coin-operated amusement and vending business if a use or occupation tax is paid on the gross receipts derived from the use of the commercial, coin-operated amusement and vending machines. This paragraph is exempt from the provisions of Section 2-70.

(35-5) Beginning August 23, 2001 and through June 30, 2011, food for human consumption that is to be consumed off the premises where it is sold (other than alcoholic beverages, soft drinks, and food that has been prepared for immediate consumption) and prescription and nonprescription medicines, drugs, medical appliances, and insulin, urine testing materials, syringes, and needles used by diabetics, for human use, when purchased for use by a person receiving medical

assistance under Article 5 of the Illinois Public Aid Code who resides in a licensed long-term care facility, as defined in the Nursing Home Care Act.

(36) Beginning August 2, 2001, computers and communications equipment utilized for any hospital purpose and equipment used in the diagnosis, analysis, or treatment of hospital patients sold to a lessor who leases the equipment, under a lease of one year or longer executed or in effect at the time of the purchase, to a hospital that has been issued an active tax exemption identification number by the Department under Section 1g of this Act. This paragraph is exempt from the provisions of Section 2-70.

(37) Beginning August 2, 2001, personal property sold to a lessor who leases the property, under a lease of one year or longer executed or in effect at the time of the purchase, to a governmental body that has been issued an active tax exemption identification number by the Department under Section 1g of this Act. This paragraph is exempt from the provisions of Section 2-70.

(38) Beginning on January 1, 2002 and through June 30, 2011, tangible personal property purchased from an Illinois retailer by a taxpayer engaged in centralized purchasing activities in Illinois who will, upon receipt of the property in Illinois, temporarily store the property in Illinois (i) for the purpose of subsequently transporting it outside this State for use or consumption thereafter solely outside this State or

(ii) for the purpose of being processed, fabricated, or manufactured into, attached to, or incorporated into other tangible personal property to be transported outside this State and thereafter used or consumed solely outside this State. The Director of Revenue shall, pursuant to rules adopted in accordance with the Illinois Administrative Procedure Act, issue a permit to any taxpayer in good standing with the Department who is eligible for the exemption under this paragraph (38). The permit issued under this paragraph (38) shall authorize the holder, to the extent and in the manner specified in the rules adopted under this Act, to purchase tangible personal property from a retailer exempt from the taxes imposed by this Act. Taxpayers shall maintain all necessary books and records to substantiate the use and consumption of all such tangible personal property outside of the State of Illinois.

(39) Beginning January 1, 2008, tangible personal property used in the construction or maintenance of a community water supply, as defined under Section 3.145 of the Environmental Protection Act, that is operated by a not-for-profit corporation that holds a valid water supply permit issued under Title IV of the Environmental Protection Act. This paragraph is exempt from the provisions of Section 2-70.

(Source: P.A. 94-1002, eff. 7-3-06; 95-88, eff. 1-1-08; 95-233, eff. 8-16-07; 95-304, eff. 8-20-07; 95-538, eff. 1-1-08; revised 9-11-07.)

Section 140. The Property Tax Code is amended by changing the heading of Division 18 of Article 10 and Sections 15-170, 18-185, 22-15, and 22-20 as follows:

(35 ILCS 200/Art. 10 Div. 18 heading)

DIVISION 18. ~~ARTICLE 10 Div. 18.~~ WIND ENERGY PROPERTY
ASSESSMENT

(Source: P.A. 95-644, eff. 10-12-07; revised 12-10-07.)

(35 ILCS 200/15-170)

Sec. 15-170. Senior Citizens Homestead Exemption. An annual homestead exemption limited, except as described here with relation to cooperatives or life care facilities, to a maximum reduction set forth below from the property's value, as equalized or assessed by the Department, is granted for property that is occupied as a residence by a person 65 years of age or older who is liable for paying real estate taxes on the property and is an owner of record of the property or has a legal or equitable interest therein as evidenced by a written instrument, except for a leasehold interest, other than a leasehold interest of land on which a single family residence is located, which is occupied as a residence by a person 65 years or older who has an ownership interest therein, legal, equitable or as a lessee, and on which he or she is liable for the payment of property taxes. Before taxable year 2004, the

maximum reduction shall be \$2,500 in counties with 3,000,000 or more inhabitants and \$2,000 in all other counties. For taxable years 2004 through 2005, the maximum reduction shall be \$3,000 in all counties. For taxable years 2006 and 2007, the maximum reduction shall be \$3,500 and, for taxable years 2008 and thereafter, the maximum reduction is \$4,000 in all counties.

For land improved with an apartment building owned and operated as a cooperative, the maximum reduction from the value of the property, as equalized by the Department, shall be multiplied by the number of apartments or units occupied by a person 65 years of age or older who is liable, by contract with the owner or owners of record, for paying property taxes on the property and is an owner of record of a legal or equitable interest in the cooperative apartment building, other than a leasehold interest. For land improved with a life care facility, the maximum reduction from the value of the property, as equalized by the Department, shall be multiplied by the number of apartments or units occupied by persons 65 years of age or older, irrespective of any legal, equitable, or leasehold interest in the facility, who are liable, under a contract with the owner or owners of record of the facility, for paying property taxes on the property. In a cooperative or a life care facility where a homestead exemption has been granted, the cooperative association or the management firm of the cooperative or facility shall credit the savings resulting from that exemption only to the apportioned tax liability of

the owner or resident who qualified for the exemption. Any person who willfully refuses to so credit the savings shall be guilty of a Class B misdemeanor. Under this Section and Sections 15-175, 15-176, and 15-177, "life care facility" means a facility, as defined in Section 2 of the Life Care Facilities Act, with which the applicant for the homestead exemption has a life care contract as defined in that Act.

When a homestead exemption has been granted under this Section and the person qualifying subsequently becomes a resident of a facility licensed under the Nursing Home Care Act, the exemption shall continue so long as the residence continues to be occupied by the qualifying person's spouse if the spouse is 65 years of age or older, or if the residence remains unoccupied but is still owned by the person qualified for the homestead exemption.

A person who will be 65 years of age during the current assessment year shall be eligible to apply for the homestead exemption during that assessment year. Application shall be made during the application period in effect for the county of his residence.

Beginning with assessment year 2003, for taxes payable in 2004, property that is first occupied as a residence after January 1 of any assessment year by a person who is eligible for the senior citizens homestead exemption under this Section must be granted a pro-rata exemption for the assessment year. The amount of the pro-rata exemption is the exemption allowed

in the county under this Section divided by 365 and multiplied by the number of days during the assessment year the property is occupied as a residence by a person eligible for the exemption under this Section. The chief county assessment officer must adopt reasonable procedures to establish eligibility for this pro-rata exemption.

The assessor or chief county assessment officer may determine the eligibility of a life care facility to receive the benefits provided by this Section, by affidavit, application, visual inspection, questionnaire or other reasonable methods in order to insure that the tax savings resulting from the exemption are credited by the management firm to the apportioned tax liability of each qualifying resident. The assessor may request reasonable proof that the management firm has so credited the exemption.

The chief county assessment officer of each county with less than 3,000,000 inhabitants shall provide to each person allowed a homestead exemption under this Section a form to designate any other person to receive a duplicate of any notice of delinquency in the payment of taxes assessed and levied under this Code on the property of the person receiving the exemption. The duplicate notice shall be in addition to the notice required to be provided to the person receiving the exemption, and shall be given in the manner required by this Code. The person filing the request for the duplicate notice shall pay a fee of \$5 to cover administrative costs to the

supervisor of assessments, who shall then file the executed designation with the county collector. Notwithstanding any other provision of this Code to the contrary, the filing of such an executed designation requires the county collector to provide duplicate notices as indicated by the designation. A designation may be rescinded by the person who executed such designation at any time, in the manner and form required by the chief county assessment officer.

The assessor or chief county assessment officer may determine the eligibility of residential property to receive the homestead exemption provided by this Section by application, visual inspection, questionnaire or other reasonable methods. The determination shall be made in accordance with guidelines established by the Department.

In counties with less than 3,000,000 inhabitants, the county board may by resolution provide that if a person has been granted a homestead exemption under this Section, the person qualifying need not reapply for the exemption.

In counties with less than 3,000,000 inhabitants, if the assessor or chief county assessment officer requires annual application for verification of eligibility for an exemption once granted under this Section, the application shall be mailed to the taxpayer.

The assessor or chief county assessment officer shall notify each person who qualifies for an exemption under this Section that the person may also qualify for deferral of real

estate taxes under the Senior Citizens Real Estate Tax Deferral Act. The notice shall set forth the qualifications needed for deferral of real estate taxes, the address and telephone number of county collector, and a statement that applications for deferral of real estate taxes may be obtained from the county collector.

Notwithstanding Sections 6 and 8 of the State Mandates Act, no reimbursement by the State is required for the implementation of any mandate created by this Section.

(Source: P.A. 94-794, eff. 5-22-06; 95-644, eff. 10-12-07; revised 11-2-07.)

(35 ILCS 200/18-185)

Sec. 18-185. Short title; definitions. This Division 5 may be cited as the Property Tax Extension Limitation Law. As used in this Division 5:

"Consumer Price Index" means the Consumer Price Index for All Urban Consumers for all items published by the United States Department of Labor.

"Extension limitation" means (a) the lesser of 5% or the percentage increase in the Consumer Price Index during the 12-month calendar year preceding the levy year or (b) the rate of increase approved by voters under Section 18-205.

"Affected county" means a county of 3,000,000 or more inhabitants or a county contiguous to a county of 3,000,000 or more inhabitants.

"Taxing district" has the same meaning provided in Section 1-150, except as otherwise provided in this Section. For the 1991 through 1994 levy years only, "taxing district" includes only each non-home rule taxing district having the majority of its 1990 equalized assessed value within any county or counties contiguous to a county with 3,000,000 or more inhabitants. Beginning with the 1995 levy year, "taxing district" includes only each non-home rule taxing district subject to this Law before the 1995 levy year and each non-home rule taxing district not subject to this Law before the 1995 levy year having the majority of its 1994 equalized assessed value in an affected county or counties. Beginning with the levy year in which this Law becomes applicable to a taxing district as provided in Section 18-213, "taxing district" also includes those taxing districts made subject to this Law as provided in Section 18-213.

"Aggregate extension" for taxing districts to which this Law applied before the 1995 levy year means the annual corporate extension for the taxing district and those special purpose extensions that are made annually for the taxing district, excluding special purpose extensions: (a) made for the taxing district to pay interest or principal on general obligation bonds that were approved by referendum; (b) made for any taxing district to pay interest or principal on general obligation bonds issued before October 1, 1991; (c) made for any taxing district to pay interest or principal on bonds

issued to refund or continue to refund those bonds issued before October 1, 1991; (d) made for any taxing district to pay interest or principal on bonds issued to refund or continue to refund bonds issued after October 1, 1991 that were approved by referendum; (e) made for any taxing district to pay interest or principal on revenue bonds issued before October 1, 1991 for payment of which a property tax levy or the full faith and credit of the unit of local government is pledged; however, a tax for the payment of interest or principal on those bonds shall be made only after the governing body of the unit of local government finds that all other sources for payment are insufficient to make those payments; (f) made for payments under a building commission lease when the lease payments are for the retirement of bonds issued by the commission before October 1, 1991, to pay for the building project; (g) made for payments due under installment contracts entered into before October 1, 1991; (h) made for payments of principal and interest on bonds issued under the Metropolitan Water Reclamation District Act to finance construction projects initiated before October 1, 1991; (i) made for payments of principal and interest on limited bonds, as defined in Section 3 of the Local Government Debt Reform Act, in an amount not to exceed the debt service extension base less the amount in items (b), (c), (e), and (h) of this definition for non-referendum obligations, except obligations initially issued pursuant to referendum; (j) made for payments of principal and interest on

bonds issued under Section 15 of the Local Government Debt Reform Act; (k) made by a school district that participates in the Special Education District of Lake County, created by special education joint agreement under Section 10-22.31 of the School Code, for payment of the school district's share of the amounts required to be contributed by the Special Education District of Lake County to the Illinois Municipal Retirement Fund under Article 7 of the Illinois Pension Code; the amount of any extension under this item (k) shall be certified by the school district to the county clerk; (l) made to fund expenses of providing joint recreational programs for the handicapped under Section 5-8 of the Park District Code or Section 11-95-14 of the Illinois Municipal Code; (m) made for temporary relocation loan repayment purposes pursuant to Sections 2-3.77 and 17-2.2d of the School Code; (n) made for payment of principal and interest on any bonds issued under the authority of Section 17-2.2d of the School Code; and (o) made for contributions to a firefighter's pension fund created under Article 4 of the Illinois Pension Code, to the extent of the amount certified under item (5) of Section 4-134 of the Illinois Pension Code.

"Aggregate extension" for the taxing districts to which this Law did not apply before the 1995 levy year (except taxing districts subject to this Law in accordance with Section 18-213) means the annual corporate extension for the taxing district and those special purpose extensions that are made

annually for the taxing district, excluding special purpose extensions: (a) made for the taxing district to pay interest or principal on general obligation bonds that were approved by referendum; (b) made for any taxing district to pay interest or principal on general obligation bonds issued before March 1, 1995; (c) made for any taxing district to pay interest or principal on bonds issued to refund or continue to refund those bonds issued before March 1, 1995; (d) made for any taxing district to pay interest or principal on bonds issued to refund or continue to refund bonds issued after March 1, 1995 that were approved by referendum; (e) made for any taxing district to pay interest or principal on revenue bonds issued before March 1, 1995 for payment of which a property tax levy or the full faith and credit of the unit of local government is pledged; however, a tax for the payment of interest or principal on those bonds shall be made only after the governing body of the unit of local government finds that all other sources for payment are insufficient to make those payments; (f) made for payments under a building commission lease when the lease payments are for the retirement of bonds issued by the commission before March 1, 1995 to pay for the building project; (g) made for payments due under installment contracts entered into before March 1, 1995; (h) made for payments of principal and interest on bonds issued under the Metropolitan Water Reclamation District Act to finance construction projects initiated before October 1, 1991; (h-4) made for

stormwater management purposes by the Metropolitan Water Reclamation District of Greater Chicago under Section 12 of the Metropolitan Water Reclamation District Act; (i) made for payments of principal and interest on limited bonds, as defined in Section 3 of the Local Government Debt Reform Act, in an amount not to exceed the debt service extension base less the amount in items (b), (c), and (e) of this definition for non-referendum obligations, except obligations initially issued pursuant to referendum and bonds described in subsection (h) of this definition; (j) made for payments of principal and interest on bonds issued under Section 15 of the Local Government Debt Reform Act; (k) made for payments of principal and interest on bonds authorized by Public Act 88-503 and issued under Section 20a of the Chicago Park District Act for aquarium or museum projects; (l) made for payments of principal and interest on bonds authorized by Public Act 87-1191 or 93-601 and (i) issued pursuant to Section 21.2 of the Cook County Forest Preserve District Act, (ii) issued under Section 42 of the Cook County Forest Preserve District Act for zoological park projects, or (iii) issued under Section 44.1 of the Cook County Forest Preserve District Act for botanical gardens projects; (m) made pursuant to Section 34-53.5 of the School Code, whether levied annually or not; (n) made to fund expenses of providing joint recreational programs for the handicapped under Section 5-8 of the Park District Code or Section 11-95-14 of the Illinois Municipal Code; (o) made by

the Chicago Park District for recreational programs for the handicapped under subsection (c) of Section 7.06 of the Chicago Park District Act; (p) made for contributions to a firefighter's pension fund created under Article 4 of the Illinois Pension Code, to the extent of the amount certified under item (5) of Section 4-134 of the Illinois Pension Code; and (q) made by Ford Heights School District 169 under Section 17-9.02 of the School Code.

"Aggregate extension" for all taxing districts to which this Law applies in accordance with Section 18-213, except for those taxing districts subject to paragraph (2) of subsection (e) of Section 18-213, means the annual corporate extension for the taxing district and those special purpose extensions that are made annually for the taxing district, excluding special purpose extensions: (a) made for the taxing district to pay interest or principal on general obligation bonds that were approved by referendum; (b) made for any taxing district to pay interest or principal on general obligation bonds issued before the date on which the referendum making this Law applicable to the taxing district is held; (c) made for any taxing district to pay interest or principal on bonds issued to refund or continue to refund those bonds issued before the date on which the referendum making this Law applicable to the taxing district is held; (d) made for any taxing district to pay interest or principal on bonds issued to refund or continue to refund bonds issued after the date on which the referendum

making this Law applicable to the taxing district is held if the bonds were approved by referendum after the date on which the referendum making this Law applicable to the taxing district is held; (e) made for any taxing district to pay interest or principal on revenue bonds issued before the date on which the referendum making this Law applicable to the taxing district is held for payment of which a property tax levy or the full faith and credit of the unit of local government is pledged; however, a tax for the payment of interest or principal on those bonds shall be made only after the governing body of the unit of local government finds that all other sources for payment are insufficient to make those payments; (f) made for payments under a building commission lease when the lease payments are for the retirement of bonds issued by the commission before the date on which the referendum making this Law applicable to the taxing district is held to pay for the building project; (g) made for payments due under installment contracts entered into before the date on which the referendum making this Law applicable to the taxing district is held; (h) made for payments of principal and interest on limited bonds, as defined in Section 3 of the Local Government Debt Reform Act, in an amount not to exceed the debt service extension base less the amount in items (b), (c), and (e) of this definition for non-referendum obligations, except obligations initially issued pursuant to referendum; (i) made for payments of principal and interest on bonds issued under

Section 15 of the Local Government Debt Reform Act; (j) made for a qualified airport authority to pay interest or principal on general obligation bonds issued for the purpose of paying obligations due under, or financing airport facilities required to be acquired, constructed, installed or equipped pursuant to, contracts entered into before March 1, 1996 (but not including any amendments to such a contract taking effect on or after that date); (k) made to fund expenses of providing joint recreational programs for the handicapped under Section 5-8 of the Park District Code or Section 11-95-14 of the Illinois Municipal Code; and (l) made for contributions to a firefighter's pension fund created under Article 4 of the Illinois Pension Code, to the extent of the amount certified under item (5) of Section 4-134 of the Illinois Pension Code.

"Aggregate extension" for all taxing districts to which this Law applies in accordance with paragraph (2) of subsection (e) of Section 18-213 means the annual corporate extension for the taxing district and those special purpose extensions that are made annually for the taxing district, excluding special purpose extensions: (a) made for the taxing district to pay interest or principal on general obligation bonds that were approved by referendum; (b) made for any taxing district to pay interest or principal on general obligation bonds issued before the effective date of this amendatory Act of 1997; (c) made for any taxing district to pay interest or principal on bonds issued to refund or continue to refund those bonds issued

before the effective date of this amendatory Act of 1997; (d) made for any taxing district to pay interest or principal on bonds issued to refund or continue to refund bonds issued after the effective date of this amendatory Act of 1997 if the bonds were approved by referendum after the effective date of this amendatory Act of 1997; (e) made for any taxing district to pay interest or principal on revenue bonds issued before the effective date of this amendatory Act of 1997 for payment of which a property tax levy or the full faith and credit of the unit of local government is pledged; however, a tax for the payment of interest or principal on those bonds shall be made only after the governing body of the unit of local government finds that all other sources for payment are insufficient to make those payments; (f) made for payments under a building commission lease when the lease payments are for the retirement of bonds issued by the commission before the effective date of this amendatory Act of 1997 to pay for the building project; (g) made for payments due under installment contracts entered into before the effective date of this amendatory Act of 1997; (h) made for payments of principal and interest on limited bonds, as defined in Section 3 of the Local Government Debt Reform Act, in an amount not to exceed the debt service extension base less the amount in items (b), (c), and (e) of this definition for non-referendum obligations, except obligations initially issued pursuant to referendum; (i) made for payments of principal and interest on bonds issued under

Section 15 of the Local Government Debt Reform Act; (j) made for a qualified airport authority to pay interest or principal on general obligation bonds issued for the purpose of paying obligations due under, or financing airport facilities required to be acquired, constructed, installed or equipped pursuant to, contracts entered into before March 1, 1996 (but not including any amendments to such a contract taking effect on or after that date); (k) made to fund expenses of providing joint recreational programs for the handicapped under Section 5-8 of the Park District Code or Section 11-95-14 of the Illinois Municipal Code; and (l) made for contributions to a firefighter's pension fund created under Article 4 of the Illinois Pension Code, to the extent of the amount certified under item (5) of Section 4-134 of the Illinois Pension Code.

"Debt service extension base" means an amount equal to that portion of the extension for a taxing district for the 1994 levy year, or for those taxing districts subject to this Law in accordance with Section 18-213, except for those subject to paragraph (2) of subsection (e) of Section 18-213, for the levy year in which the referendum making this Law applicable to the taxing district is held, or for those taxing districts subject to this Law in accordance with paragraph (2) of subsection (e) of Section 18-213 for the 1996 levy year, constituting an extension for payment of principal and interest on bonds issued by the taxing district without referendum, but not including excluded non-referendum bonds. For park districts (i) that were

first subject to this Law in 1991 or 1995 and (ii) whose extension for the 1994 levy year for the payment of principal and interest on bonds issued by the park district without referendum (but not including excluded non-referendum bonds) was less than 51% of the amount for the 1991 levy year constituting an extension for payment of principal and interest on bonds issued by the park district without referendum (but not including excluded non-referendum bonds), "debt service extension base" means an amount equal to that portion of the extension for the 1991 levy year constituting an extension for payment of principal and interest on bonds issued by the park district without referendum (but not including excluded non-referendum bonds). The debt service extension base may be established or increased as provided under Section 18-212. "Excluded non-referendum bonds" means (i) bonds authorized by Public Act 88-503 and issued under Section 20a of the Chicago Park District Act for aquarium and museum projects; (ii) bonds issued under Section 15 of the Local Government Debt Reform Act; or (iii) refunding obligations issued to refund or to continue to refund obligations initially issued pursuant to referendum.

"Special purpose extensions" include, but are not limited to, extensions for levies made on an annual basis for unemployment and workers' compensation, self-insurance, contributions to pension plans, and extensions made pursuant to Section 6-601 of the Illinois Highway Code for a road

district's permanent road fund whether levied annually or not. The extension for a special service area is not included in the aggregate extension.

"Aggregate extension base" means the taxing district's last preceding aggregate extension as adjusted under Sections 18-135, 18-215, and 18-230. An adjustment under Section 18-135 shall be made for the 2007 levy year and all subsequent levy years whenever one or more counties within which a taxing district is located (i) used estimated valuations or rates when extending taxes in the taxing district for the last preceding levy year that resulted in the over or under extension of taxes, or (ii) increased or decreased the tax extension for the last preceding levy year as required by Section 18-135(c). Whenever an adjustment is required under Section 18-135, the aggregate extension base of the taxing district shall be equal to the amount that the aggregate extension of the taxing district would have been for the last preceding levy year if either or both (i) actual, rather than estimated, valuations or rates had been used to calculate the extension of taxes for the last levy year, or (ii) the tax extension for the last preceding levy year had not been adjusted as required by subsection (c) of Section 18-135.

"Levy year" has the same meaning as "year" under Section 1-155.

"New property" means (i) the assessed value, after final board of review or board of appeals action, of new improvements

or additions to existing improvements on any parcel of real property that increase the assessed value of that real property during the levy year multiplied by the equalization factor issued by the Department under Section 17-30, (ii) the assessed value, after final board of review or board of appeals action, of real property not exempt from real estate taxation, which real property was exempt from real estate taxation for any portion of the immediately preceding levy year, multiplied by the equalization factor issued by the Department under Section 17-30, including the assessed value, upon final stabilization of occupancy after new construction is complete, of any real property located within the boundaries of an otherwise or previously exempt military reservation that is intended for residential use and owned by or leased to a private corporation or other entity, and (iii) in counties that classify in accordance with Section 4 of Article IX of the Illinois Constitution, an incentive property's additional assessed value resulting from a scheduled increase in the level of assessment as applied to the first year final board of review market value. In addition, the county clerk in a county containing a population of 3,000,000 or more shall include in the 1997 recovered tax increment value for any school district, any recovered tax increment value that was applicable to the 1995 tax year calculations.

"Qualified airport authority" means an airport authority organized under the Airport Authorities Act and located in a

county bordering on the State of Wisconsin and having a population in excess of 200,000 and not greater than 500,000.

"Recovered tax increment value" means, except as otherwise provided in this paragraph, the amount of the current year's equalized assessed value, in the first year after a municipality terminates the designation of an area as a redevelopment project area previously established under the Tax Increment Allocation Development Act in the Illinois Municipal Code, previously established under the Industrial Jobs Recovery Law in the Illinois Municipal Code, previously established under the Economic Development Project Area Tax Increment Act of 1995, or previously established under the Economic Development Area Tax Increment Allocation Act, of each taxable lot, block, tract, or parcel of real property in the redevelopment project area over and above the initial equalized assessed value of each property in the redevelopment project area. For the taxes which are extended for the 1997 levy year, the recovered tax increment value for a non-home rule taxing district that first became subject to this Law for the 1995 levy year because a majority of its 1994 equalized assessed value was in an affected county or counties shall be increased if a municipality terminated the designation of an area in 1993 as a redevelopment project area previously established under the Tax Increment Allocation Development Act in the Illinois Municipal Code, previously established under the Industrial Jobs Recovery Law in the Illinois Municipal Code, or previously

established under the Economic Development Area Tax Increment Allocation Act, by an amount equal to the 1994 equalized assessed value of each taxable lot, block, tract, or parcel of real property in the redevelopment project area over and above the initial equalized assessed value of each property in the redevelopment project area. In the first year after a municipality removes a taxable lot, block, tract, or parcel of real property from a redevelopment project area established under the Tax Increment Allocation Development Act in the Illinois Municipal Code, the Industrial Jobs Recovery Law in the Illinois Municipal Code, or the Economic Development Area Tax Increment Allocation Act, "recovered tax increment value" means the amount of the current year's equalized assessed value of each taxable lot, block, tract, or parcel of real property removed from the redevelopment project area over and above the initial equalized assessed value of that real property before removal from the redevelopment project area.

Except as otherwise provided in this Section, "limiting rate" means a fraction the numerator of which is the last preceding aggregate extension base times an amount equal to one plus the extension limitation defined in this Section and the denominator of which is the current year's equalized assessed value of all real property in the territory under the jurisdiction of the taxing district during the prior levy year. For those taxing districts that reduced their aggregate extension for the last preceding levy year, the highest

aggregate extension in any of the last 3 preceding levy years shall be used for the purpose of computing the limiting rate. The denominator shall not include new property or the recovered tax increment value. If a new rate, a rate decrease, or a limiting rate increase has been approved at an election held after March 21, 2006, then (i) the otherwise applicable limiting rate shall be increased by the amount of the new rate or shall be reduced by the amount of the rate decrease, as the case may be, or (ii) in the case of a limiting rate increase, the limiting rate shall be equal to the rate set forth in the proposition approved by the voters for each of the years specified in the proposition, after which the limiting rate of the taxing district shall be calculated as otherwise provided.

(Source: P.A. 94-974, eff. 6-30-06; 94-976, eff. 6-30-06; 94-1078, eff. 1-9-07; 95-90, eff. 1-1-08; 95-331, eff. 8-21-07; 95-404, eff. 1-1-08; revised 11-2-07.)

(35 ILCS 200/22-15)

(Text of Section before amendment by P.A. 95-477)

Sec. 22-15. Service of notice. The purchaser or his or her assignee shall give the notice required by Section 22-10 by causing it to be published in a newspaper as set forth in Section 22-20. In addition, the notice shall be served by a sheriff (or if he or she is disqualified, by a coroner) of the county in which the property, or any part thereof, is located or, except in Cook County, by a person who is licensed or

registered as a private detective under the Private Detective, Private Alarm, Private Security, Fingerprint Vendor, and Locksmith Act of 2004 upon owners who reside on any part of the property sold by leaving a copy of the notice with those owners personally.

In counties of 3,000,000 or more inhabitants where a taxing district is a petitioner for tax deed pursuant to Section 21-90, in lieu of service by the sheriff or coroner the notice may be served by a special process server appointed by the circuit court as provided in this Section. The taxing district may move prior to filing one or more petitions for tax deed for appointment of such a special process server. The court, upon being satisfied that the person named in the motion is at least 18 years of age and is capable of serving notice as required under this Code, shall enter an order appointing such person as a special process server for a period of one year. The appointment may be renewed for successive periods of one year each by motion and order, and a copy of the original and any subsequent order shall be filed in each tax deed case in which a notice is served by the appointed person. Delivery of the notice to and service of the notice by the special process server shall have the same force and effect as its delivery to and service by the sheriff or coroner.

The same form of notice shall also be served upon all other owners and parties interested in the property, if upon diligent inquiry they can be found in the county, and upon the occupants

of the property in the following manner:

(a) as to individuals, by (1) leaving a copy of the notice with the person personally or (2) by leaving a copy at his or her usual place of residence with a person of the family, of the age of 13 years or more, and informing that person of its contents. The person making the service shall cause a copy of the notice to be sent by registered or certified mail, return receipt requested, to that party at his or her usual place of residence;

(b) as to public and private corporations, municipal, governmental and quasi-municipal corporations, partnerships, receivers and trustees of corporations, by leaving a copy of the notice with the person designated by the Civil Practice Law.

If the property sold has more than 4 dwellings or other rental units, and has a managing agent or party who collects rents, that person shall be deemed the occupant and shall be served with notice instead of the occupants of the individual units. If the property has no dwellings or rental units, but economic or recreational activities are carried on therein, the person directing such activities shall be deemed the occupant. Holders of rights of entry and possibilities of reverter shall not be deemed parties interested in the property.

When a party interested in the property is a trustee, notice served upon the trustee shall be deemed to have been served upon any beneficiary or note holder thereunder unless

the holder of the note is disclosed of record.

When a judgment is a lien upon the property sold, the holder of the lien shall be served with notice if the name of the judgment debtor as shown in the transcript, certified copy or memorandum of judgment filed of record is identical, as to given name and surname, with the name of the party interested as it appears of record.

If any owner or party interested, upon diligent inquiry and effort, cannot be found or served with notice in the county as provided in this Section, and the person in actual occupancy and possession is tenant to, or in possession under the owners or the parties interested in the property, then service of notice upon the tenant, occupant or person in possession shall be deemed service upon the owners or parties interested.

If any owner or party interested, upon diligent inquiry and effort cannot be found or served with notice in the county, then the person making the service shall cause a copy of the notice to be sent by registered or certified mail, return receipt requested, to that party at his or her residence, if ascertainable.

(Source: P.A. 95-195, eff. 1-1-08.)

(Text of Section after amendment by P.A. 95-477)

Sec. 22-15. Service of notice. The purchaser or his or her assignee shall give the notice required by Section 22-10 by causing it to be published in a newspaper as set forth in

Section 22-20. In addition, the notice shall be served by a sheriff (or if he or she is disqualified, by a coroner) of the county in which the property, or any part thereof, is located or, except in Cook County, by a person who is licensed or registered as a private detective under the Private Detective, Private Alarm, Private Security, Fingerprint Vendor, and Locksmith Act of 2004 upon owners who reside on any part of the property sold by leaving a copy of the notice with those owners personally.

In counties of 3,000,000 or more inhabitants where a taxing district is a petitioner for tax deed pursuant to Section 21-90, in lieu of service by the sheriff or coroner the notice may be served by a special process server appointed by the circuit court as provided in this Section. The taxing district may move prior to filing one or more petitions for tax deed for appointment of such a special process server. The court, upon being satisfied that the person named in the motion is at least 18 years of age and is capable of serving notice as required under this Code, shall enter an order appointing such person as a special process server for a period of one year. The appointment may be renewed for successive periods of one year each by motion and order, and a copy of the original and any subsequent order shall be filed in each tax deed case in which a notice is served by the appointed person. Delivery of the notice to and service of the notice by the special process server shall have the same force and effect as its delivery to

and service by the sheriff or coroner.

The same form of notice shall also be served, in the manner set forth under Sections 2-203, 2-204, 2-205, 2-205.1, and 2-211 of the Code of Civil Procedure, upon all other owners and parties interested in the property, if upon diligent inquiry they can be found in the county, and upon the occupants of the property.

If the property sold has more than 4 dwellings or other rental units, and has a managing agent or party who collects rents, that person shall be deemed the occupant and shall be served with notice instead of the occupants of the individual units. If the property has no dwellings or rental units, but economic or recreational activities are carried on therein, the person directing such activities shall be deemed the occupant. Holders of rights of entry and possibilities of reverter shall not be deemed parties interested in the property.

When a party interested in the property is a trustee, notice served upon the trustee shall be deemed to have been served upon any beneficiary or note holder thereunder unless the holder of the note is disclosed of record.

When a judgment is a lien upon the property sold, the holder of the lien shall be served with notice if the name of the judgment debtor as shown in the transcript, certified copy or memorandum of judgment filed of record is identical, as to given name and surname, with the name of the party interested as it appears of record.

If any owner or party interested, upon diligent inquiry and effort, cannot be found or served with notice in the county as provided in this Section, and the person in actual occupancy and possession is tenant to, or in possession under the owners or the parties interested in the property, then service of notice upon the tenant, occupant or person in possession shall be deemed service upon the owners or parties interested.

If any owner or party interested, upon diligent inquiry and effort cannot be found or served with notice in the county, then the person making the service shall cause a copy of the notice to be sent by registered or certified mail, return receipt requested, to that party at his or her residence, if ascertainable.

The changes to this Section made by Public Act 95-477 ~~this amendatory Act of the 95th General Assembly~~ apply only to matters in which a petition for tax deed is filed on or after June 1, 2008 (the effective date of Public Act 95-477) ~~this amendatory Act of the 95th General Assembly~~.

(Source: P.A. 95-195, eff. 1-1-08; 95-477, eff. 6-1-08; revised 11-2-07.)

(35 ILCS 200/22-20)

(Text of Section before amendment by P.A. 95-477)

Sec. 22-20. Proof of service of notice; publication of notice. The sheriff or coroner serving notice under Section 22-15 shall endorse his or her return thereon and file it with

the Clerk of the Circuit Court and it shall be a part of the court record. A private detective or a special process server appointed under Section 22-15 shall make his or her return by affidavit and shall file it with the Clerk of the Circuit Court, where it shall be a part of the court record. If a sheriff, private detective, special process server, or coroner to whom any notice is delivered for service, neglects or refuses to make the return, the purchaser or his or her assignee may petition the court to enter a rule requiring the sheriff, private detective, special process server, or coroner to make return of the notice on a day to be fixed by the court, or to show cause on that day why he or she should not be attached for contempt of the court. The purchaser or assignee shall cause a written notice of the rule to be served upon the sheriff, private detective, special process server, or coroner. If good and sufficient cause to excuse the sheriff, private detective, special process server, or coroner is not shown, the court shall adjudge him or her guilty of a contempt, and shall proceed to punish him as in other cases of contempt.

If the property is located in a municipality in a county with less than 3,000,000 inhabitants, the purchaser or his or her assignee shall also publish a notice as to the owner or party interested, in some newspaper published in the municipality. If the property is not in a municipality in a county with less than 3,000,000 inhabitants, or if no newspaper is published therein, or if the property is in a county with

3,000,000 or more inhabitants, the notice shall be published in some newspaper in the county. If no newspaper is published in the county, then the notice shall be published in the newspaper that is published nearest the county seat of the county in which the property is located. If the owners and parties interested in the property upon diligent inquiry are unknown to the purchaser or his or her assignee, the publication as to such owner or party interested, may be made to unknown owners or parties interested. Any notice by publication given under this Section shall be given 3 times at any time after filing a petition for tax deed, but not less than 3 months nor more than 5 months prior to the expiration of the period of redemption. The publication shall contain (a) notice of the filing of the petition for tax deed, (b) the date on which the petitioner intends to make application for an order on the petition that a tax deed issue, (c) a description of the property, (d) the date upon which the property was sold, (e) the taxes or special assessments for which it was sold and (f) the date on which the period of redemption will expire. The publication shall not include more than one property listed and sold in one description, except as provided in Section 21-90, and except that when more than one property is owned by one person, all of the parcels owned by that person may be included in one notice. (Source: P.A. 95-195, eff. 1-1-08.)

(Text of Section after amendment by P.A. 95-477)

Sec. 22-20. Proof of service of notice; publication of notice. The sheriff or coroner serving notice under Section 22-15 shall endorse his or her return thereon and file it with the Clerk of the Circuit Court and it shall be a part of the court record. A private detective or a special process server appointed under Section 22-15 shall make his or her return by affidavit and shall file it with the Clerk of the Circuit Court, where it shall be a part of the court record. If a sheriff, private detective, special process server, or coroner to whom any notice is delivered for service, neglects or refuses to make the return, the purchaser or his or her assignee may petition the court to enter a rule requiring the sheriff, private detective, special process server, or coroner to make return of the notice on a day to be fixed by the court, or to show cause on that day why he or she should not be attached for contempt of the court. The purchaser or assignee shall cause a written notice of the rule to be served upon the sheriff, private detective, special process server, or coroner. If good and sufficient cause to excuse the sheriff, private detective, special process server, or coroner is not shown, the court shall adjudge him or her guilty of a contempt, and shall proceed to punish him as in other cases of contempt.

If the property is located in a municipality in a county with less than 3,000,000 inhabitants, the purchaser or his or her assignee shall also publish a notice as to the owner or party interested, in some newspaper published in the

municipality. If the property is not in a municipality in a county with less than 3,000,000 inhabitants, or if no newspaper is published therein, or if the property is in a county with 3,000,000 or more inhabitants, the notice shall be published in some newspaper in the county. If no newspaper is published in the county, then the notice shall be published in the newspaper that is published nearest the county seat of the county in which the property is located. If the owners and parties interested in the property upon diligent inquiry are unknown to the purchaser or his or her assignee, the publication as to such owner or party interested, may be made to unknown owners or parties interested. Any notice by publication given under this Section shall be given 3 times at any time after filing a petition for tax deed, but not less than 3 months nor more than 6 months prior to the expiration of the period of redemption. The publication shall contain (a) notice of the filing of the petition for tax deed, (b) the date on which the petitioner intends to make application for an order on the petition that a tax deed issue, (c) a description of the property, (d) the date upon which the property was sold, (e) the taxes or special assessments for which it was sold and (f) the date on which the period of redemption will expire. The publication shall not include more than one property listed and sold in one description, except as provided in Section 21-90, and except that when more than one property is owned by one person, all of the parcels owned by that person may be included in one notice.

The changes to this Section made by Public Act 95-477 ~~this amendatory Act of the 95th General Assembly~~ apply only to matters in which a petition for tax deed is filed on or after June 1, 2008 (the effective date of Public Act 95-477) ~~this amendatory Act of the 95th General Assembly~~.

(Source: P.A. 95-195, eff. 1-1-08; 95-477, eff. 6-1-08; revised 11-2-07.)

Section 145. The Illinois Pension Code is amended by changing Sections 5-152, 7-139, 9-121.6, 9-134.5, 10-104.5, and 14-104 and by setting forth and renumbering multiple versions of Sections 1-110.10, 3-110.9, and 7-139.12 as follows:

(40 ILCS 5/1-110.10)

Sec. 1-110.10. Servicer certification.

(a) For the purposes of this Section:

"Illinois finance entity" means any entity chartered under the Illinois Banking Act, the Savings Bank Act, the Illinois Credit Union Act, or the Illinois Savings and Loan Act of 1985 and any person or entity licensed under the Residential Mortgage License Act of 1987, the Consumer Installment Loan Act, or the Sales Finance Agency Act.

"Retirement system or pension fund" means a retirement system or pension fund established under this Code.

(b) In order for an Illinois finance entity to be eligible

for investment or deposit of retirement system or pension fund assets, the Illinois finance entity must annually certify that it complies with the requirements of the High Risk Home Loan Act and the rules adopted pursuant to that Act that are applicable to that Illinois finance entity. For Illinois finance entities with whom the retirement system or pension fund is investing or depositing assets on the effective date of this Section, the initial certification required under this Section shall be completed within 6 months after the effective date of this Section. For Illinois finance entities with whom the retirement system or pension fund is not investing or depositing assets on the effective date of this Section, the initial certification required under this Section must be completed before the retirement system or pension fund may invest or deposit assets with the Illinois finance entity.

(c) A retirement system or pension fund shall submit the certifications to the Public Pension Division of the Department of Financial and Professional Regulation, and the Division shall notify the Secretary of Financial and Professional Regulation if a retirement system or pension fund fails to do so.

(d) If an Illinois finance entity fails to provide an initial certification within 6 months after the effective date of this Section or fails to submit an annual certification, then the retirement system or pension fund shall notify the Illinois finance entity. The Illinois finance entity shall,

within 30 days after the date of notification, either (i) notify the retirement system or pension fund of its intention to certify and complete certification or (ii) notify the retirement system or pension fund of its intention to not complete certification. If an Illinois finance entity fails to provide certification, then the retirement system or pension fund shall, within 90 days, divest, or attempt in good faith to divest, the retirement system's or pension fund's assets with that Illinois finance entity. The retirement system or pension fund shall immediately notify the Department of the Illinois finance entity's failure to provide certification.

(e) If any provision of this Section or its application to any person or circumstance is held invalid, the invalidity of that provision or application does not affect other provisions or applications of this Section that can be given effect without the invalid provision or application.

(Source: P.A. 95-521, eff. 8-28-07.)

(40 ILCS 5/1-110.15)

Sec. 1-110.15 ~~1-110.10~~. Transactions prohibited by retirement systems; Iran.

(a) As used in this Section:

"Active business operations" means all business operations that are not inactive business operations.

"Business operations" means engaging in commerce in any form in Iran, including, but not limited to, acquiring,

developing, maintaining, owning, selling, possessing, leasing, or operating equipment, facilities, personnel, products, services, personal property, real property, or any other apparatus of business or commerce.

"Company" means any sole proprietorship, organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, limited liability company, or other entity or business association, including all wholly owned subsidiaries, majority-owned subsidiaries, parent companies, or affiliates of those entities or business associations, that exists for the purpose of making profit.

"Direct holdings" in a company means all securities of that company that are held directly by the retirement system or in an account or fund in which the retirement system owns all shares or interests.

"Inactive business operations" means the mere continued holding or renewal of rights to property previously operated for the purpose of generating revenues but not presently deployed for that purpose.

"Indirect holdings" in a company means all securities of that company which are held in an account or fund, such as a mutual fund, managed by one or more persons not employed by the retirement system, in which the retirement system owns shares or interests together with other investors not subject to the provisions of this Section.

"Mineral-extraction activities" include exploring,

extracting, processing, transporting, or wholesale selling or trading of elemental minerals or associated metal alloys or oxides (ore), including gold, copper, chromium, chromite, diamonds, iron, iron ore, silver, tungsten, uranium, and zinc.

"Oil-related activities" include, but are not limited to, owning rights to oil blocks; exporting, extracting, producing, refining, processing, exploring for, transporting, selling, or trading of oil; and constructing, maintaining, or operating a pipeline, refinery, or other oil-field infrastructure. The mere retail sale of gasoline and related consumer products is not considered an oil-related activity.

"Petroleum resources" means petroleum, petroleum byproducts, or natural gas.

"Private market fund" means any private equity fund, private equity fund of funds, venture capital fund, hedge fund, hedge fund of funds, real estate fund, or other investment vehicle that is not publicly traded.

"Retirement system" means the State Employees' Retirement System of Illinois, the Judges Retirement System of Illinois, the General Assembly Retirement System, the State Universities Retirement System, and the Teachers' Retirement System of the State of Illinois.

"Scrutinized business operations" means business operations that have caused a company to become a scrutinized company.

"Scrutinized company" means the company has business

operations that involve contracts with or provision of supplies or services to the Government of Iran, companies in which the Government of Iran has any direct or indirect equity share, consortiums or projects commissioned by the Government of Iran, or companies involved in consortiums or projects commissioned by the Government of Iran and:

(1) more than 10% of the company's revenues produced in or assets located in Iran involve oil-related activities or mineral-extraction activities; less than 75% of the company's revenues produced in or assets located in Iran involve contracts with or provision of oil-related or mineral-extraction products or services to the Government of Iran or a project or consortium created exclusively by that government; and the company has failed to take substantial action; or

(2) the company has, on or after August 5, 1996, made an investment of \$20 million or more, or any combination of investments of at least \$10 million each that in the aggregate equals or exceeds \$20 million in any 12-month period, that directly or significantly contributes to the enhancement of Iran's ability to develop petroleum resources of Iran.

"Substantial action" means adopting, publicizing, and implementing a formal plan to cease scrutinized business operations within one year and to refrain from any such new business operations.

(b) Within 90 days after the effective date of this Section, a retirement system shall make its best efforts to identify all scrutinized companies in which the retirement system has direct or indirect holdings.

These efforts shall include the following, as appropriate in the retirement system's judgment:

(1) reviewing and relying on publicly available information regarding companies having business operations in Iran, including information provided by nonprofit organizations, research firms, international organizations, and government entities;

(2) contacting asset managers contracted by the retirement system that invest in companies having business operations in Iran; and

(3) Contacting other institutional investors that have divested from or engaged with companies that have business operations in Iran.

The retirement system may retain an independent research firm to identify scrutinized companies in which the retirement system has direct or indirect holdings. By the first meeting of the retirement system following the 90-day period described in this subsection (b), the retirement system shall assemble all scrutinized companies identified into a scrutinized companies list.

The retirement system shall update the scrutinized companies list annually based on evolving information from,

among other sources, those listed in this subsection (b).

(c) The retirement system shall adhere to the following procedures for companies on the scrutinized companies list:

(1) The retirement system shall determine the companies on the scrutinized companies list in which the retirement system owns direct or indirect holdings.

(2) For each company identified in item (1) of this subsection (c) that has only inactive business operations, the retirement system shall send a written notice informing the company of this Section and encouraging it to continue to refrain from initiating active business operations in Iran until it is able to avoid scrutinized business operations. The retirement system shall continue such correspondence semiannually.

(3) For each company newly identified in item (1) of this subsection (c) that has active business operations, the retirement system shall send a written notice informing the company of its scrutinized company status and that it may become subject to divestment by the retirement system. The notice must inform the company of the opportunity to clarify its Iran-related activities and encourage the company, within 90 days, to cease its scrutinized business operations or convert such operations to inactive business operations in order to avoid qualifying for divestment by the retirement system.

(4) If, within 90 days after the retirement system's

first engagement with a company pursuant to this subsection (c), that company ceases scrutinized business operations, the company shall be removed from the scrutinized companies list and the provisions of this Section shall cease to apply to it unless it resumes scrutinized business operations. If, within 90 days after the retirement system's first engagement, the company converts its scrutinized active business operations to inactive business operations, the company is subject to all provisions relating thereto.

(d) If, after 90 days following the retirement system's first engagement with a company pursuant to subsection (c), the company continues to have scrutinized active business operations, and only while such company continues to have scrutinized active business operations, the retirement system shall sell, redeem, divest, or withdraw all publicly traded securities of the company, except as provided in paragraph (f), from the retirement system's assets under management within 12 months after the company's most recent appearance on the scrutinized companies list.

If a company that ceased scrutinized active business operations following engagement pursuant to subsection (c) resumes such operations, this subsection (d) immediately applies, and the retirement system shall send a written notice to the company. The company shall also be immediately reintroduced onto the scrutinized companies list.

(e) The retirement system may not acquire securities of companies on the scrutinized companies list that have active business operations, except as provided in subsection (f).

(f) A company that the United States Government affirmatively declares to be excluded from its present or any future federal sanctions regime relating to Iran is not subject to divestment or the investment prohibition pursuant to subsections (d) and (e).

(g) Notwithstanding the provisions of this Section, paragraphs (d) and (e) do not apply to indirect holdings in a private market fund. However, the retirement system shall submit letters to the managers of those investment funds containing companies that have scrutinized active business operations requesting that they consider removing the companies from the fund or create a similar actively managed fund having indirect holdings devoid of the companies. If the manager creates a similar fund, the retirement system shall replace all applicable investments with investments in the similar fund in an expedited timeframe consistent with prudent investing standards.

(h) The retirement system shall file a report with the Public Pension Division of the Department of Financial and Professional Regulation that includes the scrutinized companies list within 30 days after the list is created. This report shall be made available to the public.

The retirement system shall file an annual report with the

Public Pension Division, which shall be made available to the public, that includes all of the following:

(1) A summary of correspondence with companies engaged by the retirement system under items (2) and (3) of subsection (c).

(2) All investments sold, redeemed, divested, or withdrawn in compliance with subsection (d).

(3) All prohibited investments under subsection (e).

(4) A summary of correspondence with private market funds notified under subsection (g).

(i) This Section expires upon the occurrence of any of the following:

(1) The United States revokes all sanctions imposed against the Government of Iran.

(2) The Congress or President of the United States declares that the Government of Iran has ceased to acquire weapons of mass destruction and to support international terrorism.

(3) The Congress or President of the United States, through legislation or executive order, declares that mandatory divestment of the type provided for in this Section interferes with the conduct of United States foreign policy.

(j) With respect to actions taken in compliance with this Act, including all good-faith determinations regarding companies as required by this Act, the retirement system is

exempt from any conflicting statutory or common law obligations, including any fiduciary duties under this Article and any obligations with respect to choice of asset managers, investment funds, or investments for the retirement system's securities portfolios.

(k) Notwithstanding any other provision of this Section to the contrary, the retirement system may cease divesting from scrutinized companies pursuant to subsection (d) or reinvest in scrutinized companies from which it divested pursuant to subsection (d) if clear and convincing evidence shows that the value of investments in scrutinized companies with active scrutinized business operations becomes equal to or less than 0.5% of the market value of all assets under management by the retirement system. Cessation of divestment, reinvestment, or any subsequent ongoing investment authorized by this Section is limited to the minimum steps necessary to avoid the contingency set forth in this subsection (k). For any cessation of divestment, reinvestment, or subsequent ongoing investment authorized by this Section, the retirement system shall provide a written report to the Public Pension Division in advance of initial reinvestment, updated semiannually thereafter as applicable, setting forth the reasons and justification, supported by clear and convincing evidence, for its decisions to cease divestment, reinvest, or remain invested in companies having scrutinized active business operations. This Section does not apply to reinvestment in companies on the grounds that

they have ceased to have scrutinized active business operations.

(1) If any provision of this Section or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Section are severable.

(Source: P.A. 95-616, eff. 1-1-08; revised 12-6-07.)

(40 ILCS 5/3-110.9)

Sec. 3-110.9. Transfer to Article 9.

(a) Until 6 months after the effective date of this amendatory Act of the 95th General Assembly, any active member of a pension fund established under Article 9 of this Code may apply for transfer of up to 6 years of his or her creditable service accumulated in any police pension fund under this Article to the Article 9 fund. Such creditable service shall be transferred only upon payment by such police pension fund to the Article 9 fund of an amount equal to:

(1) the amounts accumulated to the credit of the applicant on the books of the fund on the date of transfer; and

(2) employer contributions in an amount equal to the amount determined under subparagraph (1); and

(3) any interest paid by the applicant in order to

reinstate service.

Participation in the police pension fund shall terminate on the date of transfer.

(b) Until 6 months after the effective date of this amendatory Act of the 95th General Assembly, any active member of an Article 9 fund may reinstate service that was terminated by receipt of a refund, by payment to the police pension fund of the amount of the refund with interest thereon at the rate of 6% per year, compounded annually, from the date of refund to the date of payment.

(Source: P.A. 95-504, eff. 8-28-07.)

(40 ILCS 5/3-110.10)

Sec. 3-110.10 ~~3-110.9~~. Transfer from Article 7. Until January 1, 2008, a person may transfer to a fund established under this Article up to 8 years of creditable service accumulated under Article 7 of this Code upon payment to the fund of an amount to be determined by the board, equal to (i) the difference between the amount of employee and employer contributions transferred to the fund under Section 7-139.11 and the amounts that would have been contributed had such contributions been made at the rates applicable to an employee under this Article, plus (ii) interest thereon at the effective rate for each year, compounded annually, from the date of service to the date of payment.

(Source: P.A. 95-530, eff. 8-28-07; revised 12-6-07.)

(40 ILCS 5/5-152) (from Ch. 108 1/2, par. 5-152)

Sec. 5-152. Child's annuity - Conditions - Amount. A child's annuity shall be payable in the following cases of policemen who die on or after the effective date: (a) A policeman whose death results from injury incurred in the performance of an act or acts of duty; (b) a policeman who dies in service from any cause; (c) a policeman who withdraws upon or after attainment of age 50 and who enters upon or is eligible for annuity; (d) a present employee with at least 20 years of service who dies after withdrawal, whether or not he has entered upon annuity.

Only one annuity shall be granted and paid for the benefit of any child if both parents have been policemen.

The annuity shall be paid, without regard to the fact that the death of the deceased policeman parent may have occurred prior to the effective date of this amendatory Act of 1975, in an amount equal to 10% of the annual maximum salary attached to the classified civil service position of a first class patrolman on July 1, 1975, or the date of the policeman's death, whichever is later, for each child while a widow or widower of the deceased policeman survives and in an amount equal to 15% of the annual maximum salary attached to the classified civil service position of a first class patrolman on July 1, 1975, or the date of the policeman's death, whichever is later, while no widow or widower shall survive, provided

that if the combined annuities for the widow and children of a policeman who dies on or after September 26, 1969, as the result of an act of duty, or for the children of such policeman in any case wherein a widow or widower does not exist, exceed the salary that would ordinarily have been paid to him if he had been in the active discharge of his duties, all such annuities shall be reduced pro rata so that the combined annuities for the family shall not exceed such limitation. The compensation portion of the annuity of the widow shall not be considered in making such reduction. No age limitation in this Section or Section 5-151 shall apply to a child who is so physically or mentally handicapped as to be unable to support himself or herself. Benefits payable under this Section shall not be reduced or terminated by reason of any child's attainment of age 18 if he is then dependent by reason of a physical or mental disability but shall continue to be paid as long as such dependency continues. For the purposes of this subsection, "disability" means inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months.

In the case of a family of a policeman who dies on or after September 26, 1969, as the result of any cause other than the performance of an act of duty, in which annuities for such

family exceed an amount equal to 60% of the salary that would ordinarily have been paid to him if he had been in the active discharge of his duties, all such annuities shall be reduced pro rata so that the combined annuities shall not exceed such limitation.

Child's annuity shall be paid to the parent providing for the child, unless another person is appointed by a court of law as the child's guardian.

(Source: P.A. 95-279, eff. 1-1-08; 95-504, eff. 8-28-07; revised 11-9-07.)

(40 ILCS 5/7-139) (from Ch. 108 1/2, par. 7-139)

Sec. 7-139. Credits and creditable service to employees.

(a) Each participating employee shall be granted credits and creditable service, for purposes of determining the amount of any annuity or benefit to which he or a beneficiary is entitled, as follows:

1. For prior service: Each participating employee who is an employee of a participating municipality or participating instrumentality on the effective date shall be granted creditable service, but no credits under paragraph 2 of this subsection (a), for periods of prior service for which credit has not been received under any other pension fund or retirement system established under this Code, as follows:

If the effective date of participation for the

participating municipality or participating instrumentality is on or before January 1, 1998, creditable service shall be granted for the entire period of prior service with that employer without any employee contribution.

If the effective date of participation for the participating municipality or participating instrumentality is after January 1, 1998, creditable service shall be granted for the last 20% of the period of prior service with that employer, but no more than 5 years, without any employee contribution. A participating employee may establish creditable service for the remainder of the period of prior service with that employer by making an application in writing, accompanied by payment of an employee contribution in an amount determined by the Fund, based on the employee contribution rates in effect at the time of application for the creditable service and the employee's salary rate on the effective date of participation for that employer, plus interest at the effective rate from the date of the prior service to the date of payment. Application for this creditable service may be made at any time while the employee is still in service.

A municipality that (i) has at least 35 employees; (ii) is located in a county with at least 2,000,000 inhabitants; and (iii) maintains an independent defined benefit pension

plan for the benefit of its eligible employees may restrict creditable service in whole or in part for periods of prior service with the employer if the governing body of the municipality adopts an irrevocable resolution to restrict that creditable service and files the resolution with the board before the municipality's effective date of participation.

Any person who has withdrawn from the service of a participating municipality or participating instrumentality prior to the effective date, who reenters the service of the same municipality or participating instrumentality after the effective date and becomes a participating employee is entitled to creditable service for prior service as otherwise provided in this subdivision (a) (1) only if he or she renders 2 years of service as a participating employee after the effective date. Application for such service must be made while in a participating status. The salary rate to be used in the calculation of the required employee contribution, if any, shall be the employee's salary rate at the time of first reentering service with the employer after the employer's effective date of participation.

2. For current service, each participating employee shall be credited with:

a. Additional credits of amounts equal to each payment of additional contributions received from him

under Section 7-173, as of the date the corresponding payment of earnings is payable to him.

b. Normal credits of amounts equal to each payment of normal contributions received from him, as of the date the corresponding payment of earnings is payable to him, and normal contributions made for the purpose of establishing out-of-state service credits as permitted under the conditions set forth in paragraph 6 of this subsection (a).

c. Municipality credits in an amount equal to 1.4 times the normal credits, except those established by out-of-state service credits, as of the date of computation of any benefit if these credits would increase the benefit.

d. Survivor credits equal to each payment of survivor contributions received from the participating employee as of the date the corresponding payment of earnings is payable, and survivor contributions made for the purpose of establishing out-of-state service credits.

3. For periods of temporary and total and permanent disability benefits, each employee receiving disability benefits shall be granted creditable service for the period during which disability benefits are payable. Normal and survivor credits, based upon the rate of earnings applied for disability benefits, shall also be granted if such

credits would result in a higher benefit to any such employee or his beneficiary.

4. For authorized leave of absence without pay: A participating employee shall be granted credits and creditable service for periods of authorized leave of absence without pay under the following conditions:

a. An application for credits and creditable service is submitted to the board while the employee is in a status of active employment, and within 2 years after termination of the leave of absence period for which credits and creditable service are sought.

b. Not more than 12 complete months of creditable service for authorized leave of absence without pay shall be counted for purposes of determining any benefits payable under this Article.

c. Credits and creditable service shall be granted for leave of absence only if such leave is approved by the governing body of the municipality, including approval of the estimated cost thereof to the municipality as determined by the fund, and employee contributions, plus interest at the effective rate applicable for each year from the end of the period of leave to date of payment, have been paid to the fund in accordance with Section 7-173. The contributions shall be computed upon the assumption earnings continued during the period of leave at the rate in effect when

the leave began.

d. Benefits under the provisions of Sections 7-141, 7-146, 7-150 and 7-163 shall become payable to employees on authorized leave of absence, or their designated beneficiary, only if such leave of absence is creditable hereunder, and if the employee has at least one year of creditable service other than the service granted for leave of absence. Any employee contributions due may be deducted from any benefits payable.

e. No credits or creditable service shall be allowed for leave of absence without pay during any period of prior service.

5. For military service: The governing body of a municipality or participating instrumentality may elect to allow creditable service to participating employees who leave their employment to serve in the armed forces of the United States for all periods of such service, provided that the person returns to active employment within 90 days after completion of full time active duty, but no creditable service shall be allowed such person for any period that can be used in the computation of a pension or any other pay or benefit, other than pay for active duty, for service in any branch of the armed forces of the United States. If necessary to the computation of any benefit, the board shall establish municipality credits for

participating employees under this paragraph on the assumption that the employee received earnings at the rate received at the time he left the employment to enter the armed forces. A participating employee in the armed forces shall not be considered an employee during such period of service and no additional death and no disability benefits are payable for death or disability during such period.

Any participating employee who left his employment with a municipality or participating instrumentality to serve in the armed forces of the United States and who again became a participating employee within 90 days after completion of full time active duty by entering the service of a different municipality or participating instrumentality, which has elected to allow creditable service for periods of military service under the preceding paragraph, shall also be allowed creditable service for his period of military service on the same terms that would apply if he had been employed, before entering military service, by the municipality or instrumentality which employed him after he left the military service and the employer costs arising in relation to such grant of creditable service shall be charged to and paid by that municipality or instrumentality.

Notwithstanding the foregoing, any participating employee shall be entitled to creditable service as required by any federal law relating to re-employment

rights of persons who served in the United States Armed Services. Such creditable service shall be granted upon payment by the member of an amount equal to the employee contributions which would have been required had the employee continued in service at the same rate of earnings during the military leave period, plus interest at the effective rate.

5.1. In addition to any creditable service established under paragraph 5 of this subsection (a), creditable service may be granted for up to 48 months of service in the armed forces of the United States.

In order to receive creditable service for military service under this paragraph 5.1, a participating employee must (1) apply to the Fund in writing and provide evidence of the military service that is satisfactory to the Board; (2) obtain the written approval of the current employer; and (3) make contributions to the Fund equal to (i) the employee contributions that would have been required had the service been rendered as a member, plus (ii) an amount determined by the board to be equal to the employer's normal cost of the benefits accrued for that military service, plus (iii) interest on items (i) and (ii) from the date of first membership in the Fund to the date of payment. The required interest shall be calculated at the regular interest rate.

The changes made to this paragraph 5.1 by Public Acts

95-483 and 95-486 ~~this amendatory Act of the 95th General Assembly~~ apply only to participating employees in service on or after August 28, 2007 (the effective date of those Public Acts) ~~its effective date.~~

6. For out-of-state service: Creditable service shall be granted for service rendered to an out-of-state local governmental body under the following conditions: The employee had participated and has irrevocably forfeited all rights to benefits in the out-of-state public employees pension system; the governing body of his participating municipality or instrumentality authorizes the employee to establish such service; the employee has 2 years current service with this municipality or participating instrumentality; the employee makes a payment of contributions, which shall be computed at 8% (normal) plus 2% (survivor) times length of service purchased times the average rate of earnings for the first 2 years of service with the municipality or participating instrumentality whose governing body authorizes the service established plus interest at the effective rate on the date such credits are established, payable from the date the employee completes the required 2 years of current service to date of payment. In no case shall more than 120 months of creditable service be granted under this provision.

7. For retroactive service: Any employee who could have but did not elect to become a participating employee, or

who should have been a participant in the Municipal Public Utilities Annuity and Benefit Fund before that fund was superseded, may receive creditable service for the period of service not to exceed 50 months; however, a current or former elected or appointed official of a participating municipality may establish credit under this paragraph 7 for more than 50 months of service as an official of that municipality, if the excess over 50 months is approved by resolution of the governing body of the affected municipality filed with the Fund before January 1, 2002.

Any employee who is a participating employee on or after September 24, 1981 and who was excluded from participation by the age restrictions removed by Public Act 82-596 may receive creditable service for the period, on or after January 1, 1979, excluded by the age restriction and, in addition, if the governing body of the participating municipality or participating instrumentality elects to allow creditable service for all employees excluded by the age restriction prior to January 1, 1979, for service during the period prior to that date excluded by the age restriction. Any employee who was excluded from participation by the age restriction removed by Public Act 82-596 and who is not a participating employee on or after September 24, 1981 may receive creditable service for service after January 1, 1979. Creditable service under this paragraph shall be granted upon payment of the

employee contributions which would have been required had he participated, with interest at the effective rate for each year from the end of the period of service established to date of payment.

8. For accumulated unused sick leave: A participating employee who is applying for a retirement annuity shall be entitled to creditable service for that portion of the employee's accumulated unused sick leave for which payment is not received, as follows:

a. Sick leave days shall be limited to those accumulated under a sick leave plan established by a participating municipality or participating instrumentality which is available to all employees or a class of employees.

b. Only sick leave days accumulated with a participating municipality or participating instrumentality with which the employee was in service within 60 days of the effective date of his retirement annuity shall be credited; If the employee was in service with more than one employer during this period only the sick leave days with the employer with which the employee has the greatest number of unpaid sick leave days shall be considered.

c. The creditable service granted shall be considered solely for the purpose of computing the amount of the retirement annuity and shall not be used

to establish any minimum service period required by any provision of the Illinois Pension Code, the effective date of the retirement annuity, or the final rate of earnings.

d. The creditable service shall be at the rate of 1/20 of a month for each full sick day, provided that no more than 12 months may be credited under this subdivision 8.

e. Employee contributions shall not be required for creditable service under this subdivision 8.

f. Each participating municipality and participating instrumentality with which an employee has service within 60 days of the effective date of his retirement annuity shall certify to the board the number of accumulated unpaid sick leave days credited to the employee at the time of termination of service.

9. For service transferred from another system: Credits and creditable service shall be granted for service under Article 3, 4, 5, 8, 14, or 16 of this Act, to any active member of this Fund, and to any inactive member who has been a county sheriff, upon transfer of such credits pursuant to Section 3-110.3, 4-108.3, 5-235, 8-226.7, 14-105.6, or 16-131.4, and payment by the member of the amount by which (1) the employer and employee contributions that would have been required if he had participated in this Fund as a sheriff's law enforcement employee during

the period for which credit is being transferred, plus interest thereon at the effective rate for each year, compounded annually, from the date of termination of the service for which credit is being transferred to the date of payment, exceeds (2) the amount actually transferred to the Fund. Such transferred service shall be deemed to be service as a sheriff's law enforcement employee for the purposes of Section 7-142.1.

10. For service transferred from an Article 3 system under Section 3-110.8: Credits and creditable service shall be granted for service under Article 3 of this Act as provided in Section 3-110.8, to any active member of this Fund upon transfer of such credits pursuant to Section 3-110.8. If the amount by which (1) the employer and employee contributions that would have been required if he had participated in this Fund during the period for which credit is being transferred, plus interest thereon at the effective rate for each year, compounded annually, from the date of termination of the service for which credit is being transferred to the date of payment, exceeds (2) the amount actually transferred to the Fund, then the amount of creditable service established under this paragraph 10 shall be reduced by a corresponding amount in accordance with the rules and procedures established under this paragraph 10.

The board shall establish by rule the manner of making

the calculation required under this paragraph 10, taking into account the appropriate actuarial assumptions; the member's service, age, and salary history; the level of funding of the employer; and any other factors that the board determines to be relevant.

(b) Creditable service - amount:

1. One month of creditable service shall be allowed for each month for which a participating employee made contributions as required under Section 7-173, or for which creditable service is otherwise granted hereunder. Not more than 1 month of service shall be credited and counted for 1 calendar month, and not more than 1 year of service shall be credited and counted for any calendar year. A calendar month means a nominal month beginning on the first day thereof, and a calendar year means a year beginning January 1 and ending December 31.

2. A seasonal employee shall be given 12 months of creditable service if he renders the number of months of service normally required by the position in a 12-month period and he remains in service for the entire 12-month period. Otherwise a fractional year of service in the number of months of service rendered shall be credited.

3. An intermittent employee shall be given creditable service for only those months in which a contribution is made under Section 7-173.

(c) No application for correction of credits or creditable

service shall be considered unless the board receives an application for correction while (1) the applicant is a participating employee and in active employment with a participating municipality or instrumentality, or (2) while the applicant is actively participating in a pension fund or retirement system which is a participating system under the Retirement Systems Reciprocal Act. A participating employee or other applicant shall not be entitled to credits or creditable service unless the required employee contributions are made in a lump sum or in installments made in accordance with board rule.

(d) Upon the granting of a retirement, surviving spouse or child annuity, a death benefit or a separation benefit, on account of any employee, all individual accumulated credits shall thereupon terminate. Upon the withdrawal of additional contributions, the credits applicable thereto shall thereupon terminate. Terminated credits shall not be applied to increase the benefits any remaining employee would otherwise receive under this Article.

(Source: P.A. 95-483, eff. 8-28-07; 95-486, eff. 8-28-07; 95-504, eff. 8-28-07; revised 11-9-07.)

(40 ILCS 5/7-139.12)

Sec. 7-139.12. Transfer of creditable service to Article 14. A person employed by the Chicago Metropolitan Agency for Planning (formerly the Regional Planning Board) on the

effective date of this Section who was a member of the State Employees' Retirement System of Illinois as an employee of the Chicago Area Transportation Study may apply for transfer of his or her creditable service as an employee of the Chicago Metropolitan Agency for Planning upon payment of (1) the amounts accumulated to the credit of the applicant for such service on the books of the Fund on the date of transfer and (2) the corresponding municipality credits, including interest, on the books of the Fund on the date of transfer. Participation in this Fund with respect to the transferred credits shall terminate on the date of transfer.

(Source: P.A. 95-677, eff. 10-11-07.)

(40 ILCS 5/7-139.13)

Sec. 7-139.13 ~~7-139.12~~. Transfer from Article 3. Until January 1, 2008, a person may transfer to the Illinois Municipal Retirement Systems up to 8 years of creditable service accumulated under Article 3 of this Code upon payment to the Fund of an amount to be determined by the board, equal to (i) the difference between the amount of employee and employer contributions transferred to the Fund under Section 3-110.8 and the amounts that would have been contributed had such contributions been made at the rates applicable to an employee under this Article, plus (ii) interest thereon at the effective rate for each year, compounded annually, from the date of service to the date of payment.

(Source: P.A. 95-530, eff. 8-28-07; revised 12-6-07.)

(40 ILCS 5/9-121.6) (from Ch. 108 1/2, par. 9-121.6)

Sec. 9-121.6. Alternative annuity for county officers.

(a) Any county officer elected by vote of the people may elect to establish alternative credits for an alternative annuity by electing in writing to make additional optional contributions in accordance with this Section and procedures established by the board. Such elected county officer may discontinue making the additional optional contributions by notifying the Fund in writing in accordance with this Section and procedures established by the board.

Additional optional contributions for the alternative annuity shall be as follows:

(1) For service after the option is elected, an additional contribution of 3% of salary shall be contributed to the Fund on the same basis and under the same conditions as contributions required under Sections 9-170 and 9-176.

(2) For service before the option is elected, an additional contribution of 3% of the salary for the applicable period of service, plus interest at the effective rate from the date of service to the date of payment. All payments for past service must be paid in full before credit is given. No additional optional contributions may be made for any period of service for

which credit has been previously forfeited by acceptance of a refund, unless the refund is repaid in full with interest at the effective rate from the date of refund to the date of repayment.

(b) In lieu of the retirement annuity otherwise payable under this Article, any county officer elected by vote of the people who (1) has elected to participate in the Fund and make additional optional contributions in accordance with this Section, and (2) has attained age 60 with at least 10 years of service credit, or has attained age 65 with at least 8 years of service credit, may elect to have his retirement annuity computed as follows: 3% of the participant's salary at the time of termination of service for each of the first 8 years of service credit, plus 4% of such salary for each of the next 4 years of service credit, plus 5% of such salary for each year of service credit in excess of 12 years, subject to a maximum of 80% of such salary. To the extent such elected county officer has made additional optional contributions with respect to only a portion of his years of service credit, his retirement annuity will first be determined in accordance with this Section to the extent such additional optional contributions were made, and then in accordance with the remaining Sections of this Article to the extent of years of service credit with respect to which additional optional contributions were not made.

(c) In lieu of the disability benefits otherwise payable

under this Article, any county officer elected by vote of the people who (1) has elected to participate in the Fund, and (2) has become permanently disabled and as a consequence is unable to perform the duties of his office, and (3) was making optional contributions in accordance with this Section at the time the disability was incurred, may elect to receive a disability annuity calculated in accordance with the formula in subsection (b). For the purposes of this subsection, such elected county officer shall be considered permanently disabled only if: (i) disability occurs while in service as an elected county officer and is of such a nature as to prevent him from reasonably performing the duties of his office at the time; and (ii) the board has received a written certification by at least 2 licensed physicians appointed by it stating that such officer is disabled and that the disability is likely to be permanent.

(d) Refunds of additional optional contributions shall be made on the same basis and under the same conditions as provided under Section 9-164, 9-166 and 9-167. Interest shall be credited at the effective rate on the same basis and under the same conditions as for other contributions. Optional contributions under this Section shall be included in the amount of employee contributions used to compute the tax levy under Section 9-169.

(e) The effective date of this plan of optional alternative benefits and contributions shall be January 1, 1988, or the

date upon which approval is received from the U.S. Internal Revenue Service, whichever is later. The plan of optional alternative benefits and contributions shall not be available to any former county officer or employee receiving an annuity from the Fund on the effective date of the plan, unless he re-enters service as an elected county officer and renders at least 3 years of additional service after the date of re-entry.

(f) The plan of optional alternative benefits and contributions authorized under this Section applies only to county officers elected by vote of the people on or before January 1, 2008 (the effective date of Public Act 95-654) ~~this amendatory Act of the 95th General Assembly.~~

(Source: P.A. 95-369, eff. 8-23-07; 95-654, eff. 1-1-08; revised 11-9-07.)

(40 ILCS 5/9-134.5)

Sec. 9-134.5. Alternative retirement cancellation payment.

(a) To be eligible for the alternative retirement cancellation payment provided in this Section, a person must:

(1) be a member of this Fund who, on December 31, 2006, was (i) in active payroll status as an employee and continuously employed in a position on and after the effective date of this Section and (ii) an active contributor to this Fund with respect to that employment;

(2) have not previously received any retirement annuity under this Article;

(3) file with the Board on or before 45 days after the effective date of this Section, a written application requesting the alternative retirement cancellation payment provided in this Section;

(4) terminate employment under this Article no later than 60 days after the effective date of this Section; ~~and~~

(5) ~~(4)~~ if there is a QILDRO in effect against the person, file with the Board the written consent of all alternate payees under the QILDRO to the election of an alternative retirement cancellation payment under this Section. ~~and~~

(b) In lieu of any retirement annuity or other benefit provided under this Article, a person who qualifies for and elects to receive the alternative retirement cancellation payment under this Section shall be entitled to receive a one-time lump sum retirement cancellation payment equal to the amount of his or her contributions to the Fund (including any employee contributions for optional service credit and including any employee contributions paid by the employer or credited to the employee during disability) on the date of termination, with regular interest, multiplied by 1.5.

(c) Notwithstanding any other provision of this Article, a person who receives an alternative retirement cancellation payment under this Section thereby forfeits the right to any other retirement or disability benefit or refund under this Article, and no widow's, survivor's, or death benefit deriving

from that person shall be payable under this Article. Upon accepting an alternative retirement cancellation payment under this Section, the person's creditable service and all other rights in the Fund are terminated for all purposes.

(d) To the extent permitted by federal law, a person who receives an alternative retirement cancellation payment under this Section may direct the Fund to pay all or a portion of that payment as a rollover into another retirement plan or account qualified under the Internal Revenue Code of 1986, as amended.

(e) Notwithstanding any other provision of this Article, a person who has received an alternative retirement cancellation payment under this Section and who reenters service under this Article must first repay to the Fund the amount by which that alternative retirement cancellation payment exceeded the amount of his or her refundable employee contributions with interest at 6% per annum. For the purposes of re-establishing creditable service that was terminated upon election of the alternative retirement cancellation payment, the portion of the alternative retirement cancellation payment representing refundable employee contributions shall be deemed a refund repayable in accordance with Section 9-163.

(f) No individual who receives an alternative retirement cancellation payment under this Section may return to active payroll status within 365 days after separation from service to the employer.

(Source: P.A. 95-369, eff. 8-23-07; revised 11-9-07.)

(40 ILCS 5/10-104.5)

Sec. 10-104.5. Alternative retirement cancellation payment.

(a) To be eligible for the alternative retirement cancellation payment provided in this Section, a person must:

(1) be a member of this Fund who, on December 31, 2006, was (i) in active payroll status as an employee and continuously employed in a position on and after the effective date of this Section and (ii) an active contributor to this Fund with respect to that employment;

(2) have not previously received any retirement annuity under this Article;

(3) file with the Board on or before 45 days after the effective date of this Section, a written application requesting the alternative retirement cancellation payment provided in this Section;

(4) terminate employment under this Article no later than 60 days after the effective date of this Section; and

(5) ~~(4)~~ if there is a QILDRO in effect against the person, file with the Board the written consent of all alternate payees under the QILDRO to the election of an alternative retirement cancellation payment under this Section. ~~and~~

(b) In lieu of any retirement annuity or other benefit

provided under this Article, a person who qualifies for and elects to receive the alternative retirement cancellation payment under this Section shall be entitled to receive a one-time lump sum retirement cancellation payment equal to the amount of his or her contributions to the Fund (including any employee contributions for optional service credit and including any employee contributions paid by the employer or credited to the employee during disability) on the date of termination, with regular interest, multiplied by 1.5.

(c) Notwithstanding any other provision of this Article, a person who receives an alternative retirement cancellation payment under this Section thereby forfeits the right to any other retirement or disability benefit or refund under this Article, and no widow's, survivor's, or death benefit deriving from that person shall be payable under this Article. Upon accepting an alternative retirement cancellation payment under this Section, the person's creditable service and all other rights in the Fund are terminated for all purposes.

(d) To the extent permitted by federal law, a person who receives an alternative retirement cancellation payment under this Section may direct the Fund to pay all or a portion of that payment as a rollover into another retirement plan or account qualified under the Internal Revenue Code of 1986, as amended.

(e) Notwithstanding any other provision of this Article, a person who has received an alternative retirement cancellation

payment under this Section and who reenters service under this Article must first repay to the Fund the amount by which that alternative retirement cancellation payment exceeded the amount of his or her refundable employee contributions with interest of 6% per annum. For the purposes of re-establishing creditable service that was terminated upon election of the alternative retirement cancellation payment, the portion of the alternative retirement cancellation payment representing refundable employee contributions shall be deemed a refund repayable together with interest at the effective rate from the application date of such refund to the date of repayment.

(f) No individual who receives an alternative retirement cancellation payment under this Section may return to active payroll status within 365 days after separation from service to the employer.

(Source: P.A. 95-369, eff. 8-23-07; revised 11-9-07.)

(40 ILCS 5/14-104) (from Ch. 108 1/2, par. 14-104)

Sec. 14-104. Service for which contributions permitted. Contributions provided for in this Section shall cover the period of service granted. Except as otherwise provided in this Section, the contributions shall be based upon the employee's compensation and contribution rate in effect on the date he last became a member of the System; provided that for all employment prior to January 1, 1969 the contribution rate shall be that in effect for a noncovered employee on the date he last

became a member of the System. Except as otherwise provided in this Section, contributions permitted under this Section shall include regular interest from the date an employee last became a member of the System to the date of payment.

These contributions must be paid in full before retirement either in a lump sum or in installment payments in accordance with such rules as may be adopted by the board.

(a) Any member may make contributions as required in this Section for any period of service, subsequent to the date of establishment, but prior to the date of membership.

(b) Any employee who had been previously excluded from membership because of age at entry and subsequently became eligible may elect to make contributions as required in this Section for the period of service during which he was ineligible.

(c) An employee of the Department of Insurance who, after January 1, 1944 but prior to becoming eligible for membership, received salary from funds of insurance companies in the process of rehabilitation, liquidation, conservation or dissolution, may elect to make contributions as required in this Section for such service.

(d) Any employee who rendered service in a State office to which he was elected, or rendered service in the elective office of Clerk of the Appellate Court prior to the date he became a member, may make contributions for such service as required in this Section. Any member who served by appointment

of the Governor under the Civil Administrative Code of Illinois and did not participate in this System may make contributions as required in this Section for such service.

(e) Any person employed by the United States government or any instrumentality or agency thereof from January 1, 1942 through November 15, 1946 as the result of a transfer from State service by executive order of the President of the United States shall be entitled to prior service credit covering the period from January 1, 1942 through December 31, 1943 as provided for in this Article and to membership service credit for the period from January 1, 1944 through November 15, 1946 by making the contributions required in this Section. A person so employed on January 1, 1944 but whose employment began after January 1, 1942 may qualify for prior service and membership service credit under the same conditions.

(f) An employee of the Department of Labor of the State of Illinois who performed services for and under the supervision of that Department prior to January 1, 1944 but who was compensated for those services directly by federal funds and not by a warrant of the Auditor of Public Accounts paid by the State Treasurer may establish credit for such employment by making the contributions required in this Section. An employee of the Department of Agriculture of the State of Illinois, who performed services for and under the supervision of that Department prior to June 1, 1963, but was compensated for those services directly by federal funds and not paid by a warrant of

the Auditor of Public Accounts paid by the State Treasurer, and who did not contribute to any other public employee retirement system for such service, may establish credit for such employment by making the contributions required in this Section.

(g) Any employee who executed a waiver of membership within 60 days prior to January 1, 1944 may, at any time while in the service of a department, file with the board a rescission of such waiver. Upon making the contributions required by this Section, the member shall be granted the creditable service that would have been received if the waiver had not been executed.

(h) Until May 1, 1990, an employee who was employed on a full-time basis by a regional planning commission for at least 5 continuous years may establish creditable service for such employment by making the contributions required under this Section, provided that any credits earned by the employee in the commission's retirement plan have been terminated.

(i) Any person who rendered full time contractual services to the General Assembly as a member of a legislative staff may establish service credit for up to 8 years of such services by making the contributions required under this Section, provided that application therefor is made not later than July 1, 1991.

(j) By paying the contributions otherwise required under this Section, plus an amount determined by the Board to be equal to the employer's normal cost of the benefit plus

interest, but with all of the interest calculated from the date the employee last became a member of the System or November 19, 1991, whichever is later, to the date of payment, an employee may establish service credit for a period of up to 4 years spent in active military service for which he does not qualify for credit under Section 14-105, provided that (1) he was not dishonorably discharged from such military service, and (2) the amount of service credit established by a member under this subsection (j), when added to the amount of military service credit granted to the member under subsection (b) of Section 14-105, shall not exceed 5 years. The change in the manner of calculating interest under this subsection (j) made by this amendatory Act of the 92nd General Assembly applies to credit purchased by an employee on or after its effective date and does not entitle any person to a refund of contributions or interest already paid. In compliance with Section 14-152.1 of this Act concerning new benefit increases, any new benefit increase as a result of the changes to this subsection (j) made by Public Act 95-483 ~~this amendatory Act of the 95th General Assembly~~ is funded through the employee contributions provided for in this subsection (j). Any new benefit increase as a result of the changes made to this subsection (j) by Public Act 95-483 ~~this amendatory Act of the 95th General Assembly~~ is exempt from the provisions of subsection (d) of Section 14-152.1.

(k) An employee who was employed on a full-time basis by

the Illinois State's Attorneys Association Statewide Appellate Assistance Service LEAA-ILEC grant project prior to the time that project became the State's Attorneys Appellate Service Commission, now the Office of the State's Attorneys Appellate Prosecutor, an agency of State government, may establish creditable service for not more than 60 months service for such employment by making contributions required under this Section.

(1) By paying the contributions otherwise required under this Section, plus an amount determined by the Board to be equal to the employer's normal cost of the benefit plus interest, a member may establish service credit for periods of less than one year spent on authorized leave of absence from service, provided that (1) the period of leave began on or after January 1, 1982 and (2) any credit established by the member for the period of leave in any other public employee retirement system has been terminated. A member may establish service credit under this subsection for more than one period of authorized leave, and in that case the total period of service credit established by the member under this subsection may exceed one year. In determining the contributions required for establishing service credit under this subsection, the interest shall be calculated from the beginning of the leave of absence to the date of payment.

(1-5) By paying the contributions otherwise required under this Section, plus an amount determined by the Board to be

equal to the employer's normal cost of the benefit plus interest, a member may establish service credit for periods of up to 2 years spent on authorized leave of absence from service, provided that during that leave the member represented or was employed as an officer or employee of a statewide labor organization that represents members of this System. In determining the contributions required for establishing service credit under this subsection, the interest shall be calculated from the beginning of the leave of absence to the date of payment.

(m) Any person who rendered contractual services to a member of the General Assembly as a worker in the member's district office may establish creditable service for up to 3 years of those contractual services by making the contributions required under this Section. The System shall determine a full-time salary equivalent for the purpose of calculating the required contribution. To establish credit under this subsection, the applicant must apply to the System by March 1, 1998.

(n) Any person who rendered contractual services to a member of the General Assembly as a worker providing constituent services to persons in the member's district may establish creditable service for up to 8 years of those contractual services by making the contributions required under this Section. The System shall determine a full-time salary equivalent for the purpose of calculating the required

contribution. To establish credit under this subsection, the applicant must apply to the System by March 1, 1998.

(o) A member who participated in the Illinois Legislative Staff Internship Program may establish creditable service for up to one year of that participation by making the contribution required under this Section. The System shall determine a full-time salary equivalent for the purpose of calculating the required contribution. Credit may not be established under this subsection for any period for which service credit is established under any other provision of this Code.

(p) By paying the contributions otherwise required under this Section, plus an amount determined by the Board to be equal to the employer's normal cost of the benefit plus interest, a member may establish service credit for a period of up to 8 years during which he or she was employed by the Visually Handicapped Managers of Illinois in a vending program operated under a contractual agreement with the Department of Rehabilitation Services or its successor agency.

This subsection (p) applies without regard to whether the person was in service on or after the effective date of this amendatory Act of the 94th General Assembly. In the case of a person who is receiving a retirement annuity on that effective date, the increase, if any, shall begin to accrue on the first annuity payment date following receipt by the System of the contributions required under this subsection (p).

(q) By paying the required contributions under this

Section, plus an amount determined by the Board to be equal to the employer's normal cost of the benefit plus interest, an employee who was laid off but returned to State employment under circumstances in which the employee is considered to have been in continuous service for purposes of determining seniority may establish creditable service for the period of the layoff, provided that (1) the applicant applies for the creditable service under this subsection (q) within 6 months after the effective date of this amendatory Act of the 94th General Assembly, (2) the applicant does not receive credit for that period under any other provision of this Code, (3) at the time of the layoff, the applicant is not in an initial probationary status consistent with the rules of the Department of Central Management Services, and (4) the total amount of creditable service established by the applicant under this subsection (q) does not exceed 3 years. For service established under this subsection (q), the required employee contribution shall be based on the rate of compensation earned by the employee on the date of returning to employment after the layoff and the contribution rate then in effect, and the required interest shall be calculated from the date of returning to employment after the layoff to the date of payment.

(r) A member who participated in the University of Illinois Government Public Service Internship Program (GPSI) may establish creditable service for up to 2 years of that

participation by making the contribution required under this Section, plus an amount determined by the Board to be equal to the employer's normal cost of the benefit plus interest. The System shall determine a full-time salary equivalent for the purpose of calculating the required contribution. Credit may not be established under this subsection for any period for which service credit is established under any other provision of this Code.

(s) ~~(r)~~ A member who worked as a nurse under a contractual agreement for the Department of Public Aid, or its successor agency, the Department of Human Services, in the Client Assessment Unit and was subsequently determined to be a State employee by the United States Internal Revenue Service and the Illinois Labor Relations Board may establish creditable service for those contractual services by making the contributions required under this Section. To establish credit under this subsection, the applicant must apply to the System by July 1, 2008.

The Department of Human Services shall pay an employer contribution based upon an amount determined by the Board to be equal to the employer's normal cost of the benefit, plus interest.

In compliance with Section 14-152.1 added by Public Act 94-4, the cost of the benefits provided by Public Act 95-583 ~~this amendatory Act of the 95th General Assembly~~ are offset by the required employee and employer contributions.

(Source: P.A. 94-612, eff. 8-18-05; 94-1111, eff. 2-27-07; 95-483, eff. 8-28-07; 95-583, eff. 8-31-07; 95-652, eff. 10-11-07; revised 11-9-07.)

Section 150. The Public Building Commission Act is amended by changing Section 20 as follows:

(50 ILCS 20/20) (from Ch. 85, par. 1050)

(Text of Section before amendment by P.A. 95-595)

Sec. 20. All contracts to be let for the construction, alteration, improvement, repair, enlargement, demolition or removal of any buildings or other facilities, or for materials or supplies to be furnished, where the amount thereof is in excess of \$20,000, shall be let to the lowest responsible bidder, or bidders, on open competitive bidding after public advertisement published at least once in each week for three consecutive weeks prior to the opening of bids, in a daily newspaper of general circulation in the county where the commission is located, except in the case of an emergency situation, as determined by the chief executive officer. If a contract is awarded in an emergency situation, (i) the contract accepted must be based on the lowest responsible proposal after the commission has made a diligent effort to solicit multiple proposals by telephone, facsimile, or other efficient means and (ii) the chief executive officer must submit a report at the next regular meeting of the Board, to be ratified by the Board

and entered into the official record, that states the chief executive officer's reason for declaring an emergency situation, the names of all parties solicited for proposals, and their proposals and that includes a copy of the contract awarded. Nothing contained in this Section shall be construed to prohibit the Board of Commissioners from placing additional advertisements in recognized trade journals. Advertisements for bids shall describe the character of the proposed contract in sufficient detail to enable the bidders thereon to know what their obligation will be, either in the advertisement itself, or by reference to detailed plans and specifications on file in the office of the Public Building Commission at the time of the publication of the first announcement. Such advertisement shall also state the date, time, and place assigned for the opening of bids and no bids shall be received at any time subsequent to the time indicated in said advertisement. The Board of Commissioners may reject any and all bids received and readvertise for bids. All bids shall be open to public inspection in the office of the Public Building Commission after an award or final selection has been made. The successful bidder for such work shall enter into contracts furnished and prescribed by the Board of Commissioners and in addition to any other bonds required under this Act the successful bidder shall execute and give bond, payable to and to be approved by the Commission, with a corporate surety authorized to do business under the laws of the State of Illinois, in an amount to be

determined by the Board of Commissioners, conditioned upon the payment of all labor furnished and materials supplied in the prosecution of the contracted work. If the bidder whose bid has been accepted shall neglect or refuse to accept the contract within five (5) days after written notice that the same has been awarded to him, or if he accepts but does not execute the contract and give the proper security, the Commission may accept the next lowest bidder, or readvertise and relet in manner above provided. In case any work shall be abandoned by any contractor the Commission may, if the best interests of the Commission be thereby served, adopt on behalf of the Commission all subcontracts made by such contractor for such work and all such sub-contractors shall be bound by such adoption if made; and the Commission shall, in the manner provided herein, readvertise and relet the work specified in the original contract exclusive of so much thereof as shall be accepted. Every contract when made and entered into, as herein provided for, shall be executed, held by the Commission, and filed in its records, and one copy of which shall be given to the contractor.

(Source: P.A. 95-614, eff. 9-11-07.)

(Text of Section after amendment by P.A. 95-595)

Sec. 20. Contracts let to lowest responsible bidder; competitive bidding; advertisement for bids; design-build contracts.

(a) All contracts to be let for the construction, alteration, improvement, repair, enlargement, demolition or removal of any buildings or other facilities, or for materials or supplies to be furnished, where the amount thereof is in excess of \$20,000, shall be awarded as a design-build contract in accordance with Sections 20.3 through 20.20 or shall be let to the lowest responsible bidder, or bidders, on open competitive bidding.

(b) A contract awarded on the basis of competitive bidding shall be awarded after public advertisement published at least once in each week for three consecutive weeks prior to the opening of bids, in a daily newspaper of general circulation in the county where the commission is located, except in the case of an emergency situation, as determined by the chief executive officer. If a contract is awarded in an emergency situation, (i) the contract accepted must be based on the lowest responsible proposal after the commission has made a diligent effort to solicit multiple proposals by telephone, facsimile, or other efficient means and (ii) the chief executive officer must submit a report at the next regular meeting of the Board, to be ratified by the Board and entered into the official record, that states the chief executive officer's reason for declaring an emergency situation, the names of all parties solicited for proposals, and their proposals and that includes a copy of the contract awarded. Nothing contained in this Section shall be construed to prohibit the Board of

Commissioners from placing additional advertisements in recognized trade journals. Advertisements for bids shall describe the character of the proposed contract in sufficient detail to enable the bidders thereon to know what their obligation will be, either in the advertisement itself, or by reference to detailed plans and specifications on file in the office of the Public Building Commission at the time of the publication of the first announcement. Such advertisement shall also state the date, time, and place assigned for the opening of bids. No bids shall be received at any time subsequent to the time indicated in said advertisement.

(c) In addition to the requirements of Section 20.3, the Commission shall advertise a design-build solicitation at least once in a daily newspaper of general circulation in the county where the Commission is located. The date that Phase I submissions by design-build entities are due must be at least 14 calendar days after the date the newspaper advertisement for design-build proposals is first published. The advertisement shall identify the design-build project, the due date, the place and time for Phase I submissions, and the place where proposers can obtain a complete copy of the request for design-build proposals, including the criteria for evaluation and the scope and performance criteria. The Commission is not precluded from using other media or from placing advertisements in addition to the one required under this subsection.

(d) The Board of Commissioners may reject any and all bids

and proposals received and may readvertise for bids or issue a new request for design-build proposals.

(e) All bids shall be open to public inspection in the office of the Public Building Commission after an award or final selection has been made. The successful bidder for such work shall enter into contracts furnished and prescribed by the Board of Commissioners and in addition to any other bonds required under this Act the successful bidder shall execute and give bond, payable to and to be approved by the Commission, with a corporate surety authorized to do business under the laws of the State of Illinois, in an amount to be determined by the Board of Commissioners, conditioned upon the payment of all labor furnished and materials supplied in the prosecution of the contracted work. If the bidder whose bid has been accepted shall neglect or refuse to accept the contract within five (5) days after written notice that the same has been awarded to him, or if he accepts but does not execute the contract and give the proper security, the Commission may accept the next lowest bidder, or readvertise and relet in manner above provided.

(f) In case any work shall be abandoned by any contractor or design-build entity, the Commission may, if the best interests of the Commission be thereby served, adopt on behalf of the Commission all subcontracts made by such contractor or design-build entity for such work and all such sub-contractors shall be bound by such adoption if made; and the Commission

shall, in the manner provided in this Act, readvertise and relet, or request proposals and award design-build contracts for, the work specified in the original contract exclusive of so much thereof as shall be accepted. Every contract when made and entered into, as provided in this Section or Section 20.20, shall be executed, held by the Commission, and filed in its records, and one copy of which shall be given to the contractor or design-build entity.

(g) The provisions of this Section with respect to design-build shall have no effect beginning 5 years after June 1, 2008 (the effective date of Public Act 95-595) ~~this amendatory Act of the 95th General Assembly.~~

(Source: P.A. 95-595, eff. 6-1-08; 95-614, eff. 9-11-07; revised 11-8-07.)

Section 155. The Wireless Emergency Telephone Safety Act is amended by changing Sections 17 and 35 as follows:

(50 ILCS 751/17)

(Section scheduled to be repealed on April 1, 2013)

Sec. 17. Wireless carrier surcharge.

(a) Except as provided in Section 45, each wireless carrier shall impose a monthly wireless carrier surcharge per CMRS connection that either has a telephone number within an area code assigned to Illinois by the North American Numbering Plan Administrator or has a billing address in this State. In the

case of prepaid wireless telephone service, this surcharge shall be remitted based upon the address associated with the point of purchase, the customer billing address, or the location associated with the MTN for each active prepaid wireless telephone that has a sufficient positive balance as of the last day of each month, if that information is available. No wireless carrier shall impose the surcharge authorized by this Section upon any subscriber who is subject to the surcharge imposed by a unit of local government pursuant to Section 45. Prior to January 1, 2008 (the effective date of Public Act 95-698) ~~this amendatory Act of the 95th General Assembly~~, the surcharge amount shall be the amount set by the Wireless Enhanced 9-1-1 Board. Beginning on January 1, 2008 (the effective date of Public Act 95-698) ~~this amendatory Act of the 95th General Assembly~~, the monthly surcharge imposed under this Section shall be \$0.73 per CMRS connection. The wireless carrier that provides wireless service to the subscriber shall collect the surcharge from the subscriber. For mobile telecommunications services provided on and after August 1, 2002, any surcharge imposed under this Act shall be imposed based upon the municipality or county that encompasses the customer's place of primary use as defined in the Mobile Telecommunications Sourcing Conformity Act. The surcharge shall be stated as a separate item on the subscriber's monthly bill. The wireless carrier shall begin collecting the surcharge on bills issued within 90 days after the Wireless Enhanced

9-1-1 Board sets the monthly wireless surcharge. State and local taxes shall not apply to the wireless carrier surcharge.

(b) Except as provided in Section 45, a wireless carrier shall, within 45 days of collection, remit, either by check or by electronic funds transfer, to the State Treasurer the amount of the wireless carrier surcharge collected from each subscriber. Of the amounts remitted under this subsection prior to January 1, 2008 (the effective date of Public Act 95-698) ~~this amendatory Act of the 95th General Assembly~~, and for surcharges imposed before January 1, 2008 (the effective date of Public Act 95-698) ~~this amendatory Act of the 95th General Assembly~~ but remitted after January 1, 2008 ~~its effective date~~, the State Treasurer shall deposit one-third into the Wireless Carrier Reimbursement Fund and two-thirds into the Wireless Service Emergency Fund. For surcharges collected and remitted on or after January 1, 2008 (the effective date of Public Act 95-698) ~~this amendatory Act of the 95th General Assembly~~, \$0.1475 per surcharge collected shall be deposited into the Wireless Carrier Reimbursement Fund, and \$0.5825 per surcharge collected shall be deposited into the Wireless Service Emergency Fund. Of the amounts deposited into the Wireless Carrier Reimbursement Fund under this subsection, \$0.01 per surcharge collected may be distributed to the carriers to cover their administrative costs. Of the amounts deposited into the Wireless Service Emergency Fund under this subsection, \$0.01 per surcharge collected may be disbursed to the Illinois

Commerce Commission to cover its administrative costs.

(c) The first such remittance by wireless carriers shall include the number of customers by zip code, and the 9-digit zip code if currently being used or later implemented by the carrier, that shall be the means by which the Illinois Commerce Commission shall determine distributions from the Wireless Service Emergency Fund. This information shall be updated no less often than every year. Wireless carriers are not required to remit surcharge moneys that are billed to subscribers but not yet collected. Any carrier that fails to provide the zip code information required under this subsection (c) or any prepaid wireless carrier that fails to provide zip code information based upon the addresses associated with its customers' points of purchase, customers' billing addresses, or locations associated with MTNs, as described in subsection (a) of this Section, shall be subject to the penalty set forth in subsection (f) of this Section.

(d) Within 90 days after August 13, 2007 (the effective date of Public Act 95-63) ~~this amendatory Act of the 94th General Assembly~~, each wireless carrier must implement a mechanism for the collection of the surcharge imposed under subsection (a) of this Section from its subscribers. If a wireless carrier does not implement a mechanism for the collection of the surcharge from its subscribers in accordance with this subsection (d), then the carrier is required to remit the surcharge for all subscribers until the carrier is deemed

to be in compliance with this subsection (d) by the Illinois Commerce Commission.

(e) If before midnight on the last day of the third calendar month after the closing date of the remit period a wireless carrier does not remit the surcharge or any portion thereof required under this Section, then the surcharge or portion thereof shall be deemed delinquent until paid in full, and the Illinois Commerce Commission may impose a penalty against the carrier in an amount equal to the greater of:

(1) \$25 for each month or portion of a month from the time an amount becomes delinquent until the amount is paid in full; or

(2) an amount equal to the product of 1% and the sum of all delinquent amounts for each month or portion of a month that the delinquent amounts remain unpaid.

A penalty imposed in accordance with this subsection (e) for a portion of a month during which the carrier provides the number of subscribers by zip code as required under subsection (c) of this Section shall be prorated for each day of that month during which the carrier had not provided the number of subscribers by zip code as required under subsection (c) of this Section. Any penalty imposed under this subsection (e) is in addition to the amount of the delinquency and is in addition to any other penalty imposed under this Section.

(f) If, before midnight on the last day of the third calendar month after the closing date of the remit period, a

wireless carrier does not provide the number of subscribers by zip code as required under subsection (c) of this Section, then the report is deemed delinquent and the Illinois Commerce Commission may impose a penalty against the carrier in an amount equal to the greater of:

(1) \$25 for each month or portion of a month that the report is delinquent; or

(2) an amount equal to the product of 1/2¢ and the number of subscribers served by the wireless carrier.

A penalty imposed in accordance with this subsection (f) for a portion of a month during which the carrier pays the delinquent amount in full shall be prorated for each day of that month that the delinquent amount was paid in full. Any penalty imposed under this subsection (f) is in addition to any other penalty imposed under this Section.

(g) The Illinois Commerce Commission may enforce the collection of any delinquent amount and any penalty due and unpaid under this Section by legal action or in any other manner by which the collection of debts due the State of Illinois may be enforced under the laws of this State. The Executive Director of the Illinois Commerce Commission, or his or her designee, may excuse the payment of any penalty imposed under this Section if the Executive Director, or his or her designee, determines that the enforcement of this penalty is unjust.

(h) ~~(d)~~ Notwithstanding any provision of law to the

contrary, nothing shall impair the right of wireless carriers to recover compliance costs for all emergency communications services that are not reimbursed out of the Wireless Carrier Reimbursement Fund directly from their customers via line-item charges on the customer's bill. Those compliance costs include all costs incurred by wireless carriers in complying with local, State, and federal regulatory or legislative mandates that require the transmission and receipt of emergency communications to and from the general public, including, but not limited to, E-911.

(i) ~~(e)~~ The Auditor General shall conduct, on an annual basis, an audit of the Wireless Service Emergency Fund and the Wireless Carrier Reimbursement Fund for compliance with the requirements of this Act. The audit shall include, but not be limited to, the following determinations:

(1) Whether the Commission is maintaining detailed records of all receipts and disbursements from the Wireless Carrier Emergency Fund and the Wireless Carrier Reimbursement Fund.

(2) Whether the Commission's administrative costs charged to the funds are adequately documented and are reasonable.

(3) Whether the Commission's procedures for making grants and providing reimbursements in accordance with the Act are adequate.

(4) The status of the implementation of wireless 9-1-1

and E9-1-1 services in Illinois.

The Commission, the Department of State Police, and any other entity or person that may have information relevant to the audit shall cooperate fully and promptly with the Office of the Auditor General in conducting the audit. The Auditor General shall commence the audit as soon as possible and distribute the report upon completion in accordance with Section 3-14 of the Illinois State Auditing Act.

(Source: P.A. 95-63, eff. 8-13-07; 95-698, eff. 1-1-08; revised 11-8-07.)

(50 ILCS 751/35)

(Section scheduled to be repealed on April 1, 2013)

Sec. 35. Wireless Carrier Reimbursement Fund;
reimbursement.

(a) To recover costs from the Wireless Carrier Reimbursement Fund, the wireless carrier shall submit sworn invoices to the Illinois Commerce Commission. In no event may any invoice for payment be approved for (i) costs that are not related to compliance with the requirements established by the wireless enhanced 9-1-1 mandates of the Federal Communications Commission, (ii) costs with respect to any wireless enhanced 9-1-1 service that is not operable at the time the invoice is submitted, or (iii) costs in excess of the sum of (A) the carrier's balance, as determined under subsection (e) of this Section, plus (B) 100% of the surcharge remitted to the

Wireless Carrier Reimbursement Fund by the wireless carrier under Section 17(b) since the last annual review of the balance in the Wireless Carrier Reimbursement Fund under subsection (e) of this Section, less reimbursements paid to the carrier out of the Wireless Carrier Reimbursement Fund since the last annual review of the balance under subsection (e) of this Section, unless the wireless carrier received prior approval for the expenditures from the Illinois Commerce Commission.

(b) If in any month the total amount of invoices submitted to the Illinois Commerce Commission and approved for payment exceeds the amount available in the Wireless Carrier Reimbursement Fund, wireless carriers that have invoices approved for payment shall receive a pro-rata share of the amount available in the Wireless Carrier Reimbursement Fund based on the relative amount of their approved invoices available that month, and the balance of the payments shall be carried into the following months until all of the approved payments are made.

(c) A wireless carrier may not receive payment from the Wireless Carrier Reimbursement Fund for its costs of providing wireless enhanced 9-1-1 services in an area when a unit of local government or emergency telephone system board provides wireless 9-1-1 services in that area and was imposing and collecting a wireless carrier surcharge prior to July 1, 1998.

(d) The Illinois Commerce Commission shall maintain detailed records of all receipts and disbursements and shall

provide an annual accounting of all receipts and disbursements to the Auditor General.

(e) The Illinois Commerce Commission must annually review the balance in the Wireless Carrier Reimbursement Fund as of June 30 of each year and shall direct the Comptroller to transfer into the Wireless Services Emergency Fund for distribution in accordance with Section 25 of this Act any amount in excess of the amount of deposits into the Fund for the 24 months prior to June 30 less:

(1) the amount of paid and payables received by June 30 for the 24 months prior to June 30 as determined eligible under subsection (a) of this Section;

(2) the administrative costs associated with the Fund for the 24 months prior to June 30; and

(3) the prorated portion of any other adjustments made to the Fund in the 24 months prior to June 30.

After making the calculation required under this subsection (e), each carrier's available balance for purposes of reimbursements must be adjusted using the same calculation.

(f) The Illinois Commerce Commission shall adopt rules to govern the reimbursement process.

(g) On January 1, 2008 (the effective date of Public Act 95-698) ~~Upon the effective date of this amendatory Act of the 95th General Assembly,~~ or as soon thereafter as practical, the State Comptroller shall order transferred and the State Treasurer shall transfer the sum of \$8,000,000 from the

Wireless Carrier Reimbursement Fund to the Wireless Service Emergency Fund. That amount shall be used by the Illinois Commerce Commission to make grants in the manner described in Section 25 of this Act.

(Source: P.A. 95-63, eff. 8-13-07; 95-698, eff. 1-1-08; revised 11-8-07.)

Section 160. The Counties Code is amended by changing Sections 5-1069.3, 5-1095, and 5-1096.5 as follows:

(55 ILCS 5/5-1069.3)

Sec. 5-1069.3. Required health benefits. If a county, including a home rule county, is a self-insurer for purposes of providing health insurance coverage for its employees, the coverage shall include coverage for the post-mastectomy care benefits required to be covered by a policy of accident and health insurance under Section 356t and the coverage required under Sections 356g.5, 356u, 356w, 356x, 356z.6, ~~and~~ 356z.9, and 356z.10 ~~356z.9~~ of the Illinois Insurance Code. The requirement that health benefits be covered as provided in this Section is an exclusive power and function of the State and is a denial and limitation under Article VII, Section 6, subsection (h) of the Illinois Constitution. A home rule county to which this Section applies must comply with every provision of this Section.

(Source: P.A. 95-189, eff. 8-16-07; 95-422, eff. 8-24-07;

95-520, eff. 8-28-07; revised 12-4-07.)

(55 ILCS 5/5-1095) (from Ch. 34, par. 5-1095)

Sec. 5-1095. Community antenna television systems; satellite transmitted television programming.

(a) The County Board may license, tax or franchise the business of operating a community antenna television system or systems within the County and outside of a municipality, as defined in Section 1-1-2 of the Illinois Municipal Code.

When an area is annexed to a municipality, the annexing municipality shall thereby become the franchising authority with respect to that portion of any community antenna television system that, immediately before annexation, had provided cable television services within the annexed area under a franchise granted by the county, and the owner of that community antenna television system shall thereby be authorized to provide cable television services within the annexed area under the terms and provisions of the existing franchise. In that instance, the franchise shall remain in effect until, by its terms, it expires, except that any franchise fees payable under the franchise shall be payable only to the county for a period of 5 years or until, by its terms, the franchise expires, whichever occurs first. After the 5 year period, any franchise fees payable under the franchise shall be paid to the annexing municipality. In any instance in which a duly franchised community antenna television system is

providing cable television services within the annexing municipality at the time of annexation, the annexing municipality may permit that franchisee to extend its community antenna television system to the annexed area under terms and conditions that are no more burdensome nor less favorable to that franchisee than those imposed under any community antenna television franchise applicable to the annexed area at the time of annexation. The authorization to extend cable television service to the annexed area and any community antenna television system authorized to provide cable television services within the annexed area at the time of annexation shall not be subject to the provisions of subsection (e) of this Section.

(b) "Community antenna television system" as used in this Section, means any facility which is constructed in whole or in part in, on, under or over any highway or other public place and which is operated to perform for hire the service of receiving and amplifying the signals broadcast by one or more television stations and redistributing such signals by wire, cable or other means to members of the public who subscribe to such service except that such term does not include (i) any system which serves fewer than 50 subscribers or (ii) any system which serves only the residents of one or more apartment dwellings under common ownership, control or management, and commercial establishments located on the premises of such dwellings.

(c) The authority hereby granted does not include the authority to license or franchise telephone companies subject to the jurisdiction of the Illinois Commerce Commission or the Federal Communications Commission in connection with furnishing circuits, wires, cables or other facilities to the operator of a community antenna television system.

(c-1) Each franchise entered into by a county and a community antenna television system shall include the customer service and privacy standards and protections contained in Article XXII of the Public Utilities Act ~~the Cable and Video Customers Protection Law~~. A franchise may not contain different penalties ~~or,~~ consumer service and privacy standards and protections. Each franchise entered into by a county and a community antenna television system before June 30, 2007 (the effective date of Public Act 95-9) ~~this amendatory Act of the 95th General Assembly~~ shall be amended by this Section to incorporate the penalty provisions ~~and,~~ customer service and privacy standards and protections contained in Article XXII of the Public Utilities Act ~~the Cable and Video Customers Protection Law~~.

The County Board may, in the course of franchising such community antenna television system, grant to such franchisee the authority and the right and permission to use all public streets, rights of way, alleys, ways for public service facilities, parks, playgrounds, school grounds, or other public grounds, in which such county may have an interest, for

the construction, installation, operation, maintenance, alteration, addition, extension or improvement of a community antenna television system.

Any charge imposed by a community antenna television system franchised pursuant to this Section for the raising or removal of cables or lines to permit passage on, to or from a street shall not exceed the reasonable costs of work reasonably necessary to safely permit such passage. Pursuant to subsections (h) and (i) of Section 6 of Article VII of the Constitution of the State of Illinois, the General Assembly declares the regulation of charges which may be imposed by community antenna television systems for the raising or removal of cables or lines to permit passage on, to or from streets is a power or function to be exercised exclusively by the State and not to be exercised or performed concurrently with the State by any unit of local government, including any home rule unit.

The County Board may, upon written request by the franchisee of a community antenna television system, exercise its right of eminent domain solely for the purpose of granting an easement right no greater than 8 feet in width, extending no greater than 8 feet from any lot line for the purpose of extending cable across any parcel of property in the manner provided for by the law of eminent domain, provided, however, such franchisee deposits with the county sufficient security to pay all costs incurred by the county in the exercise of its

right of eminent domain.

Except as specifically provided otherwise in this Section, this Section is not a limitation on any home rule county.

(d) The General Assembly finds and declares that satellite-transmitted television programming should be available to those who desire to subscribe to such programming and that decoding devices should be obtainable at reasonable prices by those who are unable to obtain satellite-transmitted television programming through duly franchised community antenna television systems.

In any instance in which a person is unable to obtain satellite-transmitted television programming through a duly franchised community antenna television system either because the municipality and county in which such person resides has not granted a franchise to operate and maintain a community antenna television system, or because the duly franchised community antenna television system operator does not make cable television services available to such person, any programming company that delivers satellite-transmitted television programming in scrambled or encrypted form shall ensure that devices for decryption of such programming are made available to such person, through the local community antenna television operator or directly, for purchase or lease at prices reasonably related to the cost of manufacture and distribution of such devices.

(e) The General Assembly finds and declares that, in order

to ensure that community antenna television services are provided in an orderly, competitive and economically sound manner, the best interests of the public will be served by the establishment of certain minimum standards and procedures for the granting of additional cable television franchises.

Subject to the provisions of this subsection, the authority granted under subsection (a) hereof shall include the authority to license, franchise and tax more than one cable operator to provide community antenna television services within the territorial limits of a single franchising authority. For purposes of this subsection (e), the term:

(i) "Existing cable television franchise" means a community antenna television franchise granted by a county which is in use at the time such county receives an application or request by another cable operator for a franchise to provide cable antenna television services within all or any portion of the territorial area which is or may be served under the existing cable television franchise.

(ii) "Additional cable television franchise" means a franchise pursuant to which community antenna television services may be provided within the territorial areas, or any portion thereof, which may be served under an existing cable television franchise.

(iii) "Franchising Authority" is defined as that term is defined under Section 602(9) of the Cable Communications

Policy Act of 1984, Public Law 98-549.

(iv) "Cable operator" is defined as that term is defined under Section 602(4) of the Cable Communications Policy Act of 1984, Public Law 98-549.

Before granting an additional cable television franchise, the franchising authority shall:

(1) Give written notice to the owner or operator of any other community antenna television system franchised to serve all or any portion of the territorial area to be served by such additional cable television franchise, identifying the applicant for such additional franchise and specifying the date, time and place at which the franchising authority shall conduct public hearings to consider and determine whether such additional cable television franchise should be granted.

(2) Conduct a public hearing to determine the public need for such additional cable television franchise, the capacity of public rights-of-way to accommodate such additional community antenna television services, the potential disruption to existing users of public rights-of-way to be used by such additional franchise applicant to complete construction and to provide cable television services within the proposed franchise area, the long term economic impact of such additional cable television system within the community, and such other factors as the franchising authority shall deem

appropriate.

(3) Determine, based upon the foregoing factors, whether it is in the best interest of the county to grant such additional cable television franchise.

(4) If the franchising authority shall determine that it is in the best interest of the county to do so, it may grant the additional cable television franchise. Except as provided in paragraph (5) of this subsection (e), no such additional cable television franchise shall be granted under terms or conditions more favorable or less burdensome to the applicant than those required under the existing cable television franchise, including but not limited to terms and conditions pertaining to the territorial extent of the franchise, system design, technical performance standards, construction schedules, performance bonds, standards for construction and installation of cable television facilities, service to subscribers, public educational and governmental access channels and programming, production assistance, liability and indemnification, and franchise fees.

(5) Unless the existing cable television franchise provides that any additional cable television franchise shall be subject to the same terms or substantially equivalent terms and conditions as those of the existing cable television franchise, the franchising authority may grant an additional cable television franchise under

different terms and conditions than those of the existing franchise, in which event the franchising authority shall enter into good faith negotiations with the existing franchisee and shall, within 120 days after the effective date of the additional cable television franchise, modify the existing cable television franchise in a manner and to the extent necessary to ensure that neither the existing cable television franchise nor the additional cable television franchise, each considered in its entirety, provides a competitive advantage over the other, provided that prior to modifying the existing cable television franchise, the franchising authority shall have conducted a public hearing to consider the proposed modification. No modification in the terms and conditions of the existing cable television franchise shall oblige the existing cable television franchisee (1) to make any additional payment to the franchising authority, including the payment of any additional franchise fee, (2) to engage in any additional construction of the existing cable television system or, (3) to modify the specifications or design of the existing cable television system; and the inclusion of the factors identified in items (2) and (3) shall not be considered in determining whether either franchise considered in its entirety, has a competitive advantage over the other except to the extent that the additional franchisee provides additional video or data services or the equipment or

facilities necessary to generate and or carry such service. No modification in the terms and conditions of the existing cable television franchise shall be made if the existing cable television franchisee elects to continue to operate under all terms and conditions of the existing franchise.

If within the 120 day period the franchising authority and the existing cable television franchisee are unable to reach agreement on modifications to the existing cable television franchise, then the franchising authority shall modify the existing cable television franchise, effective 45 days thereafter, in a manner, and only to the extent, that the terms and conditions of the existing cable television franchise shall no longer impose any duty or obligation on the existing franchisee which is not also imposed under the additional cable television franchise; however, if by the modification the existing cable television franchisee is relieved of duties or obligations not imposed under the additional cable television franchise, then within the same 45 days and following a public hearing concerning modification of the additional cable television franchise within that 45 day period, the franchising authority shall modify the additional cable television franchise to the extent necessary to insure that neither the existing cable television franchise nor the additional cable television franchise, each considered in its entirety, shall have a competitive advantage over the

other.

No county shall be subject to suit for damages based upon the county's determination to grant or its refusal to grant an additional cable television franchise, provided that a public hearing as herein provided has been held and the franchising authority has determined that it is in the best interest of the county to grant or refuse to grant such additional franchise, as the case may be.

It is declared to be the law of this State, pursuant to paragraphs (h) and (i) of Section 6 of Article VII of the Illinois Constitution, that the establishment of minimum standards and procedures for the granting of additional cable television franchises as provided in this subsection (e) is an exclusive State power and function that may not be exercised concurrently by a home rule unit.

(Source: P.A. 95-9, eff. 6-30-07; revised 7-9-07.)

(55 ILCS 5/5-1096.5)

Sec. 5-1096.5. Cable and video competition.

(a) A person or entity seeking to provide cable service or video service in this State after June 30, 2007 (the effective date of Public Act 95-9) ~~this amendatory Act of the 95th General Assembly~~ shall either (1) obtain a State-issued authorization pursuant to Section 21-401 of the Public Utilities Act ~~401 of the Cable and Video Competition Law of 2007~~ (220 ILCS 5/21-401); (2) obtain authorization pursuant to

Section 11-42-11 of the Illinois Municipal Code (65 ILCS 5/11-42-11); or (3) obtain authorization pursuant to Section 5-1095 of the Counties Code (55 ILCS 5/5-1095).

(b) A person or entity seeking to provide cable service or video service in this State after June 30, 2007 ~~the effective date of this amendatory Act of the 95th General Assembly~~ shall not use the public rights-of-way for the installation or construction of facilities for the provision of cable service or video service or offer cable service or video service until it has (i) obtained a State-issued authorization to offer or provide cable or video service under Section 21-401 of the Public Utilities Act ~~401 of the Cable and Video Competition Law of 2007~~; (ii) obtained authorization under Section 11-42-11 of the Illinois Municipal Code; or (iii) ~~or~~ obtained authorization under Section 5-1095 of the Counties Code. Nothing in this Section shall prohibit a local unit of government from granting a permit to a person or entity for the use of the public rights-of-way to install or construct facilities to provide cable service or video service, at its sole discretion. No unit of local government shall be liable for denial or delay of a permit prior to the issuance of a State-issued authorization.

(c) For the purposes of subsection (e) of Section 5-1095 of this Code ~~Section 5-1095(e)~~, a State-issued authorization under Article XXI of the Public Utilities Act shall be considered substantially equivalent in terms and conditions as an existing cable provider.

(d) Nothing in Article XXI of the Public Utilities Act shall constitute a basis for modification of an existing cable franchise or an injunction against or for the recovery of damages from a municipality pursuant to subsection (e) of Section 5-1095 of this Code ~~Section 5-1095(e)~~ because of an application for or the issuance of a State-issued authorization under that Article XXI.

(Source: P.A. 95-9, eff. 6-30-07; revised 10-31-07.)

Section 165. The Township Code is amended by renumbering Section 14a as follows:

(60 ILCS 1/200-14a)

Sec. 200-14a ~~14a~~. Reimbursement for specialized rescue services. A township that provides fire protection services may fix, charge, and collect reasonable fees for specialized rescue services provided by the township. The total amount collected may not exceed the reasonable cost of providing those specialized rescue services and may not, in any event, exceed \$125 per hour per vehicle and \$35 per hour per firefighter. The fee may be charged to any of the following parties, but only after there has been a finding of fault against that party by the Occupational Safety and Health Administration or the Illinois Department of Labor:

(a) the owner of the property on which the specialized rescue services occurred;

(b) any person involved in an activity that caused or contributed to the emergency;

(c) an individual who is rescued during the emergency and his or her employer if the person was acting in furtherance of the employer's interests;

(d) in cases involving the recovery of property, any person having control or custody of the property at the time of the emergency.

For the purposes of this Section, the term "specialized rescue services" includes, but is not limited to, structural collapse, tactical rescue, high angle rescue, underwater rescue and recovery, confined space rescue, below grade rescue, and trench rescue.

(Source: P.A. 95-497, eff. 1-1-08; revised 12-6-07.)

Section 170. The Illinois Municipal Code is amended by changing Sections 3.1-10-5, 10-4-2.3, 11-5-1.5, 11-42-11, 11-42-11.2, 11-74.4-3, and 11-74.4-7 as follows:

(65 ILCS 5/3.1-10-5) (from Ch. 24, par. 3.1-10-5)

Sec. 3.1-10-5. Qualifications; elective office.

(a) A person is not eligible for an elective municipal office unless that person is a qualified elector of the municipality and has resided in the municipality at least one year next preceding the election or appointment, except as provided in subsection (c) of Section 3.1-20-25, subsection (b)

of Section 3.1-25-75, Section 5-2-2, or Section 5-2-11.

(b) A person is not eligible for an elective municipal office if that person is in arrears in the payment of a tax or other indebtedness due to the municipality or has been convicted in any court located in the United States of any infamous crime, bribery, perjury, or other felony.

(c) A person is not eligible for the office of alderman of a ward unless that person has resided in the ward that the person seeks to represent, and a person is not eligible for the office of trustee of a district unless that person has resided in the municipality, at least one year next preceding the election or appointment, except as provided in subsection (c) of Section 3.1-20-25, subsection (b) of Section 3.1-25-75, Section 5-2-2, or Section 5-2-11.

(d) If a person (i) is a resident of a municipality immediately prior to the active duty military service of that person or that person's spouse, (ii) resides anywhere outside of the municipality during that active duty military service, and (iii) immediately upon completion of that active duty military service is again a resident of the municipality, then the time during which the person resides outside the municipality during the active duty military service is deemed to be time during which the person is a resident of the municipality for purposes of determining the residency requirement under subsection (a).

(Source: P.A. 95-61, eff. 8-13-07; 95-646, eff. 1-1-08; revised

11-8-07.)

(65 ILCS 5/10-4-2.3)

Sec. 10-4-2.3. Required health benefits. If a municipality, including a home rule municipality, is a self-insurer for purposes of providing health insurance coverage for its employees, the coverage shall include coverage for the post-mastectomy care benefits required to be covered by a policy of accident and health insurance under Section 356t and the coverage required under Sections 356g.5, 356u, 356w, 356x, 356z.6, ~~and 356z.9~~, and 356z.10 ~~356z.9~~ of the Illinois Insurance Code. The requirement that health benefits be covered as provided in this is an exclusive power and function of the State and is a denial and limitation under Article VII, Section 6, subsection (h) of the Illinois Constitution. A home rule municipality to which this Section applies must comply with every provision of this Section.

(Source: P.A. 95-189, eff. 8-16-07; 95-422, eff. 8-24-07; 95-520, eff. 8-28-07; revised 12-4-07.)

(65 ILCS 5/11-5-1.5)

Sec. 11-5-1.5. Adult entertainment facility. It is prohibited within a municipality to locate an adult entertainment facility within 1,000 feet of the property boundaries of any school, day care center, cemetery, public park, forest preserve, public housing, and place of religious

worship, except that in a county with a population of more than 800,000 and less than 2,000,000 inhabitants, it is prohibited to locate, construct, or operate a new adult entertainment facility within one mile of the property boundaries of any school, day care center, cemetery, public park, forest preserve, public housing, or place of religious worship located anywhere within that county. Notwithstanding any other requirements of this Section, it is also prohibited to locate, construct, or operate a new adult entertainment facility within one mile of the property boundaries of any school, day care center, cemetery, public park, forest preserve, public housing, or place of religious worship located in that area of Cook County outside of the City of Chicago.

For the purposes of this Section, "adult entertainment facility" means (i) a striptease club or pornographic movie theatre whose business is the commercial sale, dissemination, or distribution of sexually explicit material, shows, or other exhibitions or (ii) an adult bookstore or adult video store in which 25% or more of its stock-in-trade, books, magazines, and films for sale, exhibition, or viewing on-premises are sexually explicit material.

(Source: P.A. 95-47, eff. 1-1-08; 95-214, eff. 8-16-07; revised 11-8-07.)

(65 ILCS 5/11-42-11) (from Ch. 24, par. 11-42-11)

Sec. 11-42-11. Community antenna television systems;

satellite transmitted television programming.

(a) The corporate authorities of each municipality may license, franchise and tax the business of operating a community antenna television system as hereinafter defined. In municipalities with less than 2,000,000 inhabitants, the corporate authorities may, under the limited circumstances set forth in this Section, own (or lease as lessee) and operate a community antenna television system; provided that a municipality may not acquire, construct, own, or operate a community antenna television system for the use or benefit of private consumers or users, and may not charge a fee for that consumption or use, unless the proposition to acquire, construct, own, or operate a cable antenna television system has been submitted to and approved by the electors of the municipality in accordance with subsection (f). Before acquiring, constructing, or commencing operation of a community antenna television system, the municipality shall comply with the following:

(1) Give written notice to the owner or operator of any other community antenna television system franchised to serve all or any portion of the territorial area to be served by the municipality's community antenna television system, specifying the date, time, and place at which the municipality shall conduct public hearings to consider and determine whether the municipality should acquire, construct, or commence operation of a community antenna

television system. The public hearings shall be conducted at least 14 days after this notice is given.

(2) Publish a notice of the hearing in 2 or more newspapers published in the county, city, village, incorporated town, or town, as the case may be. If there is no such newspaper, then notice shall be published in any 2 or more newspapers published in the county and having a general circulation throughout the community. The public hearings shall be conducted at least 14 days after this notice is given.

(3) Conduct a public hearing to determine the means by which construction, maintenance, and operation of the system will be financed, including whether the use of tax revenues or other fees will be required.

(b) The words "community antenna television system" shall mean any facility which is constructed in whole or in part in, on, under or over any highway or other public place and which is operated to perform for hire the service of receiving and amplifying the signals broadcast by one or more television stations and redistributing such signals by wire, cable or other means to members of the public who subscribe to such service; except that such definition shall not include (i) any system which serves fewer than fifty subscribers, or (ii) any system which serves only the residents of one or more apartment dwellings under common ownership, control or management, and commercial establishments located on the premises of such

dwellings.

(c) The authority hereby granted does not include authority to license, franchise or tax telephone companies subject to jurisdiction of the Illinois Commerce Commission or the Federal Communications Commission in connection with the furnishing of circuits, wires, cables, and other facilities to the operator of a community antenna television system.

(c-1) Each franchise entered into by a municipality and a community antenna television system shall include the customer service and privacy standards and protections contained in Article XXII of the Public Utilities Act ~~the Cable and Video Customers Protection Law~~. A franchise may not contain different penalties or consumer service and privacy standards and protections. Each franchise entered into by a municipality and a community antenna television system before June 30, 2007 (the effective date of Public Act 95-9) ~~this amendatory Act of the 95th General Assembly~~ shall be amended by this Section to incorporate the penalty provisions and customer service and privacy standards and protections contained in Article XXII of the Public Utilities Act ~~the Cable and Video Customers Protection Law~~.

The corporate authorities of each municipality may, in the course of franchising such community antenna television system, grant to such franchisee the authority and the right and permission to use all public streets, rights of way, alleys, ways for public service facilities, parks,

playgrounds, school grounds, or other public grounds, in which such municipality may have an interest, for the construction, installation, operation, maintenance, alteration, addition, extension or improvement of a community antenna television system.

Any charge imposed by a community antenna television system franchised pursuant to this Section for the raising or removal of cables or lines to permit passage on, to or from a street shall not exceed the reasonable costs of work reasonably necessary to safely permit such passage. Pursuant to subsections (h) and (i) of Section 6 of Article VII of the Constitution of the State of Illinois, the General Assembly declares the regulation of charges which may be imposed by community antenna television systems for the raising or removal of cables or lines to permit passage on, to or from streets is a power or function to be exercised exclusively by the State and not to be exercised or performed concurrently with the State by any unit of local government, including any home rule unit.

The municipality may, upon written request by the franchisee of a community antenna television system, exercise its right of eminent domain solely for the purpose of granting an easement right no greater than 8 feet in width, extending no greater than 8 feet from any lot line for the purpose of extending cable across any parcel of property in the manner provided by the law of eminent domain, provided, however, such

franchisee deposits with the municipality sufficient security to pay all costs incurred by the municipality in the exercise of its right of eminent domain.

(d) The General Assembly finds and declares that satellite-transmitted television programming should be available to those who desire to subscribe to such programming and that decoding devices should be obtainable at reasonable prices by those who are unable to obtain satellite-transmitted television programming through duly franchised community antenna television systems.

In any instance in which a person is unable to obtain satellite-transmitted television programming through a duly franchised community antenna television system either because the municipality and county in which such person resides has not granted a franchise to operate and maintain a community antenna television system, or because the duly franchised community antenna television system operator does not make cable television services available to such person, any programming company that delivers satellite-transmitted television programming in scrambled or encrypted form shall ensure that devices for description of such programming are made available to such person, through the local community antenna television operator or directly, for purchase or lease at prices reasonably related to the cost of manufacture and distribution of such devices.

(e) The General Assembly finds and declares that, in order

to ensure that community antenna television services are provided in an orderly, competitive and economically sound manner, the best interests of the public will be served by the establishment of certain minimum standards and procedures for the granting of additional cable television franchises.

Subject to the provisions of this subsection, the authority granted under subsection (a) hereof shall include the authority to license, franchise and tax more than one cable operator to provide community antenna television services within the corporate limits of a single franchising authority. For purposes of this subsection (e), the term:

(i) "Existing cable television franchise" means a community antenna television franchise granted by a municipality which is in use at the time such municipality receives an application or request by another cable operator for a franchise to provide cable antenna television services within all or any portion of the territorial area which is or may be served under the existing cable television franchise.

(ii) "Additional cable television franchise" means a franchise pursuant to which community antenna television services may be provided within the territorial areas, or any portion thereof, which may be served under an existing cable television franchise.

(iii) "Franchising Authority" is defined as that term is defined under Section 602(9) of the Cable Communications

Policy Act of 1984, Public Law 98-549, but does not include any municipality with a population of 1,000,000 or more.

(iv) "Cable operator" is defined as that term is defined under Section 602(4) of the Cable Communications Policy Act of 1984, Public Law 98-549.

Before granting an additional cable television franchise, the franchising authority shall:

(1) Give written notice to the owner or operator of any other community antenna television system franchised to serve all or any portion of the territorial area to be served by such additional cable television franchise, identifying the applicant for such additional franchise and specifying the date, time and place at which the franchising authority shall conduct public hearings to consider and determine whether such additional cable television franchise should be granted.

(2) Conduct a public hearing to determine the public need for such additional cable television franchise, the capacity of public rights-of-way to accommodate such additional community antenna television services, the potential disruption to existing users of public rights-of-way to be used by such additional franchise applicant to complete construction and to provide cable television services within the proposed franchise area, the long term economic impact of such additional cable television system within the community, and such other

factors as the franchising authority shall deem appropriate.

(3) Determine, based upon the foregoing factors, whether it is in the best interest of the municipality to grant such additional cable television franchise.

(4) If the franchising authority shall determine that it is in the best interest of the municipality to do so, it may grant the additional cable television franchise. Except as provided in paragraph (5) of this subsection (e), no such additional cable television franchise shall be granted under terms or conditions more favorable or less burdensome to the applicant than those required under the existing cable television franchise, including but not limited to terms and conditions pertaining to the territorial extent of the franchise, system design, technical performance standards, construction schedules, performance bonds, standards for construction and installation of cable television facilities, service to subscribers, public educational and governmental access channels and programming, production assistance, liability and indemnification, and franchise fees.

(5) Unless the existing cable television franchise provides that any additional cable television franchise shall be subject to the same terms or substantially equivalent terms and conditions as those of the existing cable television franchise, the franchising authority may

grant an additional cable television franchise under different terms and conditions than those of the existing franchise, in which event the franchising authority shall enter into good faith negotiations with the existing franchisee and shall, within 120 days after the effective date of the additional cable television franchise, modify the existing cable television franchise in a manner and to the extent necessary to ensure that neither the existing cable television franchise nor the additional cable television franchise, each considered in its entirety, provides a competitive advantage over the other, provided that prior to modifying the existing cable television franchise, the franchising authority shall have conducted a public hearing to consider the proposed modification. No modification in the terms and conditions of the existing cable television franchise shall oblige the existing cable television franchisee (1) to make any additional payment to the franchising authority, including the payment of any additional franchise fee, (2) to engage in any additional construction of the existing cable television system or, (3) to modify the specifications or design of the existing cable television system; and the inclusion of the factors identified in items (2) and (3) shall not be considered in determining whether either franchise considered in its entirety, has a competitive advantage over the other except to the extent that the additional franchisee provides

additional video or data services or the equipment or facilities necessary to generate and or carry such service. No modification in the terms and conditions of the existing cable television franchise shall be made if the existing cable television franchisee elects to continue to operate under all terms and conditions of the existing franchise.

If within the 120 day period the franchising authority and the existing cable television franchisee are unable to reach agreement on modifications to the existing cable television franchise, then the franchising authority shall modify the existing cable television franchise, effective 45 days thereafter, in a manner, and only to the extent, that the terms and conditions of the existing cable television franchise shall no longer impose any duty or obligation on the existing franchisee which is not also imposed under the additional cable television franchise; however, if by the modification the existing cable television franchisee is relieved of duties or obligations not imposed under the additional cable television franchise, then within the same 45 days and following a public hearing concerning modification of the additional cable television franchise within that 45 day period, the franchising authority shall modify the additional cable television franchise to the extent necessary to insure that neither the existing cable television franchise nor the additional cable television franchise, each considered in

its entirety, shall have a competitive advantage over the other.

No municipality shall be subject to suit for damages based upon the municipality's determination to grant or its refusal to grant an additional cable television franchise, provided that a public hearing as herein provided has been held and the franchising authority has determined that it is in the best interest of the municipality to grant or refuse to grant such additional franchise, as the case may be.

It is declared to be the law of this State, pursuant to paragraphs (h) and (i) of Section 6 of Article VII of the Illinois Constitution, that the establishment of minimum standards and procedures for the granting of additional cable television franchises by municipalities with a population less than 1,000,000 as provided in this subsection (e) is an exclusive State power and function that may not be exercised concurrently by a home rule unit.

(f) No municipality may acquire, construct, own, or operate a community antenna television system unless the corporate authorities adopt an ordinance. The ordinance must set forth the action proposed; describe the plant, equipment, and property to be acquired or constructed; and specifically describe the manner in which the construction, acquisition, and operation of the system will be financed.

The ordinance may not take effect until the question of acquiring, construction, owning, or operating a community

antenna television system has been submitted to the electors of the municipality at a regular election and approved by a majority of the electors voting on the question. The corporate authorities must certify the question to the proper election authority, which must submit the question at an election in accordance with the Election Code.

The question must be submitted in substantially the following form:

Shall the ordinance authorizing the municipality to
(insert action authorized by ordinance) take effect?

The votes must be recorded as "Yes" or "No".

If a majority of electors voting on the question vote in the affirmative, the ordinance shall take effect.

Not more than 30 or less than 15 days before the date of the referendum, the municipal clerk must publish the ordinance at least once in one or more newspapers published in the municipality or, if no newspaper is published in the municipality, in one or more newspapers of general circulation within the municipality.

(Source: P.A. 95-9, eff. 6-30-07; revised 7-9-07.)

(65 ILCS 5/11-42-11.2)

Sec. 11-42-11.2. Cable and video competition.

(a) A person or entity seeking to provide cable service or video service in this State after June 30, 2007 (the effective date of Public Act 95-9) ~~this amendatory Act of the 95th~~

~~General Assembly~~ shall either (1) obtain a State-issued authorization pursuant to Section 21-401 ~~Section 401~~ of the Public Utilities Act ~~Cable and Video Competition Law of 2007~~; (2) obtain authorization pursuant to Section 11-42-11 of the Illinois Municipal Code; or (3) obtain authorization pursuant to Section 5-1095 of the Counties Code. All providers offering or providing cable or video service in this State shall have authorization pursuant to either (i) the Cable and Video Competition Law of 2007; (ii) Section 11-42-11 of the Illinois Municipal Code; or (iii) Section 5-1095 of the Counties Code.

(b) A person or entity seeking to provide cable service or video service in this State after June 30, 2007 (the effective date of Public Act 95-9) ~~this amendatory Act of the 95th General Assembly~~ shall not use the public rights-of-way for the installation or construction of facilities for the provision of cable service or video service or offer cable service or video service until it has (i) obtained a State-issued authorization to offer or provide cable or video service under Section 21-401 ~~Section 401~~ of the Public Utilities Act ~~Cable and Video Competition Law of 2007~~; (ii) obtained authorization under Section 11-42-11 of the Illinois Municipal Code; or (iii) ~~or~~ obtained authorization under Section 5-1095 of the Counties Code. Nothing in this Section shall prohibit a local unit of government from granting a permit to a person or entity for the use of the public rights-of-way to install or construct facilities to provide cable service or video service, at its

sole discretion. No unit of local government shall be liable for denial or delay of a permit prior to the issuance of a State-issued authorization.

(c) For the purposes of subsection (e) of Section 11-42-11 of this Code ~~Section 11-42-11(e)~~, a State-issued authorization under Article XXI of the Public Utilities Act shall be considered substantially equivalent in terms and conditions as an existing cable provider.

(d) Nothing in Article XXI of the Public Utilities Act shall constitute a basis for modification of an existing cable franchise or an injunction against or for the recovery of damages from a municipality pursuant to Section 11-42-11 because of an application for or the issuance of a State-issued authorization under that Article XXI.

(Source: P.A. 95-9, eff. 6-30-07; revised 11-20-07.)

(65 ILCS 5/11-74.4-3) (from Ch. 24, par. 11-74.4-3)

Sec. 11-74.4-3. Definitions. The following terms, wherever used or referred to in this Division 74.4 shall have the following respective meanings, unless in any case a different meaning clearly appears from the context.

(a) For any redevelopment project area that has been designated pursuant to this Section by an ordinance adopted prior to November 1, 1999 (the effective date of Public Act 91-478), "blighted area" shall have the meaning set forth in this Section prior to that date.

On and after November 1, 1999, "blighted area" means any improved or vacant area within the boundaries of a redevelopment project area located within the territorial limits of the municipality where:

(1) If improved, industrial, commercial, and residential buildings or improvements are detrimental to the public safety, health, or welfare because of a combination of 5 or more of the following factors, each of which is (i) present, with that presence documented, to a meaningful extent so that a municipality may reasonably find that the factor is clearly present within the intent of the Act and (ii) reasonably distributed throughout the improved part of the redevelopment project area:

(A) Dilapidation. An advanced state of disrepair or neglect of necessary repairs to the primary structural components of buildings or improvements in such a combination that a documented building condition analysis determines that major repair is required or the defects are so serious and so extensive that the buildings must be removed.

(B) Obsolescence. The condition or process of falling into disuse. Structures have become ill-suited for the original use.

(C) Deterioration. With respect to buildings, defects including, but not limited to, major defects in the secondary building components such as doors,

windows, porches, gutters and downspouts, and fascia. With respect to surface improvements, that the condition of roadways, alleys, curbs, gutters, sidewalks, off-street parking, and surface storage areas evidence deterioration, including, but not limited to, surface cracking, crumbling, potholes, depressions, loose paving material, and weeds protruding through paved surfaces.

(D) Presence of structures below minimum code standards. All structures that do not meet the standards of zoning, subdivision, building, fire, and other governmental codes applicable to property, but not including housing and property maintenance codes.

(E) Illegal use of individual structures. The use of structures in violation of applicable federal, State, or local laws, exclusive of those applicable to the presence of structures below minimum code standards.

(F) Excessive vacancies. The presence of buildings that are unoccupied or under-utilized and that represent an adverse influence on the area because of the frequency, extent, or duration of the vacancies.

(G) Lack of ventilation, light, or sanitary facilities. The absence of adequate ventilation for light or air circulation in spaces or rooms without windows, or that require the removal of dust, odor,

gas, smoke, or other noxious airborne materials. Inadequate natural light and ventilation means the absence of skylights or windows for interior spaces or rooms and improper window sizes and amounts by room area to window area ratios. Inadequate sanitary facilities refers to the absence or inadequacy of garbage storage and enclosure, bathroom facilities, hot water and kitchens, and structural inadequacies preventing ingress and egress to and from all rooms and units within a building.

(H) Inadequate utilities. Underground and overhead utilities such as storm sewers and storm drainage, sanitary sewers, water lines, and gas, telephone, and electrical services that are shown to be inadequate. Inadequate utilities are those that are: (i) of insufficient capacity to serve the uses in the redevelopment project area, (ii) deteriorated, antiquated, obsolete, or in disrepair, or (iii) lacking within the redevelopment project area.

(I) Excessive land coverage and overcrowding of structures and community facilities. The over-intensive use of property and the crowding of buildings and accessory facilities onto a site. Examples of problem conditions warranting the designation of an area as one exhibiting excessive land coverage are: (i) the presence of buildings either

improperly situated on parcels or located on parcels of inadequate size and shape in relation to present-day standards of development for health and safety and (ii) the presence of multiple buildings on a single parcel. For there to be a finding of excessive land coverage, these parcels must exhibit one or more of the following conditions: insufficient provision for light and air within or around buildings, increased threat of spread of fire due to the close proximity of buildings, lack of adequate or proper access to a public right-of-way, lack of reasonably required off-street parking, or inadequate provision for loading and service.

(J) Deleterious land use or layout. The existence of incompatible land-use relationships, buildings occupied by inappropriate mixed-uses, or uses considered to be noxious, offensive, or unsuitable for the surrounding area.

(K) Environmental clean-up. The proposed redevelopment project area has incurred Illinois Environmental Protection Agency or United States Environmental Protection Agency remediation costs for, or a study conducted by an independent consultant recognized as having expertise in environmental remediation has determined a need for, the clean-up of hazardous waste, hazardous substances, or underground storage tanks required by State or federal law,

provided that the remediation costs constitute a material impediment to the development or redevelopment of the redevelopment project area.

(L) Lack of community planning. The proposed redevelopment project area was developed prior to or without the benefit or guidance of a community plan. This means that the development occurred prior to the adoption by the municipality of a comprehensive or other community plan or that the plan was not followed at the time of the area's development. This factor must be documented by evidence of adverse or incompatible land-use relationships, inadequate street layout, improper subdivision, parcels of inadequate shape and size to meet contemporary development standards, or other evidence demonstrating an absence of effective community planning.

(M) The total equalized assessed value of the proposed redevelopment project area has declined for 3 of the last 5 calendar years prior to the year in which the redevelopment project area is designated or is increasing at an annual rate that is less than the balance of the municipality for 3 of the last 5 calendar years for which information is available or is increasing at an annual rate that is less than the Consumer Price Index for All Urban Consumers published by the United States Department of Labor or successor

agency for 3 of the last 5 calendar years prior to the year in which the redevelopment project area is designated.

(2) If vacant, the sound growth of the redevelopment project area is impaired by a combination of 2 or more of the following factors, each of which is (i) present, with that presence documented, to a meaningful extent so that a municipality may reasonably find that the factor is clearly present within the intent of the Act and (ii) reasonably distributed throughout the vacant part of the redevelopment project area to which it pertains:

(A) Obsolete platting of vacant land that results in parcels of limited or narrow size or configurations of parcels of irregular size or shape that would be difficult to develop on a planned basis and in a manner compatible with contemporary standards and requirements, or platting that failed to create rights-of-ways for streets or alleys or that created inadequate right-of-way widths for streets, alleys, or other public rights-of-way or that omitted easements for public utilities.

(B) Diversity of ownership of parcels of vacant land sufficient in number to retard or impede the ability to assemble the land for development.

(C) Tax and special assessment delinquencies exist or the property has been the subject of tax sales under

the Property Tax Code within the last 5 years.

(D) Deterioration of structures or site improvements in neighboring areas adjacent to the vacant land.

(E) The area has incurred Illinois Environmental Protection Agency or United States Environmental Protection Agency remediation costs for, or a study conducted by an independent consultant recognized as having expertise in environmental remediation has determined a need for, the clean-up of hazardous waste, hazardous substances, or underground storage tanks required by State or federal law, provided that the remediation costs constitute a material impediment to the development or redevelopment of the redevelopment project area.

(F) The total equalized assessed value of the proposed redevelopment project area has declined for 3 of the last 5 calendar years prior to the year in which the redevelopment project area is designated or is increasing at an annual rate that is less than the balance of the municipality for 3 of the last 5 calendar years for which information is available or is increasing at an annual rate that is less than the Consumer Price Index for All Urban Consumers published by the United States Department of Labor or successor agency for 3 of the last 5 calendar years prior to the

year in which the redevelopment project area is designated.

(3) If vacant, the sound growth of the redevelopment project area is impaired by one of the following factors that (i) is present, with that presence documented, to a meaningful extent so that a municipality may reasonably find that the factor is clearly present within the intent of the Act and (ii) is reasonably distributed throughout the vacant part of the redevelopment project area to which it pertains:

(A) The area consists of one or more unused quarries, mines, or strip mine ponds.

(B) The area consists of unused rail yards, rail tracks, or railroad rights-of-way.

(C) The area, prior to its designation, is subject to (i) chronic flooding that adversely impacts on real property in the area as certified by a registered professional engineer or appropriate regulatory agency or (ii) surface water that discharges from all or a part of the area and contributes to flooding within the same watershed, but only if the redevelopment project provides for facilities or improvements to contribute to the alleviation of all or part of the flooding.

(D) The area consists of an unused or illegal disposal site containing earth, stone, building debris, or similar materials that were removed from

construction, demolition, excavation, or dredge sites.

(E) Prior to November 1, 1999, the area is not less than 50 nor more than 100 acres and 75% of which is vacant (notwithstanding that the area has been used for commercial agricultural purposes within 5 years prior to the designation of the redevelopment project area), and the area meets at least one of the factors itemized in paragraph (1) of this subsection, the area has been designated as a town or village center by ordinance or comprehensive plan adopted prior to January 1, 1982, and the area has not been developed for that designated purpose.

(F) The area qualified as a blighted improved area immediately prior to becoming vacant, unless there has been substantial private investment in the immediately surrounding area.

(b) For any redevelopment project area that has been designated pursuant to this Section by an ordinance adopted prior to November 1, 1999 (the effective date of Public Act 91-478), "conservation area" shall have the meaning set forth in this Section prior to that date.

On and after November 1, 1999, "conservation area" means any improved area within the boundaries of a redevelopment project area located within the territorial limits of the municipality in which 50% or more of the structures in the area have an age of 35 years or more. Such an area is not yet a

blighted area but because of a combination of 3 or more of the following factors is detrimental to the public safety, health, morals or welfare and such an area may become a blighted area:

(1) Dilapidation. An advanced state of disrepair or neglect of necessary repairs to the primary structural components of buildings or improvements in such a combination that a documented building condition analysis determines that major repair is required or the defects are so serious and so extensive that the buildings must be removed.

(2) Obsolescence. The condition or process of falling into disuse. Structures have become ill-suited for the original use.

(3) Deterioration. With respect to buildings, defects including, but not limited to, major defects in the secondary building components such as doors, windows, porches, gutters and downspouts, and fascia. With respect to surface improvements, that the condition of roadways, alleys, curbs, gutters, sidewalks, off-street parking, and surface storage areas evidence deterioration, including, but not limited to, surface cracking, crumbling, potholes, depressions, loose paving material, and weeds protruding through paved surfaces.

(4) Presence of structures below minimum code standards. All structures that do not meet the standards of zoning, subdivision, building, fire, and other

governmental codes applicable to property, but not including housing and property maintenance codes.

(5) Illegal use of individual structures. The use of structures in violation of applicable federal, State, or local laws, exclusive of those applicable to the presence of structures below minimum code standards.

(6) Excessive vacancies. The presence of buildings that are unoccupied or under-utilized and that represent an adverse influence on the area because of the frequency, extent, or duration of the vacancies.

(7) Lack of ventilation, light, or sanitary facilities. The absence of adequate ventilation for light or air circulation in spaces or rooms without windows, or that require the removal of dust, odor, gas, smoke, or other noxious airborne materials. Inadequate natural light and ventilation means the absence or inadequacy of skylights or windows for interior spaces or rooms and improper window sizes and amounts by room area to window area ratios. Inadequate sanitary facilities refers to the absence or inadequacy of garbage storage and enclosure, bathroom facilities, hot water and kitchens, and structural inadequacies preventing ingress and egress to and from all rooms and units within a building.

(8) Inadequate utilities. Underground and overhead utilities such as storm sewers and storm drainage, sanitary sewers, water lines, and gas, telephone, and electrical

services that are shown to be inadequate. Inadequate utilities are those that are: (i) of insufficient capacity to serve the uses in the redevelopment project area, (ii) deteriorated, antiquated, obsolete, or in disrepair, or (iii) lacking within the redevelopment project area.

(9) Excessive land coverage and overcrowding of structures and community facilities. The over-intensive use of property and the crowding of buildings and accessory facilities onto a site. Examples of problem conditions warranting the designation of an area as one exhibiting excessive land coverage are: the presence of buildings either improperly situated on parcels or located on parcels of inadequate size and shape in relation to present-day standards of development for health and safety and the presence of multiple buildings on a single parcel. For there to be a finding of excessive land coverage, these parcels must exhibit one or more of the following conditions: insufficient provision for light and air within or around buildings, increased threat of spread of fire due to the close proximity of buildings, lack of adequate or proper access to a public right-of-way, lack of reasonably required off-street parking, or inadequate provision for loading and service.

(10) Deleterious land use or layout. The existence of incompatible land-use relationships, buildings occupied by inappropriate mixed-uses, or uses considered to be

noxious, offensive, or unsuitable for the surrounding area.

(11) Lack of community planning. The proposed redevelopment project area was developed prior to or without the benefit or guidance of a community plan. This means that the development occurred prior to the adoption by the municipality of a comprehensive or other community plan or that the plan was not followed at the time of the area's development. This factor must be documented by evidence of adverse or incompatible land-use relationships, inadequate street layout, improper subdivision, parcels of inadequate shape and size to meet contemporary development standards, or other evidence demonstrating an absence of effective community planning.

(12) The area has incurred Illinois Environmental Protection Agency or United States Environmental Protection Agency remediation costs for, or a study conducted by an independent consultant recognized as having expertise in environmental remediation has determined a need for, the clean-up of hazardous waste, hazardous substances, or underground storage tanks required by State or federal law, provided that the remediation costs constitute a material impediment to the development or redevelopment of the redevelopment project area.

(13) The total equalized assessed value of the proposed

redevelopment project area has declined for 3 of the last 5 calendar years for which information is available or is increasing at an annual rate that is less than the balance of the municipality for 3 of the last 5 calendar years for which information is available or is increasing at an annual rate that is less than the Consumer Price Index for All Urban Consumers published by the United States Department of Labor or successor agency for 3 of the last 5 calendar years for which information is available.

(c) "Industrial park" means an area in a blighted or conservation area suitable for use by any manufacturing, industrial, research or transportation enterprise, of facilities to include but not be limited to factories, mills, processing plants, assembly plants, packing plants, fabricating plants, industrial distribution centers, warehouses, repair overhaul or service facilities, freight terminals, research facilities, test facilities or railroad facilities.

(d) "Industrial park conservation area" means an area within the boundaries of a redevelopment project area located within the territorial limits of a municipality that is a labor surplus municipality or within 1 1/2 miles of the territorial limits of a municipality that is a labor surplus municipality if the area is annexed to the municipality; which area is zoned as industrial no later than at the time the municipality by ordinance designates the redevelopment project area, and which

area includes both vacant land suitable for use as an industrial park and a blighted area or conservation area contiguous to such vacant land.

(e) "Labor surplus municipality" means a municipality in which, at any time during the 6 months before the municipality by ordinance designates an industrial park conservation area, the unemployment rate was over 6% and was also 100% or more of the national average unemployment rate for that same time as published in the United States Department of Labor Bureau of Labor Statistics publication entitled "The Employment Situation" or its successor publication. For the purpose of this subsection, if unemployment rate statistics for the municipality are not available, the unemployment rate in the municipality shall be deemed to be the same as the unemployment rate in the principal county in which the municipality is located.

(f) "Municipality" shall mean a city, village, incorporated town, or a township that is located in the unincorporated portion of a county with 3 million or more inhabitants, if the county adopted an ordinance that approved the township's redevelopment plan.

(g) "Initial Sales Tax Amounts" means the amount of taxes paid under the Retailers' Occupation Tax Act, Use Tax Act, Service Use Tax Act, the Service Occupation Tax Act, the Municipal Retailers' Occupation Tax Act, and the Municipal Service Occupation Tax Act by retailers and servicemen on

transactions at places located in a State Sales Tax Boundary during the calendar year 1985.

(g-1) "Revised Initial Sales Tax Amounts" means the amount of taxes paid under the Retailers' Occupation Tax Act, Use Tax Act, Service Use Tax Act, the Service Occupation Tax Act, the Municipal Retailers' Occupation Tax Act, and the Municipal Service Occupation Tax Act by retailers and servicemen on transactions at places located within the State Sales Tax Boundary revised pursuant to Section 11-74.4-8a(9) of this Act.

(h) "Municipal Sales Tax Increment" means an amount equal to the increase in the aggregate amount of taxes paid to a municipality from the Local Government Tax Fund arising from sales by retailers and servicemen within the redevelopment project area or State Sales Tax Boundary, as the case may be, for as long as the redevelopment project area or State Sales Tax Boundary, as the case may be, exist over and above the aggregate amount of taxes as certified by the Illinois Department of Revenue and paid under the Municipal Retailers' Occupation Tax Act and the Municipal Service Occupation Tax Act by retailers and servicemen, on transactions at places of business located in the redevelopment project area or State Sales Tax Boundary, as the case may be, during the base year which shall be the calendar year immediately prior to the year in which the municipality adopted tax increment allocation financing. For purposes of computing the aggregate amount of such taxes for base years occurring prior to 1985, the

Department of Revenue shall determine the Initial Sales Tax Amounts for such taxes and deduct therefrom an amount equal to 4% of the aggregate amount of taxes per year for each year the base year is prior to 1985, but not to exceed a total deduction of 12%. The amount so determined shall be known as the "Adjusted Initial Sales Tax Amounts". For purposes of determining the Municipal Sales Tax Increment, the Department of Revenue shall for each period subtract from the amount paid to the municipality from the Local Government Tax Fund arising from sales by retailers and servicemen on transactions located in the redevelopment project area or the State Sales Tax Boundary, as the case may be, the certified Initial Sales Tax Amounts, the Adjusted Initial Sales Tax Amounts or the Revised Initial Sales Tax Amounts for the Municipal Retailers' Occupation Tax Act and the Municipal Service Occupation Tax Act. For the State Fiscal Year 1989, this calculation shall be made by utilizing the calendar year 1987 to determine the tax amounts received. For the State Fiscal Year 1990, this calculation shall be made by utilizing the period from January 1, 1988, until September 30, 1988, to determine the tax amounts received from retailers and servicemen pursuant to the Municipal Retailers' Occupation Tax and the Municipal Service Occupation Tax Act, which shall have deducted therefrom nine-twelfths of the certified Initial Sales Tax Amounts, the Adjusted Initial Sales Tax Amounts or the Revised Initial Sales Tax Amounts as appropriate. For the State Fiscal Year 1991,

this calculation shall be made by utilizing the period from October 1, 1988, to June 30, 1989, to determine the tax amounts received from retailers and servicemen pursuant to the Municipal Retailers' Occupation Tax and the Municipal Service Occupation Tax Act which shall have deducted therefrom nine-twelfths of the certified Initial Sales Tax Amounts, Adjusted Initial Sales Tax Amounts or the Revised Initial Sales Tax Amounts as appropriate. For every State Fiscal Year thereafter, the applicable period shall be the 12 months beginning July 1 and ending June 30 to determine the tax amounts received which shall have deducted therefrom the certified Initial Sales Tax Amounts, the Adjusted Initial Sales Tax Amounts or the Revised Initial Sales Tax Amounts, as the case may be.

(i) "Net State Sales Tax Increment" means the sum of the following: (a) 80% of the first \$100,000 of State Sales Tax Increment annually generated within a State Sales Tax Boundary; (b) 60% of the amount in excess of \$100,000 but not exceeding \$500,000 of State Sales Tax Increment annually generated within a State Sales Tax Boundary; and (c) 40% of all amounts in excess of \$500,000 of State Sales Tax Increment annually generated within a State Sales Tax Boundary. If, however, a municipality established a tax increment financing district in a county with a population in excess of 3,000,000 before January 1, 1986, and the municipality entered into a contract or issued bonds after January 1, 1986, but before December 31,

1986, to finance redevelopment project costs within a State Sales Tax Boundary, then the Net State Sales Tax Increment means, for the fiscal years beginning July 1, 1990, and July 1, 1991, 100% of the State Sales Tax Increment annually generated within a State Sales Tax Boundary; and notwithstanding any other provision of this Act, for those fiscal years the Department of Revenue shall distribute to those municipalities 100% of their Net State Sales Tax Increment before any distribution to any other municipality and regardless of whether or not those other municipalities will receive 100% of their Net State Sales Tax Increment. For Fiscal Year 1999, and every year thereafter until the year 2007, for any municipality that has not entered into a contract or has not issued bonds prior to June 1, 1988 to finance redevelopment project costs within a State Sales Tax Boundary, the Net State Sales Tax Increment shall be calculated as follows: By multiplying the Net State Sales Tax Increment by 90% in the State Fiscal Year 1999; 80% in the State Fiscal Year 2000; 70% in the State Fiscal Year 2001; 60% in the State Fiscal Year 2002; 50% in the State Fiscal Year 2003; 40% in the State Fiscal Year 2004; 30% in the State Fiscal Year 2005; 20% in the State Fiscal Year 2006; and 10% in the State Fiscal Year 2007. No payment shall be made for State Fiscal Year 2008 and thereafter.

Municipalities that issued bonds in connection with a redevelopment project in a redevelopment project area within the State Sales Tax Boundary prior to July 29, 1991, or that

entered into contracts in connection with a redevelopment project in a redevelopment project area before June 1, 1988, shall continue to receive their proportional share of the Illinois Tax Increment Fund distribution until the date on which the redevelopment project is completed or terminated. If, however, a municipality that issued bonds in connection with a redevelopment project in a redevelopment project area within the State Sales Tax Boundary prior to July 29, 1991 retires the bonds prior to June 30, 2007 or a municipality that entered into contracts in connection with a redevelopment project in a redevelopment project area before June 1, 1988 completes the contracts prior to June 30, 2007, then so long as the redevelopment project is not completed or is not terminated, the Net State Sales Tax Increment shall be calculated, beginning on the date on which the bonds are retired or the contracts are completed, as follows: By multiplying the Net State Sales Tax Increment by 60% in the State Fiscal Year 2002; 50% in the State Fiscal Year 2003; 40% in the State Fiscal Year 2004; 30% in the State Fiscal Year 2005; 20% in the State Fiscal Year 2006; and 10% in the State Fiscal Year 2007. No payment shall be made for State Fiscal Year 2008 and thereafter. Refunding of any bonds issued prior to July 29, 1991, shall not alter the Net State Sales Tax Increment.

(j) "State Utility Tax Increment Amount" means an amount equal to the aggregate increase in State electric and gas tax charges imposed on owners and tenants, other than residential

customers, of properties located within the redevelopment project area under Section 9-222 of the Public Utilities Act, over and above the aggregate of such charges as certified by the Department of Revenue and paid by owners and tenants, other than residential customers, of properties within the redevelopment project area during the base year, which shall be the calendar year immediately prior to the year of the adoption of the ordinance authorizing tax increment allocation financing.

(k) "Net State Utility Tax Increment" means the sum of the following: (a) 80% of the first \$100,000 of State Utility Tax Increment annually generated by a redevelopment project area; (b) 60% of the amount in excess of \$100,000 but not exceeding \$500,000 of the State Utility Tax Increment annually generated by a redevelopment project area; and (c) 40% of all amounts in excess of \$500,000 of State Utility Tax Increment annually generated by a redevelopment project area. For the State Fiscal Year 1999, and every year thereafter until the year 2007, for any municipality that has not entered into a contract or has not issued bonds prior to June 1, 1988 to finance redevelopment project costs within a redevelopment project area, the Net State Utility Tax Increment shall be calculated as follows: By multiplying the Net State Utility Tax Increment by 90% in the State Fiscal Year 1999; 80% in the State Fiscal Year 2000; 70% in the State Fiscal Year 2001; 60% in the State Fiscal Year 2002; 50% in the State Fiscal Year 2003; 40% in the State

Fiscal Year 2004; 30% in the State Fiscal Year 2005; 20% in the State Fiscal Year 2006; and 10% in the State Fiscal Year 2007. No payment shall be made for the State Fiscal Year 2008 and thereafter.

Municipalities that issue bonds in connection with the redevelopment project during the period from June 1, 1988 until 3 years after the effective date of this Amendatory Act of 1988 shall receive the Net State Utility Tax Increment, subject to appropriation, for 15 State Fiscal Years after the issuance of such bonds. For the 16th through the 20th State Fiscal Years after issuance of the bonds, the Net State Utility Tax Increment shall be calculated as follows: By multiplying the Net State Utility Tax Increment by 90% in year 16; 80% in year 17; 70% in year 18; 60% in year 19; and 50% in year 20. Refunding of any bonds issued prior to June 1, 1988, shall not alter the revised Net State Utility Tax Increment payments set forth above.

(l) "Obligations" mean bonds, loans, debentures, notes, special certificates or other evidence of indebtedness issued by the municipality to carry out a redevelopment project or to refund outstanding obligations.

(m) "Payment in lieu of taxes" means those estimated tax revenues from real property in a redevelopment project area derived from real property that has been acquired by a municipality which according to the redevelopment project or plan is to be used for a private use which taxing districts

would have received had a municipality not acquired the real property and adopted tax increment allocation financing and which would result from levies made after the time of the adoption of tax increment allocation financing to the time the current equalized value of real property in the redevelopment project area exceeds the total initial equalized value of real property in said area.

(n) "Redevelopment plan" means the comprehensive program of the municipality for development or redevelopment intended by the payment of redevelopment project costs to reduce or eliminate those conditions the existence of which qualified the redevelopment project area as a "blighted area" or "conservation area" or combination thereof or "industrial park conservation area," and thereby to enhance the tax bases of the taxing districts which extend into the redevelopment project area. On and after November 1, 1999 (the effective date of Public Act 91-478), no redevelopment plan may be approved or amended that includes the development of vacant land (i) with a golf course and related clubhouse and other facilities or (ii) designated by federal, State, county, or municipal government as public land for outdoor recreational activities or for nature preserves and used for that purpose within 5 years prior to the adoption of the redevelopment plan. For the purpose of this subsection, "recreational activities" is limited to mean camping and hunting. Each redevelopment plan shall set forth in writing the program to be undertaken to accomplish the

objectives and shall include but not be limited to:

(A) an itemized list of estimated redevelopment project costs;

(B) evidence indicating that the redevelopment project area on the whole has not been subject to growth and development through investment by private enterprise;

(C) an assessment of any financial impact of the redevelopment project area on or any increased demand for services from any taxing district affected by the plan and any program to address such financial impact or increased demand;

(D) the sources of funds to pay costs;

(E) the nature and term of the obligations to be issued;

(F) the most recent equalized assessed valuation of the redevelopment project area;

(G) an estimate as to the equalized assessed valuation after redevelopment and the general land uses to apply in the redevelopment project area;

(H) a commitment to fair employment practices and an affirmative action plan;

(I) if it concerns an industrial park conservation area, the plan shall also include a general description of any proposed developer, user and tenant of any property, a description of the type, structure and general character of the facilities to be developed, a description of the type,

class and number of new employees to be employed in the operation of the facilities to be developed; and

(J) if property is to be annexed to the municipality, the plan shall include the terms of the annexation agreement.

The provisions of items (B) and (C) of this subsection (n) shall not apply to a municipality that before March 14, 1994 (the effective date of Public Act 88-537) had fixed, either by its corporate authorities or by a commission designated under subsection (k) of Section 11-74.4-4, a time and place for a public hearing as required by subsection (a) of Section 11-74.4-5. No redevelopment plan shall be adopted unless a municipality complies with all of the following requirements:

(1) The municipality finds that the redevelopment project area on the whole has not been subject to growth and development through investment by private enterprise and would not reasonably be anticipated to be developed without the adoption of the redevelopment plan.

(2) The municipality finds that the redevelopment plan and project conform to the comprehensive plan for the development of the municipality as a whole, or, for municipalities with a population of 100,000 or more, regardless of when the redevelopment plan and project was adopted, the redevelopment plan and project either: (i) conforms to the strategic economic development or redevelopment plan issued by the designated planning

authority of the municipality, or (ii) includes land uses that have been approved by the planning commission of the municipality.

(3) The redevelopment plan establishes the estimated dates of completion of the redevelopment project and retirement of obligations issued to finance redevelopment project costs. Those dates: shall not be later than December 31 of the year in which the payment to the municipal treasurer as provided in subsection (b) of Section 11-74.4-8 of this Act is to be made with respect to ad valorem taxes levied in the twenty-third calendar year after the year in which the ordinance approving the redevelopment project area is adopted if the ordinance was adopted on or after January 15, 1981; shall not be later than December 31 of the year in which the payment to the municipal treasurer as provided in subsection (b) of Section 11-74.4-8 of this Act is to be made with respect to ad valorem taxes levied in the thirty-third calendar year after the year in which the ordinance approving the redevelopment project area if the ordinance was adopted on May 20, 1985 by the Village of Wheeling; and shall not be later than December 31 of the year in which the payment to the municipal treasurer as provided in subsection (b) of Section 11-74.4-8 of this Act is to be made with respect to ad valorem taxes levied in the thirty-fifth calendar year after the year in which the ordinance approving the

redevelopment project area is adopted:

(A) if the ordinance was adopted before January 15, 1981, or

(B) if the ordinance was adopted in December 1983, April 1984, July 1985, or December 1989, or

(C) if the ordinance was adopted in December 1987 and the redevelopment project is located within one mile of Midway Airport, or

(D) if the ordinance was adopted before January 1, 1987 by a municipality in Mason County, or

(E) if the municipality is subject to the Local Government Financial Planning and Supervision Act or the Financially Distressed City Law, or

(F) if the ordinance was adopted in December 1984 by the Village of Rosemont, or

(G) if the ordinance was adopted on December 31, 1986 by a municipality located in Clinton County for which at least \$250,000 of tax increment bonds were authorized on June 17, 1997, or if the ordinance was adopted on December 31, 1986 by a municipality with a population in 1990 of less than 3,600 that is located in a county with a population in 1990 of less than 34,000 and for which at least \$250,000 of tax increment bonds were authorized on June 17, 1997, or

(H) if the ordinance was adopted on October 5, 1982 by the City of Kankakee, or if the ordinance was

adopted on December 29, 1986 by East St. Louis, or

(I) if the ordinance was adopted on November 12, 1991 by the Village of Sauget, or

(J) if the ordinance was adopted on February 11, 1985 by the City of Rock Island, or

(K) if the ordinance was adopted before December 18, 1986 by the City of Moline, or

(L) if the ordinance was adopted in September 1988 by Sauk Village, or

(M) if the ordinance was adopted in October 1993 by Sauk Village, or

(N) if the ordinance was adopted on December 29, 1986 by the City of Galva, or

(O) if the ordinance was adopted in March 1991 by the City of Centreville, or

(P) if the ordinance was adopted on January 23, 1991 by the City of East St. Louis, or

(Q) if the ordinance was adopted on December 22, 1986 by the City of Aledo, or

(R) if the ordinance was adopted on February 5, 1990 by the City of Clinton, or

(S) if the ordinance was adopted on September 6, 1994 by the City of Freeport, or

(T) if the ordinance was adopted on December 22, 1986 by the City of Tuscola, or

(U) if the ordinance was adopted on December 23,

1986 by the City of Sparta, or

(V) if the ordinance was adopted on December 23, 1986 by the City of Beardstown, or

(W) if the ordinance was adopted on April 27, 1981, October 21, 1985, or December 30, 1986 by the City of Belleville, or

(X) if the ordinance was adopted on December 29, 1986 by the City of Collinsville, or

(Y) if the ordinance was adopted on September 14, 1994 by the City of Alton, or

(Z) if the ordinance was adopted on November 11, 1996 by the City of Lexington, or

(AA) if the ordinance was adopted on November 5, 1984 by the City of LeRoy, or

(BB) if the ordinance was adopted on April 3, 1991 or June 3, 1992 by the City of Markham, or

(CC) if the ordinance was adopted on November 11, 1986 by the City of Pekin, or

(DD) if the ordinance was adopted on December 15, 1981 by the City of Champaign, or

(EE) if the ordinance was adopted on December 15, 1986 by the City of Urbana, or

(FF) if the ordinance was adopted on December 15, 1986 by the Village of Heyworth, or

(GG) if the ordinance was adopted on February 24, 1992 by the Village of Heyworth, or

(HH) if the ordinance was adopted on March 16, 1995 by the Village of Heyworth, or

(II) if the ordinance was adopted on December 23, 1986 by the Town of Cicero, or

(JJ) if the ordinance was adopted on December 30, 1986 by the City of Effingham, or

(KK) if the ordinance was adopted on May 9, 1991 by the Village of Tilton, or

(LL) if the ordinance was adopted on October 20, 1986 by the City of Elmhurst, or

(MM) if the ordinance was adopted on January 19, 1988 by the City of Waukegan, or

(NN) if the ordinance was adopted on September 21, 1998 by the City of Waukegan, or

(OO) if the ordinance was adopted on December 31, 1986 by the City of Sullivan, or

(PP) if the ordinance was adopted on December 23, 1991 by the City of Sullivan, or

(QQ) if the ordinance was adopted on December 31, 1986 by the City of Oglesby, or

(RR) if the ordinance was adopted on July 28, 1987 by the City of Marion, or

(SS) if the ordinance was adopted on April 23, 1990 by the City of Marion, or

(TT) if the ordinance was adopted on August 20, 1985 by the Village of Mount Prospect, or

(UU) if the ordinance was adopted on February 2, 1998 by the Village of Woodhull, or

(VV) if the ordinance was adopted on April 20, 1993 by the Village of Princeville, or

(WW) if the ordinance was adopted on July 1, 1986 by the City of Granite City, or

(XX) if the ordinance was adopted on February 2, 1989 by the Village of Lombard, or

(YY) if the ordinance was adopted on December 29, 1986 by the Village of Gardner, or

(ZZ) if the ordinance was adopted on July 14, 1999 by the Village of Paw Paw, or

(AAA) if the ordinance was adopted on November 17, 1986 by the Village of Franklin Park, or

(BBB) if the ordinance was adopted on November 20, 1989 by the Village of South Holland, or

(CCC) if the ordinance was adopted on July 14, 1992 by the Village of Riverdale, or

(DDD) ~~(CCC)~~ if the ordinance was adopted on December 29, 1986 by the City of Galesburg, or

(EEE) ~~(DDD)~~ if the ordinance was adopted on April 1, 1985 by the City of Galesburg, or

(FFF) ~~(CCC)~~ if the ordinance was adopted on May 21, 1990 by the City of West Chicago, or

(GGG) ~~(CCC)~~ if the ordinance was adopted on December 16, 1986 by the City of Oak Forest, or

(HHH) ~~(AAA)~~ if the ordinance was adopted in 1999 by the City of Villa Grove, or

(III) ~~(CCC)~~ if the ordinance was adopted on January 13, 1987 by the Village of Mt. Zion, or

(JJJ) ~~(CCC)~~ if the ordinance was adopted on December 30, 1986 by the Village of Manteno, or

(KKK) ~~(DDD)~~ if the ordinance was adopted on April 3, 1989 by the City of Chicago Heights, or

(LLL) ~~(EEE)~~ if the ordinance was adopted on January 6, 1999 by the Village of Rosemont, or

(MMM) ~~(FFF)~~ if the ordinance was adopted on December 19, 2000 by the Village of Stone Park.

However, for redevelopment project areas for which bonds were issued before July 29, 1991, or for which contracts were entered into before June 1, 1988, in connection with a redevelopment project in the area within the State Sales Tax Boundary, the estimated dates of completion of the redevelopment project and retirement of obligations to finance redevelopment project costs may be extended by municipal ordinance to December 31, 2013. The termination procedures of subsection (b) of Section 11-74.4-8 are not required for these redevelopment project areas in 2009 but are required in 2013. The extension allowed by this amendatory Act of 1993 shall not apply to real property tax increment allocation financing under Section 11-74.4-8.

A municipality may by municipal ordinance amend an existing redevelopment plan to conform to this paragraph (3) as amended by Public Act 91-478, which municipal ordinance may be adopted without further hearing or notice and without complying with the procedures provided in this Act pertaining to an amendment to or the initial approval of a redevelopment plan and project and designation of a redevelopment project area.

Those dates, for purposes of real property tax increment allocation financing pursuant to Section 11-74.4-8 only, shall be not more than 35 years for redevelopment project areas that were adopted on or after December 16, 1986 and for which at least \$8 million worth of municipal bonds were authorized on or after December 19, 1989 but before January 1, 1990; provided that the municipality elects to extend the life of the redevelopment project area to 35 years by the adoption of an ordinance after at least 14 but not more than 30 days' written notice to the taxing bodies, that would otherwise constitute the joint review board for the redevelopment project area, before the adoption of the ordinance.

Those dates, for purposes of real property tax increment allocation financing pursuant to Section 11-74.4-8 only, shall be not more than 35 years for redevelopment project areas that were established on or after December 1, 1981 but before January 1, 1982 and for

which at least \$1,500,000 worth of tax increment revenue bonds were authorized on or after September 30, 1990 but before July 1, 1991; provided that the municipality elects to extend the life of the redevelopment project area to 35 years by the adoption of an ordinance after at least 14 but not more than 30 days' written notice to the taxing bodies, that would otherwise constitute the joint review board for the redevelopment project area, before the adoption of the ordinance.

(3.5) The municipality finds, in the case of an industrial park conservation area, also that the municipality is a labor surplus municipality and that the implementation of the redevelopment plan will reduce unemployment, create new jobs and by the provision of new facilities enhance the tax base of the taxing districts that extend into the redevelopment project area.

(4) If any incremental revenues are being utilized under Section 8(a)(1) or 8(a)(2) of this Act in redevelopment project areas approved by ordinance after January 1, 1986, the municipality finds: (a) that the redevelopment project area would not reasonably be developed without the use of such incremental revenues, and (b) that such incremental revenues will be exclusively utilized for the development of the redevelopment project area.

(5) If the redevelopment plan will not result in

displacement of residents from 10 or more inhabited residential units, and the municipality certifies in the plan that such displacement will not result from the plan, a housing impact study need not be performed. If, however, the redevelopment plan would result in the displacement of residents from 10 or more inhabited residential units, or if the redevelopment project area contains 75 or more inhabited residential units and no certification is made, then the municipality shall prepare, as part of the separate feasibility report required by subsection (a) of Section 11-74.4-5, a housing impact study.

Part I of the housing impact study shall include (i) data as to whether the residential units are single family or multi-family units, (ii) the number and type of rooms within the units, if that information is available, (iii) whether the units are inhabited or uninhabited, as determined not less than 45 days before the date that the ordinance or resolution required by subsection (a) of Section 11-74.4-5 is passed, and (iv) data as to the racial and ethnic composition of the residents in the inhabited residential units. The data requirement as to the racial and ethnic composition of the residents in the inhabited residential units shall be deemed to be fully satisfied by data from the most recent federal census.

Part II of the housing impact study shall identify the inhabited residential units in the proposed redevelopment

project area that are to be or may be removed. If inhabited residential units are to be removed, then the housing impact study shall identify (i) the number and location of those units that will or may be removed, (ii) the municipality's plans for relocation assistance for those residents in the proposed redevelopment project area whose residences are to be removed, (iii) the availability of replacement housing for those residents whose residences are to be removed, and shall identify the type, location, and cost of the housing, and (iv) the type and extent of relocation assistance to be provided.

(6) On and after November 1, 1999, the housing impact study required by paragraph (5) shall be incorporated in the redevelopment plan for the redevelopment project area.

(7) On and after November 1, 1999, no redevelopment plan shall be adopted, nor an existing plan amended, nor shall residential housing that is occupied by households of low-income and very low-income persons in currently existing redevelopment project areas be removed after November 1, 1999 unless the redevelopment plan provides, with respect to inhabited housing units that are to be removed for households of low-income and very low-income persons, affordable housing and relocation assistance not less than that which would be provided under the federal Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 and the regulations under

that Act, including the eligibility criteria. Affordable housing may be either existing or newly constructed housing. For purposes of this paragraph (7), "low-income households", "very low-income households", and "affordable housing" have the meanings set forth in the Illinois Affordable Housing Act. The municipality shall make a good faith effort to ensure that this affordable housing is located in or near the redevelopment project area within the municipality.

(8) On and after November 1, 1999, if, after the adoption of the redevelopment plan for the redevelopment project area, any municipality desires to amend its redevelopment plan to remove more inhabited residential units than specified in its original redevelopment plan, that change shall be made in accordance with the procedures in subsection (c) of Section 11-74.4-5.

(9) For redevelopment project areas designated prior to November 1, 1999, the redevelopment plan may be amended without further joint review board meeting or hearing, provided that the municipality shall give notice of any such changes by mail to each affected taxing district and registrant on the interested party registry, to authorize the municipality to expend tax increment revenues for redevelopment project costs defined by paragraphs (5) and (7.5), subparagraphs (E) and (F) of paragraph (11), and paragraph (11.5) of subsection (q) of Section 11-74.4-3, so

long as the changes do not increase the total estimated redevelopment project costs set out in the redevelopment plan by more than 5% after adjustment for inflation from the date the plan was adopted.

(o) "Redevelopment project" means any public and private development project in furtherance of the objectives of a redevelopment plan. On and after November 1, 1999 (the effective date of Public Act 91-478), no redevelopment plan may be approved or amended that includes the development of vacant land (i) with a golf course and related clubhouse and other facilities or (ii) designated by federal, State, county, or municipal government as public land for outdoor recreational activities or for nature preserves and used for that purpose within 5 years prior to the adoption of the redevelopment plan. For the purpose of this subsection, "recreational activities" is limited to mean camping and hunting.

(p) "Redevelopment project area" means an area designated by the municipality, which is not less in the aggregate than 1 1/2 acres and in respect to which the municipality has made a finding that there exist conditions which cause the area to be classified as an industrial park conservation area or a blighted area or a conservation area, or a combination of both blighted areas and conservation areas.

(q) "Redevelopment project costs" mean and include the sum total of all reasonable or necessary costs incurred or estimated to be incurred, and any such costs incidental to a

redevelopment plan and a redevelopment project. Such costs include, without limitation, the following:

(1) Costs of studies, surveys, development of plans, and specifications, implementation and administration of the redevelopment plan including but not limited to staff and professional service costs for architectural, engineering, legal, financial, planning or other services, provided however that no charges for professional services may be based on a percentage of the tax increment collected; except that on and after November 1, 1999 (the effective date of Public Act 91-478), no contracts for professional services, excluding architectural and engineering services, may be entered into if the terms of the contract extend beyond a period of 3 years. In addition, "redevelopment project costs" shall not include lobbying expenses. After consultation with the municipality, each tax increment consultant or advisor to a municipality that plans to designate or has designated a redevelopment project area shall inform the municipality in writing of any contracts that the consultant or advisor has entered into with entities or individuals that have received, or are receiving, payments financed by tax increment revenues produced by the redevelopment project area with respect to which the consultant or advisor has performed, or will be performing, service for the municipality. This requirement shall be satisfied by the

consultant or advisor before the commencement of services for the municipality and thereafter whenever any other contracts with those individuals or entities are executed by the consultant or advisor;

(1.5) After July 1, 1999, annual administrative costs shall not include general overhead or administrative costs of the municipality that would still have been incurred by the municipality if the municipality had not designated a redevelopment project area or approved a redevelopment plan;

(1.6) The cost of marketing sites within the redevelopment project area to prospective businesses, developers, and investors;

(2) Property assembly costs, including but not limited to acquisition of land and other property, real or personal, or rights or interests therein, demolition of buildings, site preparation, site improvements that serve as an engineered barrier addressing ground level or below ground environmental contamination, including, but not limited to parking lots and other concrete or asphalt barriers, and the clearing and grading of land;

(3) Costs of rehabilitation, reconstruction or repair or remodeling of existing public or private buildings, fixtures, and leasehold improvements; and the cost of replacing an existing public building if pursuant to the implementation of a redevelopment project the existing

public building is to be demolished to use the site for private investment or devoted to a different use requiring private investment;

(4) Costs of the construction of public works or improvements, except that on and after November 1, 1999, redevelopment project costs shall not include the cost of constructing a new municipal public building principally used to provide offices, storage space, or conference facilities or vehicle storage, maintenance, or repair for administrative, public safety, or public works personnel and that is not intended to replace an existing public building as provided under paragraph (3) of subsection (q) of Section 11-74.4-3 unless either (i) the construction of the new municipal building implements a redevelopment project that was included in a redevelopment plan that was adopted by the municipality prior to November 1, 1999 or (ii) the municipality makes a reasonable determination in the redevelopment plan, supported by information that provides the basis for that determination, that the new municipal building is required to meet an increase in the need for public safety purposes anticipated to result from the implementation of the redevelopment plan;

(5) Costs of job training and retraining projects, including the cost of "welfare to work" programs implemented by businesses located within the redevelopment project area;

(6) Financing costs, including but not limited to all necessary and incidental expenses related to the issuance of obligations and which may include payment of interest on any obligations issued hereunder including interest accruing during the estimated period of construction of any redevelopment project for which such obligations are issued and for not exceeding 36 months thereafter and including reasonable reserves related thereto;

(7) To the extent the municipality by written agreement accepts and approves the same, all or a portion of a taxing district's capital costs resulting from the redevelopment project necessarily incurred or to be incurred within a taxing district in furtherance of the objectives of the redevelopment plan and project.

(7.5) For redevelopment project areas designated (or redevelopment project areas amended to add or increase the number of tax-increment-financing assisted housing units) on or after November 1, 1999, an elementary, secondary, or unit school district's increased costs attributable to assisted housing units located within the redevelopment project area for which the developer or redeveloper receives financial assistance through an agreement with the municipality or because the municipality incurs the cost of necessary infrastructure improvements within the boundaries of the assisted housing sites necessary for the completion of that housing as authorized by this Act, and

which costs shall be paid by the municipality from the Special Tax Allocation Fund when the tax increment revenue is received as a result of the assisted housing units and shall be calculated annually as follows:

(A) for foundation districts, excluding any school district in a municipality with a population in excess of 1,000,000, by multiplying the district's increase in attendance resulting from the net increase in new students enrolled in that school district who reside in housing units within the redevelopment project area that have received financial assistance through an agreement with the municipality or because the municipality incurs the cost of necessary infrastructure improvements within the boundaries of the housing sites necessary for the completion of that housing as authorized by this Act since the designation of the redevelopment project area by the most recently available per capita tuition cost as defined in Section 10-20.12a of the School Code less any increase in general State aid as defined in Section 18-8.05 of the School Code attributable to these added new students subject to the following annual limitations:

(i) for unit school districts with a district average 1995-96 Per Capita Tuition Charge of less than \$5,900, no more than 25% of the total amount of property tax increment revenue produced by

those housing units that have received tax increment finance assistance under this Act;

(ii) for elementary school districts with a district average 1995-96 Per Capita Tuition Charge of less than \$5,900, no more than 17% of the total amount of property tax increment revenue produced by those housing units that have received tax increment finance assistance under this Act; and

(iii) for secondary school districts with a district average 1995-96 Per Capita Tuition Charge of less than \$5,900, no more than 8% of the total amount of property tax increment revenue produced by those housing units that have received tax increment finance assistance under this Act.

(B) For alternate method districts, flat grant districts, and foundation districts with a district average 1995-96 Per Capita Tuition Charge equal to or more than \$5,900, excluding any school district with a population in excess of 1,000,000, by multiplying the district's increase in attendance resulting from the net increase in new students enrolled in that school district who reside in housing units within the redevelopment project area that have received financial assistance through an agreement with the municipality or because the municipality incurs the cost of necessary infrastructure improvements within

the boundaries of the housing sites necessary for the completion of that housing as authorized by this Act since the designation of the redevelopment project area by the most recently available per capita tuition cost as defined in Section 10-20.12a of the School Code less any increase in general state aid as defined in Section 18-8.05 of the School Code attributable to these added new students subject to the following annual limitations:

(i) for unit school districts, no more than 40% of the total amount of property tax increment revenue produced by those housing units that have received tax increment finance assistance under this Act;

(ii) for elementary school districts, no more than 27% of the total amount of property tax increment revenue produced by those housing units that have received tax increment finance assistance under this Act; and

(iii) for secondary school districts, no more than 13% of the total amount of property tax increment revenue produced by those housing units that have received tax increment finance assistance under this Act.

(C) For any school district in a municipality with a population in excess of 1,000,000, the following

restrictions shall apply to the reimbursement of increased costs under this paragraph (7.5):

(i) no increased costs shall be reimbursed unless the school district certifies that each of the schools affected by the assisted housing project is at or over its student capacity;

(ii) the amount reimbursable shall be reduced by the value of any land donated to the school district by the municipality or developer, and by the value of any physical improvements made to the schools by the municipality or developer; and

(iii) the amount reimbursed may not affect amounts otherwise obligated by the terms of any bonds, notes, or other funding instruments, or the terms of any redevelopment agreement.

Any school district seeking payment under this paragraph (7.5) shall, after July 1 and before September 30 of each year, provide the municipality with reasonable evidence to support its claim for reimbursement before the municipality shall be required to approve or make the payment to the school district. If the school district fails to provide the information during this period in any year, it shall forfeit any claim to reimbursement for that year. School districts may adopt a resolution waiving the right to all or a portion of the reimbursement

otherwise required by this paragraph (7.5). By acceptance of this reimbursement the school district waives the right to directly or indirectly set aside, modify, or contest in any manner the establishment of the redevelopment project area or projects;

(7.7) For redevelopment project areas designated (or redevelopment project areas amended to add or increase the number of tax-increment-financing assisted housing units) on or after January 1, 2005 (the effective date of Public Act 93-961), a public library district's increased costs attributable to assisted housing units located within the redevelopment project area for which the developer or redeveloper receives financial assistance through an agreement with the municipality or because the municipality incurs the cost of necessary infrastructure improvements within the boundaries of the assisted housing sites necessary for the completion of that housing as authorized by this Act shall be paid to the library district by the municipality from the Special Tax Allocation Fund when the tax increment revenue is received as a result of the assisted housing units. This paragraph (7.7) applies only if (i) the library district is located in a county that is subject to the Property Tax Extension Limitation Law or (ii) the library district is not located in a county that is subject to the Property Tax Extension Limitation Law but the district is prohibited by any other

law from increasing its tax levy rate without a prior voter referendum.

The amount paid to a library district under this paragraph (7.7) shall be calculated by multiplying (i) the net increase in the number of persons eligible to obtain a library card in that district who reside in housing units within the redevelopment project area that have received financial assistance through an agreement with the municipality or because the municipality incurs the cost of necessary infrastructure improvements within the boundaries of the housing sites necessary for the completion of that housing as authorized by this Act since the designation of the redevelopment project area by (ii) the per-patron cost of providing library services so long as it does not exceed \$120. The per-patron cost shall be the Total Operating Expenditures Per Capita as stated in the most recent Illinois Public Library Statistics produced by the Library Research Center at the University of Illinois. The municipality may deduct from the amount that it must pay to a library district under this paragraph any amount that it has voluntarily paid to the library district from the tax increment revenue. The amount paid to a library district under this paragraph (7.7) shall be no more than 2% of the amount produced by the assisted housing units and deposited into the Special Tax Allocation Fund.

A library district is not eligible for any payment

under this paragraph (7.7) unless the library district has experienced an increase in the number of patrons from the municipality that created the tax-increment-financing district since the designation of the redevelopment project area.

Any library district seeking payment under this paragraph (7.7) shall, after July 1 and before September 30 of each year, provide the municipality with convincing evidence to support its claim for reimbursement before the municipality shall be required to approve or make the payment to the library district. If the library district fails to provide the information during this period in any year, it shall forfeit any claim to reimbursement for that year. Library districts may adopt a resolution waiving the right to all or a portion of the reimbursement otherwise required by this paragraph (7.7). By acceptance of such reimbursement, the library district shall forfeit any right to directly or indirectly set aside, modify, or contest in any manner whatsoever the establishment of the redevelopment project area or projects;

(8) Relocation costs to the extent that a municipality determines that relocation costs shall be paid or is required to make payment of relocation costs by federal or State law or in order to satisfy subparagraph (7) of subsection (n);

(9) Payment in lieu of taxes;

(10) Costs of job training, retraining, advanced vocational education or career education, including but not limited to courses in occupational, semi-technical or technical fields leading directly to employment, incurred by one or more taxing districts, provided that such costs (i) are related to the establishment and maintenance of additional job training, advanced vocational education or career education programs for persons employed or to be employed by employers located in a redevelopment project area; and (ii) when incurred by a taxing district or taxing districts other than the municipality, are set forth in a written agreement by or among the municipality and the taxing district or taxing districts, which agreement describes the program to be undertaken, including but not limited to the number of employees to be trained, a description of the training and services to be provided, the number and type of positions available or to be available, itemized costs of the program and sources of funds to pay for the same, and the term of the agreement. Such costs include, specifically, the payment by community college districts of costs pursuant to Sections 3-37, 3-38, 3-40 and 3-40.1 of the Public Community College Act and by school districts of costs pursuant to Sections 10-22.20a and 10-23.3a of The School Code;

(11) Interest cost incurred by a redeveloper related to the construction, renovation or rehabilitation of a

redevelopment project provided that:

(A) such costs are to be paid directly from the special tax allocation fund established pursuant to this Act;

(B) such payments in any one year may not exceed 30% of the annual interest costs incurred by the redeveloper with regard to the redevelopment project during that year;

(C) if there are not sufficient funds available in the special tax allocation fund to make the payment pursuant to this paragraph (11) then the amounts so due shall accrue and be payable when sufficient funds are available in the special tax allocation fund;

(D) the total of such interest payments paid pursuant to this Act may not exceed 30% of the total (i) cost paid or incurred by the redeveloper for the redevelopment project plus (ii) redevelopment project costs excluding any property assembly costs and any relocation costs incurred by a municipality pursuant to this Act; and

(E) the cost limits set forth in subparagraphs (B) and (D) of paragraph (11) shall be modified for the financing of rehabilitated or new housing units for low-income households and very low-income households, as defined in Section 3 of the Illinois Affordable Housing Act. The percentage of 75% shall be substituted

for 30% in subparagraphs (B) and (D) of paragraph (11).

(F) Instead of the eligible costs provided by subparagraphs (B) and (D) of paragraph (11), as modified by this subparagraph, and notwithstanding any other provisions of this Act to the contrary, the municipality may pay from tax increment revenues up to 50% of the cost of construction of new housing units to be occupied by low-income households and very low-income households as defined in Section 3 of the Illinois Affordable Housing Act. The cost of construction of those units may be derived from the proceeds of bonds issued by the municipality under this Act or other constitutional or statutory authority or from other sources of municipal revenue that may be reimbursed from tax increment revenues or the proceeds of bonds issued to finance the construction of that housing.

The eligible costs provided under this subparagraph (F) of paragraph (11) shall be an eligible cost for the construction, renovation, and rehabilitation of all low and very low-income housing units, as defined in Section 3 of the Illinois Affordable Housing Act, within the redevelopment project area. If the low and very low-income units are part of a residential redevelopment project that includes units not affordable to low and very

low-income households, only the low and very low-income units shall be eligible for benefits under subparagraph (F) of paragraph (11). The standards for maintaining the occupancy by low-income households and very low-income households, as defined in Section 3 of the Illinois Affordable Housing Act, of those units constructed with eligible costs made available under the provisions of this subparagraph (F) of paragraph (11) shall be established by guidelines adopted by the municipality. The responsibility for annually documenting the initial occupancy of the units by low-income households and very low-income households, as defined in Section 3 of the Illinois Affordable Housing Act, shall be that of the then current owner of the property. For ownership units, the guidelines will provide, at a minimum, for a reasonable recapture of funds, or other appropriate methods designed to preserve the original affordability of the ownership units. For rental units, the guidelines will provide, at a minimum, for the affordability of rent to low and very low-income households. As units become available, they shall be rented to income-eligible tenants. The municipality may modify these guidelines from time to time; the guidelines, however, shall be in effect for as long as tax increment revenue is being used to pay for costs associated with the units or for the

retirement of bonds issued to finance the units or for the life of the redevelopment project area, whichever is later.

(11.5) If the redevelopment project area is located within a municipality with a population of more than 100,000, the cost of day care services for children of employees from low-income families working for businesses located within the redevelopment project area and all or a portion of the cost of operation of day care centers established by redevelopment project area businesses to serve employees from low-income families working in businesses located in the redevelopment project area. For the purposes of this paragraph, "low-income families" means families whose annual income does not exceed 80% of the municipal, county, or regional median income, adjusted for family size, as the annual income and municipal, county, or regional median income are determined from time to time by the United States Department of Housing and Urban Development.

(12) Unless explicitly stated herein the cost of construction of new privately-owned buildings shall not be an eligible redevelopment project cost.

(13) After November 1, 1999 (the effective date of Public Act 91-478), none of the redevelopment project costs enumerated in this subsection shall be eligible redevelopment project costs if those costs would provide

direct financial support to a retail entity initiating operations in the redevelopment project area while terminating operations at another Illinois location within 10 miles of the redevelopment project area but outside the boundaries of the redevelopment project area municipality. For purposes of this paragraph, termination means a closing of a retail operation that is directly related to the opening of the same operation or like retail entity owned or operated by more than 50% of the original ownership in a redevelopment project area, but it does not mean closing an operation for reasons beyond the control of the retail entity, as documented by the retail entity, subject to a reasonable finding by the municipality that the current location contained inadequate space, had become economically obsolete, or was no longer a viable location for the retailer or serviceman.

If a special service area has been established pursuant to the Special Service Area Tax Act or Special Service Area Tax Law, then any tax increment revenues derived from the tax imposed pursuant to the Special Service Area Tax Act or Special Service Area Tax Law may be used within the redevelopment project area for the purposes permitted by that Act or Law as well as the purposes permitted by this Act.

(r) "State Sales Tax Boundary" means the redevelopment project area or the amended redevelopment project area boundaries which are determined pursuant to subsection (9) of

Section 11-74.4-8a of this Act. The Department of Revenue shall certify pursuant to subsection (9) of Section 11-74.4-8a the appropriate boundaries eligible for the determination of State Sales Tax Increment.

(s) "State Sales Tax Increment" means an amount equal to the increase in the aggregate amount of taxes paid by retailers and servicemen, other than retailers and servicemen subject to the Public Utilities Act, on transactions at places of business located within a State Sales Tax Boundary pursuant to the Retailers' Occupation Tax Act, the Use Tax Act, the Service Use Tax Act, and the Service Occupation Tax Act, except such portion of such increase that is paid into the State and Local Sales Tax Reform Fund, the Local Government Distributive Fund, the Local Government Tax Fund and the County and Mass Transit District Fund, for as long as State participation exists, over and above the Initial Sales Tax Amounts, Adjusted Initial Sales Tax Amounts or the Revised Initial Sales Tax Amounts for such taxes as certified by the Department of Revenue and paid under those Acts by retailers and servicemen on transactions at places of business located within the State Sales Tax Boundary during the base year which shall be the calendar year immediately prior to the year in which the municipality adopted tax increment allocation financing, less 3.0% of such amounts generated under the Retailers' Occupation Tax Act, Use Tax Act and Service Use Tax Act and the Service Occupation Tax Act, which sum shall be appropriated to the Department of Revenue to

cover its costs of administering and enforcing this Section. For purposes of computing the aggregate amount of such taxes for base years occurring prior to 1985, the Department of Revenue shall compute the Initial Sales Tax Amount for such taxes and deduct therefrom an amount equal to 4% of the aggregate amount of taxes per year for each year the base year is prior to 1985, but not to exceed a total deduction of 12%. The amount so determined shall be known as the "Adjusted Initial Sales Tax Amount". For purposes of determining the State Sales Tax Increment the Department of Revenue shall for each period subtract from the tax amounts received from retailers and servicemen on transactions located in the State Sales Tax Boundary, the certified Initial Sales Tax Amounts, Adjusted Initial Sales Tax Amounts or Revised Initial Sales Tax Amounts for the Retailers' Occupation Tax Act, the Use Tax Act, the Service Use Tax Act and the Service Occupation Tax Act. For the State Fiscal Year 1989 this calculation shall be made by utilizing the calendar year 1987 to determine the tax amounts received. For the State Fiscal Year 1990, this calculation shall be made by utilizing the period from January 1, 1988, until September 30, 1988, to determine the tax amounts received from retailers and servicemen, which shall have deducted therefrom nine-twelfths of the certified Initial Sales Tax Amounts, Adjusted Initial Sales Tax Amounts or the Revised Initial Sales Tax Amounts as appropriate. For the State Fiscal Year 1991, this calculation shall be made by utilizing the

period from October 1, 1988, until June 30, 1989, to determine the tax amounts received from retailers and servicemen, which shall have deducted therefrom nine-twelfths of the certified Initial State Sales Tax Amounts, Adjusted Initial Sales Tax Amounts or the Revised Initial Sales Tax Amounts as appropriate. For every State Fiscal Year thereafter, the applicable period shall be the 12 months beginning July 1 and ending on June 30, to determine the tax amounts received which shall have deducted therefrom the certified Initial Sales Tax Amounts, Adjusted Initial Sales Tax Amounts or the Revised Initial Sales Tax Amounts. Municipalities intending to receive a distribution of State Sales Tax Increment must report a list of retailers to the Department of Revenue by October 31, 1988 and by July 31, of each year thereafter.

(t) "Taxing districts" means counties, townships, cities and incorporated towns and villages, school, road, park, sanitary, mosquito abatement, forest preserve, public health, fire protection, river conservancy, tuberculosis sanitarium and any other municipal corporations or districts with the power to levy taxes.

(u) "Taxing districts' capital costs" means those costs of taxing districts for capital improvements that are found by the municipal corporate authorities to be necessary and directly result from the redevelopment project.

(v) As used in subsection (a) of Section 11-74.4-3 of this Act, "vacant land" means any parcel or combination of parcels

of real property without industrial, commercial, and residential buildings which has not been used for commercial agricultural purposes within 5 years prior to the designation of the redevelopment project area, unless the parcel is included in an industrial park conservation area or the parcel has been subdivided; provided that if the parcel was part of a larger tract that has been divided into 3 or more smaller tracts that were accepted for recording during the period from 1950 to 1990, then the parcel shall be deemed to have been subdivided, and all proceedings and actions of the municipality taken in that connection with respect to any previously approved or designated redevelopment project area or amended redevelopment project area are hereby validated and hereby declared to be legally sufficient for all purposes of this Act. For purposes of this Section and only for land subject to the subdivision requirements of the Plat Act, land is subdivided when the original plat of the proposed Redevelopment Project Area or relevant portion thereof has been properly certified, acknowledged, approved, and recorded or filed in accordance with the Plat Act and a preliminary plat, if any, for any subsequent phases of the proposed Redevelopment Project Area or relevant portion thereof has been properly approved and filed in accordance with the applicable ordinance of the municipality.

(w) "Annual Total Increment" means the sum of each municipality's annual Net Sales Tax Increment and each

municipality's annual Net Utility Tax Increment. The ratio of the Annual Total Increment of each municipality to the Annual Total Increment for all municipalities, as most recently calculated by the Department, shall determine the proportional shares of the Illinois Tax Increment Fund to be distributed to each municipality.

(Source: P.A. 94-260, eff. 7-19-05; 94-268, eff. 7-19-05; 94-297, eff. 7-21-05; 94-302, eff. 7-21-05; 94-702, eff. 6-1-06; 94-704, eff. 12-5-05; 94-711, eff. 6-1-06; 94-778, eff. 5-19-06; 94-782, eff. 5-19-06; 94-783, eff. 5-19-06; 94-810, eff. 5-26-06; 94-903, eff. 6-22-06; 94-1091, eff. 1-26-07; 94-1092, eff. 1-26-07; 95-15, eff. 7-16-07; 95-164, eff. 1-1-08; 95-331, eff. 8-21-07; 95-346, eff. 8-21-07; 95-459, eff. 8-27-07; 95-653, eff. 1-1-08; 95-662, eff. 10-11-07; 95-683, eff. 10-19-07; revised 12-4-07.)

(65 ILCS 5/11-74.4-7) (from Ch. 24, par. 11-74.4-7)

Sec. 11-74.4-7. Obligations secured by the special tax allocation fund set forth in Section 11-74.4-8 for the redevelopment project area may be issued to provide for redevelopment project costs. Such obligations, when so issued, shall be retired in the manner provided in the ordinance authorizing the issuance of such obligations by the receipts of taxes levied as specified in Section 11-74.4-9 against the taxable property included in the area, by revenues as specified by Section 11-74.4-8a and other revenue designated by the

municipality. A municipality may in the ordinance pledge all or any part of the funds in and to be deposited in the special tax allocation fund created pursuant to Section 11-74.4-8 to the payment of the redevelopment project costs and obligations. Any pledge of funds in the special tax allocation fund shall provide for distribution to the taxing districts and to the Illinois Department of Revenue of moneys not required, pledged, earmarked, or otherwise designated for payment and securing of the obligations and anticipated redevelopment project costs and such excess funds shall be calculated annually and deemed to be "surplus" funds. In the event a municipality only applies or pledges a portion of the funds in the special tax allocation fund for the payment or securing of anticipated redevelopment project costs or of obligations, any such funds remaining in the special tax allocation fund after complying with the requirements of the application or pledge, shall also be calculated annually and deemed "surplus" funds. All surplus funds in the special tax allocation fund shall be distributed annually within 180 days after the close of the municipality's fiscal year by being paid by the municipal treasurer to the County Collector, to the Department of Revenue and to the municipality in direct proportion to the tax incremental revenue received as a result of an increase in the equalized assessed value of property in the redevelopment project area, tax incremental revenue received from the State and tax incremental revenue received from the municipality, but not to

exceed as to each such source the total incremental revenue received from that source. The County Collector shall thereafter make distribution to the respective taxing districts in the same manner and proportion as the most recent distribution by the county collector to the affected districts of real property taxes from real property in the redevelopment project area.

Without limiting the foregoing in this Section, the municipality may in addition to obligations secured by the special tax allocation fund pledge for a period not greater than the term of the obligations towards payment of such obligations any part or any combination of the following: (a) net revenues of all or part of any redevelopment project; (b) taxes levied and collected on any or all property in the municipality; (c) the full faith and credit of the municipality; (d) a mortgage on part or all of the redevelopment project; or (e) any other taxes or anticipated receipts that the municipality may lawfully pledge.

Such obligations may be issued in one or more series bearing interest at such rate or rates as the corporate authorities of the municipality shall determine by ordinance. Such obligations shall bear such date or dates, mature at such time or times not exceeding 20 years from their respective dates, be in such denomination, carry such registration privileges, be executed in such manner, be payable in such medium of payment at such place or places, contain such

covenants, terms and conditions, and be subject to redemption as such ordinance shall provide. Obligations issued pursuant to this Act may be sold at public or private sale at such price as shall be determined by the corporate authorities of the municipalities. No referendum approval of the electors shall be required as a condition to the issuance of obligations pursuant to this Division except as provided in this Section.

In the event the municipality authorizes issuance of obligations pursuant to the authority of this Division secured by the full faith and credit of the municipality, which obligations are other than obligations which may be issued under home rule powers provided by Article VII, Section 6 of the Illinois Constitution, or pledges taxes pursuant to (b) or (c) of the second paragraph of this section, the ordinance authorizing the issuance of such obligations or pledging such taxes shall be published within 10 days after such ordinance has been passed in one or more newspapers, with general circulation within such municipality. The publication of the ordinance shall be accompanied by a notice of (1) the specific number of voters required to sign a petition requesting the question of the issuance of such obligations or pledging taxes to be submitted to the electors; (2) the time in which such petition must be filed; and (3) the date of the prospective referendum. The municipal clerk shall provide a petition form to any individual requesting one.

If no petition is filed with the municipal clerk, as

hereinafter provided in this Section, within 30 days after the publication of the ordinance, the ordinance shall be in effect. But, if within that 30 day period a petition is filed with the municipal clerk, signed by electors in the municipality numbering 10% or more of the number of registered voters in the municipality, asking that the question of issuing obligations using full faith and credit of the municipality as security for the cost of paying for redevelopment project costs, or of pledging taxes for the payment of such obligations, or both, be submitted to the electors of the municipality, the corporate authorities of the municipality shall call a special election in the manner provided by law to vote upon that question, or, if a general, State or municipal election is to be held within a period of not less than 30 or more than 90 days from the date such petition is filed, shall submit the question at the next general, State or municipal election. If it appears upon the canvass of the election by the corporate authorities that a majority of electors voting upon the question voted in favor thereof, the ordinance shall be in effect, but if a majority of the electors voting upon the question are not in favor thereof, the ordinance shall not take effect.

The ordinance authorizing the obligations may provide that the obligations shall contain a recital that they are issued pursuant to this Division, which recital shall be conclusive evidence of their validity and of the regularity of their issuance.

In the event the municipality authorizes issuance of obligations pursuant to this Section secured by the full faith and credit of the municipality, the ordinance authorizing the obligations may provide for the levy and collection of a direct annual tax upon all taxable property within the municipality sufficient to pay the principal thereof and interest thereon as it matures, which levy may be in addition to and exclusive of the maximum of all other taxes authorized to be levied by the municipality, which levy, however, shall be abated to the extent that monies from other sources are available for payment of the obligations and the municipality certifies the amount of said monies available to the county clerk.

A certified copy of such ordinance shall be filed with the county clerk of each county in which any portion of the municipality is situated, and shall constitute the authority for the extension and collection of the taxes to be deposited in the special tax allocation fund.

A municipality may also issue its obligations to refund in whole or in part, obligations theretofore issued by such municipality under the authority of this Act, whether at or prior to maturity, provided however, that the last maturity of the refunding obligations shall not be expressed to mature later than December 31 of the year in which the payment to the municipal treasurer as provided in subsection (b) of Section 11-74.4-8 of this Act is to be made with respect to ad valorem taxes levied in the twenty-third calendar year after the year

in which the ordinance approving the redevelopment project area is adopted if the ordinance was adopted on or after January 15, 1981, not later than December 31 of the year in which the payment to the municipal treasurer as provided in subsection (b) of Section 11-74.4-8 of this Act is to be made with respect to ad valorem taxes levied in the thirty-third calendar year after the year in which the ordinance approving the redevelopment project area if the ordinance was adopted on May 20, 1985 by the Village of Wheeling, and not later than December 31 of the year in which the payment to the municipal treasurer as provided in subsection (b) of Section 11-74.4-8 of this Act is to be made with respect to ad valorem taxes levied in the thirty-fifth calendar year after the year in which the ordinance approving the redevelopment project area is adopted (A) if the ordinance was adopted before January 15, 1981, or (B) if the ordinance was adopted in December 1983, April 1984, July 1985, or December 1989, or (C) if the ordinance was adopted in December, 1987 and the redevelopment project is located within one mile of Midway Airport, or (D) if the ordinance was adopted before January 1, 1987 by a municipality in Mason County, or (E) if the municipality is subject to the Local Government Financial Planning and Supervision Act or the Financially Distressed City Law, or (F) if the ordinance was adopted in December 1984 by the Village of Rosemont, or (G) if the ordinance was adopted on December 31, 1986 by a municipality located in Clinton County for which at least

\$250,000 of tax increment bonds were authorized on June 17, 1997, or if the ordinance was adopted on December 31, 1986 by a municipality with a population in 1990 of less than 3,600 that is located in a county with a population in 1990 of less than 34,000 and for which at least \$250,000 of tax increment bonds were authorized on June 17, 1997, or (H) if the ordinance was adopted on October 5, 1982 by the City of Kankakee, or (I) if the ordinance was adopted on December 29, 1986 by East St. Louis, or if the ordinance was adopted on November 12, 1991 by the Village of Sauget, or (J) if the ordinance was adopted on February 11, 1985 by the City of Rock Island, or (K) if the ordinance was adopted before December 18, 1986 by the City of Moline, or (L) if the ordinance was adopted in September 1988 by Sauk Village, or (M) if the ordinance was adopted in October 1993 by Sauk Village, or (N) if the ordinance was adopted on December 29, 1986 by the City of Galva, or (O) if the ordinance was adopted in March 1991 by the City of Centreville, or (P) if the ordinance was adopted on January 23, 1991 by the City of East St. Louis, or (Q) if the ordinance was adopted on December 22, 1986 by the City of Aledo, or (R) if the ordinance was adopted on February 5, 1990 by the City of Clinton, or (S) if the ordinance was adopted on September 6, 1994 by the City of Freeport, or (T) if the ordinance was adopted on December 22, 1986 by the City of Tuscola, or (U) if the ordinance was adopted on December 23, 1986 by the City of Sparta, or (V) if the ordinance was adopted on December 23, 1986 by the City of

Beardstown, or (W) if the ordinance was adopted on April 27, 1981, October 21, 1985, or December 30, 1986 by the City of Belleville, or (X) if the ordinance was adopted on December 29, 1986 by the City of Collinsville, or (Y) if the ordinance was adopted on September 14, 1994 by the City of Alton, or (Z) if the ordinance was adopted on November 11, 1996 by the City of Lexington, or (AA) if the ordinance was adopted on November 5, 1984 by the City of LeRoy, or (BB) if the ordinance was adopted on April 3, 1991 or June 3, 1992 by the City of Markham, or (CC) if the ordinance was adopted on November 11, 1986 by the City of Pekin, or (DD) if the ordinance was adopted on December 15, 1981 by the City of Champaign, or (EE) if the ordinance was adopted on December 15, 1986 by the City of Urbana, or (FF) if the ordinance was adopted on December 15, 1986 by the Village of Heyworth, or (GG) if the ordinance was adopted on February 24, 1992 by the Village of Heyworth, or (HH) if the ordinance was adopted on March 16, 1995 by the Village of Heyworth, or (II) if the ordinance was adopted on December 23, 1986 by the Town of Cicero, or (JJ) if the ordinance was adopted on December 30, 1986 by the City of Effingham, or (KK) if the ordinance was adopted on May 9, 1991 by the Village of Tilton, or (LL) if the ordinance was adopted on October 20, 1986 by the City of Elmhurst, or (MM) if the ordinance was adopted on January 19, 1988 by the City of Waukegan, or (NN) if the ordinance was adopted on September 21, 1998 by the City of Waukegan, or (OO) if the ordinance was adopted on December 31,

1986 by the City of Sullivan, or (PP) if the ordinance was adopted on December 23, 1991 by the City of Sullivan, or (QQ) if the ordinance was adopted on December 31, 1986 by the City of Oglesby, or (RR) if the ordinance was adopted on July 28, 1987 by the City of Marion, or (SS) if the ordinance was adopted on April 23, 1990 by the City of Marion, or (TT) if the ordinance was adopted on August 20, 1985 by the Village of Mount Prospect, or (UU) if the ordinance was adopted on February 2, 1998 by the Village of Woodhull, or (VV) if the ordinance was adopted on April 20, 1993 by the Village of Princeville, or (WW) if the ordinance was adopted on July 1, 1986 by the City of Granite City, or (XX) if the ordinance was adopted on February 2, 1989 by the Village of Lombard, or (YY) if the ordinance was adopted on December 29, 1986 by the Village of Gardner, or (ZZ) if the ordinance was adopted on July 14, 1999 by the Village of Paw Paw, or (AAA) if the ordinance was adopted on November 17, 1986 by the Village of Franklin Park, or (BBB) if the ordinance was adopted on November 20, 1989 by the Village of South Holland, or (CCC) if the ordinance was adopted on July 14, 1992 by the Village of Riverdale, or DDD ~~(CCC)~~ if the ordinance was adopted on December 29, 1986 by the City of Galesburg, or (EEE) ~~(DDD)~~ if the ordinance was adopted on April 1, 1985 by the City of Galesburg, or (FFF) ~~(CCC)~~ if the ordinance was adopted on May 21, 1990 by the City of West Chicago, or (GGG) ~~(CCC)~~ if the ordinance was adopted on December 16, 1986 by the City of Oak

Forest, ~~or~~ (HHH) ~~(AAA)~~ if the ordinance was adopted in 1999 by the City of Villa Grove, or (III) ~~(CCC)~~ if the ordinance was adopted on January 13, 1987 by the Village of Mt. Zion, or (JJJ) ~~(CCC)~~ if the ordinance was adopted on December 30, 1986 by the Village of Manteno, or (KKK) ~~(DDD)~~ if the ordinance was adopted on April 3, 1989 by the City of Chicago Heights, or (LLL) ~~(EEE)~~ if the ordinance was adopted on January 6, 1999 by the Village of Rosemont, or (MMM) ~~(FFF)~~ if the ordinance was adopted on December 19, 2000 by the Village of Stone Park and, for redevelopment project areas for which bonds were issued before July 29, 1991, in connection with a redevelopment project in the area within the State Sales Tax Boundary and which were extended by municipal ordinance under subsection (n) of Section 11-74.4-3, the last maturity of the refunding obligations shall not be expressed to mature later than the date on which the redevelopment project area is terminated or December 31, 2013, whichever date occurs first.

In the event a municipality issues obligations under home rule powers or other legislative authority the proceeds of which are pledged to pay for redevelopment project costs, the municipality may, if it has followed the procedures in conformance with this division, retire said obligations from funds in the special tax allocation fund in amounts and in such manner as if such obligations had been issued pursuant to the provisions of this division.

All obligations heretofore or hereafter issued pursuant to

this Act shall not be regarded as indebtedness of the municipality issuing such obligations or any other taxing district for the purpose of any limitation imposed by law.

(Source: P.A. 94-260, eff. 7-19-05; 94-297, eff. 7-21-05; 94-302, eff. 7-21-05; 94-702, eff. 6-1-06; 94-704, eff. 12-5-05; 94-711, eff. 6-1-06; 94-778, eff. 5-19-06; 94-782, eff. 5-19-06; 94-783, eff. 5-19-06; 94-810, eff. 5-26-06; 94-903, eff. 6-22-06; 94-1091, eff. 1-26-07; 94-1092, eff. 1-26-07; 95-15, eff. 7-16-07; 95-164, eff. 1-1-08; 95-331, eff. 8-21-07; 95-346, eff. 8-21-07; 95-459, eff. 8-27-07; 95-653, eff. 1-1-08; 95-662, eff. 10-11-07; 95-683, eff. 10-19-07; revised 11-8-07.)

Section 175. The School Code is amended by changing Sections 2-3.12, 5-1, 10-22.3f, 10-22.22b, 10-23.5, 14-8.02, 14C-8, 18-12, 27-8.1, 27-17, and 27-23.7 and by setting forth and renumbering multiple versions of Sections 2-3.142, 10-20.40, and 34-18.34 as follows:

(105 ILCS 5/2-3.12) (from Ch. 122, par. 2-3.12)

Sec. 2-3.12. School building code.

(a) To prepare for school boards with the advice of the Department of Public Health, the Capital Development Board, and the State Fire Marshal a school building code that will conserve the health and safety and general welfare of the pupils and school personnel and others who use public school

facilities. ~~(now repealed)~~

(b) Within 2 years after September 23, 1983, and every 10 years thereafter, or at such other times as the State Board of Education deems necessary or the regional superintendent so orders, each school board subject to the provisions of this Section shall again survey its school buildings and effectuate any recommendations in accordance with the procedures set forth herein.

(1) An architect or engineer licensed in the State of Illinois is required to conduct the surveys under the provisions of this Section and shall make a report of the findings of the survey titled "safety survey report" to the school board.

(2) The school board shall approve the safety survey report, including any recommendations to effectuate compliance with the code, and submit it to the Regional Superintendent.

(3) The Regional Superintendent shall render a decision regarding approval or denial and submit the safety survey report to the State Superintendent of Education.

(4) The State Superintendent of Education shall approve or deny the report including recommendations to effectuate compliance with the code and, if approved, issue a certificate of approval.

(5) Upon receipt of the certificate of approval, the Regional Superintendent shall issue an order to effect any

approved recommendations included in the report. The report shall meet all of the following requirements:

(A) Items in the report shall be prioritized.

(B) Urgent items shall be considered as those items related to life safety problems that present an immediate hazard to the safety of students.

(C) Required items shall be considered as those items that are necessary for a safe environment but present less of an immediate hazard to the safety of students.

(D) Urgent and required items shall reference a specific rule in the code authorized by this Section that is currently being violated or will be violated within the next 12 months if the violation is not remedied.

(6) The school board of each district so surveyed and receiving a report of needed recommendations to be made to maintain standards of safety and health of the pupils enrolled shall effectuate the correction of urgent items as soon as achievable to ensure the safety of the students, but in no case more than one year after the date of the State Superintendent of Education's approval of the recommendation.

(7) Required items shall be corrected in a timely manner, but in no case more than 5 years from the date of the State Superintendent of Education's approval of the

recommendation.

(8) Once each year the school board shall submit a report of progress on completion of any recommendations to effectuate compliance with the code.

(c) As soon as practicable, but not later than 2 years after January 1, 1993, the State Board of Education shall combine the document known as "Efficient and Adequate Standards for the Construction of Schools" with the document known as "Building Specifications for Health and Safety in Public Schools" together with any modifications or additions that may be deemed necessary. The combined document shall be known as the "Health/Life Safety Code for Public Schools" and shall be the governing code for all facilities that house public school students or are otherwise used for public school purposes, whether such facilities are permanent or temporary and whether they are owned, leased, rented, or otherwise used by the district. Facilities owned by a school district but that are not used to house public school students or are not used for public school purposes shall be governed by separate provisions within the code authorized by this Section.

(d) The 10 year survey cycle specified in this Section shall continue to apply based upon the standards contained in the "Health/Life Safety Code for Public Schools", which shall specify building standards for buildings that are constructed prior to January 1, 1993 and for buildings that are constructed after that date.

(e) The "Health/Life Safety Code for Public Schools" shall be the governing code for public schools; however, the provisions of this Section shall not preclude inspection of school premises and buildings pursuant to Section 9 of the Fire Investigation Act, provided that the provisions of the "Health/Life Safety Code for Public Schools", or such predecessor document authorized by this Section as may be applicable are used, and provided that those inspections are coordinated with the Regional Superintendent having jurisdiction over the public school facility.

(f) Nothing in this Section shall be construed to prohibit the State Fire Marshal or a qualified fire official to whom the State Fire Marshal has delegated his or her authority from conducting a fire safety check in a public school.

(g) The Regional Superintendent shall address any violations that are not corrected in a timely manner pursuant to subsection (b) of Section 3-14.21 of this Code.

(h) Any agency having jurisdiction beyond the scope of the applicable document authorized by this Section may issue a lawful order to a school board to effectuate recommendations, and the school board receiving the order shall certify to the Regional Superintendent and the State Superintendent of Education when it has complied with the order.

(i) The State Board of Education is authorized to adopt any rules that are necessary relating to the administration and enforcement of the provisions of this Section.

(j) The code authorized by this Section shall apply only to those school districts having a population of less than 500,000 inhabitants.

(k) In this Section, a "qualified fire official" means an individual that meets the requirements of rules adopted by the State Fire Marshal in cooperation with the State Board of Education to administer this Section. These rules shall be based on recommendations made by the task force established under Section 2-3.137 of this Code.

(Source: P.A. 94-225, eff. 7-14-05; 94-875, eff. 7-1-06; 94-1105, eff. 6-1-07; revised 2-20-07.)

(105 ILCS 5/2-3.142)

Sec. 2-3.142. Grants to Illinois School Psychology Internship Consortium. Subject to appropriations for this purpose, the State Board of Education shall provide grants to the Illinois School Psychology Internship Consortium for aid in providing training programs and facilitating interns to improve the educational and mental health services of children in this State.

(Source: P.A. 95-102, eff. 1-1-08.)

(105 ILCS 5/2-3.144)

Sec. 2-3.144 ~~2-3.142~~. Community college enrollments. The State Board of Education shall annually assemble all data reported to the State Board of Education under Section 10-21.4

or 34-8 of this Code by district superintendents, relating to the number of high school students in the educational service region who are enrolled in accredited courses at any community college, together with the name and number of the course or courses that each such student is taking, assembled both by individual school district and by educational service region totals.

(Source: P.A. 95-496, eff. 8-28-07; revised 12-7-07.)

(105 ILCS 5/2-3.145)

Sec. 2-3.145 ~~2-3.142~~. Special education expenditure and receipt report. The State Board of Education shall issue an annual report to the General Assembly and Governor identifying each school district's special education expenditures; receipts received from State, federal, and local sources; and net special education expenditures over receipts received, if applicable. Expenditures and receipts shall be calculated in a manner specified by the State Board using data obtained from the Annual Financial Report, the Funding and Child Tracking System, and district enrollment information. This report must be issued on or before May 1, 2008 and on or before each May 1 thereafter.

(Source: P.A. 95-555, eff. 8-30-07; revised 12-7-07.)

(105 ILCS 5/2-3.147)

Sec. 2-3.147 ~~2-3.142~~. The Ensuring Success in School Task

Force.

(a) In this Section:

"Domestic violence" means abuse by a family or household member, as "abuse" and "family or household members" are defined in Section 103 of the Illinois Domestic Violence Act of 1986.

"Sexual violence" means sexual assault, abuse, or stalking of an adult or minor child proscribed in the Criminal Code of 1961 in Sections 12-7.3, 12-7.4, 12-7.5, 12-12, 12-13, 12-14, 12-14.1, 12-15, and 12-16, including sexual violence committed by perpetrators who are strangers to the victim and sexual violence committed by perpetrators who are known or related by blood or marriage to the victim.

(b) The State Board of Education shall convene an Ensuring Success in School Task Force to develop policies, procedures, and protocols to be adopted by school districts for addressing the educational and related needs of children and youth who are parents, expectant parents, or victims of domestic or sexual violence to ensure their ability to stay in school, stay safe while in school, and successfully complete their education. The State Board of Education shall be the agency responsible for providing staff and administrative support to the task force.

(c) The Ensuring Success in School Task Force shall do all of the following:

(1) Conduct a thorough examination of the barriers to school attendance, safety, and completion for children and

youth who are parents, expectant parents, or victims of domestic or sexual violence.

(2) Conduct a discovery process that includes relevant research and the identification of effective policies, protocols, and programs within this State and elsewhere.

(3) Conduct meetings and public hearings in geographically diverse locations throughout the State to ensure the maximum input from area advocates and service providers, from local education agencies, and from children and youth who are parents, expectant parents, or victims of domestic or sexual violence and their parents or guardians.

(4) Establish and adhere to procedures and protocols to allow children and youth who are parents, expectant parents, or victims of domestic or sexual violence, their parents or guardians, and advocates who work on behalf of such children and youth to participate in the task force anonymously and confidentially.

(5) Invite the testimony of and confer with experts on relevant topics.

(6) Produce a report of the task force's findings on best practices and policies, which shall include a plan with a phased and prioritized implementation timetable with focus on ensuring the successful and safe completion of school for children and youth who are parents, expectant parents, or victims of domestic or sexual violence. The

task force shall submit a report to the General Assembly on or before January 1, 2009 on its findings, recommendations, and implementation plan. Any task force reports shall be published on the State Board of Education's Internet website on the date the report is delivered to the General Assembly.

(7) Recommend new legislation or proposed rules developed by the task force.

(d) The President of the Senate and the Speaker of the House of Representatives shall each appoint one co-chairperson of the Ensuring Success in School Task Force. In addition to the 2 co-chairpersons, the task force shall be comprised of each of the following members, appointed by the State Board of Education, and shall be representative of the geographic, racial, ethnic, and cultural diversity of this State:

(1) A representative of a statewide nonprofit, nongovernmental domestic violence organization.

(2) A domestic violence victims' advocate or service provider from a different nonprofit, nongovernmental domestic violence organization.

(3) A representative of a statewide nonprofit, nongovernmental sexual assault organization.

(4) A sexual assault victims' advocate or service provider from a different nonprofit, nongovernmental sexual assault organization.

(5) A teen parent advocate or service provider from a

nonprofit, nongovernmental organization.

(6) A school social worker.

(7) A school psychologist.

(8) A school counselor.

(9) A representative of a statewide professional teachers' organization.

(10) A representative of a different statewide professional teachers' organization.

(11) A representative of a statewide organization that represents school boards.

(12) A representative of a statewide organization representing principals.

(13) A representative of City of Chicago School District 299.

(14) A representative of a nonprofit, nongovernmental youth services provider.

(15) A representative of a statewide nonprofit, nongovernmental multi-issue advocacy organization with expertise in a cross-section of relevant issues.

(16) An alternative education service provider.

(17) A representative from a regional office of education.

(18) A truancy intervention services provider.

(19) A youth who is a parent or expectant parent directly affected by the issues, problems, and concerns of staying in school and successfully completing his or her

education through high school.

(20) A youth who is a victim of domestic or sexual violence directly affected by the issues, problems, and concerns of staying in school and successfully completing his or her education.

(21) A parent or guardian of a child or youth who is a parent or expectant parent directly affected by the issues, problems, and concerns of staying in school and successfully completing his or her education.

(22) A parent or guardian of a child or youth who is a victim of domestic or sexual violence directly affected by the issues, problems, and concerns of staying in school and successfully completing his or her education.

The task force shall also consist of one member appointed by the Minority Leader of the Senate, one member appointed by the Minority Leader of the House of Representatives, the State Superintendent of Education, the Secretary of Human Services, the Director of Healthcare and Family Services, the Director of Children and Family Services, and the Director of Public Health or their designees.

(e) Members of the Ensuring Success in School Task Force shall receive no compensation for their participation, but may be reimbursed by the State Board of Education for expenses in connection with their participation, including travel, if funds are available. However, members of the task force who are youth who are parents, expectant parents, or victims of

domestic or sexual violence and the parents or guardians of such youth shall be reimbursed for their travel expenses connected to their participation in the task force.

(Source: P.A. 95-558, eff. 8-30-07; revised 12-7-07.)

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

Sec. 5-1. County school units.

(a) The territory in each county, exclusive of any school district governed by any special act which requires the district to appoint its own school treasurer, shall constitute a county school unit. County school units of less than 2,000,000 inhabitants shall be known as Class I county school units and the office of township trustees, where existing on July 1, 1962, in such units shall be abolished on that date and all books and records of such former township trustees shall be forthwith thereafter transferred to the county board of school trustees. County school units of 2,000,000 or more inhabitants shall be known as Class II county school units and shall retain the office of township trustees unless otherwise provided in subsection (b) or (c).

(b) Notwithstanding subsections (a) and (c), the school board of any elementary school district having a fall, 1989 aggregate enrollment of at least 2,500 but less than 6,500 pupils and having boundaries that are coterminous with the boundaries of a high school district, and the school board of any high school district having a fall, 1989 aggregate

enrollment of at least 2,500 but less than 6,500 pupils and having boundaries that are coterminous with the boundaries of an elementary school district, may, whenever the territory of such school district forms a part of a Class II county school unit, by proper resolution withdraw such school district from the jurisdiction and authority of the trustees of schools of the township in which such school district is located and from the jurisdiction and authority of the township treasurer in such Class II county school unit; provided that the school board of any such school district shall, upon the adoption and passage of such resolution, thereupon elect or appoint its own school treasurer as provided in Section 8-1. Upon the adoption and passage of such resolution and the election or appointment by the school board of its own school treasurer: (1) the trustees of schools in such township shall no longer have or exercise any powers and duties with respect to the school district governed by such school board or with respect to the school business, operations or assets of such school district; and (2) all books and records of the township trustees relating to the school business and affairs of such school district shall be transferred and delivered to the school board of such school district. Upon the effective date of this amendatory Act of 1993, the legal title to, and all right, title and interest formerly held by the township trustees in any school buildings and school sites used and occupied by the school board of such school district for school purposes, that legal title, right,

title and interest thereafter having been transferred to and vested in the regional board of school trustees under P.A. 87-473 until the abolition of that regional board of school trustees by P.A. 87-969, shall be deemed transferred by operation of law to and shall vest in the school board of that school district.

Notwithstanding subsections (a) and (c), the school boards of Oak Park & River Forest District 200, Oak Park Elementary School District 97, and River Forest School District 90 may, by proper resolution, withdraw from the jurisdiction and authority of the trustees of schools of Proviso and Cicero Townships and the township treasurer, provided that the school board shall, upon the adoption and passage of the resolution, elect or appoint its own school treasurer as provided in Section 8-1 of this Code. Upon the adoption and passage of the resolution and the election or appointment by the school board of its own school treasurer: (1) the trustees of schools in the township or townships shall no longer have or exercise any powers or duties with respect to the school district or with respect to the school business, operations, or assets of the school district; (2) all books and records of the trustees of schools and all moneys, securities, loanable funds, and other assets relating to the school business and affairs of the school district shall be transferred and delivered to the school board; and (3) all legal title to and all right, title, and interest formerly held by the trustees of schools in any

common school lands, school buildings, or school sites used and occupied by the school board and all rights of property and causes of action pertaining to or constituting a part of the common school lands, buildings, or sites shall be deemed transferred by operation of law to and shall vest in the school board.

Notwithstanding subsections (a) and (c), the respective school boards of Berwyn North School District 98, Berwyn South School District 100, Cicero School District 99, and J.S. Morton High School District 201 may, by proper resolution, withdraw from the jurisdiction and authority of the trustees of schools of Cicero Township and the township treasurer, provided that the school board shall, upon the adoption and passage of the resolution, elect or appoint its own school treasurer as provided in Section 8-1 of this Code. Upon the adoption and passage of the resolution and the election or appointment by the school board of its own school treasurer: (1) the trustees of schools in the township shall no longer have or exercise any powers or duties with respect to the school district or with respect to the school business, operations, or assets of the school district; (2) all books and records of the trustees of schools and all moneys, securities, loanable funds, and other assets relating to the school business and affairs of the school district shall be transferred and delivered to the school board; and (3) all legal title to and all right, title, and interest formerly held by the trustees of schools in any

common school lands, school buildings, or school sites used and occupied by the school board and all rights of property and causes of action pertaining to or constituting a part of the common school lands, buildings, or sites shall be deemed transferred by operation of law to and shall vest in the school board.

(c) Notwithstanding the provisions of subsection (a), the offices of township treasurer and trustee of schools of any township located in a Class II county school unit shall be abolished as provided in this subsection if all of the following conditions are met:

(1) During the same 30 day period, each school board of each elementary and unit school district that is subject to the jurisdiction and authority of the township treasurer and trustees of schools of the township in which those offices are sought to be abolished gives written notice by certified mail, return receipt requested to the township treasurer and trustees of schools of that township of the date of a meeting of the school board, to be held not more than 90 nor less than 60 days after the date when the notice is given, at which meeting the school board is to consider and vote upon the question of whether there shall be submitted to the electors of the school district a proposition to abolish the offices of township treasurer and trustee of schools of that township. None of the notices given under this paragraph to the township

treasurer and trustees of schools of a township shall be deemed sufficient or in compliance with the requirements of this paragraph unless all of those notices are given within the same 30 day period.

(2) Each school board of each elementary and unit school district that is subject to the jurisdiction and authority of the township treasurer and trustees of schools of the township in which those offices are sought to be abolished, by the affirmative vote of at least 5 members of the school board at a school board meeting of which notice is given as required by paragraph (1) of this subsection, adopts a resolution requiring the secretary of the school board to certify to the proper election authorities for submission to the electors of the school district at the next consolidated election in accordance with the general election law a proposition to abolish the offices of township treasurer and trustee of schools of that township. None of the resolutions adopted under this paragraph by any elementary or unit school districts that are subject to the jurisdiction and authority of the township treasurer and trustees of schools of the township in which those offices are sought to be abolished shall be deemed in compliance with the requirements of this paragraph or sufficient to authorize submission of the proposition to abolish those offices to a referendum of the electors in any such school district unless all of the school boards of all of the

elementary and unit school districts that are subject to the jurisdiction and authority of the township treasurer and trustees of schools of that township adopt such a resolution in accordance with the provisions of this paragraph.

(3) The school boards of all of the elementary and unit school districts that are subject to the jurisdiction and authority of the township treasurer and trustees of schools of the township in which those offices are sought to be abolished submit a proposition to abolish the offices of township treasurer and trustee of schools of that township to the electors of their respective school districts at the same consolidated election in accordance with the general election law, the ballot in each such district to be in substantially the following form:

OFFICIAL BALLOT

| | |
|-------------------------------|-------|
| Shall the offices of township | |
| treasurer and | YES |
| trustee of | ----- |
| schools of Township | NO |
| Range be abolished? | |

(4) At the consolidated election at which the proposition to abolish the offices of township treasurer and trustee of schools of a township is submitted to the

electors of each elementary and unit school district that is subject to the jurisdiction and authority of the township treasurer and trustee of schools of that township, a majority of the electors voting on the proposition in each such elementary and unit school district votes in favor of the proposition as submitted to them.

If in each elementary and unit school district that is subject to the jurisdiction and authority of the township treasurer and trustees of schools of the township in which those offices are sought to be abolished a majority of the electors in each such district voting at the consolidated election on the proposition to abolish the offices of township treasurer and trustee of schools of that township votes in favor of the proposition as submitted to them, the proposition shall be deemed to have passed; but if in any such elementary or unit school district a majority of the electors voting on that proposition in that district fails to vote in favor of the proposition as submitted to them, then notwithstanding the vote of the electors in any other such elementary or unit school district on that proposition the proposition shall not be deemed to have passed in any of those elementary or unit school districts, and the offices of township treasurer and trustee of schools of the township in which those offices were sought to be abolished shall not be abolished, unless in each of those elementary and unit school districts remaining subject to the jurisdiction and authority of the township treasurer and

trustees of schools of that township proceedings are again initiated to abolish those offices and all of the proceedings and conditions prescribed in paragraphs (1) through (4) of this subsection are repeated and met in each of those elementary and unit school districts.

Notwithstanding the foregoing provisions of this Section or any other provision of the School Code, the offices of township treasurer and trustee of schools of a township that has a population of less than 200,000 and that contains a unit school district and is located in a Class II county school unit shall also be abolished as provided in this subsection if all of the conditions set forth in paragraphs (1), (2), and (3) of this subsection are met and if the following additional condition is met:

The electors in all of the school districts subject to the jurisdiction and authority of the township treasurer and trustees of schools of the township in which those offices are sought to be abolished shall vote at the consolidated election on the proposition to abolish the offices of township treasurer and trustee of schools of that township. If a majority of the electors in all of the school districts combined voting on the proposition vote in favor of the proposition, then the proposition shall be deemed to have passed; but if a majority of the electors voting on the proposition in all of the school district fails to vote in favor of the proposition as submitted to

them, then the proposition shall not be deemed to have passed and the offices of township treasurer and trustee of schools of the township in which those offices were sought to be abolished shall not be abolished, unless and until the proceedings detailed in paragraphs (1) through (3) of this subsection and the conditions set forth in this paragraph are met.

If the proposition to abolish the offices of township treasurer and trustee of schools of a township is deemed to have passed at the consolidated election as provided in this subsection, those offices shall be deemed abolished by operation of law effective on January 1 of the calendar year immediately following the calendar year in which that consolidated election is held, provided that if after the election, the trustees of schools by resolution elect to abolish the offices of township treasurer and trustee of schools effective on July 1 immediately following the election, then the offices shall be abolished on July 1 immediately following the election. On the date that the offices of township treasurer and trustee of schools of a township are deemed abolished by operation of law, the school board of each elementary and unit school district and the school board of each high school district that is subject to the jurisdiction and authority of the township treasurer and trustees of schools of that township at the time those offices are abolished: (i) shall appoint its own school treasurer as provided in Section

8-1; and (ii) unless the term of the contract of a township treasurer expires on the date that the office of township treasurer is abolished, shall pay to the former township treasurer its proportionate share of any aggregate compensation that, were the office of township treasurer not abolished at that time, would have been payable to the former township treasurer after that date over the remainder of the term of the contract of the former township treasurer that began prior to but ends after that date. In addition, on the date that the offices of township treasurer and trustee of schools of a township are deemed abolished as provided in this subsection, the school board of each elementary school, high school and unit school district that until that date is subject to the jurisdiction and authority of the township treasurer and trustees of schools of that township shall be deemed by operation of law to have agreed and assumed to pay and, when determined, shall pay to the Illinois Municipal Retirement Fund a proportionate share of the unfunded liability existing in that Fund at the time these offices are abolished in that calendar year for all annuities or other benefits then or thereafter to become payable from that Fund with respect to all periods of service performed prior to that date as a participating employee in that Fund by persons serving during those periods of service as a trustee of schools, township treasurer or regular employee in the office of the township treasurer of that township. That unfunded liability shall be

actuarially determined by the board of trustees of the Illinois Municipal Retirement Fund, and the board of trustees shall thereupon notify each school board required to pay a proportionate share of that unfunded liability of the aggregate amount of the unfunded liability so determined. The amount so paid to the Illinois Municipal Retirement Fund by each of those school districts shall be credited to the account of the township in that Fund. For each elementary school, high school and unit school district under the jurisdiction and authority of a township treasurer and trustees of schools of a township in which those offices are abolished as provided in this subsection, each such district's proportionate share of the aggregate compensation payable to the former township treasurer as provided in this paragraph and each such district's proportionate share of the aggregate amount of the unfunded liability payable to the Illinois Municipal Retirement Fund as provided in this paragraph shall be computed in accordance with the ratio that the number of pupils in average daily attendance in each such district for the school year last ending prior to the date on which the offices of township treasurer and trustee of schools of that township are abolished bears to the aggregate number of pupils in average daily attendance in all of those districts as so reported for that school year.

Upon abolition of the offices of township treasurer and trustee of schools of a township as provided in this

subsection: (i) the regional board of school trustees, in its corporate capacity, shall be deemed the successor in interest to the former trustees of schools of that township with respect to the common school lands and township loanable funds of the township; (ii) all right, title and interest existing or vested in the former trustees of schools of that township in the common school lands and township loanable funds of the township, and all records, moneys, securities and other assets, rights of property and causes of action pertaining to or constituting a part of those common school lands or township loanable funds, shall be transferred to and deemed vested by operation of law in the regional board of school trustees, which shall hold legal title to, manage and operate all common school lands and township loanable funds of the township, receive the rents, issues and profits therefrom, and have and exercise with respect thereto the same powers and duties as are provided by this Code to be exercised by regional boards of school trustees when acting as township land commissioners in counties having at least 220,000 but fewer than 2,000,000 inhabitants; (iii) the regional board of school trustees shall select to serve as its treasurer with respect to the common school lands and township loanable funds of the township a person from time to time also serving as the appointed school treasurer of any school district that was subject to the jurisdiction and authority of the township treasurer and trustees of schools of that township at the time those offices

were abolished, and the person selected to also serve as treasurer of the regional board of school trustees shall have his compensation for services in that capacity fixed by the regional board of school trustees, to be paid from the township loanable funds, and shall make to the regional board of school trustees the reports required to be made by treasurers of township land commissioners, give bond as required by treasurers of township land commissioners, and perform the duties and exercise the powers of treasurers of township land commissioners; (iv) the regional board of school trustees shall designate in the manner provided by Section 8-7, insofar as applicable, a depository for its treasurer, and the proceeds of all rents, issues and profits from the common school lands and township loanable funds of that township shall be deposited and held in the account maintained for those purposes with that depository and shall be expended and distributed therefrom as provided in Section 15-24 and other applicable provisions of this Code; and (v) whenever there is vested in the trustees of schools of a township at the time that office is abolished under this subsection the legal title to any school buildings or school sites used or occupied for school purposes by any elementary school, high school or unit school district subject to the jurisdiction and authority of those trustees of school at the time that office is abolished, the legal title to those school buildings and school sites shall be deemed transferred by operation of law to and invested in the school board of that

school district, in its corporate capacity Section 7-28, the same to be held, sold, exchanged leased or otherwise transferred in accordance with applicable provisions of this Code.

Notwithstanding Section 2-3.25g of this Code, a waiver of a mandate established under this Section may not be requested.

(Source: P.A. 94-1078, eff. 1-9-07; 94-1105, eff. 6-1-07; 95-4, eff. 5-31-07; revised 7-5-07.)

(105 ILCS 5/10-20.40)

Sec. 10-20.40. Student biometric information.

(a) For the purposes of this Section, "biometric information" means any information that is collected through an identification process for individuals based on their unique behavioral or physiological characteristics, including fingerprint, hand geometry, voice, or facial recognition or iris or retinal scans.

(b) School districts that collect biometric information from students shall adopt policies that require, at a minimum, all of the following:

(1) Written permission from the individual who has legal custody of the student, as defined in Section 10-20.12b of this Code, or from the student if he or she has reached the age of 18.

(2) The discontinuation of use of a student's biometric information under either of the following conditions:

(A) upon the student's graduation or withdrawal from the school district; or

(B) upon receipt in writing of a request for discontinuation by the individual having legal custody of the student or by the student if he or she has reached the age of 18.

(3) The destruction of all of a student's biometric information within 30 days after the biometric information is discontinued in accordance with item (2) of this subsection (b).

(4) The use of biometric information solely for identification or fraud prevention.

(5) A prohibition on the sale, lease, or other disclosure of biometric information to another person or entity, unless:

(A) the individual who has legal custody of the student or the student, if he or she has reached the age of 18, consents to the disclosure; or

(B) the disclosure is required by court order.

(6) The storage, transmittal, and protection of all biometric information from disclosure.

(c) Failure to provide written consent under item (1) of subsection (b) of this Section by the individual who has legal custody of the student or by the student, if he or she has reached the age of 18, must not be the basis for refusal of any services otherwise available to the student.

(Source: P.A. 95-232, eff. 8-16-07.)

(105 ILCS 5/10-20.41)

Sec. 10-20.41 ~~10-20.40~~. Use of facilities by community organizations. School boards are encouraged to allow community organizations to use school facilities during non-school hours. If a school board allows a community organization to use school facilities during non-school hours, the board must adopt a formal policy governing the use of school facilities by community organizations during non-school hours. The policy shall prohibit such use if it interferes with any school functions or the safety of students or school personnel or affects the property or liability of the school district.

(Source: P.A. 95-308, eff. 8-20-07; revised 12-7-07.)

(105 ILCS 5/10-20.42)

Sec. 10-20.42 ~~10-20.40~~. Wind farm. A school district may own and operate a wind generation turbine farm, either individually or jointly, that directly or indirectly reduces the energy or other operating costs of the school district. The school district may ask for the assistance of any State agency, including without limitation the State Board of Education or the Environmental Protection Agency, in obtaining financing options for a wind generation turbine farm.

(Source: P.A. 95-390, eff. 8-23-07; revised 12-7-07.)

(105 ILCS 5/10-20.43)

Sec. 10-20.43 ~~10-20.40~~. School facility occupation tax fund. All proceeds received by a school district from a distribution under 3-14.31 must be maintained in a special fund known as the school facility occupation tax fund. The district may use moneys in that fund only for school facility purposes, as that term is defined under Section 5-1006.7 of the Counties Code.

(Source: P.A. 95-675, eff. 10-11-07; revised 12-7-07.)

(105 ILCS 5/10-22.3f)

Sec. 10-22.3f. Required health benefits. Insurance protection and benefits for employees shall provide the post-mastectomy care benefits required to be covered by a policy of accident and health insurance under Section 356t and the coverage required under Sections 356g.5, 356u, 356w, 356x, 356z.6, and 356z.9 of the Illinois Insurance Code.

(Source: P.A. 95-189, eff. 8-16-07; 95-422, eff. 8-24-07; revised 12-4-07.)

(105 ILCS 5/10-22.22b) (from Ch. 122, par. 10-22.22b)

Sec. 10-22.22b. (a) The provisions of this subsection shall not apply to the deactivation of a high school facility under subsection (c). Where in its judgment the interests of the district and of the students therein will be best served, to deactivate any high school facility or elementary school

facility in the district and send the students of such high school in grades 9 through 12 or such elementary school in grades kindergarten through 8, as applicable, to schools in other districts. Such action may be taken only with the approval of the voters in the district and the approval, by proper resolution, of the school board of the receiving district. The board of the district contemplating deactivation shall, by proper resolution, cause the proposition to deactivate the school facility to be submitted to the voters of the district at a regularly scheduled election. Notice shall be published at least 10 days prior to the date of the election at least once in one or more newspapers published in the district or, if no newspaper is published in the district, in one or more newspapers with a general circulation within the district. The notice shall be substantially in the following form:

NOTICE OF REFERENDUM TO
 DEACTIVATE THE ... SCHOOL FACILITY
 IN SCHOOL DISTRICT NO.

Notice is hereby given that on (insert date), a referendum will be held in County (Counties) for the purpose of voting for or against the proposition to deactivate the School facility in School District No. and to send pupils in School to School District(s) No.

The polls will be open at o'clock ... m., and close at o'clock ... m. of the same day.

.....

Dated (insert date).

The proposition shall be in substantially the following form:

Shall the Board
of Education of School
District No.,
..... County, Illinois, be
authorized to deactivate
the School facility
and to send pupils in
School to School
District(s) No.?

YES

NO

If the majority of those voting upon the proposition in the district contemplating deactivation vote in favor of the proposition, the board of that district, upon approval of the board of the receiving district, shall execute a contract with the receiving district providing for the reassignment of students to the receiving district. If the deactivating district seeks to send its students to more than one district, it shall execute a contract with each receiving district. The length of the contract shall be for 2 school years, but the districts may renew the contract for additional one year or 2 year periods. Contract renewals shall be executed by January 1 of the year in which the existing contract expires. If the

majority of those voting upon the proposition do not vote in favor of the proposition, the school facility may not be deactivated.

The sending district shall pay to the receiving district an amount agreed upon by the 2 districts.

When the deactivation of school facilities becomes effective pursuant to this Section, the provisions of Section 24-12 relative to the contractual continued service status of teachers having contractual continued service whose positions are transferred from one board to the control of a different board shall apply, and the positions at the school facilities being deactivated held by teachers, as that term is defined in Section 24-11, having contractual continued service with the school district at the time of the deactivation shall be transferred to the control of the board or boards who shall be receiving the district's students on the following basis:

- (1) positions of such teachers in contractual continued service that were full time positions shall be transferred to the control of whichever of such boards such teachers shall request with the teachers making such requests proceeding in the order of those with the greatest length of continuing service with the board to those with the shortest length of continuing service with the board, provided that the number selecting one board over another board or other boards shall not exceed that proportion of the school students going to such board or boards; and

(2) positions of such teachers in contractual continued service that were full time positions and as to which there is no selection left under subparagraph 1 hereof shall be transferred to the appropriate board.

The contractual continued service status of any teacher thereby transferred to another district is not lost and the receiving board is subject to the School Code with respect to such transferred teacher in the same manner as if such teacher was the district's employee during the time such teacher was actually employed by the board of the deactivating district from which the position was transferred.

When the deactivation of school facilities becomes effective pursuant to this Section, the provisions of subsection (b) of Section 10-23.5 of this Code relative to the transfer of educational support personnel employees shall apply, and the positions at the school facilities being deactivated that are held by educational support personnel employees at the time of the deactivation shall be transferred to the control of the board or boards that will be receiving the district's students on the following basis:

(A) positions of such educational support personnel employees that were full-time positions shall be transferred to the control of whichever of the boards the employees request, with the educational support personnel employees making these requests proceeding in the order of those with the greatest length of continuing service with

the board to those with the shortest length of continuing service with the board, provided that the number selecting one board over another board or other boards must not exceed that proportion of students going to such board or boards; and

(B) positions of such educational support personnel employees that were full-time positions and as to which there is no selection left under subdivision (A) shall be transferred to the appropriate board.

The length of continuing service of any educational support personnel employee thereby transferred to another district is not lost and the receiving board is subject to this Code with respect to that transferred educational support personnel employee in the same manner as if the educational support personnel employee was the district's employee during the time the educational support personnel employee was actually employed by the board of the deactivating district from which the position was transferred.

(b) The provisions of this subsection shall not apply to the reactivation of a high school facility which is deactivated under subsection (c). The sending district may, with the approval of the voters in the district, reactivate the school facility which was deactivated. The board of the district seeking to reactivate the school facility shall, by proper resolution, cause the proposition to reactivate to be submitted to the voters of the district at a regularly scheduled

election. Notice shall be published at least 10 days prior to the date of the election at least once in one or more newspapers published in the district or, if no newspaper is published in the district, in one or more newspapers with a general circulation within the district. The notice shall be substantially in the following form:

NOTICE OF REFERENDUM TO
REACTIVATE THE SCHOOL FACILITY
IN SCHOOL DISTRICT NO.

Notice is hereby given that on (insert date), a referendum will be held in County (Counties) for the purpose of voting for or against the proposition to reactivate the School facility in School District No. and to discontinue sending pupils of School District No. to School District(s) No.

The polls will be opened at ... o'clock .. m., and closed at ... o'clock .. m. of the same day.

.....

Dated (insert date).

The proposition shall be in substantially the following form:

Shall the Board
of Education of School
District No.,
..... County, Illinois,
YES

be authorized to -----
 reactivate the School
 facility and to discontinue sending
 pupils of School District No. NO
 to School District(s) No.?

(c) The school board of any unit school district which experienced a strike by a majority of its certified employees that endured for over 6 months during the regular school term of the 1986-1987 school year, and which during the ensuing 1987-1988 school year had an enrollment in grades 9 through 12 of less than 125 students may, when in its judgment the interests of the district and of the students therein will be best served thereby, deactivate the high school facilities within the district for the regular term of the 1988-1989 school year and, for that school year only, send the students of such high school in grades 9 through 12 to schools in adjoining or adjacent districts. Such action may only be taken:

(a) by proper resolution of the school board deactivating its high school facilities and the approval, by proper resolution, of the school board of the receiving district or districts, and

(b) pursuant to a contract between the sending and each receiving district, which contract or contracts: (i) shall provide for the reassignment of all students of the deactivated high school in grades 9 through 12 to the receiving district or districts; (ii) shall apply only to the regular school term of

the 1988-1989 school year; (iii) shall not be subject to renewal or extension; and (iv) shall require the sending district to pay to the receiving district the cost of educating each student who is reassigned to the receiving district, such costs to be an amount agreed upon by the sending and receiving district but not less than the per capita cost of maintaining the high school in the receiving district during the 1987-1988 school year. Any high school facility deactivated pursuant to this subsection for the regular school term of the 1988-1989 school year shall be reactivated by operation of law as of the end of the regular term of the 1988-1989 school year. The status as a unit school district of a district which deactivates its high school facilities pursuant to this subsection shall not be affected by reason of such deactivation of its high school facilities and such district shall continue to be deemed in law a school district maintaining grades kindergarten through 12 for all purposes relating to the levy, extension, collection and payment of the taxes of the district under Article 17 for the 1988-1989 school year.

(d) Whenever a school facility is reactivated pursuant to the provisions of this Section, then all teachers in contractual continued service who were honorably dismissed or transferred as part of the deactivation process, in addition to other rights they may have under the School Code, shall be recalled or transferred back to the original district.

(Source: P.A. 94-213, eff. 7-14-05; 95-110, eff. 1-1-08;

95-148, eff. 8-14-07; revised 11-15-07.)

(105 ILCS 5/10-23.5) (from Ch. 122, par. 10-23.5)

Sec. 10-23.5. Educational support personnel employees.

(a) To employ such educational support personnel employees as it deems advisable and to define their employment duties; provided that residency within any school district shall not be considered in determining the employment or the compensation of any such employee, or whether to retain, promote, assign or transfer such employee. If an educational support personnel employee is removed or dismissed or the hours he or she works are reduced as a result of a decision of the school board (i) to decrease the number of educational support personnel employees employed by the board or (ii) to discontinue some particular type of educational support service, written notice shall be mailed to the employee and also given to the employee either by certified mail, return receipt requested, or personal delivery with receipt, at least 30 days before the employee is removed or dismissed or the hours he or she works are reduced, together with a statement of honorable dismissal and the reason therefor if applicable. However, if a reduction in hours is due to an unforeseen reduction in the student population, then the written notice must be mailed and given to the employee at least 5 days before the hours are reduced. The employee with the shorter length of continuing service with the district, within the respective category of position, shall be dismissed

first unless an alternative method of determining the sequence of dismissal is established in a collective bargaining agreement or contract between the board and any exclusive bargaining agent and except that this provision shall not impair the operation of any affirmative action program in the district, regardless of whether it exists by operation of law or is conducted on a voluntary basis by the board. If the board has any vacancies for the following school term or within one calendar year from the beginning of the following school term, the positions thereby becoming available within a specific category of position shall be tendered to the employees so removed or dismissed from that category or any other category of position, so far as they are qualified to hold such positions. Each board shall, in consultation with any exclusive employee representative or bargaining agent, each year establish a list, categorized by positions, showing the length of continuing service of each full time educational support personnel employee who is qualified to hold any such positions, unless an alternative method of determining a sequence of dismissal is established as provided for in this Section, in which case a list shall be made in accordance with the alternative method. Copies of the list shall be distributed to the exclusive employee representative or bargaining agent on or before February 1 of each year. Where an educational support personnel employee is dismissed by the board as a result of a decrease in the number of employees or the discontinuance of

the employee's job, the employee shall be paid all earned compensation on or before the third business day following his or her last day of employment.

The provisions of this amendatory Act of 1986 relating to residency within any school district shall not apply to cities having a population exceeding 500,000 inhabitants.

(b) In the case of a new school district or districts formed in accordance with Article 11E of this Code, a school district or districts that annex all of the territory of one or more entire other school districts in accordance with Article 7 of this Code, or a school district receiving students from a deactivated school facility in accordance with Section 10-22.22b of this Code, the employment of educational support personnel in the new, annexing, or receiving school district immediately following the reorganization shall be governed by this subsection (b). Lists of the educational support personnel employed in the individual districts for the school year immediately prior to the effective date of the new district or districts, annexation, or deactivation shall be combined for the districts forming the new district or districts, for the annexed and annexing districts, or for the deactivating and receiving districts, as the case may be. The combined list shall be categorized by positions, showing the length of continuing service of each full-time educational support personnel employee who is qualified to hold any such position. If there are more full-time educational support personnel

employees on the combined list than there are available positions in the new, annexing, or receiving school district, then the employing school board shall first remove or dismiss those educational support personnel employees with the shorter length of continuing service within the respective category of position, following the procedures outlined in subsection (a) of this Section. The employment and position of each educational support personnel employee on the combined list not so removed or dismissed shall be transferred to the new, annexing, or receiving school board, and the new, annexing, or receiving school board is subject to this Code with respect to any educational support personnel employee so transferred as if the educational support personnel employee had been the new, annexing, or receiving board's employee during the time the educational support personnel employee was actually employed by the school board of the district from which the employment and position were transferred.

The changes made by Public Act 95-148 ~~this amendatory Act of the 95th General Assembly~~ shall not apply to the formation of a new district or districts in accordance with Article 11E of this Code, the annexation of one or more entire districts in accordance with Article 7 of this Code, or the deactivation of a school facility in accordance with Section 10-22.22b of this Code effective on or before July 1, 2007.

(Source: P.A. 95-148, eff. 8-14-07; 95-396, eff. 8-23-07; revised 11-15-07.)

(105 ILCS 5/14-8.02) (from Ch. 122, par. 14-8.02)

Sec. 14-8.02. Identification, Evaluation and Placement of Children.

(a) The State Board of Education shall make rules under which local school boards shall determine the eligibility of children to receive special education. Such rules shall ensure that a free appropriate public education be available to all children with disabilities as defined in Section 14-1.02. The State Board of Education shall require local school districts to administer non-discriminatory procedures or tests to limited English proficiency students coming from homes in which a language other than English is used to determine their eligibility to receive special education. The placement of low English proficiency students in special education programs and facilities shall be made in accordance with the test results reflecting the student's linguistic, cultural and special education needs. For purposes of determining the eligibility of children the State Board of Education shall include in the rules definitions of "case study", "staff conference", "individualized educational program", and "qualified specialist" appropriate to each category of children with disabilities as defined in this Article. For purposes of determining the eligibility of children from homes in which a language other than English is used, the State Board of Education shall include in the rules definitions for "qualified

bilingual specialists" and "linguistically and culturally appropriate individualized educational programs". For purposes of this Section, as well as Sections 14-8.02a, 14-8.02b, and 14-8.02c of this Code, "parent" means a parent as defined in the federal Individuals with Disabilities Education Act (20 U.S.C. 1401(23)).

(b) No child shall be eligible for special education facilities except with a carefully completed case study fully reviewed by professional personnel in a multidisciplinary staff conference and only upon the recommendation of qualified specialists or a qualified bilingual specialist, if available. At the conclusion of the multidisciplinary staff conference, the parent of the child shall be given a copy of the multidisciplinary conference summary report and recommendations, which includes options considered, and be informed of their right to obtain an independent educational evaluation if they disagree with the evaluation findings conducted or obtained by the school district. If the school district's evaluation is shown to be inappropriate, the school district shall reimburse the parent for the cost of the independent evaluation. The State Board of Education shall, with advice from the State Advisory Council on Education of Children with Disabilities on the inclusion of specific independent educational evaluators, prepare a list of suggested independent educational evaluators. The State Board of Education shall include on the list clinical psychologists

licensed pursuant to the Clinical Psychologist Licensing Act. Such psychologists shall not be paid fees in excess of the amount that would be received by a school psychologist for performing the same services. The State Board of Education shall supply school districts with such list and make the list available to parents at their request. School districts shall make the list available to parents at the time they are informed of their right to obtain an independent educational evaluation. However, the school district may initiate an impartial due process hearing under this Section within 5 days of any written parent request for an independent educational evaluation to show that its evaluation is appropriate. If the final decision is that the evaluation is appropriate, the parent still has a right to an independent educational evaluation, but not at public expense. An independent educational evaluation at public expense must be completed within 30 days of a parent written request unless the school district initiates an impartial due process hearing or the parent or school district offers reasonable grounds to show that such 30 day time period should be extended. If the due process hearing decision indicates that the parent is entitled to an independent educational evaluation, it must be completed within 30 days of the decision unless the parent or the school district offers reasonable grounds to show that such 30 day period should be extended. If a parent disagrees with the summary report or recommendations of the multidisciplinary

conference or the findings of any educational evaluation which results therefrom, the school district shall not proceed with a placement based upon such evaluation and the child shall remain in his or her regular classroom setting. No child shall be eligible for admission to a special class for the educable mentally disabled or for the trainable mentally disabled except with a psychological evaluation and recommendation by a school psychologist. Consent shall be obtained from the parent of a child before any evaluation is conducted. If consent is not given by the parent or if the parent disagrees with the findings of the evaluation, then the school district may initiate an impartial due process hearing under this Section. The school district may evaluate the child if that is the decision resulting from the impartial due process hearing and the decision is not appealed or if the decision is affirmed on appeal. The determination of eligibility shall be made and the IEP meeting shall be completed within 60 school days from the date of written parental consent. In those instances when written parental consent is obtained with fewer than 60 pupil attendance days left in the school year, the eligibility determination shall be made and the IEP meeting shall be completed prior to the first day of the following school year. After a child has been determined to be eligible for a special education class, such child must be placed in the appropriate program pursuant to the individualized educational program by or no later than the beginning of the next school semester. The

appropriate program pursuant to the individualized educational program of students whose native tongue is a language other than English shall reflect the special education, cultural and linguistic needs. No later than September 1, 1993, the State Board of Education shall establish standards for the development, implementation and monitoring of appropriate bilingual special individualized educational programs. The State Board of Education shall further incorporate appropriate monitoring procedures to verify implementation of these standards. The district shall indicate to the parent and the State Board of Education the nature of the services the child will receive for the regular school term while waiting placement in the appropriate special education class.

If the child is deaf, hard of hearing, blind, or visually impaired and he or she might be eligible to receive services from the Illinois School for the Deaf or the Illinois School for the Visually Impaired, the school district shall notify the parents, in writing, of the existence of these schools and the services they provide and shall make a reasonable effort to inform the parents of the existence of other, local schools that provide similar services and the services that these other schools provide. This notification shall include without limitation information on school services, school admissions criteria, and school contact information.

In the development of the individualized education program for a student who has a disability on the autism spectrum

(which includes autistic disorder, Asperger's disorder, pervasive developmental disorder not otherwise specified, childhood disintegrative disorder, and Rett Syndrome, as defined in the Diagnostic and Statistical Manual of Mental Disorders, fourth edition (DSM-IV, 2000)), the IEP team shall consider all of the following factors:

(1) The verbal and nonverbal communication needs of the child.

(2) The need to develop social interaction skills and proficiencies.

(3) The needs resulting from the child's unusual responses to sensory experiences.

(4) The needs resulting from resistance to environmental change or change in daily routines.

(5) The needs resulting from engagement in repetitive activities and stereotyped movements.

(6) The need for any positive behavioral interventions, strategies, and supports to address any behavioral difficulties resulting from autism spectrum disorder.

(7) Other needs resulting from the child's disability that impact progress in the general curriculum, including social and emotional development.

Public Act 95-257 ~~This amendatory Act of the 95th General Assembly~~ does not create any new entitlement to a service, program, or benefit, but must not affect any entitlement to a

service, program, or benefit created by any other law.

If the student may be eligible to participate in the Home-Based Support Services Program for Mentally Disabled Adults authorized under the Developmental Disability and Mental Disability Services Act upon becoming an adult, the student's individualized education program shall include plans for (i) determining the student's eligibility for those home-based services, (ii) enrolling the student in the program of home-based services, and (iii) developing a plan for the student's most effective use of the home-based services after the student becomes an adult and no longer receives special educational services under this Article. The plans developed under this paragraph shall include specific actions to be taken by specified individuals, agencies, or officials.

(c) In the development of the individualized education program for a student who is functionally blind, it shall be presumed that proficiency in Braille reading and writing is essential for the student's satisfactory educational progress. For purposes of this subsection, the State Board of Education shall determine the criteria for a student to be classified as functionally blind. Students who are not currently identified as functionally blind who are also entitled to Braille instruction include: (i) those whose vision loss is so severe that they are unable to read and write at a level comparable to their peers solely through the use of vision, and (ii) those who show evidence of progressive vision loss that may result in

functional blindness. Each student who is functionally blind shall be entitled to Braille reading and writing instruction that is sufficient to enable the student to communicate with the same level of proficiency as other students of comparable ability. Instruction should be provided to the extent that the student is physically and cognitively able to use Braille. Braille instruction may be used in combination with other special education services appropriate to the student's educational needs. The assessment of each student who is functionally blind for the purpose of developing the student's individualized education program shall include documentation of the student's strengths and weaknesses in Braille skills. Each person assisting in the development of the individualized education program for a student who is functionally blind shall receive information describing the benefits of Braille instruction. The individualized education program for each student who is functionally blind shall specify the appropriate learning medium or media based on the assessment report.

(d) To the maximum extent appropriate, the placement shall provide the child with the opportunity to be educated with children who are not disabled; provided that children with disabilities who are recommended to be placed into regular education classrooms are provided with supplementary services to assist the children with disabilities to benefit from the regular classroom instruction and are included on the teacher's regular education class register. Subject to the limitation of

the preceding sentence, placement in special classes, separate schools or other removal of the disabled child from the regular educational environment shall occur only when the nature of the severity of the disability is such that education in the regular classes with the use of supplementary aids and services cannot be achieved satisfactorily. The placement of limited English proficiency students with disabilities shall be in non-restrictive environments which provide for integration with non-disabled peers in bilingual classrooms. Annually, each January, school districts shall report data on students from non-English speaking backgrounds receiving special education and related services in public and private facilities as prescribed in Section 2-3.30. If there is a disagreement between parties involved regarding the special education placement of any child, either in-state or out-of-state, the placement is subject to impartial due process procedures described in Article 10 of the Rules and Regulations to Govern the Administration and Operation of Special Education.

(e) No child who comes from a home in which a language other than English is the principal language used may be assigned to any class or program under this Article until he has been given, in the principal language used by the child and used in his home, tests reasonably related to his cultural environment. All testing and evaluation materials and procedures utilized for evaluation and placement shall not be linguistically, racially or culturally discriminatory.

(f) Nothing in this Article shall be construed to require any child to undergo any physical examination or medical treatment whose parents object thereto on the grounds that such examination or treatment conflicts with his religious beliefs.

(g) School boards or their designee shall provide to the parents of a child prior written notice of any decision (a) proposing to initiate or change, or (b) refusing to initiate or change, the identification, evaluation, or educational placement of the child or the provision of a free appropriate public education to their child, and the reasons therefor. Such written notification shall also inform the parent of the opportunity to present complaints with respect to any matter relating to the educational placement of the student, or the provision of a free appropriate public education and to have an impartial due process hearing on the complaint. The notice shall inform the parents in the parents' native language, unless it is clearly not feasible to do so, of their rights and all procedures available pursuant to this Act and the federal Individuals with Disabilities Education Improvement Act of 2004 (Public Law 108-446); it shall be the responsibility of the State Superintendent to develop uniform notices setting forth the procedures available under this Act and the federal Individuals with Disabilities Education Improvement Act of 2004 (Public Law 108-446) to be used by all school boards. The notice shall also inform the parents of the availability upon request of a list of free or low-cost legal and other relevant

services available locally to assist parents in initiating an impartial due process hearing. Any parent who is deaf, or does not normally communicate using spoken English, who participates in a meeting with a representative of a local educational agency for the purposes of developing an individualized educational program shall be entitled to the services of an interpreter.

(h) (Blank).

(i) (Blank).

(j) (Blank).

(k) (Blank).

(l) (Blank).

(m) (Blank).

(n) (Blank).

(o) (Blank).

(Source: P.A. 94-376, eff. 7-29-05; 94-1100, eff. 2-2-07; 95-257, eff. 1-1-08; revised 11-15-07.)

(105 ILCS 5/14C-8) (from Ch. 122, par. 14C-8)

Sec. 14C-8. Teacher certification - Qualifications - Issuance of certificates. No person shall be eligible for employment by a school district as a teacher of transitional bilingual education without either (a) holding a valid teaching certificate issued pursuant to Article 21 of this Code and meeting such additional language and course requirements as prescribed by the State Board of Education or (b) meeting the

requirements set forth in this Section. The Certification Board shall issue certificates valid for teaching in all grades of the common school in transitional bilingual education programs to any person who presents it with satisfactory evidence that he possesses an adequate speaking and reading ability in a language other than English in which transitional bilingual education is offered and communicative skills in English, and possessed within 5 years previous to his or her applying for a certificate under this Section a valid teaching certificate issued by a foreign country, or by a State or possession or territory of the United States, or other evidence of teaching preparation as may be determined to be sufficient by the Certification Board, or holds a degree from an institution of higher learning in a foreign country which the Certification Board determines to be the equivalent of a bachelor's degree from a recognized institution of higher learning in the United States; provided that any person seeking a certificate under this Section must meet the following additional requirements:

- (1) Such persons must be in good health;
- (2) Such persons must be of sound moral character;
- (3) Such persons must be legally present in the United States and possess legal authorization for employment;
- (4) Such persons must not be employed to replace any presently employed teacher who otherwise would not be replaced for any reason.

Certificates issuable pursuant to this Section shall be

issuable only during the 5 years immediately following the effective date of this Act and thereafter for additional periods of one year only upon a determination by the State Board of Education that a school district lacks the number of teachers necessary to comply with the mandatory requirements of Section 14C-3 of this Article for the establishment and maintenance of programs of transitional bilingual education and said certificates issued by the Certification Board shall be valid for a period of 6 years following their date of issuance and shall not be renewed, except that one renewal for a period of two years may be granted if necessary to permit the holder of a certificate issued under this Section to acquire a teaching certificate pursuant to Article 21 of this Code. Such certificates and the persons to whom they are issued shall be exempt from the provisions of Article 21 of this Code except that Sections 21-12, 21-13, 21-16, 21-17, 21-21, 21-22, 21-23 and 21-24 shall continue to be applicable to all such certificates.

After the effective date of this amendatory Act of 1984, an additional renewal for a period to expire August 31, 1985, may be granted. The State Board of Education shall report to the General Assembly on or before January 31, 1985 its recommendations for the qualification of teachers of bilingual education and for the qualification of teachers of English as a second language. Said qualification program shall take effect no later than August 31, 1985.

Beginning July 1, 2001, the State Board of Education shall implement a test or tests to assess the speaking, reading, writing, and grammar skills of applicants for a certificate issued under this Section in the English language and in the language of the transitional bilingual education program requested by the applicant and shall establish appropriate fees for these tests. The State Board of Education, in consultation with the Certification Board, shall promulgate rules to implement the required tests, including specific provisions to govern test selection, test validation, determination of a passing score, administration of the test or tests, frequency of administration, applicant fees, identification requirements for test takers, frequency of applicants taking the tests, the years for which a score is valid, waiving tests for individuals who have satisfactorily passed other tests, and the consequences of dishonest conduct in the application for or taking of the tests.

If the qualifications of an applicant for a certificate valid for teaching in transitional bilingual education programs in all grades of the common schools do not meet the requirements established for the issuance of that certificate, the Certification Board nevertheless shall issue the applicant a substitute teacher's certificate under Section 21-9 whenever it appears from the face of the application submitted for certification as a teacher of transitional bilingual education and the evidence presented in support thereof that the

applicant's qualifications meet the requirements established for the issuance of a certificate under Section 21-9; provided, that if it does not appear from the face of such application and supporting evidence that the applicant is qualified for issuance of a certificate under Section 21-9 the Certification Board shall evaluate the application with reference to the requirements for issuance of certificates under Section 21-9 and shall inform the applicant, at the time it denies the application submitted for certification as a teacher of transitional bilingual education, of the additional qualifications which the applicant must possess in order to meet the requirements established for issuance of (i) a certificate valid for teaching in transitional bilingual education programs in all grades of the common schools and (ii) a substitute teacher's certificate under Section 21-9.

(Source: P.A. 94-1105, eff. 6-1-07; 95-496, eff. 8-28-07; revised 11-15-07.)

(105 ILCS 5/18-12) (from Ch. 122, par. 18-12)

Sec. 18-12. Dates for filing State aid claims. The school board of each school district shall require teachers, principals, or superintendents to furnish from records kept by them such data as it needs in preparing and certifying to the regional superintendent its school district report of claims provided in Sections 18-8.05 through 18-9 as required by the State Superintendent of Education. The district claim shall be

based on the latest available equalized assessed valuation and tax rates, as provided in Section 18-8.05 and shall use the average daily attendance as determined by the method outlined in Section 18-8.05 and shall be certified and filed with the regional superintendent by June 21 for districts with an official school calendar end date before June 15 or within 2 weeks following the official school calendar end date for districts with a school year end date of June 15 or later. The regional superintendent shall certify and file with the State Superintendent of Education district State aid claims by July 1 for districts with an official school calendar end date before June 15 or no later than July 15 for districts with an official school calendar end date of June 15 or later. Failure to so file by these deadlines constitutes a forfeiture of the right to receive payment by the State until such claim is filed and vouchered for payment. The regional superintendent of schools shall certify the county report of claims by July 15; and the State Superintendent of Education shall voucher for payment those claims to the State Comptroller as provided in Section 18-11.

Except as otherwise provided in this Section, if any school district fails to provide the minimum school term specified in Section 10-19, the State aid claim for that year shall be reduced by the State Superintendent of Education in an amount equivalent to .56818% for each day less than the number of days required by this Code.

If the State Superintendent of Education determines that the failure to provide the minimum school term was occasioned by an act or acts of God, or was occasioned by conditions beyond the control of the school district which posed a hazardous threat to the health and safety of pupils, the State aid claim need not be reduced.

If the State Superintendent of Education determines that the failure to provide the minimum school term was due to a school being closed on or after September 11, 2001 for more than one-half day of attendance due to a bioterrorism or terrorism threat that was investigated by a law enforcement agency, the State aid claim shall not be reduced.

If, during any school day, (i) a school district has provided at least one clock hour of instruction but must close the schools due to adverse weather conditions or due to a condition beyond the control of the school district that poses a hazardous threat to the health and safety of pupils prior to providing the minimum hours of instruction required for a full day of attendance, (ii) the school district must delay the start of the school day due to adverse weather conditions and this delay prevents the district from providing the minimum hours of instruction required for a full day of attendance, or (iii) a school district has provided at least one clock hour of instruction but must dismiss students from one or more recognized school buildings due to a condition beyond the control of the school district, the partial day of attendance

may be counted as a full day of attendance. The partial day of attendance and the reasons therefor shall be certified in writing within a month of the closing or delayed start by the local school district superintendent to the Regional Superintendent of Schools for forwarding to the State Superintendent of Education for approval.

If a school building is ordered to be closed by the school board, in consultation with a local emergency response agency, due to a condition that poses a hazardous threat to the health and safety of pupils, then the school district shall have a grace period of 4 days in which the general State aid claim shall not be reduced so that alternative housing of the pupils may be located.

No exception to the requirement of providing a minimum school term may be approved by the State Superintendent of Education pursuant to this Section unless a school district has first used all emergency days provided for in its regular calendar.

If the State Superintendent of Education declares that an energy shortage exists during any part of the school year for the State or a designated portion of the State, a district may operate the school attendance centers within the district 4 days of the week during the time of the shortage by extending each existing school day by one clock hour of school work, and the State aid claim shall not be reduced, nor shall the employees of that district suffer any reduction in salary or

benefits as a result thereof. A district may operate all attendance centers on this revised schedule, or may apply the schedule to selected attendance centers, taking into consideration such factors as pupil transportation schedules and patterns and sources of energy for individual attendance centers.

No State aid claim may be filed for any district unless the district superintendent executes and files with the State Superintendent of Education, in the method prescribed by the Superintendent, certification that the district has complied with the requirements of Section 10-22.5 in regard to the nonsegregation of pupils on account of color, creed, race, sex or nationality.

No State aid claim may be filed for any district unless the district superintendent executes and files with the State Superintendent of Education, in the method prescribed by the Superintendent, a sworn statement that to the best of his or her knowledge or belief the employing or assigning personnel have complied with Section 24-4 in all respects.

Electronically submitted State aid claims shall be submitted by duly authorized district or regional individuals over a secure network that is password protected. The electronic submission of a State aid claim must be accompanied with an affirmation that all of the provisions of Sections 18-8.05 through 18-9, 10-22.5, and 24-4 of this Code are met in all respects.

(Source: P.A. 94-1105, eff. 6-1-07; 95-152, eff. 8-14-07; revised 11-15-07.)

(105 ILCS 5/27-8.1) (from Ch. 122, par. 27-8.1)

Sec. 27-8.1. Health examinations and immunizations.

(1) In compliance with rules and regulations which the Department of Public Health shall promulgate, and except as hereinafter provided, all children in Illinois shall have a health examination as follows: within one year prior to entering kindergarten or the first grade of any public, private, or parochial elementary school; upon entering the sixth and ninth grades of any public, private, or parochial school; prior to entrance into any public, private, or parochial nursery school; and, irrespective of grade, immediately prior to or upon entrance into any public, private, or parochial school or nursery school, each child shall present proof of having been examined in accordance with this Section and the rules and regulations promulgated hereunder.

A tuberculosis skin test screening shall be included as a required part of each health examination included under this Section if the child resides in an area designated by the Department of Public Health as having a high incidence of tuberculosis. Additional health examinations of pupils, including eye examinations, may be required when deemed necessary by school authorities. Parents are encouraged to have their children undergo eye examinations at the same points in

time required for health examinations.

(1.5) In compliance with rules adopted by the Department of Public Health and except as otherwise provided in this Section, all children in kindergarten and the second and sixth grades of any public, private, or parochial school shall have a dental examination. Each of these children shall present proof of having been examined by a dentist in accordance with this Section and rules adopted under this Section before May 15th of the school year. If a child in the second or sixth grade fails to present proof by May 15th, the school may hold the child's report card until one of the following occurs: (i) the child presents proof of a completed dental examination or (ii) the child presents proof that a dental examination will take place within 60 days after May 15th. The Department of Public Health shall establish, by rule, a waiver for children who show an undue burden or a lack of access to a dentist. Each public, private, and parochial school must give notice of this dental examination requirement to the parents and guardians of students at least 60 days before May 15th of each school year.

(1.10) Except as otherwise provided in this Section, all children enrolling in kindergarten in a public, private, or parochial school on or after the effective date of this amendatory Act of the 95th General Assembly and any student enrolling for the first time in a public, private, or parochial school on or after the effective date of this amendatory Act of the 95th General Assembly shall have an eye examination. Each

of these children shall present proof of having been examined by a physician licensed to practice medicine in all of its branches or a licensed optometrist within the previous year, in accordance with this Section and rules adopted under this Section, before October 15th of the school year. If the child fails to present proof by October 15th, the school may hold the child's report card until one of the following occurs: (i) the child presents proof of a completed eye examination or (ii) the child presents proof that an eye examination will take place within 60 days after October 15th. The Department of Public Health shall establish, by rule, a waiver for children who show an undue burden or a lack of access to a physician licensed to practice medicine in all of its branches who provides eye examinations or to a licensed optometrist. Each public, private, and parochial school must give notice of this eye examination requirement to the parents and guardians of students in compliance with rules of the Department of Public Health. Nothing in this Section shall be construed to allow a school to exclude a child from attending because of a parent's or guardian's failure to obtain an eye examination for the child.

(2) The Department of Public Health shall promulgate rules and regulations specifying the examinations and procedures that constitute a health examination, which shall include the collection of data relating to obesity (including at a minimum, date of birth, gender, height, weight, blood pressure, and date

of exam), and a dental examination and may recommend by rule that certain additional examinations be performed. The rules and regulations of the Department of Public Health shall specify that a tuberculosis skin test screening shall be included as a required part of each health examination included under this Section if the child resides in an area designated by the Department of Public Health as having a high incidence of tuberculosis. The Department of Public Health shall specify that a diabetes screening as defined by rule shall be included as a required part of each health examination. Diabetes testing is not required.

Physicians licensed to practice medicine in all of its branches, advanced practice nurses who have a written collaborative agreement with a collaborating physician which authorizes them to perform health examinations, or physician assistants who have been delegated the performance of health examinations by their supervising physician shall be responsible for the performance of the health examinations, other than dental examinations, eye examinations, and vision and hearing screening, and shall sign all report forms required by subsection (4) of this Section that pertain to those portions of the health examination for which the physician, advanced practice nurse, or physician assistant is responsible. If a registered nurse performs any part of a health examination, then a physician licensed to practice medicine in all of its branches must review and sign all

required report forms. Licensed dentists shall perform all dental examinations and shall sign all report forms required by subsection (4) of this Section that pertain to the dental examinations. Physicians licensed to practice medicine in all its branches or licensed optometrists shall perform all eye examinations required by this Section and shall sign all report forms required by subsection (4) of this Section that pertain to the eye examination. For purposes of this Section, an eye examination shall at a minimum include history, visual acuity, subjective refraction to best visual acuity near and far, internal and external examination, and a glaucoma evaluation, as well as any other tests or observations that in the professional judgment of the doctor are necessary. Vision and hearing screening tests, which shall not be considered examinations as that term is used in this Section, shall be conducted in accordance with rules and regulations of the Department of Public Health, and by individuals whom the Department of Public Health has certified. In these rules and regulations, the Department of Public Health shall require that individuals conducting vision screening tests give a child's parent or guardian written notification, before the vision screening is conducted, that states, "Vision screening is not a substitute for a complete eye and vision evaluation by an eye doctor. Your child is not required to undergo this vision screening if an optometrist or ophthalmologist has completed and signed a report form indicating that an examination has

been administered within the previous 12 months."

(3) Every child shall, at or about the same time as he or she receives a health examination required by subsection (1) of this Section, present to the local school proof of having received such immunizations against preventable communicable diseases as the Department of Public Health shall require by rules and regulations promulgated pursuant to this Section and the Communicable Disease Prevention Act.

(4) The individuals conducting the health examination, dental examination, or eye examination shall record the fact of having conducted the examination, and such additional information as required, including for a health examination data relating to obesity (including at a minimum, date of birth, gender, height, weight, blood pressure, and date of exam), on uniform forms which the Department of Public Health and the State Board of Education shall prescribe for statewide use. The examiner shall summarize on the report form any condition that he or she suspects indicates a need for special services, including for a health examination factors relating to obesity. The individuals confirming the administration of required immunizations shall record as indicated on the form that the immunizations were administered.

(5) If a child does not submit proof of having had either the health examination or the immunization as required, then the child shall be examined or receive the immunization, as the case may be, and present proof by October 15 of the current

school year, or by an earlier date of the current school year established by a school district. To establish a date before October 15 of the current school year for the health examination or immunization as required, a school district must give notice of the requirements of this Section 60 days prior to the earlier established date. If for medical reasons one or more of the required immunizations must be given after October 15 of the current school year, or after an earlier established date of the current school year, then the child shall present, by October 15, or by the earlier established date, a schedule for the administration of the immunizations and a statement of the medical reasons causing the delay, both the schedule and the statement being issued by the physician, advanced practice nurse, physician assistant, registered nurse, or local health department that will be responsible for administration of the remaining required immunizations. If a child does not comply by October 15, or by the earlier established date of the current school year, with the requirements of this subsection, then the local school authority shall exclude that child from school until such time as the child presents proof of having had the health examination as required and presents proof of having received those required immunizations which are medically possible to receive immediately. During a child's exclusion from school for noncompliance with this subsection, the child's parents or legal guardian shall be considered in violation of Section 26-1 and subject to any penalty imposed by Section

26-10. This subsection (5) does not apply to dental examinations and eye examinations.

(6) Every school shall report to the State Board of Education by November 15, in the manner which that agency shall require, the number of children who have received the necessary immunizations and the health examination (other than a dental examination or eye examination) as required, indicating, of those who have not received the immunizations and examination as required, the number of children who are exempt from health examination and immunization requirements on religious or medical grounds as provided in subsection (8). Every school shall report to the State Board of Education by June 30, in the manner that the State Board requires, the number of children who have received the required dental examination, indicating, of those who have not received the required dental examination, the number of children who are exempt from the dental examination on religious grounds as provided in subsection (8) of this Section and the number of children who have received a waiver under subsection (1.5) of this Section. Every school shall report to the State Board of Education by June 30, in the manner that the State Board requires, the number of children who have received the required eye examination, indicating, of those who have not received the required eye examination, the number of children who are exempt from the eye examination as provided in subsection (8) of this Section, the number of children who have received a waiver under subsection (1.10) of

this Section, and the total number of children in noncompliance with the eye examination requirement. This reported information shall be provided to the Department of Public Health by the State Board of Education.

(7) Upon determining that the number of pupils who are required to be in compliance with subsection (5) of this Section is below 90% of the number of pupils enrolled in the school district, 10% of each State aid payment made pursuant to Section 18-8.05 to the school district for such year may be withheld by the State Board of Education until the number of students in compliance with subsection (5) is the applicable specified percentage or higher.

(8) Parents or legal guardians who object to health, dental, or eye examinations or any part thereof, or to immunizations, on religious grounds shall not be required to submit their children or wards to the examinations or immunizations to which they so object if such parents or legal guardians present to the appropriate local school authority a signed statement of objection, detailing the grounds for the objection. If the physical condition of the child is such that any one or more of the immunizing agents should not be administered, the examining physician, advanced practice nurse, or physician assistant responsible for the performance of the health examination shall endorse that fact upon the health examination form. Exempting a child from the health, dental, or eye examination does not exempt the child from

participation in the program of physical education training provided in Sections 27-5 through 27-7 of this Code.

(9) For the purposes of this Section, "nursery schools" means those nursery schools operated by elementary school systems or secondary level school units or institutions of higher learning.

(Source: P.A. 95-331, eff. 8-21-07; 95-422, eff. 8-24-07; 95-496, eff. 8-28-07; 95-671, eff. 1-1-08; revised 11-15-07.)

(105 ILCS 5/27-17) (from Ch. 122, par. 27-17)

Sec. 27-17. Safety education. School boards of public schools and all boards in charge of educational institutions supported wholly or partially by the State may provide instruction in safety education in all grades and include such instruction in the courses of study regularly taught therein.

In this section "safety education" means and includes instruction in the following:

1. automobile safety, including traffic regulations, highway safety, and the consequences of alcohol consumption and the operation of a motor vehicle;

2. safety in the home;

3. safety in connection with recreational activities;

4. safety in and around school buildings;

5. safety in connection with vocational work or training;

and

6. cardio-pulmonary resuscitation for pupils enrolled in

grades 9 through 11.

Such boards may make suitable provisions in the schools and institutions under their jurisdiction for instruction in safety education for not less than 16 hours during each school year.

The curriculum in all State universities shall contain instruction in safety education for teachers that is appropriate to the grade level of the teaching certificate. This instruction may be by specific courses in safety education or may be incorporated in existing subjects taught in the university.

(Source: P.A. 95-168, eff. 8-14-07; 95-371, eff. 8-23-07; revised 11-15-07.)

(105 ILCS 5/27-23.7)

Sec. 27-23.7. Bullying prevention education; gang resistance education and training.

(a) The General Assembly finds that bullying has a negative effect on the social environment of schools, creates a climate of fear among students, inhibits their ability to learn, and leads to other antisocial behavior. Bullying behavior has been linked to other forms of antisocial behavior, such as vandalism, shoplifting, skipping and dropping out of school, fighting, using drugs and alcohol, sexual harassment, and sexual violence.

The General Assembly further finds that the instance of

youth delinquent gangs continues to rise on a statewide basis. Given the higher rates of criminal offending among gang members, as well as the availability of increasingly lethal weapons, the level of criminal activity by gang members has taken on new importance for law enforcement agencies, schools, the community, and prevention efforts.

(b) In this Section:

"Bullying prevention" means and includes instruction in all of the following:

- (1) Intimidation.
- (2) Student victimization.
- (3) Sexual harassment.
- (4) Sexual violence.
- (5) Strategies for student-centered problem solving regarding bullying.

"Gang resistance education and training" means and includes instruction in, without limitation, each of the following subject matters when accompanied by a stated objective of reducing gang activity and educating children in grades K through 12 about the consequences of gang involvement:

- (1) Conflict resolution.
- (2) Cultural sensitivity.
- (3) Personal goal setting.
- (4) Resisting peer pressure.

(c) Each school district may make suitable provisions for instruction in bullying prevention and gang resistance

education and training in all grades and include such instruction in the courses of study regularly taught therein. A school board may collaborate with a community-based agency providing specialized curricula in bullying prevention whose ultimate outcome is to prevent sexual violence. For the purposes of gang resistance education and training, a school board must collaborate with State and local law enforcement agencies. The State Board of Education may assist in the development of instructional materials and teacher training in relation to bullying prevention and gang resistance education and training.

(d) Beginning 180 days after August 23, 2007 (the effective date of Public Act 95-349) ~~this amendatory Act of the 95th General Assembly~~, each school district shall create and maintain a policy on bullying, which policy must be filed with the State Board of Education. Each school district must communicate its policy on bullying to its students and their parent or guardian on an annual basis. The policy must be updated every 2 years and filed with the State Board of Education after being updated. The State Board of Education shall monitor the implementation of policies created under this subsection (d).

(Source: P.A. 94-937, eff. 6-26-06; 95-198, eff. 1-1-08; 95-349, eff. 8-23-07; revised 11-15-07.)

Sec. 34-18.34. Student biometric information.

(a) For the purposes of this Section, "biometric information" means any information that is collected through an identification process for individuals based on their unique behavioral or physiological characteristics, including fingerprint, hand geometry, voice, or facial recognition or iris or retinal scans.

(b) If the school district collects biometric information from students, the district shall adopt a policy that requires, at a minimum, all of the following:

(1) Written permission from the individual who has legal custody of the student, as defined in Section 10-20.12b of this Code, or from the student if he or she has reached the age of 18.

(2) The discontinuation of use of a student's biometric information under either of the following conditions:

(A) upon the student's graduation or withdrawal from the school district; or

(B) upon receipt in writing of a request for discontinuation by the individual having legal custody of the student or by the student if he or she has reached the age of 18.

(3) The destruction of all of a student's biometric information within 30 days after the biometric information is discontinued in accordance with item (2) of this subsection (b).

(4) The use of biometric information solely for identification or fraud prevention.

(5) A prohibition on the sale, lease, or other disclosure of biometric information to another person or entity, unless:

(A) the individual who has legal custody of the student or the student, if he or she has reached the age of 18, consents to the disclosure; or

(B) the disclosure is required by court order.

(6) The storage, transmittal, and protection of all biometric information from disclosure.

(c) Failure to provide written consent under item (1) of subsection (b) of this Section by the individual who has legal custody of the student or by the student, if he or she has reached the age of 18, must not be the basis for refusal of any services otherwise available to the student.

(Source: P.A. 95-232, eff. 8-16-07.)

(105 ILCS 5/34-18.35)

Sec. 34-18.35 ~~34-18.34~~. Use of facilities by community organizations. The board is encouraged to allow community organizations to use school facilities during non-school hours. If the board allows a community organization to use school facilities during non-school hours, the board must adopt a formal policy governing the use of school facilities by community organizations during non-school hours. The policy

shall prohibit such use if it interferes with any school functions or the safety of students or school personnel or affects the property or liability of the school district.

(Source: P.A. 95-308, eff. 8-20-07; revised 12-7-07.)

(105 ILCS 5/34-18.36)

Sec. 34-18.36 ~~34-18.34~~. Wind farm. The school district may own and operate a wind generation turbine farm, either individually or jointly, that directly or indirectly reduces the energy or other operating costs of the school district. The school district may ask for the assistance of any State agency, including without limitation the State Board of Education or the Environmental Protection Agency, in obtaining financing options for a wind generation turbine farm.

(Source: P.A. 95-390, eff. 8-23-07; revised 12-7-07.)

Section 180. The Southern Illinois University Management Act is amended by changing Section 8 as follows:

(110 ILCS 520/8) (from Ch. 144, par. 658)

Sec. 8. Powers and Duties of the Board. The Board shall have power and it shall be its duty:

1. To make rules, regulations and by-laws, not inconsistent with law, for the government and management of Southern Illinois University and its branches;

2. To employ, and, for good cause, to remove a

president of Southern Illinois University, and all necessary deans, professors, associate professors, assistant professors, instructors, and other educational and administrative assistants, and all other necessary employees, and contract with them upon matters relating to tenure, salaries and retirement benefits in accordance with the State Universities Civil Service Act; the Board shall, upon the written request of an employee of Southern Illinois University, withhold from the compensation of that employee any dues, payments or contributions payable by such employee to any labor organization as defined in the Illinois Educational Labor Relations Act. Under such arrangement, an amount shall be withheld from each regular payroll period which is equal to the pro rata share of the annual dues plus any payments or contributions, and the Board shall transmit such withholdings to the specified labor organization within 10 working days from the time of the withholding. Whenever the Board establishes a search committee to fill the position of president of Southern Illinois University, there shall be minority representation, including women, on that search committee;

3. To prescribe the course of study to be followed, and textbooks and apparatus to be used at Southern Illinois University;

4. To issue upon the recommendation of the faculty, diplomas to such persons as have satisfactorily completed

the required studies of Southern Illinois University, and confer such professional and literary degrees as are usually conferred by other institutions of like character for similar or equivalent courses of study, or such as the Board may deem appropriate;

5. To examine into the conditions, management, and administration of Southern Illinois University, to provide the requisite buildings, apparatus, equipment and auxiliary enterprises, and to fix and collect matriculation fees; tuition fees; fees for student activities; fees for student facilities such as student union buildings or field houses or stadium or other recreational facilities; student welfare fees; laboratory fees and similar fees for supplies and material;

6. To succeed to and to administer all trusts, trust property, and gifts now or hereafter belonging or pertaining to Southern Illinois University;

7. To accept endowments of professorships or departments in the University from any person who may proffer them and, at regular meetings, to prescribe rules and regulations in relation to endowments and declare on what general principles they may be accepted;

8. To enter into contracts with the Federal government for providing courses of instruction and other services at Southern Illinois University for persons serving in or with the military or naval forces of the United States, and to

provide such courses of instruction and other services;

9. To provide for the receipt and expenditures of Federal funds, paid to the Southern Illinois University by the Federal government for instruction and other services for persons serving in or with the military or naval forces of the United States and to provide for audits of such funds;

10. To appoint, subject to the applicable civil service law, persons to be members of the Southern Illinois University Police Department. Members of the Police Department shall be conservators of the peace and as such have all powers possessed by policemen in cities, and sheriffs, including the power to make arrests on view or warrants of violations of state statutes, university rules and regulations and city or county ordinances, except that they may exercise such powers only within counties wherein the university and any of its branches or properties are located when such is required for the protection of university properties and interests, and its students and personnel, and otherwise, within such counties, when requested by appropriate State or local law enforcement officials. However, such officers shall have no power to serve and execute civil processes.

The Board must authorize to each member of the Southern Illinois University Police Department and to any other employee of Southern Illinois University exercising the

powers of a peace officer a distinct badge that, on its face, (i) clearly states that the badge is authorized by Southern Illinois University and (ii) contains a unique identifying number. No other badge shall be authorized by Southern Illinois University.

10.5. ~~(10.5)~~ To conduct health care programs in furtherance of its teaching, research, and public service functions, which shall include without limitation patient and ancillary facilities, institutes, clinics, or offices owned, leased, or purchased through an equity interest by the Board or its appointed designee to carry out such activities in the course of or in support of the Board's academic, clinical, and public service responsibilities.

11. To administer a plan or plans established by the clinical faculty of the School of Medicine for the billing, collection and disbursement of charges for services performed in the course of or in support of the faculty's academic responsibilities, provided that such plan has been first approved by Board action. All such collections shall be deposited into a special fund or funds administered by the Board from which disbursements may be made according to the provisions of said plan. The reasonable costs incurred, by the University, administering the billing, collection and disbursement provisions of a plan shall have first priority for payment before distribution or disbursement for any other purpose.

Audited financial statements of the plan or plans must be provided to the Legislative Audit Commission annually.

The Board of Trustees may own, operate, or govern, by or through the School of Medicine, a managed care community network established under subsection (b) of Section 5-11 of the Illinois Public Aid Code.

12. The Board of Trustees may, directly or in cooperation with other institutions of higher education, acquire by purchase or lease or otherwise, and construct, enlarge, improve, equip, complete, operate, control and manage medical research and high technology parks, together with the necessary lands, buildings, facilities, equipment, and personal property therefor, to encourage and facilitate (a) the location and development of business and industry in the State of Illinois, and (b) the increased application and development of technology and (c) the improvement and development of the State's economy. The Board of Trustees may lease to nonprofit corporations all or any part of the land, buildings, facilities, equipment or other property included in a medical research and high technology park upon such terms and conditions as the Board of Trustees may deem advisable and enter into any contract or agreement with such nonprofit corporations as may be necessary or suitable for the construction, financing, operation and maintenance and management of any such park; and may lease to any person, firm, partnership

or corporation, either public or private, any part or all of the land, building, facilities, equipment or other property of such park for such purposes and upon such rentals, terms and conditions as the Board of Trustees may deem advisable; and may finance all or part of the cost of any such park, including the purchase, lease, construction, reconstruction, improvement, remodeling, addition to, and extension and maintenance of all or part of such high technology park, and all equipment and furnishings, by legislative appropriations, government grants, contracts, private gifts, loans, receipts from the operation of such high technology park, rentals and similar receipts; and may make its other facilities and services available to tenants or other occupants of any such park at rates which are reasonable and appropriate.

The powers of the Board as herein designated are subject to the Board of Higher Education Act.

(Source: P.A. 95-158, eff. 8-14-07; revised 11-15-07.)

Section 185. The Public Community College Act is amended by renumbering Section 2.24 as follows:

(110 ILCS 805/2-25)

Sec. 2-25 ~~2-24~~. College and Career Readiness Pilot Program.

(a) The General Assembly finds that there is a direct and significant link between students being academically prepared

for college and success in postsecondary education. Many students enter college unprepared for the academic rigors of college and require noncredit remedial courses to attain skills and knowledge needed for regular, credit coursework. Remediation lengthens time to degree, imposes additional costs on students and colleges, and uses student financial aid for courses that will not count toward a degree. All high school juniors take the Prairie State Achievement Examination, which contains the ACT college assessment exam. ACT test elements and scores can be correlated to specific course placements in community colleges. Customized ACT test results can be used in collaboration with high schools to assist high school students identify areas for improvement and help them close skill gaps during their senior year. Greater college and career readiness will reduce the need for remediation, lower educational costs, shorten time to degree, and increase the overall success rate of Illinois college students.

(b) Subject to appropriation, the State Board shall create a 3-year pilot project, to be known as the College and Career Readiness Pilot Program. The goals of the program are as follows:

(1) To diagnose college readiness by developing a system to align ACT scores to specific community college courses in developmental and freshman curriculums.

(2) To reduce remediation by decreasing the need for remedial coursework in mathematics, reading, and writing

at the college level through (i) increasing the number of students enrolled in a college-prep core curriculum, (ii) assisting students in improving college readiness skills, and (iii) increasing successful student transitions into postsecondary education.

(3) To align high school and college curriculums.

(4) To provide resources and academic support to students to enrich the senior year of high school through remedial or advanced coursework and other interventions.

(5) To develop an appropriate evaluation process to measure the effectiveness of readiness intervention strategies.

(c) The first year of the program created under this Section shall begin with the high school class of 2008.

(1) The State Board shall select 4 community colleges to participate in the program based on all of the following:

(A) The percentage of students in developmental coursework.

(B) Demographics of student enrollment, including socioeconomic status, race and ethnicity, and enrollments of first-generation college students.

(C) Geographic diversity.

(D) The willingness of the community college to submit developmental and introductory courses to ACT for analysis of college placement.

(E) The ability of the community college to partner with local high schools to develop college and career readiness strategies and college readiness teams.

(2) The State Board shall work with ACT to analyze up to 10 courses at each participating community college for purposes of determining student placement and college readiness.

(3) Each participating community college shall establish an agreement with a high school or schools to do all of the following:

(A) Create a data-sharing agreement.

(B) Create a Readiness Prescription for each student, showing all of the following:

(i) The readiness status for college-level work.

(ii) Course recommendations for remediation or for advanced coursework in Advanced Placement classes or dual credit and dual enrollment programs.

(iii) Additional academic support services, including tutoring, mentoring, and college application assistance.

(C) Create college and career readiness teams comprised of faculty and counselors or advisers from the community college and high school, the college and career readiness coordinator from the community

college, and other members as determined by the high school and community college. The teams may include local business or civic leaders. The teams shall develop intervention strategies as follows:

(i) Use the Readiness Prescription to develop a contract with each student for remedial or advanced coursework to be taken during the senior year.

(ii) Monitor student progress.

(iii) Provide readiness support services.

(D) Retest students in the spring of 2008 to assess progress and college readiness.

(4) The State Board shall work with participating community colleges and high schools to develop an appropriate evaluation process to measure effectiveness of intervention strategies, including all of the following:

(A) Baseline data for each participating school.

(B) Baseline data for the Illinois system.

(C) Comparison of ACT scores from March 2007 to March 2008.

(D) Student enrollment in college in the fall of 2008.

(E) Placement of college and career readiness students in developmental and regular courses in the fall of 2008.

(F) Retention of college and career readiness

students in the spring semester of 2009.

(5) The State Board shall work with participating community colleges and high schools to establish operational processes and a budget for college and career readiness pilot programs, including all of the following:

(A) Employment of a college and career readiness coordinator at each community college site.

(B) Establishment of a budget.

(C) Creation of college and career readiness teams, resources, and partnership agreements.

(d) The second year of the program created under this Section shall begin with the high school class of 2009. In the second year, the State Board shall have all of the following duties:

(1) Analyze courses at 3 new community college sites.

(2) Undertake intervention strategies through college and career readiness teams with students in the class of 2009.

(3) Monitor and assist college and career readiness graduates from the class of 2008 in college.

(e) The third year of the program created under this Section shall begin with the high school class of 2010. In the third year, the State Board shall have all of the following duties:

(1) Analyze courses at 5 new community college sites.

(2) Add college and career readiness teams at 3 new

sites (from year 2 of the program).

(3) Undertake intervention strategies through college and career readiness teams with students of the class of 2010 at 7 sites.

(4) Monitor and assist students from the classes of 2008 and 2009 in college.

(Source: P.A. 95-694, eff. 11-5-07; revised 12-7-07.)

Section 190. The Assisted Living and Shared Housing Act is amended by changing Sections 35 and 45 as follows:

(210 ILCS 9/35)

Sec. 35. Issuance of license.

(a) Upon receipt and review of an application for a license and review of the applicant establishment, the Director may issue a license if he or she finds:

(1) that the individual applicant, or the corporation, partnership, or other entity if the applicant is not an individual, is a person responsible and suitable to operate or to direct or participate in the operation of an establishment by virtue of financial capacity, appropriate business or professional experience, a record of lawful compliance with lawful orders of the Department and lack of revocation of a license issued under this Act or the Nursing Home Care Act during the previous 5 years;

(2) that the establishment is under the supervision of

a full-time director who is at least 21 years of age and has a high school diploma or equivalent plus either:

(A) 2 years of management experience or 2 years of experience in positions of progressive responsibility in health care, housing with services, or adult day care or providing similar services to the elderly; or

(B) 2 years of management experience or 2 years of experience in positions of progressive responsibility in hospitality and training in health care and housing with services management as defined by rule;

(3) that the establishment has staff sufficient in number with qualifications, adequate skills, education, and experience to meet the 24 hour scheduled and unscheduled needs of residents and who participate in ongoing training to serve the resident population;

(4) that all employees who are subject to the Health Care Worker Background Check Act meet the requirements of that Act;

(5) that the applicant is in substantial compliance with this Act and such other requirements for a license as the Department by rule may establish under this Act;

(6) that the applicant pays all required fees;

(7) that the applicant has provided to the Department an accurate disclosure document in accordance with the Alzheimer's Special Care Disclosure Act and in substantial compliance with Section 150 of this Act.

In addition to any other requirements set forth in this Act, as a condition of licensure under this Act, the director of an establishment must participate in at least 20 hours of training every 2 years to assist him or her in better meeting the needs of the residents of the establishment and managing ~~manage~~ the operation of the establishment.

Any license issued by the Director shall state the physical location of the establishment, the date the license was issued, and the expiration date. All licenses shall be valid for one year, except as provided in Sections 40 and 45. Each license shall be issued only for the premises and persons named in the application, and shall not be transferable or assignable.

(Source: P.A. 95-79, eff. 8-13-07; 95-590, eff. 9-10-07; 95-628, eff. 9-25-07; revised 11-15-07.)

(210 ILCS 9/45)

Sec. 45. Renewal of licenses. At least 120 days, but not more than 150 days prior to license expiration, the licensee shall submit an application for renewal of the license in such form and containing such information as the Department requires. If the application is approved, and if the licensee (i) has not committed a Type 1 violation in the preceding 24 months, (ii) has not committed a Type 2 violation in the preceding 24 months, (iii) has not had an inspection, review, or evaluation that resulted in a finding of 10 or more Type 3 violations in the preceding 24 months, and (iv) ~~the licensee~~

has not admitted or retained a resident in violation of Section 75 of this Act in the preceding 24 months, the Department may renew the license for an additional period of 2 years. If a licensee whose license has been renewed for 2 years under this Section subsequently fails to meet any of the conditions set forth in items (i), (ii), and (iii), then, in addition to any other sanctions that the Department may impose under this Act, the Department shall revoke the 2-year license and replace it with a one-year license until the licensee again meets all of the conditions set forth in items (i), (ii), and (iii). If appropriate, the renewal application shall not be approved unless the applicant has provided to the Department an accurate disclosure document in accordance with the Alzheimer's Special Care Disclosure Act. If the application for renewal is not timely filed, the Department shall so inform the licensee.

(Source: P.A. 95-590, eff. 9-10-07; revised 11-15-07.)

Section 195. The Hospital Licensing Act is amended by changing Section 6.09 and by setting forth and renumbering multiple versions of Section 6.23 as follows:

(210 ILCS 85/6.09) (from Ch. 111 1/2, par. 147.09)

Sec. 6.09. (a) In order to facilitate the orderly transition of aged and disabled patients from hospitals to post-hospital care, whenever a patient who qualifies for the federal Medicare program is hospitalized, the patient shall be

notified of discharge at least 24 hours prior to discharge from the hospital. With regard to pending discharges to a skilled nursing facility, the hospital must notify the case coordination unit, as defined in 89 Ill. Adm. Code 240.260, at least 24 hours prior to discharge or, if home health services are ordered, the hospital must inform its designated case coordination unit, as defined in 89 Ill. Adm. Code 240.260, of the pending discharge and must provide the patient with the case coordination unit's telephone number and other contact information.

(b) Every hospital shall develop procedures for a physician with medical staff privileges at the hospital or any appropriate medical staff member to provide the discharge notice prescribed in subsection (a) of this Section. The procedures must include prohibitions against discharging or referring a patient to any of the following if unlicensed, uncertified, or unregistered: (i) a board and care facility, as defined in the Board and Care Home Act; (ii) an assisted living and shared housing establishment, as defined in the Assisted Living and Shared Housing Act; (iii) a facility licensed under the Nursing Home Care Act; (iv) a supportive living facility, as defined in Section 5-5.01a of the Illinois Public Aid Code; or (v) a free-standing hospice facility licensed under the Hospice Program Licensing Act if licensure, certification, or registration is required. The Department of Public Health shall annually provide hospitals with a list of licensed, certified,

or registered board and care facilities, assisted living and shared housing establishments, nursing homes, supportive living facilities, and hospice facilities. Reliance upon this list by a hospital shall satisfy compliance with this requirement. The procedure may also include a waiver for any case in which a discharge notice is not feasible due to a short length of stay in the hospital by the patient, or for any case in which the patient voluntarily desires to leave the hospital before the expiration of the 24 hour period.

(c) At least 24 hours prior to discharge from the hospital, the patient shall receive written information on the patient's right to appeal the discharge pursuant to the federal Medicare program, including the steps to follow to appeal the discharge and the appropriate telephone number to call in case the patient intends to appeal the discharge.

(Source: P.A. 94-335, eff. 7-26-05; 95-80, eff. 8-13-07; 95-651, eff. 10-11-07; revised 11-15-07.)

(210 ILCS 85/6.23)

Sec. 6.23. Prevention and control of Multidrug-Resistant Organisms. Each hospital shall develop and implement comprehensive interventions to prevent and control multidrug-resistant organisms (MDROs), including methicillin-resistant *Staphylococcus aureus* (MRSA), vancomycin-resistant enterococci (VRE), and certain gram-negative bacilli (GNB), that take into consideration

guidelines of the U.S. Centers for Disease Control and Prevention for the management of MDROs in healthcare settings. The Department shall adopt administrative rules that require hospitals to perform an annual facility-wide infection control risk assessment and enforce hand hygiene and contact precaution requirements.

(Source: P.A. 95-282, eff. 8-20-07.)

(210 ILCS 85/6.24)

Sec. 6.24 ~~6.23~~. Time of death; patient's religious beliefs. Every hospital must adopt policies and procedures to allow health care professionals, in documenting a patient's time of death at the hospital, to take into account the patient's religious beliefs concerning the patient's time of death.

(Source: P.A. 95-181, eff. 1-1-08; revised 12-7-07.)

Section 200. The Illinois Insurance Code is amended by changing Section 223 and by setting forth and renumbering multiple versions of Section 356z.9 as follows:

(215 ILCS 5/223) (from Ch. 73, par. 835)

Sec. 223. Director to value policies - Legal standard of valuation.

(1) The Director shall annually value, or cause to be valued, the reserve liabilities (hereinafter called reserves) for all outstanding life insurance policies and annuity and

pure endowment contracts of every life insurance company doing business in this State, except that in the case of an alien company, such valuation shall be limited to its United States business, and may certify the amount of any such reserves, specifying the mortality table or tables, rate or rates of interest, and methods (net level premium method or other) used in the calculation of such reserves. Other assumptions may be incorporated into the reserve calculation to the extent permitted by the National Association of Insurance Commissioners' Accounting Practices and Procedures Manual. In calculating such reserves, he may use group methods and approximate averages for fractions of a year or otherwise. In lieu of the valuation of the reserves herein required of any foreign or alien company, he may accept any valuation made, or caused to be made, by the insurance supervisory official of any state or other jurisdiction when such valuation complies with the minimum standard herein provided and if the official of such state or jurisdiction accepts as sufficient and valid for all legal purposes the certificate of valuation of the Director when such certificate states the valuation to have been made in a specified manner according to which the aggregate reserves would be at least as large as if they had been computed in the manner prescribed by the law of that state or jurisdiction.

Any such company which at any time has adopted any standard of valuation producing greater aggregate reserves than those calculated according to the minimum standard herein provided

may, with the approval of the Director, adopt any lower standard of valuation, but not lower than the minimum herein provided, however, that, for the purposes of this subsection, the holding of additional reserves previously determined by a qualified actuary to be necessary to render the opinion required by subsection (1a) shall not be deemed to be the adoption of a higher standard of valuation. In the valuation of policies the Director shall give no consideration to, nor make any deduction because of, the existence or the possession by the company of

(a) policy liens created by any agreement given or assented to by any assured subsequent to July 1, 1937, for which liens such assured has not received cash or other consideration equal in value to the amount of such liens, or

(b) policy liens created by any agreement entered into in violation of Section 232 unless the agreement imposing or creating such liens has been approved by a Court in a proceeding under Article XIII, or in the case of a foreign or alien company has been approved by a court in a rehabilitation or liquidation proceeding or by the insurance official of its domiciliary state or country, in accordance with the laws thereof.

(1a) This subsection shall become operative at the end of the first full calendar year following the effective date of this amendatory Act of 1991.

(A) General.

(1) Every life insurance company doing business in this State shall annually submit the opinion of a qualified actuary as to whether the reserves and related actuarial items held in support of the policies and contracts specified by the Director by regulation are computed appropriately, are based on assumptions that satisfy contractual provisions, are consistent with prior reported amounts and comply with applicable laws of this State. The Director by regulation shall define the specifics of this opinion and add any other items deemed to be necessary to its scope.

(2) The opinion shall be submitted with the annual statement reflecting the valuation of reserve liabilities for each year ending on or after December 31, 1992.

(3) The opinion shall apply to all business in force including individual and group health insurance plans, in form and substance acceptable to the Director as specified by regulation.

(4) The opinion shall be based on standards adopted from time to time by the Actuarial Standards Board and on additional standards as the Director may by regulation prescribe.

(5) In the case of an opinion required to be submitted by a foreign or alien company, the Director

may accept the opinion filed by that company with the insurance supervisory official of another state if the Director determines that the opinion reasonably meets the requirements applicable to a company domiciled in this State.

(6) For the purpose of this Section, "qualified actuary" means a member in good standing of the American Academy of Actuaries who meets the requirements set forth in its regulations.

(7) Except in cases of fraud or willful misconduct, the qualified actuary shall not be liable for damages to any person (other than the insurance company and the Director) for any act, error, omission, decision or conduct with respect to the actuary's opinion.

(8) Disciplinary action by the Director against the company or the qualified actuary shall be defined in regulations by the Director.

(9) A memorandum, in form and substance acceptable to the Director as specified by regulation, shall be prepared to support each actuarial opinion.

(10) If the insurance company fails to provide a supporting memorandum at the request of the Director within a period specified by regulation or the Director determines that the supporting memorandum provided by the insurance company fails to meet the standards prescribed by the regulations or is otherwise

unacceptable to the Director, the Director may engage a qualified actuary at the expense of the company to review the opinion and the basis for the opinion and prepare the supporting memorandum as is required by the Director.

(11) Any memorandum in support of the opinion, and any other material provided by the company to the Director in connection therewith, shall be kept confidential by the Director and shall not be made public and shall not be subject to subpoena, other than for the purpose of defending an action seeking damages from any person by reason of any action required by this Section or by regulations promulgated hereunder; provided, however, that the memorandum or other material may otherwise be released by the Director (a) with the written consent of the company or (b) to the American Academy of Actuaries upon request stating that the memorandum or other material is required for the purpose of professional disciplinary proceedings and setting forth procedures satisfactory to the Director for preserving the confidentiality of the memorandum or other material. Once any portion of the confidential memorandum is cited by the company in its marketing or is cited before any governmental agency other than a state insurance department or is released by the company to the news media, all portions of the

confidential memorandum shall be no longer confidential.

(B) Actuarial analysis of reserves and assets supporting those reserves.

(1) Every life insurance company, except as exempted by or under regulation, shall also annually include in the opinion required by paragraph (A) (1) of this subsection (1a), an opinion of the same qualified actuary as to whether the reserves and related actuarial items held in support of the policies and contracts specified by the Director by regulation, when considered in light of the assets held by the company with respect to the reserves and related actuarial items including, but not limited to, the investment earnings on the assets and the considerations anticipated to be received and retained under the policies and contracts, make adequate provision for the company's obligations under the policies and contracts including, but not limited to, the benefits under and expenses associated with the policies and contracts.

(2) The Director may provide by regulation for a transition period for establishing any higher reserves which the qualified actuary may deem necessary in order to render the opinion required by this Section.

(2) This subsection shall apply to only those policies and

contracts issued prior to the operative date of Section 229.2 (the Standard Non-forfeiture Law).

(a) Except as otherwise in this Article provided, the legal minimum standard for valuation of contracts issued before January 1, 1908, shall be the Actuaries or Combined Experience Table of Mortality with interest at 4% per annum and for valuation of contracts issued on or after that date shall be the American Experience Table of Mortality with either Craig's or Buttolph's Extension for ages under 10 and with interest at 3 1/2% per annum. The legal minimum standard for the valuation of group insurance policies under which premium rates are not guaranteed for a period in excess of 5 years shall be the American Men Ultimate Table of Mortality with interest at 3 1/2% per annum. Any life company may, at its option, value its insurance contracts issued on or after January 1, 1938, in accordance with their terms on the basis of the American Men Ultimate Table of Mortality with interest not higher than 3 1/2% per annum.

(b) Policies issued prior to January 1, 1908, may continue to be valued according to a method producing reserves not less than those produced by the full preliminary term method. Policies issued on and after January 1, 1908, may be valued according to a method producing reserves not less than those produced by the modified preliminary term method hereinafter described in

paragraph (c). Policies issued on and after January 1, 1938, may be valued either according to a method producing reserves not less than those produced by such modified preliminary term method or by the select and ultimate method on the basis that the rate of mortality during the first 5 years after the issuance of such contracts respectively shall be calculated according to the following percentages of rates shown by the American Experience Table of Mortality:

- (i) first insurance year 50% thereof;
- (ii) second insurance year 65% thereof;
- (iii) third insurance year 75% thereof;
- (iv) fourth insurance year 85% thereof;
- (v) fifth insurance year 95% thereof.†

(c) If the premium charged for the first policy year under a limited payment life preliminary term policy providing for the payment of all premiums thereon in less than 20 years from the date of the policy or under an endowment preliminary term policy, exceeds that charged for the first policy year under 20 payment life preliminary term policies of the same company, the reserve thereon at the end of any year, including the first, shall not be less than the reserve on a 20 payment life preliminary term policy issued in the same year at the same age, together with an amount which shall be equivalent to the accumulation of a net level premium sufficient to provide

for a pure endowment at the end of the premium payment period, equal to the difference between the value at the end of such period of such a 20 payment life preliminary term policy and the full net level premium reserve at such time of such a limited payment life or endowment policy. The premium payment period is the period during which premiums are concurrently payable under such 20 payment life preliminary term policy and such limited payment life or endowment policy.

(d) The legal minimum standard for the valuations of annuities issued on and after January 1, 1938, shall be the American Annuitant's Table with interest not higher than 3 3/4% per annum, and all annuities issued before that date shall be valued on a basis not lower than that used for the annual statement of the year 1937; but annuities deferred 10 or more years and written in connection with life insurance shall be valued on the same basis as that used in computing the consideration or premiums therefor, or upon any higher standard at the option of the company.

(e) The Director may vary the standards of interest and mortality as to contracts issued in countries other than the United States and may vary standards of mortality in particular cases of invalid lives and other extra hazards.

(f) The legal minimum standard for valuation of waiver of premium disability benefits or waiver of premium and income disability benefits issued on and after January 1,

1938, shall be the Class (3) Disability Table (1926) modified to conform to the contractual waiting period, with interest at not more than 3 1/2% per annum; but in no event shall the values be less than those produced by the basis used in computing premiums for such benefits. The legal minimum standard for the valuation of such benefits issued prior to January 1, 1938, shall be such as to place an adequate value, as determined by sound insurance practices, on the liabilities thereunder and shall be such that the value of the benefits under each and every policy shall in no case be less than the value placed upon the future premiums.

(g) The legal minimum standard for the valuation of industrial policies issued on or after January 1, 1938, shall be the American Experience Table of Mortality or the Standard Industrial Mortality Table or the Substandard Industrial Mortality Table with interest at 3 1/2% per annum by the net level premium method, or in accordance with their terms by the modified preliminary term method hereinabove described.

(h) Reserves for all such policies and contracts may be calculated, at the option of the company, according to any standards which produce greater aggregate reserves for all such policies and contracts than the minimum reserves required by this subsection.

(3) This subsection shall apply to only those policies and

contracts issued on or after January 1, 1948 or such earlier operative date of Section 229.2 (the Standard Non-forfeiture Law) as shall have been elected by the insurance company issuing such policies or contracts.

(a) Except as otherwise provided in subsections (4), (6), and (7), the minimum standard for the valuation of all such policies and contracts shall be the Commissioners Reserve valuation method defined in paragraphs (b) and (f) of this subsection and in subsection 5, 3 1/2% interest for such policies issued prior to September 8, 1977, 5 1/2% interest for single premium life insurance policies and 4 1/2% interest for all other such policies issued on or after September 8, 1977, and the following tables:

(i) The Commissioners 1941 Standard Ordinary Mortality Table for all Ordinary policies of life insurance issued on the standard basis, excluding any disability and accidental death benefits in such policies, for such policies issued prior to the operative date of subsection (4a) of Section 229.2 (Standard Non-forfeiture Law); and the Commissioners 1958 Standard Ordinary Mortality Table for such policies issued on or after such operative date but prior to the operative date of subsection (4c) of Section 229.2 provided that for any category of such policies issued on female risks all modified net premiums and present values referred to in this Act

may, prior to September 8, 1977, be calculated according to an age not more than 3 years younger than the actual age of the insured and, after September 8, 1977, calculated according to an age not more than 6 years younger than the actual age of the insured; and for such policies issued on or after the operative date of subsection (4c) of Section 229.2, (i) the Commissioners 1980 Standard Ordinary Mortality Table, or (ii) at the election of the company for any one or more specified plans of life insurance, the Commissioners 1980 Standard Ordinary Mortality Table with Ten-Year Select Mortality Factors, or (iii) any ordinary mortality table adopted after 1980 by the National Association of Insurance Commissioners and approved by regulations promulgated by the Director for use in determining the minimum standard of valuation for such policies.

(ii) For all Industrial Life Insurance policies issued on the standard basis, excluding any disability and accidental death benefits in such policies--the 1941 Standard Industrial Mortality Table for such policies issued prior to the operative date of subsection 4 (b) of Section 229.2 (Standard Non-forfeiture Law); and for such policies issued on or after such operative date the Commissioners 1961 Standard Industrial Mortality Table or any industrial

mortality table adopted after 1980 by the National Association of Insurance Commissioners and approved by regulations promulgated by the Director for use in determining the minimum standard of valuation for such policies.

(iii) For Individual Annuity and Pure Endowment contracts, excluding any disability and accidental death benefits in such policies--the 1937 Standard Annuity Mortality Table--or, at the option of the company, the Annuity Mortality Table for 1949, Ultimate, or any modification of either of these tables approved by the Director.

(iv) For Group Annuity and Pure Endowment contracts, excluding any disability and accidental death benefits in such policies--the Group Annuity Mortality Table for 1951, any modification of such table approved by the Director, or, at the option of the company, any of the tables or modifications of tables specified for Individual Annuity and Pure Endowment contracts.

(v) For Total and Permanent Disability Benefits in or supplementary to Ordinary policies or contracts for policies or contracts issued on or after January 1, 1966, the tables of Period 2 disablement rates and the 1930 to 1950 termination rates of the 1952 Disability Study of the Society of Actuaries, with due regard to

the type of benefit, or any tables of disablement rates and termination rates adopted after 1980 by the National Association of Insurance Commissioners and approved by regulations promulgated by the Director for use in determining the minimum standard of valuation for such policies; for policies or contracts issued on or after January 1, 1961, and prior to January 1, 1966, either such tables or, at the option of the company, the Class (3) Disability Table (1926); and for policies issued prior to January 1, 1961, the Class (3) Disability Table (1926). Any such table shall, for active lives, be combined with a mortality table permitted for calculating the reserves for life insurance policies.

(vi) For Accidental Death benefits in or supplementary to policies--for policies issued on or after January 1, 1966, the 1959 Accidental Death Benefits Table or any accidental death benefits table adopted after 1980 by the National Association of Insurance Commissioners and approved by regulations promulgated by the Director for use in determining the minimum standard of valuation for such policies; for policies issued on or after January 1, 1961, and prior to January 1, 1966, any of such tables or, at the option of the company, the Inter-Company Double Indemnity Mortality Table; and for policies issued

prior to January 1, 1961, the Inter-Company Double Indemnity Mortality Table. Either table shall be combined with a mortality table permitted for calculating the reserves for life insurance policies.

(vii) For Group Life Insurance, life insurance issued on the substandard basis and other special benefits--such tables as may be approved by the Director.

(b) Except as otherwise provided in paragraph (f) of subsection (3), subsection (5), and subsection (7) reserves according to the Commissioners reserve valuation method, for the life insurance and endowment benefits of policies providing for a uniform amount of insurance and requiring the payment of uniform premiums shall be the excess, if any, of the present value, at the date of valuation, of such future guaranteed benefits provided for by such policies, over the then present value of any future modified net premiums therefor. The modified net premiums for any such policy shall be such uniform percentage of the respective contract premiums for such benefits that the present value, at the date of issue of the policy, of all such modified net premiums shall be equal to the sum of the then present value of such benefits provided for by the policy and the excess of (A) over (B), as follows:

(A) A net level annual premium equal to the present value, at the date of issue, of such benefits provided

for after the first policy year, divided by the present value, at the date of issue, of an annuity of one per annum payable on the first and each subsequent anniversary of such policy on which a premium falls due; provided, however, that such net level annual premium shall not exceed the net level annual premium on the 19 year premium whole life plan for insurance of the same amount at an age one year higher than the age at issue of such policy.

(B) A net one year term premium for such benefits provided for in the first policy year.

For any life insurance policy issued on or after January 1, 1987, for which the contract premium in the first policy year exceeds that of the second year with no comparable additional benefit being provided in that first year, which policy provides an endowment benefit or a cash surrender value or a combination thereof in an amount greater than such excess premium, the reserve according to the Commissioners reserve valuation method as of any policy anniversary occurring on or before the assumed ending date, defined herein as the first policy anniversary on which the sum of any endowment benefit and any cash surrender value then available is greater than such excess premium, shall, except as otherwise provided in paragraph (f) of subsection (3), be the greater of the reserve as of such policy anniversary calculated as described in the preceding part

of this paragraph (b) and the reserve as of such policy anniversary calculated as described in the preceding part of this paragraph (b) with (i) the value defined in subpart A of the preceding part of this paragraph (b) being reduced by 15% of the amount of such excess first year premium, (ii) all present values of benefits and premiums being determined without reference to premiums or benefits provided for by the policy after the assumed ending date, (iii) the policy being assumed to mature on such date as an endowment, and (iv) the cash surrender value provided on such date being considered as an endowment benefit. In making the above comparison, the mortality and interest bases stated in paragraph (a) of subsection (3) and in subsection (6) ~~6~~ shall be used.

Reserves according to the Commissioners reserve valuation method for (i) life insurance policies providing for a varying amount of insurance or requiring the payment of varying premiums, (ii) group annuity and pure endowment contracts purchased under a retirement plan or plan of deferred compensation, established or maintained by an employer (including a partnership or sole proprietorship) or by an employee organization, or by both, other than a plan providing individual retirement accounts or individual retirement annuities under Section 408 of the Internal Revenue Code, as now or hereafter amended, (iii) disability and accidental death benefits in all policies

and contracts, and (iv) all other benefits, except life insurance and endowment benefits in life insurance policies and benefits provided by all other annuity and pure endowment contracts, shall be calculated by a method consistent with the principles of this paragraph (b), except that any extra premiums charged because of impairments or special hazards shall be disregarded in the determination of modified net premiums.

(c) In no event shall a company's aggregate reserves for all life insurance policies, excluding disability and accidental death benefits be less than the aggregate reserves calculated in accordance with the methods set forth in paragraphs (b), (f), and (g) of subsection (3) and in subsection (5) and the mortality table or tables and rate or rates of interest used in calculating non-forfeiture benefits for such policies.

(d) In no event shall the aggregate reserves for all policies, contracts, and benefits be less than the aggregate reserves determined by the qualified actuary to be necessary to render the opinion required by subsection (1a).

(e) Reserves for any category of policies, contracts or benefits as established by the Director, may be calculated, at the option of the company, according to any standards which produce greater aggregate reserves for such category than those calculated according to the minimum standard

herein provided, but the rate or rates of interest used for policies and contracts, other than annuity and pure endowment contracts, shall not be higher than the corresponding rate or rates of interest used in calculating any nonforfeiture benefits provided for therein.

(f) If in any contract year the gross premium charged by any life insurance company on any policy or contract is less than the valuation net premium for the policy or contract calculated by the method used in calculating the reserve thereon but using the minimum valuation standards of mortality and rate of interest, the minimum reserve required for such policy or contract shall be the greater of either the reserve calculated according to the mortality table, rate of interest, and method actually used for such policy or contract, or the reserve calculated by the method actually used for such policy or contract but using the minimum standards of mortality and rate of interest and replacing the valuation net premium by the actual gross premium in each contract year for which the valuation net premium exceeds the actual gross premium. The minimum valuation standards of mortality and rate of interest referred to in this paragraph (f) are those standards stated in subsection (6) and paragraph (a) of subsection (3).

For any life insurance policy issued on or after January 1, 1987, for which the gross premium in the first

policy year exceeds that of the second year with no comparable additional benefit provided in that first year, which policy provides an endowment benefit or a cash surrender value or a combination thereof in an amount greater than such excess premium, the foregoing provisions of this paragraph (f) shall be applied as if the method actually used in calculating the reserve for such policy were the method described in paragraph (b) of subsection (3), ignoring the second paragraph of said paragraph (b). The minimum reserve at each policy anniversary of such a policy shall be the greater of the minimum reserve calculated in accordance with paragraph (b) of subsection (3), including the second paragraph of said paragraph (b), and the minimum reserve calculated in accordance with this paragraph (f).

(g) In the case of any plan of life insurance which provides for future premium determination, the amounts of which are to be determined by the insurance company based on then estimates of future experience, or in the case of any plan of life insurance or annuity which is of such a nature that the minimum reserves cannot be determined by the methods described in paragraphs (b) and (f) of subsection (3) and subsection (5), the reserves which are held under any such plan shall:

(i) be appropriate in relation to the benefits and the pattern of premiums for that plan, and

(ii) be computed by a method which is consistent with the principles of this Standard Valuation Law, as determined by regulations promulgated by the Director.

(4) Except as provided in subsection (6), the minimum standard for the valuation of all individual annuity and pure endowment contracts issued on or after the operative date of this subsection, as defined herein, and for all annuities and pure endowments purchased on or after such operative date under group annuity and pure endowment contracts shall be the Commissioners Reserve valuation methods defined in paragraph (b) of subsection (3) and subsection (5) and the following tables and interest rates:

(a) For individual single premium immediate annuity contracts, excluding any disability and accidental death benefits in such contracts, the 1971 Individual Annuity Mortality Table, any individual annuity mortality table adopted after 1980 by the National Association of Insurance Commissioners and approved by regulations promulgated by the Director for use in determining the minimum standard of valuation for such contracts, or any modification of those tables approved by the Director, and 7 1/2% interest.

(b) For individual and pure endowment contracts other than single premium annuity contracts, excluding any disability and accidental death benefits in such contracts, the 1971 Individual Annuity Mortality Table, any individual annuity mortality table adopted after 1980

by the National Association of Insurance Commissioners and approved by regulations promulgated by the Director for use in determining the minimum standard of valuation for such contracts, or any modification of those tables approved by the Director, and 5 1/2% interest for single premium deferred annuity and pure endowment contracts and 4 1/2% interest for all other such individual annuity and pure endowment contracts.

(c) For all annuities and pure endowments purchased under group annuity and pure endowment contracts, excluding any disability and accidental death benefits purchased under such contracts, the 1971 Group Annuity Mortality Table, any group annuity mortality table adopted after 1980 by the National Association of Insurance Commissioners and approved by regulations promulgated by the Director for use in determining the minimum standard of valuation for such annuities and pure endowments, or any modification of those tables approved by the Director, and 7 1/2% interest.

After September 8, 1977, any company may file with the Director a written notice of its election to comply with the provisions of this subsection after a specified date before January 1, 1979, which shall be the operative date of this subsection for such company; provided, a company may elect a different operative date for individual annuity and pure endowment contracts from that elected for group annuity and

pure endowment contracts. If a company makes no election, the operative date of this subsection for such company shall be January 1, 1979.

(5) This subsection shall apply to all annuity and pure endowment contracts other than group annuity and pure endowment contracts purchased under a retirement plan or plan of deferred compensation, established or maintained by an employer (including a partnership or sole proprietorship) or by an employee organization, or by both, other than a plan providing individual retirement accounts or individual retirement annuities under Section 408 of the Internal Revenue Code, as now or hereafter amended.

Reserves according to the Commissioners annuity reserve method for benefits under annuity or pure endowment contracts, excluding any disability and accidental death benefits in such contracts, shall be the greatest of the respective excesses of the present values, at the date of valuation, of the future guaranteed benefits, including guaranteed nonforfeiture benefits, provided for by such contracts at the end of each respective contract year, over the present value, at the date of valuation, of any future valuation considerations derived from future gross considerations, required by the terms of such contract, that become payable prior to the end of such respective contract year. The future guaranteed benefits shall be determined by using the mortality table, if any, and the interest rate, or rates, specified in such contracts for

determining guaranteed benefits. The valuation considerations are the portions of the respective gross considerations applied under the terms of such contracts to determine nonforfeiture values.

(6)(a) Applicability of this subsection. ~~(i)~~ The interest rates used in determining the minimum standard for the valuation of

(A) all life insurance policies issued in a particular calendar year, on or after the operative date of subsection (4c) of Section 229.2 (Standard Nonforfeiture Law),

(B) all individual annuity and pure endowment contracts issued in a particular calendar year ending on or after December 31, 1983,

(C) all annuities and pure endowments purchased in a particular calendar year ending on or after December 31, 1983, under group annuity and pure endowment contracts, and

(D) the net increase in a particular calendar year ending after December 31, 1983, in amounts held under guaranteed interest contracts

shall be the calendar year statutory valuation interest rates, as defined in this subsection.

(b) Calendar Year Statutory Valuation Interest Rates.

(i) The calendar year statutory valuation interest rates shall be determined according to the following formulae, rounding "I" to the nearest .25%.

(A) For life insurance,

$$I = .03 + W (R1 - .03) + W/2 (R2 - .09).$$

(B) For single premium immediate annuities and annuity benefits involving life contingencies arising from other annuities with cash settlement options and from guaranteed interest contracts with cash settlement options,

$$I = .03 + W (R - .03) \text{ or with prior approval of the Director } I = .03 + W (Rq - .03).$$

For the purposes of this subparagraph (i), "I" equals the calendar year statutory valuation interest rate, "R" is the reference interest rate defined in this subsection, "R1" is the lesser of R and .09, "R2" is the greater of R and .09, "Rq" is the quarterly reference interest rate defined in this subsection, and "W" is the weighting factor defined in this subsection.

(C) For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on an issue year basis, except as stated in (B), the formula for life insurance stated in (A) applies to annuities and guaranteed interest contracts with guarantee durations in excess of 10 years, and the formula for single premium immediate annuities stated in (B) above applies to annuities and guaranteed

interest contracts with guarantee durations of 10 years or less.

(D) For other annuities with no cash settlement options and for guaranteed interest contracts with no cash settlement options, the formula for single premium immediate annuities stated in (B) applies.

(E) For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on a change in fund basis, the formula for single premium immediate annuities stated in (B) applies.

(ii) If the calendar year statutory valuation interest rate for any life insurance policy issued in any calendar year determined without reference to this subparagraph differs from the corresponding actual rate for similar policies issued in the immediately preceding calendar year by less than .5%, the calendar year statutory valuation interest rate for such life insurance policy shall be the corresponding actual rate for the immediately preceding calendar year. For purposes of applying this subparagraph, the calendar year statutory valuation interest rate for life insurance policies issued in a calendar year shall be determined for 1980, using the reference interest rate defined for 1979, and shall be determined for each

subsequent calendar year regardless of when subsection (4c) of Section 229.2 (Standard Nonforfeiture Law) becomes operative.

(c) Weighting Factors.

(i) The weighting factors referred to in the formulae stated in paragraph (b) are given in the following tables.

(A) Weighting Factors for Life Insurance.

| Guarantee Duration (Years) | Weighting Factors |
|------------------------------------|----------------------|
| 10 or less | .50 |
| More than 10, but not more than 20 | .45 |
| More than 20 | .35 |

For life insurance, the guarantee duration is the maximum number of years the life insurance can remain in force on a basis guaranteed in the policy or under options to convert to plans of life insurance with premium rates or nonforfeiture values or both which are guaranteed in the original policy.

(B) The weighting factor for single premium immediate annuities and for annuity benefits involving life contingencies arising from other annuities with cash settlement options and guaranteed interest contracts with cash settlement

options is .80.

(C) The weighting factors for other annuities and for guaranteed interest contracts, except as stated in (B) of this subparagraph (i), shall be as specified in tables (1), (2), and (3) of this subpart (C), according to the rules and definitions in (4), (5) and (6) of this subpart (C).

(1) For annuities and guaranteed interest contracts valued on an issue year basis.

| Guarantee Duration (Years) | Weighting Factor for Plan Type | | |
|---|-----------------------------------|-----|-----|
| | A | B | C |
| 5 or less | .80 | .60 | .50 |
| More than 5, but not more than 10 | .75 | .60 | .50 |
| More than 10, but not more than 20 | .65 | .50 | .45 |
| More than 20 | .45 | .35 | .35 |

(2) For annuities and guaranteed interest contracts valued on a change in fund basis, the factors shown in (1) for Plan Types A, B and C are increased by .15, .25 and .05, respectively.

(3) For annuities and guaranteed interest contracts valued on an issue year basis, other

than those with no cash settlement options, which do not guarantee interest on considerations received more than one year after issue or purchase, and for annuities and guaranteed interest contracts valued on a change in fund basis which do not guarantee interest rates on considerations received more than 12 months beyond the valuation date, the factors shown in (1), or derived in (2), for Plan Types A, B and C are increased by .05.

(4) For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, the guarantee duration is the number of years for which the contract guarantees interest rates in excess of the calendar year statutory valuation interest rate for life insurance policies with guarantee durations in excess of 20 years. For other annuities with no cash settlement options, and for guaranteed interest contracts with no cash settlement options, the guarantee duration is the number of years from the date of issue or date of purchase to the date annuity benefits are scheduled to commence.

(5) The plan types used in the above tables

are defined as follows.

Plan Type A is a plan under which the policyholder may not withdraw funds, or may withdraw funds at any time but only (a) with an adjustment to reflect changes in interest rates or asset values since receipt of the funds by the insurance company, (b) without such an adjustment but in installments over 5 years or more, or (c) as an immediate life annuity.

Plan Type B is a plan under which the policyholder may not withdraw funds before expiration of the interest rate guarantee, or may withdraw funds before such expiration but only (a) with an adjustment to reflect changes in interest rates or asset values since receipt of the funds by the insurance company, or (b) without such adjustment but in installments over 5 years or more. At the end of the interest rate guarantee, funds may be withdrawn without such adjustment in a single sum or installments over less than 5 years.

Plan Type C is a plan under which the policyholder may withdraw funds before expiration of the interest rate guarantee in a single sum or installments over less than 5

years either (a) without adjustment to reflect changes in interest rates or asset values since receipt of the funds by the insurance company, or (b) subject only to a fixed surrender charge stipulated in the contract as a percentage of the fund.

(6) A company may elect to value guaranteed interest contracts with cash settlement options and annuities with cash settlement options on either an issue year basis or on a change in fund basis. Guaranteed interest contracts with no cash settlement options and other annuities with no cash settlement options shall be valued on an issue year basis. As used in this Section, "issue year basis of valuation" refers to a valuation basis under which the interest rate used to determine the minimum valuation standard for the entire duration of the annuity or guaranteed interest contract is the calendar year valuation interest rate for the year of issue or year of purchase of the annuity or guaranteed interest contract. "Change in fund basis of valuation", as used in this Section, refers to a valuation basis under which the interest rate used to determine the minimum

valuation standard applicable to each change in the fund held under the annuity or guaranteed interest contract is the calendar year valuation interest rate for the year of the change in the fund.

(d) Reference Interest Rate. ~~(i)~~ The reference interest rate referred to in paragraph (b) of this subsection is defined as follows.

(A) For all life insurance, the reference interest rate is the lesser of the average over a period of 36 months, and the average over a period of 12 months, with both periods ending on June 30, or with prior approval of the Director ending on December 31, of the calendar year next preceding the year of issue, of Moody's Corporate Bond Yield Average - Monthly Average Corporates, as published by Moody's Investors Service, Inc.

(B) For single premium immediate annuities and for annuity benefits involving life contingencies arising from other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, the reference interest rate is the average over a period of 12 months, ending on June 30, or with prior approval of the Director ending on December 31, of the calendar year of issue or year of purchase, of Moody's Corporate Bond Yield Average - Monthly Average

Corporates, as published by Moody's Investors Service, Inc.

(C) For annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on a year of issue basis, except those described in (B), with guarantee durations in excess of 10 years, the reference interest rate is the lesser of the average over a period of 36 months and the average over a period of 12 months, ending on June 30, or with prior approval of the Director ending on December 31, of the calendar year of issue or purchase, of Moody's Corporate Bond Yield Average-Monthly Average Corporates, as published by Moody's Investors Service, Inc.

(D) For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on a year of issue basis, except those described in (B), with guarantee durations of 10 years or less, the reference interest rate is the average over a period of 12 months, ending on June 30, or with prior approval of the Director ending on December 31, of the calendar year of issue or purchase, of Moody's Corporate Bond Yield Average-Monthly Average Corporates, as published by Moody's Investors Service, Inc.

(E) For annuities with no cash settlement options

and for guaranteed interest contracts with no cash settlement options, the reference interest rate is the average over a period of 12 months, ending on June 30, or with prior approval of the Director ending on December 31, of the calendar year of issue or purchase, of Moody's Corporate Bond Yield Average-Monthly Average Corporates, as published by Moody's Investors Service, Inc.

(F) For annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on a change in fund basis, except those described in (B), the reference interest rate is the average over a period of 12 months, ending on June 30, or with prior approval of the Director ending on December 31, of the calendar year of the change in the fund, of Moody's Corporate Bond Yield Average-Monthly Average Corporates, as published by Moody's Investors Service, Inc.

(G) For annuities valued by a formula based on R_q , the quarterly reference interest rate is, with the prior approval of the Director, the average within each of the 4 consecutive calendar year quarters ending on March 31, June 30, September 30 and December 31 of the calendar year of issue or year of purchase of Moody's Corporate Bond Yield Average-Monthly Average Corporates, as published by Moody's Investors Service,

Inc.

(e) Alternative Method for Determining Reference Interest Rates. In the event that the Moody's Corporate Bond Yield Average-Monthly Average Corporates is no longer published by Moody's Investors Services, Inc., or in the event that the National Association of Insurance Commissioners determines that Moody's Corporate Bond Yield Average-Monthly Average Corporates as published by Moody's Investors Service, Inc. is no longer appropriate for the determination of the reference interest rate, then an alternative method for determination of the reference interest rate, which is adopted by the National Association of Insurance Commissioners and approved by regulations promulgated by the Director, may be substituted.

(7) Minimum Standards for Health (Disability, Accident and Sickness) Plans. The Director shall promulgate a regulation containing the minimum standards applicable to the valuation of health (disability, sickness and accident) plans.

(Source: P.A. 95-86, eff. 9-25-07 (changed from 1-1-08 by P.A. 95-632); revised 11-15-07.)

(215 ILCS 5/356z.9)

Sec. 356z.9. Human papillomavirus vaccine. A group or individual policy of accident and health insurance or managed care plan amended, delivered, issued, or renewed after the effective date of this amendatory Act of the 95th General

Assembly must provide coverage for a human papillomavirus vaccine (HPV) that is approved for marketing by the federal Food and Drug Administration.

(Source: P.A. 95-422, eff. 8-24-07.)

(215 ILCS 5/356z.10)

Sec. 356z.10 ~~356z.9~~. Amino acid-based elemental formulas. A group or individual major medical accident and health insurance policy or managed care plan amended, delivered, issued, or renewed after the effective date of this amendatory Act of the 95th General Assembly must provide coverage and reimbursement for amino acid-based elemental formulas, regardless of delivery method, for the diagnosis and treatment of (i) eosinophilic disorders and (ii) short bowel syndrome when the prescribing physician has issued a written order stating that the amino acid-based elemental formula is medically necessary.

(Source: P.A. 95-520, eff. 8-28-07; revised 12-4-07.)

Section 205. The Health Maintenance Organization Act is amended by changing Section 5-3 as follows:

(215 ILCS 125/5-3) (from Ch. 111 1/2, par. 1411.2)

Sec. 5-3. Insurance Code provisions.

(a) Health Maintenance Organizations shall be subject to the provisions of Sections 133, 134, 137, 140, 141.1, 141.2,

141.3, 143, 143c, 147, 148, 149, 151, 152, 153, 154, 154.5, 154.6, 154.7, 154.8, 155.04, 355.2, 356m, 356v, 356w, 356x, 356y, 356z.2, 356z.4, 356z.5, 356z.6, 356z.8, 356z.9, 356z.10, ~~356z.9~~, 364.01, 367.2, 367.2-5, 367i, 368a, 368b, 368c, 368d, 368e, 370c, 401, 401.1, 402, 403, 403A, 408, 408.2, 409, 412, 444, and 444.1, paragraph (c) of subsection (2) of Section 367, and Articles IIA, VIII 1/2, XII, XII 1/2, XIII, XIII 1/2, XXV, and XXVI of the Illinois Insurance Code.

(b) For purposes of the Illinois Insurance Code, except for Sections 444 and 444.1 and Articles XIII and XIII 1/2, Health Maintenance Organizations in the following categories are deemed to be "domestic companies":

(1) a corporation authorized under the Dental Service Plan Act or the Voluntary Health Services Plans Act;

(2) a corporation organized under the laws of this State; or

(3) a corporation organized under the laws of another state, 30% or more of the enrollees of which are residents of this State, except a corporation subject to substantially the same requirements in its state of organization as is a "domestic company" under Article VIII 1/2 of the Illinois Insurance Code.

(c) In considering the merger, consolidation, or other acquisition of control of a Health Maintenance Organization pursuant to Article VIII 1/2 of the Illinois Insurance Code,

(1) the Director shall give primary consideration to

the continuation of benefits to enrollees and the financial conditions of the acquired Health Maintenance Organization after the merger, consolidation, or other acquisition of control takes effect;

(2) (i) the criteria specified in subsection (1) (b) of Section 131.8 of the Illinois Insurance Code shall not apply and (ii) the Director, in making his determination with respect to the merger, consolidation, or other acquisition of control, need not take into account the effect on competition of the merger, consolidation, or other acquisition of control;

(3) the Director shall have the power to require the following information:

(A) certification by an independent actuary of the adequacy of the reserves of the Health Maintenance Organization sought to be acquired;

(B) pro forma financial statements reflecting the combined balance sheets of the acquiring company and the Health Maintenance Organization sought to be acquired as of the end of the preceding year and as of a date 90 days prior to the acquisition, as well as pro forma financial statements reflecting projected combined operation for a period of 2 years;

(C) a pro forma business plan detailing an acquiring party's plans with respect to the operation of the Health Maintenance Organization sought to be

acquired for a period of not less than 3 years; and

(D) such other information as the Director shall require.

(d) The provisions of Article VIII 1/2 of the Illinois Insurance Code and this Section 5-3 shall apply to the sale by any health maintenance organization of greater than 10% of its enrollee population (including without limitation the health maintenance organization's right, title, and interest in and to its health care certificates).

(e) In considering any management contract or service agreement subject to Section 141.1 of the Illinois Insurance Code, the Director (i) shall, in addition to the criteria specified in Section 141.2 of the Illinois Insurance Code, take into account the effect of the management contract or service agreement on the continuation of benefits to enrollees and the financial condition of the health maintenance organization to be managed or serviced, and (ii) need not take into account the effect of the management contract or service agreement on competition.

(f) Except for small employer groups as defined in the Small Employer Rating, Renewability and Portability Health Insurance Act and except for medicare supplement policies as defined in Section 363 of the Illinois Insurance Code, a Health Maintenance Organization may by contract agree with a group or other enrollment unit to effect refunds or charge additional premiums under the following terms and conditions:

(i) the amount of, and other terms and conditions with respect to, the refund or additional premium are set forth in the group or enrollment unit contract agreed in advance of the period for which a refund is to be paid or additional premium is to be charged (which period shall not be less than one year); and

(ii) the amount of the refund or additional premium shall not exceed 20% of the Health Maintenance Organization's profitable or unprofitable experience with respect to the group or other enrollment unit for the period (and, for purposes of a refund or additional premium, the profitable or unprofitable experience shall be calculated taking into account a pro rata share of the Health Maintenance Organization's administrative and marketing expenses, but shall not include any refund to be made or additional premium to be paid pursuant to this subsection (f)). The Health Maintenance Organization and the group or enrollment unit may agree that the profitable or unprofitable experience may be calculated taking into account the refund period and the immediately preceding 2 plan years.

The Health Maintenance Organization shall include a statement in the evidence of coverage issued to each enrollee describing the possibility of a refund or additional premium, and upon request of any group or enrollment unit, provide to the group or enrollment unit a description of the method used

to calculate (1) the Health Maintenance Organization's profitable experience with respect to the group or enrollment unit and the resulting refund to the group or enrollment unit or (2) the Health Maintenance Organization's unprofitable experience with respect to the group or enrollment unit and the resulting additional premium to be paid by the group or enrollment unit.

In no event shall the Illinois Health Maintenance Organization Guaranty Association be liable to pay any contractual obligation of an insolvent organization to pay any refund authorized under this Section.

(Source: P.A. 94-906, eff. 1-1-07; 94-1076, eff. 12-29-06; 95-422, eff. 8-24-07; 95-520, eff. 8-28-07; revised 12-4-07.)

Section 210. The Limited Health Service Organization Act is amended by changing Section 4003 as follows:

(215 ILCS 130/4003) (from Ch. 73, par. 1504-3)

Sec. 4003. Illinois Insurance Code provisions. Limited health service organizations shall be subject to the provisions of Sections 133, 134, 137, 140, 141.1, 141.2, 141.3, 143, 143c, 147, 148, 149, 151, 152, 153, 154, 154.5, 154.6, 154.7, 154.8, 155.04, 155.37, 355.2, 356v, 356z.10 ~~356z.9~~, 368a, 401, 401.1, 402, 403, 403A, 408, 408.2, 409, 412, 444, and 444.1 and Articles IIA, VIII 1/2, XII, XII 1/2, XIII, XIII 1/2, XXV, and XXVI of the Illinois Insurance Code. For purposes of the

Illinois Insurance Code, except for Sections 444 and 444.1 and Articles XIII and XIII 1/2, limited health service organizations in the following categories are deemed to be domestic companies:

(1) a corporation under the laws of this State; or

(2) a corporation organized under the laws of another state, 30% of more of the enrollees of which are residents of this State, except a corporation subject to substantially the same requirements in its state of organization as is a domestic company under Article VIII 1/2 of the Illinois Insurance Code.

(Source: P.A. 95-520, eff. 8-28-07; revised 12-5-07.)

Section 215. The Voluntary Health Services Plans Act is amended by changing Section 10 as follows:

(215 ILCS 165/10) (from Ch. 32, par. 604)

Sec. 10. Application of Insurance Code provisions. Health services plan corporations and all persons interested therein or dealing therewith shall be subject to the provisions of Articles IIA and XII 1/2 and Sections 3.1, 133, 140, 143, 143c, 149, 155.37, 354, 355.2, 356g.5, 356r, 356t, 356u, 356v, 356w, 356x, 356y, 356z.1, 356z.2, 356z.4, 356z.5, 356z.6, 356z.8, 356z.9, 356z.10 ~~356z.9~~, 364.01, 367.2, 368a, 401, 401.1, 402, 403, 403A, 408, 408.2, and 412, and paragraphs (7) and (15) of Section 367 of the Illinois Insurance Code.

(Source: P.A. 94-1076, eff. 12-29-06; 95-189, eff. 8-16-07; 95-331, eff. 8-21-07; 95-422, eff. 8-24-07; 95-520, eff. 8-28-07; revised 12-5-07.)

Section 220. The Public Utilities Act is amended by renumbering Section 12-103, by changing Sections 8-206, 13-507.1, 13-701, 16-111, 21-101, 21-101.1, 21-201, 21-301, 21-401, 21-601, 21-801, 21-901, 21-1001, 21-1101, 21-1201, and 21-1301, and by renumbering and changing Article 70 as follows:

(220 ILCS 5/8-103)

Sec. 8-103 ~~12-103~~. Energy efficiency and demand-response measures.

(a) It is the policy of the State that electric utilities are required to use cost-effective energy efficiency and demand-response measures to reduce delivery load. Requiring investment in cost-effective energy efficiency and demand-response measures will reduce direct and indirect costs to consumers by decreasing environmental impacts and by avoiding or delaying the need for new generation, transmission, and distribution infrastructure. It serves the public interest to allow electric utilities to recover costs for reasonably and prudently incurred expenses for energy efficiency and demand-response measures. As used in this Section, "cost-effective" means that the measures satisfy the total resource cost test. The low-income measures described in

subsection (f) (4) of this Section shall not be required to meet the total resource cost test. For purposes of this Section, the terms "energy-efficiency", "demand-response", "electric utility", and "total resource cost test" shall have the meanings set forth in the Illinois Power Agency Act. For purposes of this Section, the amount per kilowatthour means the total amount paid for electric service expressed on a per kilowatthour basis. For purposes of this Section, the total amount paid for electric service includes without limitation estimated amounts paid for supply, transmission, distribution, surcharges, and add-on-taxes.

(b) Electric utilities shall implement cost-effective energy efficiency measures to meet the following incremental annual energy savings goals:

- (1) 0.2% of energy delivered in the year commencing June 1, 2008;
- (2) 0.4% of energy delivered in the year commencing June 1, 2009;
- (3) 0.6% of energy delivered in the year commencing June 1, 2010;
- (4) 0.8% of energy delivered in the year commencing June 1, 2011;
- (5) 1% of energy delivered in the year commencing June 1, 2012;
- (6) 1.4% of energy delivered in the year commencing June 1, 2013;

(7) 1.8% of energy delivered in the year commencing June 1, 2014; and

(8) 2% of energy delivered in the year commencing June 1, 2015 and each year thereafter.

(c) Electric utilities shall implement cost-effective demand-response measures to reduce peak demand by 0.1% over the prior year for eligible retail customers, as defined in Section 16-111.5 of this Act. This requirement commences June 1, 2008 and continues for 10 years.

(d) Notwithstanding the requirements of subsections (b) and (c) of this Section, an electric utility shall reduce the amount of energy efficiency and demand-response measures implemented in any single year by an amount necessary to limit the estimated average increase in the amounts paid by retail customers in connection with electric service due to the cost of those measures to:

(1) in 2008, no more than 0.5% of the amount paid per kilowatthour by those customers during the year ending May 31, 2007;

(2) in 2009, the greater of an additional 0.5% of the amount paid per kilowatthour by those customers during the year ending May 31, 2008 or 1% of the amount paid per kilowatthour by those customers during the year ending May 31, 2007;

(3) in 2010, the greater of an additional 0.5% of the amount paid per kilowatthour by those customers during

the year ending May 31, 2009 or 1.5% of the amount paid per kilowatthour by those customers during the year ending May 31, 2007;

(4) in 2011, the greater of an additional 0.5% of the amount paid per kilowatthour by those customers during the year ending May 31, 2010 or 2% of the amount paid per kilowatthour by those customers during the year ending May 31, 2007; and

(5) thereafter, the amount of energy efficiency and demand-response measures implemented for any single year shall be reduced by an amount necessary to limit the estimated average net increase due to the cost of these measures included in the amounts paid by eligible retail customers in connection with electric service to no more than the greater of 2.015% of the amount paid per kilowatthour by those customers during the year ending May 31, 2007 or the incremental amount per kilowatthour paid for these measures in 2011.

No later than June 30, 2011, the Commission shall review the limitation on the amount of energy efficiency and demand-response measures implemented pursuant to this Section and report to the General Assembly its findings as to whether that limitation unduly constrains the procurement of energy efficiency and demand-response measures.

(e) Electric utilities shall be responsible for overseeing the design, development, and filing of energy efficiency and

demand-response plans with the Commission. Electric utilities shall implement 100% of the demand-response measures in the plans. Electric utilities shall implement 75% of the energy efficiency measures approved by the Commission, and may, as part of that implementation, outsource various aspects of program development and implementation. The remaining 25% of those energy efficiency measures approved by the Commission shall be implemented by the Department of Commerce and Economic Opportunity, and must be designed in conjunction with the utility and the filing process. The Department may outsource development and implementation of energy efficiency measures. A minimum of 10% of the entire portfolio of cost-effective energy efficiency measures shall be procured from units of local government, municipal corporations, school districts, and community college districts. The Department shall coordinate the implementation of these measures.

The apportionment of the dollars to cover the costs to implement the Department's share of the portfolio of energy efficiency measures shall be made to the Department once the Department has executed grants or contracts for energy efficiency measures and provided supporting documentation for those grants and the contracts to the utility.

The details of the measures implemented by the Department shall be submitted by the Department to the Commission in connection with the utility's filing regarding the energy efficiency and demand-response measures that the utility

implements.

A utility providing approved energy efficiency and demand-response measures in the State shall be permitted to recover costs of those measures through an automatic adjustment clause tariff filed with and approved by the Commission. The tariff shall be established outside the context of a general rate case. Each year the Commission shall initiate a review to reconcile any amounts collected with the actual costs and to determine the required adjustment to the annual tariff factor to match annual expenditures.

Each utility shall include, in its recovery of costs, the costs estimated for both the utility's and the Department's implementation of energy efficiency and demand-response measures. Costs collected by the utility for measures implemented by the Department shall be submitted to the Department pursuant to Section 605-323 of the Civil Administrative Code of Illinois and shall be used by the Department solely for the purpose of implementing these measures. A utility shall not be required to advance any moneys to the Department but only to forward such funds as it has collected. The Department shall report to the Commission on an annual basis regarding the costs actually incurred by the Department in the implementation of the measures. Any changes to the costs of energy efficiency measures as a result of plan modifications shall be appropriately reflected in amounts recovered by the utility and turned over to the Department.

The portfolio of measures, administered by both the utilities and the Department, shall, in combination, be designed to achieve the annual savings targets described in subsections (b) and (c) of this Section, as modified by subsection (d) of this Section.

The utility and the Department shall agree upon a reasonable portfolio of measures and determine the measurable corresponding percentage of the savings goals associated with measures implemented by the utility or Department.

No utility shall be assessed a penalty under subsection (f) of this Section for failure to make a timely filing if that failure is the result of a lack of agreement with the Department with respect to the allocation of responsibilities or related costs or target assignments. In that case, the Department and the utility shall file their respective plans with the Commission and the Commission shall determine an appropriate division of measures and programs that meets the requirements of this Section.

If the Department is unable to meet incremental annual performance goals for the portion of the portfolio implemented by the Department, then the utility and the Department shall jointly submit a modified filing to the Commission explaining the performance shortfall and recommending an appropriate course going forward, including any program modifications that may be appropriate in light of the evaluations conducted under item (7) of subsection (f) of this Section. In this case, the

utility obligation to collect the Department's costs and turn over those funds to the Department under this subsection (e) shall continue only if the Commission approves the modifications to the plan proposed by the Department.

(f) No later than November 15, 2007, each electric utility shall file an energy efficiency and demand-response plan with the Commission to meet the energy efficiency and demand-response standards for 2008 through 2010. Every 3 years thereafter, each electric utility shall file an energy efficiency and demand-response plan with the Commission. If a utility does not file such a plan, it shall face a penalty of \$100,000 per day until the plan is filed. Each utility's plan shall set forth the utility's proposals to meet the utility's portion of the energy efficiency standards identified in subsection (b) and the demand-response standards identified in subsection (c) of this Section as modified by subsections (d) and (e), taking into account the unique circumstances of the utility's service territory. The Commission shall seek public comment on the utility's plan and shall issue an order approving or disapproving each plan within 3 months after its submission. If the Commission disapproves a plan, the Commission shall, within 30 days, describe in detail the reasons for the disapproval and describe a path by which the utility may file a revised draft of the plan to address the Commission's concerns satisfactorily. If the utility does not refile with the Commission within 60 days, the utility shall be

subject to penalties at a rate of \$100,000 per day until the plan is filed. This process shall continue, and penalties shall accrue, until the utility has successfully filed a portfolio of energy efficiency and demand-response measures. Penalties shall be deposited into the Energy Efficiency Trust Fund. In submitting proposed energy efficiency and demand-response plans and funding levels to meet the savings goals adopted by this Act the utility shall:

(1) Demonstrate that its proposed energy efficiency and demand-response measures will achieve the requirements that are identified in subsections (b) and (c) of this Section, as modified by subsections (d) and (e).

(2) Present specific proposals to implement new building and appliance standards that have been placed into effect.

(3) Present estimates of the total amount paid for electric service expressed on a per kilowatthour basis associated with the proposed portfolio of measures designed to meet the requirements that are identified in subsections (b) and (c) of this Section, as modified by subsections (d) and (e).

(4) Coordinate with the Department and the Department of Healthcare and Family Services to present a portfolio of energy efficiency measures targeted to households at or below 150% of the poverty level at a level proportionate to those households' share of total annual utility revenues in

Illinois.

(5) Demonstrate that its overall portfolio of energy efficiency and demand-response measures, not including programs covered by item (4) of this subsection (f), are cost-effective using the total resource cost test and represent a diverse cross-section of opportunities for customers of all rate classes to participate in the programs.

(6) Include a proposed cost-recovery tariff mechanism to fund the proposed energy efficiency and demand-response measures and to ensure the recovery of the prudently and reasonably incurred costs of Commission-approved programs.

(7) Provide for an annual independent evaluation of the performance of the cost-effectiveness of the utility's portfolio of measures and the Department's portfolio of measures, as well as a full review of the 3-year results of the broader net program impacts and, to the extent practical, for adjustment of the measures on a going-forward basis as a result of the evaluations. The resources dedicated to evaluation shall not exceed 3% of portfolio resources in any given year.

(g) No more than 3% of energy efficiency and demand-response program revenue may be allocated for demonstration of breakthrough equipment and devices.

(h) This Section does not apply to an electric utility that on December 31, 2005 provided electric service to fewer than

100,000 customers in Illinois.

(i) If, after 2 years, an electric utility fails to meet the efficiency standard specified in subsection (b) of this Section, as modified by subsections (d) and (e), it shall make a contribution to the Low-Income Home Energy Assistance Program. The combined total liability for failure to meet the goal shall be \$1,000,000, which shall be assessed as follows: a large electric utility shall pay \$665,000, and a medium electric utility shall pay \$335,000. If, after 3 years, an electric utility fails to meet the efficiency standard specified in subsection (b) of this Section, as modified by subsections (d) and (e), it shall make a contribution to the Low-Income Home Energy Assistance Program. The combined total liability for failure to meet the goal shall be \$1,000,000, which shall be assessed as follows: a large electric utility shall pay \$665,000, and a medium electric utility shall pay \$335,000. In addition, the responsibility for implementing the energy efficiency measures of the utility making the payment shall be transferred to the Illinois Power Agency if, after 3 years, or in any subsequent 3-year period, the utility fails to meet the efficiency standard specified in subsection (b) of this Section, as modified by subsections (d) and (e). The Agency shall implement a competitive procurement program to procure resources necessary to meet the standards specified in this Section as modified by subsections (d) and (e), with costs for those resources to be recovered in the same manner as

products purchased through the procurement plan as provided in Section 16-111.5. The Director shall implement this requirement in connection with the procurement plan as provided in Section 16-111.5.

For purposes of this Section, (i) a "large electric utility" is an electric utility that, on December 31, 2005, served more than 2,000,000 electric customers in Illinois; (ii) a "medium electric utility" is an electric utility that, on December 31, 2005, served 2,000,000 or fewer but more than 100,000 electric customers in Illinois; and (iii) Illinois electric utilities that are affiliated by virtue of a common parent company are considered a single electric utility.

(j) If, after 3 years, or any subsequent 3-year period, the Department fails to implement the Department's share of energy efficiency measures required by the standards in subsection (b), then the Illinois Power Agency may assume responsibility for and control of the Department's share of the required energy efficiency measures. The Agency shall implement a competitive procurement program to procure resources necessary to meet the standards specified in this Section, with the costs of these resources to be recovered in the same manner as provided for the Department in this Section.

(k) No electric utility shall be deemed to have failed to meet the energy efficiency standards to the extent any such failure is due to a failure of the Department or the Agency.

(Source: P.A. 95-481, eff. 8-28-07; revised 12-7-07.)

(220 ILCS 5/8-206) (from Ch. 111 2/3, par. 8-206)

Sec. 8-206. Winter termination for nonpayment.

(a) Notwithstanding any other provision of this Act, no electric or gas public utility shall disconnect service to any residential customer or mastermetered apartment building for nonpayment of a bill or deposit where gas or electricity is used as the primary source of space heating or is used to control or operate the primary source of space heating equipment at the premises during the period of time from December 1 through and including March 31 of the immediately succeeding calendar year, unless:

(1) The utility (i) has offered the customer a deferred payment arrangement allowing for payment of past due amounts over a period of not less than 4 months not to extend beyond the following November and the option to enter into a levelized payment plan for the payment of future bills. The maximum down payment requirements shall not exceed 10% of the amount past due and owing at the time of entering into the agreement; and (ii) has provided the customer with the names, addresses and telephone numbers of governmental and private agencies which may provide assistance to customers of public utilities in paying their utility bills; the utility shall obtain the approval of an agency before placing the name of that agency on any list which will be used to provide such information to

customers;

(2) The customer has refused or failed to enter into a deferred payment arrangement as described in paragraph (1) of this subsection (a); and

(3) All notice requirements as provided by law and rules or regulations of the Commission have been met.

(b) Prior to termination of service for any residential customer or mastermeters apartment building during the period from December 1 through and including March 31 of the immediately succeeding calendar year, all electric and gas public utilities shall, in addition to all other notices:

(1) Notify the customer or an adult residing at the customer's premises by telephone, a personal visit to the customer's premises or by first class mail, informing the customer that:

(i) the customer's account is in arrears and the customer's service is subject to termination for nonpayment of a bill;

(ii) the customer can avoid disconnection of service by entering into a deferred payment agreement to pay past due amounts over a period not to extend beyond the following November and the customer has the option to enter into a levelized payment plan for the payment of future bills;

(iii) the customer may apply for any available assistance to aid in the payment of utility bills from

any governmental or private agencies from the list of such agencies provided to the customer by the utility.

Provided, however, that a public utility shall be required to make only one such contact with the customer during any such period from December 1 through and including March 31 of the immediately succeeding calendar year.

(2) Each public utility shall maintain records which shall include, but not necessarily be limited to, the manner by which the customer was notified and the time, date and manner by which any prior but unsuccessful attempts to contact were made. These records shall also describe the terms of the deferred payment arrangements offered to the customer and those entered into by the utility and customers. These records shall indicate the total amount past due, the down payment, the amount remaining to be paid and the number of months allowed to pay the outstanding balance. No public utility shall be required to retain records pertaining to unsuccessful attempts to contact or deferred payment arrangements rejected by the customer after such customer has entered into a deferred payment arrangement with such utility.

(c) No public utility shall disconnect service for nonpayment of a bill until the lapse of 6 business days after making the notification required by paragraph (1) of subsection (b) so as to allow the customer an opportunity to:

(1) Enter into a deferred payment arrangement and the option to enter into a levelized payment plan for the payment of future bills.

(2) Contact a governmental or private agency that may provide assistance to customers for the payment of public utility bills.

(d) Any residential customer who enters into a deferred payment arrangement pursuant to this Act, and subsequently during that period of time set forth in subsection (a) becomes subject to termination, shall be given notice as required by law and any rule or regulation of the Commission prior to termination of service.

(e) During that time period set forth in subsection (a), a utility shall not require a down payment for a deposit from a residential customer in excess of 20% of the total deposit requested. An additional 4 months shall be allowed to pay the remainder of the deposit. This provision shall not apply to mastermeters apartment buildings or other nonresidential customers.

(f) During that period of time set forth in subsection (a), no utility may refuse to offer a deferred payment agreement to a residential customer who has defaulted on such an agreement within the past 12 months. However, no utility shall be required to enter into more than one deferred payment arrangement under this Section with any residential customer or mastermeters apartment building during the period from

December 1 through and including March 31 of the immediately succeeding calendar year.

(g) In order to enable customers to take advantage of energy assistance programs, customers who can demonstrate that their applications for a local, state or federal energy assistance program have been approved may request that the amount they will be entitled to receive as a regular energy assistance payment be deducted and set aside from the amount past due on which they make deferred payment arrangements. Payment on the set-aside amount shall be credited when the energy assistance voucher or check is received, according to the utility's common business practice.

(h) In no event shall any utility send a final notice to any customer who has entered into a current deferred payment agreement and has not defaulted on that deferred payment agreement, unless the final notice pertains to a deposit request.

(i) Each utility shall include with each disconnection notice sent during the period for December 1 through and including March 31 of the immediately succeeding calendar year to a residential customer an insert explaining the above provisions and providing a telephone number of the utility company which the consumer may call to receive further information.

(j) Each utility shall file with the Commission prior to December 1 of each year a plan detailing the implementation of

this Section. This plan shall contain, but not be limited to:

(1) a description of the methods to be used to notify residential customers as required in this Section, including the forms of written and oral notices which shall be required to include all the information contained in subsection (b) of this Section.

(2) a listing of the names, addresses and telephone numbers of governmental and private agencies which may provide assistance to residential customers in paying their utility bills.

(3) the program of employee education and information which shall be used by the company in the implementation of this Section.

(4) a description of methods to be utilized to inform residential customers of those governmental and private agencies and current and planned methods of cooperation with those agencies to identify the customers who qualify for assistance in paying their utility bills.

A utility which has a plan on file with the Commission need not resubmit a new plan each year. However, any alteration of the plan on file must be submitted and approved prior to December 1 of any year.

All plans are subject to review and approval by the Commission. The Commission may direct a utility to alter its plan to comply with the requirements of this Section.

(k) Notwithstanding any other provision of this Act, no

electric or gas public utility shall disconnect service to any residential customer who is a participant under Section 6 of the Energy Assistance Act for nonpayment of a bill or deposit where gas or electricity is used as the primary source of space heating or is used to control or operate the primary source of space heating equipment at the premises during the period of time from December 1 through and including March 31 of the immediately succeeding calendar year.

(Source: P.A. 95-331, eff. 8-21-07; revised 11-15-07.)

(220 ILCS 5/13-507.1)

(Section scheduled to be repealed on July 1, 2009)

Sec. 13-507.1. In any proceeding permitting, approving, investigating, or establishing rates, charges, classifications, or tariffs for telecommunications services classified as noncompetitive offered or provided by an incumbent local exchange carrier as that term is defined in Section 13-202.1 of this ~~the Public Utilities~~ Act, the Commission shall not allow any subsidy of Internet services, cable services, or video services by the rates or charges for local exchange telecommunications services, including local services classified as noncompetitive.

(Source: P.A. 95-9, eff. 6-30-07; revised 10-31-07.)

(220 ILCS 5/13-701) (from Ch. 111 2/3, par. 13-701)

(Section scheduled to be repealed on July 1, 2009)

Sec. 13-701. ~~(a)~~ Notwithstanding any other provision of this Act to the contrary, the Commission has no power to supervise or control any telephone cooperative as respects assessment schedules or local service rates made or charged by such a cooperative on a nondiscriminatory basis. In addition, the Commission has no power to inquire into, or require the submission of, the terms, conditions or agreements by or under which telephone cooperatives are financed. A telephone cooperative shall file with the Commission either a copy of the annual financial report required by the Rural Electrification Administration, or the annual financial report required of other public utilities.

Sections 13-712 and 13-713 of this Act do not apply to telephone cooperatives.

(Source: P.A. 95-9, eff. 6-30-07; revised 7-9-07.)

(220 ILCS 5/16-111)

Sec. 16-111. Rates and restructuring transactions during mandatory transition period; restructuring and other transactions.

(a) During the mandatory transition period, notwithstanding any provision of Article IX of this Act, and except as provided in subsections (b) and (f) of this Section, the Commission shall not (i) initiate, authorize or order any change by way of increase (other than in connection with a request for rate increase which was filed after September 1,

1997 but prior to October 15, 1997, by an electric utility serving less than 12,500 customers in this State), (ii) initiate or, unless requested by the electric utility, authorize or order any change by way of decrease, restructuring or unbundling (except as provided in Section 16-109A), in the rates of any electric utility that were in effect on October 1, 1996, or (iii) in any order approving any application for a merger pursuant to Section 7-204 that was pending as of May 16, 1997, impose any condition requiring any filing for an increase, decrease, or change in, or other review of, an electric utility's rates or enforce any such condition of any such order; provided, however, that this subsection shall not prohibit the Commission from:

(1) approving the application of an electric utility to implement an alternative to rate of return regulation or a regulatory mechanism that rewards or penalizes the electric utility through adjustment of rates based on utility performance, pursuant to Section 9-244;

(2) authorizing an electric utility to eliminate its fuel adjustment clause and adjust its base rate tariffs in accordance with subsection (b), (d), or (f) of Section 9-220 of this Act, to fix its fuel adjustment factor in accordance with subsection (c) of Section 9-220 of this Act, or to eliminate its fuel adjustment clause in accordance with subsection (e) of Section 9-220 of this Act;

(3) ordering into effect tariffs for delivery services and transition charges in accordance with Sections 16-104 and 16-108, for real-time pricing in accordance with Section 16-107, or the options required by Section 16-110 and subsection (n) of 16-112, allowing a billing experiment in accordance with Section 16-106, or modifying delivery services tariffs in accordance with Section 16-109; or

(4) ordering or allowing into effect any tariff to recover charges pursuant to Sections 9-201.5, 9-220.1, 9-221, 9-222 (except as provided in Section 9-222.1), 16-108, and 16-114 of this Act, Section 5-5 of the Electricity Infrastructure Maintenance Fee Law, Section 6-5 of the Renewable Energy, Energy Efficiency, and Coal Resources Development Law of 1997, and Section 13 of the Energy Assistance Act.

After December 31, 2004, the provisions of this subsection (a) shall not apply to an electric utility whose average residential retail rate was less than or equal to 90% of the average residential retail rate for the "Midwest Utilities", as that term is defined in subsection (b) of this Section, based on data reported on Form 1 to the Federal Energy Regulatory Commission for calendar year 1995, and which served between 150,000 and 250,000 retail customers in this State on January 1, 1995 unless the electric utility or its holding company has been acquired by or merged with an affiliate of another electric utility subsequent to January 1, 2002. This exemption

shall be limited to this subsection (a) and shall not extend to any other provisions of this Act.

(b) Notwithstanding the provisions of subsection (a), each Illinois electric utility serving more than 12,500 customers in Illinois shall file tariffs (i) reducing, effective August 1, 1998, each component of its base rates to residential retail customers by 15% from the base rates in effect immediately prior to January 1, 1998 and (ii) if the public utility provides electric service to (A) more than 500,000 customers but less than 1,000,000 customers in this State on January 1, 1999, reducing, effective May 1, 2002, each component of its base rates to residential retail customers by an additional 5% from the base rates in effect immediately prior to January 1, 1998, or (B) at least 1,000,000 customers in this State on January 1, 1999, reducing, effective October 1, 2001, each component of its base rates to residential retail customers by an additional 5% from the base rates in effect immediately prior to January 1, 1998. Provided, however, that (A) if an electric utility's average residential retail rate is less than or equal to the average residential retail rate for a group of Midwest Utilities (consisting of all investor-owned electric utilities with annual system peaks in excess of 1000 megawatts in the States of Illinois, Indiana, Iowa, Kentucky, Michigan, Missouri, Ohio, and Wisconsin), based on data reported on Form 1 to the Federal Energy Regulatory Commission for calendar year 1995, then it shall only be required to file tariffs (i)

reducing, effective August 1, 1998, each component of its base rates to residential retail customers by 5% from the base rates in effect immediately prior to January 1, 1998, (ii) reducing, effective October 1, 2000, each component of its base rates to residential retail customers by the lesser of 5% of the base rates in effect immediately prior to January 1, 1998 or the percentage by which the electric utility's average residential retail rate exceeds the average residential retail rate of the Midwest Utilities, based on data reported on Form 1 to the Federal Energy Regulatory Commission for calendar year 1999, and (iii) reducing, effective October 1, 2002, each component of its base rates to residential retail customers by an additional amount equal to the lesser of 5% of the base rates in effect immediately prior to January 1, 1998 or the percentage by which the electric utility's average residential retail rate exceeds the average residential retail rate of the Midwest Utilities, based on data reported on Form 1 to the Federal Energy Regulatory Commission for calendar year 2001; and (B) if the average residential retail rate of an electric utility serving between 150,000 and 250,000 retail customers in this State on January 1, 1995 is less than or equal to 90% of the average residential retail rate for the Midwest Utilities, based on data reported on Form 1 to the Federal Energy Regulatory Commission for calendar year 1995, then it shall only be required to file tariffs (i) reducing, effective August 1, 1998, each component of its base rates to residential retail

customers by 2% from the base rates in effect immediately prior to January 1, 1998; (ii) reducing, effective October 1, 2000, each component of its base rates to residential retail customers by 2% from the base rate in effect immediately prior to January 1, 1998; and (iii) reducing, effective October 1, 2002, each component of its base rates to residential retail customers by 1% from the base rates in effect immediately prior to January 1, 1998. Provided, further, that any electric utility for which a decrease in base rates has been or is placed into effect between October 1, 1996 and the dates specified in the preceding sentences of this subsection, other than pursuant to the requirements of this subsection, shall be entitled to reduce the amount of any reduction or reductions in its base rates required by this subsection by the amount of such other decrease. The tariffs required under this subsection shall be filed 45 days in advance of the effective date. Notwithstanding anything to the contrary in Section 9-220 of this Act, no restatement of base rates in conjunction with the elimination of a fuel adjustment clause under that Section shall result in a lesser decrease in base rates than customers would otherwise receive under this subsection had the electric utility's fuel adjustment clause not been eliminated.

(c) Any utility reducing its base rates by 15% on August 1, 1998 pursuant to subsection (b) shall include the following statement on its bills for residential customers from August 1 through December 31, 1998: "Effective August 1, 1998, your

rates have been reduced by 15% by the Electric Service Customer Choice and Rate Relief Law of 1997 passed by the Illinois General Assembly.". Any utility reducing its base rates by 5% on August 1, 1998, pursuant to subsection (b) shall include the following statement on its bills for residential customers from August 1 through December 31, 1998: "Effective August 1, 1998, your rates have been reduced by 5% by the Electric Service Customer Choice and Rate Relief Law of 1997 passed by the Illinois General Assembly."

Any utility reducing its base rates by 2% on August 1, 1998 pursuant to subsection (b) shall include the following statement on its bills for residential customers from August 1 through December 31, 1998: "Effective August 1, 1998, your rates have been reduced by 2% by the Electric Service Customer Choice and Rate Relief Law of 1997 passed by the Illinois General Assembly."

(d) (Blank.)

(e) (Blank.)

(f) During the mandatory transition period, an electric utility may file revised tariffs reducing the price of any tariffed service offered by the electric utility for all customers taking that tariffed service, which shall be effective 7 days after filing.

(g) Until all classes of tariffed services are declared competitive, an electric utility may, without obtaining any approval of the Commission other than that provided for in this

subsection and notwithstanding any other provision of this Act or any rule or regulation of the Commission that would require such approval:

(1) implement a reorganization, other than a merger of 2 or more public utilities as defined in Section 3-105 or their holding companies;

(2) retire generating plants from service;

(3) sell, assign, lease or otherwise transfer assets to an affiliated or unaffiliated entity and as part of such transaction enter into service agreements, power purchase agreements, or other agreements with the transferee; provided, however, that the prices, terms and conditions of any power purchase agreement must be approved or allowed into effect by the Federal Energy Regulatory Commission; or

(4) use any accelerated cost recovery method including accelerated depreciation, accelerated amortization or other capital recovery methods, or record reductions to the original cost of its assets.

In order to implement a reorganization, retire generating plants from service, or sell, assign, lease or otherwise transfer assets pursuant to this Section, the electric utility shall comply with subsections (c) and (d) of Section 16-128, if applicable, and subsection (k) of this Section, if applicable, and provide the Commission with at least 30 days notice of the proposed reorganization or transaction, which notice shall include the following information:

(i) a complete statement of the entries that the electric utility will make on its books and records of account to implement the proposed reorganization or transaction together with a certification from an independent certified public accountant that such entries are in accord with generally accepted accounting principles and, if the Commission has previously approved guidelines for cost allocations between the utility and its affiliates, a certification from the chief accounting officer of the utility that such entries are in accord with those cost allocation guidelines;

(ii) a description of how the electric utility will use proceeds of any sale, assignment, lease or transfer to retire debt or otherwise reduce or recover the costs of services provided by such electric utility;

(iii) a list of all federal approvals or approvals required from departments and agencies of this State, other than the Commission, that the electric utility has or will obtain before implementing the reorganization or transaction;

(iv) an irrevocable commitment by the electric utility that it will not, as a result of the transaction, impose any stranded cost charges that it might otherwise be allowed to charge retail customers under federal law or increase the transition charges that it is otherwise entitled to collect under this Article XVI; ~~and~~

(v) if the electric utility proposes to sell, assign, lease or otherwise transfer a generating plant that brings the amount of net dependable generating capacity transferred pursuant to this subsection to an amount equal to or greater than 15% of the electric utility's net dependable capacity as of the effective date of this amendatory Act of 1997, and enters into a power purchase agreement with the entity to which such generating plant is sold, assigned, leased, or otherwise transferred, the electric utility also agrees, if its fuel adjustment clause has not already been eliminated, to eliminate its fuel adjustment clause in accordance with subsection (b) of Section 9-220 for a period of time equal to the length of any such power purchase agreement or successor agreement, or until January 1, 2005, whichever is longer; if the capacity of the generating plant so transferred and related power purchase agreement does not result in the elimination of the fuel adjustment clause under this subsection, and the fuel adjustment clause has not already been eliminated, the electric utility shall agree that the costs associated with the transferred plant that are included in the calculation of the rate per kilowatt-hour to be applied pursuant to the electric utility's fuel adjustment clause during such period shall not exceed the per kilowatt-hour cost associated with such generating plant included in the electric utility's fuel adjustment clause during the full

calendar year preceding the transfer, with such limit to be adjusted each year thereafter by the Gross Domestic Product Implicit Price Deflator; and ~~and~~

(vi) in ~~in~~ addition, if the electric utility proposes to sell, assign, or lease, (A) either (1) an amount of generating plant that brings the amount of net dependable generating capacity transferred pursuant to this subsection to an amount equal to or greater than 15% of its net dependable capacity on the effective date of this amendatory Act of 1997, or (2) one or more generating plants with a total net dependable capacity of 1100 megawatts, or (B) transmission and distribution facilities that either (1) bring the amount of transmission and distribution facilities transferred pursuant to this subsection to an amount equal to or greater than 15% of the electric utility's total depreciated original cost investment in such facilities, or (2) represent an investment of \$25,000,000 in terms of total depreciated original cost, the electric utility shall provide, in addition to the information listed in subparagraphs (i) through (v), the following information: (A) a description of how the electric utility will meet its service obligations under this Act in a safe and reliable manner and (B) the electric utility's projected earned rate of return on common equity for each year from the date of the notice through December 31, 2006 both with and without the

proposed transaction. If the Commission has not issued an order initiating a hearing on the proposed transaction within 30 days after the date the electric utility's notice is filed, the transaction shall be deemed approved. The Commission may, after notice and hearing, prohibit the proposed transaction if it makes either or both of the following findings: (1) that the proposed transaction will render the electric utility unable to provide its tariffed services in a safe and reliable manner, or (2) that there is a strong likelihood that consummation of the proposed transaction will result in the electric utility being entitled to request an increase in its base rates. Any hearing initiated by the Commission into the proposed transaction shall be completed, and the Commission's final order approving or prohibiting the proposed transaction shall be entered, within 90 days after the date the electric utility's notice was filed. Provided, however, that a sale, assignment, or lease of transmission facilities to an independent system operator that meets the requirements of Section 16-126 shall not be subject to Commission approval under this Section.

In any proceeding conducted by the Commission pursuant to this subparagraph (vi), intervention shall be limited to parties with a direct interest in the transaction which is the subject of the hearing and any statutory consumer protection agency as defined in subsection (d) of Section

9-102.1. Notwithstanding the provisions of Section 10-113 of this Act, any application seeking rehearing of an order issued under this subparagraph (vi), whether filed by the electric utility or by an intervening party, shall be filed within 10 days after service of the order.

The Commission shall not in any subsequent proceeding or otherwise, review such a reorganization or other transaction authorized by this Section, but shall retain the authority to allocate costs as stated in Section 16-111(i). An entity to which an electric utility sells, assigns, leases or transfers assets pursuant to this subsection (g) shall not, as a result of the transactions specified in this subsection (g), be deemed a public utility as defined in Section 3-105. Nothing in this subsection (g) shall change any requirement under the jurisdiction of the Illinois Department of Nuclear Safety including, but not limited to, the payment of fees. Nothing in this subsection (g) shall exempt a utility from obtaining a certificate pursuant to Section 8-406 of this Act for the construction of a new electric generating facility. Nothing in this subsection (g) is intended to exempt the transactions hereunder from the operation of the federal or State antitrust laws. Nothing in this subsection (g) shall require an electric utility to use the procedures specified in this subsection for any of the transactions specified herein. Any other procedure available under this Act may, at the electric utility's election, be used for any such transaction.

(h) During the mandatory transition period, the Commission shall not establish or use any rates of depreciation, which for purposes of this subsection shall include amortization, for any electric utility other than those established pursuant to subsection (c) of Section 5-104 of this Act or utilized pursuant to subsection (g) of this Section. Provided, however, that in any proceeding to review an electric utility's rates for tariffed services pursuant to Section 9-201, 9-202, 9-250 or 16-111(d) of this Act, the Commission may establish new rates of depreciation for the electric utility in the same manner provided in subsection (d) of Section 5-104 of this Act. An electric utility implementing an accelerated cost recovery method including accelerated depreciation, accelerated amortization or other capital recovery methods, or recording reductions to the original cost of its assets, pursuant to subsection (g) of this Section, shall file a statement with the Commission describing the accelerated cost recovery method to be implemented or the reduction in the original cost of its assets to be recorded. Upon the filing of such statement, the accelerated cost recovery method or the reduction in the original cost of assets shall be deemed to be approved by the Commission as though an order had been entered by the Commission.

(i) Subsequent to the mandatory transition period, the Commission, in any proceeding to establish rates and charges for tariffed services offered by an electric utility, shall

consider only (1) the then current or projected revenues, costs, investments and cost of capital directly or indirectly associated with the provision of such tariffed services; (2) collection of transition charges in accordance with Sections 16-102 and 16-108 of this Act; (3) recovery of any employee transition costs as described in Section 16-128 which the electric utility is continuing to incur, including recovery of any unamortized portion of such costs previously incurred or committed, with such costs to be equitably allocated among bundled services, delivery services, and contracts with alternative retail electric suppliers; and (4) recovery of the costs associated with the electric utility's compliance with decommissioning funding requirements; and shall not consider any other revenues, costs, investments or cost of capital of either the electric utility or of any affiliate of the electric utility that are not associated with the provision of tariffed services. In setting rates for tariffed services, the Commission shall equitably allocate joint and common costs and investments between the electric utility's competitive and tariffed services. In determining the justness and reasonableness of the electric power and energy component of an electric utility's rates for tariffed services subsequent to the mandatory transition period and prior to the time that the provision of such electric power and energy is declared competitive, the Commission shall consider the extent to which the electric utility's tariffed rates for such component for

each customer class exceed the market value determined pursuant to Section 16-112, and, if the electric power and energy component of such tariffed rate exceeds the market value by more than 10% for any customer class, may establish such electric power and energy component at a rate equal to the market value plus 10%.

(j) During the mandatory transition period, an electric utility may elect to transfer to a non-operating income account under the Commission's Uniform System of Accounts either or both of (i) an amount of unamortized investment tax credit that is in addition to the ratable amount which is credited to the electric utility's operating income account for the year in accordance with Section 46(f)(2) of the federal Internal Revenue Code of 1986, as in effect prior to P.L. 101-508, or (ii) "excess tax reserves", as that term is defined in Section 203(e)(2)(A) of the federal Tax Reform Act of 1986, provided that (A) the amount transferred may not exceed the amount of the electric utility's assets that were created pursuant to Statement of Financial Accounting Standards No. 71 which the electric utility has written off during the mandatory transition period, and (B) the transfer shall not be effective until approved by the Internal Revenue Service. An electric utility electing to make such a transfer shall file a statement with the Commission stating the amount and timing of the transfer for which it intends to request approval of the Internal Revenue Service, along with a copy of its proposed

request to the Internal Revenue Service for a ruling. The Commission shall issue an order within 14 days after the electric utility's filing approving, subject to receipt of approval from the Internal Revenue Service, the proposed transfer.

(k) If an electric utility is selling or transferring to a single buyer 5 or more generating plants located in this State with a total net dependable capacity of 5000 megawatts or more pursuant to subsection (g) of this Section and has obtained a sale price or consideration that exceeds 200% of the book value of such plants, the electric utility must provide to the Governor, the President of the Illinois Senate, the Minority Leader of the Illinois Senate, the Speaker of the Illinois House of Representatives, and the Minority Leader of the Illinois House of Representatives no later than 15 days after filing its notice under subsection (g) of this Section or 5 days after the date on which this subsection (k) becomes law, whichever is later, a written commitment in which such electric utility agrees to expend \$2 billion outside the corporate limits of any municipality with 1,000,000 or more inhabitants within such electric utility's service area, over a 6-year period beginning with the calendar year in which the notice is filed, on projects, programs, and improvements within its service area relating to transmission and distribution including, without limitation, infrastructure expansion, repair and replacement, capital investments, operations and

maintenance, and vegetation management.

(l) Notwithstanding any other provision of this Act or any rule, regulation, or prior order of the Commission, a public utility providing electric and gas service may do any one or more of the following: transfer assets to, reorganize with, or merge with one or more public utilities under common holding company ownership or control in the manner prescribed in subsection (g) of this Section. No merger transaction costs, such as fees paid to attorneys, investment bankers, and other consultants, incurred in connection with a merger pursuant to this subsection (l) shall be recoverable in any subsequent rate proceeding. Approval of a merger pursuant to this subsection (l) shall not constitute approval of, or otherwise require, rate recovery of other costs incurred in connection with, or to implement the merger, such as the cost of restructuring, combining, or integrating debt, assets, or systems. Such other costs may be recovered only to the extent that the surviving utility can demonstrate that the cost savings produced by such restructuring, combination, or integration exceed the associated costs. Nothing in this subsection (l) shall impair the terms or conditions of employment or the collective bargaining rights of any employees of the utilities that are transferring assets, reorganizing, or merging.

(m) If an electric utility that on December 31, 2005 provided electric service to at least 100,000 customers in Illinois transfers assets, reorganizes, or merges under this

Section, then the same provisions apply that applied during the mandatory transition period under Section 16-128.

(Source: P.A. 95-331, eff. 8-21-07; 95-481, eff. 8-28-07; revised 11-30-07.)

(220 ILCS 5/21-101)

(Section scheduled to be repealed on October 1, 2013)

Sec. 21-101. Findings. With respect to cable and video competition, the General Assembly finds that:

(a) The economy in the State of Illinois will be enhanced by investment in new communications, cable services, and video services infrastructure, including broadband facilities, fiber optic, and Internet protocol technologies.

(b) Cable services and video services bring important daily benefits to Illinois consumers by providing news, education, and entertainment.

(c) Competitive cable service and video service providers are capable of providing new video programming services and competition to Illinois consumers and of decreasing the prices for video programming services paid by Illinois consumers.

(d) Although there has been some competitive entry into the facilities-based video programming market since current franchising requirements in this State were enacted, further entry by facilities-based providers could

benefit consumers, provided cable and video services are equitably available to all Illinois consumers at reasonable prices.

(e) The provision of competitive cable services and video services is a matter of statewide concern that extends beyond the boundaries of individual local units of government. Notwithstanding the foregoing, public rights-of-way are limited resources over which the municipality has a custodial duty to ensure that they are used, repaired, and maintained in a manner that best serves the public interest.

(f) The State authorization process and uniform standards and procedures in this Article are intended to enable rapid and widespread entry by competitive providers, which will bring to Illinois consumers the benefits of video competition, including providing consumers with more choice, lower prices, higher speed and more advanced Internet access, more diverse and varied news, public information, education, and entertainment programming, and will bring to this State and its local units of government the benefits of new infrastructure investment, job growth, and innovation in broadband and Internet protocol technologies and deployment.

(g) Providing an incumbent cable or video service provider with the option to secure a State-issued authorization through the termination of existing cable

franchises between incumbent cable and video service providers and any local franchising authority~~7~~ is part of the new regulatory framework established by this Article. This Article is intended to best ensure equal treatment and parity among providers and technologies.

(Source: P.A. 95-9, eff. 6-30-07; revised 10-31-07.)

(220 ILCS 5/21-101.1)

(Section scheduled to be repealed on October 1, 2013)

Sec. 21-101.1. Applicability. The provisions of Public Act 95-9 ~~this amendatory Act of the 95th Illinois General Assembly~~ shall apply only to a holder of a cable service or video service authorization issued by the Commission pursuant to this Article ~~XXI of the Public Utilities Act~~, and shall not apply to any person or entity that provides cable television services under a cable television franchise issued by any municipality or county pursuant to Section 11-42-11 of the Illinois Municipal Code (65 ILCS 5/11-42-11) or Section 5-1095 of the Counties Code (55 ILCS 5/5-1095), unless specifically provided for herein. A local unit of government that has an existing agreement for the provision of video services with a company or entity that uses its telecommunications facilities to provide video service as of May 30, 2007 may continue to operate under that agreement or may, at its discretion, terminate the existing agreement and require the video provider to obtain a State-issued authorization under this Article.

(Source: P.A. 95-9, eff. 6-30-07; revised 10-31-07.)

(220 ILCS 5/21-201)

(Section scheduled to be repealed on October 1, 2013)

Sec. 21-201. Definitions. As used in this Article:

(a) "Access" means that the cable or video provider is capable of providing cable services or video services at the household address using any technology, other than direct-to-home satellite service, that ~~which~~ provides 2-way ~~two-way~~ broadband Internet capability and video programming, content, and functionality, regardless of whether any customer has ordered service or whether the owner or landlord or other responsible person has granted access to the household. If more than one technology is used, the technologies shall provide similar 2-way ~~two-way~~ broadband Internet accessibility and similar video programming.

(b) "Basic cable or video service" means any cable or video service offering or tier that ~~which~~ includes the retransmission of local television broadcast signals.

(c) "Broadband service" means a high speed service connection to the public Internet capable of supporting, in at least one direction, a speed in excess of 200 kilobits per second (kbps) to the network demarcation point at the subscriber's premises.

(d) "Cable operator" means that term as defined in item (5) of 47 U.S.C. 522 ~~47 U.S.C. 522(5)~~.

(e) "Cable service" means that term as defined in item (6) of 47 U.S.C. 522 ~~47 U.S.C. 522(6)~~.

(f) "Cable system" means that term as defined in item (7) of 47 U.S.C. 522 ~~47 U.S.C. 522(7)~~.

(g) "Commission" means the Illinois Commerce Commission.

(h) "Competitive cable service or video service provider" means a person or entity that is providing or seeks to provide cable service or video service in an area where there is at least one incumbent cable operator.

(i) "Designated market area ~~Market Area~~" means a designated market area, as determined by Nielsen Media Research and published in the 1999-2000 Nielsen Station Index Directory and Nielsen Station Index United States Television Household Estimates or any successor publication. For any designated market area that crosses State lines, only households in the portion of the designated market area that is located within the holder's telecommunications service area in the State where access to video service will be offered shall be considered.

(j) "Footprint" means the geographic area designated by the cable service or video service provider as the geographic area in which it will offer cable services or video services during the period of its State-issued authorization. Each footprint shall be identified in terms of either (i) exchanges, as that term is defined in Section 13-206 of this Act ~~the Public Utilities Act~~; (ii) a collection of United States Census Bureau Block numbers (13 digit); (iii) if the area is smaller than the

areas identified in either (i) or (ii), by geographic information system digital boundaries meeting or exceeding national map accuracy standards; or (iv) local units of government.

(k) "Holder" means a person or entity that has received authorization to offer or provide cable or video service from the Commission pursuant to Section 21-401 of this Article.

(l) "Household" means a house, an apartment, a mobile home, a group of rooms, or a single room that is intended for occupancy as separate living quarters. Separate living quarters are those in which the occupants live and eat separately from any other persons in the building and that ~~which~~ have direct access from the outside of the building or through a common hall. This definition is consistent with the United States Census Bureau, as that definition may be amended thereafter.

(m) "Incumbent cable operator" means a person or entity that provided cable services or video services in a particular area under a franchise agreement with a local unit of government pursuant to Section 11-42-11 of the Illinois Municipal Code (65 ILCS 5/11-42-11) or Section 5-1095 of the Counties Code (55 ILCS 5/5-1095) on January 1, 2007.

(n) "Local franchising authority" means the local unit of government that has or requires a franchise with a cable operator, a provider of cable services, or a provider of video services to construct or operate a cable or video system or to

offer cable services or video services under Section 11-42-11 of the Illinois Municipal Code (65 ILCS 5/11-42-11) or Section 5-1095 of the Counties Code (55 ILCS 5/5-1095).

(o) "Local unit of government" means a city, village, incorporated town, or ~~a~~ county.

(p) "Low-income household" means those residential households located within the holder's existing telephone service area where the average annual household income is less than \$35,000, based on the United States Census Bureau estimates adjusted annually to reflect rates of change and distribution.

(q) "Public rights-of-way" means the areas on, below, or above a public roadway, highway, street, public sidewalk, alley, waterway, or utility easements dedicated for compatible uses.

(r) "Service" means the provision of cable service ~~"cable service"~~ or video service ~~"video service"~~ to subscribers and the interaction of subscribers with the person or entity that has received authorization to offer or provide cable or video service from the Commission pursuant to Section 21-401 of this Act ~~Article~~.

(s) "Service provider fee" means the amount paid under Section 21-801 of this Act ~~Article~~ by the holder to a municipality, or in the case of an unincorporated service area to a county, for service areas within its territorial jurisdiction, but under no circumstances shall the service

provider fee be paid to more than one local unit of government for the same portion of the holder's service area.

(t) "Telecommunications service area" means the area designated by the Commission as the area in which a telecommunications company was obligated to provide non-competitive local telephone service as of February 8, 1996 as incorporated into Section 13-202.5 of this Act ~~Article XIII of the Public Utilities Act~~.

(u) "Video programming" means that term as defined in item (20) of 47 U.S.C. 522 ~~47 U.S.C. 522(20)~~.

(v) "Video service" means video programming and subscriber interaction, if any, that is required for the selection or use of such video programming services, and that ~~which~~ is provided through wireline facilities located at least in part in the public rights-of-way without regard to delivery technology, including Internet protocol technology. This definition does not include any video programming provided by a commercial mobile service provider defined in subsection (d) of 47 U.S.C. 332 ~~47 U.S.C. 332(d)~~ or any video programming provided solely as part of, and via, service that enables users to access content, information, electronic mail, or other services offered over the public Internet.

(Source: P.A. 95-9, eff. 6-30-07; revised 10-31-07.)

(220 ILCS 5/21-301)

(Section scheduled to be repealed on October 1, 2013)

Sec. 21-301. Eligibility.

(a) A person or entity seeking to provide cable service or video service in this State after June 30, 2007 (the effective date of Public Act 95-9) ~~this amendatory Act of the 95th General Assembly~~ shall either (1) obtain a State-issued authorization pursuant to Section 21-401 ~~Section 401~~ of the Public Utilities Cable and Video Competition Act (220 ILCS 5/21-401); (2) obtain authorization pursuant to Section 11-42-11 of the Illinois Municipal Code (65 ILCS 5/11-42-11); or (3) obtain authorization pursuant to Section 5-1095 of the Counties Code (55 ILCS 5/5-1095).

(b) An incumbent cable operator shall be eligible to apply for a State-issued authorization as provided in subsection (c) of this Section. Upon expiration of its current franchise agreement, an incumbent cable operator may obtain State authorization from the Commission pursuant to this Article or may pursue a franchise renewal with the appropriate local franchise authority under State and federal law. An incumbent cable operator and any successor-in-interest that receives a State-issued authorization shall be obligated to provide access to cable services or video services within any local unit of government at the same levels required by the local franchising authorities for the local unit of government on June 30, 2007 (the effective date of Public Act 95-9) ~~this amendatory Act of the 95th General Assembly~~.

(c) (1) An incumbent cable operator may elect to terminate

its agreement with the local franchising authority and obtain a State-issued authorization by providing written notice to the Commission and the affected local franchising authority and any entity authorized by that franchising authority to manage public, education, and government access at least 180 days prior to its filing an application for a State-issued authorization. The existing agreement shall be terminated on the date that the Commission issues the State-issued authorization.

(2) An incumbent cable operator that elects to terminate an existing agreement with a local franchising authority under this Section is responsible for remitting to the affected local franchising authority and any entity designated by that local franchising authority to manage public, education, and government access before the 46th day after the date the agreement is terminated any accrued but unpaid fees due under the terminated agreement. If that incumbent cable operator has credit remaining from prepaid franchise fees, such amount of the remaining credit may be deducted from any future fees the incumbent cable operator must pay to the local franchising authority pursuant to subsection (b) of Section 21-801 of this Act ~~Section 21-801(b) of this Article~~.

(3) An incumbent cable operator that elects to terminate an existing agreement with a local franchising authority under this Section shall pay the affected local

franchising authority and any entity designated by that franchising authority to manage public, education, and government access, at the time that they would have been due, all monetary payments for public, education, or government access that would have been due during the remaining term of the agreement had it not been terminated as provided in this paragraph. All payments made by an incumbent cable operator pursuant to the previous sentence of this paragraph may be credited against the fees that that operator owes under item (1) of subsection (d) of Section 21-801 ~~Section 21-801(d)(1)~~ of this Act ~~Article~~.

(d) For purposes of this Article, the Commission shall be the franchising authority for cable service or video service providers that apply for and obtain a State-issued authorization under this Article with regard to the footprint covered by such authorization. Notwithstanding any other provision of this Article, holders using telecommunications facilities to provide cable service or video service are not obligated to provide that service outside the holder's telecommunications service area.

(e) Any person or entity that applies for and obtains a State-issued authorization under this Article shall not be subject to Section 11-42-11 of the Illinois Municipal Code (65 ILCS 5/11-42-11) or Section 5-1095 of the Counties Code (55 ILCS 5/5-1095), except as provided in this Article. Except as provided under this Article, neither the Commission nor any

local unit of government may require a person or entity that has applied for and obtained a State-issued authorization to obtain a separate franchise or pay any franchise fee on cable service or video service.

(Source: P.A. 95-9, eff. 6-30-07; revised 10-31-07.)

(220 ILCS 5/21-401)

(Section scheduled to be repealed on October 1, 2013)

Sec. 21-401. Applications.

(a) (1) A person or entity seeking to provide cable service or video service pursuant to this Article shall not use the public rights-of-way for the installation or construction of facilities for the provision of cable service or video service or offer cable service or video service until it has obtained a State-issued authorization to offer or provide cable or video service under this Section ~~Section 401 of this Article~~, except as provided for in item (2) of this subsection ~~(a) (a)(2)~~. All cable or video providers offering or providing service in this State shall have authorization pursuant to either (i) the Cable and Video Competition Law of 2007 (220 ILCS 5/21-100 et seq.); (ii) Section 11-42-11 of the Illinois Municipal Code (65 ILCS 5/11-42-11); or (iii) Section 5-1095 of the Counties Code (55 ILCS 5/5-1095).

(2) Nothing in this Section shall prohibit a local unit of government from granting a permit to a person or entity for the use of the public rights-of-way to install or

construct facilities to provide cable service or video service, at its sole discretion. No unit of local government shall be liable for denial or delay of a permit prior to the issuance of a State-issued authorization.

(b) The application to the Commission for State-issued authorization shall contain a completed affidavit submitted by the applicant and signed by an officer or general partner of the applicant affirming all of the following:

(1) That the applicant has filed or will timely file with the Federal Communications Commission all forms required by that agency in advance of offering cable service or video service in this State.+

(2) That the applicant agrees to comply with all applicable federal and State statutes and regulations.+

(3) That the applicant agrees to comply with all applicable local unit of government regulations.+

(4) An exact description of the cable service or video service area where the cable service or video service will be offered during the term of the State-issued authorization. The service area shall be identified in terms of either (i) exchanges, as that term is defined in Section 13-206 of this Act ~~the Public Utilities Act~~; (ii) a collection of United States Census Bureau Block numbers (13 digit); (iii) if the area is smaller than the areas identified in either (i) or (ii), by geographic information system digital boundaries meeting or exceeding national

map accuracy standards; or (iv) local unit of government. The description shall include the number of low-income households within the service area or footprint. If an applicant is a an incumbent cable operator, the incumbent cable operator and any successor-in-interest shall be obligated to provide access to cable services or video services within any local units of government at the same levels required by the local franchising authorities for the local unit of government on June 30, 2007 (the effective date of Public Act 95-9), ~~this amendatory Act of the 95th General Assembly~~ and its application shall provide a description of an area no smaller than the service areas contained in its franchise or franchises ~~franchise(s)~~ within the jurisdiction of the local unit of government in which it seeks to offer cable or video service. ~~†~~

(5) The location and telephone number of the applicant's principal place of business within this State and the names of the applicant's principal executive officers who are responsible for communications concerning the application and the services to be offered pursuant to the application, the applicant's legal name, ‡ and any name or names under which the applicant does or will provide cable services or video services in this State. ~~†~~

(6) A certification that the applicant has concurrently delivered a copy of the application to all local units of government that include all or any part of

the service area identified in item (4) of this subsection ~~(b) subsection (b) (4)~~ within such local unit of government's jurisdictional boundaries. ~~†~~

(7) The expected date that cable service or video service will be initially offered in the area identified in item (4) of this subsection ~~(b) subsection (b) (4)~~. In the event that a holder does not offer cable services or video services within 3 ~~three~~ months after the expected date, it shall amend its application and update the expected date service will be offered and explain the delay in offering cable services or video services. ~~†~~

~~(8)~~ The application shall include adequate assurance that the applicant possesses the financial, managerial, legal, and technical qualifications necessary to construct and operate the proposed system, ~~and~~ to promptly repair any damage to the public right-of-way caused by the applicant, and to pay the cost of removal of its facilities. To accomplish these requirements, the applicant may, at the time the applicant seeks to use the public rights-of-way in that jurisdiction, be required by the State of Illinois or ~~and/or~~ later be required by the local unit of government, or both, to post a bond, produce a certificate of insurance, or otherwise demonstrate its financial responsibility. ~~† and~~

~~(9)~~ The application shall include the applicant's general standards related to customer service required by Section 22-501 of this Act ~~220 ILCS 5/70 501~~, which shall include, but

not be limited to, installation, disconnection, service and repair obligations; appointment hours; ~~7~~ employee ID requirements; customer service telephone numbers and hours; procedures for billing, charges, deposits, refunds, and credits; procedures for termination of service; notice of deletion of programming service and ~~7~~ changes related to transmission of programming or changes or increases in rates; use and availability of parental control or lock-out devices; complaint procedures and procedures for bill dispute resolution ~~7~~ and a description of the rights and remedies available to consumers if the holder does not materially meet their customer service standards; and special services for customers with visual, hearing, l or mobility disabilities.

(c)(1) The applicant may designate information that it submits in its application or subsequent reports as confidential or proprietary, provided that the applicant states the reasons the confidential designation is necessary. The Commission shall provide adequate protection for such information pursuant to Section 4-404 of this Act ~~Section 5/4-404 of the Public Utilities Act~~. If the Commission, a local unit of government, or any other party seeks public disclosure of information designated as confidential, the Commission shall consider the confidential designation in a proceeding under the Illinois Administrative Procedure ~~Procedures~~ Act, and the burden of proof to demonstrate that the designated information is confidential shall be upon the applicant.

Designated information shall remain confidential pending the Commission's determination of whether the information is entitled to confidential treatment. Information designated as confidential shall be provided to local units of government for purposes of assessing compliance with this Article as permitted under a Protective Order issued by the Commission pursuant to the Commission's rules and to the Attorney General pursuant to Section 6.5 of the Attorney General Act~~7~~ (15 ILCS 205/6.5). Information designated as confidential under this Section or determined to be confidential upon Commission review shall only be disclosed pursuant to a valid and enforceable subpoena or court order or as required by the Freedom of Information Act. Nothing herein shall delay the application approval timeframes set forth in this Article.

(2) Information regarding the location of video services that have been or are being offered to the public and aggregate information included in the reports required by this Article shall not be designated or treated as confidential.

(d)(1) The Commission shall post all applications it receives under this Article on its web site within 5 ~~five (5)~~ business days.

(2) The Commission shall notify an applicant for a cable service or video service authorization whether the applicant's application and affidavit are complete on or before the 15th business day after the applicant submits

the application. If the application and affidavit are not complete, the Commission shall state in its notice all of the reasons the application or affidavit are incomplete, and the applicant shall resubmit a complete application. The Commission shall have 30 days after submission by the applicant of a complete application and affidavit to issue the service authorization. If the Commission does not notify the applicant regarding the completeness of the application and affidavit or issue the service authorization within the time periods required under this subsection, the application and affidavit shall be considered complete and the service authorization issued upon the expiration of the 30th day.

(e) The authorization issued by the Commission will expire on the date listed in Section 21-1601 of this Act and shall contain or include all of the following:

(1) A grant of authority to provide cable service or video service in the service area footprint as requested in the application, subject to the laws of the State and the ordinances, rules, and regulations of the local units of government.

(2) A grant of authority to use, occupy, and construct facilities in the public rights-of-way for the delivery of cable service or video service in the service area footprint, subject to the laws, ordinances, rules, or regulations of this State and local units of governments.

(3) A statement that the grant of authority is subject to lawful operation of the cable service or video service by the applicant, its affiliated entities, or its successors-in-interest.

(4) The Commission shall notify a local unit of government within 3 ~~three (3)~~ business days of the grant of any authorization within a service area footprint if that authorization includes any part of the local unit of government's jurisdictional boundaries.

(f) The authorization issued pursuant to this Section ~~Section 401 of this Article~~ by the Commission may be transferred to any successor-in-interest to the applicant to which it is initially granted without further Commission action if the successor-in-interest (i) submits an application and the information required by subsection (b) of this Section ~~Section 21-401(b)~~ for the successor-in-interest and (ii) is not in violation of this Article or of any federal, State, or local law, ordinance, rule, or regulation. A successor-in-interest shall file its application and notice of transfer with the Commission and the relevant local units of government no less than 15 ~~fifteen (15)~~ business days prior to the completion of the transfer. The Commission is not required or authorized to act upon the notice of transfer; however, the transfer is not effective until the Commission approves the successor-in-interest's application. A local unit of government or the Attorney General may seek to bar a transfer

of ownership by filing suit in a court of competent jurisdiction predicated on the existence of a material and continuing breach of this Article by the holder, a pattern of noncompliance with customer service standards by the potential successor-in-interest, or the insolvency of the potential successor-in-interest. If a transfer is made when there are violations of this Article or of any federal, State, or local law, ordinance, rule, or regulation, the successor-in-interest shall be subject to 3 ~~three~~ times the penalties provided for in this Article.

(g) The authorization issued pursuant to Section 21-401 of this Article by the Commission may be terminated, or its cable service or video service area footprint may be modified, by the cable service provider or video service provider by submitting notice to the Commission and to the relevant local unit of government containing a description of the change on the same terms as the initial description pursuant to item (4) of subsection (b) of this Section ~~Section 21-401(b)(4)~~. The Commission is not required or authorized to act upon that notice. It shall be a violation of this Article for a holder to discriminate against potential residential subscribers because of the race or income of the residents in the local area in which the group resides by terminating or modifying its cable service or video service area footprint. It shall be a violation of this Article for a holder to terminate or modify its cable service or video service area footprint if it leaves

an area with no cable service or video service from any provider.

(h) The Commission's authority to administer this Article is limited to the powers and duties explicitly provided under this Article. Its authority under this Article does not include or limit the powers and duties that the Commission has under the other Articles of this Act ~~the Public Utilities Act~~, the Illinois Administrative Procedure Act, ~~(5 ILCS 100/)~~ or any other law or regulation to conduct proceedings, ~~other than as provided in subsection (c) above~~, or has to promulgate rules or regulations. The Commission shall not have the authority to limit or expand the obligations and requirements provided in this Section, ~~or to regulate or control a person or entity to the extent that person or entity is providing cable service or video service~~, except as provided in this Article.

(Source: P.A. 95-9, eff. 6-30-07; revised 10-31-07.)

(220 ILCS 5/21-601)

(Section scheduled to be repealed on October 1, 2013)

Sec. 21-601. Public, education, and government access. For the purposes of this Section, "programming" means content produced or provided by any person, group, governmental agency, or noncommercial public or private agency or organization.

(a) Not later than 90 days after a request by the local unit of government or its designee that has received notice under subsection (a) of Section 21-801 ~~Section 21-801(a)~~ of

this ~~Act Article~~, the holder shall (i) designate the same amount of capacity on its network to provide for public, education, and government access use~~r~~ as the incumbent cable operator is required to designate under its franchise terms in effect with a local unit of government on January 1, 2007~~r~~ and (ii) retransmit to its subscribers the same number of public, education, and government access channels as the incumbent cable operator was retransmitting to subscribers on January 1, 2007.

(b) If the local unit of government produces or maintains the public education or government programming in a manner or form that is compatible with the holder's network, it shall transmit such programming to the holder in that form provided that form permits ~~will permit~~ the holder to satisfy the requirements of subsection (c) of this Section ~~Section 21-601(e)~~. If the local unit of government does not produce or maintain such programming in that manner or form, then the holder shall be responsible for any changes in the form of the transmission necessary to make public, education, and government programming compatible with the technology or protocol used by the holder to deliver services. The holder shall receive programming from the local unit of government (or the local unit of government's public, education, and government programming providers) and transmit that public, education, and government programming directly to the holder's subscribers within the local unit of government's jurisdiction

at no cost to the local unit of government or the public, education, and government programming providers. If the holder is required to change the form of the transmission, the local unit of government or its designee shall provide reasonable access to the holder to allow the holder to transmit the public, education, and government programming in an economical manner subject to the requirements of subsection (c) of this Section ~~Section 21-601(e)~~.

(c) The holder shall provide to subscribers public, education, and government access channel capacity at equivalent visual and audio quality and equivalent functionality, from the viewing perspective of the subscriber, to that of commercial channels carried on the holder's basic cable or video service offerings or tiers without the need for any equipment other than the equipment necessary to receive the holder's basic cable or video service offerings or tiers.

(d) The holder and an incumbent cable operator shall negotiate in good faith to interconnect their networks, if needed, for the purpose of providing public, education, and government programming. Interconnection may be accomplished by direct cable, microwave link, satellite, or other reasonable method of connection. The holder and the incumbent cable operator shall provide interconnection of the public, education, and government channels on reasonable terms and conditions and may not withhold the interconnection. If a holder and an incumbent cable operator cannot reach a mutually

acceptable interconnection agreement, the local unit of government may require the incumbent cable operator to allow the holder to interconnect its network with the incumbent cable operator's network at a technically feasible point on their networks. If no technically feasible point for interconnection is available, the holder and an incumbent cable operator shall each make an interconnection available to the public, education, and government channel originators at their local origination points and shall provide the facilities necessary for the interconnection. The cost of any interconnection shall be borne by the holder unless otherwise agreed to by the parties. The interconnection required by this subsection shall be completed within the 90-day deadline set forth in subsection (a) of this Section.

(e) The public, education, and government channels shall be for the exclusive use of the local unit of government or its designee to provide public, education, and government programming. The public, education, and government channels shall be used only for noncommercial purposes. However, advertising, underwriting, or sponsorship recognition may be carried on the channels for the purpose of funding public, education, and government access related activities.

(f) Public, education, and government channels shall all be carried on the holder's basic cable or video service offerings or tiers. To the extent feasible, the public, education, and government channels shall not be separated numerically from

other channels carried on the holder's basic cable or video service offerings or tiers, and the channel numbers for the public, education, and government channels shall be the same channel numbers used by the incumbent cable operator, unless prohibited by federal law. After the initial designation of public, education, and government channel numbers, the channel numbers shall not be changed without the agreement of the local unit of government or the entity to which the local unit of government has assigned responsibility for managing public, education, and government access channels, unless the change is required by federal law. Each channel shall be capable of carrying a National Television System Committee (NTSC) television signal.

(g) The holder shall provide a listing of public, education, and government channels on channel cards and menus provided to subscribers in a manner equivalent to other channels if the holder uses such cards and menus. Further, the holder shall provide a listing of public, education, and government programming on its electronic program guide if such a guide is utilized by the holder. It is the public, education, and government entity's responsibility to provide the holder or its designated agent, as determined by the holder, with program schedules and information in a timely manner.

(h) If less than 3 ~~three~~ public, education, and government channels are provided within the local unit of government as of January 1, 2007, a local unit of government whose jurisdiction

lies within the authorized service area of the holder may initially request the holder to designate sufficient capacity for up to 3 ~~three~~ public, education, and government channels. A local unit of government or its designee that seeks to add additional capacity shall give the holder a written notification specifying the number of additional channels to be used, specifying the number of channels in actual use, and verifying that the additional channels requested will be put into actual use.

(i) The holder shall, within 90 days of a request by the local unit of government or its designated public, education, or government access entity, provide sufficient capacity for an additional channel for public, education, and government access when the programming on a given access channel exceeds 40 hours per week as measured on a quarterly basis. The additional channel shall not be used for any purpose other than for carrying additional public, education, or government access programming.

(j) The public, education, and government access programmer is solely responsible for the content that it provides over designated public, education, or government channels. A holder shall not exercise any editorial control over any programming on any channel designed for public, education, or government use or on any other channel required by law or a binding agreement with the local unit of government.

(k) A holder shall not be subject to any civil or criminal liability for any program carried on any channel designated for public, education, or government use.

(l) A court of competent jurisdiction shall have exclusive jurisdiction to enforce any requirement under this Section or resolve any dispute regarding the requirements set forth in this Section, and no provider of cable service or video service may be barred from providing service or be required to terminate service as a result of that dispute or enforcement action.

(Source: P.A. 95-9, eff. 6-30-07; revised 10-31-07.)

(220 ILCS 5/21-801)

(Section scheduled to be repealed on October 1, 2013)

Sec. 21-801. Applicable fees payable to the local unit of government.

(a) Prior to offering cable service or video service in a local unit of government's jurisdiction, a holder shall notify the local unit of government. The notice shall be given to the local unit of government at least 10 days before the holder begins to offer cable service or video service within the boundaries of that local unit of government.

(b) In any local unit of government in which a holder offers cable service or video service on a commercial basis, the holder shall be liable for and pay the service provider fee to the local unit of government. The local unit of government

shall adopt an ordinance imposing such a fee. The holder's liability for the fee shall commence on the first day of the calendar month that is at least 30 days after the holder receives such ordinance. The ordinance shall be sent by mail, postage prepaid, to the address listed on the holder's application provided to the local unit of government pursuant to item (6) of subsection (b) of Section 21-401 of this Act ~~Section 21-401(b)(6)~~. The fee authorized by this Section shall be 5% of gross revenues or the same as the fee paid to the local unit of government by any incumbent cable operator providing cable service. The payment of the service provider fee shall be due on a quarterly basis, 45 days after the close of the calendar quarter. If mailed, the fee is considered paid on the date it is postmarked. Except as provided in this Article, the local unit of government may not demand any additional fees or charges from the holder and may not demand the use of any other calculation method other than allowed under this Article.

(c) For purposes of this Article, "gross revenues" means all consideration of any kind or nature, including, without limitation, cash, credits, property, and in-kind contributions received by the holder for the operation of a cable or video system to provide cable service or video service within the holder's cable service or video service area within the local unit of government's jurisdiction.

(1) Gross revenues shall include the following:

(i) Recurring charges for cable service or video

service.

(ii) Event-based charges for cable service or video service, including, but not limited to, pay-per-view and video-on-demand charges.

(iii) Rental of set-top ~~set-top~~ boxes and other cable service or video service equipment.

(iv) Service charges related to the provision of cable service or video service, including, but not limited to, activation, installation, and repair charges.

(v) Administrative charges related to the provision of cable service or video service, including but not limited to service order and service termination charges.

(vi) Late payment fees or charges, insufficient funds check charges, and other charges assessed to recover the costs of collecting delinquent payments.

(vii) A pro rata portion of all revenue derived by the holder or its affiliates pursuant to compensation arrangements for advertising or for promotion or exhibition of any products or services derived from the operation of the holder's network to provide cable service or video service within the local unit of government's jurisdiction. The allocation shall be based on the number of subscribers in the local unit of government divided by the total number of subscribers

in relation to the relevant regional or national compensation arrangement.

(viii) Compensation received by the holder that is derived from the operation of the holder's network to provide cable service or video service with respect to commissions that are received by the holder as compensation for promotion or exhibition of any products or services on the holder's network, such as a "home shopping" or similar channel, subject to item (ix) of this paragraph (1) ~~subsection (b) (ix)~~.

(ix) In the case of a cable service or video service that is bundled or integrated functionally with other services, capabilities, or applications, the portion of the holder's revenue attributable to the other services, capabilities, or applications shall be included in gross revenue unless the holder can reasonably identify the division or exclusion of the revenue from its books and records that are kept in the regular course of business.

(x) The service provider fee permitted by subsection (b) of this Section ~~Section 21-801(b) of this Article~~.

(2) Gross revenues do not include any of the following:

(i) Revenues not actually received, even if billed, such as bad debt, subject to item (vi) of paragraph (1) of this subsection (c) ~~Section~~

~~21-801(c)(1)(vi).~~

(ii) Refunds, discounts, or other price adjustments that reduce the amount of gross revenues received by the holder of the State-issued authorization to the extent the refund, rebate, credit, or discount is attributable to cable service or video service.

(iii) Regardless of whether the services are bundled, packaged, or functionally integrated with cable service or video service, any revenues received from services not classified as cable service or video service, including, without limitation, revenue received from telecommunications services, information services, or the provision of directory or Internet advertising, including yellow pages, white pages, banner advertisement, and electronic publishing, or any other revenues attributed by the holder to noncable service or nonvideo service in accordance with the holder's books and records and records kept in the regular course of business and any applicable laws, rules, regulations, standards, or orders.

(iv) The sale of cable services or video services for resale in which the purchaser is required to collect the service provider fee from the purchaser's subscribers to the extent the purchaser certifies in writing that it will resell the service within the

local unit of government's jurisdiction and pay the fee permitted by subsection (b) of this Section ~~Section 21-801(b)~~ with respect to the service.

(v) Any tax or fee of general applicability imposed upon the subscribers or the transaction by a city, State, federal, or any other governmental entity and collected by the holder of the State-issued authorization and required to be remitted to the taxing entity, including sales and use taxes.

(vi) Security deposits collected from subscribers.

(vii) Amounts paid by subscribers to "home shopping" or similar vendors for merchandise sold through any home shopping channel offered as part of the cable service or video service.

(3) Revenue of an affiliate of a holder shall be included in the calculation of gross revenues to the extent the treatment of the revenue as revenue of the affiliate rather than the holder has the effect of evading the payment of the fee permitted by subsection (b) of this Section ~~Section 21-801(b) of this Article~~ which would otherwise be paid by the cable service or video service.

(d) (1) The holder shall pay to the local unit of government or the entity designated by that local unit of government to manage public, education, and government access, upon request as support for public, education, and government access, a fee equal to no less than (i) 1% of gross revenues, or (ii) if

greater, the percentage of gross revenues that incumbent cable operators pay to the local unit of government or its designee for public, education, and government access support in the local unit of government's jurisdiction. For purposes of item (ii) of paragraph (1) of this subsection (d) ~~subparagraph (d)(1)(ii) above~~, the percentage of gross revenues that all incumbent cable operators pay shall be equal to the annual sum of the payments that incumbent cable operators in the service area are obligated to pay by franchises and agreements or by contracts with the local government designee for public, education and government access in effect on January 1, 2007, including the total of any lump sum payments required to be made over the term of each franchise or agreement divided by the number of years of the applicable term, divided by the annual sum of such incumbent cable operator's or operators' ~~operator(s)'s~~ gross revenues during the immediately prior calendar year. The sum of payments includes any payments that an incumbent cable operator is required to pay pursuant to item (3) of subsection (c) of Section 21-301 ~~Section 21-301(c)(3) of this Article~~.

(2) A local unit of government may require all holders of a State-issued authorization and all cable operators franchised by that local unit of government on June 30, 2007 (the effective date of this Section) ~~hereof~~ in the franchise area to provide to the local unit of government, or to the entity designated by that local unit of

government to manage public, education, and government access, information sufficient to calculate the public, education, and government access equivalent fee and any credits under paragraph (1) of this subsection (d) ~~subsection (d)(1)~~.

(3) The fee shall be due on a quarterly basis and paid 45 days after the close of the calendar quarter. Each payment shall include a statement explaining the basis for the calculation of the fee. If mailed, the fee is considered paid on the date it is postmarked. The liability of the holder for payment of the fee under this subsection shall commence on the same date as the payment of the service provider fee pursuant to subsection (b) of this Section.

(e) The holder may identify and collect the amount of the service provider fee as a separate line item on the regular bill of each subscriber.

(f) The holder may identify and collect the amount of the public, education, and government programming support fee as a separate line item on the regular bill of each subscriber.

(g) All determinations and computations under this Section shall be made pursuant to the definition of gross revenues set forth in this Section⁷ and shall be made pursuant to generally accepted accounting principles.

(h) Nothing contained in this Article shall be construed to exempt a holder from any tax that is or may later be imposed by

the local unit of government, including any tax that is or may later be required to be paid by or through the holder with respect to cable service or video service. A State-issued authorization shall not affect any requirement of the holder with respect to payment of the local unit of government's simplified municipal telecommunications tax or any other tax as it applies to any telephone service provided by the holder. A State-issued authorization shall not affect any requirement of the holder with respect to payment of the local unit of government's 911 or E911 fees, taxes, or charges.

(Source: P.A. 95-9, eff. 6-30-07; revised 10-31-07.)

(220 ILCS 5/21-901)

(Section scheduled to be repealed on October 1, 2013)

Sec. 21-901. Audits.

(a) Upon receiving notice under item (4) of subsection (e) of Section 21-401 of this Act ~~Section 21-401(e)(4)~~ that a holder has received State-issued authorization under this Article, a local unit of government shall notify the holder of the requirements it imposes on other cable service or video service providers in its jurisdiction to submit to an audit of its books and records. The holder shall comply with the same requirements the local unit of government imposes on other cable service or video service providers in its jurisdiction to audit the holder's books and records and to recompute any amounts determined to be payable under the requirements of the

local unit of government. If all local franchises between the local unit of government and a cable operator terminate, the audit requirements shall be those adopted by the local government pursuant to the Local Government Taxpayers' Bill of Rights Act, ~~50 ILCS 45~~. No acceptance of amounts remitted should be construed as an accord that the amounts are correct.

(b) Any additional amount due after an audit shall be paid within 30 days after the local unit of government's submission of an invoice for the sum.

(Source: P.A. 95-9, eff. 6-30-07; revised 10-31-07.)

(220 ILCS 5/21-1001)

(Section scheduled to be repealed on October 1, 2013)

Sec. 21-1001. Local unit of government authority.

(a) The holder of a State-issued authorization shall comply with all the applicable construction and technical standards and right-of-way occupancy standards set forth in a local unit of government's code of ordinances relating to the use of public rights-of-way, pole attachments, permit obligations, indemnification, performance bonds, penalties, or liquidated damages. The applicable requirements for a holder that is using its existing telecommunications network or constructing a telecommunications network shall be the same requirements that the local unit of government imposes on telecommunications providers in its jurisdiction. The applicable requirements for a holder that is using or constructing a cable system shall be

the same requirements the local unit of government imposes on other cable operators in its jurisdiction.

(b) A local unit of government shall allow the holder to install, construct, operate, maintain, and remove a cable service, video service, or telecommunications network within a public right-of-way and shall provide the holder with open, comparable, nondiscriminatory, and competitively neutral access to the public right-of-way on the same terms applicable to other cable service or video service providers or cable operators in its jurisdiction. Notwithstanding any other provisions of law, if a local unit of government is permitted by law to require the holder of a State authorization to seek a permit to install, construct, operate, maintain, or remove its cable service, video service, or telecommunications network within a public right-of-way, those permits shall be deemed granted within 45 days after being submitted, if not otherwise acted upon by the local unit of government, provided the holder complies with the requirements applicable to the holder in its jurisdiction.

(c) A local unit of government may impose reasonable terms, but it may not discriminate against the holder with respect to any of the following:

(1) The authorization or placement of a cable service, video service, or telecommunications network or equipment in public rights-of-way.

(2) Access to a building.

(3) A local unit of government utility pole attachment.

(d) If a local unit of government imposes a permit fee on incumbent cable operators, it may impose a permit fee on the holder only to the extent it imposes such a fee on incumbent cable operators. In all other cases, these fees may not exceed the actual, direct costs incurred by the local unit of government for issuing the relevant permit. In no event may a fee under this Section be levied if the holder already has paid a permit fee of any kind in connection with the same activity that would otherwise be covered by the permit fee under this Section provided no additional equipment, work, function, or other burden is added to the existing activity for which the permit was issued.

(e) Nothing in this Article shall affect the rights that any holder has under Section 4 of the Telephone Line Right of Way Act (220 ILCS 65/4).

(f) In addition to the other requirements in this Section, if the holder installs, upgrades, constructs, operates, maintains, and removes facilities or equipment within a public right-of-way to provide cable service or video service, it shall comply with the following:

(1) The holder must locate its equipment in the right-of-way as to cause only minimum interference with the use of streets, alleys, and other public ways and places, and to cause only minimum impact upon and interference with the rights and reasonable convenience of property

owners who adjoin any of the said streets, alleys, or other public ways. No fixtures shall be placed in any public ways in such a manner to interfere with the usual travel on such public ways, nor ~~nor~~ shall such fixtures or equipment limit the visibility of vehicular or ~~and/or~~ pedestrian traffic, or both.

(2) The holder shall comply with a local unit of government's reasonable requests to place equipment on public property where possible, and promptly comply with local unit of government direction with respect to the location and screening of equipment and facilities. In constructing or upgrading its cable or video network in the right-of-way, the holder shall use the smallest suitable equipment enclosures and power pedestals and cabinets then in use by the holder for the application.

(3) The holder's construction practices shall be in accordance with all applicable Sections of the Occupational Safety and Health Act of 1970, as amended, as well as all applicable State laws, including the ~~Illinois~~ Civil Administrative Code of Illinois, and local codes, where applicable, as adopted by the local unit of government. All installation of electronic equipment shall be of a permanent nature, durable, and, where applicable, installed in accordance with the provisions of the National Electrical Safety Code of the National Bureau of Standards and National Electrical Code of the National Board of Fire

Underwriters.

(4) The holder shall not interfere with the local unit of government's performance of public works. Nothing in the State-issued authorization shall be in preference or hindrance to the right of the local unit of government to perform or carry on any public works or public improvements of any kind. The holder expressly agrees that it shall, at its own expense, protect, support, temporarily disconnect, relocate in the same street or other public place, or remove from such street or other public place, any of the network, system, facilities, or equipment when required to do so by the local unit of government, because of necessary public health, safety, and welfare improvements. In the event a holder and other users of a public right-of-way, including incumbent cable operators or utilities, ~~of a public right-of-way~~ are required to relocate and compensation is paid to the users of such public right-of-way, such parties shall be treated equally with respect to such compensation.

(5) The holder shall comply with all local units of government inspection requirements. The making of post-construction, subsequent or ~~and/or~~ periodic inspections, or both, or the failure to do so shall not operate to relieve the holder of any responsibility, obligation, or liability.

(6) The holder shall maintain insurance or provide

evidence of self insurance as required by an applicable ordinance of the local unit of government.

(7) The holder shall reimburse all reasonable make-ready expenses, including aerial and underground installation expenses requested by the holder to the local unit of government within 30 ~~thirty (30)~~ days of billing to the holder, provided that such charges shall be at the same rates as charges to others for the same or similar services.

(8) The holder shall indemnify and hold harmless the local unit of government and all boards, officers, employees, and representatives thereof from all claims, demands, causes of action, liability, judgments, costs and expenses, or losses for injury or death to persons or damage to property owned by, and Worker's Compensation claims against any parties indemnified herein, arising out of, caused by, or as a result of the holder's construction, lines, cable, erection, maintenance, use or presence of, or removal of any poles, wires, conduit, appurtenances thereto, or equipment or attachments thereto. The holder, however, shall not indemnify the local unit of government for any liabilities, damages, cost, and expense resulting from the willful misconduct, or negligence of the local unit of government, its officers, employees, and agents. The obligations imposed pursuant to this Section by a local unit of government shall be competitively neutral.

(9) The holder, upon request, shall provide the local unit of government with information describing the location of the cable service or video service facilities and equipment located in the unit of local government's rights-of-way pursuant to its State-issued authorization. If designated by the holder as confidential, such information provided pursuant to this subsection shall be exempt from inspection and copying under the Illinois Freedom of Information Act, ~~5 ILCS 140/1 et seq.~~, pursuant to the exemption provided for under provision (mm) of item (1) of Section 7 of the Freedom of Information Act ~~5 ILCS 140/7(1)(mm)~~ and any other present or future exemptions applicable to such information and shall not be disclosed by the unit of local government to any third party without the written consent of the holder.

(Source: P.A. 95-9, eff. 6-30-07; revised 10-31-07.)

(220 ILCS 5/21-1101)

(Section scheduled to be repealed on October 1, 2013)

Sec. 21-1101. Requirements to provide video services.

(a) The holder of a State-issued authorization shall not deny access to cable service or video service to any potential residential subscribers because of the race or income of the residents in the local area in which the potential subscribers reside.

(b) (1) If the holder is using telecommunications

facilities to provide cable or video service and has 1,000,000 or less telecommunications access lines in this State, but more than 300,000 telecommunications access lines in this State, the holder shall provide: ~~(1) Provide~~ access to its cable or video service to a number of households equal to at least 25% of its telecommunications access lines in this State within 3 years after the date a holder receives a State-issued authorization from the Commission and to a number not less than 35% of these households within 5 years after the date a holder receives a State-issued authorization from the Commission; ~~provided,~~ ~~however,~~ that the holder of a State-issued authorization is not required to meet the 35% requirement in this paragraph (1) subsection until 2 years after at least 15% of the households with access to the holder's video service subscribe to the service for 6 consecutive months. The holder's obligation to provide such access in the State shall be distributed, as the holder determines, within 3 ~~three~~ different designated market areas.

(2) Within 3 years after the date a holder receives a State-issued authorization from the Commission, at least 30% of the total households with access to the holder's cable or video service shall be low-income.

Within each designated market area identified in paragraph (1) of this subsection (b) ~~(b) (1)~~, the holder's obligation to offer service to low-income households shall be measured by each exchange, as that term is defined in

Section 13-206 of this ~~the Public Utilities~~ Act, in which the holder chooses to provide cable or video service. The holder is under no obligation to serve or provide access to an entire exchange; however, in addition to the statewide obligation to provide low-income access provided by this Section, in each exchange in which the holder chooses to provide cable or video service, the holder shall provide access to a percentage of low-income households that is at least equal to the percentage of the total low-income households within that exchange.

(3) The number of telecommunication access lines in this Section shall be based on the number of access lines that exist as of June 30, 2007 (the effective date of Public Act 95-9) ~~this amendatory Act of the 95th General Assembly.~~

(c) (1) If the holder of a State-issued authorization is using telecommunications facilities to provide cable or video service and has more than 1,000,000 telecommunications access lines in this State, the holder shall provide: ~~(1) (A) Provide~~ access to its cable or video service to a number of households equal to at least 35% of the households in the holder's telecommunications service area in the State within 3 years after the date a holder receives a State-issued authorization from the Commission and to a number not less than 50% of these households within 5 years after the date a holder receives a State-issued authorization from the Commission; provided,

~~however,~~ that the holder of a State-issued authorization is not required to meet the 50% requirement in this paragraph (1) subsection until 2 years after at least 15% of the households with access to the holder's video service subscribe to the service for 6 consecutive months.

The holder's obligation to provide such access in the State shall be distributed, as the holder determines, within 3 ~~three~~ designated market areas, one in each of the northeastern, central, and southwestern portions of the holder's telecommunications service area in the State. The designated market area for the northeastern portion shall consist of 2 ~~two~~ separate and distinct reporting areas: (i) a city with more than 1,000,000 inhabitants, and (ii) all other local units of government on a combined basis within such designated market area in which it offers video service.

~~(B)~~ If any state, in which a holder subject to this subsection (c) or one of its affiliates provides or seeks to provide cable or video service, adopts a law permitting state-issued authorization or statewide franchises to provide cable or video service that requires a cable or video provider to offer service to more than 35% of the households in the cable or video provider's service area in that state within 3 years, holders subject to this subsection (c) shall provide service in this State to the same percentage of households within 3 years of adoption of such law in that state.

Furthermore, if any state, in which a holder subject to

this subsection (c) or one of its affiliates provides or seeks to provide cable or video service, adopts a law requiring a holder of a state-issued authorization or statewide franchises to offer cable or video service to more than 35% of its households if less than 15% of the households with access to the holder's video service subscribe to the service for 6 consecutive months, then as a precondition to further build-out, holders subject to this subsection (c) shall be subject to the same percentage of service subscription in meeting its obligation to provide service to 50% of the households in this State.

(2) Within 3 years after the date a holder receives a State-issued authorization from the Commission, at least 30% of the total households with access to the holder's cable or video service shall be low-income.

Within each designated market area listed in paragraph (1) of this subsection (c) ~~(e)(1)~~, the holder's obligation to offer service to low-income households shall be measured by each exchange, as that term is defined in Section 13-206 of this ~~the Public Utilities~~ Act in which the holder chooses to provide cable or video service. The holder is under no obligation to serve or provide access to an entire exchange; however, in addition to the statewide obligation to provide low-income access provided by this Section, in each exchange in which the holder chooses to provide cable or video service, the holder shall provide access to a

percentage of low-income households that is at least equal to the percentage of the total low-income households within that exchange.

(d) (1) All other holders shall only provide access to one or more exchanges, as that term is defined in Section 13-206 of ~~this the Public Utilities Act~~, or to local units of government and shall provide access to their cable or video service to a number of households equal to 35% of the households in the exchange or local unit of government within 3 years after the date a holder receives a State-issued authorization from the Commission and to a number not less than 50% of these households within 5 years after the date a holder receives a State-issued authorization from the Commission, ~~provided, however,~~ that if the holder is an incumbent cable operator or any successor-in-interest company, it shall be obligated to provide access to cable or video services within the jurisdiction of a local unit of government at the same levels required by the local franchising authorities for that local unit of government on June 30, 2007 (the effective date of Public Act 95-9) ~~this amendatory Act of the 95th General Assembly.~~

(2) Within 3 years after the date a holder receives a State-issued authorization from the Commission, at least 30% of the total households with access to the holder's cable or video service shall be low-income.

Within each designated exchange, as that term is

defined in Section 13-206 of this ~~the Public Utilities Act~~, or local unit of government listed in paragraph (1) of this subsection (d) ~~(d)(1)~~, the holder's obligation to offer service to low-income households shall be measured by each exchange or local unit of government in which the holder chooses to provide cable or video service. Except as provided in paragraph (1) of this subsection (d) ~~(d)(1)~~, the holder is under no obligation to serve or provide access to an entire exchange or local unit of government; however, in addition to the statewide obligation to provide low-income access provided by this Section, in each exchange or local unit of government in which the holder chooses to provide cable or video service, the holder shall provide access to a percentage of low-income households that is at least equal to the percentage of the total low-income households within that exchange or local unit of government.

(e) A holder subject to subsection (c) of this Section ~~21-1101(e)~~ shall provide wireline broadband service, defined as wireline service, capable of supporting, in at least one direction, a speed in excess of 200 kilobits per second (kbps), to the network demarcation point at the subscriber's premises, to a number of households equal to 90% of the households in the holder's telecommunications service area by December 31, 2008, or shall pay within 30 days of December 31, 2008 a sum of \$15,000,000 to the Digital Divide Elimination Infrastructure

Fund established pursuant to Section 13-301.3 ~~of Article XIII~~ of this Act, or any successor fund established by the General Assembly. In that event the holder is required to make a payment pursuant to this subsection (e), the holder shall have no further accounting for this payment, which shall be used in any part of the State for the purposes established in the Digital Divide Elimination Infrastructure Fund or for broadband deployment.

(f) The holder of a State-issued authorization may satisfy the requirements of subsections (b), (c), (d) and (d) of this Section through the use of any technology, which shall not include direct-to-home satellite service, that offers service, functionality, and content that, ~~which~~ is demonstrably similar to that provided through the holder's video service system.

(g) In any investigation into or complaint alleging that the holder of a State-issued authorization has failed to meet the requirements of this Section, the following factors may be considered in justification or mitigation or as justification for an extension of time to meet the requirements of subsections (b), (c), (d) and (d) of this Section:

(1) The inability to obtain access to public and private rights-of-way under reasonable terms and conditions.

(2) Barriers to competition arising from existing exclusive service arrangements in developments or buildings.

(3) The inability to access developments or buildings using reasonable technical solutions under commercially reasonable terms and conditions.

(4) Natural disasters.

(5) Other factors beyond the control of the holder.

(h) If the holder relies on the factors identified in subsection (g) of this Section in response to an investigation or complaint, the holder shall demonstrate the following:

(1) what substantial effort the holder of a State-issued authorization has taken to meet the requirements of subsection ~~subsections~~ (a), (b), l or (c) of this Section;

(2) which portions of subsection (g) of this Section apply; and

(3) the number of days it has been delayed or the requirements it cannot perform as a consequence of subsection (g) of this Section.

(i) The factors in subsection (g) of this Section may be considered by the Attorney General or by a court of competent jurisdiction in determining whether the holder is in violation of this Article.

(j) Every holder of a State-issued authorization, no later than April 1, 2009, and annually no later than April 1 thereafter, shall report to the Commission for each of the service areas as described in subsections (b), (c), l and (d) of this Section in which it provides access to its video service

in the State, the following information:

(1) Cable service and video service information:

(A) The number of households in the holder's telecommunications service area within each designated market area as described in subsections (b) and (c) of this Section or exchange or local unit of government as described in subsection (d) of this Section in which it offers video service.

(B) The number of households in the holder's telecommunications service area within each designated market area as described in subsections (b) and (c) of this Section or exchange or local unit of government as described in subsection (d) of this Section that are offered access to video service by the holder.

(C) The number of households in the holder's telecommunications service area in the State.

(D) The number of households in the holder's telecommunications service area in the State that are offered access to video service by the holder.

(2) Low-income household information:

(A) The number of low-income households in the holder's telecommunications service area within each designated market area as described in subsections (b) and (c) of this Section, as further identified in terms of exchanges, or exchange or local unit of government as described in subsection (d) of this Section, in

which it offers video service.

(B) The number of low-income households in the holder's telecommunications service area within each designated market area as described in subsections (b) and (c) of this Section, as further identified in terms of exchanges, or exchange or local unit of government as described in subsection (d) of this Section in the State~~7~~ that are offered access to video service by the holder.

(C) The number of low-income households in the holder's telecommunications service area in the State.

(D) The number of low-income households in the holder's telecommunications service area in the State that are offered access to video service by the holder.

(k) The Commission, within 30 days of receiving the first report from holders under this Section, and annually no later than July 1 thereafter, shall submit to the General Assembly a report that includes, based on year-end data, the information submitted by holders pursuant to subdivisions (1) and (2) of subsection (j) ~~subsections (j)(1) and (j)(2)~~ of this Section. The Commission shall make this report available to any member of the public or any local unit of government upon request. All information submitted to the Commission and designated by holders as confidential and proprietary shall be subject to the disclosure provisions in subsection (c) of Section 21-401 of this Act ~~21-401(e)~~. No individually identifiable customer

information shall be subject to public disclosure.

(Source: P.A. 95-9, eff. 6-30-07; revised 7-9-07.)

(220 ILCS 5/21-1201)

(Section scheduled to be repealed on October 1, 2013)

Sec. 21-1201. Multiple-unit dwelling; interference with holder prohibited ~~dwelling; Interference with Holder Prohibited.~~

(a) Neither the owner of any multiple-unit residential dwelling nor an agent or representative shall unreasonably interfere with the right of any tenant or lawful resident thereof to receive cable service or video service installation or maintenance from a holder of a State-issued authorization; provided, however, the owner, agent, or representative may require just and reasonable compensation from the holder for its access to and use of such property to provide installation, operation, maintenance, or removal of such cable service or video service.

(b) Neither the owner of any multiple-unit residential dwelling nor an agent or representative shall ask, demand, or receive any additional payment, service, or gratuity in any form from any tenant or lawful resident thereof as a condition for permitting or cooperating with the installation of a cable service or video service to the dwelling unit occupied by a tenant or resident requesting such service.

(c) Neither the owner of any multiple-unit residential

dwelling nor an agent or representative shall penalize, charge, or surcharge a tenant or resident, ~~or~~ forfeit or threaten to forfeit any right of such tenant or resident, or discriminate in any way against such tenant or resident who requests or receives cable service or video service from a holder.

(d) Nothing in this Section shall prohibit the owner of any multiple-unit residential dwelling nor an agent or representative from requiring that a holder's facilities conform to reasonable conditions necessary to protect safety, functioning, appearance, and value of premises or the convenience and safety of persons or property.

(e) The owner of any multiple-unit residential dwelling or an agent or representative may require a holder to agree to indemnify the owner, or his agents or representatives, for damages or from liability for damages caused by the installation, operation, maintenance, or removal of cable service or video service facilities.

(Source: P.A. 95-9, eff. 6-30-07; revised 10-31-07.)

(220 ILCS 5/21-1301)

(Section scheduled to be repealed on October 1, 2013)

Sec. 21-1301. Enforcement; penalties.

(a) The Attorney General is responsible for administering and ensuring holders' compliance with this Article, provided that nothing in this Article shall deprive local units of government of the right to enforce applicable rights and

obligations.

(b) The Attorney General may conduct an investigation regarding possible violations by holders of this Article including, without limitation, the issuance of subpoenas to:

(1) require the holder to file a statement or report or to answer interrogatories in writing as to all information relevant to the alleged violations;

(2) examine, under oath, any person who possesses knowledge or information related to the alleged violations; and

(3) examine any record, book, document, account, or paper related to the alleged violation.

(c) If the Attorney General determines that there is a reason to believe that a holder has violated or is about to violate this Article, the Attorney General may bring an action in a court of competent jurisdiction in the name of the People of the State against the holder to obtain temporary, preliminary, or permanent injunctive relief and civil penalties for any act, policy, or practice by the holder that violates this Article.

(d) If a court orders a holder to make payments to the Attorney General and the payments are to be used for the operations of the Office of the Attorney General or if a holder agrees to make payments to the Attorney General for the operations of the Office of the Attorney General as part of an Assurance of Voluntary Compliance, then the moneys paid under

any of the conditions described in this subsection (d) shall be deposited into the Attorney General Court Ordered and Voluntary Compliance Payment Projects Fund. Moneys in the Fund shall be used, subject to appropriation, for the performance of any function pertaining to the exercise of the duties to the Attorney General, including, but not limited to, enforcement of any law of this State and conducting public education programs; however, any moneys in the Fund that are required by the court to be used for a particular purpose shall be used for that purpose.

(e) In an action against a holder brought pursuant to this Article, the Attorney General may seek the assessment of one or more of the following civil monetary penalties in any action filed under this Article where the holder violates this Article and does not remedy the violation within 30 days of notice by the Attorney General:

(1) Any holder that violates or fails to comply with any of the provisions of this Article or of its State-issued authorization shall be subject to a civil penalty of up to \$30,000 for each and every offense, or 0.00825% ~~0.0025%~~ of the holder's gross revenues, as defined in Section 21-801 of this Act, whichever is greater. Every violation of the provisions of this Article by a holder is a separate and distinct offense, provided, ~~however,~~ that if the same act or omission violates more than one provision of this Article, only one penalty or cumulative penalty may

be imposed for such act or omission. In the case of a continuing violation, each day's continuance thereof shall be a separate and distinct offense, ~~provided, however,~~ that the cumulative penalty for any continuing violation shall not exceed \$500,000 per year, and provided further that these limits shall not apply where the violation was intentional and either (i) created substantial risk to the safety of the cable service or video service provider's employees or customers or the public or (ii) was intended to cause economic benefits to accrue to the violator.

(2) The holder's State-issued authorization may be suspended or revoked if the holder fails to comply with the provisions of this Article after a reasonable time to achieve compliance has passed.

(3) If the holder is in violation of Section 21-1101 of this Act, in addition to any other remedies provided by law, a fine not to exceed 3% of the holder's total monthly gross revenue, as that term is defined in this Article, shall be imposed for each month from the date of violation until the date that compliance is achieved.

(4) Nothing in this Section shall limit or affect the powers of the Attorney General to enforce the provisions of this Article, Section 22-501 of this Act ~~the Cable and Video Customer Protection Law, 220 ILCS 5/70-501 new,~~ or the Consumer Fraud and Deceptive Business Practices Act, ~~815 ILCS 505.~~

(Source: P.A. 95-9, eff. 6-30-07; revised 7-9-07.)

(220 ILCS 5/Art. XXII heading)

ARTICLE XXII ~~70~~. CABLE AND VIDEO CUSTOMER PROTECTION LAW

(Source: P.A. 95-9, eff. 6-30-07; revised 12-7-07.)

(220 ILCS 5/22-501)

Sec. 22-501 ~~70-501~~. Customer service and privacy protection. All cable or video providers in this State shall comply with the following customer service requirements and privacy protections. The provisions of this Act shall not apply to an incumbent cable operator prior to January 1, 2008. For purposes of this paragraph, an incumbent cable operator means a person or entity that provided cable services in a particular area under a franchise agreement with a local unit of government pursuant to Section 11-42-11 of the Illinois Municipal Code or Section 5-1095 of the Counties Code on January 1, 2007. A master antenna television, satellite master antenna television, direct broadcast satellite, multipoint distribution service, and other provider of video programming shall only be subject to the provisions of this Article to the extent permitted by federal law.

The following definitions apply to the terms used in this Article:

"Basic cable or video service" means any service offering or tier that ~~which~~ includes the retransmission of local

television broadcast signals.

"Cable or video provider" means any person or entity providing cable service or video service pursuant to authorization under (i) the Cable and Video Competition Law of 2007; (ii) Section 11-42-11 of the Illinois Municipal Code; (iii) Section 5-1095 of the Counties Code; or (iv) a master antenna television, satellite master antenna television, direct broadcast satellite, multipoint distribution services, and other providers of video programming, whatever their technology. A cable or video provider shall not include a landlord providing only broadcast video programming to a single-family home or other residential dwelling consisting of 4 ~~four~~ units or less.

"Franchise" has the same meaning as found in 47 U.S.C. 522(9).

"Local unit of government" means a city, village, incorporated town, or a county.

"Normal business hours" means those hours during which most similar businesses in the geographic area of the local unit of government are open to serve customers. In all cases, "normal business hours" must include some evening hours at least one night per week or some weekend hours.

"Normal operating conditions" means those service conditions that are within the control of cable or video providers. Those conditions that are not within the control of cable or video providers include, but are not limited to,

natural disasters, civil disturbances, power outages, telephone network outages, and severe or unusual weather conditions. Those conditions that are ordinarily within the control of cable or video providers include, but are not limited to, special promotions, pay-per-view events, rate increases, regular peak or seasonal demand periods, and maintenance or upgrade of the cable service or video service network.

"Service interruption" means the loss of picture or sound on one or more cable service or video service on one or more cable or video channels.

"Service line drop" means the point of connection between a premises and the cable or video network that enables the premises to receive cable service or video service.

(a) General customer service standards:

(1) Cable or video providers shall establish general standards related to customer service, which shall include, but not be limited to, installation, disconnection, service and repair obligations; appointment hours~~7~~ and employee ID requirements; customer service telephone numbers and hours; procedures for billing, charges, deposits, refunds, and credits; procedures for termination of service; notice of deletion of programming service;~~7~~ changes related to transmission of programming; changes or increases in rates; the use and availability of parental control or lock-out devices; the use and

availability of an A/B switch if applicable; complaint procedures and procedures for bill dispute resolution; a description of the rights and remedies available to consumers if the cable or video provider does not materially meet its ~~their~~ customer service standards; and special services for customers with visual, hearing, or mobility disabilities.

(2) Cable or video providers' rates for each level of service, rules, regulations, and policies related to its cable service or video service described in paragraph (1) of this subsection (a) ~~(a)(1)~~ must be made available to the public and displayed clearly and conspicuously on the cable or video provider's site on the Internet. If a promotional price or a price for a specified period of time is offered, the cable or video provider shall display the price at the end of the promotional period or specified period of time clearly and conspicuously with the display of the promotional price or price for a specified period of time. The cable or video provider shall provide this information upon request.

(3) Cable or video providers shall provide notice concerning their general customer service standards to all customers. This notice shall be offered when service is first activated and annually thereafter. The information in the notice shall include all of the information specified in paragraph (1) of this subsection (a) ~~(a)(1)~~,

as well as the following: a listing of services offered by the cable or video providers, which shall clearly describe programming for all services and all levels of service; the rates for all services and levels of service; a telephone number ~~number(s)~~ through which customers may subscribe to, change, or terminate service, request customer service, or seek general or billing information; instructions on the use of the cable or video services; and ~~a~~ a description of rights and remedies that the cable or video providers shall make available to their customers if they do not materially meet the general customer service standards described in this Act.

(b) General customer service obligations:

(1) Cable or video providers shall render reasonably efficient service, promptly make repairs, and interrupt service only as necessary and for good cause, during periods of minimum use of the system and for no more than 24 hours.

(2) All service representatives or any other person who contacts customers or potential customers on behalf of the cable or video provider shall have a visible identification card with their name and photograph and shall orally identify themselves upon first contact with the customer. Customer service representatives shall orally identify themselves to callers immediately following the greeting during each telephone contact with the public.

(3) The cable or video providers shall: (i) maintain a customer service facility within the boundaries of a local unit of government staffed by customer service representatives that have the capacity to accept payment, adjust bills, and respond to repair, installation, reconnection, disconnection, or other service calls and distribute or receive converter boxes, remote control units, digital stereo units, or other equipment related to the provision of cable or video service; ~~or~~ (ii) provide customers with bill payment facilities through retail, financial, or other commercial institutions located within the boundaries of a local unit of government; ~~or~~ (iii) provide an address, toll-free telephone number or electronic address to accept bill payments and correspondence, ~~and~~ provide secure collection boxes for the receipt of bill payments and the return of equipment, provided that if a cable or video provider provides secure collection boxes, it shall provide a printed receipt when items are deposited; or (iv) provide an address, toll-free telephone number, or electronic address to accept bill payments and correspondence, ~~and~~ provide a method for customers to return equipment to the cable or video provider at no cost to the customer.

(4) In each contact with a customer, the service representatives or any other person who contacts customers or potential customers on behalf of the cable or video

provider~~7~~ shall state the estimated cost of the service, repair, or installation orally prior to delivery of the service or before any work is performed, ~~and~~ shall provide the customer with an oral statement of the total charges before terminating the telephone call or other contact in which a service is ordered, whether in-person or over the Internet, and shall provide a written statement of the total charges before leaving the location at which the work was performed. In the event that the cost of service is a promotional price or is for a limited period of time, the cost of service at the end of the promotion or limited period of time shall be disclosed.

(5) Cable or video providers shall provide customers a minimum of 30 days' written notice before increasing rates or eliminating transmission of programming and shall submit the notice to the local unit of government in advance of distribution to customers, provided that the cable or video provider is not in violation of this provision if the elimination of transmission of programming was outside the control of the provider, in which case the provider shall use reasonable efforts to provide as much notice as possible, and any rate decrease related to the elimination of transmission of programming shall be applied to the date of the change.

(6) Cable or video providers shall provide clear visual and audio reception that meets or exceeds applicable

Federal Communications Commission technical standards. If a customer experiences poor video or audio reception due to the equipment of the cable or video provider, the cable or video provider shall promptly repair the problem at its own expense.

(c) Bills, payment, and termination:

(1) Cable or video providers shall render monthly bills that are clear, accurate, and understandable.

(2) Every residential customer who pays bills directly to the cable or video provider shall have at least 28 days from the date of the bill to pay the listed charges.

(3) Customer payments shall be posted promptly. When the payment is sent by United States mail, payment is considered paid on the date it is postmarked.

(4) Cable or video providers may not terminate residential service for nonpayment of a bill unless the cable or video provider furnishes notice of the delinquency and impending termination at least 21 days prior to the proposed termination. Notice of proposed termination shall be mailed, postage prepaid, to the customer to whom service is billed. Notice of proposed termination shall not be mailed until the 29th day after the date of the bill for services. Notice of delinquency and impending termination may be part of a billing statement only if the notice is presented in a different color than the bill and is designed to be conspicuous. The cable or video providers

may not assess a late fee prior to the 29th day after the date of the bill for service.

(5) Every notice of impending termination shall include all of the following: the name and address of customer; the amount of the delinquency; the date on which payment is required to avoid termination; and the telephone number of the cable or video provider's service representative to make payment arrangements and to provide additional information about the charges for failure to return equipment and for reconnection, if any. No customer may be charged a fee for termination or disconnection of service, irrespective of whether the customer initiated termination or disconnection or the cable or video provider initiated termination or disconnection.

(6) Service may only be terminated on days when the customer is able to reach a service representative of the cable or video providers, either in person or by telephone.

(7) Any service terminated by a cable or video provider without good cause shall be restored without any reconnection fee, charge, or penalty; good cause for termination includes, but is not limited to, failure to pay a bill by the date specified in the notice of impending termination, payment by check for which there are insufficient funds, theft of service, abuse of equipment or personnel, or other similar subscriber actions.

(8) Cable or video providers shall cease charging a

customer for any or all services within one ~~±~~ business day after it receives a request to immediately terminate service or on the day requested by the customer if such a date is at least 5 days from the date requested by the customer. Nothing in this subsection (c) shall prohibit the provider from billing for charges that the customer incurs prior to the date of termination. Cable or video providers shall issue a credit or~~7~~ a refund~~7~~ or return a deposit within 10 business days after the close of the customer's billing cycle following the request for termination or the return of equipment, if any, whichever is later.

(9) The customers or subscribers of a cable or video provider shall be allowed to disconnect their service at any time within the first 60 days after subscribing to or upgrading the service. Within this 60-day period, cable or video providers shall not charge or impose any fees or penalties on the customer for disconnecting service, including, but not limited to, any installation charge or~~7~~ the imposition of an early termination charge, except the cable or video provider may impose a charge or fee to offset any rebates or credits received by the customer~~7~~ and may impose monthly service or maintenance charges, including pay-per-view and premium services charges, during such 60-day period.

(10) Cable and video providers shall guarantee customer satisfaction for new or upgraded service and the

customer shall receive a pro-rata credit in an amount equal to the pro-rata charge for the remaining days of service being disconnected or replaced upon the customers request if the customer is dissatisfied with the service and requests to discontinue the service within the first 60 days after subscribing to the upgraded service.

(d) Response to customer inquiries:

(1) Cable or video providers will maintain a toll-free telephone access line that is ~~will be~~ available to customers 24 hours a day, 7 ~~seven~~ days a week, to accept calls regarding installation, termination, service, and complaints. Trained, knowledgeable, qualified service representatives of the cable or video providers will be available to respond to customer telephone inquiries during normal business hours. Customer service representatives shall be able to provide credit, waive fees, schedule appointments, and change billing cycles. Any difficulties that cannot be resolved by the customer service representatives shall be referred to a supervisor who shall make his or her best efforts to resolve the issue immediately. If the supervisor does not resolve the issue to the customer's satisfaction, the customer shall be informed of the cable or video provider's complaint procedures and procedures for billing dispute resolution and given a description of the rights and remedies available to customers to enforce the terms of this

Article, including the customer's rights to have the complaint reviewed by the local unit of government, to request mediation, and to review in a court of competent jurisdiction.

(2) After normal business hours, the access line may be answered by a service or an automated response system, including an answering machine. Inquiries received by telephone or e-mail after normal business hours shall be responded to by a trained service representative on the next business day. The cable or video provider shall respond to a written billing inquiry within 10 days of receipt of the inquiry.

(3) Cable or video providers shall provide customers seeking non-standard installations with a total installation cost estimate and an estimated date of completion. The actual charge to the customer shall not exceed 10% of the estimated cost without the written consent of the customer.

(4) If the cable or video provider receives notice that an unsafe condition exists with respect to its equipment, it shall investigate such condition immediately~~7~~ and shall take such measures as are necessary to remove or eliminate the unsafe condition. The cable or video provider shall inform the local unit of government promptly, but no later than 2 hours after it receives notification of an unsafe condition that it has not remedied.

(5) Under normal operating conditions, telephone answer time by the cable or video provider's customer representative, including wait time, shall not exceed 30 seconds when the connection is made. If the call needs to be transferred, transfer time shall not exceed 30 seconds. These standards shall be met no less than 90% of the time under normal operating conditions, measured on a quarterly basis.

(6) Under normal operating conditions, the cable or video provider's customers will receive a busy signal less than 3% of the time.

(e) ~~Installations, Outages and Service Calls.~~ Under normal operating conditions, each of the following standards related to installations, outages, and service calls will be met no less than 95% of the time measured on a quarterly basis:

(1) Standard installations will be performed within 7 business days after an order has been placed. "Standard" installations are those that are located up to 125 feet from the existing distribution system.

(2) Excluding conditions beyond the control of the cable or video providers, the cable or video providers will begin working on "service interruptions" promptly and in no event later than 24 hours after the interruption is reported by the customer or otherwise becomes known to the cable or video providers. Cable or video providers must begin actions to correct other service problems the next

business day after notification of the service problem and correct the problem within 48 hours after the interruption is reported by the customer 95% of the time, measured on a quarterly basis.~~+~~

(3) The "appointment window" alternatives for installations, service calls, and other installation activities will be either a specific time or, at a maximum, a 4-hour ~~four-hour~~ time block during evening, weekend, and normal business hours. The cable or video provider may schedule service calls and other installation activities outside of these hours for the express convenience of the customer.~~+~~ and

(4) Cable or video providers may not cancel an appointment with a customer after 5:00 p.m. on the business day prior to the scheduled appointment. If the cable or video provider's representative is running late for an appointment with a customer and will not be able to keep the appointment as scheduled, the customer will be contacted. The appointment will be rescheduled, as necessary, at a time that ~~which~~ is convenient for the customer, even if the rescheduled appointment is not within normal business hours.

(f) Public benefit obligation:

(1) All cable or video providers offering service pursuant to the Cable and Video Competition Law of 2007, the Illinois Municipal Code, or the Counties Code~~7~~ shall

provide a free service line drop and free basic service to all current and future public buildings within their footprint, including, but not limited to, all local unit of government buildings, public libraries, and public primary and secondary schools, whether owned or leased by that local unit of government ("eligible buildings"). Such service shall be used in a manner consistent with the government purpose for the eligible building and shall not be resold.

(2) This obligation only applies to those cable or video service providers whose cable service or video service systems pass eligible buildings and its cable or video service is generally available to residential subscribers in the same local unit of government in which the eligible building is located. The burden of providing such service at each eligible building shall be shared by all cable and video providers whose systems pass the eligible buildings in an equitable and competitively neutral manner, and nothing herein shall require duplicative installations by more than one cable or video provider at each eligible building. Cable or video providers operating in a local unit of government shall meet as necessary and determine who will provide service to eligible buildings under this subsection (f). If the cable or video providers are unable to reach an agreement, they shall meet with the local unit of government, l which shall

determine which cable or video providers will serve each eligible building. The local unit of government shall bear the costs of any inside wiring or video equipment costs not ordinarily provided as part of the cable or video provider's basic offering.

(g) After the cable or video providers have offered service for one ~~(1)~~ year, the cable or video providers shall make an annual report to the Commission, to the local unit of government, and to the Attorney General that it is meeting the standards specified in this Article, identifying the number of complaints it received over the prior year in the State, and specifying the number of complaints related to each of the following: (1) billing, charges, refunds, and credits; (2) installation or termination of service; (3) quality of service and repair; (4) programming; and (5) miscellaneous complaints that do not fall within these categories. Thereafter, the cable or video providers shall also provide, upon request by the local unit of government where service is offered and to the Attorney General, an annual public report that includes performance data described in subdivisions (5) and (6) of subsection (d) and subdivisions (1) and (2) of subsection (e) ~~subsections (d) (5), (d) (6), (e) (1) and (e) (2)~~ of this Section for cable services or video services. The performance data shall be disaggregated for each requesting local unit of government or local exchange, as that term is defined in Section 13-206 of this ~~the Public Utilities~~ Act, in which the

cable or video providers have customers.

(h) To the extent consistent with federal law, cable or video providers shall offer the lowest-cost basic cable or video service as a stand-alone service to residential customers at reasonable rates. Cable or video providers shall not require the subscription to any service other than the lowest-cost basic service or to any telecommunications or information service, as a condition of access to cable or video service, including programming offered on a per channel or per program basis. Cable or video providers shall not discriminate between subscribers to the lowest-cost basic service, subscribers to other cable services or video services, and other subscribers with regard to the rates charged for cable or video programming offered on a per channel or per program basis.

(i) To the extent consistent with federal law, cable or video providers shall ensure that charges for changes in the subscriber's selection of services or equipment shall be based on the cost of such change and shall not exceed nominal amounts when the system's configuration permits changes in service tier selection to be effected solely by coded entry on a computer terminal or by other similarly simple method.

(j) To the extent consistent with federal law, cable or video providers shall have a rate structure for the provision of cable or video service that is uniform throughout the area within the boundaries of the local unit of government. This subsection (j) is not intended to prohibit bulk discounts to

multiple dwelling units or to prohibit reasonable discounts to senior citizens or other economically disadvantaged groups.

(k) To the extent consistent with federal law, cable or video providers shall not charge a subscriber for any service or equipment that the subscriber has not affirmatively requested by name. For purposes of this subsection (k), a subscriber's failure to refuse a cable or video provider's proposal to provide service or equipment shall not be deemed to be an affirmative request for such service or equipment.

(l) No contract or service offering cable services or video services or any bundle including such services shall be for a term longer than one year. Any contract or service offering with a term of service that contains an early termination fee shall limit the early termination fee to not more than the amount of the discount reflected in the price for cable services or video services for the period during which the consumer benefited from the discount.

(m) Cable or video providers shall not discriminate in the provision of services for the hearing and visually impaired, and shall comply with the accessibility requirements of 47 U.S.C. 613. Cable or video providers shall deliver and pick-up~~r~~ or provide customers with pre-paid shipping and packaging for the return of~~r~~ converters and other necessary equipment at the home of customers with disabilities. Cable or video providers shall provide free use of a converter or remote control unit to mobility impaired customers.

(n) (1) To the extent consistent with federal law, cable or video providers shall comply with the provisions of 47 U.S.C. 532(h) and (j). The cable or video providers shall not exercise any editorial control over any video programming provided pursuant to this Section, or in any other way consider the content of such programming, except that a cable or video provider may refuse to transmit any leased access program or portion of a leased access program that ~~which~~ contains obscenity, indecency, or nudity and may consider such content to the minimum extent necessary to establish a reasonable price for the commercial use of designated channel capacity by an unaffiliated person. This subsection (n) shall permit cable or video providers to enforce prospectively a written and published policy of prohibiting programming that the cable or video provider reasonably believes describes or depicts sexual or excretory activities or organs in a patently offensive manner as measured by contemporary community standards.

(2) Upon customer request, the cable or video provider shall, without charge, fully scramble or otherwise fully block the audio and video programming of each channel carrying such programming so that a person who is not a subscriber does not receive the channel or programming.

(3) In providing sexually explicit adult programming or other programming that is indecent on any channel of its service primarily dedicated to sexually oriented programming, the cable or video provider shall fully

scramble or otherwise fully block the video and audio portion of such channel so that a person who is ~~one~~ not a subscriber to such channel or programming does not receive it.

(4) Scramble means to rearrange the content of the signal of the programming so that the programming cannot be viewed or heard in an understandable manner.

(o) Cable or video providers will maintain a listing, specific to the level of street address, of the areas where its cable or video services are available. Customers who inquire about purchasing cable or video service shall be informed about whether the cable or video provider's cable or video services are currently available to them at their specific location.

(p) ~~Privacy protections.~~ Cable or video providers shall not disclose the name, address, telephone number or other personally identifying information of a cable service or video service customer to be used in mailing lists or to be used for other commercial purposes not reasonably related to the conduct of its business unless the cable or video provider has provided to the customer a notice, separately or included in any other customer service notice, that clearly and conspicuously describes the customer's ability to prohibit the disclosure. Cable or video providers shall provide an address and telephone number for a customer to use without a toll charge to prevent disclosure of the customer's name and address in mailing lists or for other commercial purposes not reasonably related to the

conduct of its business to other businesses or affiliates of the cable or video provider. Cable or video providers shall comply with the consumer privacy requirements of the Communications Consumer Privacy Act, the Restricted Call Registry Act, and 47 U.S.C. 551 that are in effect as of June 30, 2007 (the effective date of Public Act 95-9) ~~this amendatory Act of the 95th General Assembly,~~ and as amended thereafter.

(q) Cable or video providers shall implement an informal process for handling inquiries from local units of government and customers concerning billing issues, service issues, privacy concerns, and other consumer complaints. In the event that an issue is not resolved through this informal process, a local unit of government or the customer may request nonbinding mediation with the cable or video provider, with each party to bear its own costs of such mediation. Selection of the mediator will be by mutual agreement, and preference will be given to mediation services that do not charge the consumer for their services. In the event that the informal process does not produce a satisfactory result to the customer or the local unit of government, enforcement may be pursued as provided in subdivision (4) of subsection (r) of this Section ~~(r)(4)~~.

(r) The Attorney General and the local unit of government may enforce all of the customer service and privacy protection standards of this Section with respect to complaints received from residents within the local unit of government's

jurisdiction, but it may not adopt or seek to enforce any additional or different customer service or performance standards under any other authority or provision of law.

(1) The local unit of government may, by ordinance, provide a schedule of penalties for any material breach of this Section by cable or video providers in addition to the penalties provided herein. No monetary penalties shall be assessed for a material breach if it is out of the reasonable control of the cable or video providers or its affiliate. Monetary penalties adopted in an ordinance pursuant to this Section shall apply on a competitively neutral basis to all providers of cable service or video service within the local unit of government's jurisdiction. In ~~and in~~ no event shall the penalties imposed under this subsection (r) exceed \$750 for each day of the material breach, and these penalties shall not exceed \$25,000 for each occurrence of a material breach per customer.

(2) For purposes of this Section, "material breach" means any substantial failure of a cable or video service provider to comply with service quality and other standards specified in any provision of this Act. The Attorney General or the local unit of government shall give the cable or video provider written notice of any alleged material breaches of this Act and allow such provider at least 30 days from receipt of the notice to remedy the

specified material breach.

(3) A material breach, for the purposes of assessing penalties, shall be deemed to have occurred for each day that a material breach has not been remedied by the cable service or video service provider after the expiration of the period specified in subdivision (2) of this subsection (r) ~~(r) (2)~~ in each local unit of government's jurisdiction, irrespective of the number of customers affected.

(4) Any customer, the Attorney General, or a local unit of government may pursue alleged violations of this Act by the cable or video provider in a court of competent jurisdiction. A cable or video provider may seek judicial review of a decision of a local unit of government imposing penalties in a court of competent jurisdiction. No local unit of government shall be subject to suit for damages or other relief based upon its action in connection with its enforcement or review of any of the terms, conditions, and rights contained in this Act except a court may require the return of any penalty it finds was not properly assessed or imposed.

(s) Cable or video providers shall credit customers for violations in the amounts stated herein. The credits shall be applied on the statement issued to the customer for the next monthly billing cycle following the violation or following the discovery of the violation. Cable or video providers are responsible for providing the credits described herein and the

customer is under no obligation to request the credit. If the customer is no longer taking service from the cable or video provider, the credit amount will be refunded to the customer by check within 30 days of the termination of service. A local unit of government may, by ordinance, adopt a schedule of credits payable directly to customers for breach of the customer service standards and obligations contained in this Article, provided the schedule of customer credits applies on a competitively neutral basis to all providers of cable service or video service in the local unit of government's jurisdiction and the credits are not greater than the credits provided in this Section.

(1) Failure to provide notice of customer service standards upon initiation of service: \$25.00.

(2) Failure to install service within 7 days: Waiver of 50% of the installation fee or the monthly fee for the lowest-cost basic service, whichever is greater. Failure to install service within 14 days: Waiver of 100% of the installation fee or the monthly fee for the lowest-cost basic service, whichever is greater.

(3) Failure to remedy service interruptions or poor video or audio service quality within 48 hours: Pro-rata credit of total regular monthly charges equal to the number of days of the service interruption.

(4) Failure to keep an appointment or to notify the customer prior to the close of business on the business day

prior to the scheduled appointment: \$25.00.

(5) Violation of privacy protections: \$150.00.

(6) Failure to comply with scrambling requirements: \$50.00 per month.

(7) Violation of customer service and billing standards in subsections (c) and (d) of this Section: \$25.00 per occurrence.

(8) Violation of the bundling rules in subsection Section (h) of this Section: \$25.00 per month.

(t) The enforcement powers granted to the Attorney General in Article XXI of this ~~the Public Utilities~~ Act shall apply to this Article Act, except that the Attorney General may not seek penalties for violation of this Article Act other than in the amounts specified herein. Nothing in this Section shall limit or affect the powers of the Attorney General to enforce the provisions of Article XXI 21 of this ~~the Public Utilities~~ Act or the Consumer Fraud and Deceptive Business Practices Act.

(u) This Article Act applies to all cable and video providers in the State, including but not limited to those operating under a local franchise as that term is used in 47 U.S.C. 522(9), those operating under authorization pursuant to Section 11-42-11 of the Illinois Municipal Code, those operating under authorization pursuant to Section 5-1095 of the Counties Code, and those operating under a State-issued authorization pursuant to Article XXI of this ~~the Public Utilities~~ Act.

(Source: P.A. 95-9, eff. 6-30-07; revised 12-7-07.)

(220 ILCS 5/22-502)

Sec. 22-502 ~~70-502~~. The provisions of this Article are a limitation of home rule powers under subsection (h) of Section 6 of Article VII of the Illinois Constitution.

(Source: P.A. 95-9, eff. 6-30-07; revised 12-7-07.)

(220 ILCS 5/22-503)

Sec. 22-503 ~~70-503~~. The provisions of this Article are severable under Section 1.31 of the Statute on Statutes.

(Source: P.A. 95-9, eff. 6-30-07; revised 12-7-07.)

Section 225. The Environmental Health Practitioner Licensing Act is amended by changing Section 22 as follows:

(225 ILCS 37/22)

(Section scheduled to be repealed on December 31, 2008)

Sec. 22. Environmental health practitioner in training.

(a) Any person who meets the educational qualifications specified in Section 20, but does not meet the experience requirement specified in that Section, may make application to the Department on a form prescribed by the Department for licensure as an environmental health practitioner in training. The Department shall license that person as an environmental health practitioner in training upon payment of the fee

required by this Act.

(b) An environmental health practitioner in training shall apply for licensure as an environmental health practitioner within 3 years of his or her licensure as an environmental health practitioner in training. The license may be renewed or extended as defined by rule of the Department. The Board may extend the licensure of any environmental health practitioner in training who furnishes, in writing, sufficient cause for not applying for examination as an environmental health practitioner within the 3-year period.

(c) An environmental health practitioner in training may engage in the practice of environmental health for a period not to exceed 6 years provided that he or she is supervised by a licensed professional engineer or a licensed environmental health practitioner as prescribed in this Act.

(Source: P.A. 92-837, eff. 8-22-02; revised 1-16-07.)

Section 230. The Health Care Worker Background Check Act is amended by changing Sections 25 and 40 as follows:

(225 ILCS 46/25)

Sec. 25. Persons ineligible to be hired by health care employers and long-term care facilities.

(a) In the discretion of the Director of Public Health, as soon after January 1, 1996, January 1, 1997, January 1, 2006, or October 1, 2007, as applicable, and as is reasonably

practical, no health care employer shall knowingly hire, employ, or retain any individual in a position with duties involving direct care for clients, patients, or residents, and no long-term care facility shall knowingly hire, employ, or retain any individual in a position with duties that involve or may involve contact with residents or access to the living quarters or the financial, medical, or personal records of residents, who has been convicted of committing or attempting to commit one or more of the offenses defined in Sections 8-1.1, 8-1.2, 9-1, 9-1.2, 9-2, 9-2.1, 9-3, 9-3.1, 9-3.2, 9-3.3, 10-1, 10-2, 10-3, 10-3.1, 10-4, 10-5, 10-7, 11-6, 11-9.1, 11-9.5, 11-19.2, 11-20.1, 12-1, 12-2, 12-3, 12-3.1, 12-3.2, 12-4, 12-4.1, 12-4.2, 12-4.3, 12-4.4, 12-4.5, 12-4.6, 12-4.7, 12-7.4, 12-11, 12-13, 12-14, 12-14.1, 12-15, 12-16, 12-19, 12-21, 12-21.6, 12-32, 12-33, 16-1, 16-1.3, 16A-3, 17-3, 18-1, 18-2, 18-3, 18-4, 18-5, 19-1, 19-3, 19-4, 20-1, 20-1.1, 24-1, 24-1.2, 24-1.5, or 33A-2 of the Criminal Code of 1961; those provided in Section 4 of the Wrongs to Children Act; those provided in Section 53 of the Criminal Jurisprudence Act; those defined in Section 5, 5.1, 5.2, 7, or 9 of the Cannabis Control Act; those defined in the Methamphetamine Control and Community Protection Act; or those defined in Sections 401, 401.1, 404, 405, 405.1, 407, or 407.1 of the Illinois Controlled Substances Act, unless the applicant or employee obtains a waiver pursuant to Section 40.

(a-1) In the discretion of the Director of Public Health,

as soon after January 1, 2004 or October 1, 2007, as applicable, and as is reasonably practical, no health care employer shall knowingly hire any individual in a position with duties involving direct care for clients, patients, or residents, and no long-term care facility shall knowingly hire any individual in a position with duties that involve or may involve contact with residents or access to the living quarters or the financial, medical, or personal records of residents, who has (i) been convicted of committing or attempting to commit one or more of the offenses defined in Section 12-3.3, 12-4.2-5, 16-2, 16G-15, 16G-20, 18-5, 20-1.2, 24-1.1, 24-1.2-5, 24-1.6, 24-3.2, or 24-3.3 of the Criminal Code of 1961; Section 4, 5, 6, 8, or 17.02 of the Illinois Credit Card and Debit Card Act; or Section 5.1 of the Wrongs to Children Act; or (ii) violated Section 50-50 of the Nurse Practice Act, unless the applicant or employee obtains a waiver pursuant to Section 40 of this Act.

A health care employer is not required to retain an individual in a position with duties involving direct care for clients, patients, or residents, and no long-term care facility is required to retain an individual in a position with duties that involve or may involve contact with residents or access to the living quarters or the financial, medical, or personal records of residents, who has been convicted of committing or attempting to commit one or more of the offenses enumerated in this subsection.

(b) A health care employer shall not hire, employ, or retain any individual in a position with duties involving direct care of clients, patients, or residents, and no long-term care facility shall knowingly hire, employ, or retain any individual in a position with duties that involve or may involve contact with residents or access to the living quarters or the financial, medical, or personal records of residents, if the health care employer becomes aware that the individual has been convicted in another state of committing or attempting to commit an offense that has the same or similar elements as an offense listed in subsection (a) or (a-1), as verified by court records, records from a state agency, or an FBI criminal history record check, unless the applicant or employee obtains a waiver pursuant to Section 40 of this Act. This shall not be construed to mean that a health care employer has an obligation to conduct a criminal history records check in other states in which an employee has resided.

(Source: P.A. 94-556, eff. 9-11-05; 94-665, eff. 1-1-06; 94-1053, eff. 7-24-06; 95-120, eff. 8-13-07; 95-639, eff. 10-5-07; revised 11-15-07.)

(225 ILCS 46/40)

Sec. 40. Waiver.

(a) Any student, applicant, or employee listed on the Health Care Worker Registry may request a waiver of the prohibition against employment by:

(1) completing a waiver application on a form prescribed by the Department of Public Health;

(2) providing a written explanation of each conviction to include (i) what happened, (ii) how many years have passed since the offense, (iii) the individuals involved, (iv) the age of the applicant at the time of the offense, and (v) any other circumstances surrounding the offense; and

(3) providing official documentation showing that all fines have been paid, if applicable, and the date probation or parole was satisfactorily completed, if applicable.

(b) The applicant may, but is not required to, submit employment and character references and any other evidence demonstrating the ability of the applicant or employee to perform the employment responsibilities competently and evidence that the applicant or employee does not pose a threat to the health or safety of residents, patients, or clients.
~~Health care worker~~

(c) The Department of Public Health must inform health care employers if a waiver is being sought by entering a record on the Health Care Worker Registry that a waiver is pending and must act upon the waiver request within 30 days of receipt of all necessary information, as defined by rule. Except in cases where a rehabilitation waiver is granted, a letter shall be sent to the applicant notifying the applicant that he or she has received an automatic waiver.

(d) An individual shall not be employed from the time that the employer receives a notification from the Department of Public Health based upon the results of a fingerprint-based criminal history records check containing disqualifying conditions until the time that the individual receives a waiver.

(e) The entity responsible for inspecting, licensing, certifying, or registering the health care employer and the Department of Public Health shall be immune from liability for any waivers granted under this Section.

(f) A health care employer is not obligated to employ or offer permanent employment to an applicant, or to retain an employee who is granted a waiver under this Section.

(Source: P.A. 94-665, eff. 1-1-06; 95-120, eff. 8-13-07; 95-545, eff. 8-28-07; revised 11-15-07.)

Section 235. The Health Care Worker Self-Referral Act is amended by changing Section 15 as follows:

(225 ILCS 47/15)

Sec. 15. Definitions. In this Act:

(a) "Board" means the Health Facilities Planning Board.

(b) "Entity" means any individual, partnership, firm, corporation, or other business that provides health services but does not include an individual who is a health care worker who provides professional services to an individual.

(c) "Group practice" means a group of 2 or more health care workers legally organized as a partnership, professional corporation, not-for-profit corporation, faculty practice plan or a similar association in which:

(1) each health care worker who is a member or employee or an independent contractor of the group provides substantially the full range of services that the health care worker routinely provides, including consultation, diagnosis, or treatment, through the use of office space, facilities, equipment, or personnel of the group;

(2) the services of the health care workers are provided through the group, and payments received for health services are treated as receipts of the group; and

(3) the overhead expenses and the income from the practice are distributed by methods previously determined by the group.

(d) "Health care worker" means any individual licensed under the laws of this State to provide health services, including but not limited to: dentists licensed under the Illinois Dental Practice Act; dental hygienists licensed under the Illinois Dental Practice Act; nurses and advanced practice nurses licensed under the Nurse Practice Act; occupational therapists licensed under the Illinois Occupational Therapy Practice Act; optometrists licensed under the Illinois Optometric Practice Act of 1987; pharmacists licensed under the Pharmacy Practice Act; physical therapists licensed under the

Illinois Physical Therapy Act; physicians licensed under the Medical Practice Act of 1987; physician assistants licensed under the Physician Assistant Practice Act of 1987; podiatrists licensed under the Podiatric Medical Practice Act of 1987; clinical psychologists licensed under the Clinical Psychologist Licensing Act; clinical social workers licensed under the Clinical Social Work and Social Work Practice Act; speech-language pathologists and audiologists licensed under the Illinois Speech-Language Pathology and Audiology Practice Act; or hearing instrument dispensers licensed under the Hearing Instrument Consumer Protection Act, or any of their successor Acts.

(e) "Health services" means health care procedures and services provided by or through a health care worker.

(f) "Immediate family member" means a health care worker's spouse, child, child's spouse, or a parent.

(g) "Investment interest" means an equity or debt security issued by an entity, including, without limitation, shares of stock in a corporation, units or other interests in a partnership, bonds, debentures, notes, or other equity interests or debt instruments except that investment interest for purposes of Section 20 does not include interest in a hospital licensed under the laws of the State of Illinois.

(h) "Investor" means an individual or entity directly or indirectly owning a legal or beneficial ownership or investment interest, (such as through an immediate family member, trust,

or another entity related to the investor).

(i) "Office practice" includes the facility or facilities at which a health care worker, on an ongoing basis, provides or supervises the provision of professional health services to individuals.

(j) "Referral" means any referral of a patient for health services, including, without limitation:

(1) The forwarding of a patient by one health care worker to another health care worker or to an entity outside the health care worker's office practice or group practice that provides health services.

(2) The request or establishment by a health care worker of a plan of care outside the health care worker's office practice or group practice that includes the provision of any health services.

(Source: P.A. 95-639, eff. 10-5-07; 95-689, eff. 10-29-07; revised 11-15-07.)

Section 240. The Nurse Practice Act is amended by changing Section 50-15 as follows:

(225 ILCS 65/50-15) (was 225 ILCS 65/5-15)

(Section scheduled to be repealed on January 1, 2018)

Sec. 50-15. Policy; application of Act.

(a) For the protection of life and the promotion of health, and the prevention of illness and communicable diseases, any

person practicing or offering to practice advanced, professional, or practical nursing in Illinois shall submit evidence that he or she is qualified to practice, and shall be licensed as provided under this Act. No person shall practice or offer to practice advanced, professional, or practical nursing in Illinois or use any title, sign, card or device to indicate that such a person is practicing professional or practical nursing unless such person has been licensed under the provisions of this Act.

(b) This Act does not prohibit the following:

(1) The practice of nursing in Federal employment in the discharge of the employee's duties by a person who is employed by the United States government or any bureau, division or agency thereof and is a legally qualified and licensed nurse of another state or territory and not in conflict with Sections 50-50, 55-10, 60-10, and 70-5 of this Act.

(2) Nursing that is included in the program of study by students enrolled in programs of nursing or in current nurse practice update courses approved by the Department.

(3) The furnishing of nursing assistance in an emergency.

(4) The practice of nursing by a nurse who holds an active license in another state when providing services to patients in Illinois during a bonafide emergency or in immediate preparation for or during interstate transit.

(5) The incidental care of the sick by members of the family, domestic servants or housekeepers, or care of the sick where treatment is by prayer or spiritual means.

(6) Persons from being employed as unlicensed assistive personnel in private homes, long term care facilities, nurseries, hospitals or other institutions.

(7) The practice of practical nursing by one who is a licensed practical nurse under the laws of another U.S. jurisdiction and has applied in writing to the Department, in form and substance satisfactory to the Department, for a license as a licensed practical nurse and who is qualified to receive such license under this Act, until (i) the expiration of 6 months after the filing of such written application, (ii) the withdrawal of such application, or (iii) the denial of such application by the Department.

(8) The practice of advanced practice nursing by one who is an advanced practice nurse under the laws of another state, territory of the United States, or country and has applied in writing to the Department, in form and substance satisfactory to the Department, for a license as an advanced practice nurse and who is qualified to receive such license under this Act, until (i) the expiration of 6 months after the filing of such written application, (ii) the withdrawal of such application, or (iii) the denial of such application by the Department.

(9) The practice of professional nursing by one who is

a registered professional nurse under the laws of another state, territory of the United States or country and has applied in writing to the Department, in form and substance satisfactory to the Department, for a license as a registered professional nurse and who is qualified to receive such license under Section 55-10, until (1) the expiration of 6 months after the filing of such written application, (2) the withdrawal of such application, or (3) the denial of such application by the Department.

(10) The practice of professional nursing that is included in a program of study by one who is a registered professional nurse under the laws of another state or territory of the United States or foreign country, territory or province and who is enrolled in a graduate nursing education program or a program for the completion of a baccalaureate nursing degree in this State, which includes clinical supervision by faculty as determined by the educational institution offering the program and the health care organization where the practice of nursing occurs.

(11) Any person licensed in this State under any other Act from engaging in the practice for which she or he is licensed.

(12) Delegation to authorized direct care staff trained under Section 15.4 of the Mental Health and Developmental Disabilities Administrative Act consistent

with the policies of the Department.

~~(13)~~ Nothing in this Act shall be construed to limit the delegation of tasks or duties by a physician, dentist, or podiatrist to a licensed practical nurse, a registered professional nurse, or other persons.

(Source: P.A. 95-639, eff. 10-5-07; revised 12-7-07.)

Section 245. The Collection Agency Act is amended by changing Section 9.1 as follows:

(225 ILCS 425/9.1)

(Section scheduled to be repealed on January 1, 2016)

Sec. 9.1. Communication with persons other than debtor. ~~(a)~~ Any debt collector or collection agency communicating with any person other than the debtor for the purpose of acquiring location information about the debtor shall:

(1) identify himself or herself, state that he or she is confirming or correcting location information concerning the consumer, and, only if expressly requested, identify his or her employer;

(2) not state that the consumer owes any debt;

(3) not communicate with any person more than once unless requested to do so by the person or unless the debt collector or collection agency reasonably believes that the earlier response of the person is erroneous or incomplete and that the person now has correct or complete

location information;

(4) not communicate by postcard;

(5) not use any language or symbol on any envelope or in the contents of any communication effected by mail or telegram that indicates that the debt collector or collection agency is in the debt collection business or that the communication relates to the collection of a debt; and

(6) after the debt collector or collection agency knows the debtor is represented by an attorney with regard to the subject debt and has knowledge of or can readily ascertain the attorney's name and address, not communicate with any person other than the attorney, unless the attorney fails to respond within a reasonable period of time, not less than 30 days, to communication from the debt collector or collection agency.

(Source: P.A. 95-437, eff. 1-1-08; revised 11-15-07.)

Section 250. The Private Detective, Private Alarm, Private Security, Fingerprint Vendor, and Locksmith Act of 2004 is amended by changing Section 31-30 as follows:

(225 ILCS 447/31-30)

(Section scheduled to be repealed on January 1, 2014)

Sec. 31-30. Restrictions on firearms.

(a) Nothing in this Act or the rules adopted under this Act

shall authorize a person licensed as a fingerprint vendor or any employee of a licensed fingerprint vendor agency to possess or carry a firearm in the course of providing fingerprinting services.

(b) Nothing in this Act or the rules adopted under this Act shall grant or authorize the issuance of a firearm control authorization card to a fingerprint vendor or any employee of a licensed fingerprint vendor agency.

(Source: P.A. 95-613, eff. 9-11-07; revised 11-15-07.)

Section 255. The Illinois Public Aid Code is amended by changing Sections 8A-7.1 and 9A-11 as follows:

(305 ILCS 5/8A-7.1) (from Ch. 23, par. 8A-7.1)

Sec. 8A-7.1. The Director, upon making a determination based upon information in the possession of the Illinois Department, that continuation in practice of a licensed health care professional would constitute an immediate danger to the public, shall submit a written communication to the Director of Professional Regulation indicating such determination and additionally providing a complete summary of the information upon which such determination is based, and recommending that the Director of Professional Regulation immediately suspend such person's license. All relevant evidence, or copies thereof, in the Illinois Department's possession may also be submitted in conjunction with the written communication. A copy

of such written communication, which is exempt from the copying and inspection provisions of the Freedom of Information Act, shall at the time of submittal to the Director of Professional Regulation be simultaneously mailed to the last known business address of such licensed health care professional by certified or registered postage, United States Mail, return receipt requested. Any evidence, or copies thereof, which is submitted in conjunction with the written communication is also exempt from the copying and inspection provisions of the Freedom of Information Act.

The Director, upon making a determination based upon information in the possession of the Illinois Department, that a licensed health care professional is willfully committing fraud upon the Illinois Department's medical assistance program, shall submit a written communication to the Director of Professional Regulation indicating such determination and additionally providing a complete summary of the information upon which such determination is based. All relevant evidence, or copies thereof, in the Illinois Department's possession may also be submitted in conjunction with the written communication.

Upon receipt of such written communication, the Director of Professional Regulation shall promptly investigate the allegations contained in such written communication. A copy of such written communication, which is exempt from the copying and inspection provisions of the Freedom of Information Act,

shall at the time of submission to the Director of Professional Regulation, be simultaneously mailed to the last known address of such licensed health care professional by certified or registered postage, United States Mail, return receipt requested. Any evidence, or copies thereof, which is submitted in conjunction with the written communication is also exempt from the copying and inspection provisions of the Freedom of Information Act.

For the purposes of this Section, "licensed health care professional" means any person licensed under the Illinois Dental Practice Act, the Nurse Practice Act, the Medical Practice Act of 1987, the Pharmacy Practice Act, the Podiatric Medical Practice Act of 1987, or the Illinois Optometric Practice Act of 1987.

(Source: P.A. 95-639, eff. 10-5-07; 95-689, eff. 10-29-07; revised 11-15-07.)

(305 ILCS 5/9A-11) (from Ch. 23, par. 9A-11)

Sec. 9A-11. Child Care.

(a) The General Assembly recognizes that families with children need child care in order to work. Child care is expensive and families with low incomes, including those who are transitioning from welfare to work, often struggle to pay the costs of day care. The General Assembly understands the importance of helping low income working families become and remain self-sufficient. The General Assembly also believes

that it is the responsibility of families to share in the costs of child care. It is also the preference of the General Assembly that all working poor families should be treated equally, regardless of their welfare status.

(b) To the extent resources permit, the Illinois Department shall provide child care services to parents or other relatives as defined by rule who are working or participating in employment or Department approved education or training programs. At a minimum, the Illinois Department shall cover the following categories of families:

- (1) recipients of TANF under Article IV participating in work and training activities as specified in the personal plan for employment and self-sufficiency;
- (2) families transitioning from TANF to work;
- (3) families at risk of becoming recipients of TANF;
- (4) families with special needs as defined by rule; and
- (5) working families with very low incomes as defined by rule.

The Department shall specify by rule the conditions of eligibility, the application process, and the types, amounts, and duration of services. Eligibility for child care benefits and the amount of child care provided may vary based on family size, income, and other factors as specified by rule.

In determining income eligibility for child care benefits, the Department annually, at the beginning of each fiscal year, shall establish, by rule, one income threshold for each family

size, in relation to percentage of State median income for a family of that size, that makes families with incomes below the specified threshold eligible for assistance and families with incomes above the specified threshold ineligible for assistance. Through and including fiscal year 2007, the specified threshold must be no less than 50% of the then-current State median income for each family size. Beginning in fiscal year 2008, the specified threshold must be no less than 185% of the then-current federal poverty level for each family size.

In determining eligibility for assistance, the Department shall not give preference to any category of recipients or give preference to individuals based on their receipt of benefits under this Code.

The Department shall allocate \$7,500,000 annually for a test program for families who are income-eligible for child care assistance, who are not recipients of TANF under Article IV, and who need child care assistance to participate in education and training activities. The Department shall specify by rule the conditions of eligibility for this test program.

Nothing in this Section shall be construed as conferring entitlement status to eligible families.

The Illinois Department is authorized to lower income eligibility ceilings, raise parent co-payments, create waiting lists, or take such other actions during a fiscal year as are

necessary to ensure that child care benefits paid under this Article do not exceed the amounts appropriated for those child care benefits. These changes may be accomplished by emergency rule under Section 5-45 of the Illinois Administrative Procedure Act, except that the limitation on the number of emergency rules that may be adopted in a 24-month period shall not apply.

The Illinois Department may contract with other State agencies or child care organizations for the administration of child care services.

(c) Payment shall be made for child care that otherwise meets the requirements of this Section and applicable standards of State and local law and regulation, including any requirements the Illinois Department promulgates by rule in addition to the licensure requirements promulgated by the Department of Children and Family Services and Fire Prevention and Safety requirements promulgated by the Office of the State Fire Marshal and is provided in any of the following:

(1) a child care center which is licensed or exempt from licensure pursuant to Section 2.09 of the Child Care Act of 1969;

(2) a licensed child care home or home exempt from licensing;

(3) a licensed group child care home;

(4) other types of child care, including child care provided by relatives or persons living in the same home as

the child, as determined by the Illinois Department by rule.

(c-5) ~~(b-5)~~ Solely for the purposes of coverage under the Illinois Public Labor Relations Act, child and day care home providers, including licensed and license exempt, participating in the Department's child care assistance program shall be considered to be public employees and the State of Illinois shall be considered to be their employer as of the effective date of this amendatory Act of the 94th General Assembly, but not before. The State shall engage in collective bargaining with an exclusive representative of child and day care home providers participating in the child care assistance program concerning their terms and conditions of employment that are within the State's control. Nothing in this subsection shall be understood to limit the right of families receiving services defined in this Section to select child and day care home providers or supervise them within the limits of this Section. The State shall not be considered to be the employer of child and day care home providers for any purposes not specifically provided in this amendatory Act of the 94th General Assembly, including but not limited to, purposes of vicarious liability in tort and purposes of statutory retirement or health insurance benefits. Child and day care home providers shall not be covered by the State Employees Group Insurance Act of 1971.

In according child and day care home providers and their

selected representative rights under the Illinois Public Labor Relations Act, the State intends that the State action exemption to application of federal and State antitrust laws be fully available to the extent that their activities are authorized by this amendatory Act of the 94th General Assembly.

(d) The Illinois Department shall, by rule, require co-payments for child care services by any parent, including parents whose only income is from assistance under this Code. The co-payment shall be assessed based on a sliding scale based on family income, family size, and the number of children in care. Co-payments shall not be increased due solely to a change in the methodology for counting family income.

(d-5) The Illinois Department, in consultation with its Child Care and Development Advisory Council, shall develop a plan to revise the child care assistance program's co-payment scale. The plan shall be completed no later than February 1, 2008, and shall include:

(1) findings as to the percentage of income that the average American family spends on child care and the relative amounts that low-income families and the average American family spend on other necessities of life;

(2) recommendations for revising the child care co-payment scale to assure that families receiving child care services from the Department are paying no more than they can reasonably afford;

(3) recommendations for revising the child care

co-payment scale to provide at-risk children with complete access to Preschool for All and Head Start; and

(4) recommendations for changes in child care program policies that affect the affordability of child care.

(e) (Blank).

(f) The Illinois Department shall, by rule, set rates to be paid for the various types of child care. Child care may be provided through one of the following methods:

(1) arranging the child care through eligible providers by use of purchase of service contracts or vouchers;

(2) arranging with other agencies and community volunteer groups for non-reimbursed child care;

(3) (blank); or

(4) adopting such other arrangements as the Department determines appropriate.

(f-5) (Blank).

(g) Families eligible for assistance under this Section shall be given the following options:

(1) receiving a child care certificate issued by the Department or a subcontractor of the Department that may be used by the parents as payment for child care and development services only; or

(2) if space is available, enrolling the child with a child care provider that has a purchase of service contract with the Department or a subcontractor of the Department

for the provision of child care and development services. The Department may identify particular priority populations for whom they may request special consideration by a provider with purchase of service contracts, provided that the providers shall be permitted to maintain a balance of clients in terms of household incomes and families and children with special needs, as defined by rule.

(Source: P.A. 94-320, eff. 1-1-06; 95-206, eff. 8-16-07; 95-322, eff. 1-1-08; revised 11-15-07.)

Section 260. The Elder Abuse and Neglect Act is amended by changing Section 2 as follows:

(320 ILCS 20/2) (from Ch. 23, par. 6602)

Sec. 2. Definitions. As used in this Act, unless the context requires otherwise:

(a) "Abuse" means causing any physical, mental or sexual injury to an eligible adult, including exploitation of such adult's financial resources.

Nothing in this Act shall be construed to mean that an eligible adult is a victim of abuse, neglect, or self-neglect for the sole reason that he or she is being furnished with or relies upon treatment by spiritual means through prayer alone, in accordance with the tenets and practices of a recognized church or religious denomination.

Nothing in this Act shall be construed to mean that an eligible adult is a victim of abuse because of health care services provided or not provided by licensed health care professionals.

(a-5) "Abuser" means a person who abuses, neglects, or financially exploits an eligible adult.

(a-7) "Caregiver" means a person who either as a result of a family relationship, voluntarily, or in exchange for compensation has assumed responsibility for all or a portion of the care of an eligible adult who needs assistance with activities of daily living.

(b) "Department" means the Department on Aging of the State of Illinois.

(c) "Director" means the Director of the Department.

(d) "Domestic living situation" means a residence where the eligible adult lives alone or with his or her family or a caregiver, or others, or a board and care home or other community-based unlicensed facility, but is not:

(1) A licensed facility as defined in Section 1-113 of the Nursing Home Care Act;

(2) A "life care facility" as defined in the Life Care Facilities Act;

(3) A home, institution, or other place operated by the federal government or agency thereof or by the State of Illinois;

(4) A hospital, sanitarium, or other institution, the

principal activity or business of which is the diagnosis, care, and treatment of human illness through the maintenance and operation of organized facilities therefor, which is required to be licensed under the Hospital Licensing Act;

(5) A "community living facility" as defined in the Community Living Facilities Licensing Act;

(6) A "community residential alternative" as defined in the Community Residential Alternatives Licensing Act;

(7) A "community-integrated living arrangement" as defined in the Community-Integrated Living Arrangements Licensure and Certification Act;

(8) An assisted living or shared housing establishment as defined in the Assisted Living and Shared Housing Act;
or

(9) A supportive living facility as described in Section 5-5.01a of the Illinois Public Aid Code.

(e) "Eligible adult" means a person 60 years of age or older who resides in a domestic living situation and is, or is alleged to be, abused, neglected, or financially exploited by another individual or who neglects himself or herself.

(f) "Emergency" means a situation in which an eligible adult is living in conditions presenting a risk of death or physical, mental or sexual injury and the provider agency has reason to believe the eligible adult is unable to consent to services which would alleviate that risk.

(f-5) "Mandated reporter" means any of the following persons while engaged in carrying out their professional duties:

(1) a professional or professional's delegate while engaged in: (i) social services, (ii) law enforcement, (iii) education, (iv) the care of an eligible adult or eligible adults, or (v) any of the occupations required to be licensed under the Clinical Psychologist Licensing Act, the Clinical Social Work and Social Work Practice Act, the Illinois Dental Practice Act, the Dietetic and Nutrition Services Practice Act, the Marriage and Family Therapy Licensing Act, the Medical Practice Act of 1987, the Naprapathic Practice Act, the Nurse Practice Act, the Nursing Home Administrators Licensing and Disciplinary Act, the Illinois Occupational Therapy Practice Act, the Illinois Optometric Practice Act of 1987, the Pharmacy Practice Act, the Illinois Physical Therapy Act, the Physician Assistant Practice Act of 1987, the Podiatric Medical Practice Act of 1987, the Respiratory Care Practice Act, the Professional Counselor and Clinical Professional Counselor Licensing Act, the Illinois Speech-Language Pathology and Audiology Practice Act, the Veterinary Medicine and Surgery Practice Act of 2004, and the Illinois Public Accounting Act;

(2) an employee of a vocational rehabilitation facility prescribed or supervised by the Department of

Human Services;

(3) an administrator, employee, or person providing services in or through an unlicensed community based facility;

(4) any religious practitioner who provides treatment by prayer or spiritual means alone in accordance with the tenets and practices of a recognized church or religious denomination, except as to information received in any confession or sacred communication enjoined by the discipline of the religious denomination to be held confidential;

(5) field personnel of the Department of Healthcare and Family Services, Department of Public Health, and Department of Human Services, and any county or municipal health department;

(6) personnel of the Department of Human Services, the Guardianship and Advocacy Commission, the State Fire Marshal, local fire departments, the Department on Aging and its subsidiary Area Agencies on Aging and provider agencies, and the Office of State Long Term Care Ombudsman;

(7) any employee of the State of Illinois not otherwise specified herein who is involved in providing services to eligible adults, including professionals providing medical or rehabilitation services and all other persons having direct contact with eligible adults;

(8) a person who performs the duties of a coroner or

medical examiner; or

(9) a person who performs the duties of a paramedic or an emergency medical technician.

(g) "Neglect" means another individual's failure to provide an eligible adult with or willful withholding from an eligible adult the necessities of life including, but not limited to, food, clothing, shelter or health care. This subsection does not create any new affirmative duty to provide support to eligible adults. Nothing in this Act shall be construed to mean that an eligible adult is a victim of neglect because of health care services provided or not provided by licensed health care professionals.

(h) "Provider agency" means any public or nonprofit agency in a planning and service area appointed by the regional administrative agency with prior approval by the Department on Aging to receive and assess reports of alleged or suspected abuse, neglect, or financial exploitation.

(i) "Regional administrative agency" means any public or nonprofit agency in a planning and service area so designated by the Department, provided that the designated Area Agency on Aging shall be designated the regional administrative agency if it so requests. The Department shall assume the functions of the regional administrative agency for any planning and service area where another agency is not so designated.

(i-5) "Self-neglect" means a condition that is the result of an eligible adult's inability, due to physical or mental

impairments, or both, or a diminished capacity, to perform essential self-care tasks that substantially threaten his or her own health, including: providing essential food, clothing, shelter, and health care; and obtaining goods and services necessary to maintain physical health, mental health, emotional well-being, and general safety.

(j) "Substantiated case" means a reported case of alleged or suspected abuse, neglect, financial exploitation, or self-neglect in which a provider agency, after assessment, determines that there is reason to believe abuse, neglect, or financial exploitation has occurred.

(Source: P.A. 94-1064, eff. 1-1-07; 95-639, eff. 10-5-07; 95-689, eff. 10-29-07; revised 11-15-07.)

Section 265. The Senior Citizens and Disabled Persons Property Tax Relief and Pharmaceutical Assistance Act is amended by changing Section 4 as follows:

(320 ILCS 25/4) (from Ch. 67 1/2, par. 404)

Sec. 4. Amount of Grant.

(a) In general. Any individual 65 years or older or any individual who will become 65 years old during the calendar year in which a claim is filed, and any surviving spouse of such a claimant, who at the time of death received or was entitled to receive a grant pursuant to this Section, which surviving spouse will become 65 years of age within the 24

months immediately following the death of such claimant and which surviving spouse but for his or her age is otherwise qualified to receive a grant pursuant to this Section, and any disabled person whose annual household income is less than the income eligibility limitation, as defined in subsection (a-5) and whose household is liable for payment of property taxes accrued or has paid rent constituting property taxes accrued and is domiciled in this State at the time he or she files his or her claim is entitled to claim a grant under this Act. With respect to claims filed by individuals who will become 65 years old during the calendar year in which a claim is filed, the amount of any grant to which that household is entitled shall be an amount equal to 1/12 of the amount to which the claimant would otherwise be entitled as provided in this Section, multiplied by the number of months in which the claimant was 65 in the calendar year in which the claim is filed.

(a-5) Income eligibility limitation. For purposes of this Section, "income eligibility limitation" means an amount:

(i) for grant years before the 1998 grant year, less than \$14,000;

(ii) for the 1998 and 1999 grant year, less than \$16,000;

(iii) for grant years 2000 through 2007:

(A) less than \$21,218 for a household containing one person;

(B) less than \$28,480 for a household containing 2

persons; or

(C) less than \$35,740 for a household containing 3 or more persons; or

(iv) for grant years 2008 and thereafter:

(A) less than \$22,218 for a household containing one person;

(B) less than \$29,480 for a household containing 2 persons; or

(C) less than \$36,740 for a household containing 3 or more persons.

(b) Limitation. Except as otherwise provided in subsections (a) and (f) of this Section, the maximum amount of grant which a claimant is entitled to claim is the amount by which the property taxes accrued which were paid or payable during the last preceding tax year or rent constituting property taxes accrued upon the claimant's residence for the last preceding taxable year exceeds 3 1/2% of the claimant's household income for that year but in no event is the grant to exceed (i) \$700 less 4.5% of household income for that year for those with a household income of \$14,000 or less or (ii) \$70 if household income for that year is more than \$14,000.

(c) Public aid recipients. If household income in one or more months during a year includes cash assistance in excess of \$55 per month from the Department of Healthcare and Family Services or the Department of Human Services (acting as successor to the Department of Public Aid under the Department

of Human Services Act) which was determined under regulations of that Department on a measure of need that included an allowance for actual rent or property taxes paid by the recipient of that assistance, the amount of grant to which that household is entitled, except as otherwise provided in subsection (a), shall be the product of (1) the maximum amount computed as specified in subsection (b) of this Section and (2) the ratio of the number of months in which household income did not include such cash assistance over \$55 to the number twelve. If household income did not include such cash assistance over \$55 for any months during the year, the amount of the grant to which the household is entitled shall be the maximum amount computed as specified in subsection (b) of this Section. For purposes of this paragraph (c), "cash assistance" does not include any amount received under the federal Supplemental Security Income (SSI) program.

(d) Joint ownership. If title to the residence is held jointly by the claimant with a person who is not a member of his or her household, the amount of property taxes accrued used in computing the amount of grant to which he or she is entitled shall be the same percentage of property taxes accrued as is the percentage of ownership held by the claimant in the residence.

(e) More than one residence. If a claimant has occupied more than one residence in the taxable year, he or she may claim only one residence for any part of a month. In the case

of property taxes accrued, he or she shall prorate 1/12 of the total property taxes accrued on his or her residence to each month that he or she owned and occupied that residence; and, in the case of rent constituting property taxes accrued, shall prorate each month's rent payments to the residence actually occupied during that month.

(f) There is hereby established a program of pharmaceutical assistance to the aged and disabled which shall be administered by the Department in accordance with this Act, to consist of payments to authorized pharmacies, on behalf of beneficiaries of the program, for the reasonable costs of covered prescription drugs. Each beneficiary who pays \$5 for an identification card shall pay no additional prescription costs. Each beneficiary who pays \$25 for an identification card shall pay \$3 per prescription. In addition, after a beneficiary receives \$2,000 in benefits during a State fiscal year, that beneficiary shall also be charged 20% of the cost of each prescription for which payments are made by the program during the remainder of the fiscal year. To become a beneficiary under this program a person must: (1) be (i) 65 years of age or older, or (ii) the surviving spouse of such a claimant, who at the time of death received or was entitled to receive benefits pursuant to this subsection, which surviving spouse will become 65 years of age within the 24 months immediately following the death of such claimant and which surviving spouse but for his or her age is otherwise qualified to receive benefits pursuant

to this subsection, or (iii) disabled, and (2) be domiciled in this State at the time he or she files his or her claim, and (3) have a maximum household income of less than the income eligibility limitation, as defined in subsection (a-5). In addition, each eligible person must (1) obtain an identification card from the Department, (2) at the time the card is obtained, sign a statement assigning to the State of Illinois benefits which may be otherwise claimed under any private insurance plans, and (3) present the identification card to the dispensing pharmacist.

The Department may adopt rules specifying participation requirements for the pharmaceutical assistance program, including copayment amounts, identification card fees, expenditure limits, and the benefit threshold after which a 20% charge is imposed on the cost of each prescription, to be in effect on and after July 1, 2004. Notwithstanding any other provision of this paragraph, however, the Department may not increase the identification card fee above the amount in effect on May 1, 2003 without the express consent of the General Assembly. To the extent practicable, those requirements shall be commensurate with the requirements provided in rules adopted by the Department of Healthcare and Family Services to implement the pharmacy assistance program under Section 5-5.12a of the Illinois Public Aid Code.

Whenever a generic equivalent for a covered prescription drug is available, the Department shall reimburse only for the

reasonable costs of the generic equivalent, less the co-pay established in this Section, unless (i) the covered prescription drug contains one or more ingredients defined as a narrow therapeutic index drug at 21 CFR 320.33, (ii) the prescriber indicates on the face of the prescription "brand medically necessary", and (iii) the prescriber specifies that a substitution is not permitted. When issuing an oral prescription for covered prescription medication described in item (i) of this paragraph, the prescriber shall stipulate "brand medically necessary" and that a substitution is not permitted. If the covered prescription drug and its authorizing prescription do not meet the criteria listed above, the beneficiary may purchase the non-generic equivalent of the covered prescription drug by paying the difference between the generic cost and the non-generic cost plus the beneficiary co-pay.

Any person otherwise eligible for pharmaceutical assistance under this Act whose covered drugs are covered by any public program for assistance in purchasing any covered prescription drugs shall be ineligible for assistance under this Act to the extent such costs are covered by such other plan.

The fee to be charged by the Department for the identification card shall be equal to \$5 per coverage year for persons below the official poverty line as defined by the United States Department of Health and Human Services and \$25

per coverage year for all other persons.

In the event that 2 or more persons are eligible for any benefit under this Act, and are members of the same household, (1) each such person shall be entitled to participate in the pharmaceutical assistance program, provided that he or she meets all other requirements imposed by this subsection and (2) each participating household member contributes the fee required for that person by the preceding paragraph for the purpose of obtaining an identification card.

The provisions of this subsection (f), other than this paragraph, are inoperative after December 31, 2005. Beneficiaries who received benefits under the program established by this subsection (f) are not entitled, at the termination of the program, to any refund of the identification card fee paid under this subsection.

(g) Effective January 1, 2006, there is hereby established a program of pharmaceutical assistance to the aged and disabled, entitled the Illinois Seniors and Disabled Drug Coverage Program, which shall be administered by the Department of Healthcare and Family Services and the Department on Aging in accordance with this subsection, to consist of coverage of specified prescription drugs on behalf of beneficiaries of the program as set forth in this subsection. The program under this subsection replaces and supersedes the program established under subsection (f), which shall end at midnight on December 31, 2005.

To become a beneficiary under the program established under this subsection, a person must:

(1) be (i) 65 years of age or older or (ii) disabled;
and

(2) be domiciled in this State; and

(3) enroll with a qualified Medicare Part D Prescription Drug Plan if eligible and apply for all available subsidies under Medicare Part D; and

(4) have a maximum household income of (i) less than \$21,218 for a household containing one person, (ii) less than \$28,480 for a household containing 2 persons, or (iii) less than \$35,740 for a household containing 3 or more persons. If any income eligibility limit set forth in items (i) through (iii) is less than 200% of the Federal Poverty Level for any year, the income eligibility limit for that year for households of that size shall be income equal to or less than 200% of the Federal Poverty Level.

All individuals enrolled as of December 31, 2005, in the pharmaceutical assistance program operated pursuant to subsection (f) of this Section and all individuals enrolled as of December 31, 2005, in the SeniorCare Medicaid waiver program operated pursuant to Section 5-5.12a of the Illinois Public Aid Code shall be automatically enrolled in the program established by this subsection for the first year of operation without the need for further application, except that they must apply for Medicare Part D and the Low Income Subsidy under Medicare Part

D. A person enrolled in the pharmaceutical assistance program operated pursuant to subsection (f) of this Section as of December 31, 2005, shall not lose eligibility in future years due only to the fact that they have not reached the age of 65.

To the extent permitted by federal law, the Department may act as an authorized representative of a beneficiary in order to enroll the beneficiary in a Medicare Part D Prescription Drug Plan if the beneficiary has failed to choose a plan and, where possible, to enroll beneficiaries in the low-income subsidy program under Medicare Part D or assist them in enrolling in that program.

Beneficiaries under the program established under this subsection shall be divided into the following 5 eligibility groups:

(A) Eligibility Group 1 shall consist of beneficiaries who are not eligible for Medicare Part D coverage and who are:

(i) disabled and under age 65; or

(ii) age 65 or older, with incomes over 200% of the Federal Poverty Level; or

(iii) age 65 or older, with incomes at or below 200% of the Federal Poverty Level and not eligible for federally funded means-tested benefits due to immigration status.

(B) Eligibility Group 2 shall consist of beneficiaries otherwise described in Eligibility Group 1 but who are

eligible for Medicare Part D coverage.

(C) Eligibility Group 3 shall consist of beneficiaries age 65 or older, with incomes at or below 200% of the Federal Poverty Level, who are not barred from receiving federally funded means-tested benefits due to immigration status and are eligible for Medicare Part D coverage.

(D) Eligibility Group 4 shall consist of beneficiaries age 65 or older, with incomes at or below 200% of the Federal Poverty Level, who are not barred from receiving federally funded means-tested benefits due to immigration status and are not eligible for Medicare Part D coverage.

If the State applies and receives federal approval for a waiver under Title XIX of the Social Security Act, persons in Eligibility Group 4 shall continue to receive benefits through the approved waiver, and Eligibility Group 4 may be expanded to include disabled persons under age 65 with incomes under 200% of the Federal Poverty Level who are not eligible for Medicare and who are not barred from receiving federally funded means-tested benefits due to immigration status.

(E) On and after January 1, 2007, Eligibility Group 5 shall consist of beneficiaries who are otherwise described in Eligibility Groups 2 and 3 who have a diagnosis of HIV or AIDS.

The program established under this subsection shall cover the cost of covered prescription drugs in excess of the

beneficiary cost-sharing amounts set forth in this paragraph that are not covered by Medicare. In 2006, beneficiaries shall pay a co-payment of \$2 for each prescription of a generic drug and \$5 for each prescription of a brand-name drug. In future years, beneficiaries shall pay co-payments equal to the co-payments required under Medicare Part D for "other low-income subsidy eligible individuals" pursuant to 42 CFR 423.782(b). For individuals in Eligibility Groups 1, 2, 3, and 4, once the program established under this subsection and Medicare combined have paid \$1,750 in a year for covered prescription drugs, the beneficiary shall pay 20% of the cost of each prescription in addition to the co-payments set forth in this paragraph. For individuals in Eligibility Group 5, once the program established under this subsection and Medicare combined have paid \$1,750 in a year for covered prescription drugs, the beneficiary shall pay 20% of the cost of each prescription in addition to the co-payments set forth in this paragraph unless the drug is included in the formulary of the Illinois AIDS Drug Assistance Program operated by the Illinois Department of Public Health. If the drug is included in the formulary of the Illinois AIDS Drug Assistance Program, individuals in Eligibility Group 5 shall continue to pay the co-payments set forth in this paragraph after the program established under this subsection and Medicare combined have paid \$1,750 in a year for covered prescription drugs.

For beneficiaries eligible for Medicare Part D coverage,

the program established under this subsection shall pay 100% of the premiums charged by a qualified Medicare Part D Prescription Drug Plan for Medicare Part D basic prescription drug coverage, not including any late enrollment penalties. Qualified Medicare Part D Prescription Drug Plans may be limited by the Department of Healthcare and Family Services to those plans that sign a coordination agreement with the Department.

Notwithstanding Section 3.15, for purposes of the program established under this subsection, the term "covered prescription drug" has the following meanings:

For Eligibility Group 1, "covered prescription drug" means: (1) any cardiovascular agent or drug; (2) any insulin or other prescription drug used in the treatment of diabetes, including syringe and needles used to administer the insulin; (3) any prescription drug used in the treatment of arthritis; (4) any prescription drug used in the treatment of cancer; (5) any prescription drug used in the treatment of Alzheimer's disease; (6) any prescription drug used in the treatment of Parkinson's disease; (7) any prescription drug used in the treatment of glaucoma; (8) any prescription drug used in the treatment of lung disease and smoking-related illnesses; (9) any prescription drug used in the treatment of osteoporosis; and (10) any prescription drug used in the treatment of multiple sclerosis. The Department may add additional therapeutic

classes by rule. The Department may adopt a preferred drug list within any of the classes of drugs described in items (1) through (10) of this paragraph. The specific drugs or therapeutic classes of covered prescription drugs shall be indicated by rule.

For Eligibility Group 2, "covered prescription drug" means those drugs covered for Eligibility Group 1 that are also covered by the Medicare Part D Prescription Drug Plan in which the beneficiary is enrolled.

For Eligibility Group 3, "covered prescription drug" means those drugs covered by the Medicare Part D Prescription Drug Plan in which the beneficiary is enrolled.

For Eligibility Group 4, "covered prescription drug" means those drugs covered by the Medical Assistance Program under Article V of the Illinois Public Aid Code.

For Eligibility Group 5, for individuals otherwise described in Eligibility Group 2, "covered prescription drug" means: (1) those drugs covered for Eligibility Group 2 that are also covered by the Medicare Part D Prescription Drug Plan in which the beneficiary is enrolled; and (2) those drugs included in the formulary of the Illinois AIDS Drug Assistance Program operated by the Illinois Department of Public Health that are also covered by the Medicare Part D Prescription Drug Plan in which the beneficiary is enrolled. For Eligibility Group 5, for

individuals otherwise described in Eligibility Group 3, "covered prescription drug" means those drugs covered by the Medicare Part D Prescription Drug Plan in which the beneficiary is enrolled.

An individual in Eligibility Group 1, 2, 3, 4, or 5 may opt to receive a \$25 monthly payment in lieu of the direct coverage described in this subsection.

Any person otherwise eligible for pharmaceutical assistance under this subsection whose covered drugs are covered by any public program is ineligible for assistance under this subsection to the extent that the cost of those drugs is covered by the other program.

The Department of Healthcare and Family Services shall establish by rule the methods by which it will provide for the coverage called for in this subsection. Those methods may include direct reimbursement to pharmacies or the payment of a capitated amount to Medicare Part D Prescription Drug Plans.

For a pharmacy to be reimbursed under the program established under this subsection, it must comply with rules adopted by the Department of Healthcare and Family Services regarding coordination of benefits with Medicare Part D Prescription Drug Plans. A pharmacy may not charge a Medicare-enrolled beneficiary of the program established under this subsection more for a covered prescription drug than the appropriate Medicare cost-sharing less any payment from or on behalf of the Department of Healthcare and Family Services.

The Department of Healthcare and Family Services or the Department on Aging, as appropriate, may adopt rules regarding applications, counting of income, proof of Medicare status, mandatory generic policies, and pharmacy reimbursement rates and any other rules necessary for the cost-efficient operation of the program established under this subsection.

(Source: P.A. 94-86, eff. 1-1-06; 94-909, eff. 6-23-06; 95-208, eff. 8-16-07; 95-644, eff. 10-12-07; revised 10-25-07.)

Section 270. The Abused and Neglected Child Reporting Act is amended by changing Section 4 as follows:

(325 ILCS 5/4) (from Ch. 23, par. 2054)

Sec. 4. Persons required to report; privileged communications; transmitting false report. Any physician, resident, intern, hospital, hospital administrator and personnel engaged in examination, care and treatment of persons, surgeon, dentist, dentist hygienist, osteopath, chiropractor, podiatrist, physician assistant, substance abuse treatment personnel, funeral home director or employee, coroner, medical examiner, emergency medical technician, acupuncturist, crisis line or hotline personnel, school personnel (including administrators and both certified and non-certified school employees), educational advocate assigned to a child pursuant to the School Code, member of a school board or the Chicago Board of Education or the governing body

of a private school (but only to the extent required in accordance with other provisions of this Section expressly concerning the duty of school board members to report suspected child abuse), truant officers, social worker, social services administrator, domestic violence program personnel, registered nurse, licensed practical nurse, genetic counselor, respiratory care practitioner, advanced practice nurse, home health aide, director or staff assistant of a nursery school or a child day care center, recreational program or facility personnel, law enforcement officer, licensed professional counselor, licensed clinical professional counselor, registered psychologist and assistants working under the direct supervision of a psychologist, psychiatrist, or field personnel of the Department of Healthcare and Family Services, Juvenile Justice, Public Health, Human Services (acting as successor to the Department of Mental Health and Developmental Disabilities, Rehabilitation Services, or Public Aid), Corrections, Human Rights, or Children and Family Services, supervisor and administrator of general assistance under the Illinois Public Aid Code, probation officer, or any other foster parent, homemaker or child care worker having reasonable cause to believe a child known to them in their professional or official capacity may be an abused child or a neglected child shall immediately report or cause a report to be made to the Department.

Any member of the clergy having reasonable cause to believe

that a child known to that member of the clergy in his or her professional capacity may be an abused child as defined in item (c) of the definition of "abused child" in Section 3 of this Act shall immediately report or cause a report to be made to the Department.

If an allegation is raised to a school board member during the course of an open or closed school board meeting that a child who is enrolled in the school district of which he or she is a board member is an abused child as defined in Section 3 of this Act, the member shall direct or cause the school board to direct the superintendent of the school district or other equivalent school administrator to comply with the requirements of this Act concerning the reporting of child abuse. For purposes of this paragraph, a school board member is granted the authority in his or her individual capacity to direct the superintendent of the school district or other equivalent school administrator to comply with the requirements of this Act concerning the reporting of child abuse.

Whenever such person is required to report under this Act in his capacity as a member of the staff of a medical or other public or private institution, school, facility or agency, or as a member of the clergy, he shall make report immediately to the Department in accordance with the provisions of this Act and may also notify the person in charge of such institution, school, facility or agency, or church, synagogue, temple,

mosque, or other religious institution, or his designated agent that such report has been made. Under no circumstances shall any person in charge of such institution, school, facility or agency, or church, synagogue, temple, mosque, or other religious institution, or his designated agent to whom such notification has been made, exercise any control, restraint, modification or other change in the report or the forwarding of such report to the Department.

The privileged quality of communication between any professional person required to report and his patient or client shall not apply to situations involving abused or neglected children and shall not constitute grounds for failure to report as required by this Act.

A member of the clergy may claim the privilege under Section 8-803 of the Code of Civil Procedure.

In addition to the above persons required to report suspected cases of abused or neglected children, any other person may make a report if such person has reasonable cause to believe a child may be an abused child or a neglected child.

Any person who enters into employment on and after July 1, 1986 and is mandated by virtue of that employment to report under this Act, shall sign a statement on a form prescribed by the Department, to the effect that the employee has knowledge and understanding of the reporting requirements of this Act. The statement shall be signed prior to commencement of the employment. The signed statement shall be retained by the

employer. The cost of printing, distribution, and filing of the statement shall be borne by the employer.

The Department shall provide copies of this Act, upon request, to all employers employing persons who shall be required under the provisions of this Section to report under this Act.

Any person who knowingly transmits a false report to the Department commits the offense of disorderly conduct under subsection (a)(7) of Section 26-1 of the "Criminal Code of 1961". Any person who violates this provision a second or subsequent time shall be guilty of a Class 3 felony.

Any person who knowingly and willfully violates any provision of this Section other than a second or subsequent violation of transmitting a false report as described in the preceding paragraph, is guilty of a Class A misdemeanor for a first violation and a Class 4 felony for a second or subsequent violation; except that if the person acted as part of a plan or scheme having as its object the prevention of discovery of an abused or neglected child by lawful authorities for the purpose of protecting or insulating any person or entity from arrest or prosecution, the person is guilty of a Class 4 felony for a first offense and a Class 3 felony for a second or subsequent offense (regardless of whether the second or subsequent offense involves any of the same facts or persons as the first or other prior offense).

A child whose parent, guardian or custodian in good faith

selects and depends upon spiritual means through prayer alone for the treatment or cure of disease or remedial care may be considered neglected or abused, but not for the sole reason that his parent, guardian or custodian accepts and practices such beliefs.

A child shall not be considered neglected or abused solely because the child is not attending school in accordance with the requirements of Article 26 of the School Code, as amended.

(Source: P.A. 94-888, eff. 6-20-06; 95-10, eff. 6-30-07; 95-461, eff. 8-27-07; revised 11-15-07.)

Section 275. The Developmental Disability and Mental Disability Services Act is amended by renumbering the heading of Article 10 as follows:

(405 ILCS 80/Art. X heading)

Article X ~~10~~. Workforce Task Force for
Persons with Disabilities

Section 280. The Environmental Protection Act is amended by changing Sections 3.330 and 55.8 as follows:

(415 ILCS 5/3.330) (was 415 ILCS 5/3.32)

Sec. 3.330. Pollution control facility.

(a) "Pollution control facility" is any waste storage site, sanitary landfill, waste disposal site, waste transfer

station, waste treatment facility, or waste incinerator. This includes sewers, sewage treatment plants, and any other facilities owned or operated by sanitary districts organized under the Metropolitan Water Reclamation District Act.

The following are not pollution control facilities:

- (1) (blank);
- (2) waste storage sites regulated under 40 CFR, Part 761.42;
- (3) sites or facilities used by any person conducting a waste storage, waste treatment, waste disposal, waste transfer or waste incineration operation, or a combination thereof, for wastes generated by such person's own activities, when such wastes are stored, treated, disposed of, transferred or incinerated within the site or facility owned, controlled or operated by such person, or when such wastes are transported within or between sites or facilities owned, controlled or operated by such person;
- (4) sites or facilities at which the State is performing removal or remedial action pursuant to Section 22.2 or 55.3;
- (5) abandoned quarries used solely for the disposal of concrete, earth materials, gravel, or aggregate debris resulting from road construction activities conducted by a unit of government or construction activities due to the construction and installation of underground pipes, lines, conduit or wires off of the premises of a public utility

company which are conducted by a public utility;

(6) sites or facilities used by any person to specifically conduct a landscape composting operation;

(7) regional facilities as defined in the Central Midwest Interstate Low-Level Radioactive Waste Compact;

(8) the portion of a site or facility where coal combustion wastes are stored or disposed of in accordance with subdivision (r) (2) or (r) (3) of Section 21;

(9) the portion of a site or facility used for the collection, storage or processing of waste tires as defined in Title XIV;

(10) the portion of a site or facility used for treatment of petroleum contaminated materials by application onto or incorporation into the soil surface and any portion of that site or facility used for storage of petroleum contaminated materials before treatment. Only those categories of petroleum listed in Section 57.9(a) (3) are exempt under this subdivision (10);

(11) the portion of a site or facility where used oil is collected or stored prior to shipment to a recycling or energy recovery facility, provided that the used oil is generated by households or commercial establishments, and the site or facility is a recycling center or a business where oil or gasoline is sold at retail;

(11.5) processing sites or facilities that receive only on-specification used oil, as defined in 35 Ill.

Admin. Code 739, originating from used oil collectors for processing that is managed under 35 Ill. Admin. Code 739 to produce products for sale to off-site petroleum facilities, if these processing sites or facilities are: (i) located within a home rule unit of local government with a population of at least 30,000 according to the 2000 federal census, that home rule unit of local government has been designated as an Urban Round II Empowerment Zone by the United States Department of Housing and Urban Development, and that home rule unit of local government has enacted an ordinance approving the location of the site or facility and provided funding for the site or facility; and (ii) in compliance with all applicable zoning requirements;

(12) the portion of a site or facility utilizing coal combustion waste for stabilization and treatment of only waste generated on that site or facility when used in connection with response actions pursuant to the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980, the federal Resource Conservation and Recovery Act of 1976, or the Illinois Environmental Protection Act or as authorized by the Agency;

(13) the portion of a site or facility accepting exclusively general construction or demolition debris, located in a county with a population over 700,000 as of January 1, 2000, and operated and located in accordance

with Section 22.38 of this Act;

(14) the portion of a site or facility, located within a unit of local government that has enacted local zoning requirements, used to accept, separate, and process uncontaminated broken concrete, with or without protruding metal bars, provided that the uncontaminated broken concrete and metal bars are not speculatively accumulated, are at the site or facility no longer than one year after their acceptance, and are returned to the economic mainstream in the form of raw materials or products;

(15) the portion of a site or facility located in a county with a population over 3,000,000 that has obtained local siting approval under Section 39.2 of this Act for a municipal waste incinerator on or before July 1, 2005 and that is used for a non-hazardous waste transfer station;
~~and~~

(16) a site or facility that temporarily holds in transit for 10 days or less, non-petruscible solid waste in original containers, no larger in capacity than 500 gallons, provided that such waste is further transferred to a recycling, disposal, treatment, or storage facility on a non-contiguous site and provided such site or facility complies with the applicable 10-day transfer requirements of the federal Resource Conservation and Recovery Act of 1976 and United States Department of Transportation hazardous material requirements. For purposes of this

Section only, "non-petruscible solid waste" means waste other than municipal garbage that does not rot or become putrid, including, but not limited to, paints, solvent, filters, and absorbents;~~;~~

(17) ~~(16)~~ the portion of a site or facility located in a county with a population greater than 3,000,000 that has obtained local siting approval, under Section 39.2 of this Act, for a municipal waste incinerator on or before July 1, 2005 and that is used for wood combustion facilities for energy recovery that accept and burn only wood material, as included in a fuel specification approved by the Agency;~~;~~
and~~;~~

(18) ~~(16)~~ a transfer station used exclusively for landscape waste, including a transfer station where landscape waste is ground to reduce its volume, where the landscape waste is held no longer than 24 hours from the time it was received.

(b) A new pollution control facility is:

(1) a pollution control facility initially permitted for development or construction after July 1, 1981; or

(2) the area of expansion beyond the boundary of a currently permitted pollution control facility; or

(3) a permitted pollution control facility requesting approval to store, dispose of, transfer or incinerate, for the first time, any special or hazardous waste.

(Source: P.A. 94-94, eff. 7-1-05; 94-249, eff. 7-19-05; 94-824,

eff. 6-2-06; 95-131, eff. 8-13-07; 95-331, eff. 8-21-07; 95-408, eff. 8-24-07; 95-177, eff. 1-1-08; revised 11-15-07.)

(415 ILCS 5/55.8) (from Ch. 111 1/2, par. 1055.8)

Sec. 55.8. Tire retailers.

(a) Any person selling new or used tires at retail or offering new or used tires for retail sale in this State shall:

(1) beginning on June 20, 2003 (the effective date of Public Act 93-32), collect from retail customers a fee of \$2 per new or used tire sold and delivered in this State, to be paid to the Department of Revenue and deposited into the Used Tire Management Fund, less a collection allowance of 10 cents per tire to be retained by the retail seller and a collection allowance of 10 cents per tire to be retained by the Department of Revenue and paid into the General Revenue Fund;

(1.5) beginning on July 1, 2003, collect from retail customers an additional 50 cents per new or used tire sold and delivered in this State;~~;~~ the money collected from this fee shall be deposited into the Emergency Public Health Fund~~;~~;

(2) accept for recycling used tires from customers, at the point of transfer, in a quantity equal to the number of new tires purchased; and

(3) post in a conspicuous place a written notice at least 8.5 by 11 inches in size that includes the universal

recycling symbol and the following statements: "DO NOT put used tires in the trash."; "Recycle your used tires."; and "State law requires us to accept used tires for recycling, in exchange for new tires purchased."

(b) A person who accepts used tires for recycling under subsection (a) shall not allow the tires to accumulate for periods of more than 90 days.

(c) The requirements of subsection (a) of this Section do not apply to mail order sales nor shall the retail sale of a motor vehicle be considered to be the sale of tires at retail or offering of tires for retail sale. Instead of filing returns, retailers of tires may remit the tire user fee of \$1.00 per tire to their suppliers of tires if the supplier of tires is a registered retailer of tires and agrees or otherwise arranges to collect and remit the tire fee to the Department of Revenue, notwithstanding the fact that the sale of the tire is a sale for resale and not a sale at retail. A tire supplier who enters into such an arrangement with a tire retailer shall be liable for the tax on all tires sold to the tire retailer and must (i) provide the tire retailer with a receipt that separately reflects the tire tax collected from the retailer on each transaction and (ii) accept used tires for recycling from the retailer's customers. The tire supplier shall be entitled to the collection allowance of 10 cents per tire.

The retailer of the tires must maintain in its books and records evidence that the appropriate fee was paid to the tire

supplier and that the tire supplier has agreed to remit the fee to the Department of Revenue for each tire sold by the retailer. Otherwise, the tire retailer shall be directly liable for the fee on all tires sold at retail. Tire retailers paying the fee to their suppliers are not entitled to the collection allowance of 10 cents per tire.

(d) The requirements of subsection (a) of this Section shall apply exclusively to tires to be used for vehicles defined in Section 1-217 of the Illinois Vehicle Code, aircraft tires, special mobile equipment, and implements of husbandry.

(e) The requirements of paragraph (1) of subsection (a) do not apply to the sale of reprocessed tires. For purposes of this Section, "reprocessed tire" means a used tire that has been recapped, retreaded, or regrooved and that has not been placed on a vehicle wheel rim.

(Source: P.A. 95-49, eff. 8-10-07; 95-331, eff. 8-21-07; revised 11-26-07.)

Section 285. The Fish and Aquatic Life Code is amended by changing Section 20-92 as follows:

(515 ILCS 5/20-92)

Sec. 20-92. Commercial roe dealer permit.

(a) Any resident wholesale aquatic life dealer who buys, sells, or ships roe from roe-bearing species, whether from the waters within or without the State, must annually procure a

commercial roe dealer permit from the Department in addition to an aquatic life dealers license ~~permit~~. The annual fee for a commercial roe dealer permit is \$500 for resident wholesale aquatic life dealers and \$1,500 for non-resident aquatic life dealers. All commercial roe dealer permits shall expire on May 31 of each year.

(b) Legally licensed commercial roe dealer permit holders may designate up to 2 employees on their commercial roe dealer permit. Employees designated on a commercial roe dealer permit must retain a copy of this permit in their possession while transporting roe bearing fishes either whole or in part.

(c) A violation of this Section is a Class A misdemeanor with a minimum mandatory fine of \$500.

(Source: P.A. 95-147, eff. 8-14-07; revised 11-15-07.)

Section 290. The Wildlife Code is amended by changing Sections 2.25, 2.26, 2.33, and 3.5 as follows:

(520 ILCS 5/2.25) (from Ch. 61, par. 2.25)

Sec. 2.25. It shall be unlawful for any person to take deer except (i) with a shotgun, handgun, or muzzleloading rifle or (ii) as provided by administrative rule, with a bow and arrow, or crossbow device for handicapped persons, as defined in Section 2.33, and persons age 62 or older during the open season of not more than 14 days which will be set annually by the Director between the dates of November 1st and December

31st, both inclusive, or a special 2-day, youth-only season between the dates of September 1 and October 31. For the purposes of this Section, legal handguns include any centerfire handguns of .30 caliber or larger with a minimum barrel length of 4 inches. The only legal ammunition for a centerfire handgun is a cartridge of .30 caliber or larger with a capability of at least 500 foot pounds of energy at the muzzle. Full metal jacket bullets may not be used to harvest deer.

The Department shall make administrative rules concerning management restrictions applicable to the firearm and bow and arrow season.

It shall be unlawful for any person to take deer except with a bow and arrow, or crossbow device for handicapped persons, as defined in Section 2.33, and persons age 62 or older during the open season for bow and arrow set annually by the Director between the dates of September 1st and January 31st, both inclusive.

It shall be unlawful for any person to take deer except with (i) a muzzleloading rifle, or (ii) bow and arrow, or crossbow device for handicapped persons, as defined in Section 2.33, and persons age 62 or older during the open season for muzzleloading rifles set annually by the Director.

The Director shall cause an administrative rule setting forth the prescribed rules and regulations, including bag and possession limits and those counties of the State where open seasons are established, to be published in accordance with

Sections 1.3 and 1.13 of this Act.

The Department may establish separate harvest periods for the purpose of managing or eradicating disease that has been found in the deer herd. This season shall be restricted to gun or bow and arrow hunting only. The Department shall publicly announce, via statewide news release, the season dates and shooting hours, the counties and sites open to hunting, permit requirements, application dates, hunting rules, legal weapons, and reporting requirements.

The Department is authorized to establish a separate harvest period at specific sites within the State for the purpose of harvesting surplus deer that cannot be taken during the regular season provided for the taking of deer. This season shall be restricted to gun or bow and arrow hunting only and shall be established during the period of September 1st to February 15th, both inclusive. The Department shall publish suitable prescribed rules and regulations established by administrative rule pertaining to management restrictions applicable to this special harvest program. The Department shall allow unused gun deer permits that are left over from a regular season for the taking of deer to be rolled over and used during any separate harvest period held within 6 months of the season for which those tags were issued at no additional cost to the permit holder subject to the management restrictions applicable to the special harvest program.

(Source: P.A. 94-919, eff. 6-26-06; 95-13, eff. 1-1-08; 95-329,

eff. 8-21-07; revised 11-15-07.)

(520 ILCS 5/2.26) (from Ch. 61, par. 2.26)

Sec. 2.26. Deer hunting permits. In this Section, "bona fide equity shareholder" means an individual who (1) purchased, for market price, publicly sold stock shares in a corporation, purchased shares of a privately-held corporation for a value equal to the percentage of the appraised value of the corporate assets represented by the ownership in the corporation, or is a member of a closely-held family-owned corporation and has purchased or been gifted with shares of stock in the corporation accurately reflecting his or her percentage of ownership and (2) intends to retain the ownership of the shares of stock for at least 5 years.

In this Section, "bona fide equity member" means an individual who (1) (i) became a member upon the formation of the limited liability company or (ii) has purchased a distributional interest in a limited liability company for a value equal to the percentage of the appraised value of the LLC assets represented by the distributional interest in the LLC and subsequently becomes a member of the company pursuant to Article 30 of the Limited Liability Company Act and who (2) intends to retain the membership for at least 5 years.

In this Section, "bona fide equity partner" means an individual who (1) (i) became a partner, either general or limited, upon the formation of a partnership or limited

partnership, or (ii) has purchased, acquired, or been gifted a partnership interest accurately representing his or her percentage distributional interest in the profits, losses, and assets of a partnership or limited partnership, (2) intends to retain ownership of the partnership interest for at least 5 years, and (3) is a resident of Illinois.

Any person attempting to take deer shall first obtain a "Deer Hunting Permit" in accordance with prescribed regulations set forth in an Administrative Rule. Deer Hunting Permits shall be issued by the Department. The fee for a Deer Hunting Permit to take deer with either bow and arrow or gun shall not exceed \$15.00 for residents of the State. The Department may by administrative rule provide for non-resident deer hunting permits for which the fee will not exceed \$300 in 2005, \$350 in 2006, and \$400 in 2007 and thereafter except as provided below for non-resident landowners and non-resident archery hunters. The Department may by administrative rule provide for a non-resident archery deer permit consisting of not more than 2 harvest tags at a total cost not to exceed \$325 in 2005, \$375 in 2006, and \$425 in 2007 and thereafter. Permits shall be issued without charge to:

(a) Illinois landowners residing in Illinois who own at least 40 acres of Illinois land and wish to hunt their land only,

(b) resident tenants of at least 40 acres of commercial agricultural land where they will hunt, and

(c) Bona fide equity shareholders of a corporation, bona fide equity members of a limited liability company, or bona fide equity partners of a general or limited partnership which owns at least 40 acres of land in a county in Illinois who wish to hunt on the corporation's, company's, or partnership's land only. One permit shall be issued without charge to one bona fide equity shareholder, one bona fide equity member, or one bona fide equity partner for each 40 acres of land owned by the corporation, company, or partnership in a county; however, the number of permits issued without charge to bona fide equity shareholders of any corporation or bona fide equity members of a limited liability company in any county shall not exceed 15, and shall not exceed 3 in the case of bona fide equity partners of a partnership.

Bona fide landowners or tenants who do not wish to hunt only on the land they own, rent, or lease or bona fide equity shareholders, bona fide equity members, or bona fide equity partners who do not wish to hunt only on the land owned by the corporation, limited liability company, or partnership shall be charged the same fee as the applicant who is not a landowner, tenant, bona fide equity shareholder, bona fide equity member, or bona fide equity partner. Nonresidents of Illinois who own at least 40 acres of land and wish to hunt on their land only shall be charged a fee set by administrative rule. The method for obtaining these permits shall be

prescribed by administrative rule.

The deer hunting permit issued without fee shall be valid on all farm lands which the person to whom it is issued owns, leases or rents, except that in the case of a permit issued to a bona fide equity shareholder, bona fide equity member, or bona fide equity partner, the permit shall be valid on all lands owned by the corporation, limited liability company, or partnership in the county.

The standards and specifications for use of guns and bow and arrow for deer hunting shall be established by administrative rule.

No person may have in his possession any firearm not authorized by administrative rule for a specific hunting season when taking deer.

Persons having a firearm deer hunting permit shall be permitted to take deer only during the period from 1/2 hour before sunrise to 1/2 hour after sunset, and only during those days for which an open season is established for the taking of deer by use of shotgun, handgun, or muzzle loading rifle.

Persons having an archery deer hunting permit shall be permitted to take deer only during the period from 1/2 hour before sunrise to 1/2 hour after sunset, and only during those days for which an open season is established for the taking of deer by use of bow and arrow.

It shall be unlawful for any person to take deer by use of dogs, horses, automobiles, aircraft or other vehicles, or by

the use of salt or bait of any kind. An area is considered as baited during the presence of and for 10 consecutive days following the removal of bait. Nothing in this Section shall prohibit the use of a dog to track wounded deer. Any person using a dog for tracking wounded deer must maintain physical control of the dog at all times by means of a maximum 50 foot lead attached to the dog's collar or harness. Tracking wounded deer is permissible at night, but at no time outside of legal deer hunting hours or seasons shall any person handling or accompanying a dog being used for tracking wounded deer be in possession of any firearm or archery device. Persons tracking wounded deer with a dog during the firearm deer seasons shall wear blaze orange as required. Dog handlers tracking wounded deer with a dog are exempt from hunting license and deer permit requirements so long as they are accompanied by the licensed deer hunter who wounded the deer.

It shall be unlawful to possess or transport any wild deer which has been injured or killed in any manner upon a public highway or public right-of-way of this State unless exempted by administrative rule.

Persons hunting deer must have gun unloaded and no bow and arrow device shall be carried with the arrow in the nocked position during hours when deer hunting is unlawful.

It shall be unlawful for any person, having taken the legal limit of deer by gun, to further participate with gun in any deer hunting party.

It shall be unlawful for any person, having taken the legal limit of deer by bow and arrow, to further participate with bow and arrow in any deer hunting party.

The Department may prohibit upland game hunting during the gun deer season by administrative rule.

The Department shall not limit the number of non-resident either sex archery deer hunting permits to less than 20,000.

It shall be legal for handicapped persons, as defined in Section 2.33, and persons age 62 or older to utilize a crossbow device, as defined in Department rules, to take deer.

Any person who violates any of the provisions of this Section, including administrative rules, shall be guilty of a Class B misdemeanor.

(Source: P.A. 94-10, eff. 6-7-05; 95-289, eff. 8-20-07; 95-329, eff. 8-21-07; revised 11-15-07.)

(520 ILCS 5/2.33) (from Ch. 61, par. 2.33)

Sec. 2.33. Prohibitions.

(a) It is unlawful to carry or possess any gun in any State refuge unless otherwise permitted by administrative rule.

(b) It is unlawful to use or possess any snare or snare-like device, deadfall, net, or pit trap to take any species, except that snares not powered by springs or other mechanical devices may be used to trap fur-bearing mammals, in water sets only, if at least one-half of the snare noose is located underwater at all times.

(c) It is unlawful for any person at any time to take a wild mammal protected by this Act from its den by means of any mechanical device, spade, or digging device or to use smoke or other gases to dislodge or remove such mammal except as provided in Section 2.37.

(d) It is unlawful to use a ferret or any other small mammal which is used in the same or similar manner for which ferrets are used for the purpose of frightening or driving any mammals from their dens or hiding places.

(e) (Blank).

(f) It is unlawful to use spears, gigs, hooks or any like device to take any species protected by this Act.

(g) It is unlawful to use poisons, chemicals or explosives for the purpose of taking any species protected by this Act.

(h) It is unlawful to hunt adjacent to or near any peat, grass, brush or other inflammable substance when it is burning.

(i) It is unlawful to take, pursue or intentionally harass or disturb in any manner any wild birds or mammals by use or aid of any vehicle or conveyance, except as permitted by the Code of Federal Regulations for the taking of waterfowl. It is also unlawful to use the lights of any vehicle or conveyance or any light from or any light connected to the vehicle or conveyance in any area where wildlife may be found except in accordance with Section 2.37 of this Act; however, nothing in this Section shall prohibit the normal use of headlamps for the purpose of driving upon a roadway. Striped skunk, opossum, red

fox, gray fox, raccoon and coyote may be taken during the open season by use of a small light which is worn on the body or hand-held by a person on foot and not in any vehicle.

(j) It is unlawful to use any shotgun larger than 10 gauge while taking or attempting to take any of the species protected by this Act.

(k) It is unlawful to use or possess in the field any shotgun shell loaded with a shot size larger than lead BB or steel T (.20 diameter) when taking or attempting to take any species of wild game mammals (excluding white-tailed deer), wild game birds, migratory waterfowl or migratory game birds protected by this Act, except white-tailed deer as provided for in Section 2.26 and other species as provided for by subsection (l) or administrative rule.

(l) It is unlawful to take any species of wild game, except white-tailed deer, with a shotgun loaded with slugs unless otherwise provided for by administrative rule.

(m) It is unlawful to use any shotgun capable of holding more than 3 shells in the magazine or chamber combined, except on game breeding and hunting preserve areas licensed under Section 3.27 and except as permitted by the Code of Federal Regulations for the taking of waterfowl. If the shotgun is capable of holding more than 3 shells, it shall, while being used on an area other than a game breeding and shooting preserve area licensed pursuant to Section 3.27, be fitted with a one piece plug that is irremovable without dismantling the

shotgun or otherwise altered to render it incapable of holding more than 3 shells in the magazine and chamber, combined.

(n) It is unlawful for any person, except persons who possess a permit to hunt from a vehicle as provided in this Section and persons otherwise permitted by law, to have or carry any gun in or on any vehicle, conveyance or aircraft, unless such gun is unloaded and enclosed in a case, except that at field trials authorized by Section 2.34 of this Act, unloaded guns or guns loaded with blank cartridges only, may be carried on horseback while not contained in a case, or to have or carry any bow or arrow device in or on any vehicle unless such bow or arrow device is unstrung or enclosed in a case, or otherwise made inoperable.

(o) It is unlawful to use any crossbow for the purpose of taking any wild birds or mammals, except as provided for in Section 2.33.

(p) It is unlawful to take game birds, migratory game birds or migratory waterfowl with a rifle, pistol, revolver or airgun.

(q) It is unlawful to fire a rifle, pistol, revolver or airgun on, over or into any waters of this State, including frozen waters.

(r) It is unlawful to discharge any gun or bow and arrow device along, upon, across, or from any public right-of-way or highway in this State.

(s) It is unlawful to use a silencer or other device to

muffle or mute the sound of the explosion or report resulting from the firing of any gun.

(t) It is unlawful for any person to trap or hunt, or intentionally or wantonly allow a dog to hunt, within or upon the land of another, or upon waters flowing over or standing on the land of another, without first obtaining permission from the owner or tenant. It shall be prima facie evidence that a person does not have permission of the owner or tenant if the person is unable to demonstrate to the law enforcement officer in the field that permission had been obtained. This provision may only be rebutted by testimony of the owner or tenant that permission had been given. Before enforcing this Section the law enforcement officer must have received notice from the owner or tenant of a violation of this Section. Statements made to the law enforcement officer regarding this notice shall not be rendered inadmissible by the hearsay rule when offered for the purpose of showing the required notice.

(u) It is unlawful for any person to discharge any firearm for the purpose of taking any of the species protected by this Act, or hunt with gun or dog, or intentionally or wantonly allow a dog to hunt, within 300 yards of an inhabited dwelling without first obtaining permission from the owner or tenant, except that while trapping, hunting with bow and arrow, hunting with dog and shotgun using shot shells only, or hunting with shotgun using shot shells only, or on licensed game breeding and hunting preserve areas, as defined in Section 3.27, on

property operated under a Migratory Waterfowl Hunting Area Permit, on federally owned and managed lands and on Department owned, managed, leased or controlled lands, a 100 yard restriction shall apply.

(v) It is unlawful for any person to remove fur-bearing mammals from, or to move or disturb in any manner, the traps owned by another person without written authorization of the owner to do so.

(w) It is unlawful for any owner of a dog to knowingly or wantonly allow his or her dog to pursue, harass or kill deer, except that nothing in this Section shall prohibit the tracking of wounded deer with a dog in accordance with the provisions of Section 2.26 of this Code.

(x) It is unlawful for any person to wantonly or carelessly injure or destroy, in any manner whatsoever, any real or personal property on the land of another while engaged in hunting or trapping thereon.

(y) It is unlawful to hunt wild game protected by this Act between one half hour after sunset and one half hour before sunrise, except that hunting hours between one half hour after sunset and one half hour before sunrise may be established by administrative rule for fur-bearing mammals.

(z) It is unlawful to take any game bird (excluding wild turkeys and crippled pheasants not capable of normal flight and otherwise irretrievable) protected by this Act when not flying. Nothing in this Section shall prohibit a person from carrying

an uncased, unloaded shotgun in a boat, while in pursuit of a crippled migratory waterfowl that is incapable of normal flight, for the purpose of attempting to reduce the migratory waterfowl to possession, provided that the attempt is made immediately upon downing the migratory waterfowl and is done within 400 yards of the blind from which the migratory waterfowl was downed. This exception shall apply only to migratory game birds that are not capable of normal flight. Migratory waterfowl that are crippled may be taken only with a shotgun as regulated by subsection (j) of this Section using shotgun shells as regulated in subsection (k) of this Section.

(aa) It is unlawful to use or possess any device that may be used for tree climbing or cutting, while hunting fur-bearing mammals.

(bb) It is unlawful for any person, except licensed game breeders, pursuant to Section 2.29 to import, carry into, or possess alive in this State any species of wildlife taken outside of this State, without obtaining permission to do so from the Director.

(cc) It is unlawful for any person to have in his or her possession any freshly killed species protected by this Act during the season closed for taking.

(dd) It is unlawful to take any species protected by this Act and retain it alive except as provided by administrative rule.

(ee) It is unlawful to possess any rifle while in the field

during gun deer season except as provided in Section 2.26 and administrative rules.

(ff) It is unlawful for any person to take any species protected by this Act, except migratory waterfowl, during the gun deer hunting season in those counties open to gun deer hunting, unless he or she wears, when in the field, a cap and upper outer garment of a solid blaze orange color, with such articles of clothing displaying a minimum of 400 square inches of blaze orange material.

(gg) It is unlawful during the upland game season for any person to take upland game with a firearm unless he or she wears, while in the field, a cap of solid blaze orange color. For purposes of this Act, upland game is defined as Bobwhite Quail, Hungarian Partridge, Ring-necked Pheasant, Eastern Cottontail and Swamp Rabbit.

(hh) It shall be unlawful to kill or cripple any species protected by this Act for which there is a daily bag limit without making a reasonable effort to retrieve such species and include such in the daily bag limit.

(ii) This Section shall apply only to those species protected by this Act taken within the State. Any species or any parts thereof, legally taken in and transported from other states or countries, may be possessed within the State, except as provided in this Section and Sections 2.35, 2.36 and 3.21.

(jj) Nothing contained in this Section shall prohibit the use of bow and arrow, prohibit the use of a crossbow by persons

age 62 or older, or prevent the Director from issuing permits to use a crossbow to handicapped persons as provided by administrative rule. As used herein, "handicapped persons" means those persons who have a permanent physical impairment due to injury or disease, congenital or acquired, which renders them so severely disabled as to be unable to use a conventional bow and arrow device. Permits will be issued only after the receipt of a physician's statement confirming the applicant is handicapped as defined above.

(kk) Nothing contained in this Section shall prohibit the Director from issuing permits to paraplegics or to other disabled persons who meet the requirements set forth in administrative rule to shoot or hunt from a vehicle as provided by that rule, provided that such is otherwise in accord with this Act.

(ll) Nothing contained in this Act shall prohibit the taking of aquatic life protected by the Fish and Aquatic Life Code or birds and mammals protected by this Act, except deer and fur-bearing mammals, from a boat not camouflaged or disguised to alter its identity or to further provide a place of concealment and not propelled by sail or mechanical power. However, only shotguns not larger than 10 gauge nor smaller than .410 bore loaded with not more than 3 shells of a shot size no larger than lead BB or steel T (.20 diameter) may be used to take species protected by this Act.

(mm) Nothing contained in this Act shall prohibit the use

of a shotgun, not larger than 10 gauge nor smaller than a 20 gauge, with a rifled barrel.

(Source: P.A. 94-764, eff. 1-1-07; 95-196, eff. 1-1-08; 95-329, eff. 8-21-07; revised 10-25-07.)

(520 ILCS 5/3.5) (from Ch. 61, par. 3.5)

Sec. 3.5. Penalties; probation.

(a) Any person who violates any of the provisions of Section 2.36a, including administrative rules, shall be guilty of a Class 3 felony, except as otherwise provided in subsection (b) of this Section and subsection (a) of Section 2.36a.

(b) Whenever any person who has not previously been convicted of, or placed on probation or court supervision for, any offense under Section 1.22, 2.36, or 2.36a or subsection (i) or (cc) of Section 2.33, the court may, without entering a judgment and with the person's consent, sentence the person to probation for a violation of Section 2.36a.

(1) When a person is placed on probation, the court shall enter an order specifying a period of probation of 24 months and shall defer further proceedings in the case until the conclusion of the period or until the filing of a petition alleging violation of a term or condition of probation.

(2) The conditions of probation shall be that the person:

(A) Not violate any criminal statute of any

jurisdiction.

(B) Perform no less than 30 hours of community service, provided community service is available in the jurisdiction and is funded and approved by the county board.

(3) The court may, in addition to other conditions:

(A) Require that the person make a report to and appear in person before or participate with the court or courts, person, or social service agency as directed by the court in the order of probation.

(B) Require that the person pay a fine and costs.

(C) Require that the person refrain from possessing a firearm or other dangerous weapon.

(D) Prohibit the person from associating with any person who is actively engaged in any of the activities regulated by the permits issued or privileges granted by the Department of Natural Resources.

(4) Upon violation of a term or condition of probation, the court may enter a judgment on its original finding of guilt and proceed as otherwise provided.

(5) Upon fulfillment of the terms and conditions of probation, the court shall discharge the person and dismiss the proceedings against the person.

(6) A disposition of probation is considered to be a conviction for the purposes of imposing the conditions of probation, for appeal, and for administrative revocation

and suspension of licenses and privileges; however, discharge and dismissal under this Section is not a conviction for purposes of disqualification or disabilities imposed by law upon conviction of a crime.

(7) Discharge and dismissal under this Section may occur only once with respect to any person.

(8) If a person is convicted of an offense under this Act within 5 years subsequent to a discharge and dismissal under this Section, the discharge and dismissal under this Section shall be admissible in the sentencing proceeding for that conviction as a factor in aggravation.

(9) The Circuit Clerk shall notify the Department of State Police of all persons convicted of or placed under probation for violations of Section 2.36a.

(c) Any person who violates any of the provisions of Sections 2.9, 2.11, 2.16, 2.18, 2.24, 2.25, 2.26, 2.29, 2.30, 2.31, 2.32, 2.33 (except subsections (g), (i), (o), (p), (y), and (cc)), 2.33-1, 2.33a, 3.3, 3.4, 3.11 through 3.16 ~~3.11—3.16~~, 3.19, 3.20, 3.21 ~~3.19—3.21~~ (except subsections (b), (c), (d), (e), (f), (f.5), (g), (h), and (i)), ~~and~~ 3.24, 3.25, and 3.26 (except subsection (f)), including administrative rules, shall be guilty of a Class B misdemeanor.

A person who violates Section 2.33b by using any computer software or service to remotely control a weapon that takes wildlife by remote operation is guilty of a Class B misdemeanor. A person who violates Section 2.33b by

facilitating a violation of Section 2.33b, including an owner of land in which remote control hunting occurs, a computer programmer who designs a program or software to facilitate remote control hunting, or a person who provides weapons or equipment to facilitate remote control hunting, is guilty of a Class A misdemeanor.

Any person who violates any of the provisions of Sections 1.22, 2.4, 2.36 and 2.38, including administrative rules, shall be guilty of a Class A misdemeanor. Any second or subsequent violations of Sections 2.4 and 2.36 shall be a Class 4 felony.

Any person who violates any of the provisions of this Act, including administrative rules, during such period when his license, privileges, or permit is revoked or denied by virtue of Section 3.36, shall be guilty of a Class A misdemeanor.

Any person who violates subsection (g), (i), (o), (p), (y), or (cc) of Section 2.33 shall be guilty of a Class A misdemeanor and subject to a fine of no less than \$500 and no more than \$5,000 in addition to other statutory penalties. In addition, the Department shall suspend the privileges, under this Act, of any person found guilty of violating Section 2.33(cc) for a period of not less than one year.

Any person who violates any other of the provisions of this Act including administrative rules, unless otherwise stated, shall be guilty of a petty offense. Offenses committed by minors under the direct control or with the consent of a parent or guardian may subject the parent or guardian to the penalties

prescribed in this Section.

In addition to any fines imposed pursuant to the provisions of this Section or as otherwise provided in this Act, any person found guilty of unlawfully taking or possessing any species protected by this Act, shall be assessed a civil penalty for such species in accordance with the values prescribed in Section 2.36a of this Act. This civil penalty shall be imposed by the Circuit Court for the county within which the offense was committed at the time of the conviction. All penalties provided for in this Section shall be remitted to the Department in accordance with the same provisions provided for in Section 1.18 of this Act.

(Source: P.A. 94-222, eff. 7-14-05; 95-13, eff. 1-1-08; 95-196, eff. 1-1-08; 95-283, eff. 8-20-07; revised 11-15-07.)

Section 295. The Illinois Prescribed Burning Act is amended by changing Section 20 as follows:

(525 ILCS 37/20)

Sec. 20. Rules. The Department, in consultation with the Office of the State Fire Marshal ~~Marshall~~, shall promulgate rules to implement this Act, including but not limited to, rules governing prescribed burn manager certification and revocation and rules governing prescribed burn prescriptions.

(Source: P.A. 95-108, eff. 8-13-07; revised 11-15-07.)

Section 300. The Illinois Vehicle Code is amended by changing Sections 2-123, 3-609, 3-707, 3-806.1, 3-806.3, 3-806.5, 3-806.6, 4-203, 6-103, 6-113, 6-201, 6-204, 6-205, 6-206, 6-206.1, 6-206.2, 6-208, 6-208.1, 6-303, 6-510, 11-501, 11-501.1, 11-501.8, 11-1301.3, 11-1426.1, and 12-610.1, by setting forth, renumbering, and changing multiple versions of Section 3-664, and by renumbering and changing multiple versions of Section 3-665 as follows:

(625 ILCS 5/2-123) (from Ch. 95 1/2, par. 2-123)

Sec. 2-123. Sale and Distribution of Information.

(a) Except as otherwise provided in this Section, the Secretary may make the driver's license, vehicle and title registration lists, in part or in whole, and any statistical information derived from these lists available to local governments, elected state officials, state educational institutions, and all other governmental units of the State and Federal Government requesting them for governmental purposes. The Secretary shall require any such applicant for services to pay for the costs of furnishing such services and the use of the equipment involved, and in addition is empowered to establish prices and charges for the services so furnished and for the use of the electronic equipment utilized.

(b) The Secretary is further empowered to and he may, in his discretion, furnish to any applicant, other than listed in subsection (a) of this Section, vehicle or driver data on a

computer tape, disk, other electronic format or computer processable medium, or printout at a fixed fee of \$250 for orders received before October 1, 2003 and \$500 for orders received on or after October 1, 2003, in advance, and require in addition a further sufficient deposit based upon the Secretary of State's estimate of the total cost of the information requested and a charge of \$25 for orders received before October 1, 2003 and \$50 for orders received on or after October 1, 2003, per 1,000 units or part thereof identified or the actual cost, whichever is greater. The Secretary is authorized to refund any difference between the additional deposit and the actual cost of the request. This service shall not be in lieu of an abstract of a driver's record nor of a title or registration search. This service may be limited to entities purchasing a minimum number of records as required by administrative rule. The information sold pursuant to this subsection shall be the entire vehicle or driver data list, or part thereof. The information sold pursuant to this subsection shall not contain personally identifying information unless the information is to be used for one of the purposes identified in subsection (f-5) of this Section. Commercial purchasers of driver and vehicle record databases shall enter into a written agreement with the Secretary of State that includes disclosure of the commercial use of the information to be purchased.

(b-1) The Secretary is further empowered to and may, in his

or her discretion, furnish vehicle or driver data on a computer tape, disk, or other electronic format or computer processible medium, at no fee, to any State or local governmental agency that uses the information provided by the Secretary to transmit data back to the Secretary that enables the Secretary to maintain accurate driving records, including dispositions of traffic cases. This information may be provided without fee not more often than once every 6 months.

(c) Secretary of State may issue registration lists. The Secretary of State may compile a list of all registered vehicles. Each list of registered vehicles shall be arranged serially according to the registration numbers assigned to registered vehicles and may contain in addition the names and addresses of registered owners and a brief description of each vehicle including the serial or other identifying number thereof. Such compilation may be in such form as in the discretion of the Secretary of State may seem best for the purposes intended.

(d) The Secretary of State shall furnish no more than 2 current available lists of such registrations to the sheriffs of all counties and to the chiefs of police of all cities and villages and towns of 2,000 population and over in this State at no cost. Additional copies may be purchased by the sheriffs or chiefs of police at the fee of \$500 each or at the cost of producing the list as determined by the Secretary of State. Such lists are to be used for governmental purposes only.

(e) (Blank).

(e-1) (Blank).

(f) The Secretary of State shall make a title or registration search of the records of his office and a written report on the same for any person, upon written application of such person, accompanied by a fee of \$5 for each registration or title search. The written application shall set forth the intended use of the requested information. No fee shall be charged for a title or registration search, or for the certification thereof requested by a government agency. The report of the title or registration search shall not contain personally identifying information unless the request for a search was made for one of the purposes identified in subsection (f-5) of this Section. The report of the title or registration search shall not contain highly restricted personal information unless specifically authorized by this Code.

The Secretary of State shall certify a title or registration record upon written request. The fee for certification shall be \$5 in addition to the fee required for a title or registration search. Certification shall be made under the signature of the Secretary of State and shall be authenticated by Seal of the Secretary of State.

The Secretary of State may notify the vehicle owner or registrant of the request for purchase of his title or registration information as the Secretary deems appropriate.

No information shall be released to the requestor until expiration of a 10 day period. This 10 day period shall not apply to requests for information made by law enforcement officials, government agencies, financial institutions, attorneys, insurers, employers, automobile associated businesses, persons licensed as a private detective or firms licensed as a private detective agency under the Private Detective, Private Alarm, Private Security, Fingerprint Vendor, and Locksmith Act of 2004, who are employed by or are acting on behalf of law enforcement officials, government agencies, financial institutions, attorneys, insurers, employers, automobile associated businesses, and other business entities for purposes consistent with the Illinois Vehicle Code, the vehicle owner or registrant or other entities as the Secretary may exempt by rule and regulation.

Any misrepresentation made by a requestor of title or vehicle information shall be punishable as a petty offense, except in the case of persons licensed as a private detective or firms licensed as a private detective agency which shall be subject to disciplinary sanctions under Section 40-10 of the Private Detective, Private Alarm, Private Security, Fingerprint Vendor, and Locksmith Act of 2004.

(f-5) The Secretary of State shall not disclose or otherwise make available to any person or entity any personally identifying information obtained by the Secretary of State in connection with a driver's license, vehicle, or title

registration record unless the information is disclosed for one of the following purposes:

(1) For use by any government agency, including any court or law enforcement agency, in carrying out its functions, or any private person or entity acting on behalf of a federal, State, or local agency in carrying out its functions.

(2) For use in connection with matters of motor vehicle or driver safety and theft; motor vehicle emissions; motor vehicle product alterations, recalls, or advisories; performance monitoring of motor vehicles, motor vehicle parts, and dealers; and removal of non-owner records from the original owner records of motor vehicle manufacturers.

(3) For use in the normal course of business by a legitimate business or its agents, employees, or contractors, but only:

(A) to verify the accuracy of personal information submitted by an individual to the business or its agents, employees, or contractors; and

(B) if such information as so submitted is not correct or is no longer correct, to obtain the correct information, but only for the purposes of preventing fraud by, pursuing legal remedies against, or recovering on a debt or security interest against, the individual.

(4) For use in research activities and for use in

producing statistical reports, if the personally identifying information is not published, redisclosed, or used to contact individuals.

(5) For use in connection with any civil, criminal, administrative, or arbitral proceeding in any federal, State, or local court or agency or before any self-regulatory body, including the service of process, investigation in anticipation of litigation, and the execution or enforcement of judgments and orders, or pursuant to an order of a federal, State, or local court.

(6) For use by any insurer or insurance support organization or by a self-insured entity or its agents, employees, or contractors in connection with claims investigation activities, antifraud activities, rating, or underwriting.

(7) For use in providing notice to the owners of towed or impounded vehicles.

(8) For use by any person licensed as a private detective or firm licensed as a private detective agency under the Private Detective, Private Alarm, Private Security, Fingerprint Vendor, and Locksmith Act of 2004, private investigative agency or security service licensed in Illinois for any purpose permitted under this subsection.

(9) For use by an employer or its agent or insurer to obtain or verify information relating to a holder of a

commercial driver's license that is required under chapter 313 of title 49 of the United States Code.

(10) For use in connection with the operation of private toll transportation facilities.

(11) For use by any requester, if the requester demonstrates it has obtained the written consent of the individual to whom the information pertains.

(12) For use by members of the news media, as defined in Section 1-148.5, for the purpose of newsgathering when the request relates to the operation of a motor vehicle or public safety.

(13) For any other use specifically authorized by law, if that use is related to the operation of a motor vehicle or public safety.

(f-6) The Secretary of State shall not disclose or otherwise make available to any person or entity any highly restricted personal information obtained by the Secretary of State in connection with a driver's license, vehicle, or title registration record unless specifically authorized by this Code.

(g) 1. The Secretary of State may, upon receipt of a written request and a fee of \$6 before October 1, 2003 and a fee of \$12 on and after October 1, 2003, furnish to the person or agency so requesting a driver's record. Such document may include a record of: current driver's license issuance information, except that the information on

judicial driving permits shall be available only as otherwise provided by this Code; convictions; orders entered revoking, suspending or cancelling a driver's license or privilege; and notations of accident involvement. All other information, unless otherwise permitted by this Code, shall remain confidential. Information released pursuant to a request for a driver's record shall not contain personally identifying information, unless the request for the driver's record was made for one of the purposes set forth in subsection (f-5) of this Section. The Secretary of State may, without fee, allow a parent or guardian of a person under the age of 18 years, who holds an instruction permit or graduated driver's license, to view that person's driving record online, through a computer connection. The parent or guardian's online access to the driving record will terminate when the instruction permit or graduated driver's license holder reaches the age of 18.

2. The Secretary of State shall not disclose or otherwise make available to any person or entity any highly restricted personal information obtained by the Secretary of State in connection with a driver's license, vehicle, or title registration record unless specifically authorized by this Code. The Secretary of State may certify an abstract of a driver's record upon written request therefor. Such certification shall be made under the

signature of the Secretary of State and shall be authenticated by the Seal of his office.

3. All requests for driving record information shall be made in a manner prescribed by the Secretary and shall set forth the intended use of the requested information.

The Secretary of State may notify the affected driver of the request for purchase of his driver's record as the Secretary deems appropriate.

No information shall be released to the requester until expiration of a 10 day period. This 10 day period shall not apply to requests for information made by law enforcement officials, government agencies, financial institutions, attorneys, insurers, employers, automobile associated businesses, persons licensed as a private detective or firms licensed as a private detective agency under the Private Detective, Private Alarm, Private Security, Fingerprint Vendor, and Locksmith Act of 2004, who are employed by or are acting on behalf of law enforcement officials, government agencies, financial institutions, attorneys, insurers, employers, automobile associated businesses, and other business entities for purposes consistent with the Illinois Vehicle Code, the affected driver or other entities as the Secretary may exempt by rule and regulation.

Any misrepresentation made by a requestor of driver information shall be punishable as a petty offense, except

in the case of persons licensed as a private detective or firms licensed as a private detective agency which shall be subject to disciplinary sanctions under Section 40-10 of the Private Detective, Private Alarm, Private Security, Fingerprint Vendor, and Locksmith Act of 2004.

4. The Secretary of State may furnish without fee, upon the written request of a law enforcement agency, any information from a driver's record on file with the Secretary of State when such information is required in the enforcement of this Code or any other law relating to the operation of motor vehicles, including records of dispositions; documented information involving the use of a motor vehicle; whether such individual has, or previously had, a driver's license; and the address and personal description as reflected on said driver's record.

5. Except as otherwise provided in this Section, the Secretary of State may furnish, without fee, information from an individual driver's record on file, if a written request therefor is submitted by any public transit system or authority, public defender, law enforcement agency, a state or federal agency, or an Illinois local intergovernmental association, if the request is for the purpose of a background check of applicants for employment with the requesting agency, or for the purpose of an official investigation conducted by the agency, or to determine a current address for the driver so public funds

can be recovered or paid to the driver, or for any other purpose set forth in subsection (f-5) of this Section.

The Secretary may also furnish the courts a copy of an abstract of a driver's record, without fee, subsequent to an arrest for a violation of Section 11-501 or a similar provision of a local ordinance. Such abstract may include records of dispositions; documented information involving the use of a motor vehicle as contained in the current file; whether such individual has, or previously had, a driver's license; and the address and personal description as reflected on said driver's record.

6. Any certified abstract issued by the Secretary of State or transmitted electronically by the Secretary of State pursuant to this Section, to a court or on request of a law enforcement agency, for the record of a named person as to the status of the person's driver's license shall be prima facie evidence of the facts therein stated and if the name appearing in such abstract is the same as that of a person named in an information or warrant, such abstract shall be prima facie evidence that the person named in such information or warrant is the same person as the person named in such abstract and shall be admissible for any prosecution under this Code and be admitted as proof of any prior conviction or proof of records, notices, or orders recorded on individual driving records maintained by the Secretary of State.

7. Subject to any restrictions contained in the Juvenile Court Act of 1987, and upon receipt of a proper request and a fee of \$6 before October 1, 2003 and a fee of \$12 on or after October 1, 2003, the Secretary of State shall provide a driver's record to the affected driver, or the affected driver's attorney, upon verification. Such record shall contain all the information referred to in paragraph 1 of this subsection (g) plus: any recorded accident involvement as a driver; information recorded pursuant to subsection (e) of Section 6-117 and paragraph (4) of subsection (a) of Section 6-204 of this Code. All other information, unless otherwise permitted by this Code, shall remain confidential.

(h) The Secretary shall not disclose social security numbers or any associated information obtained from the Social Security Administration except pursuant to a written request by, or with the prior written consent of, the individual except: (1) to officers and employees of the Secretary who have a need to know the social security numbers in performance of their official duties, (2) to law enforcement officials for a lawful, civil or criminal law enforcement investigation, and if the head of the law enforcement agency has made a written request to the Secretary specifying the law enforcement investigation for which the social security numbers are being sought, (3) to the United States Department of Transportation, or any other State, pursuant to the administration and

enforcement of the Commercial Motor Vehicle Safety Act of 1986, (4) pursuant to the order of a court of competent jurisdiction, or (5) to the Department of Healthcare and Family Services (formerly Department of Public Aid) for utilization in the child support enforcement duties assigned to that Department under provisions of the Illinois Public Aid Code after the individual has received advanced meaningful notification of what redisclosure is sought by the Secretary in accordance with the federal Privacy Act.

(i) (Blank).

(j) Medical statements or medical reports received in the Secretary of State's Office shall be confidential. No confidential information may be open to public inspection or the contents disclosed to anyone, except officers and employees of the Secretary who have a need to know the information contained in the medical reports and the Driver License Medical Advisory Board, unless so directed by an order of a court of competent jurisdiction.

(k) All fees collected under this Section shall be paid into the Road Fund of the State Treasury, except that (i) for fees collected before October 1, 2003, \$3 of the \$6 fee for a driver's record shall be paid into the Secretary of State Special Services Fund, (ii) for fees collected on and after October 1, 2003, of the \$12 fee for a driver's record, \$3 shall be paid into the Secretary of State Special Services Fund and \$6 shall be paid into the General Revenue Fund, and (iii) for

fees collected on and after October 1, 2003, 50% of the amounts collected pursuant to subsection (b) shall be paid into the General Revenue Fund.

(l) (Blank).

(m) Notations of accident involvement that may be disclosed under this Section shall not include notations relating to damage to a vehicle or other property being transported by a tow truck. This information shall remain confidential, provided that nothing in this subsection (m) shall limit disclosure of any notification of accident involvement to any law enforcement agency or official.

(n) Requests made by the news media for driver's license, vehicle, or title registration information may be furnished without charge or at a reduced charge, as determined by the Secretary, when the specific purpose for requesting the documents is deemed to be in the public interest. Waiver or reduction of the fee is in the public interest if the principal purpose of the request is to access and disseminate information regarding the health, safety, and welfare or the legal rights of the general public and is not for the principal purpose of gaining a personal or commercial benefit. The information provided pursuant to this subsection shall not contain personally identifying information unless the information is to be used for one of the purposes identified in subsection (f-5) of this Section.

(o) The redisclosure of personally identifying information

obtained pursuant to this Section is prohibited, except to the extent necessary to effectuate the purpose for which the original disclosure of the information was permitted.

(p) The Secretary of State is empowered to adopt rules to effectuate this Section.

(Source: P.A. 94-56, eff. 6-17-05; 95-201, eff. 1-1-08; 95-287, eff. 1-1-08; 95-331, eff. 8-21-07; 95-613, eff. 9-11-07; revised 11-16-07.)

(625 ILCS 5/3-609) (from Ch. 95 1/2, par. 3-609)

Sec. 3-609. Disabled Veterans' Plates. Any disabled veteran whose degree of disability has been declared to be 100% by the United States Department of Veterans Affairs and who has been or declared eligible for funds for the purchase of a motor vehicle of the first division or for a motor vehicle of the second division weighing not more than 8,000 pounds by the United States Federal Government because of his disability, may make application for the registration of one such vehicle, to the Secretary of State without the payment of any registration fee. The Secretary may, in his or her discretion, allow the plates to be issued as vanity or personalized plates in accordance with Section 3-405.1 of this Code. Registration shall be for a multi-year period effective in 1980 and may be issued staggered registration.

Any disabled veteran of World War I, of World War II, of the National Emergency between June 25, 1950 and January 31,

1955 or of the period beginning February 1, 1955 and ending on the day before the first day thereafter in which individuals (other than individuals liable for induction by reason of prior deferment) are no longer liable for induction for training and service into the armed forces under the Military Selective Service Act of 1967, or of any armed conflict involving the armed forces of the United States, who has a service-connected disability of such a nature that it would, if it had been incurred in World War II, have entitled him to be awarded an automobile by the United States Federal Government, or who is receiving compensation from the Veterans Administration for total service-connected disability, may make application to the Secretary of State for the registration of one motor vehicle of the first division without accompanying such application with the payment of any fee.

Renewal of such registration must be accompanied with documentation for eligibility of registration without fee unless the applicant has a permanent qualifying disability, and such registration plates may not be issued to any person not eligible therefor.

The Illinois Veterans Commission may assist in providing the documentation of disability.

Commencing with the 2009 registration year, any person eligible to receive license plates under this Section who has been approved for benefits under the Senior Citizens and Disabled Persons Property Tax Relief and Pharmaceutical

Assistance Act, or who has claimed and received a grant under that Act, shall pay a fee of \$24 instead of the fee otherwise provided in this Code for passenger cars displaying standard multi-year registration plates issued under Section 3-414.1, for motor vehicles registered at 8,000 pounds or less under Section 3-815(a), or for recreational vehicles registered at 8,000 pounds or less under Section 3-815(b), for a second set of plates under this Section.

(Source: P.A. 95-157, eff. 1-1-08; 95-167, eff. 1-1-08; 95-353, eff. 1-1-08; revised 11-16-07.)

(625 ILCS 5/3-664)

Sec. 3-664. Gold Star license plates. Upon proper application, the Secretary of State shall issue registration plates designated as Gold Star license plates to any Illinois resident who is the surviving widow, widower, or parent of a person who served in the Armed Forces of the United States and lost his or her life while in service whether in peacetime or war. The surviving widow or widower and each surviving parent, or in the absence of a surviving parent, only one surviving sibling shall be issued one set of registration plates. Registration plates issued under this Section shall be for first division vehicles and second division vehicles of 8,000 pounds or less. The Secretary may, in his or her discretion, allow the plates to be issued as vanity or personalized plates in accordance with Section 3-405.1 of this Code. An applicant

shall be charged only the appropriate registration fee.

(Source: P.A. 94-311, eff. 1-1-06; 94-343, eff. 1-1-06; 95-34, eff. 1-1-08; 95-331, eff. 8-21-07; 95-353, eff. 1-1-08; revised 12-10-07.)

(625 ILCS 5/3-665)

Sec. 3-665 ~~3-664~~. Agriculture in the Classroom plates.

(a) The Secretary, upon receipt of all applicable fees and applications made in the form prescribed by the Secretary, may issue special registration plates designated as Agriculture in the Classroom license plates.

The special plates issued under this Section shall be affixed only to passenger vehicles of the first division or motor vehicles of the second division weighing not more than 8,000 pounds.

Plates issued under this Section shall expire according to the multi-year procedure established by Section 3-414.1 of this Code.

(b) The design and color of the special plates shall be wholly within the discretion of the Secretary.

(c) An applicant for the special plate shall be charged a \$40 fee for original issuance in addition to the appropriate registration fee. Of this fee, \$25 shall be deposited into the Agriculture in the Classroom Fund and \$15 shall be deposited into the Secretary of State Special License Plate Fund, to be used by the Secretary to help defray the administrative

processing costs.

For each registration renewal period, a \$27 fee, in addition to the appropriate registration fee, shall be charged. Of this fee, \$25 shall be deposited into the Agriculture in the Classroom Fund and \$2 shall be deposited into the Secretary of State Special License Plate Fund.

(d) The Agriculture in the Classroom Fund is created as a special fund in the State treasury. All moneys in the Agriculture in the Classroom Fund shall be paid, subject to appropriation by the General Assembly and approval by the Secretary, to the Illinois Agricultural Association Foundation, a charitable organization that meets the requirements of Title 26, Section 501(c)(3) of the United States Code, to be used as grants to support Agriculture in the Classroom programming for public and private schools within Illinois.

(Source: P.A. 95-94, eff. 8-13-07; revised 12-10-07.)

(625 ILCS 5/3-667)

Sec. 3-667 ~~3-664~~. Korean Service license plates.

(a) In addition to any other special license plate, the Secretary, upon receipt of all applicable fees and applications made in the form prescribed by the Secretary of State, may issue special registration plates designated as Korean Service license plates to residents of Illinois who, on or after July 27, 1954, participated in the United States Armed Forces in

Korea. The special plate issued under this Section shall be affixed only to passenger vehicles of the first division, motorcycles, motor vehicles of the second division weighing not more than 8,000 pounds, and recreational vehicles as defined by Section 1-169 of this Code. Plates issued under this Section shall expire according to the staggered multi-year procedure established by Section 3-414.1 of this Code.

(b) The design, color, and format of the plates shall be wholly within the discretion of the Secretary of State. The Secretary may, in his or her discretion, allow the plates to be issued as vanity or personalized plates in accordance with Section 3-405.1 of this Code. The plates are not required to designate "Land of ~~of~~ Lincoln", as prescribed in subsection (b) of Section 3-412 of this Code. The Secretary shall prescribe the eligibility requirements and, in his or her discretion, shall approve and prescribe stickers or decals as provided under Section 3-412.

(c) An applicant shall be charged a \$15 fee for original issuance in addition to the applicable registration fee. Of this additional fee, \$13 shall be deposited into the Secretary of State Special License Plate Fund and \$2 shall be deposited into the Korean War Memorial Construction Fund a special fund in the State treasury.

(d) An individual who has been issued Korean Service license plates for a vehicle and who has been approved for benefits under the Senior Citizens and Disabled Persons

Property Tax Relief and Pharmaceutical Assistance Act shall pay the original issuance and the regular annual fee for the registration of the vehicle as provided in Section 3-806.3 of this Code in addition to the fees specified in subsection (c) of this Section.

(Source: P.A. 95-162, eff. 1-1-08; revised 12-10-07.)

(625 ILCS 5/3-668)

Sec. 3-668 ~~3-664~~. Iraq Campaign license plates.

(a) In addition to any other special license plate, the Secretary, upon receipt of all applicable fees and applications made in the form prescribed by the Secretary of State, may issue Iraq Campaign license plates to residents of Illinois who have earned the Iraq Campaign Medal from the United States Armed Forces. The special Iraq Campaign plates issued under this Section shall be affixed only to passenger vehicles of the first division, motorcycles, and motor vehicles of the second division weighing not more than 8,000 pounds. Plates issued under this Section shall expire according to the staggered multi-year procedure established by Section 3-414.1 of this Code.

(b) The design, color, and format of the plates shall be wholly within the discretion of the Secretary of State. The Secretary may, in his or her discretion, allow the plates to be issued as vanity plates or personalized in accordance with Section 3-405.1 of this Code. The plates are not required to

designate "Land of ~~of~~ Lincoln", as prescribed in subsection (b) of Section 3-412 of this Code. The Secretary shall, in his or her discretion, approve and prescribe stickers or decals as provided under Section 3-412.

(c) An applicant for the special plate shall be charged a \$40 fee for original issuance in addition to the appropriate registration fee. Of this fee, \$25 shall be deposited into the Illinois Military Family Relief Fund and \$15 shall be deposited into the Secretary of State Special License Plate Fund, to be used by the Secretary to help defray the administrative processing costs. For each registration renewal period, a \$27 fee, in addition to the appropriate registration fee, shall be charged. Of this fee, \$25 shall be deposited into the Illinois Military Family Relief Fund and \$2 shall be deposited into the Secretary of State Special License Plate Fund.

(Source: P.A. 95-190, eff. 8-16-07; revised 12-10-07.)

(625 ILCS 5/3-669)

Sec. 3-669 ~~3-665~~. Afghanistan Campaign license plates.

(a) In addition to any other special license plate, the Secretary, upon receipt of all applicable fees and applications made in the form prescribed by the Secretary of State, may issue Afghanistan Campaign license plates to residents of Illinois who have earned the Afghanistan Campaign Medal from the United States Armed Forces. The special Afghanistan Campaign plates issued under this Section shall be affixed only

to passenger vehicles of the first division, motorcycles, and motor vehicles of the second division weighing not more than 8,000 pounds. Plates issued under this Section shall expire according to the staggered multi-year procedure established by Section 3-414.1 of this Code.

(b) The design, color, and format of the plates shall be wholly within the discretion of the Secretary of State. The Secretary may, in his or her discretion, allow the plates to be issued as vanity plates or personalized in accordance with Section 3-405.1 of this Code. The plates are not required to designate "Land of ~~of~~ Lincoln", as prescribed in subsection (b) of Section 3-412 of this Code. The Secretary shall, in his or her discretion, approve and prescribe stickers or decals as provided under Section 3-412.

(c) An applicant for the special plate shall be charged a \$40 fee for original issuance in addition to the appropriate registration fee. Of this fee, \$25 shall be deposited into the Illinois Military Family Relief Fund and \$15 shall be deposited into the Secretary of State Special License Plate Fund, to be used by the Secretary to help defray the administrative processing costs. For each registration renewal period, a \$27 fee, in addition to the appropriate registration fee, shall be charged. Of this fee, \$25 shall be deposited into the Illinois Military Family Relief Fund and \$2 shall be deposited into the Secretary of State Special License Plate Fund.

(Source: P.A. 95-190, eff. 8-16-07; revised 12-10-07.)

(625 ILCS 5/3-670)

Sec. 3-670 ~~3-664~~. Autism Awareness license plates.

(a) The Secretary, upon receipt of an application made in the form prescribed by the Secretary, may issue special registration plates designated as Autism Awareness license plates. The special plates issued under this Section shall be affixed only to passenger vehicles of the first division and motor vehicles of the second division weighing not more than 8,000 pounds. Plates issued under this Section shall expire according to the multi-year procedure established by Section 3-414.1 of this Code.

(b) The design and color of the plates is wholly within the discretion of the Secretary of State. The Secretary, in his or her discretion, may allow the plates to be issued as vanity or personalized plates under Section 3-405.1 of this Code. The Secretary shall prescribe stickers or decals as provided under Section 3-412 of this Code.

(c) An applicant for the special plate shall be charged a \$40 fee for original issuance in addition to the appropriate registration fee. Of this fee, \$25 shall be deposited into the Autism Awareness Fund and \$15 shall be deposited into the Secretary of State Special License Plate Fund, to be used by the Secretary to help defray the administrative processing costs.

For each registration renewal period, a \$27 fee, in

addition to the appropriate registration fee, shall be charged. Of this fee, \$25 shall be deposited into the Autism Awareness Fund and \$2 shall be deposited into the Secretary of State Special License Plate Fund.

(d) The Autism Awareness Fund is created as a special fund in the State treasury. All moneys in the Autism Awareness Fund shall be paid, subject to appropriation by the General Assembly and approval by the Secretary, to the Illinois Department of Human Services for the purpose of grants for research, education, and awareness regarding autism and autism spectrum disorders.

(Source: P.A. 95-226, eff. 1-1-08; revised 12-10-07.)

(625 ILCS 5/3-671)

Sec. 3-671 ~~3-664~~. Boy Scout and Girl Scout license plates.

(a) The Secretary, upon receipt of an application made in the form prescribed by the Secretary, may issue special registration plates designated to be Boy Scout and Girl Scout plates. The special plates issued under this Section shall be affixed only to passenger vehicles of the first division or motor vehicles of the second division weighing not more than 8,000 pounds. Plates issued under this Section shall expire according to the multi-year procedure established by Section 3-414.1 of this Code.

(b) Except as provided in subsections (c) and (d), the design and color of the plates shall be wholly within the

discretion of the Secretary. Appropriate documentation, as determined by the Secretary, shall accompany the application.

(c) The Secretary may issue Boy Scout plates bearing the Eagle Scout badge only to an applicant who provides written proof of Eagle Scout rank, in the form of appropriate documentation from the National Boy Scout Council. The Secretary shall make these plates available to qualified applicants.

(d) The Secretary may issue Girl Scout plates bearing the symbol of the Gold Award only to an applicant who provides written proof of Gold Award status, in the form of appropriate documentation from the National Office of the Girl Scouts of the U.S.A. The Secretary shall make these plates available to qualified applicants.

(e) An applicant shall be charged a \$40 fee for original issuance in addition to the appropriate registration fee, if applicable. Of this fee, \$25 shall be deposited into the Boy Scout and Girl Scout Fund as created by this Section and \$15 shall be deposited into the Secretary of State Special License Plate Fund to be used by the Secretary to help defray the administrative processing costs. For each registration renewal period a \$27 fee, in addition to the appropriate registration fee, shall be charged. Of this fee, \$25 shall be deposited into the Boy Scout and Girl Scout Fund and \$2 shall be deposited into the Secretary of State Special License Plate Fund.

(f) The Boy Scout and Girl Scout Fund is created as a

special fund in the State treasury. All moneys in the Boy Scout and Girl Scout Fund shall, subject to appropriation by the General Assembly and approval by the Secretary, be paid as grants, to be divided between the Illinois divisions of the Boys Scouts of America and the Girl Scouts of the U.S.A. on a pro rata basis, according to the number of each type of plate sold. Grants shall be made to the county division in which the plates are sold.

(Source: P.A. 95-320, eff. 1-1-08; revised 12-10-07.)

(625 ILCS 5/3-672)

Sec. 3-672 ~~3-664~~. Illinois Professional Golfers Association Foundation Junior Golf license plates.

(a) The Secretary, upon receipt of all applicable fees and applications made in the form prescribed by the Secretary, may issue special registration plates designated as Illinois Professional Golfers Association Foundation Junior Golf license plates.

The special plates issued under this Section shall be affixed only to passenger vehicles of the first division or motor vehicles of the second division weighing not more than 8,000 pounds.

Plates issued under this Section shall expire according to the multi-year procedure established by Section 3-414.1 of this Code.

(b) The design and color of the special plates shall be

wholly within the discretion of the Secretary. Appropriate documentation, as determined by the Secretary, shall accompany each application.

(c) An applicant for the special plate shall be charged a \$40 fee for original issuance in addition to the appropriate registration fee. Of this fee, \$25 shall be deposited into the Illinois Professional Golfers Association Foundation Junior Golf Fund and \$15 shall be deposited into the Secretary of State Special License Plate Fund, to be used by the Secretary to help defray the administrative processing costs.

For each registration renewal period, a \$40 fee, in addition to the appropriate registration fee, shall be charged. Of this fee, \$38 shall be deposited into the Illinois Professional Golfers Association Foundation Junior Golf Fund and \$2 shall be deposited into the Secretary of State Special License Plate Fund.

(d) The Illinois Professional Golfers Association Foundation Junior Golf Fund is created as a special fund in the State treasury. All moneys in the Illinois Professional Golfers Association Foundation Junior Golf Fund shall be paid, subject to appropriation by the General Assembly and approval by the Secretary, as grants to the Illinois Professional Golfers Association Foundation to help Association members expose Illinois youngsters to the game of golf.

(Source: P.A. 95-444, eff. 8-27-07; revised 12-10-07.)

(625 ILCS 5/3-673)

(This Section may contain text from a Public Act with a delayed effective date)

Sec. 3-673 ~~3-664~~. Rotary Club plates.

(a) The Secretary, upon receipt of all applicable fees and applications made in the form prescribed by the Secretary, may issue special registration plates designated as Rotary Club license plates.

The special plates issued under this Section shall be affixed only to passenger vehicles of the first division or motor vehicles of the second division weighing not more than 8,000 pounds.

Plates issued under this Section shall expire according to the multi-year procedure established by Section 3-414.1 of this Code.

(b) The design and color of the special plates shall be wholly within the discretion of the Secretary. Appropriate documentation, as determined by the Secretary, shall accompany each application.

(c) An applicant for the special plate shall be charged a \$25 fee for original issuance in addition to the appropriate registration fee. Of this fee, \$10 shall be deposited into the Rotary Club Fund and \$15 shall be deposited into the Secretary of State Special License Plate Fund, to be used by the Secretary to help defray the administrative processing costs.

For each registration renewal period, a \$25 fee, in

addition to the appropriate registration fee, shall be charged. Of this fee, \$23 shall be deposited into the Rotary Club Fund and \$2 shall be deposited into the Secretary of State Special License Plate Fund.

(d) The Rotary Club Fund is created as a special fund in the State treasury. All moneys in the Rotary Club Fund shall be paid, subject to appropriation by the General Assembly and approval by the Secretary, as grants for charitable purposes sponsored by the Rotary Club.

(Source: P.A. 95-523, eff. 6-1-08; revised 12-10-07.)

(625 ILCS 5/3-674)

Sec. 3-674 ~~3-664~~. Sheet Metal Workers International Association license plates.

(a) The Secretary, upon receipt of all applicable fees and applications made in the form prescribed by the Secretary, may issue special registration plates designated as Sheet Metal Workers International Association license plates. The special plates issued under this Section shall be affixed only to passenger vehicles of the first division or motor vehicles of the second division weighing not more than 8,000 pounds. Plates issued under this Section shall expire according to the multi-year procedure established by Section 3-414.1 of this Code.

(b) The design and color of the special plates shall be wholly within the discretion of the Secretary. Appropriate

documentation, as determined by the Secretary, shall accompany each application. The Secretary may allow the plates to be issued as vanity plates or personalized plates under Section 3-405.1 of this Code. The Secretary shall prescribe stickers or decals as provided under Section 3-412 of this Code.

(c) An applicant for the special plate shall be charged a \$25 fee for original issuance in addition to the appropriate registration fee. Of this fee, \$10 shall be deposited into the Sheet Metal Workers International Association of Illinois Fund and \$15 shall be deposited into the Secretary of State Special License Plate Fund, to be used by the Secretary to help defray the administrative processing costs.

For each registration renewal period, a \$25 fee, in addition to the appropriate registration fee, shall be charged. Of this fee, \$23 shall be deposited into the Sheet Metal Workers International Association of Illinois Fund and \$2 shall be deposited into the Secretary of State Special License Plate Fund.

(d) The Sheet Metal Workers International Association of Illinois Fund is created as a special fund in the State treasury. All moneys in the Sheet Metal Workers International Association of Illinois Fund shall be paid, subject to appropriation by the General Assembly and approval by the Secretary, as grants for charitable purposes sponsored by Illinois local chapters of the Sheet Metal Workers International Association.

(Source: P.A. 95-531, eff. 1-1-08; revised 12-10-07.)

(625 ILCS 5/3-675)

Sec. 3-675 ~~3-664~~. Support Our Troops license plates.

(a) The Secretary, upon receipt of all applicable fees and applications made in the form prescribed by the Secretary, may issue special registration plates designated as Support Our Troops license plates. The special plates issued under this Section shall be affixed only to passenger vehicles of the first division or motor vehicles of the second division weighing not more than 8,000 pounds. Plates issued under this Section shall expire according to the multi-year procedure established by Section 3-414.1 of this Code.

(b) The design and color of the special plates shall be wholly within the discretion of the Secretary, except that the emblem of the organization Illinois Support Our Troops, Inc., and its "Support Our Troops!" mark shall appear on the plate. The address of the organization's Internet web site may appear on the plate, and the organization may alternate the mark to "Salute our Heroes!" in a manner that respects inventory. The field of the plate may be colored. The Secretary may, in his or her discretion, allow the plates to be issued as vanity or personalized plates in accordance with Section 3-405.1 of this Code. The plates are not required to designate "Land of Lincoln", as prescribed in subsection (b) of Section 3-412 of this Code. The Secretary, in his or her discretion, shall

approve and prescribe stickers or decals as provided under Section 3-412.

(c) An applicant for the special plate shall be charged a \$40 fee for original issuance in addition to the appropriate registration fee. Of this fee, \$25 shall be deposited into the Support Our Troops Fund and \$15 shall be deposited into the Secretary of State Special License Plate Fund to be used by the Secretary to help defray the administrative processing costs. For each registration renewal period, a \$27 fee, in addition to the appropriate registration fee, shall be charged. Of this fee, \$25 shall be deposited into the Support Our Troops Fund and \$2 shall be deposited into the Secretary of State Special License Plate Fund.

(d) The Support Our Troops Fund is created as a special fund in the State treasury. All moneys in the Support Our Troops Fund shall be paid, subject to appropriation by the General Assembly and approval by the Secretary, as grants to Illinois Support Our Troops, Inc., a not-for-profit public purpose charity under Internal Revenue Code Section 501(c)(3), for charitable assistance to the troops and their families in accordance with its Articles of Incorporation.

(Source: P.A. 95-534, eff. 8-28-07; revised 12-10-07.)

(625 ILCS 5/3-676)

Sec. 3-676 ~~3-664~~. Iraq Campaign license plates.

(a) In addition to any other special license plate, the

Secretary, upon receipt of all applicable fees and applications made in the form prescribed by the Secretary of State, may issue Iraq Campaign license plates to residents of Illinois who have earned the Iraq Campaign Medal from the United States Armed Forces. The special Iraq Campaign plates issued under this Section shall be affixed only to passenger vehicles of the first division, motorcycles, and motor vehicles of the second division weighing not more than 8,000 pounds. Plates issued under this Section shall expire according to the staggered multi-year procedure established by Section 3-414.1 of this Code.

(b) The design, color, and format of the plates shall be wholly within the discretion of the Secretary of State. The Secretary may, in his or her discretion, allow the plates to be issued as vanity plates or personalized in accordance with Section 3-405.1 of this Code. The plates are not required to designate "Land of ~~of~~ Lincoln", as prescribed in subsection (b) of Section 3-412 of this Code. The Secretary shall, in his or her discretion, approve and prescribe stickers or decals as provided under Section 3-412.

(c) An applicant shall be charged a \$15 fee for original issuance in addition to the applicable registration fee. This additional fee shall be deposited into the Secretary of State Special License Plate Fund.

(Source: P.A. 95-542, eff. 8-28-07; revised 12-10-07.)

(625 ILCS 5/3-677)

Sec. 3-677 ~~3-665~~. Afghanistan Campaign license plates.

(a) In addition to any other special license plate, the Secretary, upon receipt of all applicable fees and applications made in the form prescribed by the Secretary of State, may issue Afghanistan Campaign license plates to residents of Illinois who have earned the Afghanistan Campaign Medal from the United States Armed Forces. The special Afghanistan Campaign plates issued under this Section shall be affixed only to passenger vehicles of the first division, motorcycles, and motor vehicles of the second division weighing not more than 8,000 pounds. Plates issued under this Section shall expire according to the staggered multi-year procedure established by Section 3-414.1 of this Code.

(b) The design, color, and format of the plates shall be wholly within the discretion of the Secretary of State. The Secretary may, in his or her discretion, allow the plates to be issued as vanity plates or personalized in accordance with Section 3-405.1 of this Code. The plates are not required to designate "Land of ~~of~~ Lincoln", as prescribed in subsection (b) of Section 3-412 of this Code. The Secretary shall, in his or her discretion, approve and prescribe stickers or decals as provided under Section 3-412.

(c) An applicant shall be charged a \$15 fee for original issuance in addition to the applicable registration fee. This additional fee shall be deposited into the Secretary of State

Special License Plate Fund.

(Source: P.A. 95-542, eff. 8-28-07; revised 12-10-07.)

(625 ILCS 5/3-678)

Sec. 3-678 ~~3-664~~. Ovarian Cancer Awareness license plates.

(a) The Secretary, upon receipt of an application made in the form prescribed by the Secretary, may issue special registration plates designated as Ovarian Cancer Awareness license plates. The special plates issued under this Section shall be affixed only to passenger vehicles of the first division and motor vehicles of the second division weighing not more than 8,000 pounds. Plates issued under this Section shall expire according to the multi-year procedure established by Section 3-414.1 of this Code.

(b) The design and color of the plates is wholly within the discretion of the Secretary. The Secretary may allow the plates to be issued as vanity or personalized plates under Section 3-405.1 of this Code. The Secretary shall prescribe stickers or decals as provided under Section 3-412 of this Code.

(c) An applicant for the special plate shall be charged a \$25 fee for original issuance in addition to the appropriate registration fee. Of this fee, \$10 shall be deposited into the Ovarian Cancer Awareness Fund and \$15 shall be deposited into the Secretary of State Special License Plate Fund, to be used by the Secretary to help defray the administrative processing costs.

For each registration renewal period, a \$25 fee, in addition to the appropriate registration fee, shall be charged. Of this fee, \$23 shall be deposited into the Ovarian Cancer Awareness Fund and \$2 shall be deposited into the Secretary of State Special License Plate Fund.

(d) The Ovarian Cancer Awareness Fund is created as a special fund in the State treasury. All moneys in the Ovarian Cancer Awareness Fund shall be paid, subject to appropriation by the General Assembly and approval by the Secretary, as grants to the National Ovarian Cancer Coalition, Inc. for ovarian cancer research, education, screening, and treatment. (Source: P.A. 95-552, eff. 8-30-07; revised 12-10-07.)

(625 ILCS 5/3-679)

(This Section may contain text from a Public Act with a delayed effective date)

Sec. 3-679 ~~3-665~~. Law Enforcement Torch Run For Special Olympics license plates.

(a) The Secretary, upon receipt of an application made in the form prescribed by the Secretary of State, may issue special registration plates designated to be Law Enforcement Torch Run For Special Olympics license plates. The special plates issued under this Section shall be affixed only to passenger vehicles of the first division, motor vehicles of the second division weighing not more than 8,000 pounds, and recreational vehicles as defined by Section 1-169 of this Code.

Plates issued under this Section shall expire according to the multi-year procedure established by Section 3-414.1 of this Code.

(b) The design and color of the plates shall be wholly within the discretion of the Secretary of State. Appropriate documentation, as determined by the Secretary, shall accompany the application. The Secretary may, in his or her discretion, allow the plates to be issued as vanity or personalized plates in accordance with Section 3-405.1 of this Code.

(c) An applicant shall be charged a \$45 fee for original issuance in addition to the appropriate registration fee, if applicable. Of this fee, \$30 shall be deposited into the Special Olympics Illinois Fund and \$15 shall be deposited into the Secretary of State Special License Plate Fund. For each registration renewal period, a \$27 fee, in addition to the appropriate registration fee, shall be charged. Of this fee, \$25 shall be deposited into the Special Olympics Illinois Fund and \$2 shall be deposited into the Secretary of State Special License Plate Fund.

(Source: P.A. 95-523, eff. 6-1-08; revised 12-10-07.)

(625 ILCS 5/3-707) (from Ch. 95 1/2, par. 3-707)

(Text of Section before amendment by P.A. 95-686)

Sec. 3-707. Operation of uninsured motor vehicle - penalty.

(a) No person shall operate a motor vehicle unless the motor vehicle is covered by a liability insurance policy in

accordance with Section 7-601 of this Code.

(b) Any person who fails to comply with a request by a law enforcement officer for display of evidence of insurance, as required under Section 7-602 of this Code, shall be deemed to be operating an uninsured motor vehicle.

(c) Any operator of a motor vehicle subject to registration under this Code who is convicted of violating this Section is guilty of a business offense and shall be required to pay a fine in excess of \$500, but not more than \$1,000. However, no person charged with violating this Section shall be convicted if such person produces in court satisfactory evidence that at the time of the arrest the motor vehicle was covered by a liability insurance policy in accordance with Section 7-601 of this Code. The chief judge of each circuit may designate an officer of the court to review the documentation demonstrating that at the time of arrest the motor vehicle was covered by a liability insurance policy in accordance with Section 7-601 of this Code.

(c-1) A person convicted of violating this Section shall also have his or her driver's license, permit, or privileges suspended for 3 months. After the expiration of the 3 months, the person's driver's license, permit, or privileges shall not be reinstated until he or she has paid a reinstatement fee of \$100. If a person violates this Section while his or her driver's license, permit, or privileges are suspended under this subsection (c-1), his or her driver's license, permit, or

privileges shall be suspended for an additional 6 months and until he or she pays the reinstatement fee.

(d) A person convicted a third or subsequent time of violating this Section or a similar provision of a local ordinance must give proof to the Secretary of State of the person's financial responsibility as defined in Section 7-315. The person must maintain the proof in a manner satisfactory to the Secretary for a minimum period of 3 years after the date the proof is first filed. The Secretary must suspend the driver's license of any person determined by the Secretary not to have provided adequate proof of financial responsibility as required by this subsection.

(Source: P.A. 94-1035, eff. 7-1-07; 95-211, eff. 1-1-08.)

(Text of Section after amendment by P.A. 95-686)

Sec. 3-707. Operation of uninsured motor vehicle - penalty.

(a) No person shall operate a motor vehicle unless the motor vehicle is covered by a liability insurance policy in accordance with Section 7-601 of this Code.

(b) Any person who fails to comply with a request by a law enforcement officer for display of evidence of insurance, as required under Section 7-602 of this Code, shall be deemed to be operating an uninsured motor vehicle.

(c) Except as provided in subsection (c-5), any operator of a motor vehicle subject to registration under this Code who is convicted of violating this Section is guilty of a business

offense and shall be required to pay a fine in excess of \$500, but not more than \$1,000. However, no person charged with violating this Section shall be convicted if such person produces in court satisfactory evidence that at the time of the arrest the motor vehicle was covered by a liability insurance policy in accordance with Section 7-601 of this Code. The chief judge of each circuit may designate an officer of the court to review the documentation demonstrating that at the time of arrest the motor vehicle was covered by a liability insurance policy in accordance with Section 7-601 of this Code.

(c-1) A person convicted of violating this Section shall also have his or her driver's license, permit, or privileges suspended for 3 months. After the expiration of the 3 months, the person's driver's license, permit, or privileges shall not be reinstated until he or she has paid a reinstatement fee of \$100. If a person violates this Section while his or her driver's license, permit, or privileges are suspended under this subsection (c-1), his or her driver's license, permit, or privileges shall be suspended for an additional 6 months and until he or she pays the reinstatement fee.

(c-5) A person who (i) has not previously been convicted of or received a disposition of court supervision for violating this Section and (ii) produces at his or her court appearance satisfactory evidence that the motor vehicle is covered, as of the date of the court appearance, by a liability insurance policy in accordance with Section 7-601 of this Code shall, for

a violation of this Section, pay a fine of \$100 and receive a disposition of court supervision. The person must, on the date that the period of court supervision is scheduled to terminate, produce satisfactory evidence that the vehicle was covered by the required liability insurance policy during the entire period of court supervision.

An officer of the court designated under subsection (c) may also review liability insurance documentation under this subsection (c-5) to determine if the motor vehicle is, as of the date of the court appearance, covered by a liability insurance policy in accordance with Section 7-601 of this Code. The officer of the court shall also determine, on the date the period of court supervision is scheduled to terminate, whether the vehicle was covered by the required policy during the entire period of court supervision.

(d) A person convicted a third or subsequent time of violating this Section or a similar provision of a local ordinance must give proof to the Secretary of State of the person's financial responsibility as defined in Section 7-315. The person must maintain the proof in a manner satisfactory to the Secretary for a minimum period of 3 years after the date the proof is first filed. The Secretary must suspend the driver's license of any person determined by the Secretary not to have provided adequate proof of financial responsibility as required by this subsection.

(Source: P.A. 94-1035, eff. 7-1-07; 95-211, eff. 1-1-08;

95-686, eff. 6-1-08; revised 11-16-07.)

(625 ILCS 5/3-806.1) (from Ch. 95 1/2, par. 3-806.1)

Sec. 3-806.1. Additional fees for vanity license plates. In addition to the regular registration fee, an applicant for a vanity license plate, other than a vanity plate in any military series or a vanity plate issued under Section 3-664 ~~3-806.4~~, shall be charged \$94 for each set of vanity license plates issued to a vehicle of the first division or a vehicle of the second division registered at not more than 8,000 pounds or to a recreational vehicle and \$50 for each set of vanity plates issued to a motorcycle. In addition to the regular renewal fee, an applicant for a vanity plate, other than a vanity plate in any military series or a vanity plate issued under Section 3-664 ~~3-806.4~~, shall be charged \$13 for the renewal of each set of vanity license plates. There shall be no additional fees for a vanity license plate in any military series of plates or a vanity plate issued under Section 3-664 ~~3-806.4~~.

(Source: P.A. 95-287, eff. 1-1-08; 95-353, eff. 1-1-08; revised 11-16-07.)

(625 ILCS 5/3-806.3) (from Ch. 95 1/2, par. 3-806.3)

Sec. 3-806.3. Senior Citizens. Commencing with the 2006 registration year and through the 2008 registration year, the registration fee paid by any vehicle owner who has been approved for benefits under the Senior Citizens and Disabled

Persons Property Tax Relief and Pharmaceutical Assistance Act or who is the spouse of such a person shall be \$24 instead of the fee otherwise provided in this Code for passenger cars displaying standard multi-year registration plates issued under Section 3-414.1, motor vehicles displaying special registration plates issued under Section 3-616, 3-621, 3-622, 3-623, 3-624, 3-625, 3-626, 3-628, 3-638, 3-642, 3-645, 3-647, 3-650, or 3-651, motor vehicles registered at 8,000 pounds or less under Section 3-815(a), and recreational vehicles registered at 8,000 pounds or less under Section 3-815(b). Widows and widowers of claimants shall also be entitled to this reduced registration fee for the registration year in which the claimant was eligible.

Commencing with the 2006 registration year and through the 2008 registration year, the registration fee paid by any vehicle owner who has claimed and received a grant under the Senior Citizens and Disabled Persons Property Tax Relief and Pharmaceutical Assistance Act or who is the spouse of such a person shall be \$24 instead of the fee otherwise provided in this Code for passenger cars displaying standard multi-year registration plates issued under Section 3-414.1, motor vehicles displaying special registration plates issued under Section 3-607, 3-616, 3-621, 3-622, 3-623, 3-624, 3-625, 3-626, 3-628, 3-638, 3-642, 3-645, 3-647, 3-650, 3-651, or 3-664 ~~3-806.4~~, motor vehicles registered at 8,000 pounds or less under Section 3-815(a), and recreational vehicles registered

at 8,000 pounds or less under Section 3-815(b). Widows and widowers of claimants shall also be entitled to this reduced registration fee for the registration year in which the claimant was eligible.

Commencing with the 2009 registration year, the registration fee paid by any vehicle owner who has been approved for benefits under the Senior Citizens and Disabled Persons Property Tax Relief and Pharmaceutical Assistance Act or who is the spouse of such a person shall be \$24 instead of the fee otherwise provided in this Code for passenger cars displaying standard multi-year registration plates issued under Section 3-414.1, motor vehicles displaying special registration plates issued under Section 3-609, 3-616, 3-621, 3-622, 3-623, 3-624, 3-625, 3-626, 3-628, 3-638, 3-642, 3-645, 3-647, 3-650, or 3-651, motor vehicles registered at 8,000 pounds or less under Section 3-815(a), and recreational vehicles registered at 8,000 pounds or less under Section 3-815(b). Widows and widowers of claimants shall also be entitled to this reduced registration fee for the registration year in which the claimant was eligible.

Commencing with the 2009 registration year, the registration fee paid by any vehicle owner who has claimed and received a grant under the Senior Citizens and Disabled Persons Property Tax Relief and Pharmaceutical Assistance Act or who is the spouse of such a person shall be \$24 instead of the fee otherwise provided in this Code for passenger cars displaying

standard multi-year registration plates issued under Section 3-414.1, motor vehicles displaying special registration plates issued under Section 3-607, 3-609, 3-616, 3-621, 3-622, 3-623, 3-624, 3-625, 3-626, 3-628, 3-638, 3-642, 3-645, 3-647, 3-650, ~~or~~ 3-651, or 3-664 ~~3-806.4~~, motor vehicles registered at 8,000 pounds or less under Section 3-815(a), and recreational vehicles registered at 8,000 pounds or less under Section 3-815(b). Widows and widowers of claimants shall also be entitled to this reduced registration fee for the registration year in which the claimant was eligible.

No more than one reduced registration fee under this Section shall be allowed during any 12 month period based on the primary eligibility of any individual, whether such reduced registration fee is allowed to the individual or to the spouse, widow or widower of such individual. This Section does not apply to the fee paid in addition to the registration fee for motor vehicles displaying vanity or special license plates.

(Source: P.A. 95-157, eff. 1-1-08; 95-331, eff. 8-21-07; revised 12-10-07.)

(625 ILCS 5/3-806.5)

Sec. 3-806.5. Additional fees for personalized license plates. For registration periods commencing after December 31, 2003, in addition to the regular registration fee, an applicant for a personalized license plate, other than a personalized plate in any military series or a personalized plate issued

under Section 3-664 ~~3-806.4~~, shall be charged \$47 for each set of personalized license plates issued to a vehicle of the first division or a vehicle of the second division registered at not more than 8,000 pounds or to a recreational vehicle and \$25 for each set of personalized plates issued to a motorcycle. In addition to the regular renewal fee, an applicant for a personalized plate other than a personalized plate in any military series or a personalized plate issued under Section 3-664 ~~3-806.4~~, shall be charged \$7 for the renewal of each set of personalized license plates. There shall be no additional fees charged for a personalized plate in any military series of plates or a personalized plate issued under Section 3-664 ~~3-806.4~~. Of the money received by the Secretary of State as additional fees for personalized license plates, 50% shall be deposited into the Secretary of State Special License Plate Fund and 50% shall be deposited into the General Revenue Fund. (Source: P.A. 95-287, eff. 1-1-08; 95-353, eff. 1-1-08; revised 11-16-07.)

(625 ILCS 5/3-806.6)

Sec. 3-806.6. Victims of domestic violence.

(a) The Secretary shall issue new and different license plates immediately upon request to the registered owner of a vehicle who appears in person and submits a completed application, if all of the following are provided:

(1) proof of ownership of the vehicle that is

acceptable to the Secretary;

(2) a driver's license or identification card containing a picture of the licensee or cardholder issued to the registered owner by the Secretary under Section 6-110 or 6-107 of this Code or Section 4 of the Illinois Identification Card Act. The Office of the Secretary shall conduct a search of its records to verify the authenticity of any document submitted under this paragraph (2);

(3) the previously issued license plates from the vehicle;

(4) payment of the required fee for the issuance of duplicate license plates under Section 3-417; and

(5) one of the following:

(A) a copy of a police report, court documentation, or other law enforcement documentation identifying the registered owner of the vehicle as the victim of an incident of abuse, as defined in Section 103 of the Illinois Domestic Violence Act of 1986, or the subject of stalking, as defined in Section 12-7.3 of the Criminal Code of 1961;

(B) a written acknowledgment, dated within 30 days of submission, on the letterhead of a domestic violence agency, that the registered owner is actively seeking assistance or has sought assistance from that agency within the past year; or

(C) an order of protection issued under Section 214

of the Illinois Domestic Violence Act of 1986 that names the registered owner as a protected party.

(b) This Section does not apply to license plates issued under Section 3-664 ~~3-806.4~~ or to special license plates issued under Article VI of this Chapter.

(Source: P.A. 94-503, eff. 1-1-06; revised 12-10-07.)

(625 ILCS 5/4-203) (from Ch. 95 1/2, par. 4-203)

(Text of Section before amendment by P.A. 95-562 and 95-621)

Sec. 4-203. Removal of motor vehicles or other vehicles; Towing or hauling away.

(a) When a vehicle is abandoned, or left unattended, on a toll highway, interstate highway, or expressway for 2 hours or more, its removal by a towing service may be authorized by a law enforcement agency having jurisdiction.

(b) When a vehicle is abandoned on a highway in an urban district 10 hours or more, its removal by a towing service may be authorized by a law enforcement agency having jurisdiction.

(c) When a vehicle is abandoned or left unattended on a highway other than a toll highway, interstate highway, or expressway, outside of an urban district for 24 hours or more, its removal by a towing service may be authorized by a law enforcement agency having jurisdiction.

(d) When an abandoned, unattended, wrecked, burned or partially dismantled vehicle is creating a traffic hazard

because of its position in relation to the highway or its physical appearance is causing the impeding of traffic, its immediate removal from the highway or private property adjacent to the highway by a towing service may be authorized by a law enforcement agency having jurisdiction.

(e) Whenever a peace officer reasonably believes that a person under arrest for a violation of Section 11-501 of this Code or a similar provision of a local ordinance is likely, upon release, to commit a subsequent violation of Section 11-501, or a similar provision of a local ordinance, the arresting officer shall have the vehicle which the person was operating at the time of the arrest impounded for a period of not more than 12 hours after the time of arrest. However, such vehicle may be released by the arresting law enforcement agency prior to the end of the impoundment period if:

(1) the vehicle was not owned by the person under arrest, and the lawful owner requesting such release possesses a valid operator's license, proof of ownership, and would not, as determined by the arresting law enforcement agency, indicate a lack of ability to operate a motor vehicle in a safe manner, or who would otherwise, by operating such motor vehicle, be in violation of this Code; or

(2) the vehicle is owned by the person under arrest, and the person under arrest gives permission to another person to operate such vehicle, provided however, that the

other person possesses a valid operator's license and would not, as determined by the arresting law enforcement agency, indicate a lack of ability to operate a motor vehicle in a safe manner or who would otherwise, by operating such motor vehicle, be in violation of this Code.

(e-5) Whenever a registered owner of a vehicle is taken into custody for operating the vehicle in violation of Section 11-501 of this Code or a similar provision of a local ordinance or Section 6-303 of this Code, a law enforcement officer may have the vehicle immediately impounded for a period not less than:

(1) 24 hours for a second violation of Section 11-501 of this Code or a similar provision of a local ordinance or Section 6-303 of this Code or a combination of these offenses; or

(2) 48 hours for a third violation of Section 11-501 of this Code or a similar provision of a local ordinance or Section 6-303 of this Code or a combination of these offenses.

The vehicle may be released sooner if the vehicle is owned by the person under arrest and the person under arrest gives permission to another person to operate the vehicle and that other person possesses a valid operator's license and would not, as determined by the arresting law enforcement agency, indicate a lack of ability to operate a motor vehicle in a safe manner or would otherwise, by operating the motor vehicle, be

in violation of this Code.

(f) Except as provided in Chapter 18a of this Code, the owner or lessor of privately owned real property within this State, or any person authorized by such owner or lessor, or any law enforcement agency in the case of publicly owned real property may cause any motor vehicle abandoned or left unattended upon such property without permission to be removed by a towing service without liability for the costs of removal, transportation or storage or damage caused by such removal, transportation or storage. The towing or removal of any vehicle from private property without the consent of the registered owner or other legally authorized person in control of the vehicle is subject to compliance with the following conditions and restrictions:

1. Any towed or removed vehicle must be stored at the site of the towing service's place of business. The site must be open during business hours, and for the purpose of redemption of vehicles, during the time that the person or firm towing such vehicle is open for towing purposes.

2. The towing service shall within 30 minutes of completion of such towing or removal, notify the law enforcement agency having jurisdiction of such towing or removal, and the make, model, color and license plate number of the vehicle, and shall obtain and record the name of the person at the law enforcement agency to whom such information was reported.

3. If the registered owner or legally authorized person entitled to possession of the vehicle shall arrive at the scene prior to actual removal or towing of the vehicle, the vehicle shall be disconnected from the tow truck and that person shall be allowed to remove the vehicle without interference, upon the payment of a reasonable service fee of not more than one half the posted rate of the towing service as provided in paragraph 6 of this subsection, for which a receipt shall be given.

4. The rebate or payment of money or any other valuable consideration from the towing service or its owners, managers or employees to the owners or operators of the premises from which the vehicles are towed or removed, for the privilege of removing or towing those vehicles, is prohibited. Any individual who violates this paragraph shall be guilty of a Class A misdemeanor.

5. Except for property appurtenant to and obviously a part of a single family residence, and except for instances where notice is personally given to the owner or other legally authorized person in control of the vehicle that the area in which that vehicle is parked is reserved or otherwise unavailable to unauthorized vehicles and they are subject to being removed at the owner or operator's expense, any property owner or lessor, prior to towing or removing any vehicle from private property without the consent of the owner or other legally authorized person in

control of that vehicle, must post a notice meeting the following requirements:

a. Except as otherwise provided in subparagraph a.1 of this subdivision (f)5, the notice must be prominently placed at each driveway access or curb cut allowing vehicular access to the property within 5 feet from the public right-of-way line. If there are no curbs or access barriers, the sign must be posted not less than one sign each 100 feet of lot frontage.

a.1. In a municipality with a population of less than 250,000, as an alternative to the requirement of subparagraph a of this subdivision (f)5, the notice for a parking lot contained within property used solely for a 2-family, 3-family, or 4-family residence may be prominently placed at the perimeter of the parking lot, in a position where the notice is visible to the occupants of vehicles entering the lot.

b. The notice must indicate clearly, in not less than 2 inch high light-reflective letters on a contrasting background, that unauthorized vehicles will be towed away at the owner's expense.

c. The notice must also provide the name and current telephone number of the towing service towing or removing the vehicle.

d. The sign structure containing the required notices must be permanently installed with the bottom

of the sign not less than 4 feet above ground level, and must be continuously maintained on the property for not less than 24 hours prior to the towing or removing of any vehicle.

6. Any towing service that tows or removes vehicles and proposes to require the owner, operator, or person in control of the vehicle to pay the costs of towing and storage prior to redemption of the vehicle must file and keep on record with the local law enforcement agency a complete copy of the current rates to be charged for such services, and post at the storage site an identical rate schedule and any written contracts with property owners, lessors, or persons in control of property which authorize them to remove vehicles as provided in this Section.

7. No person shall engage in the removal of vehicles from private property as described in this Section without filing a notice of intent in each community where he intends to do such removal, and such notice shall be filed at least 7 days before commencing such towing.

8. No removal of a vehicle from private property shall be done except upon express written instructions of the owners or persons in charge of the private property upon which the vehicle is said to be trespassing.

9. Vehicle entry for the purpose of removal shall be allowed with reasonable care on the part of the person or firm towing the vehicle. Such person or firm shall be

liable for any damages occasioned to the vehicle if such entry is not in accordance with the standards of reasonable care.

10. When a vehicle has been towed or removed pursuant to this Section, it must be released to its owner or custodian within one half hour after requested, if such request is made during business hours. Any vehicle owner or custodian or agent shall have the right to inspect the vehicle before accepting its return, and no release or waiver of any kind which would release the towing service from liability for damages incurred during the towing and storage may be required from any vehicle owner or other legally authorized person as a condition of release of the vehicle. A detailed, signed receipt showing the legal name of the towing service must be given to the person paying towing or storage charges at the time of payment, whether requested or not.

This Section shall not apply to law enforcement, firefighting, rescue, ambulance, or other emergency vehicles which are marked as such or to property owned by any governmental entity.

When an authorized person improperly causes a motor vehicle to be removed, such person shall be liable to the owner or lessee of the vehicle for the cost or removal, transportation and storage, any damages resulting from the removal, transportation and storage, attorney's fee and court costs.

Any towing or storage charges accrued shall be payable by the use of any major credit card, in addition to being payable in cash.

11. Towing companies shall also provide insurance coverage for areas where vehicles towed under the provisions of this Chapter will be impounded or otherwise stored, and shall adequately cover loss by fire, theft or other risks.

Any person who fails to comply with the conditions and restrictions of this subsection shall be guilty of a Class C misdemeanor and shall be fined not less than \$100 nor more than \$500.

(g) When a vehicle is determined to be a hazardous dilapidated motor vehicle pursuant to Section 11-40-3.1 of the Illinois Municipal Code, its removal and impoundment by a towing service may be authorized by a law enforcement agency with appropriate jurisdiction.

When a vehicle removal from either public or private property is authorized by a law enforcement agency, the owner of the vehicle shall be responsible for all towing and storage charges.

Vehicles removed from public or private property and stored by a commercial vehicle relocater or any other towing service in compliance with this Section and Sections 4-201 and 4-202 of this Code, or at the request of the vehicle owner or operator, shall be subject to a possessor lien for services pursuant to

the Labor and Storage Lien (Small Amount) Act. The provisions of Section 1 of that Act relating to notice and implied consent shall be deemed satisfied by compliance with Section 18a-302 and subsection (6) of Section 18a-300. In no event shall such lien be greater than the rate or rates established in accordance with subsection (6) of Section 18a-200 of this Code. In no event shall such lien be increased or altered to reflect any charge for services or materials rendered in addition to those authorized by this Act. Every such lien shall be payable by use of any major credit card, in addition to being payable in cash.

Any personal property belonging to the vehicle owner in a vehicle subject to a lien under this subsection (g) shall likewise be subject to that lien, excepting only: food; medicine; perishable property; any operator's licenses; any cash, credit cards, or checks or checkbooks; and any wallet, purse, or other property containing any operator's license or other identifying documents or materials, cash, credit cards, checks, or checkbooks.

No lien under this subsection (g) shall: exceed \$2,000 in its total amount; or be increased or altered to reflect any charge for services or materials rendered in addition to those authorized by this Act.

(h) Whenever a peace officer issues a citation to a driver for a violation of subsection (a) of Section 11-506 of this Code, the arresting officer may have the vehicle which the

person was operating at the time of the arrest impounded for a period of 5 days after the time of arrest. An impounding agency shall release a motor vehicle impounded under this subsection (h) to the registered owner of the vehicle under any of the following circumstances:

(1) If the vehicle is a stolen vehicle; or

(2) If the person ticketed for a violation of subsection (a) of Section 11-506 of this Code was not authorized by the registered owner of the vehicle to operate the vehicle at the time of the violation; or

(3) If the registered owner of the vehicle was neither the driver nor a passenger in the vehicle at the time of the violation or was unaware that the driver was using the vehicle to engage in street racing; or

(4) If the legal owner or registered owner of the vehicle is a rental car agency; or

(5) If, prior to the expiration of the impoundment period specified above, the citation is dismissed or the defendant is found not guilty of the offense.

(Source: P.A. 94-522, eff. 8-10-05; 94-784, eff. 1-1-07; 95-310, eff. 1-1-08.)

(Text of Section after amendment by P.A. 95-621)

Sec. 4-203. Removal of motor vehicles or other vehicles; Towing or hauling away.

(a) When a vehicle is abandoned, or left unattended, on a

toll highway, interstate highway, or expressway for 2 hours or more, its removal by a towing service may be authorized by a law enforcement agency having jurisdiction.

(b) When a vehicle is abandoned on a highway in an urban district 10 hours or more, its removal by a towing service may be authorized by a law enforcement agency having jurisdiction.

(c) When a vehicle is abandoned or left unattended on a highway other than a toll highway, interstate highway, or expressway, outside of an urban district for 24 hours or more, its removal by a towing service may be authorized by a law enforcement agency having jurisdiction.

(d) When an abandoned, unattended, wrecked, burned or partially dismantled vehicle is creating a traffic hazard because of its position in relation to the highway or its physical appearance is causing the impeding of traffic, its immediate removal from the highway or private property adjacent to the highway by a towing service may be authorized by a law enforcement agency having jurisdiction.

(e) Whenever a peace officer reasonably believes that a person under arrest for a violation of Section 11-501 of this Code or a similar provision of a local ordinance is likely, upon release, to commit a subsequent violation of Section 11-501, or a similar provision of a local ordinance, the arresting officer shall have the vehicle which the person was operating at the time of the arrest impounded for a period of not more than 12 hours after the time of arrest. However, such

vehicle may be released by the arresting law enforcement agency prior to the end of the impoundment period if:

(1) the vehicle was not owned by the person under arrest, and the lawful owner requesting such release possesses a valid operator's license, proof of ownership, and would not, as determined by the arresting law enforcement agency, indicate a lack of ability to operate a motor vehicle in a safe manner, or who would otherwise, by operating such motor vehicle, be in violation of this Code; or

(2) the vehicle is owned by the person under arrest, and the person under arrest gives permission to another person to operate such vehicle, provided however, that the other person possesses a valid operator's license and would not, as determined by the arresting law enforcement agency, indicate a lack of ability to operate a motor vehicle in a safe manner or who would otherwise, by operating such motor vehicle, be in violation of this Code.

(e-5) Whenever a registered owner of a vehicle is taken into custody for operating the vehicle in violation of Section 11-501 of this Code or a similar provision of a local ordinance or Section 6-303 of this Code, a law enforcement officer may have the vehicle immediately impounded for a period not less than:

(1) 24 hours for a second violation of Section 11-501 of this Code or a similar provision of a local ordinance or

Section 6-303 of this Code or a combination of these offenses; or

(2) 48 hours for a third violation of Section 11-501 of this Code or a similar provision of a local ordinance or Section 6-303 of this Code or a combination of these offenses.

The vehicle may be released sooner if the vehicle is owned by the person under arrest and the person under arrest gives permission to another person to operate the vehicle and that other person possesses a valid operator's license and would not, as determined by the arresting law enforcement agency, indicate a lack of ability to operate a motor vehicle in a safe manner or would otherwise, by operating the motor vehicle, be in violation of this Code.

(f) Except as provided in Chapter 18a of this Code, the owner or lessor of privately owned real property within this State, or any person authorized by such owner or lessor, or any law enforcement agency in the case of publicly owned real property may cause any motor vehicle abandoned or left unattended upon such property without permission to be removed by a towing service without liability for the costs of removal, transportation or storage or damage caused by such removal, transportation or storage. The towing or removal of any vehicle from private property without the consent of the registered owner or other legally authorized person in control of the vehicle is subject to compliance with the following conditions

and restrictions:

1. Any towed or removed vehicle must be stored at the site of the towing service's place of business. The site must be open during business hours, and for the purpose of redemption of vehicles, during the time that the person or firm towing such vehicle is open for towing purposes.

2. The towing service shall within 30 minutes of completion of such towing or removal, notify the law enforcement agency having jurisdiction of such towing or removal, and the make, model, color and license plate number of the vehicle, and shall obtain and record the name of the person at the law enforcement agency to whom such information was reported.

3. If the registered owner or legally authorized person entitled to possession of the vehicle shall arrive at the scene prior to actual removal or towing of the vehicle, the vehicle shall be disconnected from the tow truck and that person shall be allowed to remove the vehicle without interference, upon the payment of a reasonable service fee of not more than one half the posted rate of the towing service as provided in paragraph 6 of this subsection, for which a receipt shall be given.

4. The rebate or payment of money or any other valuable consideration from the towing service or its owners, managers or employees to the owners or operators of the premises from which the vehicles are towed or removed, for

the privilege of removing or towing those vehicles, is prohibited. Any individual who violates this paragraph shall be guilty of a Class A misdemeanor.

5. Except for property appurtenant to and obviously a part of a single family residence, and except for instances where notice is personally given to the owner or other legally authorized person in control of the vehicle that the area in which that vehicle is parked is reserved or otherwise unavailable to unauthorized vehicles and they are subject to being removed at the owner or operator's expense, any property owner or lessor, prior to towing or removing any vehicle from private property without the consent of the owner or other legally authorized person in control of that vehicle, must post a notice meeting the following requirements:

a. Except as otherwise provided in subparagraph a.1 of this subdivision (f)5, the notice must be prominently placed at each driveway access or curb cut allowing vehicular access to the property within 5 feet from the public right-of-way line. If there are no curbs or access barriers, the sign must be posted not less than one sign each 100 feet of lot frontage.

a.1. In a municipality with a population of less than 250,000, as an alternative to the requirement of subparagraph a of this subdivision (f)5, the notice for a parking lot contained within property used solely for

a 2-family, 3-family, or 4-family residence may be prominently placed at the perimeter of the parking lot, in a position where the notice is visible to the occupants of vehicles entering the lot.

b. The notice must indicate clearly, in not less than 2 inch high light-reflective letters on a contrasting background, that unauthorized vehicles will be towed away at the owner's expense.

c. The notice must also provide the name and current telephone number of the towing service towing or removing the vehicle.

d. The sign structure containing the required notices must be permanently installed with the bottom of the sign not less than 4 feet above ground level, and must be continuously maintained on the property for not less than 24 hours prior to the towing or removing of any vehicle.

6. Any towing service that tows or removes vehicles and proposes to require the owner, operator, or person in control of the vehicle to pay the costs of towing and storage prior to redemption of the vehicle must file and keep on record with the local law enforcement agency a complete copy of the current rates to be charged for such services, and post at the storage site an identical rate schedule and any written contracts with property owners, lessors, or persons in control of property which authorize

them to remove vehicles as provided in this Section.

7. No person shall engage in the removal of vehicles from private property as described in this Section without filing a notice of intent in each community where he intends to do such removal, and such notice shall be filed at least 7 days before commencing such towing.

8. No removal of a vehicle from private property shall be done except upon express written instructions of the owners or persons in charge of the private property upon which the vehicle is said to be trespassing.

9. Vehicle entry for the purpose of removal shall be allowed with reasonable care on the part of the person or firm towing the vehicle. Such person or firm shall be liable for any damages occasioned to the vehicle if such entry is not in accordance with the standards of reasonable care.

10. When a vehicle has been towed or removed pursuant to this Section, it must be released to its owner or custodian within one half hour after requested, if such request is made during business hours. Any vehicle owner or custodian or agent shall have the right to inspect the vehicle before accepting its return, and no release or waiver of any kind which would release the towing service from liability for damages incurred during the towing and storage may be required from any vehicle owner or other legally authorized person as a condition of release of the

vehicle. A detailed, signed receipt showing the legal name of the towing service must be given to the person paying towing or storage charges at the time of payment, whether requested or not.

This Section shall not apply to law enforcement, firefighting, rescue, ambulance, or other emergency vehicles which are marked as such or to property owned by any governmental entity.

When an authorized person improperly causes a motor vehicle to be removed, such person shall be liable to the owner or lessee of the vehicle for the cost or removal, transportation and storage, any damages resulting from the removal, transportation and storage, attorney's fee and court costs.

Any towing or storage charges accrued shall be payable by the use of any major credit card, in addition to being payable in cash.

11. Towing companies shall also provide insurance coverage for areas where vehicles towed under the provisions of this Chapter will be impounded or otherwise stored, and shall adequately cover loss by fire, theft or other risks.

Any person who fails to comply with the conditions and restrictions of this subsection shall be guilty of a Class C misdemeanor and shall be fined not less than \$100 nor more than \$500.

(g) When a vehicle is determined to be a hazardous

dilapidated motor vehicle pursuant to Section 11-40-3.1 of the Illinois Municipal Code, its removal and impoundment by a towing service may be authorized by a law enforcement agency with appropriate jurisdiction.

When a vehicle removal from either public or private property is authorized by a law enforcement agency, the owner of the vehicle shall be responsible for all towing and storage charges.

Vehicles removed from public or private property and stored by a commercial vehicle relocator or any other towing service authorized by a law enforcement agency in compliance with this Section and Sections 4-201 and 4-202 of this Code, or at the request of the vehicle owner or operator, shall be subject to a possessor lien for services pursuant to the Labor and Storage Lien (Small Amount) Act. The provisions of Section 1 of that Act relating to notice and implied consent shall be deemed satisfied by compliance with Section 18a-302 and subsection (6) of Section 18a-300. In no event shall such lien be greater than the rate or rates established in accordance with subsection (6) of Section 18a-200 of this Code. In no event shall such lien be increased or altered to reflect any charge for services or materials rendered in addition to those authorized by this Act. Every such lien shall be payable by use of any major credit card, in addition to being payable in cash.

Any personal property belonging to the vehicle owner in a vehicle subject to a lien under this subsection (g) shall

likewise be subject to that lien, excepting only: food; medicine; perishable property; any operator's licenses; any cash, credit cards, or checks or checkbooks; and any wallet, purse, or other property containing any operator's license or other identifying documents or materials, cash, credit cards, checks, or checkbooks.

No lien under this subsection (g) shall: exceed \$2,000 in its total amount; or be increased or altered to reflect any charge for services or materials rendered in addition to those authorized by this Act.

(h) Whenever a peace officer issues a citation to a driver for a violation of subsection (a) of Section 11-506 of this Code, the arresting officer may have the vehicle which the person was operating at the time of the arrest impounded for a period of 5 days after the time of arrest. An impounding agency shall release a motor vehicle impounded under this subsection (h) to the registered owner of the vehicle under any of the following circumstances:

(1) If the vehicle is a stolen vehicle; or

(2) If the person ticketed for a violation of subsection (a) of Section 11-506 of this Code was not authorized by the registered owner of the vehicle to operate the vehicle at the time of the violation; or

(3) If the registered owner of the vehicle was neither the driver nor a passenger in the vehicle at the time of the violation or was unaware that the driver was using the

vehicle to engage in street racing; or

(4) If the legal owner or registered owner of the vehicle is a rental car agency; or

(5) If, prior to the expiration of the impoundment period specified above, the citation is dismissed or the defendant is found not guilty of the offense.

(Source: P.A. 94-522, eff. 8-10-05; 94-784, eff. 1-1-07; 95-310, eff. 1-1-08; 95-621, eff. 6-1-08; revised 11-16-07.)

(Text of Section after amendment by P.A. 95-562)

Sec. 4-203. Removal of motor vehicles or other vehicles; Towing or hauling away.

(a) When a vehicle is abandoned, or left unattended, on a toll highway, interstate highway, or expressway for 2 hours or more, its removal by a towing service may be authorized by a law enforcement agency having jurisdiction.

(b) When a vehicle is abandoned on a highway in an urban district 10 hours or more, its removal by a towing service may be authorized by a law enforcement agency having jurisdiction.

(c) When a vehicle is abandoned or left unattended on a highway other than a toll highway, interstate highway, or expressway, outside of an urban district for 24 hours or more, its removal by a towing service may be authorized by a law enforcement agency having jurisdiction.

(d) When an abandoned, unattended, wrecked, burned or partially dismantled vehicle is creating a traffic hazard

because of its position in relation to the highway or its physical appearance is causing the impeding of traffic, its immediate removal from the highway or private property adjacent to the highway by a towing service may be authorized by a law enforcement agency having jurisdiction.

(e) Whenever a peace officer reasonably believes that a person under arrest for a violation of Section 11-501 of this Code or a similar provision of a local ordinance is likely, upon release, to commit a subsequent violation of Section 11-501, or a similar provision of a local ordinance, the arresting officer shall have the vehicle which the person was operating at the time of the arrest impounded for a period of not more than 12 hours after the time of arrest. However, such vehicle may be released by the arresting law enforcement agency prior to the end of the impoundment period if:

(1) the vehicle was not owned by the person under arrest, and the lawful owner requesting such release possesses a valid operator's license, proof of ownership, and would not, as determined by the arresting law enforcement agency, indicate a lack of ability to operate a motor vehicle in a safe manner, or who would otherwise, by operating such motor vehicle, be in violation of this Code; or

(2) the vehicle is owned by the person under arrest, and the person under arrest gives permission to another person to operate such vehicle, provided however, that the

other person possesses a valid operator's license and would not, as determined by the arresting law enforcement agency, indicate a lack of ability to operate a motor vehicle in a safe manner or who would otherwise, by operating such motor vehicle, be in violation of this Code.

(e-5) Whenever a registered owner of a vehicle is taken into custody for operating the vehicle in violation of Section 11-501 of this Code or a similar provision of a local ordinance or Section 6-303 of this Code, a law enforcement officer may have the vehicle immediately impounded for a period not less than:

(1) 24 hours for a second violation of Section 11-501 of this Code or a similar provision of a local ordinance or Section 6-303 of this Code or a combination of these offenses; or

(2) 48 hours for a third violation of Section 11-501 of this Code or a similar provision of a local ordinance or Section 6-303 of this Code or a combination of these offenses.

The vehicle may be released sooner if the vehicle is owned by the person under arrest and the person under arrest gives permission to another person to operate the vehicle and that other person possesses a valid operator's license and would not, as determined by the arresting law enforcement agency, indicate a lack of ability to operate a motor vehicle in a safe manner or would otherwise, by operating the motor vehicle, be

in violation of this Code.

(f) Except as provided in Chapter 18a of this Code, the owner or lessor of privately owned real property within this State, or any person authorized by such owner or lessor, or any law enforcement agency in the case of publicly owned real property may cause any motor vehicle abandoned or left unattended upon such property without permission to be removed by a towing service without liability for the costs of removal, transportation or storage or damage caused by such removal, transportation or storage. The towing or removal of any vehicle from private property without the consent of the registered owner or other legally authorized person in control of the vehicle is subject to compliance with the following conditions and restrictions:

1. Any towed or removed vehicle must be stored at the site of the towing service's place of business. The site must be open during business hours, and for the purpose of redemption of vehicles, during the time that the person or firm towing such vehicle is open for towing purposes.

2. The towing service shall within 30 minutes of completion of such towing or removal, notify the law enforcement agency having jurisdiction of such towing or removal, and the make, model, color and license plate number of the vehicle, and shall obtain and record the name of the person at the law enforcement agency to whom such information was reported.

3. If the registered owner or legally authorized person entitled to possession of the vehicle shall arrive at the scene prior to actual removal or towing of the vehicle, the vehicle shall be disconnected from the tow truck and that person shall be allowed to remove the vehicle without interference, upon the payment of a reasonable service fee of not more than one half the posted rate of the towing service as provided in paragraph 6 of this subsection, for which a receipt shall be given.

4. The rebate or payment of money or any other valuable consideration from the towing service or its owners, managers or employees to the owners or operators of the premises from which the vehicles are towed or removed, for the privilege of removing or towing those vehicles, is prohibited. Any individual who violates this paragraph shall be guilty of a Class A misdemeanor.

5. Except for property appurtenant to and obviously a part of a single family residence, and except for instances where notice is personally given to the owner or other legally authorized person in control of the vehicle that the area in which that vehicle is parked is reserved or otherwise unavailable to unauthorized vehicles and they are subject to being removed at the owner or operator's expense, any property owner or lessor, prior to towing or removing any vehicle from private property without the consent of the owner or other legally authorized person in

control of that vehicle, must post a notice meeting the following requirements:

a. Except as otherwise provided in subparagraph a.1 of this subdivision (f)5, the notice must be prominently placed at each driveway access or curb cut allowing vehicular access to the property within 5 feet from the public right-of-way line. If there are no curbs or access barriers, the sign must be posted not less than one sign each 100 feet of lot frontage.

a.1. In a municipality with a population of less than 250,000, as an alternative to the requirement of subparagraph a of this subdivision (f)5, the notice for a parking lot contained within property used solely for a 2-family, 3-family, or 4-family residence may be prominently placed at the perimeter of the parking lot, in a position where the notice is visible to the occupants of vehicles entering the lot.

b. The notice must indicate clearly, in not less than 2 inch high light-reflective letters on a contrasting background, that unauthorized vehicles will be towed away at the owner's expense.

c. The notice must also provide the name and current telephone number of the towing service towing or removing the vehicle.

d. The sign structure containing the required notices must be permanently installed with the bottom

of the sign not less than 4 feet above ground level, and must be continuously maintained on the property for not less than 24 hours prior to the towing or removing of any vehicle.

6. Any towing service that tows or removes vehicles and proposes to require the owner, operator, or person in control of the vehicle to pay the costs of towing and storage prior to redemption of the vehicle must file and keep on record with the local law enforcement agency a complete copy of the current rates to be charged for such services, and post at the storage site an identical rate schedule and any written contracts with property owners, lessors, or persons in control of property which authorize them to remove vehicles as provided in this Section. The towing and storage charges, however, shall not exceed the maximum allowed by the Illinois Commerce Commission under Section 18a-200.

7. No person shall engage in the removal of vehicles from private property as described in this Section without filing a notice of intent in each community where he intends to do such removal, and such notice shall be filed at least 7 days before commencing such towing.

8. No removal of a vehicle from private property shall be done except upon express written instructions of the owners or persons in charge of the private property upon which the vehicle is said to be trespassing.

9. Vehicle entry for the purpose of removal shall be allowed with reasonable care on the part of the person or firm towing the vehicle. Such person or firm shall be liable for any damages occasioned to the vehicle if such entry is not in accordance with the standards of reasonable care.

10. When a vehicle has been towed or removed pursuant to this Section, it must be released to its owner or custodian within one half hour after requested, if such request is made during business hours. Any vehicle owner or custodian or agent shall have the right to inspect the vehicle before accepting its return, and no release or waiver of any kind which would release the towing service from liability for damages incurred during the towing and storage may be required from any vehicle owner or other legally authorized person as a condition of release of the vehicle. A detailed, signed receipt showing the legal name of the towing service must be given to the person paying towing or storage charges at the time of payment, whether requested or not.

This Section shall not apply to law enforcement, firefighting, rescue, ambulance, or other emergency vehicles which are marked as such or to property owned by any governmental entity.

When an authorized person improperly causes a motor vehicle to be removed, such person shall be liable to the owner or

lessee of the vehicle for the cost or removal, transportation and storage, any damages resulting from the removal, transportation and storage, attorney's fee and court costs.

Any towing or storage charges accrued shall be payable by the use of any major credit card, in addition to being payable in cash.

11. Towing companies shall also provide insurance coverage for areas where vehicles towed under the provisions of this Chapter will be impounded or otherwise stored, and shall adequately cover loss by fire, theft or other risks.

Any person who fails to comply with the conditions and restrictions of this subsection shall be guilty of a Class C misdemeanor and shall be fined not less than \$100 nor more than \$500.

(g) When a vehicle is determined to be a hazardous dilapidated motor vehicle pursuant to Section 11-40-3.1 of the Illinois Municipal Code, its removal and impoundment by a towing service may be authorized by a law enforcement agency with appropriate jurisdiction.

When a vehicle removal from either public or private property is authorized by a law enforcement agency, the owner of the vehicle shall be responsible for all towing and storage charges.

Vehicles removed from public or private property and stored by a commercial vehicle relocater or any other towing service

authorized by a law enforcement agency in compliance with this Section and Sections 4-201 and 4-202 of this Code, or at the request of the vehicle owner or operator, shall be subject to a possessor lien for services pursuant to the Labor and Storage Lien (Small Amount) Act. The provisions of Section 1 of that Act relating to notice and implied consent shall be deemed satisfied by compliance with Section 18a-302 and subsection (6) of Section 18a-300. In no event shall such lien be greater than the rate or rates established in accordance with subsection (6) of Section 18a-200 of this Code. In no event shall such lien be increased or altered to reflect any charge for services or materials rendered in addition to those authorized by this Act. Every such lien shall be payable by use of any major credit card, in addition to being payable in cash.

Any personal property belonging to the vehicle owner in a vehicle subject to a lien under this subsection (g) shall likewise be subject to that lien, excepting only: food; medicine; perishable property; any operator's licenses; any cash, credit cards, or checks or checkbooks; and any wallet, purse, or other property containing any operator's license or other identifying documents or materials, cash, credit cards, checks, or checkbooks.

No lien under this subsection (g) shall: exceed \$2,000 in its total amount; or be increased or altered to reflect any charge for services or materials rendered in addition to those authorized by this Act.

(h) Whenever a peace officer issues a citation to a driver for a violation of subsection (a) of Section 11-506 of this Code, the arresting officer may have the vehicle which the person was operating at the time of the arrest impounded for a period of 5 days after the time of arrest. An impounding agency shall release a motor vehicle impounded under this subsection (h) to the registered owner of the vehicle under any of the following circumstances:

(1) If the vehicle is a stolen vehicle; or

(2) If the person ticketed for a violation of subsection (a) of Section 11-506 of this Code was not authorized by the registered owner of the vehicle to operate the vehicle at the time of the violation; or

(3) If the registered owner of the vehicle was neither the driver nor a passenger in the vehicle at the time of the violation or was unaware that the driver was using the vehicle to engage in street racing; or

(4) If the legal owner or registered owner of the vehicle is a rental car agency; or

(5) If, prior to the expiration of the impoundment period specified above, the citation is dismissed or the defendant is found not guilty of the offense.

(Source: P.A. 94-522, eff. 8-10-05; 94-784, eff. 1-1-07; 95-310, eff. 1-1-08; 95-562, eff. 7-1-08; 95-621, eff. 6-1-08; revised 11-16-07.)

(625 ILCS 5/6-103) (from Ch. 95 1/2, par. 6-103)

(Text of Section before amendment by P.A. 95-337)

Sec. 6-103. What persons shall not be licensed as drivers or granted permits. The Secretary of State shall not issue, renew, or allow the retention of any driver's license nor issue any permit under this Code:

1. To any person, as a driver, who is under the age of 18 years except as provided in Section 6-107, and except that an instruction permit may be issued under Section 6-107.1 to a child who is not less than 15 years of age if the child is enrolled in an approved driver education course as defined in Section 1-103 of this Code and requires an instruction permit to participate therein, except that an instruction permit may be issued under the provisions of Section 6-107.1 to a child who is 17 years and 3 months of age without the child having enrolled in an approved driver education course and except that an instruction permit may be issued to a child who is at least 15 years and 6 months of age, is enrolled in school, meets the educational requirements of the Driver Education Act, and has passed examinations the Secretary of State in his or her discretion may prescribe;

2. To any person who is under the age of 18 as an operator of a motorcycle other than a motor driven cycle unless the person has, in addition to meeting the provisions of Section 6-107 of this Code, successfully

completed a motorcycle training course approved by the Illinois Department of Transportation and successfully completes the required Secretary of State's motorcycle driver's examination;

3. To any person, as a driver, whose driver's license or permit has been suspended, during the suspension, nor to any person whose driver's license or permit has been revoked, except as provided in Sections 6-205, 6-206, and 6-208;

4. To any person, as a driver, who is a user of alcohol or any other drug to a degree that renders the person incapable of safely driving a motor vehicle;

5. To any person, as a driver, who has previously been adjudged to be afflicted with or suffering from any mental or physical disability or disease and who has not at the time of application been restored to competency by the methods provided by law;

6. To any person, as a driver, who is required by the Secretary of State to submit an alcohol and drug evaluation or take an examination provided for in this Code unless the person has successfully passed the examination and submitted any required evaluation;

7. To any person who is required under the provisions of the laws of this State to deposit security or proof of financial responsibility and who has not deposited the security or proof;

8. To any person when the Secretary of State has good cause to believe that the person by reason of physical or mental disability would not be able to safely operate a motor vehicle upon the highways, unless the person shall furnish to the Secretary of State a verified written statement, acceptable to the Secretary of State, from a competent medical specialist to the effect that the operation of a motor vehicle by the person would not be inimical to the public safety;

9. To any person, as a driver, who is 69 years of age or older, unless the person has successfully complied with the provisions of Section 6-109;

10. To any person convicted, within 12 months of application for a license, of any of the sexual offenses enumerated in paragraph 2 of subsection (b) of Section 6-205;

11. To any person who is under the age of 21 years with a classification prohibited in paragraph (b) of Section 6-104 and to any person who is under the age of 18 years with a classification prohibited in paragraph (c) of Section 6-104;

12. To any person who has been either convicted of or adjudicated under the Juvenile Court Act of 1987 based upon a violation of the Cannabis Control Act, the Illinois Controlled Substances Act, or the Methamphetamine Control and Community Protection Act while that person was in

actual physical control of a motor vehicle. For purposes of this Section, any person 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 shall not be considered convicted. Any person found guilty of this offense, while in actual physical control of a motor vehicle, shall have an entry made in the court record by the judge that this offense did occur while the person was in actual physical control of a motor vehicle and order the clerk of the court to report the violation to the Secretary of State as such. The Secretary of State shall not issue a new license or permit for a period of one year;

13. To any person who is under the age of 18 years and who has committed the offense of operating a motor vehicle without a valid license or permit in violation of Section 6-101;

14. To any person who is 90 days or more delinquent in court ordered child support payments or has been adjudicated in arrears in an amount equal to 90 days' obligation or more and who has been found in contempt of court for failure to pay the support, subject to the requirements and procedures of Article VII of Chapter 7 of the Illinois Vehicle Code;

14.5. To any person certified by the Illinois Department of Healthcare and Family Services as being 90

days or more delinquent in payment of support under an order of support entered by a court or administrative body of this or any other State, subject to the requirements and procedures of Article VII of Chapter 7 of this Code regarding those certifications;

15. To any person released from a term of imprisonment for violating Section 9-3 of the Criminal Code of 1961 or a similar provision of a law of another state relating to reckless homicide or for violating subparagraph (F) of paragraph (1) of subsection (d) of Section 11-501 of this Code relating to aggravated driving under the influence of alcohol, other drug or drugs, intoxicating compound or compounds, or any combination thereof, if the violation was the proximate cause of a death, within 24 months of release from a term of imprisonment;

16. To any person who, with intent to influence any act related to the issuance of any driver's license or permit, by an employee of the Secretary of State's Office, or the owner or employee of any commercial driver training school licensed by the Secretary of State, or any other individual authorized by the laws of this State to give driving instructions or administer all or part of a driver's license examination, promises or tenders to that person any property or personal advantage which that person is not authorized by law to accept. Any persons promising or tendering such property or personal advantage shall be

disqualified from holding any class of driver's license or permit for 120 consecutive days. The Secretary of State shall establish by rule the procedures for implementing this period of disqualification and the procedures by which persons so disqualified may obtain administrative review of the decision to disqualify; or

17. To any person for whom the Secretary of State cannot verify the accuracy of any information or documentation submitted in application for a driver's license.

The Secretary of State shall retain all conviction information, if the information is required to be held confidential under the Juvenile Court Act of 1987.

(Source: P.A. 94-556, eff. 9-11-05; 95-310, eff. 1-1-08; 95-685, eff. 6-23-07; revised 11-16-07.)

(Text of Section after amendment by P.A. 95-337)

Sec. 6-103. What persons shall not be licensed as drivers or granted permits. The Secretary of State shall not issue, renew, or allow the retention of any driver's license nor issue any permit under this Code:

1. To any person, as a driver, who is under the age of 18 years except as provided in Section 6-107, and except that an instruction permit may be issued under Section 6-107.1 to a child who is not less than 15 years of age if the child is enrolled in an approved driver education

course as defined in Section 1-103 of this Code and requires an instruction permit to participate therein, except that an instruction permit may be issued under the provisions of Section 6-107.1 to a child who is 17 years and 3 months of age without the child having enrolled in an approved driver education course and except that an instruction permit may be issued to a child who is at least 15 years and 6 months of age, is enrolled in school, meets the educational requirements of the Driver Education Act, and has passed examinations the Secretary of State in his or her discretion may prescribe;

2. To any person who is under the age of 18 as an operator of a motorcycle other than a motor driven cycle unless the person has, in addition to meeting the provisions of Section 6-107 of this Code, successfully completed a motorcycle training course approved by the Illinois Department of Transportation and successfully completes the required Secretary of State's motorcycle driver's examination;

3. To any person, as a driver, whose driver's license or permit has been suspended, during the suspension, nor to any person whose driver's license or permit has been revoked, except as provided in Sections 6-205, 6-206, and 6-208;

4. To any person, as a driver, who is a user of alcohol or any other drug to a degree that renders the person

incapable of safely driving a motor vehicle;

5. To any person, as a driver, who has previously been adjudged to be afflicted with or suffering from any mental or physical disability or disease and who has not at the time of application been restored to competency by the methods provided by law;

6. To any person, as a driver, who is required by the Secretary of State to submit an alcohol and drug evaluation or take an examination provided for in this Code unless the person has successfully passed the examination and submitted any required evaluation;

7. To any person who is required under the provisions of the laws of this State to deposit security or proof of financial responsibility and who has not deposited the security or proof;

8. To any person when the Secretary of State has good cause to believe that the person by reason of physical or mental disability would not be able to safely operate a motor vehicle upon the highways, unless the person shall furnish to the Secretary of State a verified written statement, acceptable to the Secretary of State, from a competent medical specialist to the effect that the operation of a motor vehicle by the person would not be inimical to the public safety;

9. To any person, as a driver, who is 69 years of age or older, unless the person has successfully complied with

the provisions of Section 6-109;

10. To any person convicted, within 12 months of application for a license, of any of the sexual offenses enumerated in paragraph 2 of subsection (b) of Section 6-205;

11. To any person who is under the age of 21 years with a classification prohibited in paragraph (b) of Section 6-104 and to any person who is under the age of 18 years with a classification prohibited in paragraph (c) of Section 6-104;

12. To any person who has been either convicted of or adjudicated under the Juvenile Court Act of 1987 based upon a violation of the Cannabis Control Act, the Illinois Controlled Substances Act, or the Methamphetamine Control and Community Protection Act while that person was in actual physical control of a motor vehicle. For purposes of this Section, any person 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 shall not be considered convicted. Any person found guilty of this offense, while in actual physical control of a motor vehicle, shall have an entry made in the court record by the judge that this offense did occur while the person was in actual physical control of a motor vehicle and order the clerk of the court to report the violation to the Secretary

of State as such. The Secretary of State shall not issue a new license or permit for a period of one year;

13. To any person who is under the age of 18 years and who has committed the offense of operating a motor vehicle without a valid license or permit in violation of Section 6-101;

14. To any person who is 90 days or more delinquent in court ordered child support payments or has been adjudicated in arrears in an amount equal to 90 days' obligation or more and who has been found in contempt of court for failure to pay the support, subject to the requirements and procedures of Article VII of Chapter 7 of the Illinois Vehicle Code;

14.5. To any person certified by the Illinois Department of Healthcare and Family Services as being 90 days or more delinquent in payment of support under an order of support entered by a court or administrative body of this or any other State, subject to the requirements and procedures of Article VII of Chapter 7 of this Code regarding those certifications;

15. To any person released from a term of imprisonment for violating Section 9-3 of the Criminal Code of 1961 or a similar provision of a law of another state relating to reckless homicide or for violating subparagraph (F) of paragraph (1) of subsection (d) of Section 11-501 of this Code relating to aggravated driving under the influence of

alcohol, other drug or drugs, intoxicating compound or compounds, or any combination thereof, if the violation was the proximate cause of a death, within 24 months of release from a term of imprisonment;

16. To any person who, with intent to influence any act related to the issuance of any driver's license or permit, by an employee of the Secretary of State's Office, or the owner or employee of any commercial driver training school licensed by the Secretary of State, or any other individual authorized by the laws of this State to give driving instructions or administer all or part of a driver's license examination, promises or tenders to that person any property or personal advantage which that person is not authorized by law to accept. Any persons promising or tendering such property or personal advantage shall be disqualified from holding any class of driver's license or permit for 120 consecutive days. The Secretary of State shall establish by rule the procedures for implementing this period of disqualification and the procedures by which persons so disqualified may obtain administrative review of the decision to disqualify;

17. To any person for whom the Secretary of State cannot verify the accuracy of any information or documentation submitted in application for a driver's license; or

18. To any person who has been adjudicated under the

Juvenile Court Act of 1987 based upon an offense that is determined by the court to have been committed in furtherance of the criminal activities of an organized gang, as provided in Section 5-710 of that Act, and that involved the operation or use of a motor vehicle or the use of a driver's license or permit. The person shall be denied a license or permit for the period determined by the court.

The Secretary of State shall retain all conviction information, if the information is required to be held confidential under the Juvenile Court Act of 1987.

(Source: P.A. 94-556, eff. 9-11-05; 95-310, eff. 1-1-08; 95-337, eff. 6-1-08; 95-685, eff. 6-23-07; revised 11-16-07.)

(625 ILCS 5/6-113) (from Ch. 95 1/2, par. 6-113)

Sec. 6-113. Restricted licenses and permits.

(a) The Secretary of State upon issuing a drivers license or permit shall have the authority whenever good cause appears to impose restrictions suitable to the licensee's driving ability with respect to the type of, or special mechanical control devices required on, a motor vehicle which the licensee may operate or such other restrictions applicable to the licensee as the Secretary of State may determine to be appropriate to assure the safe operation of a motor vehicle by the licensee.

(b) The Secretary of State may either issue a special restricted license or permit or may set forth such restrictions

upon the usual license or permit form.

(c) The Secretary of State may issue a probationary license to a person whose driving privileges have been suspended pursuant to subsection (d) of this Section or subsections (a) (2), (a) (19) and (a) (20) of Section 6-206 of this Code. This subsection (c) does not apply to any driver required to possess a CDL for the purpose of operating a commercial motor vehicle. The Secretary of State shall promulgate rules pursuant to the Illinois Administrative Procedure Act, setting forth the conditions and criteria for the issuance and cancellation of probationary licenses.

(d) The Secretary of State may upon receiving satisfactory evidence of any violation of the restrictions of such license or permit suspend, revoke or cancel the same without preliminary hearing, but the licensee or permittee shall be entitled to a hearing as in the case of a suspension or revocation.

(e) It is unlawful for any person to operate a motor vehicle in any manner in violation of the restrictions imposed on a restricted license or permit issued to him.

(f) Whenever the holder of a restricted driving permit is issued a citation for any of the following offenses including similar local ordinances, the restricted driving permit is immediately invalidated:

1. Reckless homicide resulting from the operation of a motor vehicle;

2. Violation of Section 11-501 of this Act relating to the operation of a motor vehicle while under the influence of intoxicating liquor or narcotic drugs;

3. Violation of Section 11-401 of this Act relating to the offense of leaving the scene of a traffic accident involving death or injury;

4. Violation of Section 11-504 of this Act relating to the offense of drag racing; or

5. Violation of Section 11-506 of this Act relating to the offense of street racing.

The police officer issuing the citation shall confiscate the restricted driving permit and forward it, along with the citation, to the Clerk of the Circuit Court of the county in which the citation was issued.

(g) The Secretary of State may issue a special restricted license for a period of 12 months to individuals using vision aid arrangements other than standard eyeglasses or contact lenses, allowing the operation of a motor vehicle during nighttime hours. The Secretary of State shall adopt rules defining the terms and conditions by which the individual may obtain and renew this special restricted license. At a minimum, all drivers must meet the following requirements:

1. Possess a valid driver's license and have operated a motor vehicle during daylight hours for a period of 12 months using vision aid arrangements other than standard eyeglasses or contact lenses.

2. Have a driving record that does not include any traffic accidents that occurred during nighttime hours, for which the driver has been found to be at fault, during the 12 months before he or she applied for the special restricted license.

3. Successfully complete a road test administered during nighttime hours.

At a minimum, all drivers renewing this license must meet the following requirements:

1. Successfully complete a road test administered during nighttime hours.

2. Have a driving record that does not include any traffic accidents that occurred during nighttime hours, for which the driver has been found to be at fault, during the 12 months before he or she applied for the special restricted license.

(h) Any driver issued a special restricted license as defined in subsection (g) whose privilege to drive during nighttime hours has been suspended due to an accident occurring during nighttime hours may request a hearing as provided in Section 2-118 of this Code to contest that suspension. If it is determined that the accident for which the driver was at fault was not influenced by the driver's use of vision aid arrangements other than standard eyeglasses or contact lenses, the Secretary may reinstate that driver's privilege to drive during nighttime hours.

(Source: P.A. 95-310, eff. 1-1-08; 95-382, eff. 8-23-07; revised 11-16-07.)

(625 ILCS 5/6-201)

(Text of Section before amendment by P.A. 95-627)

Sec. 6-201. Authority to cancel licenses and permits.

(a) The Secretary of State is authorized to cancel any license or permit upon determining that the holder thereof:

1. was not entitled to the issuance thereof hereunder;
or

2. failed to give the required or correct information in his application; or

3. failed to pay any fees, civil penalties owed to the Illinois Commerce Commission, or taxes due under this Act and upon reasonable notice and demand; or

4. committed any fraud in the making of such application; or

5. is ineligible therefor under the provisions of Section 6-103 of this Act, as amended; or

6. has refused or neglected to submit an alcohol, drug, and intoxicating compound evaluation or to submit to examination or re-examination as required under this Act;
or

7. has been convicted of violating the Cannabis Control Act, the Illinois Controlled Substances Act, the Methamphetamine Control and Community Protection Act, or

the Use of Intoxicating Compounds Act while that individual was in actual physical control of a motor vehicle. For purposes of this Section, any person 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 shall not be considered convicted. Any person found guilty of this offense, while in actual physical control of a motor vehicle, shall have an entry made in the court record by the judge that this offense did occur while the person was in actual physical control of a motor vehicle and order the clerk of the court to report the violation to the Secretary of State as such. After the cancellation, the Secretary of State shall not issue a new license or permit for a period of one year after the date of cancellation. However, upon application, the Secretary of State may, if satisfied that the person applying will not endanger the public safety, or welfare, issue a restricted driving permit granting the privilege of driving a motor vehicle between the person's residence and person's place of employment or within the scope of the person's employment related duties, or to allow transportation for the person or a household member of the person's family for the receipt of necessary medical care or, if the professional evaluation indicates, provide transportation for the petitioner for alcohol remedial or rehabilitative

activity, or for the person to attend classes, as a student, in an accredited educational institution; if the person is able to demonstrate that no alternative means of transportation is reasonably available; provided that the Secretary's discretion shall be limited to cases where undue hardship would result from a failure to issue such restricted driving permit. In each case the Secretary of State may issue such restricted driving permit for such period as he deems appropriate, except that such permit shall expire within one year from the date of issuance. A restricted driving permit issued hereunder shall be subject to cancellation, revocation and suspension by the Secretary of State in like manner and for like cause as a driver's license issued hereunder may be cancelled, revoked or suspended; except that a conviction upon one or more offenses against laws or ordinances regulating the movement of traffic shall be deemed sufficient cause for the revocation, suspension or cancellation of a restricted driving permit. The Secretary of State may, as a condition to the issuance of a restricted driving permit, require the applicant to participate in a driver remedial or rehabilitative program. In accordance with 49 C.F.R. 384, the Secretary of State may not issue a restricted driving permit for the operation of a commercial motor vehicle to a person holding a CDL whose driving privileges have been revoked, suspended, cancelled, or disqualified under this

Code; or

8. failed to submit a report as required by Section 6-116.5 of this Code; or

9. has been convicted of a sex offense as defined in the Sex Offender Registration Act. The driver's license shall remain cancelled until the driver registers as a sex offender as required by the Sex Offender Registration Act, proof of the registration is furnished to the Secretary of State and the sex offender provides proof of current address to the Secretary; or

10. is ineligible for a license or permit under Section 6-107, 6-107.1, or 6-108 of this Code; or

11. refused or neglected to appear at a Driver Services facility to have the license or permit corrected and a new license or permit issued.

(b) Upon such cancellation the licensee or permittee must surrender the license or permit so cancelled to the Secretary of State.

(c) Except as provided in Sections 6-206.1 and 7-702.1, the Secretary of State shall have exclusive authority to grant, issue, deny, cancel, suspend and revoke driving privileges, drivers' licenses and restricted driving permits.

(d) The Secretary of State may adopt rules to implement this Section.

(Source: P.A. 94-556, eff. 9-11-05; 94-916, eff. 7-1-07; 94-993, eff. 1-1-07; 95-331, eff. 8-21-07; 95-382, eff.

8-23-07.)

(Text of Section after amendment by P.A. 95-627)

Sec. 6-201. Authority to cancel licenses and permits.

(a) The Secretary of State is authorized to cancel any license or permit upon determining that the holder thereof:

1. was not entitled to the issuance thereof hereunder;

or

2. failed to give the required or correct information in his application; or

3. failed to pay any fees, civil penalties owed to the Illinois Commerce Commission, or taxes due under this Act and upon reasonable notice and demand; or

4. committed any fraud in the making of such application; or

5. is ineligible therefor under the provisions of Section 6-103 of this Act, as amended; or

6. has refused or neglected to submit an alcohol, drug, and intoxicating compound evaluation or to submit to examination or re-examination as required under this Act;

or

7. has been convicted of violating the Cannabis Control Act, the Illinois Controlled Substances Act, the Methamphetamine Control and Community Protection Act, or the Use of Intoxicating Compounds Act while that individual was in actual physical control of a motor vehicle. For

purposes of this Section, any person 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 shall not be considered convicted. Any person found guilty of this offense, while in actual physical control of a motor vehicle, shall have an entry made in the court record by the judge that this offense did occur while the person was in actual physical control of a motor vehicle and order the clerk of the court to report the violation to the Secretary of State as such. After the cancellation, the Secretary of State shall not issue a new license or permit for a period of one year after the date of cancellation. However, upon application, the Secretary of State may, if satisfied that the person applying will not endanger the public safety, or welfare, issue a restricted driving permit granting the privilege of driving a motor vehicle between the petitioner's residence and petitioner's place of employment or within the scope of the petitioner's employment related duties, or to allow transportation for the petitioner or a household member of the petitioner's family for the receipt of necessary medical care, or provide transportation for the petitioner to and from alcohol or drug remedial or rehabilitative activity recommended by a licensed service provider, or for the petitioner to attend classes, as a student, in an

accredited educational institution. The petitioner must demonstrate that no alternative means of transportation is reasonably available; provided that the Secretary's discretion shall be limited to cases where undue hardship, as defined by the rules of the Secretary of State, would result from a failure to issue such restricted driving permit. In each case the Secretary of State may issue such restricted driving permit for such period as he deems appropriate, except that such permit shall expire within one year from the date of issuance. A restricted driving permit issued hereunder shall be subject to cancellation, revocation and suspension by the Secretary of State in like manner and for like cause as a driver's license issued hereunder may be cancelled, revoked or suspended; except that a conviction upon one or more offenses against laws or ordinances regulating the movement of traffic shall be deemed sufficient cause for the revocation, suspension or cancellation of a restricted driving permit. The Secretary of State may, as a condition to the issuance of a restricted driving permit, require the applicant to participate in a driver remedial or rehabilitative program. In accordance with 49 C.F.R. 384, the Secretary of State may not issue a restricted driving permit for the operation of a commercial motor vehicle to a person holding a CDL whose driving privileges have been revoked, suspended, cancelled, or disqualified under this Code; or

8. failed to submit a report as required by Section 6-116.5 of this Code; or

9. has been convicted of a sex offense as defined in the Sex Offender Registration Act. The driver's license shall remain cancelled until the driver registers as a sex offender as required by the Sex Offender Registration Act, proof of the registration is furnished to the Secretary of State and the sex offender provides proof of current address to the Secretary; or

10. is ineligible for a license or permit under Section 6-107, 6-107.1, or 6-108 of this Code; or

11. refused or neglected to appear at a Driver Services facility to have the license or permit corrected and a new license or permit issued.

(b) Upon such cancellation the licensee or permittee must surrender the license or permit so cancelled to the Secretary of State.

(c) Except as provided in Sections 6-206.1 and 7-702.1, the Secretary of State shall have exclusive authority to grant, issue, deny, cancel, suspend and revoke driving privileges, drivers' licenses and restricted driving permits.

(d) The Secretary of State may adopt rules to implement this Section.

(Source: P.A. 94-556, eff. 9-11-05; 94-916, eff. 7-1-07; 94-993, eff. 1-1-07; 95-331, eff. 8-21-07; 95-382, eff. 8-23-07; 95-627, eff. 6-1-08; revised 11-16-07.)

(625 ILCS 5/6-204) (from Ch. 95 1/2, par. 6-204)

(Text of Section before amendment by P.A. 95-337)

Sec. 6-204. When Court to forward License and Reports.

(a) For the purpose of providing to the Secretary of State the records essential to the performance of the Secretary's duties under this Code to cancel, revoke or suspend the driver's license and privilege to drive motor vehicles of certain minors adjudicated truant minors in need of supervision, addicted, or delinquent and of persons found guilty of the criminal offenses or traffic violations which this Code recognizes as evidence relating to unfitness to safely operate motor vehicles, the following duties are imposed upon public officials:

(1) Whenever any person is convicted of any offense for which this Code makes mandatory the cancellation or revocation of the driver's license or permit of such person by the Secretary of State, the judge of the court in which such conviction is had shall require the surrender to the clerk of the court of all driver's licenses or permits then held by the person so convicted, and the clerk of the court shall, within 5 days thereafter, forward the same, together with a report of such conviction, to the Secretary.

(2) Whenever any person is convicted of any offense under this Code or similar offenses under a municipal ordinance, other than regulations governing standing,

parking or weights of vehicles, and excepting the following enumerated Sections of this Code: Sections 11-1406 (obstruction to driver's view or control), 11-1407 (improper opening of door into traffic), 11-1410 (coasting on downgrade), 11-1411 (following fire apparatus), 11-1419.01 (Motor Fuel Tax I.D. Card), 12-101 (driving vehicle which is in unsafe condition or improperly equipped), 12-201(a) (daytime lights on motorcycles), 12-202 (clearance, identification and side marker lamps), 12-204 (lamp or flag on projecting load), 12-205 (failure to display the safety lights required), 12-401 (restrictions as to tire equipment), 12-502 (mirrors), 12-503 (windshields must be unobstructed and equipped with wipers), 12-601 (horns and warning devices), 12-602 (mufflers, prevention of noise or smoke), 12-603 (seat safety belts), 12-702 (certain vehicles to carry flares or other warning devices), 12-703 (vehicles for oiling roads operated on highways), 12-710 (splash guards and replacements), 13-101 (safety tests), 15-101 (size, weight and load), 15-102 (width), 15-103 (height), 15-104 (name and address on second division vehicles), 15-107 (length of vehicle), 15-109.1 (cover or tarpaulin), 15-111 (weights), 15-112 (weights), 15-301 (weights), 15-316 (weights), 15-318 (weights), and also excepting the following enumerated Sections of the Chicago Municipal Code: Sections 27-245 (following fire apparatus), 27-254

(obstruction of traffic), 27-258 (driving vehicle which is in unsafe condition), 27-259 (coasting on downgrade), 27-264 (use of horns and signal devices), 27-265 (obstruction to driver's view or driver mechanism), 27-267 (dimming of headlights), 27-268 (unattended motor vehicle), 27-272 (illegal funeral procession), 27-273 (funeral procession on boulevard), 27-275 (driving freight hauling vehicles on boulevard), 27-276 (stopping and standing of buses or taxicabs), 27-277 (cruising of public passenger vehicles), 27-305 (parallel parking), 27-306 (diagonal parking), 27-307 (parking not to obstruct traffic), 27-308 (stopping, standing or parking regulated), 27-311 (parking regulations), 27-312 (parking regulations), 27-313 (parking regulations), 27-314 (parking regulations), 27-315 (parking regulations), 27-316 (parking regulations), 27-317 (parking regulations), 27-318 (parking regulations), 27-319 (parking regulations), 27-320 (parking regulations), 27-321 (parking regulations), 27-322 (parking regulations), 27-324 (loading and unloading at an angle), 27-333 (wheel and axle loads), 27-334 (load restrictions in the downtown district), 27-335 (load restrictions in residential areas), 27-338 (width of vehicles), 27-339 (height of vehicles), 27-340 (length of vehicles), 27-352 (reflectors on trailers), 27-353 (mufflers), 27-354 (display of plates), 27-355 (display of city vehicle tax

sticker), 27-357 (identification of vehicles), 27-358 (projecting of loads), and also excepting the following enumerated paragraphs of Section 2-201 of the Rules and Regulations of the Illinois State Toll Highway Authority: (l) (driving unsafe vehicle on tollway), (m) (vehicles transporting dangerous cargo not properly indicated), it shall be the duty of the clerk of the court in which such conviction is had within 5 days thereafter to forward to the Secretary of State a report of the conviction and the court may recommend the suspension of the driver's license or permit of the person so convicted.

The reporting requirements of this subsection shall apply to all violations stated in paragraphs (1) and (2) of this subsection when the individual has been adjudicated under the Juvenile Court Act or the Juvenile Court Act of 1987. Such reporting requirements shall also apply to individuals adjudicated under the Juvenile Court Act or the Juvenile Court Act of 1987 who have committed a violation of Section 11-501 of this Code, or similar provision of a local ordinance, or Section 9-3 of the Criminal Code of 1961, as amended, relating to the offense of reckless homicide. The reporting requirements of this subsection shall also apply to a truant minor in need of supervision, an addicted minor, or a delinquent minor and whose driver's license and privilege to drive a motor vehicle has been ordered suspended for such times as determined by the Court, but only until he or she attains 18 years of age. It

shall be the duty of the clerk of the court in which adjudication is had within 5 days thereafter to forward to the Secretary of State a report of the adjudication and the court order requiring the Secretary of State to suspend the minor's driver's license and driving privilege for such time as determined by the Court, but only until he or she attains the age of 18 years. All juvenile court dispositions reported to the Secretary of State under this provision shall be processed by the Secretary of State as if the cases had been adjudicated in traffic or criminal court. However, information reported relative to the offense of reckless homicide, or Section 11-501 of this Code, or a similar provision of a local ordinance, shall be privileged and available only to the Secretary of State, courts, and police officers.

The reporting requirements of this subsection (a) apply to all violations listed in paragraphs (1) and (2) of this subsection (a), excluding parking violations, when the driver holds a CDL, regardless of the type of vehicle in which the violation occurred, or when any driver committed the violation in a commercial motor vehicle as defined in Section 6-500 of this Code.

(3) Whenever an order is entered vacating the forfeiture of any bail, security or bond given to secure appearance for any offense under this Code or similar offenses under municipal ordinance, it shall be the duty of the clerk of the court in which such vacation was had or

the judge of such court if such court has no clerk, within 5 days thereafter to forward to the Secretary of State a report of the vacation.

(4) A report of any disposition of court supervision for a violation of Sections 6-303, 11-401, 11-501 or a similar provision of a local ordinance, 11-503, 11-504, and 11-506 shall be forwarded to the Secretary of State. A report of any disposition of court supervision for a violation of an offense defined as a serious traffic violation in this Code or a similar provision of a local ordinance committed by a person under the age of 21 years shall be forwarded to the Secretary of State.

(5) Reports of conviction under this Code and sentencing hearings under the Juvenile Court Act of 1987 in an electronic format or a computer processible medium shall be forwarded to the Secretary of State via the Supreme Court in the form and format required by the Illinois Supreme Court and established by a written agreement between the Supreme Court and the Secretary of State. In counties with a population over 300,000, instead of forwarding reports to the Supreme Court, reports of conviction under this Code and sentencing hearings under the Juvenile Court Act of 1987 in an electronic format or a computer processible medium may be forwarded to the Secretary of State by the Circuit Court Clerk in a form and format required by the Secretary of State and established

by written agreement between the Circuit Court Clerk and the Secretary of State. Failure to forward the reports of conviction or sentencing hearing under the Juvenile Court Act of 1987 as required by this Section shall be deemed an omission of duty and it shall be the duty of the several State's Attorneys to enforce the requirements of this Section.

(b) Whenever a restricted driving permit is forwarded to a court, as a result of confiscation by a police officer pursuant to the authority in Section 6-113(f), it shall be the duty of the clerk, or judge, if the court has no clerk, to forward such restricted driving permit and a facsimile of the officer's citation to the Secretary of State as expeditiously as practicable.

(c) For the purposes of this Code, a forfeiture of bail or collateral deposited to secure a defendant's appearance in court when forfeiture has not been vacated, or the failure of a defendant to appear for trial after depositing his driver's license in lieu of other bail, shall be equivalent to a conviction.

(d) For the purpose of providing the Secretary of State with records necessary to properly monitor and assess driver performance and assist the courts in the proper disposition of repeat traffic law offenders, the clerk of the court shall forward to the Secretary of State, on a form prescribed by the Secretary, records of a driver's participation in a driver

remedial or rehabilitative program which was required, through a court order or court supervision, in relation to the driver's arrest for a violation of Section 11-501 of this Code or a similar provision of a local ordinance. The clerk of the court shall also forward to the Secretary, either on paper or in an electronic format or a computer processible medium as required under paragraph (5) of subsection (a) of this Section, any disposition of court supervision for any traffic violation, excluding those offenses listed in paragraph (2) of subsection (a) of this Section. These reports shall be sent within 5 days after disposition, or, if the driver is referred to a driver remedial or rehabilitative program, within 5 days of the driver's referral to that program. These reports received by the Secretary of State, including those required to be forwarded under paragraph (a)(4), shall be privileged information, available only (i) to the affected driver, (ii) to the parent or guardian of a person under the age of 18 years holding an instruction permit or a graduated driver's license, and (iii) for use by the courts, police officers, prosecuting authorities, the Secretary of State, and the driver licensing administrator of any other state. In accordance with 49 C.F.R. Part 384, all reports of court supervision, except violations related to parking, shall be forwarded to the Secretary of State for all holders of a CDL or any driver who commits an offense while driving a commercial motor vehicle. These reports shall be recorded to the driver's record as a conviction for

use in the disqualification of the driver's commercial motor vehicle privileges and shall not be privileged information.

(Source: P.A. 94-307, eff. 9-30-05; 94-930, eff. 6-26-06; 95-201, eff. 1-1-08; 95-310, eff. 1-1-08; 95-382, eff. 8-23-07; revised 11-16-07.)

(Text of Section after amendment by P.A. 95-337)

Sec. 6-204. When Court to forward License and Reports.

(a) For the purpose of providing to the Secretary of State the records essential to the performance of the Secretary's duties under this Code to cancel, revoke or suspend the driver's license and privilege to drive motor vehicles of certain minors adjudicated truant minors in need of supervision, addicted, or delinquent and of persons found guilty of the criminal offenses or traffic violations which this Code recognizes as evidence relating to unfitness to safely operate motor vehicles, the following duties are imposed upon public officials:

(1) Whenever any person is convicted of any offense for which this Code makes mandatory the cancellation or revocation of the driver's license or permit of such person by the Secretary of State, the judge of the court in which such conviction is had shall require the surrender to the clerk of the court of all driver's licenses or permits then held by the person so convicted, and the clerk of the court shall, within 5 days thereafter, forward the same, together

with a report of such conviction, to the Secretary.

(2) Whenever any person is convicted of any offense under this Code or similar offenses under a municipal ordinance, other than regulations governing standing, parking or weights of vehicles, and excepting the following enumerated Sections of this Code: Sections 11-1406 (obstruction to driver's view or control), 11-1407 (improper opening of door into traffic), 11-1410 (coasting on downgrade), 11-1411 (following fire apparatus), 11-1419.01 (Motor Fuel Tax I.D. Card), 12-101 (driving vehicle which is in unsafe condition or improperly equipped), 12-201(a) (daytime lights on motorcycles), 12-202 (clearance, identification and side marker lamps), 12-204 (lamp or flag on projecting load), 12-205 (failure to display the safety lights required), 12-401 (restrictions as to tire equipment), 12-502 (mirrors), 12-503 (windshields must be unobstructed and equipped with wipers), 12-601 (horns and warning devices), 12-602 (mufflers, prevention of noise or smoke), 12-603 (seat safety belts), 12-702 (certain vehicles to carry flares or other warning devices), 12-703 (vehicles for oiling roads operated on highways), 12-710 (splash guards and replacements), 13-101 (safety tests), 15-101 (size, weight and load), 15-102 (width), 15-103 (height), 15-104 (name and address on second division vehicles), 15-107 (length of vehicle), 15-109.1 (cover or tarpaulin), 15-111 (weights),

15-112 (weights), 15-301 (weights), 15-316 (weights), 15-318 (weights), and also excepting the following enumerated Sections of the Chicago Municipal Code: Sections 27-245 (following fire apparatus), 27-254 (obstruction of traffic), 27-258 (driving vehicle which is in unsafe condition), 27-259 (coasting on downgrade), 27-264 (use of horns and signal devices), 27-265 (obstruction to driver's view or driver mechanism), 27-267 (dimming of headlights), 27-268 (unattended motor vehicle), 27-272 (illegal funeral procession), 27-273 (funeral procession on boulevard), 27-275 (driving freight hauling vehicles on boulevard), 27-276 (stopping and standing of buses or taxicabs), 27-277 (cruising of public passenger vehicles), 27-305 (parallel parking), 27-306 (diagonal parking), 27-307 (parking not to obstruct traffic), 27-308 (stopping, standing or parking regulated), 27-311 (parking regulations), 27-312 (parking regulations), 27-313 (parking regulations), 27-314 (parking regulations), 27-315 (parking regulations), 27-316 (parking regulations), 27-317 (parking regulations), 27-318 (parking regulations), 27-319 (parking regulations), 27-320 (parking regulations), 27-321 (parking regulations), 27-322 (parking regulations), 27-324 (loading and unloading at an angle), 27-333 (wheel and axle loads), 27-334 (load restrictions in the downtown district), 27-335 (load restrictions in

residential areas), 27-338 (width of vehicles), 27-339 (height of vehicles), 27-340 (length of vehicles), 27-352 (reflectors on trailers), 27-353 (mufflers), 27-354 (display of plates), 27-355 (display of city vehicle tax sticker), 27-357 (identification of vehicles), 27-358 (projecting of loads), and also excepting the following enumerated paragraphs of Section 2-201 of the Rules and Regulations of the Illinois State Toll Highway Authority: (l) (driving unsafe vehicle on tollway), (m) (vehicles transporting dangerous cargo not properly indicated), it shall be the duty of the clerk of the court in which such conviction is had within 5 days thereafter to forward to the Secretary of State a report of the conviction and the court may recommend the suspension of the driver's license or permit of the person so convicted.

The reporting requirements of this subsection shall apply to all violations stated in paragraphs (1) and (2) of this subsection when the individual has been adjudicated under the Juvenile Court Act or the Juvenile Court Act of 1987. Such reporting requirements shall also apply to individuals adjudicated under the Juvenile Court Act or the Juvenile Court Act of 1987 who have committed a violation of Section 11-501 of this Code, or similar provision of a local ordinance, or Section 9-3 of the Criminal Code of 1961, as amended, relating to the offense of reckless homicide. These reporting requirements also apply to individuals adjudicated under the

Juvenile Court Act of 1987 based on any offense determined to have been committed in furtherance of the criminal activities of an organized gang, as provided in Section 5-710 of that Act, and that involved the operation or use of a motor vehicle or the use of a driver's license or permit. The reporting requirements of this subsection shall also apply to a truant minor in need of supervision, an addicted minor, or a delinquent minor and whose driver's license and privilege to drive a motor vehicle has been ordered suspended for such times as determined by the Court, but only until he or she attains 18 years of age. It shall be the duty of the clerk of the court in which adjudication is had within 5 days thereafter to forward to the Secretary of State a report of the adjudication and the court order requiring the Secretary of State to suspend the minor's driver's license and driving privilege for such time as determined by the Court, but only until he or she attains the age of 18 years. All juvenile court dispositions reported to the Secretary of State under this provision shall be processed by the Secretary of State as if the cases had been adjudicated in traffic or criminal court. However, information reported relative to the offense of reckless homicide, or Section 11-501 of this Code, or a similar provision of a local ordinance, shall be privileged and available only to the Secretary of State, courts, and police officers.

The reporting requirements of this subsection (a) apply to all violations listed in paragraphs (1) and (2) of

this subsection (a), excluding parking violations, when the driver holds a CDL, regardless of the type of vehicle in which the violation occurred, or when any driver committed the violation in a commercial motor vehicle as defined in Section 6-500 of this Code.

(3) Whenever an order is entered vacating the forfeiture of any bail, security or bond given to secure appearance for any offense under this Code or similar offenses under municipal ordinance, it shall be the duty of the clerk of the court in which such vacation was had or the judge of such court if such court has no clerk, within 5 days thereafter to forward to the Secretary of State a report of the vacation.

(4) A report of any disposition of court supervision for a violation of Sections 6-303, 11-401, 11-501 or a similar provision of a local ordinance, 11-503, 11-504, and 11-506 shall be forwarded to the Secretary of State. A report of any disposition of court supervision for a violation of an offense defined as a serious traffic violation in this Code or a similar provision of a local ordinance committed by a person under the age of 21 years shall be forwarded to the Secretary of State.

(5) Reports of conviction under this Code and sentencing hearings under the Juvenile Court Act of 1987 in an electronic format or a computer processible medium shall be forwarded to the Secretary of State via the Supreme

Court in the form and format required by the Illinois Supreme Court and established by a written agreement between the Supreme Court and the Secretary of State. In counties with a population over 300,000, instead of forwarding reports to the Supreme Court, reports of conviction under this Code and sentencing hearings under the Juvenile Court Act of 1987 in an electronic format or a computer processible medium may be forwarded to the Secretary of State by the Circuit Court Clerk in a form and format required by the Secretary of State and established by written agreement between the Circuit Court Clerk and the Secretary of State. Failure to forward the reports of conviction or sentencing hearing under the Juvenile Court Act of 1987 as required by this Section shall be deemed an omission of duty and it shall be the duty of the several State's Attorneys to enforce the requirements of this Section.

(b) Whenever a restricted driving permit is forwarded to a court, as a result of confiscation by a police officer pursuant to the authority in Section 6-113(f), it shall be the duty of the clerk, or judge, if the court has no clerk, to forward such restricted driving permit and a facsimile of the officer's citation to the Secretary of State as expeditiously as practicable.

(c) For the purposes of this Code, a forfeiture of bail or collateral deposited to secure a defendant's appearance in

court when forfeiture has not been vacated, or the failure of a defendant to appear for trial after depositing his driver's license in lieu of other bail, shall be equivalent to a conviction.

(d) For the purpose of providing the Secretary of State with records necessary to properly monitor and assess driver performance and assist the courts in the proper disposition of repeat traffic law offenders, the clerk of the court shall forward to the Secretary of State, on a form prescribed by the Secretary, records of a driver's participation in a driver remedial or rehabilitative program which was required, through a court order or court supervision, in relation to the driver's arrest for a violation of Section 11-501 of this Code or a similar provision of a local ordinance. The clerk of the court shall also forward to the Secretary, either on paper or in an electronic format or a computer processible medium as required under paragraph (5) of subsection (a) of this Section, any disposition of court supervision for any traffic violation, excluding those offenses listed in paragraph (2) of subsection (a) of this Section. These reports shall be sent within 5 days after disposition, or, if the driver is referred to a driver remedial or rehabilitative program, within 5 days of the driver's referral to that program. These reports received by the Secretary of State, including those required to be forwarded under paragraph (a)(4), shall be privileged information, available only (i) to the affected driver, (ii) to

the parent or guardian of a person under the age of 18 years holding an instruction permit or a graduated driver's license, and (iii) for use by the courts, police officers, prosecuting authorities, the Secretary of State, and the driver licensing administrator of any other state. In accordance with 49 C.F.R. Part 384, all reports of court supervision, except violations related to parking, shall be forwarded to the Secretary of State for all holders of a CDL or any driver who commits an offense while driving a commercial motor vehicle. These reports shall be recorded to the driver's record as a conviction for use in the disqualification of the driver's commercial motor vehicle privileges and shall not be privileged information.

(Source: P.A. 94-307, eff. 9-30-05; 94-930, eff. 6-26-06; 95-201, eff. 1-1-08; 95-310, eff. 1-1-08; 95-337, eff. 6-1-08; 95-382, eff. 8-23-07; revised 11-16-07.)

(625 ILCS 5/6-205) (from Ch. 95 1/2, par. 6-205)

(Text of Section before amendment by P.A. 95-337 and 95-627)

Sec. 6-205. Mandatory revocation of license or permit; Hardship cases.

(a) Except as provided in this Section, the Secretary of State shall immediately revoke the license, permit, or driving privileges of any driver upon receiving a report of the driver's conviction of any of the following offenses:

1. Reckless homicide resulting from the operation of a

motor vehicle;

2. Violation of Section 11-501 of this Code or a similar provision of a local ordinance relating to the offense of operating or being in physical control of a vehicle while under the influence of alcohol, other drug or drugs, intoxicating compound or compounds, or any combination thereof;

3. Any felony under the laws of any State or the federal government in the commission of which a motor vehicle was used;

4. Violation of Section 11-401 of this Code relating to the offense of leaving the scene of a traffic accident involving death or personal injury;

5. Perjury or the making of a false affidavit or statement under oath to the Secretary of State under this Code or under any other law relating to the ownership or operation of motor vehicles;

6. Conviction upon 3 charges of violation of Section 11-503 of this Code relating to the offense of reckless driving committed within a period of 12 months;

7. Conviction of any offense defined in Section 4-102 of this Code;

8. Violation of Section 11-504 of this Code relating to the offense of drag racing;

9. Violation of Chapters 8 and 9 of this Code;

10. Violation of Section 12-5 of the Criminal Code of

1961 arising from the use of a motor vehicle;

11. Violation of Section 11-204.1 of this Code relating to aggravated fleeing or attempting to elude a peace officer;

12. Violation of paragraph (1) of subsection (b) of Section 6-507, or a similar law of any other state, relating to the unlawful operation of a commercial motor vehicle;

13. Violation of paragraph (a) of Section 11-502 of this Code or a similar provision of a local ordinance if the driver has been previously convicted of a violation of that Section or a similar provision of a local ordinance and the driver was less than 21 years of age at the time of the offense;

14. Violation of Section 11-506 of this Code or a similar provision of a local ordinance relating to the offense of street racing.

(b) The Secretary of State shall also immediately revoke the license or permit of any driver in the following situations:

1. Of any minor upon receiving the notice provided for in Section 5-901 of the Juvenile Court Act of 1987 that the minor has been adjudicated under that Act as having committed an offense relating to motor vehicles prescribed in Section 4-103 of this Code;

2. Of any person when any other law of this State

requires either the revocation or suspension of a license or permit.

(c) Except as provided in subsection (c-5), whenever a person is convicted of any of the offenses enumerated in this Section, the court may recommend and the Secretary of State in his discretion, without regard to whether the recommendation is made by the court may, upon application, issue to the person a restricted driving permit granting the privilege of driving a motor vehicle between the petitioner's residence and petitioner's place of employment or within the scope of the petitioner's employment related duties, or to allow transportation for the petitioner or a household member of the petitioner's family for the receipt of necessary medical care or, if the professional evaluation indicates, provide transportation for the petitioner for alcohol remedial or rehabilitative activity, or for the petitioner to attend classes, as a student, in an accredited educational institution; if the petitioner is able to demonstrate that no alternative means of transportation is reasonably available and the petitioner will not endanger the public safety or welfare; provided that the Secretary's discretion shall be limited to cases where undue hardship would result from a failure to issue the restricted driving permit.

If a person's license or permit has been revoked or suspended due to 2 or more convictions of violating Section 11-501 of this Code or a similar provision of a local ordinance

or a similar out-of-state offense, arising out of separate occurrences, that person, if issued a restricted driving permit, may not operate a vehicle unless it has been equipped with an ignition interlock device as defined in Section 1-129.1.

If a person's license or permit has been revoked or suspended 2 or more times within a 10 year period due to a single conviction of violating Section 11-501 of this Code or a similar provision of a local ordinance or a similar out-of-state offense, and a statutory summary suspension under Section 11-501.1, or 2 or more statutory summary suspensions, or combination of 2 offenses, or of an offense and a statutory summary suspension, arising out of separate occurrences, or if a person has been convicted of one violation of Section 6-303 of this 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, relating to the offense of reckless homicide, or a similar provision of a law of another state, that person, if issued a restricted driving permit, may not operate a vehicle unless it has been equipped with an ignition interlock device as defined in Section 1-129.1. The person must pay to the Secretary of State DUI Administration Fund an amount not to exceed \$20 per month. The Secretary shall establish by rule the amount and the procedures, terms, and conditions relating to these fees. If the restricted driving permit was issued for employment

purposes, then this provision does not apply to the operation of an occupational vehicle owned or leased by that person's employer. In each case the Secretary of State may issue a restricted driving permit for a period he deems appropriate, except that the permit shall expire within one year from the date of issuance. The Secretary may not, however, issue a restricted driving permit to any person whose current revocation is the result of a second or subsequent conviction for a violation of Section 11-501 of this Code or a similar provision of a local ordinance relating to the offense of operating or being in physical control of a motor vehicle while under the influence of alcohol, other drug or drugs, intoxicating compound or compounds, or any similar out-of-state offense, or any combination thereof, until the expiration of at least one year from the date of the revocation. A restricted driving permit issued under this Section shall be subject to cancellation, revocation, and suspension by the Secretary of State in like manner and for like cause as a driver's license issued under this Code may be cancelled, revoked, or suspended; except that a conviction upon one or more offenses against laws or ordinances regulating the movement of traffic shall be deemed sufficient cause for the revocation, suspension, or cancellation of a restricted driving permit. The Secretary of State may, as a condition to the issuance of a restricted driving permit, require the applicant to participate in a designated driver remedial or

rehabilitative program. The Secretary of State is authorized to cancel a restricted driving permit if the permit holder does not successfully complete the program. However, if an individual's driving privileges have been revoked in accordance with paragraph 13 of subsection (a) of this Section, no restricted driving permit shall be issued until the individual has served 6 months of the revocation period.

(c-5) The Secretary may not issue a restricted driving permit to any person who has been convicted of a second or subsequent violation of Section 6-303 of this 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, relating to the offense of reckless homicide, or a similar provision of a law of another state.

(d) Whenever a person under the age of 21 is convicted under Section 11-501 of this Code or a similar provision of a local ordinance or a similar out-of-state offense, the Secretary of State shall revoke the driving privileges of that person. One year after the date of revocation, and upon application, the Secretary of State may, if satisfied that the person applying will not endanger the public safety or welfare, issue a restricted driving permit granting the privilege of driving a motor vehicle only between the hours of 5 a.m. and 9 p.m. or as otherwise provided by this Section for a period of one year. After this one year period, and upon reapplication for a license as provided in Section 6-106, upon payment of the

appropriate reinstatement fee provided under paragraph (b) of Section 6-118, the Secretary of State, in his discretion, may issue the applicant a license, or extend the restricted driving permit as many times as the Secretary of State deems appropriate, by additional periods of not more than 12 months each, until the applicant attains 21 years of age.

If a person's license or permit has been revoked or suspended due to 2 or more convictions of violating Section 11-501 of this Code or a similar provision of a local ordinance or a similar out-of-state offense, arising out of separate occurrences, that person, if issued a restricted driving permit, may not operate a vehicle unless it has been equipped with an ignition interlock device as defined in Section 1-129.1.

If a person's license or permit has been revoked or suspended 2 or more times within a 10 year period due to a single conviction of violating Section 11-501 of this Code or a similar provision of a local ordinance or a similar out-of-state offense, and a statutory summary suspension under Section 11-501.1, or 2 or more statutory summary suspensions, or combination of 2 offenses, or of an offense and a statutory summary suspension, arising out of separate occurrences, that person, if issued a restricted driving permit, may not operate a vehicle unless it has been equipped with an ignition interlock device as defined in Section 1-129.1. The person must pay to the Secretary of State DUI Administration Fund an amount

not to exceed \$20 per month. The Secretary shall establish by rule the amount and the procedures, terms, and conditions relating to these fees. If the restricted driving permit was issued for employment purposes, then this provision does not apply to the operation of an occupational vehicle owned or leased by that person's employer. A restricted driving permit issued under this Section shall be subject to cancellation, revocation, and suspension by the Secretary of State in like manner and for like cause as a driver's license issued under this Code may be cancelled, revoked, or suspended; except that a conviction upon one or more offenses against laws or ordinances regulating the movement of traffic shall be deemed sufficient cause for the revocation, suspension, or cancellation of a restricted driving permit.

(d-5) The revocation of the license, permit, or driving privileges of a person convicted of a third or subsequent violation of Section 6-303 of this 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, relating to the offense of reckless homicide, or a similar provision of a law of another state, is permanent. The Secretary may not, at any time, issue a license or permit to that person.

(e) This Section is subject to the provisions of the Driver License Compact.

(f) Any revocation imposed upon any person under

subsections 2 and 3 of paragraph (b) that is in effect on December 31, 1988 shall be converted to a suspension for a like period of time.

(g) The Secretary of State shall not issue a restricted driving permit to a person under the age of 16 years whose driving privileges have been revoked under any provisions of this Code.

(h) The Secretary of State shall require the use of ignition interlock devices on all vehicles owned by an individual who has been convicted of a second or subsequent offense under Section 11-501 of this Code or a similar provision of a local ordinance. The Secretary shall establish by rule and regulation the procedures for certification and use of the interlock system.

(i) (Blank).

(j) In accordance with 49 C.F.R. 384, the Secretary of State may not issue a restricted driving permit for the operation of a commercial motor vehicle to a person holding a CDL whose driving privileges have been revoked, suspended, cancelled, or disqualified under any provisions of this Code.

(Source: P.A. 94-307, eff. 9-30-05; 95-310, eff. 1-1-08; 95-377, eff. 1-1-08; 95-382, eff. 8-23-07; revised 11-16-07.)

(Text of Section after amendment by P.A. 95-337 and 95-627)
Sec. 6-205. Mandatory revocation of license or permit;
Hardship cases.

(a) Except as provided in this Section, the Secretary of State shall immediately revoke the license, permit, or driving privileges of any driver upon receiving a report of the driver's conviction of any of the following offenses:

1. Reckless homicide resulting from the operation of a motor vehicle;

2. Violation of Section 11-501 of this Code or a similar provision of a local ordinance relating to the offense of operating or being in physical control of a vehicle while under the influence of alcohol, other drug or drugs, intoxicating compound or compounds, or any combination thereof;

3. Any felony under the laws of any State or the federal government in the commission of which a motor vehicle was used;

4. Violation of Section 11-401 of this Code relating to the offense of leaving the scene of a traffic accident involving death or personal injury;

5. Perjury or the making of a false affidavit or statement under oath to the Secretary of State under this Code or under any other law relating to the ownership or operation of motor vehicles;

6. Conviction upon 3 charges of violation of Section 11-503 of this Code relating to the offense of reckless driving committed within a period of 12 months;

7. Conviction of any offense defined in Section 4-102

of this Code;

8. Violation of Section 11-504 of this Code relating to the offense of drag racing;

9. Violation of Chapters 8 and 9 of this Code;

10. Violation of Section 12-5 of the Criminal Code of 1961 arising from the use of a motor vehicle;

11. Violation of Section 11-204.1 of this Code relating to aggravated fleeing or attempting to elude a peace officer;

12. Violation of paragraph (1) of subsection (b) of Section 6-507, or a similar law of any other state, relating to the unlawful operation of a commercial motor vehicle;

13. Violation of paragraph (a) of Section 11-502 of this Code or a similar provision of a local ordinance if the driver has been previously convicted of a violation of that Section or a similar provision of a local ordinance and the driver was less than 21 years of age at the time of the offense;

14. Violation of Section 11-506 of this Code or a similar provision of a local ordinance relating to the offense of street racing.

(b) The Secretary of State shall also immediately revoke the license or permit of any driver in the following situations:

1. Of any minor upon receiving the notice provided for

in Section 5-901 of the Juvenile Court Act of 1987 that the minor has been adjudicated under that Act as having committed an offense relating to motor vehicles prescribed in Section 4-103 of this Code;

2. Of any person when any other law of this State requires either the revocation or suspension of a license or permit;

3. Of any person adjudicated under the Juvenile Court Act of 1987 based on an offense determined to have been committed in furtherance of the criminal activities of an organized gang as provided in Section 5-710 of that Act, and that involved the operation or use of a motor vehicle or the use of a driver's license or permit. The revocation shall remain in effect for the period determined by the court. Upon the direction of the court, the Secretary shall issue the person a judicial driving permit, also known as a JDP. The JDP shall be subject to the same terms as a JDP issued under Section 6-206.1, except that the court may direct that a JDP issued under this subdivision (b)(3) be effective immediately.

(c) (1) Except as provided in subsection (c-5), whenever a person is convicted of any of the offenses enumerated in this Section, the court may recommend and the Secretary of State in his discretion, without regard to whether the recommendation is made by the court may, upon application, issue to the person a restricted driving

permit granting the privilege of driving a motor vehicle between the petitioner's residence and petitioner's place of employment or within the scope of the petitioner's employment related duties, or to allow transportation for the petitioner or a household member of the petitioner's family for the receipt of necessary medical care or~~7~~ provide transportation for the petitioner to and from alcohol or drug remedial or rehabilitative activity recommended by a licensed service provider, or for the petitioner to attend classes, as a student, in an accredited educational institution; if the petitioner is able to demonstrate that no alternative means of transportation is reasonably available and that the petitioner will not endanger the public safety or welfare; provided that the Secretary's discretion shall be limited to cases where undue hardship, as defined by the rules of the Secretary of State, would result from a failure to issue the restricted driving permit. Those multiple offenders identified in subdivision (b)4 of Section 6-208 of this Code, however, shall not be eligible for the issuance of a restricted driving permit.

(2) If a person's license or permit is revoked or suspended due to 2 or more convictions of violating Section 11-501 of this Code or a similar provision of a local ordinance or a similar out-of-state offense, or Section 9-3 of the Criminal Code of 1961, where the use of alcohol or

other drugs is recited as an element of the offense, or a similar out-of-state offense, or a combination of these offenses, arising out of separate occurrences, that person, if issued a restricted driving permit, may not operate a vehicle unless it has been equipped with an ignition interlock device as defined in Section 1-129.1.

(3) If:

(A) a person's license or permit is revoked or suspended 2 or more times within a 10 year period due to any combination of:

(i) ~~(A)~~ a single conviction of violating Section 11-501 of this Code or a similar provision of a local ordinance or a similar out-of-state offense, or Section 9-3 of the Criminal Code of 1961, where the use of alcohol or other drugs is recited as an element of the offense, or a similar out-of-state offense; or

(ii) ~~(B)~~ a statutory summary suspension under Section 11-501.1; or

(iii) ~~(C)~~ a suspension pursuant to Section 6-203.1~~;~~

arising out of separate occurrences~~;~~ or

(B) ~~if~~ a person has been convicted of one violation of Section 6-303 of this 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, relating to the offense of reckless homicide, or a similar provision of a law of another state,

that person, if issued a restricted driving permit, may not operate a vehicle unless it has been equipped with an ignition interlock device as defined in Section 1-129.1.

~~(4)~~ The person must pay to the Secretary of State DUI Administration Fund an amount not to exceed \$20 per month. The Secretary shall establish by rule the amount and the procedures, terms, and conditions relating to these fees.

~~(5)~~ If the restricted driving permit is issued for employment purposes, then the prohibition against operating a motor vehicle that is not equipped with an ignition interlock device does not apply to the operation of an occupational vehicle owned or leased by that person's employer when used solely for employment purposes. ~~(6)~~ In each case the Secretary of State may issue a restricted driving permit for a period he deems appropriate, except that the permit shall expire within one year from the date of issuance. The Secretary may not, however, issue a restricted driving permit to any person whose current revocation is the result of a second or subsequent conviction for a violation of Section 11-501 of this Code or a similar provision of a local ordinance or any similar out-of-state offense, or Section 9-3 of the Criminal Code of 1961, where the use of alcohol or other drugs is recited

as an element of the offense, or any similar out-of-state offense, or any combination of these offenses, until the expiration of at least one year from the date of the revocation. A restricted driving permit issued under this Section shall be subject to cancellation, revocation, and suspension by the Secretary of State in like manner and for like cause as a driver's license issued under this Code may be cancelled, revoked, or suspended; except that a conviction upon one or more offenses against laws or ordinances regulating the movement of traffic shall be deemed sufficient cause for the revocation, suspension, or cancellation of a restricted driving permit. The Secretary of State may, as a condition to the issuance of a restricted driving permit, require the petitioner to participate in a designated driver remedial or rehabilitative program. The Secretary of State is authorized to cancel a restricted driving permit if the permit holder does not successfully complete the program. However, if an individual's driving privileges have been revoked in accordance with paragraph 13 of subsection (a) of this Section, no restricted driving permit shall be issued until the individual has served 6 months of the revocation period.

(c-5) The Secretary may not issue a restricted driving permit to any person who has been convicted of a second or subsequent violation of Section 6-303 of this 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, relating to the offense of reckless homicide, or a similar provision of a law of another state.

(d) (1) Whenever a person under the age of 21 is convicted under Section 11-501 of this Code or a similar provision of a local ordinance⁷ or a similar out-of-state offense, the Secretary of State shall revoke the driving privileges of that person. One year after the date of revocation, and upon application, the Secretary of State may, if satisfied that the person applying will not endanger the public safety or welfare, issue a restricted driving permit granting the privilege of driving a motor vehicle only between the hours of 5 a.m. and 9 p.m. or as otherwise provided by this Section for a period of one year. After this one year period, and upon reapplication for a license as provided in Section 6-106, upon payment of the appropriate reinstatement fee provided under paragraph (b) of Section 6-118, the Secretary of State, in his discretion, may reinstate the petitioner's driver's license and driving privileges, or extend the restricted driving permit as many times as the Secretary of State deems appropriate, by additional periods of not more than 12 months each.

(2) If a person's license or permit is revoked or suspended due to 2 or more convictions of violating Section 11-501 of this Code or a similar provision of a local ordinance or a similar out-of-state offense, or Section 9-3

of the Criminal Code of 1961, where the use of alcohol or other drugs is recited as an element of the offense, or a similar out-of-state offense, or a combination of these offenses, arising out of separate occurrences, that person, if issued a restricted driving permit, may not operate a vehicle unless it has been equipped with an ignition interlock device as defined in Section 1-129.1.

(3) If a person's license or permit is revoked or suspended 2 or more times within a 10 year period due to any combination of:

(A) a single conviction of violating Section 11-501 of this Code or a similar provision of a local ordinance or a similar out-of-state offense, or Section 9-3 of the Criminal Code of 1961, where the use of alcohol or other drugs is recited as an element of the offense, or a similar out-of-state offense; or

(B) a statutory summary suspension under Section 11-501.1; or

(C) a suspension pursuant to Section 6-203.1, arising out of separate occurrences, that person, if issued a restricted driving permit, may not operate a vehicle unless it has been equipped with an ignition interlock device as defined in Section 1-129.1.

(4) The person must pay to the Secretary of State DUI Administration Fund an amount not to exceed \$20 per month. The Secretary shall establish by rule the amount and the

procedures, terms, and conditions relating to these fees.

(5) If the restricted driving permit is issued for employment purposes, then the prohibition against driving a vehicle that is not equipped with an ignition interlock device does not apply to the operation of an occupational vehicle owned or leased by that person's employer when used solely for employment purposes.

(6) A restricted driving permit issued under this Section shall be subject to cancellation, revocation, and suspension by the Secretary of State in like manner and for like cause as a driver's license issued under this Code may be cancelled, revoked, or suspended; except that a conviction upon one or more offenses against laws or ordinances regulating the movement of traffic shall be deemed sufficient cause for the revocation, suspension, or cancellation of a restricted driving permit.

(d-5) The revocation of the license, permit, or driving privileges of a person convicted of a third or subsequent violation of Section 6-303 of this 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, relating to the offense of reckless homicide, or a similar provision of a law of another state, is permanent. The Secretary may not, at any time, issue a license or permit to that person.

(e) This Section is subject to the provisions of the Driver

License Compact.

(f) Any revocation imposed upon any person under subsections 2 and 3 of paragraph (b) that is in effect on December 31, 1988 shall be converted to a suspension for a like period of time.

(g) The Secretary of State shall not issue a restricted driving permit to a person under the age of 16 years whose driving privileges have been revoked under any provisions of this Code.

(h) The Secretary of State shall require the use of ignition interlock devices on all vehicles owned by an individual who has been convicted of a second or subsequent offense under Section 11-501 of this Code or a similar provision of a local ordinance. The Secretary shall establish by rule and regulation the procedures for certification and use of the interlock system.

(i) (Blank).

(j) In accordance with 49 C.F.R. 384, the Secretary of State may not issue a restricted driving permit for the operation of a commercial motor vehicle to a person holding a CDL whose driving privileges have been revoked, suspended, cancelled, or disqualified under any provisions of this Code.

(Source: P.A. 94-307, eff. 9-30-05; 95-310, eff. 1-1-08; 95-337, eff. 6-1-08; 95-377, eff. 1-1-08; 95-382, eff. 8-23-07; 95-627, eff. 6-1-08; revised 11-16-07.)

(625 ILCS 5/6-206) (from Ch. 95 1/2, par. 6-206)

(Text of Section before amendment by P.A. 95-400 and 95-627)

Sec. 6-206. Discretionary authority to suspend or revoke license or permit; Right to a hearing.

(a) The Secretary of State is authorized to suspend or revoke the driving privileges of any person without preliminary hearing upon a showing of the person's records or other sufficient evidence that the person:

1. Has committed an offense for which mandatory revocation of a driver's license or permit is required upon conviction;

2. Has been convicted of not less than 3 offenses against traffic regulations governing the movement of vehicles committed within any 12 month period. No revocation or suspension shall be entered more than 6 months after the date of last conviction;

3. Has been repeatedly involved as a driver in motor vehicle collisions or has been repeatedly convicted of offenses against laws and ordinances regulating the movement of traffic, to a degree that indicates lack of ability to exercise ordinary and reasonable care in the safe operation of a motor vehicle or disrespect for the traffic laws and the safety of other persons upon the highway;

4. Has by the unlawful operation of a motor vehicle

caused or contributed to an accident resulting in death or injury requiring immediate professional treatment in a medical facility or doctor's office to any person, except that any suspension or revocation imposed by the Secretary of State under the provisions of this subsection shall start no later than 6 months after being convicted of violating a law or ordinance regulating the movement of traffic, which violation is related to the accident, or shall start not more than one year after the date of the accident, whichever date occurs later;

5. Has permitted an unlawful or fraudulent use of a driver's license, identification card, or permit;

6. Has been lawfully convicted of an offense or offenses in another state, including the authorization contained in Section 6-203.1, which if committed within this State would be grounds for suspension or revocation;

7. Has refused or failed to submit to an examination provided for by Section 6-207 or has failed to pass the examination;

8. Is ineligible for a driver's license or permit under the provisions of Section 6-103;

9. Has made a false statement or knowingly concealed a material fact or has used false information or identification in any application for a license, identification card, or permit;

10. Has possessed, displayed, or attempted to

fraudulently use any license, identification card, or permit not issued to the person;

11. Has operated a motor vehicle upon a highway of this State when the person's driving privilege or privilege to obtain a driver's license or permit was revoked or suspended unless the operation was authorized by a judicial driving permit, probationary license to drive, or a restricted driving permit issued under this Code;

12. Has submitted to any portion of the application process for another person or has obtained the services of another person to submit to any portion of the application process for the purpose of obtaining a license, identification card, or permit for some other person;

13. Has operated a motor vehicle upon a highway of this State when the person's driver's license or permit was invalid under the provisions of Sections 6-107.1 and 6-110;

14. Has committed a violation of Section 6-301, 6-301.1, or 6-301.2 of this Act, or Section 14, 14A, or 14B of the Illinois Identification Card Act;

15. Has been convicted of violating Section 21-2 of the Criminal Code of 1961 relating to criminal trespass to vehicles in which case, the suspension shall be for one year;

16. Has been convicted of violating Section 11-204 of this Code relating to fleeing from a peace officer;

17. Has refused to submit to a test, or tests, as

required under Section 11-501.1 of this Code and the person has not sought a hearing as provided for in Section 11-501.1;

18. Has, since issuance of a driver's license or permit, been adjudged to be afflicted with or suffering from any mental disability or disease;

19. Has committed a violation of paragraph (a) or (b) of Section 6-101 relating to driving without a driver's license;

20. Has been convicted of violating Section 6-104 relating to classification of driver's license;

21. Has been convicted of violating Section 11-402 of this Code relating to leaving the scene of an accident resulting in damage to a vehicle in excess of \$1,000, in which case the suspension shall be for one year;

22. Has used a motor vehicle in violating paragraph (3), (4), (7), or (9) of subsection (a) of Section 24-1 of the Criminal Code of 1961 relating to unlawful use of weapons, in which case the suspension shall be for one year;

23. Has, as a driver, been convicted of committing a violation of paragraph (a) of Section 11-502 of this Code for a second or subsequent time within one year of a similar violation;

24. Has been convicted by a court-martial or punished by non-judicial punishment by military authorities of the

United States at a military installation in Illinois of or for a traffic related offense that is the same as or similar to an offense specified under Section 6-205 or 6-206 of this Code;

25. Has permitted any form of identification to be used by another in the application process in order to obtain or attempt to obtain a license, identification card, or permit;

26. Has altered or attempted to alter a license or has possessed an altered license, identification card, or permit;

27. Has violated Section 6-16 of the Liquor Control Act of 1934;

28. Has been convicted of the illegal possession, while operating or in actual physical control, as a driver, of a motor vehicle, of any controlled substance prohibited under the Illinois Controlled Substances Act, any cannabis prohibited under the Cannabis Control Act, or any methamphetamine prohibited under the Methamphetamine Control and Community Protection Act, in which case the person's driving privileges shall be suspended for one year, and any driver who is convicted of a second or subsequent offense, within 5 years of a previous conviction, for the illegal possession, while operating or in actual physical control, as a driver, of a motor vehicle, of any controlled substance prohibited under the

Illinois Controlled Substances Act, any cannabis prohibited under the Cannabis Control Act, or any methamphetamine prohibited under the Methamphetamine Control and Community Protection Act shall be suspended for 5 years. Any defendant found guilty of this offense while operating a motor vehicle, shall have an entry made in the court record by the presiding judge that this offense did occur while the defendant was operating a motor vehicle and order the clerk of the court to report the violation to the Secretary of State;

29. Has been convicted of the following offenses that were committed while the person was operating or in actual physical control, as a driver, of a motor vehicle: criminal sexual assault, predatory criminal sexual assault of a child, aggravated criminal sexual assault, criminal sexual abuse, aggravated criminal sexual abuse, juvenile pimping, soliciting for a juvenile prostitute and the manufacture, sale or delivery of controlled substances or instruments used for illegal drug use or abuse in which case the driver's driving privileges shall be suspended for one year;

30. Has been convicted a second or subsequent time for any combination of the offenses named in paragraph 29 of this subsection, in which case the person's driving privileges shall be suspended for 5 years;

31. Has refused to submit to a test as required by

Section 11-501.6 or has submitted to a test resulting in an alcohol concentration of 0.08 or more or any amount of a drug, substance, or compound resulting from the unlawful use or consumption of cannabis as listed in the Cannabis Control Act, a controlled substance as listed in the Illinois Controlled Substances Act, an intoxicating compound as listed in the Use of Intoxicating Compounds Act, or methamphetamine as listed in the Methamphetamine Control and Community Protection Act, in which case the penalty shall be as prescribed in Section 6-208.1;

32. Has been convicted of Section 24-1.2 of the Criminal Code of 1961 relating to the aggravated discharge of a firearm if the offender was located in a motor vehicle at the time the firearm was discharged, in which case the suspension shall be for 3 years;

33. Has as a driver, who was less than 21 years of age on the date of the offense, been convicted a first time of a violation of paragraph (a) of Section 11-502 of this Code or a similar provision of a local ordinance;

34. Has committed a violation of Section 11-1301.5 of this Code;

35. Has committed a violation of Section 11-1301.6 of this Code;

36. Is under the age of 21 years at the time of arrest and has been convicted of not less than 2 offenses against traffic regulations governing the movement of vehicles

committed within any 24 month period. No revocation or suspension shall be entered more than 6 months after the date of last conviction;

37. Has committed a violation of subsection (c) of Section 11-907 of this Code;

38. Has been convicted of a violation of Section 6-20 of the Liquor Control Act of 1934 or a similar provision of a local ordinance;

39. Has committed a second or subsequent violation of Section 11-1201 of this Code;

40. Has committed a violation of subsection (a-1) of Section 11-908 of this Code;

41. Has committed a second or subsequent violation of Section 11-605.1 of this Code within 2 years of the date of the previous violation, in which case the suspension shall be for 90 days;

42. Has committed a violation of subsection (a-1) of Section 11-1301.3 of this Code; ~~or~~

43. Has received a disposition of court supervision for a violation of subsection (a), (d), or (e) of Section 6-20 of the Liquor Control Act of 1934 or a similar provision of a local ordinance, in which case the suspension shall be for a period of 3 months; or

44. ~~43.~~ Is under the age of 21 years at the time of arrest and has been convicted of an offense against traffic regulations governing the movement of vehicles after

having previously had his or her driving privileges ~~been~~ suspended or revoked pursuant to subparagraph 36 of this Section.

For purposes of paragraphs 5, 9, 10, 12, 14, 19, 25, 26, and 27 of this subsection, license means any driver's license, any traffic ticket issued when the person's driver's license is deposited in lieu of bail, a suspension notice issued by the Secretary of State, a duplicate or corrected driver's license, a probationary driver's license or a temporary driver's license.

(b) If any conviction forming the basis of a suspension or revocation authorized under this Section is appealed, the Secretary of State may rescind or withhold the entry of the order of suspension or revocation, as the case may be, provided that a certified copy of a stay order of a court is filed with the Secretary of State. If the conviction is affirmed on appeal, the date of the conviction shall relate back to the time the original judgment of conviction was entered and the 6 month limitation prescribed shall not apply.

(c) 1. Upon suspending or revoking the driver's license or permit of any person as authorized in this Section, the Secretary of State shall immediately notify the person in writing of the revocation or suspension. The notice to be deposited in the United States mail, postage prepaid, to the last known address of the person.

2. If the Secretary of State suspends the driver's

license of a person under subsection 2 of paragraph (a) of this Section, a person's privilege to operate a vehicle as an occupation shall not be suspended, provided an affidavit is properly completed, the appropriate fee received, and a permit issued prior to the effective date of the suspension, unless 5 offenses were committed, at least 2 of which occurred while operating a commercial vehicle in connection with the driver's regular occupation. All other driving privileges shall be suspended by the Secretary of State. Any driver prior to operating a vehicle for occupational purposes only must submit the affidavit on forms to be provided by the Secretary of State setting forth the facts of the person's occupation. The affidavit shall also state the number of offenses committed while operating a vehicle in connection with the driver's regular occupation. The affidavit shall be accompanied by the driver's license. Upon receipt of a properly completed affidavit, the Secretary of State shall issue the driver a permit to operate a vehicle in connection with the driver's regular occupation only. Unless the permit is issued by the Secretary of State prior to the date of suspension, the privilege to drive any motor vehicle shall be suspended as set forth in the notice that was mailed under this Section. If an affidavit is received subsequent to the effective date of this suspension, a permit may be issued for the remainder of the suspension period.

The provisions of this subparagraph shall not apply to any driver required to possess a CDL for the purpose of operating a commercial motor vehicle.

Any person who falsely states any fact in the affidavit required herein shall be guilty of perjury under Section 6-302 and upon conviction thereof shall have all driving privileges revoked without further rights.

3. At the conclusion of a hearing under Section 2-118 of this Code, the Secretary of State shall either rescind or continue an order of revocation or shall substitute an order of suspension; or, good cause appearing therefor, rescind, continue, change, or extend the order of suspension. If the Secretary of State does not rescind the order, the Secretary may upon application, to relieve undue hardship, issue a restricted driving permit granting the privilege of driving a motor vehicle between the petitioner's residence and petitioner's place of employment or within the scope of his employment related duties, or to allow transportation for the petitioner, or a household member of the petitioner's family, to receive necessary medical care and if the professional evaluation indicates, provide transportation for alcohol remedial or rehabilitative activity, or for the petitioner to attend classes, as a student, in an accredited educational institution; if the petitioner is able to demonstrate that no alternative means of transportation is reasonably

available and the petitioner will not endanger the public safety or welfare.

If a person's license or permit has been revoked or suspended due to 2 or more convictions of violating Section 11-501 of this Code or a similar provision of a local ordinance or a similar out-of-state offense, arising out of separate occurrences, that person, if issued a restricted driving permit, may not operate a vehicle unless it has been equipped with an ignition interlock device as defined in Section 1-129.1.

If a person's license or permit has been revoked or suspended 2 or more times within a 10 year period due to a single conviction of violating Section 11-501 of this Code or a similar provision of a local ordinance or a similar out-of-state offense, and a statutory summary suspension under Section 11-501.1, or 2 or more statutory summary suspensions, or combination of 2 offenses, or of an offense and a statutory summary suspension, arising out of separate occurrences, that person, if issued a restricted driving permit, may not operate a vehicle unless it has been equipped with an ignition interlock device as defined in Section 1-129.1. The person must pay to the Secretary of State DUI Administration Fund an amount not to exceed \$20 per month. The Secretary shall establish by rule the amount and the procedures, terms, and conditions relating to these fees. If the restricted driving permit was issued for

employment purposes, then this provision does not apply to the operation of an occupational vehicle owned or leased by that person's employer. In each case the Secretary may issue a restricted driving permit for a period deemed appropriate, except that all permits shall expire within one year from the date of issuance. The Secretary may not, however, issue a restricted driving permit to any person whose current revocation is the result of a second or subsequent conviction for a violation of Section 11-501 of this Code or a similar provision of a local ordinance relating to the offense of operating or being in physical control of a motor vehicle while under the influence of alcohol, other drug or drugs, intoxicating compound or compounds, or any similar out-of-state offense, or any combination of those offenses, until the expiration of at least one year from the date of the revocation. A restricted driving permit issued under this Section shall be subject to cancellation, revocation, and suspension by the Secretary of State in like manner and for like cause as a driver's license issued under this Code may be cancelled, revoked, or suspended; except that a conviction upon one or more offenses against laws or ordinances regulating the movement of traffic shall be deemed sufficient cause for the revocation, suspension, or cancellation of a restricted driving permit. The Secretary of State may, as a condition to the issuance of a restricted driving permit,

require the applicant to participate in a designated driver remedial or rehabilitative program. The Secretary of State is authorized to cancel a restricted driving permit if the permit holder does not successfully complete the program.

(c-3) In the case of a suspension under paragraph 43 of subsection (a), reports received by the Secretary of State under this Section shall, except during the actual time the suspension is in effect, be privileged information and for use only by the courts, police officers, prosecuting authorities, the driver licensing administrator of any other state, or the Secretary of State. However, beginning January 1, 2008, if the person is a CDL holder, the suspension shall also be made available to the driver licensing administrator of any other state, the U.S. Department of Transportation, and the affected driver or motor carrier or prospective motor carrier upon request.

(c-4) In the case of a suspension under paragraph 43 of subsection (a), the Secretary of State shall notify the person by mail that his or her driving privileges and driver's license will be suspended one month after the date of the mailing of the notice.

(c-5) The Secretary of State may, as a condition of the reissuance of a driver's license or permit to an applicant whose driver's license or permit has been suspended before he or she reached the age of 18 years pursuant to any of the provisions of this Section, require the applicant to

participate in a driver remedial education course and be retested under Section 6-109 of this Code.

(d) This Section is subject to the provisions of the Drivers License Compact.

(e) The Secretary of State shall not issue a restricted driving permit to a person under the age of 16 years whose driving privileges have been suspended or revoked under any provisions of this Code.

(f) In accordance with 49 C.F.R. 384, the Secretary of State may not issue a restricted driving permit for the operation of a commercial motor vehicle to a person holding a CDL whose driving privileges have been suspended, revoked, cancelled, or disqualified under any provisions of this Code.

(Source: P.A. 94-307, eff. 9-30-05; 94-556, eff. 9-11-05; 94-930, eff. 6-26-06; 95-166, eff. 1-1-08; 95-310, eff. 1-1-08; 95-382, eff. 8-23-07; revised 11-16-07.)

(Text of Section after amendment by P.A. 95-627)

Sec. 6-206. Discretionary authority to suspend or revoke license or permit; Right to a hearing.

(a) The Secretary of State is authorized to suspend or revoke the driving privileges of any person without preliminary hearing upon a showing of the person's records or other sufficient evidence that the person:

1. Has committed an offense for which mandatory revocation of a driver's license or permit is required upon

conviction;

2. Has been convicted of not less than 3 offenses against traffic regulations governing the movement of vehicles committed within any 12 month period. No revocation or suspension shall be entered more than 6 months after the date of last conviction;

3. Has been repeatedly involved as a driver in motor vehicle collisions or has been repeatedly convicted of offenses against laws and ordinances regulating the movement of traffic, to a degree that indicates lack of ability to exercise ordinary and reasonable care in the safe operation of a motor vehicle or disrespect for the traffic laws and the safety of other persons upon the highway;

4. Has by the unlawful operation of a motor vehicle caused or contributed to an accident resulting in death or injury requiring immediate professional treatment in a medical facility or doctor's office to any person, except that any suspension or revocation imposed by the Secretary of State under the provisions of this subsection shall start no later than 6 months after being convicted of violating a law or ordinance regulating the movement of traffic, which violation is related to the accident, or shall start not more than one year after the date of the accident, whichever date occurs later;

5. Has permitted an unlawful or fraudulent use of a

driver's license, identification card, or permit;

6. Has been lawfully convicted of an offense or offenses in another state, including the authorization contained in Section 6-203.1, which if committed within this State would be grounds for suspension or revocation;

7. Has refused or failed to submit to an examination provided for by Section 6-207 or has failed to pass the examination;

8. Is ineligible for a driver's license or permit under the provisions of Section 6-103;

9. Has made a false statement or knowingly concealed a material fact or has used false information or identification in any application for a license, identification card, or permit;

10. Has possessed, displayed, or attempted to fraudulently use any license, identification card, or permit not issued to the person;

11. Has operated a motor vehicle upon a highway of this State when the person's driving privilege or privilege to obtain a driver's license or permit was revoked or suspended unless the operation was authorized by a judicial driving permit, probationary license to drive, or a restricted driving permit issued under this Code;

12. Has submitted to any portion of the application process for another person or has obtained the services of another person to submit to any portion of the application

process for the purpose of obtaining a license, identification card, or permit for some other person;

13. Has operated a motor vehicle upon a highway of this State when the person's driver's license or permit was invalid under the provisions of Sections 6-107.1 and 6-110;

14. Has committed a violation of Section 6-301, 6-301.1, or 6-301.2 of this Act, or Section 14, 14A, or 14B of the Illinois Identification Card Act;

15. Has been convicted of violating Section 21-2 of the Criminal Code of 1961 relating to criminal trespass to vehicles in which case, the suspension shall be for one year;

16. Has been convicted of violating Section 11-204 of this Code relating to fleeing from a peace officer;

17. Has refused to submit to a test, or tests, as required under Section 11-501.1 of this Code and the person has not sought a hearing as provided for in Section 11-501.1;

18. Has, since issuance of a driver's license or permit, been adjudged to be afflicted with or suffering from any mental disability or disease;

19. Has committed a violation of paragraph (a) or (b) of Section 6-101 relating to driving without a driver's license;

20. Has been convicted of violating Section 6-104 relating to classification of driver's license;

21. Has been convicted of violating Section 11-402 of this Code relating to leaving the scene of an accident resulting in damage to a vehicle in excess of \$1,000, in which case the suspension shall be for one year;

22. Has used a motor vehicle in violating paragraph (3), (4), (7), or (9) of subsection (a) of Section 24-1 of the Criminal Code of 1961 relating to unlawful use of weapons, in which case the suspension shall be for one year;

23. Has, as a driver, been convicted of committing a violation of paragraph (a) of Section 11-502 of this Code for a second or subsequent time within one year of a similar violation;

24. Has been convicted by a court-martial or punished by non-judicial punishment by military authorities of the United States at a military installation in Illinois of or for a traffic related offense that is the same as or similar to an offense specified under Section 6-205 or 6-206 of this Code;

25. Has permitted any form of identification to be used by another in the application process in order to obtain or attempt to obtain a license, identification card, or permit;

26. Has altered or attempted to alter a license or has possessed an altered license, identification card, or permit;

27. Has violated Section 6-16 of the Liquor Control Act of 1934;

28. Has been convicted of the illegal possession, while operating or in actual physical control, as a driver, of a motor vehicle, of any controlled substance prohibited under the Illinois Controlled Substances Act, any cannabis prohibited under the Cannabis Control Act, or any methamphetamine prohibited under the Methamphetamine Control and Community Protection Act, in which case the person's driving privileges shall be suspended for one year, and any driver who is convicted of a second or subsequent offense, within 5 years of a previous conviction, for the illegal possession, while operating or in actual physical control, as a driver, of a motor vehicle, of any controlled substance prohibited under the Illinois Controlled Substances Act, any cannabis prohibited under the Cannabis Control Act, or any methamphetamine prohibited under the Methamphetamine Control and Community Protection Act shall be suspended for 5 years. Any defendant found guilty of this offense while operating a motor vehicle, shall have an entry made in the court record by the presiding judge that this offense did occur while the defendant was operating a motor vehicle and order the clerk of the court to report the violation to the Secretary of State;

29. Has been convicted of the following offenses that

were committed while the person was operating or in actual physical control, as a driver, of a motor vehicle: criminal sexual assault, predatory criminal sexual assault of a child, aggravated criminal sexual assault, criminal sexual abuse, aggravated criminal sexual abuse, juvenile pimping, soliciting for a juvenile prostitute and the manufacture, sale or delivery of controlled substances or instruments used for illegal drug use or abuse in which case the driver's driving privileges shall be suspended for one year;

30. Has been convicted a second or subsequent time for any combination of the offenses named in paragraph 29 of this subsection, in which case the person's driving privileges shall be suspended for 5 years;

31. Has refused to submit to a test as required by Section 11-501.6 or has submitted to a test resulting in an alcohol concentration of 0.08 or more or any amount of a drug, substance, or compound resulting from the unlawful use or consumption of cannabis as listed in the Cannabis Control Act, a controlled substance as listed in the Illinois Controlled Substances Act, an intoxicating compound as listed in the Use of Intoxicating Compounds Act, or methamphetamine as listed in the Methamphetamine Control and Community Protection Act, in which case the penalty shall be as prescribed in Section 6-208.1;

32. Has been convicted of Section 24-1.2 of the

Criminal Code of 1961 relating to the aggravated discharge of a firearm if the offender was located in a motor vehicle at the time the firearm was discharged, in which case the suspension shall be for 3 years;

33. Has as a driver, who was less than 21 years of age on the date of the offense, been convicted a first time of a violation of paragraph (a) of Section 11-502 of this Code or a similar provision of a local ordinance;

34. Has committed a violation of Section 11-1301.5 of this Code;

35. Has committed a violation of Section 11-1301.6 of this Code;

36. Is under the age of 21 years at the time of arrest and has been convicted of not less than 2 offenses against traffic regulations governing the movement of vehicles committed within any 24 month period. No revocation or suspension shall be entered more than 6 months after the date of last conviction;

37. Has committed a violation of subsection (c) of Section 11-907 of this Code;

38. Has been convicted of a violation of Section 6-20 of the Liquor Control Act of 1934 or a similar provision of a local ordinance;

39. Has committed a second or subsequent violation of Section 11-1201 of this Code;

40. Has committed a violation of subsection (a-1) of

Section 11-908 of this Code;

41. Has committed a second or subsequent violation of Section 11-605.1 of this Code within 2 years of the date of the previous violation, in which case the suspension shall be for 90 days;

42. Has committed a violation of subsection (a-1) of Section 11-1301.3 of this Code; ~~or~~

43. Has received a disposition of court supervision for a violation of subsection (a), (d), or (e) of Section 6-20 of the Liquor Control Act of 1934 or a similar provision of a local ordinance, in which case the suspension shall be for a period of 3 months; ~~or~~

44. ~~43.~~ Is under the age of 21 years at the time of arrest and has been convicted of an offense against traffic regulations governing the movement of vehicles after having previously had his or her driving privileges ~~been~~ suspended or revoked pursuant to subparagraph 36 of this Section; ~~or~~

45. ~~43.~~ Has, in connection with or during the course of a formal hearing conducted under Section 2-118 of this Code: (i) committed perjury; (ii) submitted fraudulent or falsified documents; (iii) submitted documents that have been materially altered; or (iv) ~~or~~ submitted as his or her own, documents that were in fact prepared or composed for another person.

For purposes of paragraphs 5, 9, 10, 12, 14, 19, 25, 26,

and 27 of this subsection, license means any driver's license, any traffic ticket issued when the person's driver's license is deposited in lieu of bail, a suspension notice issued by the Secretary of State, a duplicate or corrected driver's license, a probationary driver's license or a temporary driver's license.

(b) If any conviction forming the basis of a suspension or revocation authorized under this Section is appealed, the Secretary of State may rescind or withhold the entry of the order of suspension or revocation, as the case may be, provided that a certified copy of a stay order of a court is filed with the Secretary of State. If the conviction is affirmed on appeal, the date of the conviction shall relate back to the time the original judgment of conviction was entered and the 6 month limitation prescribed shall not apply.

(c) 1. Upon suspending or revoking the driver's license or permit of any person as authorized in this Section, the Secretary of State shall immediately notify the person in writing of the revocation or suspension. The notice to be deposited in the United States mail, postage prepaid, to the last known address of the person.

2. If the Secretary of State suspends the driver's license of a person under subsection 2 of paragraph (a) of this Section, a person's privilege to operate a vehicle as an occupation shall not be suspended, provided an affidavit is properly completed, the appropriate fee received, and a

permit issued prior to the effective date of the suspension, unless 5 offenses were committed, at least 2 of which occurred while operating a commercial vehicle in connection with the driver's regular occupation. All other driving privileges shall be suspended by the Secretary of State. Any driver prior to operating a vehicle for occupational purposes only must submit the affidavit on forms to be provided by the Secretary of State setting forth the facts of the person's occupation. The affidavit shall also state the number of offenses committed while operating a vehicle in connection with the driver's regular occupation. The affidavit shall be accompanied by the driver's license. Upon receipt of a properly completed affidavit, the Secretary of State shall issue the driver a permit to operate a vehicle in connection with the driver's regular occupation only. Unless the permit is issued by the Secretary of State prior to the date of suspension, the privilege to drive any motor vehicle shall be suspended as set forth in the notice that was mailed under this Section. If an affidavit is received subsequent to the effective date of this suspension, a permit may be issued for the remainder of the suspension period.

The provisions of this subparagraph shall not apply to any driver required to possess a CDL for the purpose of operating a commercial motor vehicle.

Any person who falsely states any fact in the affidavit

required herein shall be guilty of perjury under Section 6-302 and upon conviction thereof shall have all driving privileges revoked without further rights.

3. At the conclusion of a hearing under Section 2-118 of this Code, the Secretary of State shall either rescind or continue an order of revocation or shall substitute an order of suspension; or, good cause appearing therefor, rescind, continue, change, or extend the order of suspension. If the Secretary of State does not rescind the order, the Secretary may upon application, to relieve undue hardship (as defined by the rules of the Secretary of State), issue a restricted driving permit granting the privilege of driving a motor vehicle between the petitioner's residence and petitioner's place of employment or within the scope of the petitioner's employment related duties, or to allow transportation for the petitioner, or a household member of the petitioner's family, to receive necessary medical care, provide transportation to and from alcohol or drug remedial or rehabilitative activity recommended by a licensed service provider, or for the petitioner to attend classes, as a student, in an accredited educational institution. The petitioner must demonstrate that no alternative means of transportation is reasonably available and that the petitioner will not endanger the public safety or welfare. Those multiple offenders identified in subdivision (b)4 of

Section 6-208 of this Code, however, shall not be eligible for the issuance of a restricted driving permit.

(A) If a person's license or permit is revoked or suspended due to 2 or more convictions of violating Section 11-501 of this Code or a similar provision of a local ordinance or a similar out-of-state offense, or Section 9-3 of the Criminal Code of 1961, where the use of alcohol or other drugs is recited as an element of the offense, or a similar out-of-state offense, or a combination of these offenses, arising out of separate occurrences, that person, if issued a restricted driving permit, may not operate a vehicle unless it has been equipped with an ignition interlock device as defined in Section 1-129.1.

(B) If a person's license or permit is revoked or suspended 2 or more times within a 10 year period due to any combination of:

(i) a single conviction of violating Section 11-501 of this Code or a similar provision of a local ordinance or a similar out-of-state offense or Section 9-3 of the Criminal Code of 1961, where the use of alcohol or other drugs is recited as an element of the offense, or a similar out-of-state offense; or

(ii) a statutory summary suspension under Section 11-501.1; or

(iii) a suspension under Section 6-203.1, arising out of separate occurrences, that person, if issued a

restricted driving permit, may not operate a vehicle unless it has been equipped with an ignition interlock device as defined in Section 1-129.1.

(C) The person must pay to the Secretary of State DUI Administration Fund an amount not to exceed \$20 per month. The Secretary shall establish by rule the amount and the procedures, terms, and conditions relating to these fees.

(D) If the restricted driving permit is issued for employment purposes, then the prohibition against operating a motor vehicle that is not equipped with an ignition interlock device does not apply to the operation of an occupational vehicle owned or leased by that person's employer when used solely for employment purposes.

(E) In each case the Secretary may issue a restricted driving permit for a period deemed appropriate, except that all permits shall expire within one year from the date of issuance. The Secretary may not, however, issue a restricted driving permit to any person whose current revocation is the result of a second or subsequent conviction for a violation of Section 11-501 of this Code or a similar provision of a local ordinance or any similar out-of-state offense, or Section 9-3 of the Criminal Code of 1961, where the use of alcohol or other drugs is recited as an element of the offense, or any similar out-of-state offense, or any combination of those offenses, until the expiration of at least one year from the date of the

revocation. A restricted driving permit issued under this Section shall be subject to cancellation, revocation, and suspension by the Secretary of State in like manner and for like cause as a driver's license issued under this Code may be cancelled, revoked, or suspended; except that a conviction upon one or more offenses against laws or ordinances regulating the movement of traffic shall be deemed sufficient cause for the revocation, suspension, or cancellation of a restricted driving permit. The Secretary of State may, as a condition to the issuance of a restricted driving permit, require the applicant to participate in a designated driver remedial or rehabilitative program. The Secretary of State is authorized to cancel a restricted driving permit if the permit holder does not successfully complete the program.

(c-3) In the case of a suspension under paragraph 43 of subsection (a), reports received by the Secretary of State under this Section shall, except during the actual time the suspension is in effect, be privileged information and for use only by the courts, police officers, prosecuting authorities, the driver licensing administrator of any other state, or the Secretary of State. However, beginning January 1, 2008, if the person is a CDL holder, the suspension shall also be made available to the driver licensing administrator of any other state, the U.S. Department of Transportation, and the affected driver or motor carrier or prospective motor carrier upon

request.

(c-4) In the case of a suspension under paragraph 43 of subsection (a), the Secretary of State shall notify the person by mail that his or her driving privileges and driver's license will be suspended one month after the date of the mailing of the notice.

(c-5) The Secretary of State may, as a condition of the reissuance of a driver's license or permit to an applicant whose driver's license or permit has been suspended before he or she reached the age of 18 years pursuant to any of the provisions of this Section, require the applicant to participate in a driver remedial education course and be retested under Section 6-109 of this Code.

(d) This Section is subject to the provisions of the Drivers License Compact.

(e) The Secretary of State shall not issue a restricted driving permit to a person under the age of 16 years whose driving privileges have been suspended or revoked under any provisions of this Code.

(f) In accordance with 49 C.F.R. 384, the Secretary of State may not issue a restricted driving permit for the operation of a commercial motor vehicle to a person holding a CDL whose driving privileges have been suspended, revoked, cancelled, or disqualified under any provisions of this Code.

(Source: P.A. 94-307, eff. 9-30-05; 94-556, eff. 9-11-05; 94-930, eff. 6-26-06; 95-166, eff. 1-1-08; 95-310, eff. 1-1-08;

95-382, eff. 8-23-07; 95-627, eff. 6-1-08; revised 11-16-07.)

(Text of Section after amendment by P.A. 95-400)

Sec. 6-206. Discretionary authority to suspend or revoke license or permit; Right to a hearing.

(a) The Secretary of State is authorized to suspend or revoke the driving privileges of any person without preliminary hearing upon a showing of the person's records or other sufficient evidence that the person:

1. Has committed an offense for which mandatory revocation of a driver's license or permit is required upon conviction;

2. Has been convicted of not less than 3 offenses against traffic regulations governing the movement of vehicles committed within any 12 month period. No revocation or suspension shall be entered more than 6 months after the date of last conviction;

3. Has been repeatedly involved as a driver in motor vehicle collisions or has been repeatedly convicted of offenses against laws and ordinances regulating the movement of traffic, to a degree that indicates lack of ability to exercise ordinary and reasonable care in the safe operation of a motor vehicle or disrespect for the traffic laws and the safety of other persons upon the highway;

4. Has by the unlawful operation of a motor vehicle

caused or contributed to an accident resulting in death or injury requiring immediate professional treatment in a medical facility or doctor's office to any person, except that any suspension or revocation imposed by the Secretary of State under the provisions of this subsection shall start no later than 6 months after being convicted of violating a law or ordinance regulating the movement of traffic, which violation is related to the accident, or shall start not more than one year after the date of the accident, whichever date occurs later;

5. Has permitted an unlawful or fraudulent use of a driver's license, identification card, or permit;

6. Has been lawfully convicted of an offense or offenses in another state, including the authorization contained in Section 6-203.1, which if committed within this State would be grounds for suspension or revocation;

7. Has refused or failed to submit to an examination provided for by Section 6-207 or has failed to pass the examination;

8. Is ineligible for a driver's license or permit under the provisions of Section 6-103;

9. Has made a false statement or knowingly concealed a material fact or has used false information or identification in any application for a license, identification card, or permit;

10. Has possessed, displayed, or attempted to

fraudulently use any license, identification card, or permit not issued to the person;

11. Has operated a motor vehicle upon a highway of this State when the person's driving privilege or privilege to obtain a driver's license or permit was revoked or suspended unless the operation was authorized by a monitoring device driving permit, judicial driving permit issued prior to January 1, 2009 ~~the effective date of this amendatory Act of the 95th General Assembly~~, probationary license to drive, or a restricted driving permit issued under this Code;

12. Has submitted to any portion of the application process for another person or has obtained the services of another person to submit to any portion of the application process for the purpose of obtaining a license, identification card, or permit for some other person;

13. Has operated a motor vehicle upon a highway of this State when the person's driver's license or permit was invalid under the provisions of Sections 6-107.1 and 6-110;

14. Has committed a violation of Section 6-301, 6-301.1, or 6-301.2 of this Act, or Section 14, 14A, or 14B of the Illinois Identification Card Act;

15. Has been convicted of violating Section 21-2 of the Criminal Code of 1961 relating to criminal trespass to vehicles in which case, the suspension shall be for one year;

16. Has been convicted of violating Section 11-204 of this Code relating to fleeing from a peace officer;

17. Has refused to submit to a test, or tests, as required under Section 11-501.1 of this Code and the person has not sought a hearing as provided for in Section 11-501.1;

18. Has, since issuance of a driver's license or permit, been adjudged to be afflicted with or suffering from any mental disability or disease;

19. Has committed a violation of paragraph (a) or (b) of Section 6-101 relating to driving without a driver's license;

20. Has been convicted of violating Section 6-104 relating to classification of driver's license;

21. Has been convicted of violating Section 11-402 of this Code relating to leaving the scene of an accident resulting in damage to a vehicle in excess of \$1,000, in which case the suspension shall be for one year;

22. Has used a motor vehicle in violating paragraph (3), (4), (7), or (9) of subsection (a) of Section 24-1 of the Criminal Code of 1961 relating to unlawful use of weapons, in which case the suspension shall be for one year;

23. Has, as a driver, been convicted of committing a violation of paragraph (a) of Section 11-502 of this Code for a second or subsequent time within one year of a

similar violation;

24. Has been convicted by a court-martial or punished by non-judicial punishment by military authorities of the United States at a military installation in Illinois of or for a traffic related offense that is the same as or similar to an offense specified under Section 6-205 or 6-206 of this Code;

25. Has permitted any form of identification to be used by another in the application process in order to obtain or attempt to obtain a license, identification card, or permit;

26. Has altered or attempted to alter a license or has possessed an altered license, identification card, or permit;

27. Has violated Section 6-16 of the Liquor Control Act of 1934;

28. Has been convicted of the illegal possession, while operating or in actual physical control, as a driver, of a motor vehicle, of any controlled substance prohibited under the Illinois Controlled Substances Act, any cannabis prohibited under the Cannabis Control Act, or any methamphetamine prohibited under the Methamphetamine Control and Community Protection Act, in which case the person's driving privileges shall be suspended for one year, and any driver who is convicted of a second or subsequent offense, within 5 years of a previous

conviction, for the illegal possession, while operating or in actual physical control, as a driver, of a motor vehicle, of any controlled substance prohibited under the Illinois Controlled Substances Act, any cannabis prohibited under the Cannabis Control Act, or any methamphetamine prohibited under the Methamphetamine Control and Community Protection Act shall be suspended for 5 years. Any defendant found guilty of this offense while operating a motor vehicle, shall have an entry made in the court record by the presiding judge that this offense did occur while the defendant was operating a motor vehicle and order the clerk of the court to report the violation to the Secretary of State;

29. Has been convicted of the following offenses that were committed while the person was operating or in actual physical control, as a driver, of a motor vehicle: criminal sexual assault, predatory criminal sexual assault of a child, aggravated criminal sexual assault, criminal sexual abuse, aggravated criminal sexual abuse, juvenile pimping, soliciting for a juvenile prostitute and the manufacture, sale or delivery of controlled substances or instruments used for illegal drug use or abuse in which case the driver's driving privileges shall be suspended for one year;

30. Has been convicted a second or subsequent time for any combination of the offenses named in paragraph 29 of

this subsection, in which case the person's driving privileges shall be suspended for 5 years;

31. Has refused to submit to a test as required by Section 11-501.6 or has submitted to a test resulting in an alcohol concentration of 0.08 or more or any amount of a drug, substance, or compound resulting from the unlawful use or consumption of cannabis as listed in the Cannabis Control Act, a controlled substance as listed in the Illinois Controlled Substances Act, an intoxicating compound as listed in the Use of Intoxicating Compounds Act, or methamphetamine as listed in the Methamphetamine Control and Community Protection Act, in which case the penalty shall be as prescribed in Section 6-208.1;

32. Has been convicted of Section 24-1.2 of the Criminal Code of 1961 relating to the aggravated discharge of a firearm if the offender was located in a motor vehicle at the time the firearm was discharged, in which case the suspension shall be for 3 years;

33. Has as a driver, who was less than 21 years of age on the date of the offense, been convicted a first time of a violation of paragraph (a) of Section 11-502 of this Code or a similar provision of a local ordinance;

34. Has committed a violation of Section 11-1301.5 of this Code;

35. Has committed a violation of Section 11-1301.6 of this Code;

36. Is under the age of 21 years at the time of arrest and has been convicted of not less than 2 offenses against traffic regulations governing the movement of vehicles committed within any 24 month period. No revocation or suspension shall be entered more than 6 months after the date of last conviction;

37. Has committed a violation of subsection (c) of Section 11-907 of this Code;

38. Has been convicted of a violation of Section 6-20 of the Liquor Control Act of 1934 or a similar provision of a local ordinance;

39. Has committed a second or subsequent violation of Section 11-1201 of this Code;

40. Has committed a violation of subsection (a-1) of Section 11-908 of this Code;

41. Has committed a second or subsequent violation of Section 11-605.1 of this Code within 2 years of the date of the previous violation, in which case the suspension shall be for 90 days;

42. Has committed a violation of subsection (a-1) of Section 11-1301.3 of this Code; ~~or~~

43. Has received a disposition of court supervision for a violation of subsection (a), (d), or (e) of Section 6-20 of the Liquor Control Act of 1934 or a similar provision of a local ordinance, in which case the suspension shall be for a period of 3 months;~~;~~

44. ~~43.~~ Is under the age of 21 years at the time of arrest and has been convicted of an offense against traffic regulations governing the movement of vehicles after having previously had his or her driving privileges ~~been~~ suspended or revoked pursuant to subparagraph 36 of this Section; ~~or.~~

45. ~~43.~~ Has, in connection with or during the course of a formal hearing conducted under Section 2-118 of this Code: (i) committed perjury; (ii) submitted fraudulent or falsified documents; (iii) submitted documents that have been materially altered; or (iv) submitted, as his or her own, documents that were in fact prepared or composed for another person.

For purposes of paragraphs 5, 9, 10, 12, 14, 19, 25, 26, and 27 of this subsection, license means any driver's license, any traffic ticket issued when the person's driver's license is deposited in lieu of bail, a suspension notice issued by the Secretary of State, a duplicate or corrected driver's license, a probationary driver's license or a temporary driver's license.

(b) If any conviction forming the basis of a suspension or revocation authorized under this Section is appealed, the Secretary of State may rescind or withhold the entry of the order of suspension or revocation, as the case may be, provided that a certified copy of a stay order of a court is filed with the Secretary of State. If the conviction is affirmed on

appeal, the date of the conviction shall relate back to the time the original judgment of conviction was entered and the 6 month limitation prescribed shall not apply.

(c) 1. Upon suspending or revoking the driver's license or permit of any person as authorized in this Section, the Secretary of State shall immediately notify the person in writing of the revocation or suspension. The notice to be deposited in the United States mail, postage prepaid, to the last known address of the person.

2. If the Secretary of State suspends the driver's license of a person under subsection 2 of paragraph (a) of this Section, a person's privilege to operate a vehicle as an occupation shall not be suspended, provided an affidavit is properly completed, the appropriate fee received, and a permit issued prior to the effective date of the suspension, unless 5 offenses were committed, at least 2 of which occurred while operating a commercial vehicle in connection with the driver's regular occupation. All other driving privileges shall be suspended by the Secretary of State. Any driver prior to operating a vehicle for occupational purposes only must submit the affidavit on forms to be provided by the Secretary of State setting forth the facts of the person's occupation. The affidavit shall also state the number of offenses committed while operating a vehicle in connection with the driver's regular occupation. The affidavit shall be accompanied by the

driver's license. Upon receipt of a properly completed affidavit, the Secretary of State shall issue the driver a permit to operate a vehicle in connection with the driver's regular occupation only. Unless the permit is issued by the Secretary of State prior to the date of suspension, the privilege to drive any motor vehicle shall be suspended as set forth in the notice that was mailed under this Section. If an affidavit is received subsequent to the effective date of this suspension, a permit may be issued for the remainder of the suspension period.

The provisions of this subparagraph shall not apply to any driver required to possess a CDL for the purpose of operating a commercial motor vehicle.

Any person who falsely states any fact in the affidavit required herein shall be guilty of perjury under Section 6-302 and upon conviction thereof shall have all driving privileges revoked without further rights.

3. At the conclusion of a hearing under Section 2-118 of this Code, the Secretary of State shall either rescind or continue an order of revocation or shall substitute an order of suspension; or, good cause appearing therefor, rescind, continue, change, or extend the order of suspension. If the Secretary of State does not rescind the order, the Secretary may upon application, to relieve undue hardship (as defined by the rules of the Secretary of State), issue a restricted driving permit granting the

privilege of driving a motor vehicle between the petitioner's residence and petitioner's place of employment or within the scope of the petitioner's employment related duties, or to allow transportation for the petitioner, or a household member of the petitioner's family, to receive necessary medical care, provide transportation to and from alcohol or drug remedial or rehabilitative activity recommended by a licensed service provider, or for the petitioner to attend classes, as a student, in an accredited educational institution. The petitioner must demonstrate that no alternative means of transportation is reasonably available and that the petitioner will not endanger the public safety or welfare. Those multiple offenders identified in subdivision (b)4 of Section 6-208 of this Code, however, shall not be eligible for the issuance of a restricted driving permit.

(A) If a person's license or permit is revoked or suspended due to 2 or more convictions of violating Section 11-501 of this Code or a similar provision of a local ordinance or a similar out-of-state offense, or Section 9-3 of the Criminal Code of 1961, where the use of alcohol or other drugs is recited as an element of the offense, or a similar out-of-state offense, or a combination of these offenses, arising out of separate occurrences, that person, if issued a restricted driving permit, may not operate a vehicle unless it has been equipped with an

ignition interlock device as defined in Section 1-129.1.

(B) If a person's license or permit is revoked or suspended 2 or more times within a 10 year period due to any combination of:

(i) a single conviction of violating Section 11-501 of this Code or a similar provision of a local ordinance or a similar out-of-state offense or Section 9-3 of the Criminal Code of 1961, where the use of alcohol or other drugs is recited as an element of the offense, or a similar out-of-state offense; or

(ii) a statutory summary suspension under Section 11-501.1; or

(iii) a suspension under Section 6-203.1, arising out of separate occurrences, that person, if issued a restricted driving permit, may not operate a vehicle unless it has been equipped with an ignition interlock device as defined in Section 1-129.1.

(C) The person must pay to the Secretary of State DUI Administration Fund an amount not to exceed \$20 per month. The Secretary shall establish by rule the amount and the procedures, terms, and conditions relating to these fees.

(D) If the restricted driving permit is issued for employment purposes, then the prohibition against operating a motor vehicle that is not equipped with an ignition interlock device does not apply to the operation of an occupational vehicle owned or leased by that person's

employer when used solely for employment purposes.

(E) In each case the Secretary may issue a restricted driving permit for a period deemed appropriate, except that all permits shall expire within one year from the date of issuance. The Secretary may not, however, issue a restricted driving permit to any person whose current revocation is the result of a second or subsequent conviction for a violation of Section 11-501 of this Code or a similar provision of a local ordinance or any similar out-of-state offense, or Section 9-3 of the Criminal Code of 1961, where the use of alcohol or other drugs is recited as an element of the offense, or any similar out-of-state offense, or any combination of those offenses, until the expiration of at least one year from the date of the revocation. A restricted driving permit issued under this Section shall be subject to cancellation, revocation, and suspension by the Secretary of State in like manner and for like cause as a driver's license issued under this Code may be cancelled, revoked, or suspended; except that a conviction upon one or more offenses against laws or ordinances regulating the movement of traffic shall be deemed sufficient cause for the revocation, suspension, or cancellation of a restricted driving permit. The Secretary of State may, as a condition to the issuance of a restricted driving permit, require the applicant to participate in a designated driver remedial or

rehabilitative program. The Secretary of State is authorized to cancel a restricted driving permit if the permit holder does not successfully complete the program.

(c-3) In the case of a suspension under paragraph 43 of subsection (a), reports received by the Secretary of State under this Section shall, except during the actual time the suspension is in effect, be privileged information and for use only by the courts, police officers, prosecuting authorities, the driver licensing administrator of any other state, or the Secretary of State. However, beginning January 1, 2008, if the person is a CDL holder, the suspension shall also be made available to the driver licensing administrator of any other state, the U.S. Department of Transportation, and the affected driver or motor carrier or prospective motor carrier upon request.

(c-4) In the case of a suspension under paragraph 43 of subsection (a), the Secretary of State shall notify the person by mail that his or her driving privileges and driver's license will be suspended one month after the date of the mailing of the notice.

(c-5) The Secretary of State may, as a condition of the reissuance of a driver's license or permit to an applicant whose driver's license or permit has been suspended before he or she reached the age of 18 years pursuant to any of the provisions of this Section, require the applicant to participate in a driver remedial education course and be

retested under Section 6-109 of this Code.

(d) This Section is subject to the provisions of the Drivers License Compact.

(e) The Secretary of State shall not issue a restricted driving permit to a person under the age of 16 years whose driving privileges have been suspended or revoked under any provisions of this Code.

(f) In accordance with 49 C.F.R. 384, the Secretary of State may not issue a restricted driving permit for the operation of a commercial motor vehicle to a person holding a CDL whose driving privileges have been suspended, revoked, cancelled, or disqualified under any provisions of this Code.

(Source: P.A. 94-307, eff. 9-30-05; 94-556, eff. 9-11-05; 94-930, eff. 6-26-06; 95-166, eff. 1-1-08; 95-310, eff. 1-1-08; 95-382, eff. 8-23-07; 95-400, eff. 1-1-09; 95-627, eff. 6-1-08; revised 11-16-07.)

(625 ILCS 5/6-206.1) (from Ch. 95 1/2, par. 6-206.1)

(Text of Section before amendment by P.A. 95-400 and 95-578)

Sec. 6-206.1. Judicial Driving Permit. Declaration of Policy. It is hereby declared a policy of the State of Illinois that the driver who is impaired by alcohol, other drug or drugs, or intoxicating compound or compounds is a threat to the public safety and welfare. Therefore, to provide a deterrent to such practice and to remove problem drivers from the highway, a

statutory summary driver's license suspension is appropriate. It is also recognized that driving is a privilege and therefore, that in some cases the granting of limited driving privileges, where consistent with public safety, is warranted during the period of suspension in the form of a judicial driving permit to drive for the purpose of employment, receiving drug treatment or medical care, and educational pursuits, where no alternative means of transportation is available.

The following procedures shall apply whenever a first offender is arrested for any offense as defined in Section 11-501 or a similar provision of a local ordinance:

(a) Subsequent to a notification of a statutory summary suspension of driving privileges as provided in Section 11-501.1, the first offender as defined in Section 11-500 may petition the circuit court of venue for a Judicial Driving Permit, hereinafter referred as a JDP, to relieve undue hardship. The court may issue a court order, pursuant to the criteria contained in this Section, directing the Secretary of State to issue such a JDP to the petitioner. A JDP shall not become effective prior to the 31st day of the original statutory summary suspension and shall always be subject to the following criteria:

1. If ordered for the purposes of employment, the JDP shall be only for the purpose of providing the petitioner the privilege of driving a motor vehicle between the

petitioner's residence and the petitioner's place of employment and return; or within the scope of the petitioner's employment related duties, shall be effective only during and limited to those specific times and routes actually required to commute or perform the petitioner's employment related duties.

2. The court, by a court order, may also direct the Secretary of State to issue a JDP to allow transportation for the petitioner, or a household member of the petitioner's family, to receive alcohol, drug, or intoxicating compound treatment or medical care, if the petitioner is able to demonstrate that no alternative means of transportation is reasonably available. Such JDP shall be effective only during the specific times actually required to commute.

3. The court, by a court order, may also direct the Secretary of State to issue a JDP to allow transportation by the petitioner for educational purposes upon demonstrating that there are no alternative means of transportation reasonably available to accomplish those educational purposes. Such JDP shall be only for the purpose of providing transportation to and from the petitioner's residence and the petitioner's place of educational activity, and only during the specific times and routes actually required to commute or perform the petitioner's educational requirement.

4. The Court shall not issue an order granting a JDP to:

(i) Any person unless and until the court, after considering the results of a current professional evaluation of the person's alcohol or other drug use by an agency pursuant to Section 15-10 of the Alcoholism and Other Drug Abuse and Dependency Act and other appropriate investigation of the person, is satisfied that granting the privilege of driving a motor vehicle on the highways will not endanger the public safety or welfare.

(ii) Any person who has been convicted of reckless homicide within the previous 5 years.

(iii) Any person whose privilege to operate a motor vehicle was invalid at the time of arrest for the current violation of Section 11-501, or a similar provision of a local ordinance, except in cases where the cause for a driver's license suspension has been removed at the time a JDP is effective. In any case, should the Secretary of State enter a suspension or revocation of driving privileges pursuant to the provisions of this Code while the JDP is in effect or pending, the Secretary shall take the prescribed action and provide a notice to the person and the court ordering the issuance of the JDP that all driving privileges, including those provided by the issuance

of the JDP, have been withdrawn.

(iv) Any person under the age of 18 years.

(v) Any person for the operation of a commercial motor vehicle if the person's driving privileges have been suspended under any provision of this Code in accordance with 49 C.F.R. Part 384.

(b) Prior to ordering the issuance of a JDP the Court should consider at least, but not be limited to, the following issues:

1. Whether the person is employed and no other means of commuting to the place of employment is available or that the person must drive as a condition of employment. The employer shall certify the hours of employment and the need and parameters necessary for driving as a condition to employment.

2. Whether the person must drive to secure alcohol or other medical treatment for himself or a family member.

3. Whether the person must drive for educational purposes. The educational institution shall certify the person's enrollment in and academic schedule at the institution.

4. Whether the person has been repeatedly convicted of traffic violations or involved in motor vehicle accidents to a degree which indicates disrespect for public safety.

5. Whether the person has been convicted of a traffic violation in connection with a traffic accident resulting

in the death of any person within the last 5 years.

6. Whether the person is likely to obey the limited provisions of the JDP.

7. Whether the person has any additional traffic violations pending in any court.

For purposes of this Section, programs conducting professional evaluations of a person's alcohol, other drug, or intoxicating compound use must report, to the court of venue, using a form prescribed by the Secretary of State. A copy of such evaluations shall be sent to the Secretary of State by the court. However, the evaluation information shall be privileged and only available to courts and to the Secretary of State, but shall not be admissible in the subsequent trial on the underlying charge.

(c) The scope of any court order issued for a JDP under this Section shall be limited to the operation of a motor vehicle as provided for in subsection (a) of this Section and shall specify the petitioner's residence, place of employment or location of educational institution, and the scope of job related duties, if relevant. The JDP shall also specify days of the week and specific hours of the day when the petitioner is able to exercise the limited privilege of operating a motor vehicle.

(c-1) If the petitioner is issued a citation for a violation of Section 6-303 during the period of a statutory summary suspension entered under Section 11-501.1 of this Code,

or if the petitioner is charged with a violation of Section 11-501 or a similar provision of a local ordinance or a similar out of state offense which occurs after the current violation of Section 11-501 or a similar provision of a local ordinance, the court may not grant the petitioner a JDP unless the petitioner is acquitted or the citation or complaint is otherwise dismissed.

If the petitioner is issued a citation for a violation of Section 6-303 or a violation of Section 11-501 or a similar provision of a local ordinance or a similar out of state offense during the term of the JDP, the officer issuing the citation, or the law enforcement agency employing that officer, shall confiscate the JDP and immediately send the JDP and notice of the citation to the court that ordered the issuance of the JDP. Within 10 days of receipt, the issuing court, upon notice to the petitioner, shall conduct a hearing to consider cancellation of the JDP. If the court enters an order of cancellation, the court shall forward the order to the Secretary of State, and the Secretary shall cancel the JDP and notify the petitioner of the cancellation. If, however, the petitioner is convicted of the offense before the JDP has been cancelled, the court of venue shall send notice of conviction to the court that ordered issuance of the JDP. The court receiving the notice shall immediately enter an order of cancellation and forward the order to the Secretary of State. The Secretary shall cancel the JDP and notify the petitioner of

the cancellation.

If the petitioner is issued a citation for any other traffic related offense during the term of the JDP, the officer issuing the citation, or the law enforcement agency employing that officer, shall send notice of the citation to the court that ordered issuance of the JDP. Upon receipt and notice to the petitioner and an opportunity for a hearing, the court shall determine whether the violation constitutes grounds for cancellation of the JDP. If the court enters an order of cancellation, the court shall forward the order to the Secretary of State, and the Secretary shall cancel the JDP and shall notify the petitioner of the cancellation.

(d) The Secretary of State shall, upon receiving a court order from the court of venue, issue a JDP to a successful Petitioner under this Section. Such court order form shall also contain a notification, which shall be sent to the Secretary of State, providing the name, driver's license number and legal address of the successful petitioner, and the full and detailed description of the limitations of the JDP. This information shall be available only to the courts, police officers, and the Secretary of State, except during the actual period the JDP is valid, during which time it shall be a public record. The Secretary of State shall design and furnish to the courts an official court order form to be used by the courts when directing the Secretary of State to issue a JDP.

Any submitted court order that contains insufficient data

or fails to comply with this Code shall not be utilized for JDP issuance or entered to the driver record but shall be returned to the issuing court indicating why the JDP cannot be so entered. A notice of this action shall also be sent to the JDP petitioner by the Secretary of State.

(e) The circuit court of venue may conduct the judicial hearing, as provided in Section 2-118.1, and the JDP hearing provided in this Section, concurrently. Such concurrent hearing shall proceed in the court in the same manner as in other civil proceedings.

(f) The circuit court of venue may, as a condition of the issuance of a JDP, prohibit the person from operating a motor vehicle not equipped with an ignition interlock device.

(Source: P.A. 94-307, eff. 9-30-05; 94-357, eff. 1-1-06; 94-930, eff. 6-26-06.)

(Text of Section after amendment by P.A. 95-400 and 95-578)

Sec. 6-206.1. Monitoring Device Driving Permit. Declaration of Policy. It is hereby declared a policy of the State of Illinois that the driver who is impaired by alcohol, other drug or drugs, or intoxicating compound or compounds is a threat to the public safety and welfare. Therefore, to provide a deterrent to such practice and to remove problem drivers from the highway, a statutory summary driver's license suspension is appropriate. It is also recognized that driving is a privilege and therefore, that the granting of driving privileges, in a

manner consistent with public safety, is warranted during the period of suspension in the form of a monitoring device driving permit. A person who drives and fails to comply with the requirements of the monitoring device driving permit commits a violation of Section 6-303 of this Code.

The following procedures shall apply whenever a first offender is arrested for any offense as defined in Section 11-501 or a similar provision of a local ordinance:

(a) Subsequent to a notification of a statutory summary suspension of driving privileges as provided in Section 11-501.1, the court, after informing the first offender, as defined in Section 11-500, of his or her right to a monitoring device driving permit, hereinafter referred to as a MDDP, and of the obligations of the MDDP, shall enter an order directing the Secretary of State to issue a MDDP to the offender, unless the offender has opted, in writing, not to have a MDDP issued. However, the court shall not enter the order directing the Secretary of State to issue the MDDP, if the court finds:

(1) The offender's driver's license is otherwise invalid;

(2) Death or great bodily harm resulted from the arrest for Section 11-501;

(3) That the offender has been previously convicted of reckless homicide; or

(4) That the offender is less than 18 years of age.

Any court order for a MDDP shall order the person to pay

the Secretary of State a MDDP Administration Fee in an amount not to exceed \$30 per month. The Secretary shall establish by rule the amount and the procedures, terms, and conditions relating to these fees. The order shall further specify that the offender must have an ignition interlock device installed within 14 days of the date the Secretary issues the MDDP, and shall specify the vehicle in which the device is to be installed. The ignition interlock device provider must notify the Secretary, in a manner and form prescribed by the Secretary, of the installation. If the Secretary does not receive notice of installation, the Secretary shall cancel the MDDP.

A MDDP shall not become effective prior to the 31st day of the original statutory summary suspension.

(a-1) A person issued a MDDP may drive for any purpose and at any time, subject to the rules adopted by the Secretary of State under subsection (g). The person must, at his or her own expense, drive only vehicles equipped with an ignition interlock device as defined in Section 1-129.1, but in no event shall such person drive a commercial motor vehicle.

(a-2) Persons who are issued a MDDP and must drive employer-owned vehicles in the course of their employment duties may seek permission from the court to drive an employer-owned vehicle that does not have an ignition interlock device. The employee shall provide to the court a form, prescribed by the Secretary of State, completed by the employer

verifying that the employee must drive an employer-owned vehicle in the course of employment. If approved by the court, the form must be file stamped and must be in the driver's possession while operating an employer-owner vehicle not equipped with an ignition interlock device. No person may use this exemption to drive a school bus, school vehicle, or a vehicle designed to transport more than 15 passengers. No person may use this exemption to drive an employer-owned motor vehicle that is owned by an entity that is wholly or partially owned by the person holding the MDDP, or by a family member of the person holding the MDDP. No person may use this exemption to drive an employer-owned vehicle that is made available to the employee for personal use. No person may drive the exempted vehicle more than 12 hours per day, 6 days per week.

(b) (Blank).

(c) (Blank).

(c-1) If the person is issued a citation for a violation of Section 6-303 or a violation of Section 11-501 or a similar provision of a local ordinance or a similar out of state offense during the term of the MDDP, the officer issuing the citation, or the law enforcement agency employing that officer, shall confiscate the MDDP and immediately send the MDDP and notice of the citation to the court that ordered the issuance of the MDDP. Within 10 days of receipt, the issuing court, upon notice to the person, shall conduct a hearing to consider cancellation of the MDDP. If the court enters an order of

cancellation, the court shall forward the order to the Secretary of State, and the Secretary shall cancel the MDDP and notify the person of the cancellation. If, however, the person is convicted of the offense before the MDDP has been cancelled, the court of venue shall send notice of conviction to the court that ordered issuance of the MDDP. The court receiving the notice shall immediately enter an order of cancellation and forward the order to the Secretary of State. The Secretary shall cancel the MDDP and notify the person of the cancellation.

If the person is issued a citation for any other traffic related offense during the term of the MDDP, the officer issuing the citation, or the law enforcement agency employing that officer, shall send notice of the citation to the court that ordered issuance of the MDDP. Upon receipt and notice to the person and an opportunity for a hearing, the court shall determine whether the violation constitutes grounds for cancellation of the MDDP. If the court enters an order of cancellation, the court shall forward the order to the Secretary of State, and the Secretary shall cancel the MDDP and shall notify the person of the cancellation.

(c-5) If the court determines that the person seeking the MDDP is indigent, the court shall provide the person with a written document, in a form prescribed by the Secretary of State, as evidence of that determination, and the person shall provide that written document to an ignition interlock device

provider. The provider shall install an ignition interlock device on that person's vehicle without charge to the person, and seek reimbursement from the Indigent BAIID Fund.

(d) The Secretary of State shall, upon receiving a court order from the court of venue, issue a MDDP to a person who applies under this Section. Such court order form shall also contain a notification, which shall be sent to the Secretary of State, providing the name, driver's license number and legal address of the applicant. This information shall be available only to the courts, police officers, and the Secretary of State, except during the actual period the MDDP is valid, during which time it shall be a public record. The Secretary of State shall design and furnish to the courts an official court order form to be used by the courts when directing the Secretary of State to issue a MDDP.

Any submitted court order that contains insufficient data or fails to comply with this Code shall not be utilized for MDDP issuance or entered to the driver record but shall be returned to the issuing court indicating why the MDDP cannot be so entered. A notice of this action shall also be sent to the MDDP applicant by the Secretary of State.

(e) (Blank).

(f) (Blank).

(g) The Secretary of State shall adopt rules for implementing this Section. The rules adopted shall address issues including, but not limited to: compliance with the

requirements of the MDDP; methods for determining compliance with those requirements; the consequences of noncompliance with those requirements; what constitutes a violation of the MDDP; and the duties of a person or entity that supplies the ignition interlock device.

(h) The rules adopted under subsection (g) shall provide, at a minimum, that the person is not in compliance with the requirements of the MDDP if he or she:

(1) tampers or attempts to tamper with or circumvent the proper operation of the ignition interlock device;

(2) provides valid breath samples that register blood alcohol levels in excess of the number of times allowed under the rules;

(3) fails to provide evidence sufficient to satisfy the Secretary that the ignition interlock device has been installed in the designated vehicle or vehicles; or

(4) fails to follow any other applicable rules adopted by the Secretary.

(i) Any person or entity that supplies an ignition interlock device as provided under this Section shall, in addition to supplying only those devices which fully comply with all the rules adopted under subsection (g), provide the Secretary, within 7 days of inspection, all monitoring reports of each person who has had an ignition interlock device installed. These reports shall be furnished in a manner or form as prescribed by the Secretary.

(j) Upon making a determination that a violation of the requirements of the MDDP has occurred, the Secretary shall extend the summary suspension period for an additional 3 months beyond the originally imposed summary suspension period, during which time the person shall only be allowed to drive vehicles equipped with an ignition interlock device; provided further there are no limitations on the number of times the summary suspension may be extended. Any person whose summary suspension is extended pursuant to this Section shall have the right to contest the extension through an administrative hearing with the Secretary. If the summary suspension has already terminated prior to the Secretary receiving the monitoring report that shows a violation, the Secretary shall be authorized to suspend the person's driving privileges for 3 months. The only permit the person shall be eligible for during this new suspension period is a MDDP.

(k) A person who has had his or her summary suspension extended for the third time shall have his or her vehicle impounded for a period of 30 days, at the person's own expense. A person who has his or her summary suspension extended for the fourth time shall have his or her vehicle subject to seizure and forfeiture. The Secretary shall notify the prosecuting authority of any third or fourth extensions. Upon receipt of the notification, the prosecuting authority shall impound or forfeit the vehicle.

(l) A person whose driving privileges have been suspended

under Section 11-501.1 of this Code and who had a MDDP that was cancelled pursuant to subsection (c-1) of this Section, shall not be eligible for reinstatement when the summary suspension is scheduled to terminate, but instead shall be eligible only to apply for a restricted driving permit. If a restricted driving permit is granted, the offender may only operate vehicles equipped with an ignition interlock device, for a period of not less than twice the original summary suspension period.

(m) Any person or entity that supplies an ignition interlock device under this Section shall, for each ignition interlock device installed, pay 5% of the total gross revenue received for the device into the Indigent BAIID Fund. This 5% shall be clearly indicated as a separate surcharge on each invoice that is issued. The Secretary shall conduct an annual review of the fund to determine whether the surcharge is sufficient to provide for indigent users. The Secretary may increase or decrease this surcharge requirement as needed.

(n) Any person or entity that supplies an ignition interlock device under this Section that is requested to provide an ignition interlock device to a person who presents written documentation of indigency from the court, as provided in subsection (c-5) of this Section, shall install the device on the person's vehicle without charge to the person and shall seek reimbursement from the Indigent BAIID Fund.

(o) The Indigent BAIID Fund is created as a special fund in

the State treasury. The Secretary of State shall, subject to appropriation by the General Assembly, use all money in the Indigent BAIID Fund to reimburse ignition interlock device providers who have installed devices in vehicles of indigent persons pursuant to court orders issued under this Section. The Secretary shall make payments to such providers every 3 months. If the amount of money in the fund at the time payments are made is not sufficient to pay all requests for reimbursement submitted during that 3 month period, the Secretary shall make payments on a pro-rata basis, and those payments shall be considered payment in full for the requests submitted.

(p) The Monitoring Device Driving Permit Administration Fee Fund is created as a special fund in the State treasury. The Secretary of State shall, subject to appropriation by the General Assembly, use the money paid into this fund to offset its administrative costs for administering MDDPs.

(Source: P.A. 94-307, eff. 9-30-05; 94-357, eff. 1-1-06; 94-930, eff. 6-26-06; 95-400, eff. 1-1-09; 95-578, eff. 1-1-09; revised 11-16-07.)

(625 ILCS 5/6-206.2)

(Text of Section before amendment by P.A. 95-578)

Sec. 6-206.2. Violations relating to an ignition interlock device.

(a) It is unlawful for any person whose driving privilege is restricted by being prohibited from operating a motor

vehicle not equipped with an ignition interlock device to operate a motor vehicle not equipped with an ignition interlock device.

(a-5) It is unlawful for any person whose driving privilege is restricted by being prohibited from operating a motor vehicle not equipped with an ignition interlock device to request or solicit any other person to blow into an ignition interlock device or to start a motor vehicle equipped with the device for the purpose of providing the person so restricted with an operable motor vehicle.

(b) It is unlawful to blow into an ignition interlock device or to start a motor vehicle equipped with the device for the purpose of providing an operable motor vehicle to a person whose driving privilege is restricted by being prohibited from operating a motor vehicle not equipped with an ignition interlock device.

(c) It is unlawful to tamper with, or circumvent the operation of, an ignition interlock device.

(d) Except as provided in subsection (c)(17) of Section 5-6-3.1 of the Unified Code of Corrections or by rule, no person shall knowingly rent, lease, or lend a motor vehicle to a person known to have his or her driving privilege restricted by being prohibited from operating a vehicle not equipped with an ignition interlock device, unless the vehicle is equipped with a functioning ignition interlock device. Any person whose driving privilege is so restricted shall notify any person

intending to rent, lease, or loan a motor vehicle to the restricted person of the driving restriction imposed upon him or her.

(d-5) A person convicted of a violation of this Section is guilty of a Class A misdemeanor.

(e) (Blank).

(Source: P.A. 95-27, eff. 1-1-08.)

(Text of Section after amendment by P.A. 95-578)

Sec. 6-206.2. Violations relating to an ignition interlock device.

(a) It is unlawful for any person whose driving privilege is restricted by being prohibited from operating a motor vehicle not equipped with an ignition interlock device to operate a motor vehicle not equipped with an ignition interlock device.

(a-5) It is unlawful for any person whose driving privilege is restricted by being prohibited from operating a motor vehicle not equipped with an ignition interlock device to request or solicit any other person to blow into an ignition interlock device or to start a motor vehicle equipped with the device for the purpose of providing the person so restricted with an operable motor vehicle.

(b) It is unlawful to blow into an ignition interlock device or to start a motor vehicle equipped with the device for the purpose of providing an operable motor vehicle to a person

whose driving privilege is restricted by being prohibited from operating a motor vehicle not equipped with an ignition interlock device.

(c) It is unlawful to tamper with, or circumvent the operation of, an ignition interlock device.

(d) Except as provided in subsection (c)(17) of Section 5-6-3.1 of the Unified Code of Corrections or by rule, no person shall knowingly rent, lease, or lend a motor vehicle to a person known to have his or her driving privilege restricted by being prohibited from operating a vehicle not equipped with an ignition interlock device, unless the vehicle is equipped with a functioning ignition interlock device. Any person whose driving privilege is so restricted shall notify any person intending to rent, lease, or loan a motor vehicle to the restricted person of the driving restriction imposed upon him or her.

(d-5) A person convicted of a violation of this Section is guilty of a Class A misdemeanor.

(e) (Blank). ~~Section 11-501.01~~

(Source: P.A. 95-27, eff. 1-1-08; 95-578, eff. 6-1-08; revised 11-19-07.)

(625 ILCS 5/6-208) (from Ch. 95 1/2, par. 6-208)

Sec. 6-208. Period of Suspension - Application After Revocation.

(a) Except as otherwise provided by this Code or any other

law of this State, the Secretary of State shall not suspend a driver's license, permit, or privilege to drive a motor vehicle on the highways for a period of more than one year.

(b) Any person whose license, permit, or privilege to drive a motor vehicle on the highways has been revoked shall not be entitled to have such license, permit, or privilege renewed or restored. However, such person may, except as provided under subsections (d) and (d-5) of Section 6-205, make application for a license pursuant to Section 6-106 (i) if the revocation was for a cause that ~~which~~ has been removed or (ii) as provided in the following subparagraphs:

1. Except as provided in subparagraphs 1.5, 2, 3, 4, and 5, the person may make application for a license (A) after the expiration of one year from the effective date of the revocation ~~or~~, (B) in the case of a violation of paragraph (b) of Section 11-401 of this Code or a similar provision of a local ordinance, after the expiration of 3 years from the effective date of the revocation, or ~~7~~ (C) in the case of a violation of Section 9-3 of the Criminal Code of 1961 or a similar provision of a law of another state relating to the offense of reckless homicide or a violation of subparagraph (F) of paragraph 1 of subsection (d) of Section 11-501 of this Code relating to aggravated driving under the influence of alcohol, other drug or drugs, intoxicating compound or compounds, or any combination thereof, if the violation was the proximate cause of a

death, after the expiration of 2 years from the effective date of the revocation or after the expiration of 24 months from the date of release from a period of imprisonment as provided in Section 6-103 of this Code, whichever is later.

1.5. If the person is convicted of a violation of Section 6-303 of this 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, relating to the offense of reckless homicide, or a similar provision of a law of another state, the person may not make application for a license or permit until the expiration of 3 years from the effective date of the most recent revocation.

2. If such person is convicted of committing a second violation within a 20-year ~~20-year~~ period of:

(A) Section 11-501 of this Code~~7~~ or a similar provision of a local ordinance; ~~or~~

(B) Paragraph (b) of Section 11-401 of this Code~~7~~ or a similar provision of a local ordinance; ~~or~~

(C) Section 9-3 of the Criminal Code of 1961~~7~~~~as amended~~, relating to the offense of reckless homicide; or

(D) any combination of the above offenses committed at different instances;

then such person may not make application for a license until after the expiration of 5 years from the effective

date of the most recent revocation. The 20-year ~~20-year~~ period shall be computed by using the dates the offenses were committed and shall also include similar out-of-state offenses and similar offenses committed on a military installation.

3. However, except as provided in subparagraph 4, if such person is convicted of committing a third~~7~~ or subsequent~~7~~ violation or any combination of the above offenses, including similar out-of-state offenses and similar offenses committed on a military installation, contained in subparagraph 2, then such person may not make application for a license until after the expiration of 10 years from the effective date of the most recent revocation.

4. The person may not make application for a license if the person is convicted of committing a fourth or subsequent violation of Section 11-501 of this Code or a similar provision of a local ordinance, Section 11-401 of this Code, Section 9-3 of the Criminal Code of 1961, or a combination of these offenses~~4~~ ~~or~~ similar provisions of local ordinances~~4~~ ~~or~~ similar out-of-state offenses~~4~~ or similar offenses committed on a military installation.

5. The person may not make application for a license or permit if the person is convicted of a third or subsequent violation of Section 6-303 of this 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, relating to the offense of reckless homicide, or a similar provision of a law of another state.

Notwithstanding any other provision of this Code, all persons referred to in this paragraph (b) may not have their privileges restored until the Secretary receives payment of the required reinstatement fee pursuant to subsection (b) of Section 6-118.

In no event shall the Secretary issue such license unless and until such person has had a hearing pursuant to this Code and the appropriate administrative rules and the Secretary is satisfied, after a review or investigation of such person, that to grant the privilege of driving a motor vehicle on the highways will not endanger the public safety or welfare.

(c) (Blank).

(Source: P.A. 95-331, eff. 8-21-07; 95-355, eff. 1-1-08; 95-377, eff. 1-1-08; revised 11-19-07.)

(625 ILCS 5/6-208.1) (from Ch. 95 1/2, par. 6-208.1)

(Text of Section before amendment by P.A. 95-400)

Sec. 6-208.1. Period of statutory summary alcohol, other drug, or intoxicating compound related suspension.

(a) Unless the statutory summary suspension has been rescinded, any person whose privilege to drive a motor vehicle on the public highways has been summarily suspended, pursuant to Section 11-501.1, shall not be eligible for restoration of

the privilege until the expiration of:

1. Six months from the effective date of the statutory summary suspension for a refusal or failure to complete a test or tests to determine the alcohol, drug, or intoxicating compound concentration, pursuant to Section 11-501.1; or

2. Three months from the effective date of the statutory summary suspension imposed following the person's submission to a chemical test which disclosed an alcohol concentration of 0.08 or more, or any amount of a drug, substance, or intoxicating compound in such person's breath, blood, or urine resulting from the unlawful use or consumption of cannabis listed in the Cannabis Control Act, a controlled substance listed in the Illinois Controlled Substances Act, an intoxicating compound listed in the Use of Intoxicating Compounds Act, or methamphetamine as listed in the Methamphetamine Control and Community Protection Act, pursuant to Section 11-501.1; or

3. Three years from the effective date of the statutory summary suspension for any person other than a first offender who refuses or fails to complete a test or tests to determine the alcohol, drug, or intoxicating compound concentration pursuant to Section 11-501.1; or

4. One year from the effective date of the summary suspension imposed for any person other than a first offender following submission to a chemical test which

disclosed an alcohol concentration of 0.08 or more pursuant to Section 11-501.1 or any amount of a drug, substance or compound in such person's blood or urine resulting from the unlawful use or consumption of cannabis listed in the Cannabis Control Act, a controlled substance listed in the Illinois Controlled Substances Act, an intoxicating compound listed in the Use of Intoxicating Compounds Act, or methamphetamine as listed in the Methamphetamine Control and Community Protection Act.

(b) Following a statutory summary suspension of the privilege to drive a motor vehicle under Section 11-501.1, driving privileges shall be restored unless the person is otherwise suspended, revoked, or cancelled by this Code. If the court has reason to believe that the person's driving privilege should not be restored, the court shall notify the Secretary of State prior to the expiration of the statutory summary suspension so appropriate action may be taken pursuant to this Code.

(c) Driving privileges may not be restored until all applicable reinstatement fees, as provided by this Code, have been paid to the Secretary of State and the appropriate entry made to the driver's record.

(d) Where a driving privilege has been summarily suspended under Section 11-501.1 and the person is subsequently convicted of violating Section 11-501, or a similar provision of a local ordinance, for the same incident, any period served on

statutory summary suspension shall be credited toward the minimum period of revocation of driving privileges imposed pursuant to Section 6-205.

(e) Following a statutory summary suspension of driving privileges pursuant to Section 11-501.1, for a first offender, the circuit court may, after at least 30 days from the effective date of the statutory summary suspension, issue a judicial driving permit as provided in Section 6-206.1.

(f) Subsequent to an arrest of a first offender, for any offense as defined in Section 11-501 or a similar provision of a local ordinance, following a statutory summary suspension of driving privileges pursuant to Section 11-501.1, for a first offender, the circuit court may issue a court order directing the Secretary of State to issue a judicial driving permit as provided in Section 6-206.1. However, this JDP shall not be effective prior to the 31st day of the statutory summary suspension.

(g) Following a statutory summary suspension of driving privileges pursuant to Section 11-501.1 where the person was not a first offender, as defined in Section 11-500, the Secretary of State may not issue a restricted driving permit.

(h) (Blank).

(Source: P.A. 95-355, eff. 1-1-08.)

(Text of Section after amendment by P.A. 95-400)

Sec. 6-208.1. Period of statutory summary alcohol, other

drug, or intoxicating compound related suspension.

(a) Unless the statutory summary suspension has been rescinded, any person whose privilege to drive a motor vehicle on the public highways has been summarily suspended, pursuant to Section 11-501.1, shall not be eligible for restoration of the privilege until the expiration of:

1. Twelve months from the effective date of the statutory summary suspension for a refusal or failure to complete a test or tests to determine the alcohol, drug, or intoxicating compound concentration, pursuant to Section 11-501.1; or

2. Six months from the effective date of the statutory summary suspension imposed following the person's submission to a chemical test which disclosed an alcohol concentration of 0.08 or more, or any amount of a drug, substance, or intoxicating compound in such person's breath, blood, or urine resulting from the unlawful use or consumption of cannabis listed in the Cannabis Control Act, a controlled substance listed in the Illinois Controlled Substances Act, an intoxicating compound listed in the Use of Intoxicating Compounds Act, or methamphetamine as listed in the Methamphetamine Control and Community Protection Act, pursuant to Section 11-501.1; or

3. Three years from the effective date of the statutory summary suspension for any person other than a first offender who refuses or fails to complete a test or tests

to determine the alcohol, drug, or intoxicating compound concentration pursuant to Section 11-501.1; or

4. One year from the effective date of the summary suspension imposed for any person other than a first offender following submission to a chemical test which disclosed an alcohol concentration of 0.08 or more pursuant to Section 11-501.1 or any amount of a drug, substance or compound in such person's blood or urine resulting from the unlawful use or consumption of cannabis listed in the Cannabis Control Act, a controlled substance listed in the Illinois Controlled Substances Act, an intoxicating compound listed in the Use of Intoxicating Compounds Act, or methamphetamine as listed in the Methamphetamine Control and Community Protection Act.

(b) Following a statutory summary suspension of the privilege to drive a motor vehicle under Section 11-501.1, driving privileges shall be restored unless the person is otherwise suspended, revoked, or cancelled by this Code. If the court has reason to believe that the person's driving privilege should not be restored, the court shall notify the Secretary of State prior to the expiration of the statutory summary suspension so appropriate action may be taken pursuant to this Code.

(c) Driving privileges may not be restored until all applicable reinstatement fees, as provided by this Code, have been paid to the Secretary of State and the appropriate entry

made to the driver's record.

(d) Where a driving privilege has been summarily suspended under Section 11-501.1 and the person is subsequently convicted of violating Section 11-501, or a similar provision of a local ordinance, for the same incident, any period served on statutory summary suspension shall be credited toward the minimum period of revocation of driving privileges imposed pursuant to Section 6-205.

(e) Following a statutory summary suspension of driving privileges pursuant to Section 11-501.1, for a first offender, the circuit court shall, unless the offender has opted in writing not to have a monitoring device driving permit issued, order the Secretary of State to issue a monitoring device driving permit as provided in Section 6-206.1. A monitoring device driving permit shall not be effective prior to the 31st day of the statutory summary suspension.

(f) (Blank).

(g) Following a statutory summary suspension of driving privileges pursuant to Section 11-501.1 where the person was not a first offender, as defined in Section 11-500, the Secretary of State may not issue a restricted driving permit.

(h) (Blank).

(Source: P.A. 95-355, eff. 1-1-08; 95-400, eff. 1-1-09; revised 12-21-07.)

(625 ILCS 5/6-303) (from Ch. 95 1/2, par. 6-303)

(Text of Section before amendment by P.A. 95-400)

Sec. 6-303. Driving while driver's license, permit or privilege to operate a motor vehicle is suspended or revoked.

(a) Except as otherwise provided in subsection (a-5), any person who drives or is in actual physical control of a motor vehicle on any highway of this State at a time when such person's driver's license, permit or privilege to do so or the privilege to obtain a driver's license or permit is revoked or suspended as provided by this Code or the law of another state, except as may be specifically allowed by a judicial driving permit, family financial responsibility driving permit, probationary license to drive, or a restricted driving permit issued pursuant to this Code or under the law of another state, shall be guilty of a Class A misdemeanor.

(a-5) Any person who violates this Section as provided in subsection (a) while his or her driver's license, permit or privilege is revoked because of a violation of Section 9-3 of the Criminal Code of 1961, relating to the offense of reckless homicide or a similar provision of a law of another state, is guilty of a Class 4 felony. The person shall be required to undergo a professional evaluation, as provided in Section 11-501 of this Code, to determine if an alcohol, drug, or intoxicating compound problem exists and the extent of the problem, and to undergo the imposition of treatment as appropriate.

(b) The Secretary of State upon receiving a report of the

conviction of any violation indicating a person was operating a motor vehicle during the time when said person's driver's license, permit or privilege was suspended by the Secretary, by the appropriate authority of another state, or pursuant to Section 11-501.1; except as may be specifically allowed by a probationary license to drive, judicial driving permit or restricted driving permit issued pursuant to this Code or the law of another state; shall extend the suspension for the same period of time as the originally imposed suspension; however, if the period of suspension has then expired, the Secretary shall be authorized to suspend said person's driving privileges for the same period of time as the originally imposed suspension.

(b-3) When the Secretary of State receives a report of a conviction of any violation indicating that a vehicle was operated during the time when the person's driver's license, permit or privilege was revoked, except as may be allowed by a restricted driving permit issued pursuant to this Code or the law of another state, the Secretary shall not issue a driver's license to that person for an additional period of one year from the date of such conviction.

(b-4) ~~(b-5)~~ When the Secretary of State receives a report of a conviction of any violation indicating a person was operating a motor vehicle that was not equipped with an ignition interlock device during a time when the person was prohibited from operating a motor vehicle not equipped with

such a device, the Secretary shall not issue a driver's license to that person for an additional period of one year from the date of the conviction.

(b-5) Any person convicted of violating this Section shall serve a minimum term of imprisonment of 30 consecutive days or 300 hours of community service when the person's driving privilege was revoked or suspended as a result of a violation of Section 9-3 of the Criminal Code of 1961, as amended, relating to the offense of reckless homicide, or a similar provision of a law of another state.

(c) Any person convicted of violating this Section shall serve a minimum term of imprisonment of 10 consecutive days or 30 days of community service when the person's driving privilege was revoked or suspended as a result of:

(1) a violation of Section 11-501 of this Code or a similar provision of a local ordinance relating to the 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

(2) a violation of paragraph (b) of Section 11-401 of this Code or a similar provision of a local ordinance relating to the offense of leaving the scene of a motor vehicle accident involving personal injury or death; or

(3) a statutory summary suspension under Section 11-501.1 of this Code.

Such sentence of imprisonment or community service shall

not be subject to suspension in order to reduce such sentence.

(c-1) Except as provided in subsections (c-5) and (d), any person convicted of a second violation of this Section shall be ordered by the court to serve a minimum of 100 hours of community service.

(c-2) In addition to other penalties imposed under this Section, the court may impose on any person convicted a fourth time of violating this Section any of the following:

(1) Seizure of the license plates of the person's vehicle.

(2) Immobilization of the person's vehicle for a period of time to be determined by the court.

(c-5) Any person convicted of a second violation of this Section is guilty of a Class 2 felony, is not eligible for probation or conditional discharge, and shall serve a mandatory term of imprisonment, if the revocation or suspension was for a violation of Section 9-3 of the Criminal Code of 1961, relating to the offense of reckless homicide, or a similar out-of-state offense.

(d) Any person convicted of a second violation of this Section shall be guilty of a Class 4 felony and shall serve a minimum term of imprisonment of 30 days or 300 hours of community service, as determined by the court, if the revocation or suspension was for a violation of Section 11-401 or 11-501 of this Code, or a similar out-of-state offense, or a similar provision of a local ordinance, or a statutory summary

suspension under Section 11-501.1 of this Code.

(d-1) Except as provided in subsections (d-2), (d-2.5), and (d-3), any person convicted of a third or subsequent violation of this Section shall serve a minimum term of imprisonment of 30 days or 300 hours of community service, as determined by the court.

(d-2) Any person convicted of a third violation of this Section is guilty of a Class 4 felony and must serve a minimum term of imprisonment of 30 days if the revocation or suspension was for a violation of Section 11-401 or 11-501 of this Code, or a similar out-of-state offense, or a similar provision of a local ordinance, or a statutory summary suspension under Section 11-501.1 of this Code.

(d-2.5) Any person convicted of a third violation of this Section is guilty of a Class 1 felony, is not eligible for probation or conditional discharge, and must serve a mandatory term of imprisonment if the revocation or suspension was for a violation of Section 9-3 of the Criminal Code of 1961, relating to the offense of reckless homicide, or a similar out-of-state offense.

(d-3) Any person convicted of a fourth, fifth, sixth, seventh, eighth, or ninth violation of this Section is guilty of a Class 4 felony and must serve a minimum term of imprisonment of 180 days if the revocation or suspension was for a violation of Section 11-401 or 11-501 of this Code, or a similar out-of-state offense, or a similar provision of a local

ordinance, or a statutory summary suspension under Section 11-501.1 of this Code.

(d-3.5) Any person convicted of a fourth or subsequent violation of this Section is guilty of a Class 1 felony, is not eligible for probation or conditional discharge, and must serve a mandatory term of imprisonment, and is eligible for an extended term, if the revocation or suspension was for a violation of Section 9-3 of the Criminal Code of 1961, relating to the offense of reckless homicide, or a similar out-of-state offense.

(d-4) Any person convicted of a tenth, eleventh, twelfth, thirteenth, or fourteenth violation of this Section is guilty of a Class 3 felony, and is not eligible for probation or conditional discharge, if the revocation or suspension was for a violation of Section 11-401 or 11-501 of this Code, or a similar out-of-state offense, or a similar provision of a local ordinance, or a statutory summary suspension under Section 11-501.1 of this Code.

(d-5) Any person convicted of a fifteenth or subsequent violation of this Section is guilty of a Class 2 felony, and is not eligible for probation or conditional discharge, if the revocation or suspension was for a violation of Section 11-401 or 11-501 of this Code, or a similar out-of-state offense, or a similar provision of a local ordinance, or a statutory summary suspension under Section 11-501.1 of this Code.

(e) Any person in violation of this Section who is also in

violation of Section 7-601 of this Code relating to mandatory insurance requirements, in addition to other penalties imposed under this Section, shall have his or her motor vehicle immediately impounded by the arresting law enforcement officer. The motor vehicle may be released to any licensed driver upon a showing of proof of insurance for the vehicle that was impounded and the notarized written consent for the release by the vehicle owner.

(f) For any prosecution under this Section, a certified copy of the driving abstract of the defendant shall be admitted as proof of any prior conviction.

(g) The motor vehicle used in a violation of this Section is subject to seizure and forfeiture as provided in Sections 36-1 and 36-2 of the Criminal Code of 1961 if the person's driving privilege was revoked or suspended as a result of a violation listed in paragraph (1), (2), or (3) of subsection (c) of this Section or as a result of a summary suspension as provided in paragraph (4) of subsection (c) of this Section.

(Source: P.A. 94-112, eff. 1-1-06; 95-578, rely on 95-27 and 95-377, eff. 1-1-08; revised 11-19-07.)

(Text of Section after amendment by P.A. 95-400)

Sec. 6-303. Driving while driver's license, permit or privilege to operate a motor vehicle is suspended or revoked.

(a) Except as otherwise provided in subsection (a-5), any person who drives or is in actual physical control of a motor

vehicle on any highway of this State at a time when such person's driver's license, permit or privilege to do so or the privilege to obtain a driver's license or permit is revoked or suspended as provided by this Code or the law of another state, except as may be specifically allowed by a judicial driving permit issued prior to January 1, 2009 ~~the effective date of this amendatory Act of the 95th General Assembly~~, monitoring device driving permit, family financial responsibility driving permit, probationary license to drive, or a restricted driving permit issued pursuant to this Code or under the law of another state, shall be guilty of a Class A misdemeanor.

(a-5) Any person who violates this Section as provided in subsection (a) while his or her driver's license, permit or privilege is revoked because of a violation of Section 9-3 of the Criminal Code of 1961, relating to the offense of reckless homicide or a similar provision of a law of another state, is guilty of a Class 4 felony. The person shall be required to undergo a professional evaluation, as provided in Section 11-501 of this Code, to determine if an alcohol, drug, or intoxicating compound problem exists and the extent of the problem, and to undergo the imposition of treatment as appropriate.

(b) The Secretary of State upon receiving a report of the conviction of any violation indicating a person was operating a motor vehicle during the time when said person's driver's license, permit or privilege was suspended by the Secretary, by

the appropriate authority of another state, or pursuant to Section 11-501.1; except as may be specifically allowed by a probationary license to drive, judicial driving permit issued prior to January 1, 2009 ~~the effective date of this amendatory Act of the 95th General Assembly~~, monitoring device driving permit, or restricted driving permit issued pursuant to this Code or the law of another state; shall extend the suspension for the same period of time as the originally imposed suspension; however, if the period of suspension has then expired, the Secretary shall be authorized to suspend said person's driving privileges for the same period of time as the originally imposed suspension.

(b-3) When the Secretary of State receives a report of a conviction of any violation indicating that a vehicle was operated during the time when the person's driver's license, permit or privilege was revoked, except as may be allowed by a restricted driving permit issued pursuant to this Code or the law of another state, the Secretary shall not issue a driver's license to that person for an additional period of one year from the date of such conviction.

(b-4) ~~(b-5)~~ When the Secretary of State receives a report of a conviction of any violation indicating a person was operating a motor vehicle that was not equipped with an ignition interlock device during a time when the person was prohibited from operating a motor vehicle not equipped with such a device, the Secretary shall not issue a driver's license

to that person for an additional period of one year from the date of the conviction.

(b-5) Any person convicted of violating this Section shall serve a minimum term of imprisonment of 30 consecutive days or 300 hours of community service when the person's driving privilege was revoked or suspended as a result of a violation of Section 9-3 of the Criminal Code of 1961, as amended, relating to the offense of reckless homicide, or a similar provision of a law of another state.

(c) Except as provided in subsections (c-3) and (c-4), any person convicted of violating this Section shall serve a minimum term of imprisonment of 10 consecutive days or 30 days of community service when the person's driving privilege was revoked or suspended as a result of:

(1) a violation of Section 11-501 of this Code or a similar provision of a local ordinance relating to the 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

(2) a violation of paragraph (b) of Section 11-401 of this Code or a similar provision of a local ordinance relating to the offense of leaving the scene of a motor vehicle accident involving personal injury or death; or

(3) a statutory summary suspension under Section 11-501.1 of this Code.

Such sentence of imprisonment or community service shall

not be subject to suspension in order to reduce such sentence.

(c-1) Except as provided in subsections (c-5) and (d), any person convicted of a second violation of this Section shall be ordered by the court to serve a minimum of 100 hours of community service.

(c-2) In addition to other penalties imposed under this Section, the court may impose on any person convicted a fourth time of violating this Section any of the following:

(1) Seizure of the license plates of the person's vehicle.

(2) Immobilization of the person's vehicle for a period of time to be determined by the court.

(c-3) Any person convicted of a violation of this Section during a period of summary suspension imposed pursuant to Section 11-501.1 when the person was eligible for a MDDP shall be guilty of a Class 4 felony and shall serve a minimum term of imprisonment of 30 days.

(c-4) Any person who has been issued a MDDP and who is convicted of a violation of this Section as a result of operating or being in actual physical control of a motor vehicle not equipped with an ignition interlock device at the time of the offense shall be guilty of a Class 4 felony and shall serve a minimum term of imprisonment of 30 days.

(c-5) Any person convicted of a second violation of this Section is guilty of a Class 2 felony, is not eligible for probation or conditional discharge, and shall serve a mandatory

term of imprisonment, if the revocation or suspension was for a violation of Section 9-3 of the Criminal Code of 1961, relating to the offense of reckless homicide, or a similar out-of-state offense.

(d) Any person convicted of a second violation of this Section shall be guilty of a Class 4 felony and shall serve a minimum term of imprisonment of 30 days or 300 hours of community service, as determined by the court, if the revocation or suspension was for a violation of Section 11-401 or 11-501 of this Code, or a similar out-of-state offense, or a similar provision of a local ordinance, or a statutory summary suspension under Section 11-501.1 of this Code.

(d-1) Except as provided in subsections (d-2), (d-2.5), and (d-3), any person convicted of a third or subsequent violation of this Section shall serve a minimum term of imprisonment of 30 days or 300 hours of community service, as determined by the court.

(d-2) Any person convicted of a third violation of this Section is guilty of a Class 4 felony and must serve a minimum term of imprisonment of 30 days if the revocation or suspension was for a violation of Section 11-401 or 11-501 of this Code, or a similar out-of-state offense, or a similar provision of a local ordinance, or a statutory summary suspension under Section 11-501.1 of this Code.

(d-2.5) Any person convicted of a third violation of this Section is guilty of a Class 1 felony, is not eligible for

probation or conditional discharge, and must serve a mandatory term of imprisonment if the revocation or suspension was for a violation of Section 9-3 of the Criminal Code of 1961, relating to the offense of reckless homicide, or a similar out-of-state offense.

(d-3) Any person convicted of a fourth, fifth, sixth, seventh, eighth, or ninth violation of this Section is guilty of a Class 4 felony and must serve a minimum term of imprisonment of 180 days if the revocation or suspension was for a violation of Section 11-401 or 11-501 of this Code, or a similar out-of-state offense, or a similar provision of a local ordinance, or a statutory summary suspension under Section 11-501.1 of this Code.

(d-3.5) Any person convicted of a fourth or subsequent violation of this Section is guilty of a Class 1 felony, is not eligible for probation or conditional discharge, and must serve a mandatory term of imprisonment, and is eligible for an extended term, if the revocation or suspension was for a violation of Section 9-3 of the Criminal Code of 1961, relating to the offense of reckless homicide, or a similar out-of-state offense.

(d-4) Any person convicted of a tenth, eleventh, twelfth, thirteenth, or fourteenth violation of this Section is guilty of a Class 3 felony, and is not eligible for probation or conditional discharge, if the revocation or suspension was for a violation of Section 11-401 or 11-501 of this Code, or a

similar out-of-state offense, or a similar provision of a local ordinance, or a statutory summary suspension under Section 11-501.1 of this Code.

(d-5) Any person convicted of a fifteenth or subsequent violation of this Section is guilty of a Class 2 felony, and is not eligible for probation or conditional discharge, if the revocation or suspension was for a violation of Section 11-401 or 11-501 of this Code, or a similar out-of-state offense, or a similar provision of a local ordinance, or a statutory summary suspension under Section 11-501.1 of this Code.

(e) Any person in violation of this Section who is also in violation of Section 7-601 of this Code relating to mandatory insurance requirements, in addition to other penalties imposed under this Section, shall have his or her motor vehicle immediately impounded by the arresting law enforcement officer. The motor vehicle may be released to any licensed driver upon a showing of proof of insurance for the vehicle that was impounded and the notarized written consent for the release by the vehicle owner.

(f) For any prosecution under this Section, a certified copy of the driving abstract of the defendant shall be admitted as proof of any prior conviction.

(g) The motor vehicle used in a violation of this Section is subject to seizure and forfeiture as provided in Sections 36-1 and 36-2 of the Criminal Code of 1961 if the person's driving privilege was revoked or suspended as a result of a

violation listed in paragraph (1), (2), or (3) of subsection (c) of this Section or as a result of a summary suspension as provided in paragraph (4) of subsection (c) of this Section.

(Source: P.A. 94-112, eff. 1-1-06; 95-578, rely on 95-27 and 95-377, eff. 1-1-08; 95-400, eff. 1-1-09; revised 11-19-07.)

(625 ILCS 5/6-510) (from Ch. 95 1/2, par. 6-510)

Sec. 6-510. Application for Commercial Driver's License (CDL). ~~(a)~~ The application for a CDL or commercial driver instruction permit, must include, but not necessarily be limited to, the following:

(1) the full legal name and current Illinois domiciliary address (unless the application is for a Non-resident CDL) of the driver applicant;

(2) a physical description of the driver applicant including sex, height, weight, color of eyes and hair color;

(3) date of birth;

(4) the driver applicant's social security number or other identifying number acceptable to the Secretary of State;

(5) the driver applicant's signature;

(6) certifications required by 49 C.F.R. Part 383.71;

(6.1) the names of all states where the driver applicant has previously been licensed to drive any type of motor vehicle during the previous 10 years pursuant to 49

C.F.R. Part 383; and

(7) any other information required by the Secretary of State.

(Source: P.A. 94-307, eff. 9-30-05; 95-382, eff. 8-23-07; revised 11-19-07.)

(625 ILCS 5/11-501) (from Ch. 95 1/2, par. 11-501)

(Text of Section before amendment by P.A. 95-400 and 95-578)

(Text of Section from P.A. 93-1093, 94-963, 95-149, and 95-355)

Sec. 11-501. Driving while under the influence of alcohol, other drug or drugs, intoxicating compound or compounds or any combination thereof.

(a) A person shall not drive or be in actual physical control of any vehicle within this State while:

(1) the alcohol concentration in the person's blood or breath is 0.08 or more based on the definition of blood and breath units in Section 11-501.2;

(2) under the influence of alcohol;

(3) under the influence of any intoxicating compound or combination of intoxicating compounds to a degree that renders the person incapable of driving safely;

(4) under the influence of any other drug or combination of drugs to a degree that renders the person incapable of safely driving;

(5) under the combined influence of alcohol, other drug or drugs, or intoxicating compound or compounds to a degree that renders the person incapable of safely driving; or

(6) there is any amount of a drug, substance, or compound in the person's breath, blood, or urine resulting from the unlawful use or consumption of cannabis listed in the Cannabis Control Act, a controlled substance listed in the Illinois Controlled Substances Act, an intoxicating compound listed in the Use of Intoxicating Compounds Act, or methamphetamine as listed in the Methamphetamine Control and Community Protection Act.

(b) The fact that any person charged with violating this Section is or has been legally entitled to use alcohol, other drug or drugs, or intoxicating compound or compounds, or any combination thereof, shall not constitute a defense against any charge of violating this Section.

(b-1) With regard to penalties imposed under this Section:

(1) Any reference to a prior violation of subsection (a) or a similar provision includes any violation of a provision of a local ordinance or a provision of a law of another state or an offense committed on a military installation that is similar to a violation of subsection (a) of this Section.

(2) Any penalty imposed for driving with a license that has been revoked for a previous violation of subsection (a) of this Section shall be in addition to the penalty imposed

for any subsequent violation of subsection (a).

(b-2) Except as otherwise provided in this Section, any person convicted of violating subsection (a) of this Section is guilty of a Class A misdemeanor.

(b-3) In addition to any other criminal or administrative sanction for any second conviction of violating subsection (a) or a similar provision committed within 5 years of a previous violation of subsection (a) or a similar provision, the defendant shall be sentenced to a mandatory minimum of 5 days of imprisonment or assigned a mandatory minimum of 240 hours of community service as may be determined by the court.

(b-4) In the case of a third or subsequent violation committed within 5 years of a previous violation of subsection (a) or a similar provision, in addition to any other criminal or administrative sanction, a mandatory minimum term of either 10 days of imprisonment or 480 hours of community service shall be imposed.

(b-5) The imprisonment or assignment of community service under subsections (b-3) and (b-4) shall not be subject to suspension, nor shall the person be eligible for a reduced sentence.

(c) (Blank).

(c-1) (1) A person who violates subsection (a) during a period in which his or her driving privileges are revoked or suspended, where the revocation or suspension was for a violation of subsection (a), Section 11-501.1, paragraph

(b) of Section 11-401, or for reckless homicide as defined in Section 9-3 of the Criminal Code of 1961 is guilty of a Class 4 felony.

(2) A person who violates subsection (a) a third time, if the third violation occurs during a period in which his or her driving privileges are revoked or suspended where the revocation or suspension was for a violation of subsection (a), Section 11-501.1, paragraph (b) of Section 11-401, or for reckless homicide as defined in Section 9-3 of the Criminal Code of 1961, is guilty of a Class 3 felony; and if the person receives a term of probation or conditional discharge, he or she shall be required to serve a mandatory minimum of 10 days of imprisonment or shall be assigned a mandatory minimum of 480 hours of community service, as may be determined by the court, as a condition of the probation or conditional discharge. This mandatory minimum term of imprisonment or assignment of community service shall not be suspended or reduced by the court.

(2.2) A person who violates subsection (a), if the violation occurs during a period in which his or her driving privileges are revoked or suspended where the revocation or suspension was for a violation of subsection (a) or Section 11-501.1, shall also be sentenced to an additional mandatory minimum term of 30 consecutive days of imprisonment, 40 days of 24-hour periodic imprisonment, or 720 hours of community service, as may be determined by the

court. This mandatory term of imprisonment or assignment of community service shall not be suspended or reduced by the court.

(3) A person who violates subsection (a) a fourth or subsequent time, if the fourth or subsequent violation occurs during a period in which his or her driving privileges are revoked or suspended where the revocation or suspension was for a violation of subsection (a), Section 11-501.1, paragraph (b) of Section 11-401, or for reckless homicide as defined in Section 9-3 of the Criminal Code of 1961, is guilty of a Class 2 felony and is not eligible for a sentence of probation or conditional discharge.

(c-2) (Blank).

(c-3) (Blank).

(c-4) (Blank).

(c-5)(1) A person who violates subsection (a), if the person was transporting a person under the age of 16 at the time of the violation, is subject to an additional mandatory minimum fine of \$1,000, an additional mandatory minimum 140 hours of community service, which shall include 40 hours of community service in a program benefiting children, and an additional 2 days of imprisonment. The imprisonment or assignment of community service under this subdivision (c-5)(1) is not subject to suspension, nor is the person eligible for a reduced sentence.

(2) Except as provided in subdivisions (c-5)(3) and

(c-5)(4) a person who violates subsection (a) a second time, if at the time of the second violation the person was transporting a person under the age of 16, is subject to an additional 10 days of imprisonment, an additional mandatory minimum fine of \$1,000, and an additional mandatory minimum 140 hours of community service, which shall include 40 hours of community service in a program benefiting children. The imprisonment or assignment of community service under this subdivision (c-5)(2) is not subject to suspension, nor is the person eligible for a reduced sentence.

(3) Except as provided in subdivision (c-5)(4), any person convicted of violating subdivision (c-5)(2) or a similar provision within 10 years of a previous violation of subsection (a) or a similar provision shall receive, in addition to any other penalty imposed, a mandatory minimum 12 days imprisonment, an additional 40 hours of mandatory community service in a program benefiting children, and a mandatory minimum fine of \$1,750. The imprisonment or assignment of community service under this subdivision (c-5)(3) is not subject to suspension, nor is the person eligible for a reduced sentence.

(4) Any person convicted of violating subdivision (c-5)(2) or a similar provision within 5 years of a previous violation of subsection (a) or a similar provision shall receive, in addition to any other penalty imposed, an

additional 80 hours of mandatory community service in a program benefiting children, an additional mandatory minimum 12 days of imprisonment, and a mandatory minimum fine of \$1,750. The imprisonment or assignment of community service under this subdivision (c-5)(4) is not subject to suspension, nor is the person eligible for a reduced sentence.

(5) Any person convicted a third time for violating subsection (a) or a similar provision, if at the time of the third violation the person was transporting a person under the age of 16, is guilty of a Class 4 felony and shall receive, in addition to any other penalty imposed, an additional mandatory fine of \$1,000, an additional mandatory 140 hours of community service, which shall include 40 hours in a program benefiting children, and a mandatory minimum 30 days of imprisonment. The imprisonment or assignment of community service under this subdivision (c-5)(5) is not subject to suspension, nor is the person eligible for a reduced sentence.

(6) Any person convicted of violating subdivision (c-5)(5) or a similar provision a third time within 20 years of a previous violation of subsection (a) or a similar provision is guilty of a Class 4 felony and shall receive, in addition to any other penalty imposed, an additional mandatory 40 hours of community service in a program benefiting children, an additional mandatory fine

of \$3,000, and a mandatory minimum 120 days of imprisonment. The imprisonment or assignment of community service under this subdivision (c-5)(6) is not subject to suspension, nor is the person eligible for a reduced sentence.

(7) Any person convicted a fourth or subsequent time for violating subsection (a) or a similar provision, if at the time of the fourth or subsequent violation the person was transporting a person under the age of 16, and if the person's 3 prior violations of subsection (a) or a similar provision occurred while transporting a person under the age of 16 or while the alcohol concentration in his or her blood, breath, or urine was 0.16 or more based on the definition of blood, breath, or urine units in Section 11-501.2, is guilty of a Class 2 felony, is not eligible for probation or conditional discharge, and is subject to a minimum fine of \$3,000.

(c-6)(1) Any person convicted of a first violation of subsection (a) or a similar provision, if the alcohol concentration in his or her blood, breath, or urine was 0.16 or more based on the definition of blood, breath, or urine units in Section 11-501.2, shall be subject, in addition to any other penalty that may be imposed, to a mandatory minimum of 100 hours of community service and a mandatory minimum fine of \$500.

(2) Any person convicted of a second violation of

subsection (a) or a similar provision committed within 10 years of a previous violation of subsection (a) or a similar provision, if at the time of the second violation of subsection (a) or a similar provision the alcohol concentration in his or her blood, breath, or urine was 0.16 or more based on the definition of blood, breath, or urine units in Section 11-501.2, shall be subject, in addition to any other penalty that may be imposed, to a mandatory minimum of 2 days of imprisonment and a mandatory minimum fine of \$1,250.

(3) Any person convicted of a third violation of subsection (a) or a similar provision within 20 years of a previous violation of subsection (a) or a similar provision, if at the time of the third violation of subsection (a) or a similar provision the alcohol concentration in his or her blood, breath, or urine was 0.16 or more based on the definition of blood, breath, or urine units in Section 11-501.2, is guilty of a Class 4 felony and shall be subject, in addition to any other penalty that may be imposed, to a mandatory minimum of 90 days of imprisonment and a mandatory minimum fine of \$2,500.

(4) Any person convicted of a fourth or subsequent violation of subsection (a) or a similar provision, if at the time of the fourth or subsequent violation the alcohol concentration in his or her blood, breath, or urine was

0.16 or more based on the definition of blood, breath, or urine units in Section 11-501.2, and if the person's 3 prior violations of subsection (a) or a similar provision occurred while transporting a person under the age of 16 or while the alcohol concentration in his or her blood, breath, or urine was 0.16 or more based on the definition of blood, breath, or urine units in Section 11-501.2, is guilty of a Class 2 felony and is not eligible for a sentence of probation or conditional discharge and is subject to a minimum fine of \$2,500.

(d) (1) Every person convicted of committing a violation of this Section shall be guilty of aggravated driving under the influence of alcohol, other drug or drugs, or intoxicating compound or compounds, or any combination thereof if:

(A) the person committed a violation of subsection (a) or a similar provision for the third or subsequent time;

(B) the person committed a violation of subsection (a) while driving a school bus with persons 18 years of age or younger on board;

(C) the person in committing a violation of subsection (a) was involved in a motor vehicle accident that resulted in great bodily harm or permanent disability or disfigurement to another, when the violation was a proximate cause of the injuries;

(D) the person committed a violation of subsection (a) for a second time and has been previously convicted of violating Section 9-3 of the Criminal Code of 1961 or a similar provision of a law of another state relating to reckless homicide in which the person was determined to have been under the influence of alcohol, other drug or drugs, or intoxicating compound or compounds as an element of the offense or the person has previously been convicted under subparagraph (C) or subparagraph (F) of this paragraph (1);

(E) the person, in committing a violation of subsection (a) while driving at any speed in a school speed zone at a time when a speed limit of 20 miles per hour was in effect under subsection (a) of Section 11-605 of this Code, was involved in a motor vehicle accident that resulted in bodily harm, other than great bodily harm or permanent disability or disfigurement, to another person, when the violation of subsection (a) was a proximate cause of the bodily harm; or

(F) the person, in committing a violation of subsection (a), was involved in a motor vehicle, snowmobile, all-terrain vehicle, or watercraft accident that resulted in the death of another person, when the violation of subsection (a) was a proximate cause of the death.

(2) Except as provided in this paragraph (2), a person

convicted of aggravated driving under the influence of alcohol, other drug or drugs, or intoxicating compound or compounds, or any combination thereof is guilty of a Class 4 felony. For a violation of subparagraph (C) of paragraph (1) of this subsection (d), the defendant, if sentenced to a term of imprisonment, shall be sentenced to not less than one year nor more than 12 years. 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 this subsection (d) is a Class 2 felony, for which the defendant, if sentenced to a term of imprisonment, shall be sentenced to: (A) a term of imprisonment of not less than 3 years and not more than 14 years if the violation resulted in the death of one person; or (B) a term of imprisonment of not less than 6 years and not more than 28 years if the violation resulted in the deaths of 2 or more persons. For any prosecution under this subsection (d), a certified copy of the driving abstract of the defendant shall be admitted as proof of any prior conviction. Any person sentenced under this subsection (d) who receives a term of probation or conditional discharge must serve a minimum term of either 480 hours of community service or 10 days of imprisonment as a condition of the probation or conditional discharge. This mandatory minimum term of imprisonment or assignment of community service may not be suspended or

reduced by the court.

(e) After a finding of guilt and prior to any final sentencing, or an order for supervision, for an offense based upon an arrest for a violation of this Section or a similar provision of a local ordinance, individuals shall be required to undergo a professional evaluation to determine if an alcohol, drug, or intoxicating compound abuse problem exists and the extent of the problem, and undergo the imposition of treatment as appropriate. Programs conducting these evaluations shall be licensed by the Department of Human Services. The cost of any professional evaluation shall be paid for by the individual required to undergo the professional evaluation.

(e-1) Any person who is found guilty of or pleads guilty to violating this Section, including any person receiving a disposition of court supervision for violating this Section, may be required by the Court to attend a victim impact panel offered by, or under contract with, a County State's Attorney's office, a probation and court services department, Mothers Against Drunk Driving, or the Alliance Against Intoxicated Motorists. All costs generated by the victim impact panel shall be paid from fees collected from the offender or as may be determined by the court.

(f) Every person found guilty of violating this Section, whose operation of a motor vehicle while in violation of this Section proximately caused any incident resulting in an

appropriate emergency response, shall be liable for the expense of an emergency response as provided in subsection (m) of this Section.

(g) The Secretary of State shall revoke the driving privileges of any person convicted under this Section or a similar provision of a local ordinance.

(h) (Blank).

(i) The Secretary of State shall require the use of ignition interlock devices on all vehicles owned by an individual who has been convicted of a second or subsequent offense of this Section or a similar provision of a local ordinance. The Secretary shall establish by rule and regulation the procedures for certification and use of the interlock system.

(j) In addition to any other penalties and liabilities, a person who is found guilty of or pleads guilty to violating subsection (a), including any person placed on court supervision for violating subsection (a), shall be fined \$500, payable to the circuit clerk, who shall distribute the money as follows: 20% to the law enforcement agency that made the arrest and 80% shall be forwarded to the State Treasurer for deposit into the General Revenue Fund. If the person has been previously convicted of violating subsection (a) or a similar provision of a local ordinance, the fine shall be \$1,000. In the event that more than one agency is responsible for the arrest, the amount payable to law enforcement agencies shall be

shared equally. Any moneys received by a law enforcement agency under this subsection (j) shall be used for enforcement and prevention of driving while under the influence of alcohol, other drug or drugs, intoxicating compound or compounds or any combination thereof, as defined by this Section, including but not limited to the purchase of law enforcement equipment and commodities that will assist in the prevention of alcohol related criminal violence throughout the State; police officer training and education in areas related to alcohol related crime, including but not limited to DUI training; and police officer salaries, including but not limited to salaries for hire back funding for safety checkpoints, saturation patrols, and liquor store sting operations. Equipment and commodities shall include, but are not limited to, in-car video cameras, radar and laser speed detection devices, and alcohol breath testers. Any moneys received by the Department of State Police under this subsection (j) shall be deposited into the State Police DUI Fund and shall be used for enforcement and prevention of driving while under the influence of alcohol, other drug or drugs, intoxicating compound or compounds or any combination thereof, as defined by this Section, including but not limited to the purchase of law enforcement equipment and commodities that will assist in the prevention of alcohol related criminal violence throughout the State; police officer training and education in areas related to alcohol related crime, including but not limited to DUI training; and police

officer salaries, including but not limited to salaries for hire back funding for safety checkpoints, saturation patrols, and liquor store sting operations.

(k) The Secretary of State Police DUI Fund is created as a special fund in the State treasury. All moneys received by the Secretary of State Police under subsection (j) of this Section shall be deposited into the Secretary of State Police DUI Fund and, subject to appropriation, shall be used for enforcement and prevention of driving while under the influence of alcohol, other drug or drugs, intoxicating compound or compounds or any combination thereof, as defined by this Section, including but not limited to the purchase of law enforcement equipment and commodities to assist in the prevention of alcohol related criminal violence throughout the State; police officer training and education in areas related to alcohol related crime, including but not limited to DUI training; and police officer salaries, including but not limited to salaries for hire back funding for safety checkpoints, saturation patrols, and liquor store sting operations.

(l) Whenever an individual is sentenced for an offense based upon an arrest for a violation of subsection (a) or a similar provision of a local ordinance, and the professional evaluation recommends remedial or rehabilitative treatment or education, neither the treatment nor the education shall be the sole disposition and either or both may be imposed only in conjunction with another disposition. The court shall monitor

compliance with any remedial education or treatment recommendations contained in the professional evaluation. Programs conducting alcohol or other drug evaluation or remedial education must be licensed by the Department of Human Services. If the individual is not a resident of Illinois, however, the court may accept an alcohol or other drug evaluation or remedial education program in the individual's state of residence. Programs providing treatment must be licensed under existing applicable alcoholism and drug treatment licensure standards.

(m) In addition to any other fine or penalty required by law, an individual convicted of a violation of subsection (a), Section 5-7 of the Snowmobile Registration and Safety Act, Section 5-16 of the Boat Registration and Safety Act, or a similar provision, whose operation of a motor vehicle, snowmobile, or watercraft while in violation of subsection (a), Section 5-7 of the Snowmobile Registration and Safety Act, Section 5-16 of the Boat Registration and Safety Act, or a similar provision proximately caused an incident resulting in an appropriate emergency response, shall be required to make restitution to a public agency for the costs of that emergency response. The restitution may not exceed \$1,000 per public agency for each emergency response. As used in this subsection (m), "emergency response" means any incident requiring a response by a police officer, a firefighter carried on the rolls of a regularly constituted fire department, or an

ambulance.

(Source: P.A. 93-1093, eff. 3-29-05; 94-963, eff. 6-28-06; 95-149, eff. 8-14-07; 95-355, eff. 1-1-08; revised 11-28-07.)

(Text of Section from P.A. 94-110, 94-963, 95-149, and 95-355)

Sec. 11-501. Driving while under the influence of alcohol, other drug or drugs, intoxicating compound or compounds or any combination thereof.

(a) A person shall not drive or be in actual physical control of any vehicle within this State while:

(1) the alcohol concentration in the person's blood or breath is 0.08 or more based on the definition of blood and breath units in Section 11-501.2;

(2) under the influence of alcohol;

(3) under the influence of any intoxicating compound or combination of intoxicating compounds to a degree that renders the person incapable of driving safely;

(4) under the influence of any other drug or combination of drugs to a degree that renders the person incapable of safely driving;

(5) under the combined influence of alcohol, other drug or drugs, or intoxicating compound or compounds to a degree that renders the person incapable of safely driving; or

(6) there is any amount of a drug, substance, or compound in the person's breath, blood, or urine resulting

from the unlawful use or consumption of cannabis listed in the Cannabis Control Act, a controlled substance listed in the Illinois Controlled Substances Act, an intoxicating compound listed in the Use of Intoxicating Compounds Act, or methamphetamine as listed in the Methamphetamine Control and Community Protection Act.

(b) The fact that any person charged with violating this Section is or has been legally entitled to use alcohol, other drug or drugs, or intoxicating compound or compounds, or any combination thereof, shall not constitute a defense against any charge of violating this Section.

(b-1) With regard to penalties imposed under this Section:

(1) Any reference to a prior violation of subsection (a) or a similar provision includes any violation of a provision of a local ordinance or a provision of a law of another state or an offense committed on a military installation that is similar to a violation of subsection (a) of this Section.

(2) Any penalty imposed for driving with a license that has been revoked for a previous violation of subsection (a) of this Section shall be in addition to the penalty imposed for any subsequent violation of subsection (a).

(b-2) Except as otherwise provided in this Section, any person convicted of violating subsection (a) of this Section is guilty of a Class A misdemeanor.

(b-3) In addition to any other criminal or administrative

sanction for any second conviction of violating subsection (a) or a similar provision committed within 5 years of a previous violation of subsection (a) or a similar provision, the defendant shall be sentenced to a mandatory minimum of 5 days of imprisonment or assigned a mandatory minimum of 240 hours of community service as may be determined by the court.

(b-4) In the case of a third or subsequent violation committed within 5 years of a previous violation of subsection (a) or a similar provision, in addition to any other criminal or administrative sanction, a mandatory minimum term of either 10 days of imprisonment or 480 hours of community service shall be imposed.

(b-5) The imprisonment or assignment of community service under subsections (b-3) and (b-4) shall not be subject to suspension, nor shall the person be eligible for a reduced sentence.

(c) (Blank).

(c-1) (1) A person who violates subsection (a) during a period in which his or her driving privileges are revoked or suspended, where the revocation or suspension was for a violation of subsection (a), Section 11-501.1, paragraph (b) of Section 11-401, or for reckless homicide as defined in Section 9-3 of the Criminal Code of 1961 is guilty of a Class 4 felony.

(2) A person who violates subsection (a) a third time, if the third violation occurs during a period in which his

or her driving privileges are revoked or suspended where the revocation or suspension was for a violation of subsection (a), Section 11-501.1, paragraph (b) of Section 11-401, or for reckless homicide as defined in Section 9-3 of the Criminal Code of 1961, is guilty of a Class 3 felony; and if the person receives a term of probation or conditional discharge, he or she shall be required to serve a mandatory minimum of 10 days of imprisonment or shall be assigned a mandatory minimum of 480 hours of community service, as may be determined by the court, as a condition of the probation or conditional discharge. This mandatory minimum term of imprisonment or assignment of community service shall not be suspended or reduced by the court.

(2.2) A person who violates subsection (a), if the violation occurs during a period in which his or her driving privileges are revoked or suspended where the revocation or suspension was for a violation of subsection (a) or Section 11-501.1, shall also be sentenced to an additional mandatory minimum term of 30 consecutive days of imprisonment, 40 days of 24-hour periodic imprisonment, or 720 hours of community service, as may be determined by the court. This mandatory term of imprisonment or assignment of community service shall not be suspended or reduced by the court.

(3) A person who violates subsection (a) a fourth or subsequent time, if the fourth or subsequent violation

occurs during a period in which his or her driving privileges are revoked or suspended where the revocation or suspension was for a violation of subsection (a), Section 11-501.1, paragraph (b) of Section 11-401, or for reckless homicide as defined in Section 9-3 of the Criminal Code of 1961, is guilty of a Class 2 felony and is not eligible for a sentence of probation or conditional discharge.

(c-2) (Blank).

(c-3) (Blank).

(c-4) (Blank).

(c-5) Except as provided in subsection (c-5.1), a person 21 years of age or older who violates subsection (a), if the person was transporting a person under the age of 16 at the time of the violation, is subject to 6 months of imprisonment, an additional mandatory minimum fine of \$1,000, and 25 days of community service in a program benefiting children. The imprisonment or assignment of community service under this subsection (c-5) is not subject to suspension, nor is the person eligible for a reduced sentence.

(c-5.1) A person 21 years of age or older who is convicted of violating subsection (a) of this Section a first time and who in committing that violation was involved in a motor vehicle accident that resulted in bodily harm to the child under the age of 16 being transported by the person, if the violation was the proximate cause of the injury, is guilty of a Class 4 felony and is subject to one year of imprisonment, a

mandatory fine of \$2,500, and 25 days of community service in a program benefiting children. The imprisonment or assignment to community service under this subsection (c-5.1) shall not be subject to suspension, nor shall the person be eligible for probation in order to reduce the sentence or assignment.

(c-6) Except as provided in subsections (c-7) and (c-7.1), a person 21 years of age or older who violates subsection (a) a second time, if at the time of the second violation the person was transporting a person under the age of 16, is subject to 6 months of imprisonment, an additional mandatory minimum fine of \$1,000, and an additional mandatory minimum 140 hours of community service, which shall include 40 hours of community service in a program benefiting children. The imprisonment or assignment of community service under this subsection (c-6) is not subject to suspension, nor is the person eligible for a reduced sentence.

(c-7) Except as provided in subsection (c-7.1), any person 21 years of age or older convicted of violating subsection (c-6) or a similar provision within 10 years of a previous violation of subsection (a) or a similar provision is guilty of a Class 4 felony and, in addition to any other penalty imposed, is subject to one year of imprisonment, 25 days of mandatory community service in a program benefiting children, and a mandatory fine of \$2,500. The imprisonment or assignment of community service under this subsection (c-7) is not subject to suspension, nor is the person eligible for a reduced sentence.

(c-7.1) A person 21 years of age or older who is convicted of violating subsection (a) of this Section a second time within 10 years and who in committing that violation was involved in a motor vehicle accident that resulted in bodily harm to the child under the age of 16 being transported, if the violation was the proximate cause of the injury, is guilty of a Class 4 felony and is subject to 18 months of imprisonment, a mandatory fine of \$5,000, and 25 days of community service in a program benefiting children. The imprisonment or assignment to community service under this subsection (c-7.1) shall not be subject to suspension, nor shall the person be eligible for probation in order to reduce the sentence or assignment.

(c-8) (Blank).

(c-9) Any person 21 years of age or older convicted a third time for violating subsection (a) or a similar provision, if at the time of the third violation the person was transporting a person under the age of 16, is guilty of a Class 4 felony and is subject to 18 months of imprisonment, a mandatory fine of \$2,500, and 25 days of community service in a program benefiting children. The imprisonment or assignment of community service under this subsection (c-9) is not subject to suspension, nor is the person eligible for a reduced sentence.

(c-10) Any person 21 years of age or older convicted of violating subsection (c-9) or a similar provision a third time within 20 years of a previous violation of subsection (a) or a similar provision is guilty of a Class 3 felony and, in

addition to any other penalty imposed, is subject to 3 years of imprisonment, 25 days of community service in a program benefiting children, and a mandatory fine of \$25,000. The imprisonment or assignment of community service under this subsection (c-10) is not subject to suspension, nor is the person eligible for a reduced sentence.

(c-11) Any person 21 years of age or older convicted a fourth or subsequent time for violating subsection (a) or a similar provision, if at the time of the fourth or subsequent violation the person was transporting a person under the age of 16, and if the person's 3 prior violations of subsection (a) or a similar provision occurred while transporting a person under the age of 16 or while the alcohol concentration in his or her blood, breath, or urine was 0.16 or more based on the definition of blood, breath, or urine units in Section 11-501.2, is guilty of a Class 2 felony, is not eligible for probation or conditional discharge, and is subject to a minimum fine of \$25,000.

(c-12) Any person convicted of a first violation of subsection (a) or a similar provision, if the alcohol concentration in his or her blood, breath, or urine was 0.16 or more based on the definition of blood, breath, or urine units in Section 11-501.2, shall be subject, in addition to any other penalty that may be imposed, to a mandatory minimum of 100 hours of community service and a mandatory minimum fine of \$500.

(c-13) Any person convicted of a second violation of subsection (a) or a similar provision committed within 10 years of a previous violation of subsection (a) or a similar provision, if at the time of the second violation of subsection (a) or a similar provision the alcohol concentration in his or her blood, breath, or urine was 0.16 or more based on the definition of blood, breath, or urine units in Section 11-501.2, shall be subject, in addition to any other penalty that may be imposed, to a mandatory minimum of 2 days of imprisonment and a mandatory minimum fine of \$1,250.

(c-14) Any person convicted of a third violation of subsection (a) or a similar provision within 20 years of a previous violation of subsection (a) or a similar provision, if at the time of the third violation of subsection (a) or a similar provision the alcohol concentration in his or her blood, breath, or urine was 0.16 or more based on the definition of blood, breath, or urine units in Section 11-501.2, is guilty of a Class 4 felony and shall be subject, in addition to any other penalty that may be imposed, to a mandatory minimum of 90 days of imprisonment and a mandatory minimum fine of \$2,500.

(c-15) Any person convicted of a fourth or subsequent violation of subsection (a) or a similar provision, if at the time of the fourth or subsequent violation the alcohol concentration in his or her blood, breath, or urine was 0.16 or more based on the definition of blood, breath, or urine units

in Section 11-501.2, and if the person's 3 prior violations of subsection (a) or a similar provision occurred while transporting a person under the age of 16 or while the alcohol concentration in his or her blood, breath, or urine was 0.16 or more based on the definition of blood, breath, or urine units in Section 11-501.2, is guilty of a Class 2 felony and is not eligible for a sentence of probation or conditional discharge and is subject to a minimum fine of \$2,500.

(d) (1) Every person convicted of committing a violation of this Section shall be guilty of aggravated driving under the influence of alcohol, other drug or drugs, or intoxicating compound or compounds, or any combination thereof if:

(A) the person committed a violation of subsection (a) or a similar provision for the third or subsequent time;

(B) the person committed a violation of subsection (a) while driving a school bus with persons 18 years of age or younger on board;

(C) the person in committing a violation of subsection (a) was involved in a motor vehicle accident that resulted in great bodily harm or permanent disability or disfigurement to another, when the violation was a proximate cause of the injuries;

(D) the person committed a violation of subsection (a) for a second time and has been previously convicted

of violating Section 9-3 of the Criminal Code of 1961 or a similar provision of a law of another state relating to reckless homicide in which the person was determined to have been under the influence of alcohol, other drug or drugs, or intoxicating compound or compounds as an element of the offense or the person has previously been convicted under subparagraph (C) or subparagraph (F) of this paragraph (1);

(E) the person, in committing a violation of subsection (a) while driving at any speed in a school speed zone at a time when a speed limit of 20 miles per hour was in effect under subsection (a) of Section 11-605 of this Code, was involved in a motor vehicle accident that resulted in bodily harm, other than great bodily harm or permanent disability or disfigurement, to another person, when the violation of subsection (a) was a proximate cause of the bodily harm; or

(F) the person, in committing a violation of subsection (a), was involved in a motor vehicle, snowmobile, all-terrain vehicle, or watercraft accident that resulted in the death of another person, when the violation of subsection (a) was a proximate cause of the death.

(2) Except as provided in this paragraph (2), a person convicted of aggravated driving under the influence of alcohol, other drug or drugs, or intoxicating compound or

compounds, or any combination thereof is guilty of a Class 4 felony. For a violation of subparagraph (C) of paragraph (1) of this subsection (d), the defendant, if sentenced to a term of imprisonment, shall be sentenced to not less than one year nor more than 12 years. 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 this subsection (d) is a Class 2 felony, for which the defendant, if sentenced to a term of imprisonment, shall be sentenced to: (A) a term of imprisonment of not less than 3 years and not more than 14 years if the violation resulted in the death of one person; or (B) a term of imprisonment of not less than 6 years and not more than 28 years if the violation resulted in the deaths of 2 or more persons. For any prosecution under this subsection (d), a certified copy of the driving abstract of the defendant shall be admitted as proof of any prior conviction. Any person sentenced under this subsection (d) who receives a term of probation or conditional discharge must serve a minimum term of either 480 hours of community service or 10 days of imprisonment as a condition of the probation or conditional discharge. This mandatory minimum term of imprisonment or assignment of community service may not be suspended or reduced by the court.

(e) After a finding of guilt and prior to any final

sentencing, or an order for supervision, for an offense based upon an arrest for a violation of this Section or a similar provision of a local ordinance, individuals shall be required to undergo a professional evaluation to determine if an alcohol, drug, or intoxicating compound abuse problem exists and the extent of the problem, and undergo the imposition of treatment as appropriate. Programs conducting these evaluations shall be licensed by the Department of Human Services. The cost of any professional evaluation shall be paid for by the individual required to undergo the professional evaluation.

(e-1) Any person who is found guilty of or pleads guilty to violating this Section, including any person receiving a disposition of court supervision for violating this Section, may be required by the Court to attend a victim impact panel offered by, or under contract with, a County State's Attorney's office, a probation and court services department, Mothers Against Drunk Driving, or the Alliance Against Intoxicated Motorists. All costs generated by the victim impact panel shall be paid from fees collected from the offender or as may be determined by the court.

(f) Every person found guilty of violating this Section, whose operation of a motor vehicle while in violation of this Section proximately caused any incident resulting in an appropriate emergency response, shall be liable for the expense of an emergency response as provided in subsection (m) of this

Section.

(g) The Secretary of State shall revoke the driving privileges of any person convicted under this Section or a similar provision of a local ordinance.

(h) (Blank).

(i) The Secretary of State shall require the use of ignition interlock devices on all vehicles owned by an individual who has been convicted of a second or subsequent offense of this Section or a similar provision of a local ordinance. The Secretary shall establish by rule and regulation the procedures for certification and use of the interlock system.

(j) In addition to any other penalties and liabilities, a person who is found guilty of or pleads guilty to violating subsection (a), including any person placed on court supervision for violating subsection (a), shall be fined \$500, payable to the circuit clerk, who shall distribute the money as follows: 20% to the law enforcement agency that made the arrest and 80% shall be forwarded to the State Treasurer for deposit into the General Revenue Fund. If the person has been previously convicted of violating subsection (a) or a similar provision of a local ordinance, the fine shall be \$1,000. In the event that more than one agency is responsible for the arrest, the amount payable to law enforcement agencies shall be shared equally. Any moneys received by a law enforcement agency under this subsection (j) shall be used for enforcement and

prevention of driving while under the influence of alcohol, other drug or drugs, intoxicating compound or compounds or any combination thereof, as defined by this Section, including but not limited to the purchase of law enforcement equipment and commodities that will assist in the prevention of alcohol related criminal violence throughout the State; police officer training and education in areas related to alcohol related crime, including but not limited to DUI training; and police officer salaries, including but not limited to salaries for hire back funding for safety checkpoints, saturation patrols, and liquor store sting operations. Equipment and commodities shall include, but are not limited to, in-car video cameras, radar and laser speed detection devices, and alcohol breath testers. Any moneys received by the Department of State Police under this subsection (j) shall be deposited into the State Police DUI Fund and shall be used for enforcement and prevention of driving while under the influence of alcohol, other drug or drugs, intoxicating compound or compounds or any combination thereof, as defined by this Section, including but not limited to the purchase of law enforcement equipment and commodities that will assist in the prevention of alcohol related criminal violence throughout the State; police officer training and education in areas related to alcohol related crime, including but not limited to DUI training; and police officer salaries, including but not limited to salaries for hire back funding for safety checkpoints, saturation patrols,

and liquor store sting operations.

(k) The Secretary of State Police DUI Fund is created as a special fund in the State treasury. All moneys received by the Secretary of State Police under subsection (j) of this Section shall be deposited into the Secretary of State Police DUI Fund and, subject to appropriation, shall be used for enforcement and prevention of driving while under the influence of alcohol, other drug or drugs, intoxicating compound or compounds or any combination thereof, as defined by this Section, including but not limited to the purchase of law enforcement equipment and commodities to assist in the prevention of alcohol related criminal violence throughout the State; police officer training and education in areas related to alcohol related crime, including but not limited to DUI training; and police officer salaries, including but not limited to salaries for hire back funding for safety checkpoints, saturation patrols, and liquor store sting operations.

(l) Whenever an individual is sentenced for an offense based upon an arrest for a violation of subsection (a) or a similar provision of a local ordinance, and the professional evaluation recommends remedial or rehabilitative treatment or education, neither the treatment nor the education shall be the sole disposition and either or both may be imposed only in conjunction with another disposition. The court shall monitor compliance with any remedial education or treatment recommendations contained in the professional evaluation.

Programs conducting alcohol or other drug evaluation or remedial education must be licensed by the Department of Human Services. If the individual is not a resident of Illinois, however, the court may accept an alcohol or other drug evaluation or remedial education program in the individual's state of residence. Programs providing treatment must be licensed under existing applicable alcoholism and drug treatment licensure standards.

(m) In addition to any other fine or penalty required by law, an individual convicted of a violation of subsection (a), Section 5-7 of the Snowmobile Registration and Safety Act, Section 5-16 of the Boat Registration and Safety Act, or a similar provision, whose operation of a motor vehicle, snowmobile, or watercraft while in violation of subsection (a), Section 5-7 of the Snowmobile Registration and Safety Act, Section 5-16 of the Boat Registration and Safety Act, or a similar provision proximately caused an incident resulting in an appropriate emergency response, shall be required to make restitution to a public agency for the costs of that emergency response. The restitution may not exceed \$1,000 per public agency for each emergency response. As used in this subsection (m), "emergency response" means any incident requiring a response by a police officer, a firefighter carried on the rolls of a regularly constituted fire department, or an ambulance.

(Source: P.A. 94-110, eff. 1-1-06; 94-963, eff. 6-28-06;

95-149, eff. 8-14-07; 95-355, eff. 1-1-08; revised 11-28-07.)

(Text of Section from P.A. 94-113, 94-609, 94-963, 95-149, and 95-355)

Sec. 11-501. Driving while under the influence of alcohol, other drug or drugs, intoxicating compound or compounds or any combination thereof.

(a) A person shall not drive or be in actual physical control of any vehicle within this State while:

(1) the alcohol concentration in the person's blood or breath is 0.08 or more based on the definition of blood and breath units in Section 11-501.2;

(2) under the influence of alcohol;

(3) under the influence of any intoxicating compound or combination of intoxicating compounds to a degree that renders the person incapable of driving safely;

(4) under the influence of any other drug or combination of drugs to a degree that renders the person incapable of safely driving;

(5) under the combined influence of alcohol, other drug or drugs, or intoxicating compound or compounds to a degree that renders the person incapable of safely driving; or

(6) there is any amount of a drug, substance, or compound in the person's breath, blood, or urine resulting from the unlawful use or consumption of cannabis listed in the Cannabis Control Act, a controlled substance listed in

the Illinois Controlled Substances Act, an intoxicating compound listed in the Use of Intoxicating Compounds Act, or methamphetamine as listed in the Methamphetamine Control and Community Protection Act.

(b) The fact that any person charged with violating this Section is or has been legally entitled to use alcohol, other drug or drugs, or intoxicating compound or compounds, or any combination thereof, shall not constitute a defense against any charge of violating this Section.

(b-1) With regard to penalties imposed under this Section:

(1) Any reference to a prior violation of subsection (a) or a similar provision includes any violation of a provision of a local ordinance or a provision of a law of another state or an offense committed on a military installation that is similar to a violation of subsection (a) of this Section.

(2) Any penalty imposed for driving with a license that has been revoked for a previous violation of subsection (a) of this Section shall be in addition to the penalty imposed for any subsequent violation of subsection (a).

(b-2) Except as otherwise provided in this Section, any person convicted of violating subsection (a) of this Section is guilty of a Class A misdemeanor.

(b-3) In addition to any other criminal or administrative sanction for any second conviction of violating subsection (a) or a similar provision committed within 5 years of a previous

violation of subsection (a) or a similar provision, the defendant shall be sentenced to a mandatory minimum of 5 days of imprisonment or assigned a mandatory minimum of 240 hours of community service as may be determined by the court.

(b-4) In the case of a third or subsequent violation committed within 5 years of a previous violation of subsection (a) or a similar provision, in addition to any other criminal or administrative sanction, a mandatory minimum term of either 10 days of imprisonment or 480 hours of community service shall be imposed.

(b-5) The imprisonment or assignment of community service under subsections (b-3) and (b-4) shall not be subject to suspension, nor shall the person be eligible for a reduced sentence.

(c) (Blank).

(c-1) (1) A person who violates subsection (a) during a period in which his or her driving privileges are revoked or suspended, where the revocation or suspension was for a violation of subsection (a), Section 11-501.1, paragraph (b) of Section 11-401, or for reckless homicide as defined in Section 9-3 of the Criminal Code of 1961 is guilty of a Class 4 felony.

(2) A person who violates subsection (a) a third time, if the third violation occurs during a period in which his or her driving privileges are revoked or suspended where the revocation or suspension was for a violation of

subsection (a), Section 11-501.1, paragraph (b) of Section 11-401, or for reckless homicide as defined in Section 9-3 of the Criminal Code of 1961, is guilty of a Class 3 felony.

(2.1) A person who violates subsection (a) a third time, if the third violation occurs during a period in which his or her driving privileges are revoked or suspended where the revocation or suspension was for a violation of subsection (a), Section 11-501.1, subsection (b) of Section 11-401, or for reckless homicide as defined in Section 9-3 of the Criminal Code of 1961, is guilty of a Class 3 felony; and if the person receives a term of probation or conditional discharge, he or she shall be required to serve a mandatory minimum of 10 days of imprisonment or shall be assigned a mandatory minimum of 480 hours of community service, as may be determined by the court, as a condition of the probation or conditional discharge. This mandatory minimum term of imprisonment or assignment of community service shall not be suspended or reduced by the court.

(2.2) A person who violates subsection (a), if the violation occurs during a period in which his or her driving privileges are revoked or suspended where the revocation or suspension was for a violation of subsection (a) or Section 11-501.1, shall also be sentenced to an additional mandatory minimum term of 30 consecutive days of

imprisonment, 40 days of 24-hour periodic imprisonment, or 720 hours of community service, as may be determined by the court. This mandatory term of imprisonment or assignment of community service shall not be suspended or reduced by the court.

(3) A person who violates subsection (a) a fourth or subsequent time, if the fourth or subsequent violation occurs during a period in which his or her driving privileges are revoked or suspended where the revocation or suspension was for a violation of subsection (a), Section 11-501.1, paragraph (b) of Section 11-401, or for reckless homicide as defined in Section 9-3 of the Criminal Code of 1961, is guilty of a Class 2 felony and is not eligible for a sentence of probation or conditional discharge.

(c-2) (Blank).

(c-3) (Blank).

(c-4) (Blank).

(c-5) A person who violates subsection (a), if the person was transporting a person under the age of 16 at the time of the violation, is subject to an additional mandatory minimum fine of \$1,000, an additional mandatory minimum 140 hours of community service, which shall include 40 hours of community service in a program benefiting children, and an additional 2 days of imprisonment. The imprisonment or assignment of community service under this subsection (c-5) is not subject to suspension, nor is the person eligible for a reduced sentence.

(c-6) Except as provided in subsections (c-7) and (c-8) a person who violates subsection (a) a second time, if at the time of the second violation the person was transporting a person under the age of 16, is subject to an additional 10 days of imprisonment, an additional mandatory minimum fine of \$1,000, and an additional mandatory minimum 140 hours of community service, which shall include 40 hours of community service in a program benefiting children. The imprisonment or assignment of community service under this subsection (c-6) is not subject to suspension, nor is the person eligible for a reduced sentence.

(c-7) Except as provided in subsection (c-8), any person convicted of violating subsection (c-6) or a similar provision within 10 years of a previous violation of subsection (a) or a similar provision shall receive, in addition to any other penalty imposed, a mandatory minimum 12 days imprisonment, an additional 40 hours of mandatory community service in a program benefiting children, and a mandatory minimum fine of \$1,750. The imprisonment or assignment of community service under this subsection (c-7) is not subject to suspension, nor is the person eligible for a reduced sentence.

(c-8) Any person convicted of violating subsection (c-6) or a similar provision within 5 years of a previous violation of subsection (a) or a similar provision shall receive, in addition to any other penalty imposed, an additional 80 hours of mandatory community service in a program benefiting

children, an additional mandatory minimum 12 days of imprisonment, and a mandatory minimum fine of \$1,750. The imprisonment or assignment of community service under this subsection (c-8) is not subject to suspension, nor is the person eligible for a reduced sentence.

(c-9) Any person convicted a third time for violating subsection (a) or a similar provision, if at the time of the third violation the person was transporting a person under the age of 16, is guilty of a Class 4 felony and shall receive, in addition to any other penalty imposed, an additional mandatory fine of \$1,000, an additional mandatory 140 hours of community service, which shall include 40 hours in a program benefiting children, and a mandatory minimum 30 days of imprisonment. The imprisonment or assignment of community service under this subsection (c-9) is not subject to suspension, nor is the person eligible for a reduced sentence.

(c-10) Any person convicted of violating subsection (c-9) or a similar provision a third time within 20 years of a previous violation of subsection (a) or a similar provision is guilty of a Class 4 felony and shall receive, in addition to any other penalty imposed, an additional mandatory 40 hours of community service in a program benefiting children, an additional mandatory fine of \$3,000, and a mandatory minimum 120 days of imprisonment. The imprisonment or assignment of community service under this subsection (c-10) is not subject to suspension, nor is the person eligible for a reduced

sentence.

(c-11) Any person convicted a fourth or subsequent time for violating subsection (a) or a similar provision, if at the time of the fourth or subsequent violation the person was transporting a person under the age of 16, and if the person's 3 prior violations of subsection (a) or a similar provision occurred while transporting a person under the age of 16 or while the alcohol concentration in his or her blood, breath, or urine was 0.16 or more based on the definition of blood, breath, or urine units in Section 11-501.2, is guilty of a Class 2 felony, is not eligible for probation or conditional discharge, and is subject to a minimum fine of \$3,000.

(c-12) Any person convicted of a first violation of subsection (a) or a similar provision, if the alcohol concentration in his or her blood, breath, or urine was 0.16 or more based on the definition of blood, breath, or urine units in Section 11-501.2, shall be subject, in addition to any other penalty that may be imposed, to a mandatory minimum of 100 hours of community service and a mandatory minimum fine of \$500.

(c-13) Any person convicted of a second violation of subsection (a) or a similar provision committed within 10 years of a previous violation of subsection (a) or a similar provision committed within 10 years of a previous violation of subsection (a) or a similar provision, if at the time of the second violation of subsection (a) the alcohol concentration in

his or her blood, breath, or urine was 0.16 or more based on the definition of blood, breath, or urine units in Section 11-501.2, shall be subject, in addition to any other penalty that may be imposed, to a mandatory minimum of 2 days of imprisonment and a mandatory minimum fine of \$1,250.

(c-14) Any person convicted of a third violation of subsection (a) or a similar provision within 20 years of a previous violation of subsection (a) or a similar provision, if at the time of the third violation of subsection (a) or a similar provision the alcohol concentration in his or her blood, breath, or urine was 0.16 or more based on the definition of blood, breath, or urine units in Section 11-501.2, is guilty of a Class 4 felony and shall be subject, in addition to any other penalty that may be imposed, to a mandatory minimum of 90 days of imprisonment and a mandatory minimum fine of \$2,500.

(c-15) Any person convicted of a fourth or subsequent violation of subsection (a) or a similar provision, if at the time of the fourth or subsequent violation the alcohol concentration in his or her blood, breath, or urine was 0.16 or more based on the definition of blood, breath, or urine units in Section 11-501.2, and if the person's 3 prior violations of subsection (a) or a similar provision occurred while transporting a person under the age of 16 or while the alcohol concentration in his or her blood, breath, or urine was 0.16 or more based on the definition of blood, breath, or urine units

in Section 11-501.2, is guilty of a Class 2 felony and is not eligible for a sentence of probation or conditional discharge and is subject to a minimum fine of \$2,500.

(d) (1) Every person convicted of committing a violation of this Section shall be guilty of aggravated driving under the influence of alcohol, other drug or drugs, or intoxicating compound or compounds, or any combination thereof if:

(A) the person committed a violation of subsection (a) or a similar provision for the third or subsequent time;

(B) the person committed a violation of subsection (a) while driving a school bus with persons 18 years of age or younger on board;

(C) the person in committing a violation of subsection (a) was involved in a motor vehicle accident that resulted in great bodily harm or permanent disability or disfigurement to another, when the violation was a proximate cause of the injuries;

(D) the person committed a violation of subsection (a) for a second time and has been previously convicted of violating Section 9-3 of the Criminal Code of 1961 or a similar provision of a law of another state relating to reckless homicide in which the person was determined to have been under the influence of alcohol, other drug or drugs, or intoxicating compound or

compounds as an element of the offense or the person has previously been convicted under subparagraph (C) or subparagraph (F) of this paragraph (1);

(E) the person, in committing a violation of subsection (a) while driving at any speed in a school speed zone at a time when a speed limit of 20 miles per hour was in effect under subsection (a) of Section 11-605 of this Code, was involved in a motor vehicle accident that resulted in bodily harm, other than great bodily harm or permanent disability or disfigurement, to another person, when the violation of subsection (a) was a proximate cause of the bodily harm; or

(F) the person, in committing a violation of subsection (a), was involved in a motor vehicle, snowmobile, all-terrain vehicle, or watercraft accident that resulted in the death of another person, when the violation of subsection (a) was a proximate cause of the death.

(2) Except as provided in this paragraph (2), a person convicted of aggravated driving under the influence of alcohol, other drug or drugs, or intoxicating compound or compounds, or any combination thereof is guilty of a Class 4 felony. For a violation of subparagraph (C) of paragraph (1) of this subsection (d), the defendant, if sentenced to a term of imprisonment, shall be sentenced to not less than one year nor more than 12 years. 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 this subsection (d) is a Class 2 felony, for which the defendant, unless the court determines that extraordinary circumstances exist and require probation, shall be sentenced to: (A) a term of imprisonment of not less than 3 years and not more than 14 years if the violation resulted in the death of one person; or (B) a term of imprisonment of not less than 6 years and not more than 28 years if the violation resulted in the deaths of 2 or more persons. For any prosecution under this subsection (d), a certified copy of the driving abstract of the defendant shall be admitted as proof of any prior conviction. Any person sentenced under this subsection (d) who receives a term of probation or conditional discharge must serve a minimum term of either 480 hours of community service or 10 days of imprisonment as a condition of the probation or conditional discharge. This mandatory minimum term of imprisonment or assignment of community service may not be suspended or reduced by the court.

(e) After a finding of guilt and prior to any final sentencing, or an order for supervision, for an offense based upon an arrest for a violation of this Section or a similar provision of a local ordinance, individuals shall be required to undergo a professional evaluation to determine if an

alcohol, drug, or intoxicating compound abuse problem exists and the extent of the problem, and undergo the imposition of treatment as appropriate. Programs conducting these evaluations shall be licensed by the Department of Human Services. The cost of any professional evaluation shall be paid for by the individual required to undergo the professional evaluation.

(e-1) Any person who is found guilty of or pleads guilty to violating this Section, including any person receiving a disposition of court supervision for violating this Section, may be required by the Court to attend a victim impact panel offered by, or under contract with, a County State's Attorney's office, a probation and court services department, Mothers Against Drunk Driving, or the Alliance Against Intoxicated Motorists. All costs generated by the victim impact panel shall be paid from fees collected from the offender or as may be determined by the court.

(f) Every person found guilty of violating this Section, whose operation of a motor vehicle while in violation of this Section proximately caused any incident resulting in an appropriate emergency response, shall be liable for the expense of an emergency response as provided in subsection (m) of this Section.

(g) The Secretary of State shall revoke the driving privileges of any person convicted under this Section or a similar provision of a local ordinance.

(h) (Blank).

(i) The Secretary of State shall require the use of ignition interlock devices on all vehicles owned by an individual who has been convicted of a second or subsequent offense of this Section or a similar provision of a local ordinance. The Secretary shall establish by rule and regulation the procedures for certification and use of the interlock system.

(j) In addition to any other penalties and liabilities, a person who is found guilty of or pleads guilty to violating subsection (a), including any person placed on court supervision for violating subsection (a), shall be fined \$500, payable to the circuit clerk, who shall distribute the money as follows: 20% to the law enforcement agency that made the arrest and 80% shall be forwarded to the State Treasurer for deposit into the General Revenue Fund. If the person has been previously convicted of violating subsection (a) or a similar provision of a local ordinance, the fine shall be \$1,000. In the event that more than one agency is responsible for the arrest, the amount payable to law enforcement agencies shall be shared equally. Any moneys received by a law enforcement agency under this subsection (j) shall be used for enforcement and prevention of driving while under the influence of alcohol, other drug or drugs, intoxicating compound or compounds or any combination thereof, as defined by this Section, including but not limited to the purchase of law enforcement equipment and

commodities that will assist in the prevention of alcohol related criminal violence throughout the State; police officer training and education in areas related to alcohol related crime, including but not limited to DUI training; and police officer salaries, including but not limited to salaries for hire back funding for safety checkpoints, saturation patrols, and liquor store sting operations. Equipment and commodities shall include, but are not limited to, in-car video cameras, radar and laser speed detection devices, and alcohol breath testers. Any moneys received by the Department of State Police under this subsection (j) shall be deposited into the State Police DUI Fund and shall be used for enforcement and prevention of driving while under the influence of alcohol, other drug or drugs, intoxicating compound or compounds or any combination thereof, as defined by this Section, including but not limited to the purchase of law enforcement equipment and commodities that will assist in the prevention of alcohol related criminal violence throughout the State; police officer training and education in areas related to alcohol related crime, including but not limited to DUI training; and police officer salaries, including but not limited to salaries for hire back funding for safety checkpoints, saturation patrols, and liquor store sting operations.

(k) The Secretary of State Police DUI Fund is created as a special fund in the State treasury. All moneys received by the Secretary of State Police under subsection (j) of this Section

shall be deposited into the Secretary of State Police DUI Fund and, subject to appropriation, shall be used for enforcement and prevention of driving while under the influence of alcohol, other drug or drugs, intoxicating compound or compounds or any combination thereof, as defined by this Section, including but not limited to the purchase of law enforcement equipment and commodities to assist in the prevention of alcohol related criminal violence throughout the State; police officer training and education in areas related to alcohol related crime, including but not limited to DUI training; and police officer salaries, including but not limited to salaries for hire back funding for safety checkpoints, saturation patrols, and liquor store sting operations.

(1) Whenever an individual is sentenced for an offense based upon an arrest for a violation of subsection (a) or a similar provision of a local ordinance, and the professional evaluation recommends remedial or rehabilitative treatment or education, neither the treatment nor the education shall be the sole disposition and either or both may be imposed only in conjunction with another disposition. The court shall monitor compliance with any remedial education or treatment recommendations contained in the professional evaluation. Programs conducting alcohol or other drug evaluation or remedial education must be licensed by the Department of Human Services. If the individual is not a resident of Illinois, however, the court may accept an alcohol or other drug

evaluation or remedial education program in the individual's state of residence. Programs providing treatment must be licensed under existing applicable alcoholism and drug treatment licensure standards.

(m) In addition to any other fine or penalty required by law, an individual convicted of a violation of subsection (a), Section 5-7 of the Snowmobile Registration and Safety Act, Section 5-16 of the Boat Registration and Safety Act, or a similar provision, whose operation of a motor vehicle, snowmobile, or watercraft while in violation of subsection (a), Section 5-7 of the Snowmobile Registration and Safety Act, Section 5-16 of the Boat Registration and Safety Act, or a similar provision proximately caused an incident resulting in an appropriate emergency response, shall be required to make restitution to a public agency for the costs of that emergency response. The restitution may not exceed \$1,000 per public agency for each emergency response. As used in this subsection (m), "emergency response" means any incident requiring a response by a police officer, a firefighter carried on the rolls of a regularly constituted fire department, or an ambulance.

(Source: P.A. 94-113, eff. 1-1-06; 94-609, eff. 1-1-06; 94-963, eff. 6-28-06; 95-149, eff. 8-14-07; 95-355, eff. 1-1-08; revised 11-28-07.)

(Text of Section from P.A. 94-114, 94-963, 95-149, and

95-355)

Sec. 11-501. Driving while under the influence of alcohol, other drug or drugs, intoxicating compound or compounds or any combination thereof.

(a) A person shall not drive or be in actual physical control of any vehicle within this State while:

(1) the alcohol concentration in the person's blood or breath is 0.08 or more based on the definition of blood and breath units in Section 11-501.2;

(2) under the influence of alcohol;

(3) under the influence of any intoxicating compound or combination of intoxicating compounds to a degree that renders the person incapable of driving safely;

(4) under the influence of any other drug or combination of drugs to a degree that renders the person incapable of safely driving;

(5) under the combined influence of alcohol, other drug or drugs, or intoxicating compound or compounds to a degree that renders the person incapable of safely driving; or

(6) there is any amount of a drug, substance, or compound in the person's breath, blood, or urine resulting from the unlawful use or consumption of cannabis listed in the Cannabis Control Act, a controlled substance listed in the Illinois Controlled Substances Act, an intoxicating compound listed in the Use of Intoxicating Compounds Act, or methamphetamine as listed in the Methamphetamine

Control and Community Protection Act.

(b) The fact that any person charged with violating this Section is or has been legally entitled to use alcohol, other drug or drugs, or intoxicating compound or compounds, or any combination thereof, shall not constitute a defense against any charge of violating this Section.

(b-1) With regard to penalties imposed under this Section:

(1) Any reference to a prior violation of subsection (a) or a similar provision includes any violation of a provision of a local ordinance or a provision of a law of another state or an offense committed on a military installation that is similar to a violation of subsection (a) of this Section.

(2) Any penalty imposed for driving with a license that has been revoked for a previous violation of subsection (a) of this Section shall be in addition to the penalty imposed for any subsequent violation of subsection (a).

(b-2) Except as otherwise provided in this Section, any person convicted of violating subsection (a) of this Section is guilty of a Class A misdemeanor.

(b-3) In addition to any other criminal or administrative sanction for any second conviction of violating subsection (a) or a similar provision committed within 5 years of a previous violation of subsection (a) or a similar provision, the defendant shall be sentenced to a mandatory minimum of 5 days of imprisonment or assigned a mandatory minimum of 240 hours of

community service as may be determined by the court.

(b-4) In the case of a third or subsequent violation committed within 5 years of a previous violation of subsection (a) or a similar provision, in addition to any other criminal or administrative sanction, a mandatory minimum term of either 10 days of imprisonment or 480 hours of community service shall be imposed.

(b-5) The imprisonment or assignment of community service under subsections (b-3) and (b-4) shall not be subject to suspension, nor shall the person be eligible for a reduced sentence.

(c) (Blank).

(c-1) (1) A person who violates subsection (a) during a period in which his or her driving privileges are revoked or suspended, where the revocation or suspension was for a violation of subsection (a), Section 11-501.1, paragraph (b) of Section 11-401, or for reckless homicide as defined in Section 9-3 of the Criminal Code of 1961 is guilty of a Class 4 felony.

(2) A person who violates subsection (a) a third time, if the third violation occurs during a period in which his or her driving privileges are revoked or suspended where the revocation or suspension was for a violation of subsection (a), Section 11-501.1, paragraph (b) of Section 11-401, or for reckless homicide as defined in Section 9-3 of the Criminal Code of 1961, is guilty of a Class 3

felony.

(2.1) A person who violates subsection (a) a third time, if the third violation occurs during a period in which his or her driving privileges are revoked or suspended where the revocation or suspension was for a violation of subsection (a), Section 11-501.1, subsection (b) of Section 11-401, or for reckless homicide as defined in Section 9-3 of the Criminal Code of 1961, is guilty of a Class 3 felony; and if the person receives a term of probation or conditional discharge, he or she shall be required to serve a mandatory minimum of 10 days of imprisonment or shall be assigned a mandatory minimum of 480 hours of community service, as may be determined by the court, as a condition of the probation or conditional discharge. This mandatory minimum term of imprisonment or assignment of community service shall not be suspended or reduced by the court.

(2.2) A person who violates subsection (a), if the violation occurs during a period in which his or her driving privileges are revoked or suspended where the revocation or suspension was for a violation of subsection (a) or Section 11-501.1, shall also be sentenced to an additional mandatory minimum term of 30 consecutive days of imprisonment, 40 days of 24-hour periodic imprisonment, or 720 hours of community service, as may be determined by the court. This mandatory term of imprisonment or assignment of

community service shall not be suspended or reduced by the court.

(3) A person who violates subsection (a) a fourth or fifth time, if the fourth or fifth violation occurs during a period in which his or her driving privileges are revoked or suspended where the revocation or suspension was for a violation of subsection (a), Section 11-501.1, paragraph (b) of Section 11-401, or for reckless homicide as defined in Section 9-3 of the Criminal Code of 1961, is guilty of a Class 2 felony and is not eligible for a sentence of probation or conditional discharge.

(c-2) (Blank).

(c-3) (Blank).

(c-4) (Blank).

(c-5) A person who violates subsection (a), if the person was transporting a person under the age of 16 at the time of the violation, is subject to an additional mandatory minimum fine of \$1,000, an additional mandatory minimum 140 hours of community service, which shall include 40 hours of community service in a program benefiting children, and an additional 2 days of imprisonment. The imprisonment or assignment of community service under this subsection (c-5) is not subject to suspension, nor is the person eligible for a reduced sentence.

(c-6) Except as provided in subsections (c-7) and (c-8) a person who violates subsection (a) a second time, if at the time of the second violation the person was transporting a

person under the age of 16, is subject to an additional 10 days of imprisonment, an additional mandatory minimum fine of \$1,000, and an additional mandatory minimum 140 hours of community service, which shall include 40 hours of community service in a program benefiting children. The imprisonment or assignment of community service under this subsection (c-6) is not subject to suspension, nor is the person eligible for a reduced sentence.

(c-7) Except as provided in subsection (c-8), any person convicted of violating subsection (c-6) or a similar provision within 10 years of a previous violation of subsection (a) or a similar provision shall receive, in addition to any other penalty imposed, a mandatory minimum 12 days imprisonment, an additional 40 hours of mandatory community service in a program benefiting children, and a mandatory minimum fine of \$1,750. The imprisonment or assignment of community service under this subsection (c-7) is not subject to suspension, nor is the person eligible for a reduced sentence.

(c-8) Any person convicted of violating subsection (c-6) or a similar provision within 5 years of a previous violation of subsection (a) or a similar provision shall receive, in addition to any other penalty imposed, an additional 80 hours of mandatory community service in a program benefiting children, an additional mandatory minimum 12 days of imprisonment, and a mandatory minimum fine of \$1,750. The imprisonment or assignment of community service under this

subsection (c-8) is not subject to suspension, nor is the person eligible for a reduced sentence.

(c-9) Any person convicted a third time for violating subsection (a) or a similar provision, if at the time of the third violation the person was transporting a person under the age of 16, is guilty of a Class 4 felony and shall receive, in addition to any other penalty imposed, an additional mandatory fine of \$1,000, an additional mandatory 140 hours of community service, which shall include 40 hours in a program benefiting children, and a mandatory minimum 30 days of imprisonment. The imprisonment or assignment of community service under this subsection (c-9) is not subject to suspension, nor is the person eligible for a reduced sentence.

(c-10) Any person convicted of violating subsection (c-9) or a similar provision a third time within 20 years of a previous violation of subsection (a) or a similar provision is guilty of a Class 4 felony and shall receive, in addition to any other penalty imposed, an additional mandatory 40 hours of community service in a program benefiting children, an additional mandatory fine of \$3,000, and a mandatory minimum 120 days of imprisonment. The imprisonment or assignment of community service under this subsection (c-10) is not subject to suspension, nor is the person eligible for a reduced sentence.

(c-11) Any person convicted a fourth or fifth time for violating subsection (a) or a similar provision, if at the time

of the fourth or fifth violation the person was transporting a person under the age of 16, and if the person's 3 prior violations of subsection (a) or a similar provision occurred while transporting a person under the age of 16 or while the alcohol concentration in his or her blood, breath, or urine was 0.16 or more based on the definition of blood, breath, or urine units in Section 11-501.2, is guilty of a Class 2 felony, is not eligible for probation or conditional discharge, and is subject to a minimum fine of \$3,000.

(c-12) Any person convicted of a first violation of subsection (a) or a similar provision, if the alcohol concentration in his or her blood, breath, or urine was 0.16 or more based on the definition of blood, breath, or urine units in Section 11-501.2, shall be subject, in addition to any other penalty that may be imposed, to a mandatory minimum of 100 hours of community service and a mandatory minimum fine of \$500.

(c-13) Any person convicted of a second violation of subsection (a) or a similar provision committed within 10 years of a previous violation of subsection (a) or a similar provision committed within 10 years of a previous violation of subsection (a) or a similar provision, if at the time of the second violation of subsection (a) the alcohol concentration in his or her blood, breath, or urine was 0.16 or more based on the definition of blood, breath, or urine units in Section 11-501.2, shall be subject, in addition to any other penalty

that may be imposed, to a mandatory minimum of 2 days of imprisonment and a mandatory minimum fine of \$1,250.

(c-14) Any person convicted of a third violation of subsection (a) or a similar provision within 20 years of a previous violation of subsection (a) or a similar provision, if at the time of the third violation of subsection (a) or a similar provision the alcohol concentration in his or her blood, breath, or urine was 0.16 or more based on the definition of blood, breath, or urine units in Section 11-501.2, is guilty of a Class 4 felony and shall be subject, in addition to any other penalty that may be imposed, to a mandatory minimum of 90 days of imprisonment and a mandatory minimum fine of \$2,500.

(c-15) Any person convicted of a fourth or fifth violation of subsection (a) or a similar provision, if at the time of the fourth or fifth violation the alcohol concentration in his or her blood, breath, or urine was 0.16 or more based on the definition of blood, breath, or urine units in Section 11-501.2, and if the person's 3 prior violations of subsection (a) or a similar provision occurred while transporting a person under the age of 16 or while the alcohol concentration in his or her blood, breath, or urine was 0.16 or more based on the definition of blood, breath, or urine units in Section 11-501.2, is guilty of a Class 2 felony and is not eligible for a sentence of probation or conditional discharge and is subject to a minimum fine of \$2,500.

(c-16) Any person convicted of a sixth or subsequent violation of subsection (a) is guilty of a Class X felony.

(d) (1) Every person convicted of committing a violation of this Section shall be guilty of aggravated driving under the influence of alcohol, other drug or drugs, or intoxicating compound or compounds, or any combination thereof if:

(A) the person committed a violation of subsection (a) or a similar provision for the third or subsequent time;

(B) the person committed a violation of subsection (a) while driving a school bus with persons 18 years of age or younger on board;

(C) the person in committing a violation of subsection (a) was involved in a motor vehicle accident that resulted in great bodily harm or permanent disability or disfigurement to another, when the violation was a proximate cause of the injuries;

(D) the person committed a violation of subsection (a) for a second time and has been previously convicted of violating Section 9-3 of the Criminal Code of 1961 or a similar provision of a law of another state relating to reckless homicide in which the person was determined to have been under the influence of alcohol, other drug or drugs, or intoxicating compound or compounds as an element of the offense or the person

has previously been convicted under subparagraph (C) or subparagraph (F) of this paragraph (1);

(E) the person, in committing a violation of subsection (a) while driving at any speed in a school speed zone at a time when a speed limit of 20 miles per hour was in effect under subsection (a) of Section 11-605 of this Code, was involved in a motor vehicle accident that resulted in bodily harm, other than great bodily harm or permanent disability or disfigurement, to another person, when the violation of subsection (a) was a proximate cause of the bodily harm; or

(F) the person, in committing a violation of subsection (a), was involved in a motor vehicle, snowmobile, all-terrain vehicle, or watercraft accident that resulted in the death of another person, when the violation of subsection (a) was a proximate cause of the death.

(2) Except as provided in this paragraph (2), a person convicted of aggravated driving under the influence of alcohol, other drug or drugs, or intoxicating compound or compounds, or any combination thereof is guilty of a Class 4 felony. For a violation of subparagraph (C) of paragraph (1) of this subsection (d), the defendant, if sentenced to a term of imprisonment, shall be sentenced to not less than one year nor more than 12 years. 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 this subsection (d) is a Class 2 felony, for which the defendant, if sentenced to a term of imprisonment, shall be sentenced to: (A) a term of imprisonment of not less than 3 years and not more than 14 years if the violation resulted in the death of one person; or (B) a term of imprisonment of not less than 6 years and not more than 28 years if the violation resulted in the deaths of 2 or more persons. For any prosecution under this subsection (d), a certified copy of the driving abstract of the defendant shall be admitted as proof of any prior conviction. Any person sentenced under this subsection (d) who receives a term of probation or conditional discharge must serve a minimum term of either 480 hours of community service or 10 days of imprisonment as a condition of the probation or conditional discharge. This mandatory minimum term of imprisonment or assignment of community service may not be suspended or reduced by the court.

(e) After a finding of guilt and prior to any final sentencing, or an order for supervision, for an offense based upon an arrest for a violation of this Section or a similar provision of a local ordinance, individuals shall be required to undergo a professional evaluation to determine if an alcohol, drug, or intoxicating compound abuse problem exists and the extent of the problem, and undergo the imposition of

treatment as appropriate. Programs conducting these evaluations shall be licensed by the Department of Human Services. The cost of any professional evaluation shall be paid for by the individual required to undergo the professional evaluation.

(e-1) Any person who is found guilty of or pleads guilty to violating this Section, including any person receiving a disposition of court supervision for violating this Section, may be required by the Court to attend a victim impact panel offered by, or under contract with, a County State's Attorney's office, a probation and court services department, Mothers Against Drunk Driving, or the Alliance Against Intoxicated Motorists. All costs generated by the victim impact panel shall be paid from fees collected from the offender or as may be determined by the court.

(f) Every person found guilty of violating this Section, whose operation of a motor vehicle while in violation of this Section proximately caused any incident resulting in an appropriate emergency response, shall be liable for the expense of an emergency response as provided in subsection (m) of this Section.

(g) The Secretary of State shall revoke the driving privileges of any person convicted under this Section or a similar provision of a local ordinance.

(h) (Blank).

(i) The Secretary of State shall require the use of

ignition interlock devices on all vehicles owned by an individual who has been convicted of a second or subsequent offense of this Section or a similar provision of a local ordinance. The Secretary shall establish by rule and regulation the procedures for certification and use of the interlock system.

(j) In addition to any other penalties and liabilities, a person who is found guilty of or pleads guilty to violating subsection (a), including any person placed on court supervision for violating subsection (a), shall be fined \$500, payable to the circuit clerk, who shall distribute the money as follows: 20% to the law enforcement agency that made the arrest and 80% shall be forwarded to the State Treasurer for deposit into the General Revenue Fund. If the person has been previously convicted of violating subsection (a) or a similar provision of a local ordinance, the fine shall be \$1,000. In the event that more than one agency is responsible for the arrest, the amount payable to law enforcement agencies shall be shared equally. Any moneys received by a law enforcement agency under this subsection (j) shall be used for enforcement and prevention of driving while under the influence of alcohol, other drug or drugs, intoxicating compound or compounds or any combination thereof, as defined by this Section, including but not limited to the purchase of law enforcement equipment and commodities that will assist in the prevention of alcohol related criminal violence throughout the State; police officer

training and education in areas related to alcohol related crime, including but not limited to DUI training; and police officer salaries, including but not limited to salaries for hire back funding for safety checkpoints, saturation patrols, and liquor store sting operations. Equipment and commodities shall include, but are not limited to, in-car video cameras, radar and laser speed detection devices, and alcohol breath testers. Any moneys received by the Department of State Police under this subsection (j) shall be deposited into the State Police DUI Fund and shall be used for enforcement and prevention of driving while under the influence of alcohol, other drug or drugs, intoxicating compound or compounds or any combination thereof, as defined by this Section, including but not limited to the purchase of law enforcement equipment and commodities that will assist in the prevention of alcohol related criminal violence throughout the State; police officer training and education in areas related to alcohol related crime, including but not limited to DUI training; and police officer salaries, including but not limited to salaries for hire back funding for safety checkpoints, saturation patrols, and liquor store sting operations.

(k) The Secretary of State Police DUI Fund is created as a special fund in the State treasury. All moneys received by the Secretary of State Police under subsection (j) of this Section shall be deposited into the Secretary of State Police DUI Fund and, subject to appropriation, shall be used for enforcement

and prevention of driving while under the influence of alcohol, other drug or drugs, intoxicating compound or compounds or any combination thereof, as defined by this Section, including but not limited to the purchase of law enforcement equipment and commodities to assist in the prevention of alcohol related criminal violence throughout the State; police officer training and education in areas related to alcohol related crime, including but not limited to DUI training; and police officer salaries, including but not limited to salaries for hire back funding for safety checkpoints, saturation patrols, and liquor store sting operations.

(1) Whenever an individual is sentenced for an offense based upon an arrest for a violation of subsection (a) or a similar provision of a local ordinance, and the professional evaluation recommends remedial or rehabilitative treatment or education, neither the treatment nor the education shall be the sole disposition and either or both may be imposed only in conjunction with another disposition. The court shall monitor compliance with any remedial education or treatment recommendations contained in the professional evaluation. Programs conducting alcohol or other drug evaluation or remedial education must be licensed by the Department of Human Services. If the individual is not a resident of Illinois, however, the court may accept an alcohol or other drug evaluation or remedial education program in the individual's state of residence. Programs providing treatment must be

licensed under existing applicable alcoholism and drug treatment licensure standards.

(m) In addition to any other fine or penalty required by law, an individual convicted of a violation of subsection (a), Section 5-7 of the Snowmobile Registration and Safety Act, Section 5-16 of the Boat Registration and Safety Act, or a similar provision, whose operation of a motor vehicle, snowmobile, or watercraft while in violation of subsection (a), Section 5-7 of the Snowmobile Registration and Safety Act, Section 5-16 of the Boat Registration and Safety Act, or a similar provision proximately caused an incident resulting in an appropriate emergency response, shall be required to make restitution to a public agency for the costs of that emergency response. The restitution may not exceed \$1,000 per public agency for each emergency response. As used in this subsection (m), "emergency response" means any incident requiring a response by a police officer, a firefighter carried on the rolls of a regularly constituted fire department, or an ambulance.

(Source: P.A. 94-114, eff. 1-1-06; 94-963, eff. 6-28-06; 95-149, eff. 8-14-07; 95-355, eff. 1-1-08; revised 11-28-07.)

(Text of Section from P.A. 94-116, 94-963, 95-149, and 95-355)

Sec. 11-501. Driving while under the influence of alcohol, other drug or drugs, intoxicating compound or compounds or any

combination thereof.

(a) A person shall not drive or be in actual physical control of any vehicle within this State while:

(1) the alcohol concentration in the person's blood or breath is 0.08 or more based on the definition of blood and breath units in Section 11-501.2;

(2) under the influence of alcohol;

(3) under the influence of any intoxicating compound or combination of intoxicating compounds to a degree that renders the person incapable of driving safely;

(4) under the influence of any other drug or combination of drugs to a degree that renders the person incapable of safely driving;

(5) under the combined influence of alcohol, other drug or drugs, or intoxicating compound or compounds to a degree that renders the person incapable of safely driving; or

(6) there is any amount of a drug, substance, or compound in the person's breath, blood, or urine resulting from the unlawful use or consumption of cannabis listed in the Cannabis Control Act, a controlled substance listed in the Illinois Controlled Substances Act, an intoxicating compound listed in the Use of Intoxicating Compounds Act, or methamphetamine as listed in the Methamphetamine Control and Community Protection Act.

(b) The fact that any person charged with violating this Section is or has been legally entitled to use alcohol, other

drug or drugs, or intoxicating compound or compounds, or any combination thereof, shall not constitute a defense against any charge of violating this Section.

(b-1) With regard to penalties imposed under this Section:

(1) Any reference to a prior violation of subsection (a) or a similar provision includes any violation of a provision of a local ordinance or a provision of a law of another state or an offense committed on a military installation that is similar to a violation of subsection (a) of this Section.

(2) Any penalty imposed for driving with a license that has been revoked for a previous violation of subsection (a) of this Section shall be in addition to the penalty imposed for any subsequent violation of subsection (a).

(b-2) Except as otherwise provided in this Section, any person convicted of violating subsection (a) of this Section is guilty of a Class A misdemeanor.

(b-3) In addition to any other criminal or administrative sanction for any second conviction of violating subsection (a) or a similar provision committed within 5 years of a previous violation of subsection (a) or a similar provision, the defendant shall be sentenced to a mandatory minimum of 5 days of imprisonment or assigned a mandatory minimum of 240 hours of community service as may be determined by the court.

(b-4) In the case of a third violation committed within 5 years of a previous violation of subsection (a) or a similar

provision, the defendant is guilty of a Class 2 felony, and in addition to any other criminal or administrative sanction, a mandatory minimum term of either 10 days of imprisonment or 480 hours of community service shall be imposed.

(b-5) The imprisonment or assignment of community service under subsections (b-3) and (b-4) shall not be subject to suspension, nor shall the person be eligible for a reduced sentence.

(c) (Blank).

(c-1) (1) A person who violates subsection (a) during a period in which his or her driving privileges are revoked or suspended, where the revocation or suspension was for a violation of subsection (a), Section 11-501.1, paragraph (b) of Section 11-401, or for reckless homicide as defined in Section 9-3 of the Criminal Code of 1961 is guilty of a Class 4 felony.

(2) A person who violates subsection (a) a third time is guilty of a Class 2 felony.

(2.1) A person who violates subsection (a) a third time, if the third violation occurs during a period in which his or her driving privileges are revoked or suspended where the revocation or suspension was for a violation of subsection (a), Section 11-501.1, subsection (b) of Section 11-401, or for reckless homicide as defined in Section 9-3 of the Criminal Code of 1961, is guilty of a Class 2 felony; and if the person receives a term of

probation or conditional discharge, he or she shall be required to serve a mandatory minimum of 10 days of imprisonment or shall be assigned a mandatory minimum of 480 hours of community service, as may be determined by the court, as a condition of the probation or conditional discharge. This mandatory minimum term of imprisonment or assignment of community service shall not be suspended or reduced by the court.

(2.2) A person who violates subsection (a), if the violation occurs during a period in which his or her driving privileges are revoked or suspended where the revocation or suspension was for a violation of subsection (a) or Section 11-501.1, shall also be sentenced to an additional mandatory minimum term of 30 consecutive days of imprisonment, 40 days of 24-hour periodic imprisonment, or 720 hours of community service, as may be determined by the court. This mandatory term of imprisonment or assignment of community service shall not be suspended or reduced by the court.

(3) A person who violates subsection (a) a fourth time is guilty of a Class 2 felony and is not eligible for a sentence of probation or conditional discharge.

(4) A person who violates subsection (a) a fifth or subsequent time is guilty of a Class 1 felony and is not eligible for a sentence of probation or conditional discharge.

(c-2) (Blank).

(c-3) (Blank).

(c-4) (Blank).

(c-5) A person who violates subsection (a), if the person was transporting a person under the age of 16 at the time of the violation, is subject to an additional mandatory minimum fine of \$1,000, an additional mandatory minimum 140 hours of community service, which shall include 40 hours of community service in a program benefiting children, and an additional 2 days of imprisonment. The imprisonment or assignment of community service under this subsection (c-5) is not subject to suspension, nor is the person eligible for a reduced sentence.

(c-6) Except as provided in subsections (c-7) and (c-8) a person who violates subsection (a) a second time, if at the time of the second violation the person was transporting a person under the age of 16, is subject to an additional 10 days of imprisonment, an additional mandatory minimum fine of \$1,000, and an additional mandatory minimum 140 hours of community service, which shall include 40 hours of community service in a program benefiting children. The imprisonment or assignment of community service under this subsection (c-6) is not subject to suspension, nor is the person eligible for a reduced sentence.

(c-7) Except as provided in subsection (c-8), any person convicted of violating subsection (c-6) or a similar provision within 10 years of a previous violation of subsection (a) or a

similar provision shall receive, in addition to any other penalty imposed, a mandatory minimum 12 days imprisonment, an additional 40 hours of mandatory community service in a program benefiting children, and a mandatory minimum fine of \$1,750. The imprisonment or assignment of community service under this subsection (c-7) is not subject to suspension, nor is the person eligible for a reduced sentence.

(c-8) Any person convicted of violating subsection (c-6) or a similar provision within 5 years of a previous violation of subsection (a) or a similar provision shall receive, in addition to any other penalty imposed, an additional 80 hours of mandatory community service in a program benefiting children, an additional mandatory minimum 12 days of imprisonment, and a mandatory minimum fine of \$1,750. The imprisonment or assignment of community service under this subsection (c-8) is not subject to suspension, nor is the person eligible for a reduced sentence.

(c-9) Any person convicted a third time for violating subsection (a) or a similar provision, if at the time of the third violation the person was transporting a person under the age of 16, is guilty of a Class 2 felony and shall receive, in addition to any other penalty imposed, an additional mandatory fine of \$1,000, an additional mandatory 140 hours of community service, which shall include 40 hours in a program benefiting children, and a mandatory minimum 30 days of imprisonment. The imprisonment or assignment of community service under this

subsection (c-9) is not subject to suspension, nor is the person eligible for a reduced sentence.

(c-10) Any person convicted of violating subsection (c-9) or a similar provision a third time within 20 years of a previous violation of subsection (a) or a similar provision is guilty of a Class 2 felony and shall receive, in addition to any other penalty imposed, an additional mandatory 40 hours of community service in a program benefiting children, an additional mandatory fine of \$3,000, and a mandatory minimum 120 days of imprisonment. The imprisonment or assignment of community service under this subsection (c-10) is not subject to suspension, nor is the person eligible for a reduced sentence.

(c-11) Any person convicted a fourth time for violating subsection (a) or a similar provision, if at the time of the fourth violation the person was transporting a person under the age of 16, and if the person's 3 prior violations of subsection (a) or a similar provision occurred while transporting a person under the age of 16 or while the alcohol concentration in his or her blood, breath, or urine was 0.16 or more based on the definition of blood, breath, or urine units in Section 11-501.2, is guilty of a Class 2 felony, is not eligible for probation or conditional discharge, and is subject to a minimum fine of \$3,000.

(c-12) Any person convicted of a first violation of subsection (a) or a similar provision, if the alcohol

concentration in his or her blood, breath, or urine was 0.16 or more based on the definition of blood, breath, or urine units in Section 11-501.2, shall be subject, in addition to any other penalty that may be imposed, to a mandatory minimum of 100 hours of community service and a mandatory minimum fine of \$500.

(c-13) Any person convicted of a second violation of subsection (a) or a similar provision committed within 10 years of a previous violation of subsection (a) or a similar provision committed within 10 years of a previous violation of subsection (a) or a similar provision, if at the time of the second violation of subsection (a) the alcohol concentration in his or her blood, breath, or urine was 0.16 or more based on the definition of blood, breath, or urine units in Section 11-501.2, shall be subject, in addition to any other penalty that may be imposed, to a mandatory minimum of 2 days of imprisonment and a mandatory minimum fine of \$1,250.

(c-14) Any person convicted of a third violation of subsection (a) or a similar provision within 20 years of a previous violation of subsection (a) or a similar provision, if at the time of the third violation of subsection (a) or a similar provision the alcohol concentration in his or her blood, breath, or urine was 0.16 or more based on the definition of blood, breath, or urine units in Section 11-501.2, is guilty of a Class 2 felony and shall be subject, in addition to any other penalty that may be imposed, to a

mandatory minimum of 90 days of imprisonment and a mandatory minimum fine of \$2,500.

(c-15) Any person convicted of a fourth violation of subsection (a) or a similar provision, if at the time of the fourth violation the alcohol concentration in his or her blood, breath, or urine was 0.16 or more based on the definition of blood, breath, or urine units in Section 11-501.2, and if the person's 3 prior violations of subsection (a) or a similar provision occurred while transporting a person under the age of 16 or while the alcohol concentration in his or her blood, breath, or urine was 0.16 or more based on the definition of blood, breath, or urine units in Section 11-501.2, is guilty of a Class 2 felony and is not eligible for a sentence of probation or conditional discharge and is subject to a minimum fine of \$2,500.

(d) (1) Every person convicted of committing a violation of this Section shall be guilty of aggravated driving under the influence of alcohol, other drug or drugs, or intoxicating compound or compounds, or any combination thereof if:

(A) the person committed a violation of subsection (a) or a similar provision for the third or subsequent time;

(B) the person committed a violation of subsection (a) while driving a school bus with persons 18 years of age or younger on board;

(C) the person in committing a violation of subsection (a) was involved in a motor vehicle accident that resulted in great bodily harm or permanent disability or disfigurement to another, when the violation was a proximate cause of the injuries;

(D) the person committed a violation of subsection (a) for a second time and has been previously convicted of violating Section 9-3 of the Criminal Code of 1961 or a similar provision of a law of another state relating to reckless homicide in which the person was determined to have been under the influence of alcohol, other drug or drugs, or intoxicating compound or compounds as an element of the offense or the person has previously been convicted under subparagraph (C) or subparagraph (F) of this paragraph (1);

(E) the person, in committing a violation of subsection (a) while driving at any speed in a school speed zone at a time when a speed limit of 20 miles per hour was in effect under subsection (a) of Section 11-605 of this Code, was involved in a motor vehicle accident that resulted in bodily harm, other than great bodily harm or permanent disability or disfigurement, to another person, when the violation of subsection (a) was a proximate cause of the bodily harm; or

(F) the person, in committing a violation of subsection (a), was involved in a motor vehicle,

snowmobile, all-terrain vehicle, or watercraft accident that resulted in the death of another person, when the violation of subsection (a) was a proximate cause of the death.

(2) Except as provided in this paragraph (2) and in paragraphs (3) and (4) of subsection (c-1), a person convicted of aggravated driving under the influence of alcohol, other drug or drugs, or intoxicating compound or compounds, or any combination thereof is guilty of a Class 4 felony. For a violation of subparagraph (C) of paragraph (1) of this subsection (d), the defendant, if sentenced to a term of imprisonment, shall be sentenced to not less than one year nor more than 12 years. Except as provided in paragraph (4) of subsection (c-1), aggravated driving under the influence of alcohol, other drug, or drugs, intoxicating compounds or compounds, or any combination thereof as defined in subparagraph (A) of paragraph (1) of this subsection (d) is a Class 2 felony. 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 this subsection (d) is a Class 2 felony, for which the defendant, if sentenced to a term of imprisonment, shall be sentenced to: (A) a term of imprisonment of not less than 3 years and not more than 14 years if the violation resulted in the death of one person; or (B) a term of imprisonment

of not less than 6 years and not more than 28 years if the violation resulted in the deaths of 2 or more persons. For any prosecution under this subsection (d), a certified copy of the driving abstract of the defendant shall be admitted as proof of any prior conviction. Any person sentenced under this subsection (d) who receives a term of probation or conditional discharge must serve a minimum term of either 480 hours of community service or 10 days of imprisonment as a condition of the probation or conditional discharge. This mandatory minimum term of imprisonment or assignment of community service may not be suspended or reduced by the court.

(e) After a finding of guilt and prior to any final sentencing, or an order for supervision, for an offense based upon an arrest for a violation of this Section or a similar provision of a local ordinance, individuals shall be required to undergo a professional evaluation to determine if an alcohol, drug, or intoxicating compound abuse problem exists and the extent of the problem, and undergo the imposition of treatment as appropriate. Programs conducting these evaluations shall be licensed by the Department of Human Services. The cost of any professional evaluation shall be paid for by the individual required to undergo the professional evaluation.

(e-1) Any person who is found guilty of or pleads guilty to violating this Section, including any person receiving a

disposition of court supervision for violating this Section, may be required by the Court to attend a victim impact panel offered by, or under contract with, a County State's Attorney's office, a probation and court services department, Mothers Against Drunk Driving, or the Alliance Against Intoxicated Motorists. All costs generated by the victim impact panel shall be paid from fees collected from the offender or as may be determined by the court.

(f) Every person found guilty of violating this Section, whose operation of a motor vehicle while in violation of this Section proximately caused any incident resulting in an appropriate emergency response, shall be liable for the expense of an emergency response as provided in subsection (m) of this Section.

(g) The Secretary of State shall revoke the driving privileges of any person convicted under this Section or a similar provision of a local ordinance.

(h) (Blank).

(i) The Secretary of State shall require the use of ignition interlock devices on all vehicles owned by an individual who has been convicted of a second or subsequent offense of this Section or a similar provision of a local ordinance. The Secretary shall establish by rule and regulation the procedures for certification and use of the interlock system.

(j) In addition to any other penalties and liabilities, a

person who is found guilty of or pleads guilty to violating subsection (a), including any person placed on court supervision for violating subsection (a), shall be fined \$500, payable to the circuit clerk, who shall distribute the money as follows: 20% to the law enforcement agency that made the arrest and 80% shall be forwarded to the State Treasurer for deposit into the General Revenue Fund. If the person has been previously convicted of violating subsection (a) or a similar provision of a local ordinance, the fine shall be \$1,000. In the event that more than one agency is responsible for the arrest, the amount payable to law enforcement agencies shall be shared equally. Any moneys received by a law enforcement agency under this subsection (j) shall be used for enforcement and prevention of driving while under the influence of alcohol, other drug or drugs, intoxicating compound or compounds or any combination thereof, as defined by this Section, including but not limited to the purchase of law enforcement equipment and commodities that will assist in the prevention of alcohol related criminal violence throughout the State; police officer training and education in areas related to alcohol related crime, including but not limited to DUI training; and police officer salaries, including but not limited to salaries for hire back funding for safety checkpoints, saturation patrols, and liquor store sting operations. Equipment and commodities shall include, but are not limited to, in-car video cameras, radar and laser speed detection devices, and alcohol breath

testers. Any moneys received by the Department of State Police under this subsection (j) shall be deposited into the State Police DUI Fund and shall be used for enforcement and prevention of driving while under the influence of alcohol, other drug or drugs, intoxicating compound or compounds or any combination thereof, as defined by this Section, including but not limited to the purchase of law enforcement equipment and commodities that will assist in the prevention of alcohol related criminal violence throughout the State; police officer training and education in areas related to alcohol related crime, including but not limited to DUI training; and police officer salaries, including but not limited to salaries for hire back funding for safety checkpoints, saturation patrols, and liquor store sting operations.

(k) The Secretary of State Police DUI Fund is created as a special fund in the State treasury. All moneys received by the Secretary of State Police under subsection (j) of this Section shall be deposited into the Secretary of State Police DUI Fund and, subject to appropriation, shall be used for enforcement and prevention of driving while under the influence of alcohol, other drug or drugs, intoxicating compound or compounds or any combination thereof, as defined by this Section, including but not limited to the purchase of law enforcement equipment and commodities to assist in the prevention of alcohol related criminal violence throughout the State; police officer training and education in areas related to alcohol related

crime, including but not limited to DUI training; and police officer salaries, including but not limited to salaries for hire back funding for safety checkpoints, saturation patrols, and liquor store sting operations.

(l) Whenever an individual is sentenced for an offense based upon an arrest for a violation of subsection (a) or a similar provision of a local ordinance, and the professional evaluation recommends remedial or rehabilitative treatment or education, neither the treatment nor the education shall be the sole disposition and either or both may be imposed only in conjunction with another disposition. The court shall monitor compliance with any remedial education or treatment recommendations contained in the professional evaluation. Programs conducting alcohol or other drug evaluation or remedial education must be licensed by the Department of Human Services. If the individual is not a resident of Illinois, however, the court may accept an alcohol or other drug evaluation or remedial education program in the individual's state of residence. Programs providing treatment must be licensed under existing applicable alcoholism and drug treatment licensure standards.

(m) In addition to any other fine or penalty required by law, an individual convicted of a violation of subsection (a), Section 5-7 of the Snowmobile Registration and Safety Act, Section 5-16 of the Boat Registration and Safety Act, or a similar provision, whose operation of a motor vehicle,

snowmobile, or watercraft while in violation of subsection (a), Section 5-7 of the Snowmobile Registration and Safety Act, Section 5-16 of the Boat Registration and Safety Act, or a similar provision proximately caused an incident resulting in an appropriate emergency response, shall be required to make restitution to a public agency for the costs of that emergency response. The restitution may not exceed \$1,000 per public agency for each emergency response. As used in this subsection (m), "emergency response" means any incident requiring a response by a police officer, a firefighter carried on the rolls of a regularly constituted fire department, or an ambulance.

(Source: P.A. 94-116, eff. 1-1-06; 94-963, eff. 6-28-06; 95-149, eff. 8-14-07; 95-355, eff. 1-1-08; revised 11-28-07.)

(Text of Section from P.A. 94-329, 94-963, 95-149, and 95-355)

Sec. 11-501. Driving while under the influence of alcohol, other drug or drugs, intoxicating compound or compounds or any combination thereof.

(a) A person shall not drive or be in actual physical control of any vehicle within this State while:

(1) the alcohol concentration in the person's blood or breath is 0.08 or more based on the definition of blood and breath units in Section 11-501.2;

(2) under the influence of alcohol;

(3) under the influence of any intoxicating compound or combination of intoxicating compounds to a degree that renders the person incapable of driving safely;

(4) under the influence of any other drug or combination of drugs to a degree that renders the person incapable of safely driving;

(5) under the combined influence of alcohol, other drug or drugs, or intoxicating compound or compounds to a degree that renders the person incapable of safely driving; or

(6) there is any amount of a drug, substance, or compound in the person's breath, blood, or urine resulting from the unlawful use or consumption of cannabis listed in the Cannabis Control Act, a controlled substance listed in the Illinois Controlled Substances Act, an intoxicating compound listed in the Use of Intoxicating Compounds Act, or methamphetamine as listed in the Methamphetamine Control and Community Protection Act.

(b) The fact that any person charged with violating this Section is or has been legally entitled to use alcohol, other drug or drugs, or intoxicating compound or compounds, or any combination thereof, shall not constitute a defense against any charge of violating this Section.

(b-1) With regard to penalties imposed under this Section:

(1) Any reference to a prior violation of subsection (a) or a similar provision includes any violation of a provision of a local ordinance or a provision of a law of

another state or an offense committed on a military installation that is similar to a violation of subsection (a) of this Section.

(2) Any penalty imposed for driving with a license that has been revoked for a previous violation of subsection (a) of this Section shall be in addition to the penalty imposed for any subsequent violation of subsection (a).

(b-2) Except as otherwise provided in this Section, any person convicted of violating subsection (a) of this Section is guilty of a Class A misdemeanor.

(b-3) In addition to any other criminal or administrative sanction for any second conviction of violating subsection (a) or a similar provision committed within 5 years of a previous violation of subsection (a) or a similar provision, the defendant shall be sentenced to a mandatory minimum of 5 days of imprisonment or assigned a mandatory minimum of 240 hours of community service as may be determined by the court.

(b-4) In the case of a third or subsequent violation committed within 5 years of a previous violation of subsection (a) or a similar provision, in addition to any other criminal or administrative sanction, a mandatory minimum term of either 10 days of imprisonment or 480 hours of community service shall be imposed.

(b-5) The imprisonment or assignment of community service under subsections (b-3) and (b-4) shall not be subject to suspension, nor shall the person be eligible for a reduced

sentence.

(c) (Blank).

(c-1) (1) A person who violates subsection (a) during a period in which his or her driving privileges are revoked or suspended, where the revocation or suspension was for a violation of subsection (a), Section 11-501.1, paragraph (b) of Section 11-401, or for reckless homicide as defined in Section 9-3 of the Criminal Code of 1961 is guilty of aggravated driving under the influence of alcohol, other drug or drugs, intoxicating compound or compounds, or any combination thereof and is guilty of a Class 4 felony.

(2) A person who violates subsection (a) a third time, if the third violation occurs during a period in which his or her driving privileges are revoked or suspended where the revocation or suspension was for a violation of subsection (a), Section 11-501.1, paragraph (b) of Section 11-401, or for reckless homicide as defined in Section 9-3 of the Criminal Code of 1961, is guilty of aggravated driving under the influence of alcohol, other drug or drugs, intoxicating compound or compounds, or any combination thereof and is guilty of a Class 3 felony.

(2.1) A person who violates subsection (a) a third time, if the third violation occurs during a period in which his or her driving privileges are revoked or suspended where the revocation or suspension was for a violation of subsection (a), Section 11-501.1, subsection

(b) of Section 11-401, or for reckless homicide as defined in Section 9-3 of the Criminal Code of 1961, is guilty of aggravated driving under the influence of alcohol, other drug or drugs, intoxicating compound or compounds, or any combination thereof and is guilty of a Class 3 felony; and if the person receives a term of probation or conditional discharge, he or she shall be required to serve a mandatory minimum of 10 days of imprisonment or shall be assigned a mandatory minimum of 480 hours of community service, as may be determined by the court, as a condition of the probation or conditional discharge. This mandatory minimum term of imprisonment or assignment of community service shall not be suspended or reduced by the court.

(2.2) A person who violates subsection (a), if the violation occurs during a period in which his or her driving privileges are revoked or suspended where the revocation or suspension was for a violation of subsection (a) or Section 11-501.1, is guilty of aggravated driving under the influence of alcohol, other drug or drugs, intoxicating compound or compounds, or any combination thereof and shall also be sentenced to an additional mandatory minimum term of 30 consecutive days of imprisonment, 40 days of 24-hour periodic imprisonment, or 720 hours of community service, as may be determined by the court. This mandatory term of imprisonment or assignment of community service shall not be suspended or reduced by the

court.

(3) A person who violates subsection (a) a fourth or subsequent time, if the fourth or subsequent violation occurs during a period in which his or her driving privileges are revoked or suspended where the revocation or suspension was for a violation of subsection (a), Section 11-501.1, paragraph (b) of Section 11-401, or for reckless homicide as defined in Section 9-3 of the Criminal Code of 1961, is guilty of aggravated driving under the influence of alcohol, other drug or drugs, intoxicating compound or compounds, or any combination thereof and is guilty of a Class 2 felony, and is not eligible for a sentence of probation or conditional discharge.

(c-2) (Blank).

(c-3) (Blank).

(c-4) (Blank).

(c-5) A person who violates subsection (a), if the person was transporting a person under the age of 16 at the time of the violation, is subject to an additional mandatory minimum fine of \$1,000, an additional mandatory minimum 140 hours of community service, which shall include 40 hours of community service in a program benefiting children, and an additional 2 days of imprisonment. The imprisonment or assignment of community service under this subsection (c-5) is not subject to suspension, nor is the person eligible for a reduced sentence.

(c-6) Except as provided in subsections (c-7) and (c-8) a

person who violates subsection (a) a second time, if at the time of the second violation the person was transporting a person under the age of 16, is subject to an additional 10 days of imprisonment, an additional mandatory minimum fine of \$1,000, and an additional mandatory minimum 140 hours of community service, which shall include 40 hours of community service in a program benefiting children. The imprisonment or assignment of community service under this subsection (c-6) is not subject to suspension, nor is the person eligible for a reduced sentence.

(c-7) Except as provided in subsection (c-8), any person convicted of violating subsection (c-6) or a similar provision within 10 years of a previous violation of subsection (a) or a similar provision shall receive, in addition to any other penalty imposed, a mandatory minimum 12 days imprisonment, an additional 40 hours of mandatory community service in a program benefiting children, and a mandatory minimum fine of \$1,750. The imprisonment or assignment of community service under this subsection (c-7) is not subject to suspension, nor is the person eligible for a reduced sentence.

(c-8) Any person convicted of violating subsection (c-6) or a similar provision within 5 years of a previous violation of subsection (a) or a similar provision shall receive, in addition to any other penalty imposed, an additional 80 hours of mandatory community service in a program benefiting children, an additional mandatory minimum 12 days of

imprisonment, and a mandatory minimum fine of \$1,750. The imprisonment or assignment of community service under this subsection (c-8) is not subject to suspension, nor is the person eligible for a reduced sentence.

(c-9) Any person convicted a third time for violating subsection (a) or a similar provision, if at the time of the third violation the person was transporting a person under the age of 16, is guilty of a Class 4 felony and shall receive, in addition to any other penalty imposed, an additional mandatory fine of \$1,000, an additional mandatory 140 hours of community service, which shall include 40 hours in a program benefiting children, and a mandatory minimum 30 days of imprisonment. The imprisonment or assignment of community service under this subsection (c-9) is not subject to suspension, nor is the person eligible for a reduced sentence.

(c-10) Any person convicted of violating subsection (c-9) or a similar provision a third time within 20 years of a previous violation of subsection (a) or a similar provision is guilty of a Class 4 felony and shall receive, in addition to any other penalty imposed, an additional mandatory 40 hours of community service in a program benefiting children, an additional mandatory fine of \$3,000, and a mandatory minimum 120 days of imprisonment. The imprisonment or assignment of community service under this subsection (c-10) is not subject to suspension, nor is the person eligible for a reduced sentence.

(c-11) Any person convicted a fourth or subsequent time for violating subsection (a) or a similar provision, if at the time of the fourth or subsequent violation the person was transporting a person under the age of 16, and if the person's 3 prior violations of subsection (a) or a similar provision occurred while transporting a person under the age of 16 or while the alcohol concentration in his or her blood, breath, or urine was 0.16 or more based on the definition of blood, breath, or urine units in Section 11-501.2, is guilty of a Class 2 felony, is not eligible for probation or conditional discharge, and is subject to a minimum fine of \$3,000.

(c-12) Any person convicted of a first violation of subsection (a) or a similar provision, if the alcohol concentration in his or her blood, breath, or urine was 0.16 or more based on the definition of blood, breath, or urine units in Section 11-501.2, shall be subject, in addition to any other penalty that may be imposed, to a mandatory minimum of 100 hours of community service and a mandatory minimum fine of \$500.

(c-13) Any person convicted of a second violation of subsection (a) or a similar provision committed within 10 years of a previous violation of subsection (a) or a similar provision committed within 10 years of a previous violation of subsection (a) or a similar provision, if at the time of the second violation of subsection (a) the alcohol concentration in his or her blood, breath, or urine was 0.16 or more based on

the definition of blood, breath, or urine units in Section 11-501.2, shall be subject, in addition to any other penalty that may be imposed, to a mandatory minimum of 2 days of imprisonment and a mandatory minimum fine of \$1,250.

(c-14) Any person convicted of a third violation of subsection (a) or a similar provision within 20 years of a previous violation of subsection (a) or a similar provision, if at the time of the third violation of subsection (a) or a similar provision the alcohol concentration in his or her blood, breath, or urine was 0.16 or more based on the definition of blood, breath, or urine units in Section 11-501.2, is guilty of a Class 4 felony and shall be subject, in addition to any other penalty that may be imposed, to a mandatory minimum of 90 days of imprisonment and a mandatory minimum fine of \$2,500.

(c-15) Any person convicted of a fourth or subsequent violation of subsection (a) or a similar provision, if at the time of the fourth or subsequent violation the alcohol concentration in his or her blood, breath, or urine was 0.16 or more based on the definition of blood, breath, or urine units in Section 11-501.2, and if the person's 3 prior violations of subsection (a) or a similar provision occurred while transporting a person under the age of 16 or while the alcohol concentration in his or her blood, breath, or urine was 0.16 or more based on the definition of blood, breath, or urine units in Section 11-501.2, is guilty of a Class 2 felony and is not

eligible for a sentence of probation or conditional discharge and is subject to a minimum fine of \$2,500.

(d) (1) Every person convicted of committing a violation of this Section shall be guilty of aggravated driving under the influence of alcohol, other drug or drugs, or intoxicating compound or compounds, or any combination thereof if:

(A) the person committed a violation of subsection (a) or a similar provision for the third or subsequent time;

(B) the person committed a violation of subsection (a) while driving a school bus with persons 18 years of age or younger on board;

(C) the person in committing a violation of subsection (a) was involved in a motor vehicle accident that resulted in great bodily harm or permanent disability or disfigurement to another, when the violation was a proximate cause of the injuries;

(D) the person committed a violation of subsection (a) for a second time and has been previously convicted of violating Section 9-3 of the Criminal Code of 1961 or a similar provision of a law of another state relating to reckless homicide in which the person was determined to have been under the influence of alcohol, other drug or drugs, or intoxicating compound or compounds as an element of the offense or the person

has previously been convicted under subparagraph (C) or subparagraph (F) of this paragraph (1);

(E) the person, in committing a violation of subsection (a) while driving at any speed in a school speed zone at a time when a speed limit of 20 miles per hour was in effect under subsection (a) of Section 11-605 of this Code, was involved in a motor vehicle accident that resulted in bodily harm, other than great bodily harm or permanent disability or disfigurement, to another person, when the violation of subsection (a) was a proximate cause of the bodily harm; or

(F) the person, in committing a violation of subsection (a), was involved in a motor vehicle, snowmobile, all-terrain vehicle, or watercraft accident that resulted in the death of another person, when the violation of subsection (a) was a proximate cause of the death;

(G) the person committed the violation while he or she did not possess a driver's license or permit or a restricted driving permit or a judicial driving permit; or

(H) the person committed the violation while he or she knew or should have known that the vehicle he or she was driving was not covered by a liability insurance policy.

(2) Except as provided in this paragraph (2) and in

paragraphs (2), (2.1), and (3) of subsection (c-1), a person convicted of aggravated driving under the influence of alcohol, other drug or drugs, or intoxicating compound or compounds, or any combination thereof is guilty of a Class 4 felony. For a violation of subparagraph (C) of paragraph (1) of this subsection (d), the defendant, if sentenced to a term of imprisonment, shall be sentenced to not less than one year nor more than 12 years. 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 this subsection (d) is a Class 2 felony, for which the defendant, if sentenced to a term of imprisonment, shall be sentenced to: (A) a term of imprisonment of not less than 3 years and not more than 14 years if the violation resulted in the death of one person; or (B) a term of imprisonment of not less than 6 years and not more than 28 years if the violation resulted in the deaths of 2 or more persons. For any prosecution under this subsection (d), a certified copy of the driving abstract of the defendant shall be admitted as proof of any prior conviction. Any person sentenced under this subsection (d) who receives a term of probation or conditional discharge must serve a minimum term of either 480 hours of community service or 10 days of imprisonment as a condition of the probation or conditional discharge. This mandatory minimum

term of imprisonment or assignment of community service may not be suspended or reduced by the court.

(e) After a finding of guilt and prior to any final sentencing, or an order for supervision, for an offense based upon an arrest for a violation of this Section or a similar provision of a local ordinance, individuals shall be required to undergo a professional evaluation to determine if an alcohol, drug, or intoxicating compound abuse problem exists and the extent of the problem, and undergo the imposition of treatment as appropriate. Programs conducting these evaluations shall be licensed by the Department of Human Services. The cost of any professional evaluation shall be paid for by the individual required to undergo the professional evaluation.

(e-1) Any person who is found guilty of or pleads guilty to violating this Section, including any person receiving a disposition of court supervision for violating this Section, may be required by the Court to attend a victim impact panel offered by, or under contract with, a County State's Attorney's office, a probation and court services department, Mothers Against Drunk Driving, or the Alliance Against Intoxicated Motorists. All costs generated by the victim impact panel shall be paid from fees collected from the offender or as may be determined by the court.

(f) Every person found guilty of violating this Section, whose operation of a motor vehicle while in violation of this

Section proximately caused any incident resulting in an appropriate emergency response, shall be liable for the expense of an emergency response as provided in subsection (m) of this Section.

(g) The Secretary of State shall revoke the driving privileges of any person convicted under this Section or a similar provision of a local ordinance.

(h) (Blank).

(i) The Secretary of State shall require the use of ignition interlock devices on all vehicles owned by an individual who has been convicted of a second or subsequent offense of this Section or a similar provision of a local ordinance. The Secretary shall establish by rule and regulation the procedures for certification and use of the interlock system.

(j) In addition to any other penalties and liabilities, a person who is found guilty of or pleads guilty to violating subsection (a), including any person placed on court supervision for violating subsection (a), shall be fined \$500, payable to the circuit clerk, who shall distribute the money as follows: 20% to the law enforcement agency that made the arrest and 80% shall be forwarded to the State Treasurer for deposit into the General Revenue Fund. If the person has been previously convicted of violating subsection (a) or a similar provision of a local ordinance, the fine shall be \$1,000. In the event that more than one agency is responsible for the

arrest, the amount payable to law enforcement agencies shall be shared equally. Any moneys received by a law enforcement agency under this subsection (j) shall be used for enforcement and prevention of driving while under the influence of alcohol, other drug or drugs, intoxicating compound or compounds or any combination thereof, as defined by this Section, including but not limited to the purchase of law enforcement equipment and commodities that will assist in the prevention of alcohol related criminal violence throughout the State; police officer training and education in areas related to alcohol related crime, including but not limited to DUI training; and police officer salaries, including but not limited to salaries for hire back funding for safety checkpoints, saturation patrols, and liquor store sting operations. Equipment and commodities shall include, but are not limited to, in-car video cameras, radar and laser speed detection devices, and alcohol breath testers. Any moneys received by the Department of State Police under this subsection (j) shall be deposited into the State Police DUI Fund and shall be used for enforcement and prevention of driving while under the influence of alcohol, other drug or drugs, intoxicating compound or compounds or any combination thereof, as defined by this Section, including but not limited to the purchase of law enforcement equipment and commodities that will assist in the prevention of alcohol related criminal violence throughout the State; police officer training and education in areas related to alcohol related

crime, including but not limited to DUI training; and police officer salaries, including but not limited to salaries for hire back funding for safety checkpoints, saturation patrols, and liquor store sting operations.

(k) The Secretary of State Police DUI Fund is created as a special fund in the State treasury. All moneys received by the Secretary of State Police under subsection (j) of this Section shall be deposited into the Secretary of State Police DUI Fund and, subject to appropriation, shall be used for enforcement and prevention of driving while under the influence of alcohol, other drug or drugs, intoxicating compound or compounds or any combination thereof, as defined by this Section, including but not limited to the purchase of law enforcement equipment and commodities to assist in the prevention of alcohol related criminal violence throughout the State; police officer training and education in areas related to alcohol related crime, including but not limited to DUI training; and police officer salaries, including but not limited to salaries for hire back funding for safety checkpoints, saturation patrols, and liquor store sting operations.

(l) Whenever an individual is sentenced for an offense based upon an arrest for a violation of subsection (a) or a similar provision of a local ordinance, and the professional evaluation recommends remedial or rehabilitative treatment or education, neither the treatment nor the education shall be the sole disposition and either or both may be imposed only in

conjunction with another disposition. The court shall monitor compliance with any remedial education or treatment recommendations contained in the professional evaluation. Programs conducting alcohol or other drug evaluation or remedial education must be licensed by the Department of Human Services. If the individual is not a resident of Illinois, however, the court may accept an alcohol or other drug evaluation or remedial education program in the individual's state of residence. Programs providing treatment must be licensed under existing applicable alcoholism and drug treatment licensure standards.

(m) In addition to any other fine or penalty required by law, an individual convicted of a violation of subsection (a), Section 5-7 of the Snowmobile Registration and Safety Act, Section 5-16 of the Boat Registration and Safety Act, or a similar provision, whose operation of a motor vehicle, snowmobile, or watercraft while in violation of subsection (a), Section 5-7 of the Snowmobile Registration and Safety Act, Section 5-16 of the Boat Registration and Safety Act, or a similar provision proximately caused an incident resulting in an appropriate emergency response, shall be required to make restitution to a public agency for the costs of that emergency response. The restitution may not exceed \$1,000 per public agency for each emergency response. As used in this subsection (m), "emergency response" means any incident requiring a response by a police officer, a firefighter carried on the

rolls of a regularly constituted fire department, or an ambulance.

(Source: P.A. 94-329, eff. 1-1-06; 94-963, eff. 6-28-06; 95-149, eff. 8-14-07; 95-355, eff. 1-1-08; revised 11-28-07.)

(Text of Section after amendment by P.A. 95-578)

Sec. 11-501. Driving while under the influence of alcohol, other drug or drugs, intoxicating compound or compounds or any combination thereof.

(a) A person shall not drive or be in actual physical control of any vehicle within this State while:

(1) the alcohol concentration in the person's blood or breath is 0.08 or more based on the definition of blood and breath units in Section 11-501.2;

(2) under the influence of alcohol;

(3) under the influence of any intoxicating compound or combination of intoxicating compounds to a degree that renders the person incapable of driving safely;

(4) under the influence of any other drug or combination of drugs to a degree that renders the person incapable of safely driving;

(5) under the combined influence of alcohol, other drug or drugs, or intoxicating compound or compounds to a degree that renders the person incapable of safely driving; or

(6) there is any amount of a drug, substance, or compound in the person's breath, blood, or urine resulting

from the unlawful use or consumption of cannabis listed in the Cannabis Control Act, a controlled substance listed in the Illinois Controlled Substances Act, an intoxicating compound listed in the Use of Intoxicating Compounds Act, or methamphetamine as listed in the Methamphetamine Control and Community Protection Act.

(b) The fact that any person charged with violating this Section is or has been legally entitled to use alcohol, other drug or drugs, or intoxicating compound or compounds, or any combination thereof, shall not constitute a defense against any charge of violating this Section.

(c) Penalties.

(1) Except as otherwise provided in this Section, any person convicted of violating subsection (a) of this Section is guilty of a Class A misdemeanor.

(2) A person who violates subsection (a) or a similar provision a second time shall be sentenced to a mandatory minimum term of either 5 days of imprisonment or 240 hours of community service in addition to any other criminal or administrative sanction.

(3) A person who violates subsection (a) is subject to 6 months of imprisonment, an additional mandatory minimum fine of \$1,000, and 25 days of community service in a program benefiting children if the person was transporting a person under the age of 16 at the time of the violation.

(4) A person who violates subsection (a) a first time,

if the alcohol concentration in his or her blood, breath, or urine was 0.16 or more based on the definition of blood, breath, or urine units in Section 11-501.2, shall be subject, in addition to any other penalty that may be imposed, to a mandatory minimum of 100 hours of community service and a mandatory minimum fine of \$500.

(5) A person who violates subsection (a) a second time, if at the time of the second violation the alcohol concentration in his or her blood, breath, or urine was 0.16 or more based on the definition of blood, breath, or urine units in Section 11-501.2, shall be subject, in addition to any other penalty that may be imposed, to a mandatory minimum of 2 days of imprisonment and a mandatory minimum fine of \$1,250.

(d) Aggravated driving under the influence of alcohol, other drug or drugs, or intoxicating compound or compounds, or any combination thereof.

(1) Every person convicted of committing a violation of this Section shall be guilty of aggravated driving under the influence of alcohol, other drug or drugs, or intoxicating compound or compounds, or any combination thereof if:

(A) the person committed a violation of subsection (a) or a similar provision for the third or subsequent time;

(B) the person committed a violation of subsection

(a) while driving a school bus with persons 18 years of age or younger on board;

(C) the person in committing a violation of subsection (a) was involved in a motor vehicle accident that resulted in great bodily harm or permanent disability or disfigurement to another, when the violation was a proximate cause of the injuries;

(D) the person committed a violation of subsection (a) for a second time and has been previously convicted of violating Section 9-3 of the Criminal Code of 1961 or a similar provision of a law of another state relating to reckless homicide in which the person was determined to have been under the influence of alcohol, other drug or drugs, or intoxicating compound or compounds as an element of the offense or the person has previously been convicted under subparagraph (C) or subparagraph (F) of this paragraph (1);

(E) the person, in committing a violation of subsection (a) while driving at any speed in a school speed zone at a time when a speed limit of 20 miles per hour was in effect under subsection (a) of Section 11-605 of this Code, was involved in a motor vehicle accident that resulted in bodily harm, other than great bodily harm or permanent disability or disfigurement, to another person, when the violation of subsection (a) was a proximate cause of the bodily harm;

(F) the person, in committing a violation of subsection (a), was involved in a motor vehicle, snowmobile, all-terrain vehicle, or watercraft accident that resulted in the death of another person, when the violation of subsection (a) was a proximate cause of the death;

(G) the person committed a violation of subsection (a) during a period in which the defendant's driving privileges are revoked or suspended, where the revocation or suspension was for a violation of subsection (a), Section 11-501.1, paragraph (b) of Section 11-401, or for reckless homicide as defined in Section 9-3 of the Criminal Code of 1961;

(H) the person committed the violation while he or she did not possess a driver's license or permit or a restricted driving permit or a judicial driving permit;

(I) the person committed the violation while he or she knew or should have known that the vehicle he or she was driving was not covered by a liability insurance policy;

(J) the person in committing a violation of subsection (a) was involved in a motor vehicle accident that resulted in bodily harm, but not great bodily harm, to the child under the age of 16 being transported by the person, if the violation was the

proximate cause of the injury; or

(K) the person in committing a second violation of subsection (a) or a similar provision was transporting a person under the age of 16.

(2) (A) Except as provided otherwise, a person convicted of aggravated driving under the influence of alcohol, other drug or drugs, or intoxicating compound or compounds, or any combination thereof is guilty of a Class 4 felony.

(B) A third violation of this Section or a similar provision is a Class 2 felony. If at the time of the third violation the alcohol concentration in his or her blood, breath, or urine was 0.16 or more based on the definition of blood, breath, or urine units in Section 11-501.2, a mandatory minimum of 90 days of imprisonment and a mandatory minimum fine of \$2,500 shall be imposed in addition to any other criminal or administrative sanction. If at the time of the third violation, the defendant was transporting a person under the age of 16, a mandatory fine of \$25,000 and 25 days of community service in a program benefiting children shall be imposed in addition to any other criminal or administrative sanction.

(C) A fourth violation of this Section or a similar provision is a Class 2 felony, for which a sentence of probation or conditional discharge may not be imposed. If at the time of the violation, the alcohol concentration in

the defendant's blood, breath, or urine was 0.16 or more based on the definition of blood, breath, or urine units in Section 11-501.2, a mandatory minimum fine of \$5,000 shall be imposed in addition to any other criminal or administrative sanction. If at the time of the fourth violation, the defendant was transporting a person under the age of 16 a mandatory fine of \$25,000 and 25 days of community service in a program benefiting children shall be imposed in addition to any other criminal or administrative sanction.

(D) A fifth violation of this Section or a similar provision is a Class 1 felony, for which a sentence of probation or conditional discharge may not be imposed. If at the time of the violation, the alcohol concentration in the defendant's blood, breath, or urine was 0.16 or more based on the definition of blood, breath, or urine units in Section 11-501.2, a mandatory minimum fine of \$5,000 shall be imposed in addition to any other criminal or administrative sanction. If at the time of the fifth violation, the defendant was transporting a person under the age of 16, a mandatory fine of \$25,000, and 25 days of community service in a program benefiting children shall be imposed in addition to any other criminal or administrative sanction.

(E) A sixth or subsequent violation of this Section or similar provision is a Class X felony. If at the time of

the violation, the alcohol concentration in the defendant's blood, breath, or urine was 0.16 or more based on the definition of blood, breath, or urine units in Section 11-501.2, a mandatory minimum fine of \$5,000 shall be imposed in addition to any other criminal or administrative sanction. If at the time of the violation, the defendant was transporting a person under the age of 16, a mandatory fine of \$25,000 and 25 days of community service in a program benefiting children shall be imposed in addition to any other criminal or administrative sanction.

(F) For a violation of subparagraph (C) of paragraph (1) of this subsection (d), the defendant, if sentenced to a term of imprisonment, shall be sentenced to not less than one year nor more than 12 years.

(G) A violation of subparagraph (F) of paragraph (1) of this subsection (d) is a Class 2 felony, for which the defendant, unless the court determines that extraordinary circumstances exist and require probation, shall be sentenced to: (i) a term of imprisonment of not less than 3 years and not more than 14 years if the violation resulted in the death of one person; or (ii) a term of imprisonment of not less than 6 years and not more than 28 years if the violation resulted in the deaths of 2 or more persons.

(H) For a violation of subparagraph (J) of paragraph (1) of this subsection (d), a mandatory fine of \$2,500, and

25 days of community service in a program benefiting children shall be imposed in addition to any other criminal or administrative sanction.

(I) A violation of subparagraph (K) of paragraph (1) of this subsection (d), is a Class 2 felony and a mandatory fine of \$2,500, and 25 days of community service in a program benefiting children shall be imposed in addition to any other criminal or administrative sanction. If the child being transported suffered bodily harm, but not great bodily harm, in a motor vehicle accident, and the violation was the proximate cause of that injury, a mandatory fine of \$5,000 and 25 days of community service in a program benefiting children shall be imposed in addition to any other criminal or administrative sanction.

(3) Any person sentenced under this subsection (d) who receives a term of probation or conditional discharge must serve a minimum term of either 480 hours of community service or 10 days of imprisonment as a condition of the probation or conditional discharge in addition to any other criminal or administrative sanction.

(e) Any reference to a prior violation of subsection (a) or a similar provision includes any violation of a provision of a local ordinance or a provision of a law of another state or an offense committed on a military installation that is similar to a violation of subsection (a) of this Section.

(f) The imposition of a mandatory term of imprisonment or

assignment of community service for a violation of this Section shall not be suspended or reduced by the court.

(g) Any penalty imposed for driving with a license that has been revoked for a previous violation of subsection (a) of this Section shall be in addition to the penalty imposed for any subsequent violation of subsection (a).

(h) For any prosecution under this Section, a certified copy of the driving abstract of the defendant shall be admitted as proof of any prior conviction. ~~in subsection (m) of this Section~~

(Source: P.A. 94-110, eff. 1-1-06; 94-113, eff. 1-1-06; 94-114, eff. 1-1-06; 94-116, eff. 1-1-06; 94-329, eff. 1-1-06; 94-609, eff. 1-1-06; 94-963, eff. 6-28-06; 95-149, eff. 8-14-07; 95-355, eff. 1-1-08; 95-578, eff. 6-1-08; revised 11-28-07.)

(Text of Section after amendment by P.A. 95-400)

Sec. 11-501. Driving while under the influence of alcohol, other drug or drugs, intoxicating compound or compounds or any combination thereof.

(a) A person shall not drive or be in actual physical control of any vehicle within this State while:

(1) the alcohol concentration in the person's blood or breath is 0.08 or more based on the definition of blood and breath units in Section 11-501.2;

(2) under the influence of alcohol;

(3) under the influence of any intoxicating compound or

combination of intoxicating compounds to a degree that renders the person incapable of driving safely;

(4) under the influence of any other drug or combination of drugs to a degree that renders the person incapable of safely driving;

(5) under the combined influence of alcohol, other drug or drugs, or intoxicating compound or compounds to a degree that renders the person incapable of safely driving; or

(6) there is any amount of a drug, substance, or compound in the person's breath, blood, or urine resulting from the unlawful use or consumption of cannabis listed in the Cannabis Control Act, a controlled substance listed in the Illinois Controlled Substances Act, an intoxicating compound listed in the Use of Intoxicating Compounds Act, or methamphetamine as listed in the Methamphetamine Control and Community Protection Act.

(b) The fact that any person charged with violating this Section is or has been legally entitled to use alcohol, other drug or drugs, or intoxicating compound or compounds, or any combination thereof, shall not constitute a defense against any charge of violating this Section.

(c) Penalties.

(1) Except as otherwise provided in this Section, any person convicted of violating subsection (a) of this Section is guilty of a Class A misdemeanor.

(2) A person who violates subsection (a) or a similar

provision a second time shall be sentenced to a mandatory minimum term of either 5 days of imprisonment or 240 hours of community service in addition to any other criminal or administrative sanction.

(3) A person who violates subsection (a) is subject to 6 months of imprisonment, an additional mandatory minimum fine of \$1,000, and 25 days of community service in a program benefiting children if the person was transporting a person under the age of 16 at the time of the violation.

(4) A person who violates subsection (a) a first time, if the alcohol concentration in his or her blood, breath, or urine was 0.16 or more based on the definition of blood, breath, or urine units in Section 11-501.2, shall be subject, in addition to any other penalty that may be imposed, to a mandatory minimum of 100 hours of community service and a mandatory minimum fine of \$500.

(5) A person who violates subsection (a) a second time, if at the time of the second violation the alcohol concentration in his or her blood, breath, or urine was 0.16 or more based on the definition of blood, breath, or urine units in Section 11-501.2, shall be subject, in addition to any other penalty that may be imposed, to a mandatory minimum of 2 days of imprisonment and a mandatory minimum fine of \$1,250.

(d) Aggravated driving under the influence of alcohol, other drug or drugs, or intoxicating compound or compounds, or

any combination thereof.

(1) Every person convicted of committing a violation of this Section shall be guilty of aggravated driving under the influence of alcohol, other drug or drugs, or intoxicating compound or compounds, or any combination thereof if:

(A) the person committed a violation of subsection (a) or a similar provision for the third or subsequent time;

(B) the person committed a violation of subsection (a) while driving a school bus with persons 18 years of age or younger on board;

(C) the person in committing a violation of subsection (a) was involved in a motor vehicle accident that resulted in great bodily harm or permanent disability or disfigurement to another, when the violation was a proximate cause of the injuries;

(D) the person committed a violation of subsection (a) for a second time and has been previously convicted of violating Section 9-3 of the Criminal Code of 1961 or a similar provision of a law of another state relating to reckless homicide in which the person was determined to have been under the influence of alcohol, other drug or drugs, or intoxicating compound or compounds as an element of the offense or the person has previously been convicted under subparagraph (C)

or subparagraph (F) of this paragraph (1);

(E) the person, in committing a violation of subsection (a) while driving at any speed in a school speed zone at a time when a speed limit of 20 miles per hour was in effect under subsection (a) of Section 11-605 of this Code, was involved in a motor vehicle accident that resulted in bodily harm, other than great bodily harm or permanent disability or disfigurement, to another person, when the violation of subsection (a) was a proximate cause of the bodily harm;

(F) the person, in committing a violation of subsection (a), was involved in a motor vehicle, snowmobile, all-terrain vehicle, or watercraft accident that resulted in the death of another person, when the violation of subsection (a) was a proximate cause of the death;

(G) the person committed a violation of subsection (a) during a period in which the defendant's driving privileges are revoked or suspended, where the revocation or suspension was for a violation of subsection (a), Section 11-501.1, paragraph (b) of Section 11-401, or for reckless homicide as defined in Section 9-3 of the Criminal Code of 1961;

(H) the person committed the violation while he or she did not possess a driver's license or permit or a restricted driving permit or a judicial driving permit

or a monitoring device driving permit;

(I) the person committed the violation while he or she knew or should have known that the vehicle he or she was driving was not covered by a liability insurance policy;

(J) the person in committing a violation of subsection (a) was involved in a motor vehicle accident that resulted in bodily harm, but not great bodily harm, to the child under the age of 16 being transported by the person, if the violation was the proximate cause of the injury; or

(K) the person in committing a second violation of subsection (a) or a similar provision was transporting a person under the age of 16.

(2) (A) Except as provided otherwise, a person convicted of aggravated driving under the influence of alcohol, other drug or drugs, or intoxicating compound or compounds, or any combination thereof is guilty of a Class 4 felony.

(B) A third violation of this Section or a similar provision is a Class 2 felony. If at the time of the third violation the alcohol concentration in his or her blood, breath, or urine was 0.16 or more based on the definition of blood, breath, or urine units in Section 11-501.2, a mandatory minimum of 90 days of imprisonment and a mandatory minimum fine of \$2,500 shall be imposed in

addition to any other criminal or administrative sanction. If at the time of the third violation, the defendant was transporting a person under the age of 16, a mandatory fine of \$25,000 and 25 days of community service in a program benefiting children shall be imposed in addition to any other criminal or administrative sanction.

(C) A fourth violation of this Section or a similar provision is a Class 2 felony, for which a sentence of probation or conditional discharge may not be imposed. If at the time of the violation, the alcohol concentration in the defendant's blood, breath, or urine was 0.16 or more based on the definition of blood, breath, or urine units in Section 11-501.2, a mandatory minimum fine of \$5,000 shall be imposed in addition to any other criminal or administrative sanction. If at the time of the fourth violation, the defendant was transporting a person under the age of 16 a mandatory fine of \$25,000 and 25 days of community service in a program benefiting children shall be imposed in addition to any other criminal or administrative sanction.

(D) A fifth violation of this Section or a similar provision is a Class 1 felony, for which a sentence of probation or conditional discharge may not be imposed. If at the time of the violation, the alcohol concentration in the defendant's blood, breath, or urine was 0.16 or more based on the definition of blood, breath, or urine units in

Section 11-501.2, a mandatory minimum fine of \$5,000 shall be imposed in addition to any other criminal or administrative sanction. If at the time of the fifth violation, the defendant was transporting a person under the age of 16, a mandatory fine of \$25,000, and 25 days of community service in a program benefiting children shall be imposed in addition to any other criminal or administrative sanction.

(E) A sixth or subsequent violation of this Section or similar provision is a Class X felony. If at the time of the violation, the alcohol concentration in the defendant's blood, breath, or urine was 0.16 or more based on the definition of blood, breath, or urine units in Section 11-501.2, a mandatory minimum fine of \$5,000 shall be imposed in addition to any other criminal or administrative sanction. If at the time of the violation, the defendant was transporting a person under the age of 16, a mandatory fine of \$25,000 and 25 days of community service in a program benefiting children shall be imposed in addition to any other criminal or administrative sanction.

(F) For a violation of subparagraph (C) of paragraph (1) of this subsection (d), the defendant, if sentenced to a term of imprisonment, shall be sentenced to not less than one year nor more than 12 years.

(G) A violation of subparagraph (F) of paragraph (1) of

this subsection (d) is a Class 2 felony, for which the defendant, unless the court determines that extraordinary circumstances exist and require probation, shall be sentenced to: (i) a term of imprisonment of not less than 3 years and not more than 14 years if the violation resulted in the death of one person; or (ii) a term of imprisonment of not less than 6 years and not more than 28 years if the violation resulted in the deaths of 2 or more persons.

(H) For a violation of subparagraph (J) of paragraph (1) of this subsection (d), a mandatory fine of \$2,500, and 25 days of community service in a program benefiting children shall be imposed in addition to any other criminal or administrative sanction.

(I) A violation of subparagraph (K) of paragraph (1) of this subsection (d), is a Class 2 felony and a mandatory fine of \$2,500, and 25 days of community service in a program benefiting children shall be imposed in addition to any other criminal or administrative sanction. If the child being transported suffered bodily harm, but not great bodily harm, in a motor vehicle accident, and the violation was the proximate cause of that injury, a mandatory fine of \$5,000 and 25 days of community service in a program benefiting children shall be imposed in addition to any other criminal or administrative sanction.

(3) Any person sentenced under this subsection (d) who receives a term of probation or conditional discharge must

serve a minimum term of either 480 hours of community service or 10 days of imprisonment as a condition of the probation or conditional discharge in addition to any other criminal or administrative sanction.

(e) Any reference to a prior violation of subsection (a) or a similar provision includes any violation of a provision of a local ordinance or a provision of a law of another state or an offense committed on a military installation that is similar to a violation of subsection (a) of this Section.

(f) The imposition of a mandatory term of imprisonment or assignment of community service for a violation of this Section shall not be suspended or reduced by the court.

(g) Any penalty imposed for driving with a license that has been revoked for a previous violation of subsection (a) of this Section shall be in addition to the penalty imposed for any subsequent violation of subsection (a).

(h) For any prosecution under this Section, a certified copy of the driving abstract of the defendant shall be admitted as proof of any prior conviction. ~~in subsection (m) of this Section~~

(Source: P.A. 94-110, eff. 1-1-06; 94-113, eff. 1-1-06; 94-114, eff. 1-1-06; 94-116, eff. 1-1-06; 94-329, eff. 1-1-06; 94-609, eff. 1-1-06; 94-963, eff. 6-28-06; 95-149, eff. 8-14-07; 95-355, eff. 1-1-08; 95-400, eff. 1-1-09; 95-578, eff. 6-1-08; revised 11-28-07.)

(625 ILCS 5/11-501.1) (from Ch. 95 1/2, par. 11-501.1)

Sec. 11-501.1. Suspension of drivers license; statutory summary alcohol, other drug or drugs, or intoxicating compound or compounds related suspension; implied consent.

(a) Any person who drives or is in actual physical control of a motor vehicle upon the public highways of this State shall be deemed to have given consent, subject to the provisions of Section 11-501.2, to a chemical test or tests of blood, breath, or urine for the purpose of determining the content of alcohol, other drug or drugs, or intoxicating compound or compounds or any combination thereof in the person's blood if arrested, as evidenced by the issuance of a Uniform Traffic Ticket, for any offense as defined in Section 11-501 or a similar provision of a local ordinance, or if arrested for violating Section 11-401. The test or tests shall be administered at the direction of the arresting officer. The law enforcement agency employing the officer shall designate which of the aforesaid tests shall be administered. A urine test may be administered even after a blood or breath test or both has been administered. For purposes of this Section, an Illinois law enforcement officer of this State who is investigating the person for any offense defined in Section 11-501 may travel into an adjoining state, where the person has been transported for medical care, to complete an investigation and to request that the person submit to the test or tests set forth in this Section. The requirements of this Section that the person be arrested are

inapplicable, but the officer shall issue the person a Uniform Traffic Ticket for an offense as defined in Section 11-501 or a similar provision of a local ordinance prior to requesting that the person submit to the test or tests. The issuance of the Uniform Traffic Ticket shall not constitute an arrest, but shall be for the purpose of notifying the person that he or she is subject to the provisions of this Section and of the officer's belief of the existence of probable cause to arrest. Upon returning to this State, the officer shall file the Uniform Traffic Ticket with the Circuit Clerk of the county where the offense was committed, and shall seek the issuance of an arrest warrant or a summons for the person.

(b) Any person who is dead, unconscious, or who is otherwise in a condition rendering the person incapable of refusal, shall be deemed not to have withdrawn the consent provided by paragraph (a) of this Section and the test or tests may be administered, subject to the provisions of Section 11-501.2.

(c) A person requested to submit to a test as provided above shall be warned by the law enforcement officer requesting the test that a refusal to submit to the test will result in the statutory summary suspension of the person's privilege to operate a motor vehicle, as provided in Section 6-208.1 of this Code, and will also result in the disqualification of the person's privilege to operate a commercial motor vehicle, as provided in Section 6-514 of this Code, if the person is a CDL

holder. The person shall also be warned by the law enforcement officer that if the person submits to the test or tests provided in paragraph (a) of this Section and the alcohol concentration in the person's blood or breath is 0.08 or greater, or any amount of a drug, substance, or compound resulting from the unlawful use or consumption of cannabis as covered by the Cannabis Control Act, a controlled substance listed in the Illinois Controlled Substances Act, an intoxicating compound listed in the Use of Intoxicating Compounds Act, or methamphetamine as listed in the Methamphetamine Control and Community Protection Act is detected in the person's blood or urine, a statutory summary suspension of the person's privilege to operate a motor vehicle, as provided in Sections 6-208.1 and 11-501.1 of this Code, and a disqualification of the person's privilege to operate a commercial motor vehicle, as provided in Section 6-514 of this Code, if the person is a CDL holder, will be imposed.

A person who is under the age of 21 at the time the person is requested to submit to a test as provided above shall, in addition to the warnings provided for in this Section, be further warned by the law enforcement officer requesting the test that if the person submits to the test or tests provided in paragraph (a) of this Section and the alcohol concentration in the person's blood or breath is greater than 0.00 and less than 0.08, a suspension of the person's privilege to operate a

motor vehicle, as provided under Sections 6-208.2 and 11-501.8 of this Code, will be imposed. The results of this test shall be admissible in a civil or criminal action or proceeding arising from an arrest for an offense as defined in Section 11-501 of this Code or a similar provision of a local ordinance or pursuant to Section 11-501.4 in prosecutions for reckless homicide brought under the Criminal Code of 1961. These test results, however, shall be admissible only in actions or proceedings directly related to the incident upon which the test request was made.

(d) If the person refuses testing or submits to a test that discloses an alcohol concentration of 0.08 or more, or any amount of a drug, substance, or intoxicating compound in the person's breath, blood, or urine resulting from the unlawful use or consumption of cannabis listed in the Cannabis Control Act, a controlled substance listed in the Illinois Controlled Substances Act, an intoxicating compound listed in the Use of Intoxicating Compounds Act, or methamphetamine as listed in the Methamphetamine Control and Community Protection Act, the law enforcement officer shall immediately submit a sworn report to the circuit court of venue and the Secretary of State, certifying that the test or tests was or were requested under paragraph (a) and the person refused to submit to a test, or tests, or submitted to testing that disclosed an alcohol concentration of 0.08 or more.

(e) Upon receipt of the sworn report of a law enforcement

officer submitted under paragraph (d), the Secretary of State shall enter the statutory summary suspension and disqualification for the periods specified in Sections 6-208.1 and 6-514, respectively, and effective as provided in paragraph (g).

If the person is a first offender as defined in Section 11-500 of this Code, and is not convicted of a violation of Section 11-501 of this Code or a similar provision of a local ordinance, then reports received by the Secretary of State under this Section shall, except during the actual time the Statutory Summary Suspension is in effect, be privileged information and for use only by the courts, police officers, prosecuting authorities or the Secretary of State. However, beginning January 1, 2008, if the person is a CDL holder, the statutory summary suspension shall also be made available to the driver licensing administrator of any other state, the U.S. Department of Transportation, and the affected driver or motor carrier or prospective motor carrier upon request. Reports received by the Secretary of State under this Section shall also be made available to the parent or guardian of a person under the age of 18 years that holds an instruction permit or a graduated driver's license, regardless of whether the statutory summary suspension is in effect.

(f) The law enforcement officer submitting the sworn report under paragraph (d) shall serve immediate notice of the statutory summary suspension on the person and the suspension

and disqualification shall be effective as provided in paragraph (g). In cases where the blood alcohol concentration of 0.08 or greater or any amount of a drug, substance, or compound resulting from the unlawful use or consumption of cannabis as covered by the Cannabis Control Act, a controlled substance listed in the Illinois Controlled Substances Act, an intoxicating compound listed in the Use of Intoxicating Compounds Act, or methamphetamine as listed in the Methamphetamine Control and Community Protection Act is established by a subsequent analysis of blood or urine collected at the time of arrest, the arresting officer or arresting agency shall give notice as provided in this Section or by deposit in the United States mail of the notice in an envelope with postage prepaid and addressed to the person at his address as shown on the Uniform Traffic Ticket and the statutory summary suspension and disqualification shall begin as provided in paragraph (g). The officer shall confiscate any Illinois driver's license or permit on the person at the time of arrest. If the person has a valid driver's license or permit, the officer shall issue the person a receipt, in a form prescribed by the Secretary of State, that will allow that person to drive during the periods provided for in paragraph (g). The officer shall immediately forward the driver's license or permit to the circuit court of venue along with the sworn report provided for in paragraph (d).

(g) The statutory summary suspension and disqualification

referred to in this Section shall take effect on the 46th day following the date the notice of the statutory summary suspension was given to the person.

(h) The following procedure shall apply whenever a person is arrested for any offense as defined in Section 11-501 or a similar provision of a local ordinance:

Upon receipt of the sworn report from the law enforcement officer, the Secretary of State shall confirm the statutory summary suspension by mailing a notice of the effective date of the suspension to the person and the court of venue. The Secretary of State shall also mail notice of the effective date of the disqualification to the person. However, should the sworn report be defective by not containing sufficient information or be completed in error, the confirmation of the statutory summary suspension shall not be mailed to the person or entered to the record; instead, the sworn report shall be forwarded to the court of venue with a copy returned to the issuing agency identifying any defect.

(Source: P.A. 94-115, eff. 1-1-06; 95-201, eff. 1-1-08; 95-382, eff. 8-23-07; revised 11-19-07.)

(625 ILCS 5/11-501.8)

(Text of Section before amendment by P.A. 95-627)

Sec. 11-501.8. Suspension of driver's license; persons under age 21.

(a) A person who is less than 21 years of age and who

drives or is in actual physical control of a motor vehicle upon the public highways of this State shall be deemed to have given consent to a chemical test or tests of blood, breath, or urine for the purpose of determining the alcohol content of the person's blood if arrested, as evidenced by the issuance of a Uniform Traffic Ticket for any violation of the Illinois Vehicle Code or a similar provision of a local ordinance, if a police officer has probable cause to believe that the driver has consumed any amount of an alcoholic beverage based upon evidence of the driver's physical condition or other first hand knowledge of the police officer. The test or tests shall be administered at the direction of the arresting officer. The law enforcement agency employing the officer shall designate which of the aforesaid tests shall be administered. A urine test may be administered even after a blood or breath test or both has been administered.

(b) A person who is dead, unconscious, or who is otherwise in a condition rendering that person incapable of refusal, shall be deemed not to have withdrawn the consent provided by paragraph (a) of this Section and the test or tests may be administered subject to the following provisions:

(i) Chemical analysis of the person's blood, urine, breath, or other bodily substance, to be considered valid under the provisions of this Section, shall have been performed according to standards promulgated by the Department of State Police by an individual possessing a

valid permit issued by that Department for this purpose. The Director of State Police is authorized to approve satisfactory techniques or methods, to ascertain the qualifications and competence of individuals to conduct analyses, to issue permits that shall be subject to termination or revocation at the direction of that Department, and to certify the accuracy of breath testing equipment. The Department of State Police shall prescribe regulations as necessary.

(ii) When a person submits to a blood test at the request of a law enforcement officer under the provisions of this Section, only a physician authorized to practice medicine, a registered nurse, or other qualified person trained in venipuncture and acting under the direction of a licensed physician may withdraw blood for the purpose of determining the alcohol content therein. This limitation does not apply to the taking of breath or urine specimens.

(iii) The person tested may have a physician, qualified technician, chemist, registered nurse, or other qualified person of his or her own choosing administer a chemical test or tests in addition to any test or tests administered at the direction of a law enforcement officer. The failure or inability to obtain an additional test by a person shall not preclude the consideration of the previously performed chemical test.

(iv) Upon a request of the person who submits to a

chemical test or tests at the request of a law enforcement officer, full information concerning the test or tests shall be made available to the person or that person's attorney.

(v) Alcohol concentration means either grams of alcohol per 100 milliliters of blood or grams of alcohol per 210 liters of breath.

(vi) If a driver is receiving medical treatment as a result of a motor vehicle accident, a physician licensed to practice medicine, registered nurse, or other qualified person trained in venipuncture and acting under the direction of a licensed physician shall withdraw blood for testing purposes to ascertain the presence of alcohol upon the specific request of a law enforcement officer. However, that testing shall not be performed until, in the opinion of the medical personnel on scene, the withdrawal can be made without interfering with or endangering the well-being of the patient.

(c) A person requested to submit to a test as provided above shall be warned by the law enforcement officer requesting the test that a refusal to submit to the test, or submission to the test resulting in an alcohol concentration of more than 0.00, may result in the loss of that person's privilege to operate a motor vehicle and may result in the disqualification of the person's privilege to operate a commercial motor vehicle, as provided in Section 6-514 of this Code, if the

person is a CDL holder. The loss of driving privileges shall be imposed in accordance with Section 6-208.2 of this Code.

(d) If the person refuses testing or submits to a test that discloses an alcohol concentration of more than 0.00, the law enforcement officer shall immediately submit a sworn report to the Secretary of State on a form prescribed by the Secretary of State, certifying that the test or tests were requested under subsection (a) and the person refused to submit to a test or tests or submitted to testing which disclosed an alcohol concentration of more than 0.00. The law enforcement officer shall submit the same sworn report when a person under the age of 21 submits to testing under Section 11-501.1 of this Code and the testing discloses an alcohol concentration of more than 0.00 and less than 0.08.

Upon receipt of the sworn report of a law enforcement officer, the Secretary of State shall enter the suspension and disqualification on the individual's driving record and the suspension and disqualification shall be effective on the 46th day following the date notice of the suspension was given to the person. If this suspension is the individual's first driver's license suspension under this Section, reports received by the Secretary of State under this Section shall, except during the time the suspension is in effect, be privileged information and for use only by the courts, police officers, prosecuting authorities, the Secretary of State, or the individual personally. However, beginning January 1, 2008,

if the person is a CDL holder, the report of suspension shall also be made available to the driver licensing administrator of any other state, the U.S. Department of Transportation, and the affected driver or motor carrier or prospective motor carrier upon request. Reports received by the Secretary of State under this Section shall also be made available to the parent or guardian of a person under the age of 18 years that holds an instruction permit or a graduated driver's license, regardless of whether the suspension is in effect.

The law enforcement officer submitting the sworn report shall serve immediate notice of this suspension on the person and the suspension and disqualification shall be effective on the 46th day following the date notice was given.

In cases where the blood alcohol concentration of more than 0.00 is established by a subsequent analysis of blood or urine, the police officer or arresting agency shall give notice as provided in this Section or by deposit in the United States mail of that notice in an envelope with postage prepaid and addressed to that person at his last known address and the loss of driving privileges shall be effective on the 46th day following the date notice was given.

Upon receipt of the sworn report of a law enforcement officer, the Secretary of State shall also give notice of the suspension and disqualification to the driver by mailing a notice of the effective date of the suspension and disqualification to the individual. However, should the sworn

report be defective by not containing sufficient information or be completed in error, the notice of the suspension and disqualification shall not be mailed to the person or entered to the driving record, but rather the sworn report shall be returned to the issuing law enforcement agency.

(e) A driver may contest this suspension and disqualification by requesting an administrative hearing with the Secretary of State in accordance with Section 2-118 of this Code. An individual whose blood alcohol concentration is shown to be more than 0.00 is not subject to this Section if he or she consumed alcohol in the performance of a religious service or ceremony. An individual whose blood alcohol concentration is shown to be more than 0.00 shall not be subject to this Section if the individual's blood alcohol concentration resulted only from ingestion of the prescribed or recommended dosage of medicine that contained alcohol. The petition for that hearing shall not stay or delay the effective date of the impending suspension. The scope of this hearing shall be limited to the issues of:

(1) whether the police officer had probable cause to believe that the person was driving or in actual physical control of a motor vehicle upon the public highways of the State and the police officer had reason to believe that the person was in violation of any provision of the Illinois Vehicle Code or a similar provision of a local ordinance; and

(2) whether the person was issued a Uniform Traffic Ticket for any violation of the Illinois Vehicle Code or a similar provision of a local ordinance; and

(3) whether the police officer had probable cause to believe that the driver had consumed any amount of an alcoholic beverage based upon the driver's physical actions or other first-hand knowledge of the police officer; and

(4) whether the person, after being advised by the officer that the privilege to operate a motor vehicle would be suspended if the person refused to submit to and complete the test or tests, did refuse to submit to or complete the test or tests to determine the person's alcohol concentration; and

(5) whether the person, after being advised by the officer that the privileges to operate a motor vehicle would be suspended if the person submits to a chemical test or tests and the test or tests disclose an alcohol concentration of more than 0.00, did submit to and complete the test or tests that determined an alcohol concentration of more than 0.00; and

(6) whether the test result of an alcohol concentration of more than 0.00 was based upon the person's consumption of alcohol in the performance of a religious service or ceremony; and

(7) whether the test result of an alcohol concentration

of more than 0.00 was based upon the person's consumption of alcohol through ingestion of the prescribed or recommended dosage of medicine.

Provided that the petitioner may subpoena the officer, the hearing may be conducted upon a review of the law enforcement officer's own official reports. Failure of the officer to answer the subpoena shall be grounds for a continuance if, in the hearing officer's discretion, the continuance is appropriate. At the conclusion of the hearing held under Section 2-118 of this Code, the Secretary of State may rescind, continue, or modify the suspension and disqualification. If the Secretary of State does not rescind the suspension and disqualification, a restricted driving permit may be granted by the Secretary of State upon application being made and good cause shown. A restricted driving permit may be granted to relieve undue hardship by allowing driving for employment, educational, and medical purposes as outlined in item (3) of part (c) of Section 6-206 of this Code. The provisions of item (3) of part (c) of Section 6-206 of this Code and of subsection (f) of that Section shall apply. The Secretary of State shall promulgate rules providing for participation in an alcohol education and awareness program or activity, a drug education and awareness program or activity, or both as a condition to the issuance of a restricted driving permit for suspensions imposed under this Section.

(f) The results of any chemical testing performed in

accordance with subsection (a) of this Section are not admissible in any civil or criminal proceeding, except that the results of the testing may be considered at a hearing held under Section 2-118 of this Code. However, the results of the testing may not be used to impose driver's license sanctions under Section 11-501.1 of this Code. A law enforcement officer may, however, pursue a statutory summary suspension of driving privileges under Section 11-501.1 of this Code if other physical evidence or first hand knowledge forms the basis of that suspension.

(g) This Section applies only to drivers who are under age 21 at the time of the issuance of a Uniform Traffic Ticket for a violation of the Illinois Vehicle Code or a similar provision of a local ordinance, and a chemical test request is made under this Section.

(h) The action of the Secretary of State in suspending, revoking, cancelling, or disqualifying any license or permit shall be subject to judicial review in the Circuit Court of Sangamon County or in the Circuit Court of Cook County, and the provisions of the Administrative Review Law and its rules are hereby adopted and shall apply to and govern every action for the judicial review of final acts or decisions of the Secretary of State under this Section.

(Source: P.A. 94-307, eff. 9-30-05; 95-201, eff. 1-1-08; 95-382, eff. 8-23-07; revised 11-19-07.)

(Text of Section after amendment by P.A. 95-627)

Sec. 11-501.8. Suspension of driver's license; persons under age 21.

(a) A person who is less than 21 years of age and who drives or is in actual physical control of a motor vehicle upon the public highways of this State shall be deemed to have given consent to a chemical test or tests of blood, breath, or urine for the purpose of determining the alcohol content of the person's blood if arrested, as evidenced by the issuance of a Uniform Traffic Ticket for any violation of the Illinois Vehicle Code or a similar provision of a local ordinance, if a police officer has probable cause to believe that the driver has consumed any amount of an alcoholic beverage based upon evidence of the driver's physical condition or other first hand knowledge of the police officer. The test or tests shall be administered at the direction of the arresting officer. The law enforcement agency employing the officer shall designate which of the aforesaid tests shall be administered. A urine test may be administered even after a blood or breath test or both has been administered.

(b) A person who is dead, unconscious, or who is otherwise in a condition rendering that person incapable of refusal, shall be deemed not to have withdrawn the consent provided by paragraph (a) of this Section and the test or tests may be administered subject to the following provisions:

(i) Chemical analysis of the person's blood, urine,

breath, or other bodily substance, to be considered valid under the provisions of this Section, shall have been performed according to standards promulgated by the Department of State Police by an individual possessing a valid permit issued by that Department for this purpose. The Director of State Police is authorized to approve satisfactory techniques or methods, to ascertain the qualifications and competence of individuals to conduct analyses, to issue permits that shall be subject to termination or revocation at the direction of that Department, and to certify the accuracy of breath testing equipment. The Department of State Police shall prescribe regulations as necessary.

(ii) When a person submits to a blood test at the request of a law enforcement officer under the provisions of this Section, only a physician authorized to practice medicine, a registered nurse, or other qualified person trained in venipuncture and acting under the direction of a licensed physician may withdraw blood for the purpose of determining the alcohol content therein. This limitation does not apply to the taking of breath or urine specimens.

(iii) The person tested may have a physician, qualified technician, chemist, registered nurse, or other qualified person of his or her own choosing administer a chemical test or tests in addition to any test or tests administered at the direction of a law enforcement officer. The failure

or inability to obtain an additional test by a person shall not preclude the consideration of the previously performed chemical test.

(iv) Upon a request of the person who submits to a chemical test or tests at the request of a law enforcement officer, full information concerning the test or tests shall be made available to the person or that person's attorney.

(v) Alcohol concentration means either grams of alcohol per 100 milliliters of blood or grams of alcohol per 210 liters of breath.

(vi) If a driver is receiving medical treatment as a result of a motor vehicle accident, a physician licensed to practice medicine, registered nurse, or other qualified person trained in venipuncture and acting under the direction of a licensed physician shall withdraw blood for testing purposes to ascertain the presence of alcohol upon the specific request of a law enforcement officer. However, that testing shall not be performed until, in the opinion of the medical personnel on scene, the withdrawal can be made without interfering with or endangering the well-being of the patient.

(c) A person requested to submit to a test as provided above shall be warned by the law enforcement officer requesting the test that a refusal to submit to the test, or submission to the test resulting in an alcohol concentration of more than

0.00, may result in the loss of that person's privilege to operate a motor vehicle and may result in the disqualification of the person's privilege to operate a commercial motor vehicle, as provided in Section 6-514 of this Code, if the person is a CDL holder. The loss of driving privileges shall be imposed in accordance with Section 6-208.2 of this Code.

(d) If the person refuses testing or submits to a test that discloses an alcohol concentration of more than 0.00, the law enforcement officer shall immediately submit a sworn report to the Secretary of State on a form prescribed by the Secretary of State, certifying that the test or tests were requested under subsection (a) and the person refused to submit to a test or tests or submitted to testing which disclosed an alcohol concentration of more than 0.00. The law enforcement officer shall submit the same sworn report when a person under the age of 21 submits to testing under Section 11-501.1 of this Code and the testing discloses an alcohol concentration of more than 0.00 and less than 0.08.

Upon receipt of the sworn report of a law enforcement officer, the Secretary of State shall enter the suspension and disqualification on the individual's driving record and the suspension and disqualification shall be effective on the 46th day following the date notice of the suspension was given to the person. If this suspension is the individual's first driver's license suspension under this Section, reports received by the Secretary of State under this Section shall,

except during the time the suspension is in effect, be privileged information and for use only by the courts, police officers, prosecuting authorities, the Secretary of State, or the individual personally. However, beginning January 1, 2008, if the person is a CDL holder, the report of suspension shall also be made available to the driver licensing administrator of any other state, the U.S. Department of Transportation, and the affected driver or motor carrier or prospective motor carrier upon request. Reports received by the Secretary of State under this Section shall also be made available to the parent or guardian of a person under the age of 18 years that holds an instruction permit or a graduated driver's license, regardless of whether the suspension is in effect.

The law enforcement officer submitting the sworn report shall serve immediate notice of this suspension on the person and the suspension and disqualification shall be effective on the 46th day following the date notice was given.

In cases where the blood alcohol concentration of more than 0.00 is established by a subsequent analysis of blood or urine, the police officer or arresting agency shall give notice as provided in this Section or by deposit in the United States mail of that notice in an envelope with postage prepaid and addressed to that person at his last known address and the loss of driving privileges shall be effective on the 46th day following the date notice was given.

Upon receipt of the sworn report of a law enforcement

officer, the Secretary of State shall also give notice of the suspension and disqualification to the driver by mailing a notice of the effective date of the suspension and disqualification to the individual. However, should the sworn report be defective by not containing sufficient information or be completed in error, the notice of the suspension and disqualification shall not be mailed to the person or entered to the driving record, but rather the sworn report shall be returned to the issuing law enforcement agency.

(e) A driver may contest this suspension and disqualification by requesting an administrative hearing with the Secretary of State in accordance with Section 2-118 of this Code. An individual whose blood alcohol concentration is shown to be more than 0.00 is not subject to this Section if he or she consumed alcohol in the performance of a religious service or ceremony. An individual whose blood alcohol concentration is shown to be more than 0.00 shall not be subject to this Section if the individual's blood alcohol concentration resulted only from ingestion of the prescribed or recommended dosage of medicine that contained alcohol. The petition for that hearing shall not stay or delay the effective date of the impending suspension. The scope of this hearing shall be limited to the issues of:

- (1) whether the police officer had probable cause to believe that the person was driving or in actual physical control of a motor vehicle upon the public highways of the

State and the police officer had reason to believe that the person was in violation of any provision of the Illinois Vehicle Code or a similar provision of a local ordinance; and

(2) whether the person was issued a Uniform Traffic Ticket for any violation of the Illinois Vehicle Code or a similar provision of a local ordinance; and

(3) whether the police officer had probable cause to believe that the driver had consumed any amount of an alcoholic beverage based upon the driver's physical actions or other first-hand knowledge of the police officer; and

(4) whether the person, after being advised by the officer that the privilege to operate a motor vehicle would be suspended if the person refused to submit to and complete the test or tests, did refuse to submit to or complete the test or tests to determine the person's alcohol concentration; and

(5) whether the person, after being advised by the officer that the privileges to operate a motor vehicle would be suspended if the person submits to a chemical test or tests and the test or tests disclose an alcohol concentration of more than 0.00, did submit to and complete the test or tests that determined an alcohol concentration of more than 0.00; and

(6) whether the test result of an alcohol concentration

of more than 0.00 was based upon the person's consumption of alcohol in the performance of a religious service or ceremony; and

(7) whether the test result of an alcohol concentration of more than 0.00 was based upon the person's consumption of alcohol through ingestion of the prescribed or recommended dosage of medicine.

At the conclusion of the hearing held under Section 2-118 of this Code, the Secretary of State may rescind, continue, or modify the suspension and disqualification. If the Secretary of State does not rescind the suspension and disqualification, a restricted driving permit may be granted by the Secretary of State upon application being made and good cause shown. A restricted driving permit may be granted to relieve undue hardship by allowing driving for employment, educational, and medical purposes as outlined in item (3) of part (c) of Section 6-206 of this Code. The provisions of item (3) of part (c) of Section 6-206 of this Code and of subsection (f) of that Section shall apply. The Secretary of State shall promulgate rules providing for participation in an alcohol education and awareness program or activity, a drug education and awareness program or activity, or both as a condition to the issuance of a restricted driving permit for suspensions imposed under this Section.

(f) The results of any chemical testing performed in accordance with subsection (a) of this Section are not

admissible in any civil or criminal proceeding, except that the results of the testing may be considered at a hearing held under Section 2-118 of this Code. However, the results of the testing may not be used to impose driver's license sanctions under Section 11-501.1 of this Code. A law enforcement officer may, however, pursue a statutory summary suspension of driving privileges under Section 11-501.1 of this Code if other physical evidence or first hand knowledge forms the basis of that suspension.

(g) This Section applies only to drivers who are under age 21 at the time of the issuance of a Uniform Traffic Ticket for a violation of the Illinois Vehicle Code or a similar provision of a local ordinance, and a chemical test request is made under this Section.

(h) The action of the Secretary of State in suspending, revoking, cancelling, or disqualifying any license or permit shall be subject to judicial review in the Circuit Court of Sangamon County or in the Circuit Court of Cook County, and the provisions of the Administrative Review Law and its rules are hereby adopted and shall apply to and govern every action for the judicial review of final acts or decisions of the Secretary of State under this Section.

(Source: P.A. 94-307, eff. 9-30-05; 95-201, eff. 1-1-08; 95-382, eff. 8-23-07; 95-627, eff. 6-1-08; revised 11-19-07.)

(625 ILCS 5/11-1301.3) (from Ch. 95 1/2, par. 11-1301.3)

(Text of Section before amendment by P.A. 95-430)

Sec. 11-1301.3. Unauthorized use of parking places reserved for persons with disabilities.

(a) It shall be prohibited to park any motor vehicle which is not properly displaying registration plates or decals issued to a person with disabilities, as defined by Section 1-159.1, pursuant to Sections 3-616, 11-1301.1 or 11-1301.2, or to a disabled veteran pursuant to Section 3-609 or 3-609.01 of this Act, as evidence that the vehicle is operated by or for a person with disabilities or disabled veteran, in any parking place, including any private or public offstreet parking facility, specifically reserved, by the posting of an official sign as designated under Section 11-301, for motor vehicles displaying such registration plates. It shall be prohibited to park any motor vehicle in a designated access aisle adjacent to any parking place specifically reserved for persons with disabilities, by the posting of an official sign as designated under Section 11-301, for motor vehicles displaying such registration plates. When using the parking privileges for persons with disabilities, the parking decal or device must be displayed properly in the vehicle where it is clearly visible to law enforcement personnel, either hanging from the rearview mirror or placed on the dashboard of the vehicle in clear view. Any motor vehicle properly displaying a disability license plate or a parking decal or device containing the International symbol of access issued to persons with disabilities by any

local authority, state, district, territory or foreign country shall be recognized by State and local authorities as a valid license plate or device and receive the same parking privileges as residents of this State.

(a-1) An individual with a vehicle displaying disability license plates or a parking decal or device issued to a qualified person with a disability under Sections 3-616, 11-1301.1, or 11-1301.2 or to a disabled veteran under Section 3-609 or 3-609.01 is in violation of this Section if (i) the person using the disability license plate or parking decal or device is not the authorized holder of the disability license plate or parking decal or device or is not transporting the authorized holder of the disability license plate or parking decal or device to or from the parking location and (ii) the person uses the disability license plate or parking decal or device to exercise any privileges granted through the disability license plate or parking decals or devices under this Code.

(b) Any person or local authority owning or operating any public or private offstreet parking facility may, after notifying the police or sheriff's department, remove or cause to be removed to the nearest garage or other place of safety any vehicle parked within a stall or space reserved for use by a person with disabilities which does not display person with disabilities registration plates or a special decal or device as required under this Section.

(c) Any person found guilty of violating the provisions of subsection (a) shall be fined \$250 in addition to any costs or charges connected with the removal or storage of any motor vehicle authorized under this Section; but municipalities by ordinance may impose a fine up to \$350 and shall display signs indicating the fine imposed. If the amount of the fine is subsequently changed, the municipality shall change the sign to indicate the current amount of the fine. It shall not be a defense to a charge under this Section that either the sign posted pursuant to this Section or the intended accessible parking place does not comply with the technical requirements of Section 11-301, Department regulations, or local ordinance if a reasonable person would be made aware by the sign or notice on or near the parking place that the place is reserved for a person with disabilities.

(c-1) Any person found guilty of violating the provisions of subsection (a-1) shall be fined \$500. The circuit clerk shall distribute \$250 of the \$500 fine imposed on any person who is found guilty of or pleads guilty to violating this Section, including any person placed on court supervision for violating this Section, to the law enforcement agency that issued the citation or made the arrest. If more than one law enforcement agency is responsible for issuing the citation or making the arrest, the \$250 shall be shared equally.

(d) Local authorities shall impose fines as established in subsections (c) and (c-1) for violations of this Section.

(e) As used in this Section, "authorized holder" means an individual issued a disability license plate under Section 3-616 of this Code, an individual issued a parking decal or device under Section 11-1301.2 of this Code, or an individual issued a disabled veteran's license plate under Section 3-609 or 3-609.01 of this Code.

(f) Any person who commits a violation of subsection (a-1) may have his or her driving privileges suspended or revoked by the Secretary of State for a period of time determined by the Secretary of State. The Secretary of State may also suspend or revoke the disability license plates or parking decal or device for a period of time determined by the Secretary of State.

(Source: P.A. 94-619, eff. 1-1-06; 94-930, eff. 6-26-06; 95-167, eff. 1-1-08.)

(Text of Section after amendment by P.A. 95-430)

Sec. 11-1301.3. Unauthorized use of parking places reserved for persons with disabilities.

(a) It shall be prohibited to park any motor vehicle which is not properly displaying registration plates or decals issued to a person with disabilities, as defined by Section 1-159.1, pursuant to Sections 3-616, 11-1301.1 or 11-1301.2, or to a disabled veteran pursuant to Section 3-609 or 3-609.01 of this Act, as evidence that the vehicle is operated by or for a person with disabilities or disabled veteran, in any parking place, including any private or public offstreet parking

facility, specifically reserved, by the posting of an official sign as designated under Section 11-301, for motor vehicles displaying such registration plates. It shall be prohibited to park any motor vehicle in a designated access aisle adjacent to any parking place specifically reserved for persons with disabilities, by the posting of an official sign as designated under Section 11-301, for motor vehicles displaying such registration plates. When using the parking privileges for persons with disabilities, the parking decal or device must be displayed properly in the vehicle where it is clearly visible to law enforcement personnel, either hanging from the rearview mirror or placed on the dashboard of the vehicle in clear view. Disability license plates and parking decals and devices are not transferable from person to person. Proper usage of the disability license plate or parking decal or device requires the authorized holder to be present and enter or exit the vehicle at the time the parking privileges are being used. It is a violation of this Section to park in a space reserved for a person with disabilities if the authorized holder of the disability license plate or parking decal or device does not enter or exit the vehicle at the time the parking privileges are being used. Any motor vehicle properly displaying a disability license plate or a parking decal or device containing the International symbol of access issued to persons with disabilities by any local authority, state, district, territory or foreign country shall be recognized by State and

local authorities as a valid license plate or device and receive the same parking privileges as residents of this State.

(a-1) An individual with a vehicle displaying disability license plates or a parking decal or device issued to a qualified person with a disability under Sections 3-616, 11-1301.1, or 11-1301.2 or to a disabled veteran under Section 3-609 or 3-609.01 is in violation of this Section if (i) the person using the disability license plate or parking decal or device is not the authorized holder of the disability license plate or parking decal or device or is not transporting the authorized holder of the disability license plate or parking decal or device to or from the parking location and (ii) the person uses the disability license plate or parking decal or device to exercise any privileges granted through the disability license plate or parking decals or devices under this Code.

(b) Any person or local authority owning or operating any public or private offstreet parking facility may, after notifying the police or sheriff's department, remove or cause to be removed to the nearest garage or other place of safety any vehicle parked within a stall or space reserved for use by a person with disabilities which does not display person with disabilities registration plates or a special decal or device as required under this Section.

(c) Any person found guilty of violating the provisions of subsection (a) shall be fined \$250 in addition to any costs or

charges connected with the removal or storage of any motor vehicle authorized under this Section; but municipalities by ordinance may impose a fine up to \$350 and shall display signs indicating the fine imposed. If the amount of the fine is subsequently changed, the municipality shall change the sign to indicate the current amount of the fine. It shall not be a defense to a charge under this Section that either the sign posted pursuant to this Section or the intended accessible parking place does not comply with the technical requirements of Section 11-301, Department regulations, or local ordinance if a reasonable person would be made aware by the sign or notice on or near the parking place that the place is reserved for a person with disabilities.

(c-1) Any person found guilty of violating the provisions of subsection (a-1) a first time shall be fined \$500. Any person found guilty of violating subsection (a-1) a second time shall be fined \$750, and the Secretary of State may revoke the person's driving privileges or suspend those privileges for a period of time to be determined by the Secretary. Any person found guilty of violating subsection (a-1) a third or subsequent time shall be fined \$1,000, and the Secretary of State may revoke the person's driving privileges or suspend those privileges for a period of time to be determined by the Secretary. The Secretary of State may also revoke the disability license plates or parking decal or device of a person violating subsection (a-1) a third or subsequent time or

may suspend the person's disability license plates or parking decal or device for a period of time to be determined by the Secretary of State. The circuit clerk shall distribute 50% of the fine imposed on any person who is found guilty of or pleads guilty to violating this Section, including any person placed on court supervision for violating this Section, to the law enforcement agency that issued the citation or made the arrest. If more than one law enforcement agency is responsible for issuing the citation or making the arrest, the 50% of the fine imposed shall be shared equally. If an officer of the Secretary of State Department of Police arrested a person for a violation of this Section, 50% of the fine imposed shall be deposited into the Secretary of State Police Services Fund.

(d) Local authorities shall impose fines as established in subsections (c) and (c-1) for violations of this Section.

(e) As used in this Section, "authorized holder" means an individual issued a disability license plate under Section 3-616 of this Code, an individual issued a parking decal or device under Section 11-1301.2 of this Code, or an individual issued a disabled veteran's license plate under Section 3-609 or 3-609.01 of this Code.

(f) Any person who commits a violation of subsection (a-1) may have his or her driving privileges suspended or revoked by the Secretary of State for a period of time determined by the Secretary of State. The Secretary of State may also suspend or revoke the disability license plates or parking decal or device

for a period of time determined by the Secretary of State.

(Source: P.A. 94-619, eff. 1-1-06; 94-930, eff. 6-26-06; 95-167, eff. 1-1-08; 95-430, eff. 6-1-08; revised 11-19-07.)

(625 ILCS 5/11-1426.1)

Sec. 11-1426.1. Operation of neighborhood vehicles on streets, roads, and highways.

(a) As used in this Section, "neighborhood vehicle" means a self-propelled, electronically powered four-wheeled motor vehicle (or a self-propelled, gasoline-powered four-wheeled motor vehicle with an engine displacement under 1,200 cubic centimeters) which is capable of attaining in one mile a speed of more than 20 miles per hour, but not more than 25 miles per hour, and which conforms to federal regulations under Title 49 C.F.R. Part 571.500.

(b) Except as otherwise provided in this Section, it is unlawful for any person to drive or operate a neighborhood vehicle upon any street, highway, or roadway in this State. If the operation of a neighborhood vehicle is authorized under subsection (d), the neighborhood vehicle may be operated only on streets where the posted speed limit is 35 miles per hour or less. This subsection (b) does not prohibit a neighborhood vehicle from crossing a road or street at an intersection where the road or street has a posted speed limit of more than 35 miles per hour.

(b-5) A person may not operate a neighborhood vehicle upon

any street, highway, or roadway in this State unless he or she has a valid Illinois driver's license issued in his or her name by the Secretary of State.

(c) Except as otherwise provided in subsection (c-5), no person operating a neighborhood vehicle shall make a direct crossing upon or across any highway under the jurisdiction of the State, tollroad, interstate highway, or controlled access highway in this State.

(c-5) A person may make a direct crossing at an intersection controlled by a traffic light or 4-way stop sign upon or across a highway under the jurisdiction of the State if the speed limit on the highway is 35 miles per hour or less at the place of crossing.

(d) A municipality, township, county, or other unit of local government may authorize, by ordinance or resolution, the operation of neighborhood vehicles on roadways under its jurisdiction if the unit of local government determines that the public safety will not be jeopardized. The Department may authorize the operation of neighborhood vehicles on the roadways under its jurisdiction if the Department determines that the public safety will not be jeopardized.

Before permitting the operation of neighborhood vehicles on its roadways, a municipality, township, county, other unit of local government, or the Department must consider the volume, speed, and character of traffic on the roadway and determine whether neighborhood vehicles may safely travel on or

cross the roadway. Upon determining that neighborhood vehicles may safely operate on a roadway and the adoption of an ordinance or resolution by a municipality, township, county, or other unit of local government, or authorization by the Department, appropriate signs shall be posted.

If a roadway is under the jurisdiction of more than one unit of government, neighborhood vehicles may not be operated on the roadway unless each unit of government agrees and takes action as provided in this subsection.

(e) No neighborhood vehicle may be operated on a roadway unless, at a minimum, it has the following: brakes, a steering apparatus, tires, a rearview mirror, red reflectorized warning devices in the front and rear, a slow moving emblem (as required of other vehicles in Section 12-709 of this Code) on the rear of the neighborhood vehicle, a headlight that emits a white light visible from a distance of 500 feet to the front, a tail lamp that emits a red light visible from at least 100 feet from the rear, brake lights, and turn signals. When operated on a roadway, a neighborhood vehicle shall have its headlight and tail lamps lighted as required by Section 12-201 of this Code.

(f) A person who drives or is in actual physical control of a neighborhood vehicle on a roadway while under the influence is subject to Sections 11-500 through 11-502 of this Code.

(Source: P.A. 94-298, eff. 1-1-06; 95-150, 8-14-07; 95-414, eff. 8-24-07; 95-575, eff. 8-31-07; revised 11-19-07.)

(625 ILCS 5/12-610.1)

Sec. 12-610.1. Wireless telephones.

(a) As used in this Section, "wireless telephone" means a device that is capable of transmitting or receiving telephonic communications without a wire connecting the device to the telephone network.

(b) A person under the age of 19 years who holds an instruction permit issued under Section 6-105 or 6-107.1, or a person under the age of 19 years who holds a graduated license issued under Section 6-107, may not drive a vehicle on a roadway while using a wireless phone.

(c) This Section does not apply to a person under the age of 19 years using a wireless telephone for emergency purposes, including, but not limited to, an emergency call to a law enforcement agency, health care provider, fire department, or other emergency services agency or entity.

(d) If a graduated driver's license holder over the age of 18 committed an offense against traffic regulations governing the movement of vehicles or any violation of Section 6-107 or Section 12-603.1 of this Code in the 6 months prior to the graduated driver's license holder's 18th birthday, and was subsequently convicted of the violation, the provisions of paragraph (b) shall continue to apply until such time as a period of 6 consecutive months has elapsed without an additional violation and subsequent conviction of an offense against traffic regulations governing the movement of vehicles

or any violation of Section 6-107 or Section 12-603.1 of this Code.

(Source: P.A. 94-240, eff. 7-15-05; 95-310, eff. 1-1-08; 95-338, eff. 1-1-08; revised 11-19-07.)

Section 305. The Clerks of Courts Act is amended by changing Sections 27.5 and 27.6 as follows:

(705 ILCS 105/27.5) (from Ch. 25, par. 27.5)

Sec. 27.5. (a) All fees, fines, costs, additional penalties, bail balances assessed or forfeited, and any other amount paid by a person to the circuit clerk that equals an amount less than \$55, except restitution under Section 5-5-6 of the Unified Code of Corrections, reimbursement for the costs of an emergency response as provided under Section 11-501 of the Illinois Vehicle Code, any fees collected for attending a traffic safety program under paragraph (c) of Supreme Court Rule 529, any fee collected on behalf of a State's Attorney under Section 4-2002 of the Counties Code or a sheriff under Section 4-5001 of the Counties Code, or any cost imposed under Section 124A-5 of the Code of Criminal Procedure of 1963, for convictions, orders of supervision, or any other disposition for a violation of Chapters 3, 4, 6, 11, and 12 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, and except as provided

in subsection (b) shall be disbursed within 60 days after receipt by the circuit clerk as follows: 47% shall be disbursed to the entity authorized by law to receive the fine imposed in the case; 12% shall be disbursed to the State Treasurer; and 41% shall be disbursed to the county's general corporate fund. Of the 12% disbursed to the State Treasurer, 1/6 shall be deposited by the State Treasurer into the Violent Crime Victims Assistance Fund, 1/2 shall be deposited into the Traffic and Criminal Conviction Surcharge Fund, and 1/3 shall be deposited into the Drivers Education Fund. For fiscal years 1992 and 1993, amounts deposited into the Violent Crime Victims Assistance Fund, the Traffic and Criminal Conviction Surcharge Fund, or the Drivers Education Fund shall not exceed 110% of the amounts deposited into those funds in fiscal year 1991. Any amount that exceeds the 110% limit shall be distributed as follows: 50% shall be disbursed to the county's general corporate fund and 50% shall be disbursed to the entity authorized by law to receive the fine imposed in the case. Not later than March 1 of each year the circuit clerk shall submit a report of the amount of funds remitted to the State Treasurer under this Section during the preceding year based upon independent verification of fines and fees. All counties shall be subject to this Section, except that counties with a population under 2,000,000 may, by ordinance, elect not to be subject to this Section. For offenses subject to this Section, judges shall impose one total sum of money payable for

violations. The circuit clerk may add on no additional amounts except for amounts that are required by Sections 27.3a and 27.3c of this Act, unless those amounts are specifically waived by the judge. With respect to money collected by the circuit clerk as a result of forfeiture of bail, ex parte judgment or guilty plea pursuant to Supreme Court Rule 529, the circuit clerk shall first deduct and pay amounts required by Sections 27.3a and 27.3c of this Act. This Section is a denial and limitation of home rule powers and functions under subsection (h) of Section 6 of Article VII of the Illinois Constitution.

(b) The following amounts must be remitted to the State Treasurer for deposit into the Illinois Animal Abuse Fund:

(1) 50% of the amounts collected for felony offenses under Sections 3, 3.01, 3.02, 3.03, 4, 4.01, 4.03, 4.04, 5, 5.01, 6, 7, 7.5, 7.15, and 16 of the Humane Care for Animals Act and Section 26-5 of the Criminal Code of 1961;

(2) 20% of the amounts collected for Class A and Class B misdemeanors under Sections 3, 3.01, 4, 4.01, 4.03, 4.04, 5, 5.01, 6, 7, 7.1, 7.5, 7.15, and 16 of the Humane Care for Animals Act and Section 26-5 of the Criminal Code of 1961; and

(3) 50% of the amounts collected for Class C misdemeanors under Sections 4.01 and 7.1 of the Humane Care for Animals Act and Section 26-5 of the Criminal Code of 1961.

(c) Any person who receives a disposition of court

supervision for a violation of the Illinois Vehicle Code or a similar provision of a local ordinance shall, in addition to any other fines, fees, and court costs, pay an additional fee of \$20, to be disbursed as provided in Section 16-104c of the Illinois Vehicle Code. In addition to the fee of \$20, the person shall also pay a fee of \$5, if not waived by the court. If this \$5 fee is collected, \$4.50 of the fee shall be deposited into the Circuit Court Clerk Operation and Administrative Fund created by the Clerk of the Circuit Court and 50 cents of the fee shall be deposited into the Prisoner Review Board Vehicle and Equipment Fund in the State treasury.

(d) Any person convicted of or pleading guilty to a serious traffic violation, as defined in Section 1-187.001 of the Illinois Vehicle Code, shall pay an additional fee of \$20, to be disbursed as provided in Section 16-104d of that Code.

This subsection (d) becomes inoperative 7 years after the effective date of Public Act 95-154 ~~this amendatory Act of the 95th General Assembly.~~

(Source: P.A. 94-1009, eff. 1-1-07; 95-154, eff. 10-13-07; 95-428, eff. 8-24-07; revised 11-19-07.)

(705 ILCS 105/27.6)

(Text of Section before amendment by P.A. 95-600)

Sec. 27.6. (a) All fees, fines, costs, additional penalties, bail balances assessed or forfeited, and any other amount paid by a person to the circuit clerk equalling an

amount of \$55 or more, except the additional fee required by subsections (b) and (c), restitution under Section 5-5-6 of the Unified Code of Corrections, reimbursement for the costs of an emergency response as provided under Section 11-501 of the Illinois Vehicle Code, any fees collected for attending a traffic safety program under paragraph (c) of Supreme Court Rule 529, any fee collected on behalf of a State's Attorney under Section 4-2002 of the Counties Code or a sheriff under Section 4-5001 of the Counties Code, or any cost imposed under Section 124A-5 of the Code of Criminal Procedure of 1963, for convictions, orders of supervision, or any other disposition for a violation of Chapters 3, 4, 6, 11, and 12 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, and except as provided in subsections (d) and (g) ~~(f)~~ shall be disbursed within 60 days after receipt by the circuit clerk as follows: 44.5% shall be disbursed to the entity authorized by law to receive the fine imposed in the case; 16.825% shall be disbursed to the State Treasurer; and 38.675% shall be disbursed to the county's general corporate fund. Of the 16.825% disbursed to the State Treasurer, 2/17 shall be deposited by the State Treasurer into the Violent Crime Victims Assistance Fund, 5.052/17 shall be deposited into the Traffic and Criminal Conviction Surcharge Fund, 3/17 shall be deposited into the Drivers Education Fund, and 6.948/17 shall be deposited into the Trauma Center Fund. Of

the 6.948/17 deposited into the Trauma Center Fund from the 16.825% disbursed to the State Treasurer, 50% shall be disbursed to the Department of Public Health and 50% shall be disbursed to the Department of Healthcare and Family Services. For fiscal year 1993, amounts deposited into the Violent Crime Victims Assistance Fund, the Traffic and Criminal Conviction Surcharge Fund, or the Drivers Education Fund shall not exceed 110% of the amounts deposited into those funds in fiscal year 1991. Any amount that exceeds the 110% limit shall be distributed as follows: 50% shall be disbursed to the county's general corporate fund and 50% shall be disbursed to the entity authorized by law to receive the fine imposed in the case. Not later than March 1 of each year the circuit clerk shall submit a report of the amount of funds remitted to the State Treasurer under this Section during the preceding year based upon independent verification of fines and fees. All counties shall be subject to this Section, except that counties with a population under 2,000,000 may, by ordinance, elect not to be subject to this Section. For offenses subject to this Section, judges shall impose one total sum of money payable for violations. The circuit clerk may add on no additional amounts except for amounts that are required by Sections 27.3a and 27.3c of this Act, unless those amounts are specifically waived by the judge. With respect to money collected by the circuit clerk as a result of forfeiture of bail, ex parte judgment or guilty plea pursuant to Supreme Court Rule 529, the circuit

clerk shall first deduct and pay amounts required by Sections 27.3a and 27.3c of this Act. This Section is a denial and limitation of home rule powers and functions under subsection (h) of Section 6 of Article VII of the Illinois Constitution.

(b) In addition to any other fines and court costs assessed by the courts, any person convicted or receiving an order of supervision for driving under the influence of alcohol or drugs shall pay an additional fee of \$100 to the clerk of the circuit court. This amount, less 2 1/2% that shall be used to defray administrative costs incurred by the clerk, shall be remitted by the clerk to the Treasurer within 60 days after receipt for deposit into the Trauma Center Fund. This additional fee of \$100 shall not be considered a part of the fine for purposes of any reduction in the fine for time served either before or after sentencing. Not later than March 1 of each year the Circuit Clerk shall submit a report of the amount of funds remitted to the State Treasurer under this subsection during the preceding calendar year.

(b-1) In addition to any other fines and court costs assessed by the courts, any person convicted or receiving an order of supervision for driving under the influence of alcohol or drugs shall pay an additional fee of \$5 to the clerk of the circuit court. This amount, less 2 1/2% that shall be used to defray administrative costs incurred by the clerk, shall be remitted by the clerk to the Treasurer within 60 days after receipt for deposit into the Spinal Cord Injury Paralysis Cure

Research Trust Fund. This additional fee of \$5 shall not be considered a part of the fine for purposes of any reduction in the fine for time served either before or after sentencing. Not later than March 1 of each year the Circuit Clerk shall submit a report of the amount of funds remitted to the State Treasurer under this subsection during the preceding calendar year.

(c) In addition to any other fines and court costs assessed by the courts, any person convicted for a violation of Sections 24-1.1, 24-1.2, or 24-1.5 of the Criminal Code of 1961 or a person sentenced for a violation of the Cannabis Control Act, the Illinois Controlled Substances Act, or the Methamphetamine Control and Community Protection Act shall pay an additional fee of \$100 to the clerk of the circuit court. This amount, less 2 1/2% that shall be used to defray administrative costs incurred by the clerk, shall be remitted by the clerk to the Treasurer within 60 days after receipt for deposit into the Trauma Center Fund. This additional fee of \$100 shall not be considered a part of the fine for purposes of any reduction in the fine for time served either before or after sentencing. Not later than March 1 of each year the Circuit Clerk shall submit a report of the amount of funds remitted to the State Treasurer under this subsection during the preceding calendar year.

(c-1) In addition to any other fines and court costs assessed by the courts, any person sentenced for a violation of the Cannabis Control Act, the Illinois Controlled Substances Act, or the Methamphetamine Control and Community Protection

Act shall pay an additional fee of \$5 to the clerk of the circuit court. This amount, less 2 1/2% that shall be used to defray administrative costs incurred by the clerk, shall be remitted by the clerk to the Treasurer within 60 days after receipt for deposit into the Spinal Cord Injury Paralysis Cure Research Trust Fund. This additional fee of \$5 shall not be considered a part of the fine for purposes of any reduction in the fine for time served either before or after sentencing. Not later than March 1 of each year the Circuit Clerk shall submit a report of the amount of funds remitted to the State Treasurer under this subsection during the preceding calendar year.

(d) The following amounts must be remitted to the State Treasurer for deposit into the Illinois Animal Abuse Fund:

(1) 50% of the amounts collected for felony offenses under Sections 3, 3.01, 3.02, 3.03, 4, 4.01, 4.03, 4.04, 5, 5.01, 6, 7, 7.5, 7.15, and 16 of the Humane Care for Animals Act and Section 26-5 of the Criminal Code of 1961;

(2) 20% of the amounts collected for Class A and Class B misdemeanors under Sections 3, 3.01, 4, 4.01, 4.03, 4.04, 5, 5.01, 6, 7, 7.1, 7.5, 7.15, and 16 of the Humane Care for Animals Act and Section 26-5 of the Criminal Code of 1961; and

(3) 50% of the amounts collected for Class C misdemeanors under Sections 4.01 and 7.1 of the Humane Care for Animals Act and Section 26-5 of the Criminal Code of 1961.

(e) Any person who receives a disposition of court supervision for a violation of the Illinois Vehicle Code or a similar provision of a local ordinance shall, in addition to any other fines, fees, and court costs, pay an additional fee of \$20, to be disbursed as provided in Section 16-104c of the Illinois Vehicle Code. In addition to the fee of \$20, the person shall also pay a fee of \$5, if not waived by the court. If this \$5 fee is collected, \$4.50 of the fee shall be deposited into the Circuit Court Clerk Operation and Administrative Fund created by the Clerk of the Circuit Court and 50 cents of the fee shall be deposited into the Prisoner Review Board Vehicle and Equipment Fund in the State treasury.

(f) This Section does not apply to the additional child pornography fines assessed and collected under Section 5-9-1.14 of the Unified Code of Corrections.

(g) ~~(f)~~ Of the amounts collected as fines under subsection (b) of Section 3-712 of the Illinois Vehicle Code, 99% shall be deposited into the Illinois Military Family Relief Fund and 1% shall be deposited into the Circuit Court Clerk Operation and Administrative Fund created by the Clerk of the Circuit Court to be used to offset the costs incurred by the Circuit Court Clerk in performing the additional duties required to collect and disburse funds to entities of State and local government as provided by law.

(Source: P.A. 94-556, eff. 9-11-05; 94-1009, eff. 1-1-07; 95-191, eff. 1-1-08; 95-291, eff. 1-1-08; 95-428, eff. 8-24-07;

revised 11-19-07.)

(Text of Section after amendment by P.A. 95-600)

Sec. 27.6. (a) All fees, fines, costs, additional penalties, bail balances assessed or forfeited, and any other amount paid by a person to the circuit clerk equalling an amount of \$55 or more, except the fine imposed by Section 5-9-1.15 ~~5-9-1.14~~ of the Unified Code of Corrections, the additional fee required by subsections (b) and (c), restitution under Section 5-5-6 of the Unified Code of Corrections, reimbursement for the costs of an emergency response as provided under Section 11-501 of the Illinois Vehicle Code, any fees collected for attending a traffic safety program under paragraph (c) of Supreme Court Rule 529, any fee collected on behalf of a State's Attorney under Section 4-2002 of the Counties Code or a sheriff under Section 4-5001 of the Counties Code, or any cost imposed under Section 124A-5 of the Code of Criminal Procedure of 1963, for convictions, orders of supervision, or any other disposition for a violation of Chapters 3, 4, 6, 11, and 12 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, and except as provided in subsections (d) and (g) ~~(f)~~ shall be disbursed within 60 days after receipt by the circuit clerk as follows: 44.5% shall be disbursed to the entity authorized by law to receive the fine imposed in the

case; 16.825% shall be disbursed to the State Treasurer; and 38.675% shall be disbursed to the county's general corporate fund. Of the 16.825% disbursed to the State Treasurer, 2/17 shall be deposited by the State Treasurer into the Violent Crime Victims Assistance Fund, 5.052/17 shall be deposited into the Traffic and Criminal Conviction Surcharge Fund, 3/17 shall be deposited into the Drivers Education Fund, and 6.948/17 shall be deposited into the Trauma Center Fund. Of the 6.948/17 deposited into the Trauma Center Fund from the 16.825% disbursed to the State Treasurer, 50% shall be disbursed to the Department of Public Health and 50% shall be disbursed to the Department of Healthcare and Family Services. For fiscal year 1993, amounts deposited into the Violent Crime Victims Assistance Fund, the Traffic and Criminal Conviction Surcharge Fund, or the Drivers Education Fund shall not exceed 110% of the amounts deposited into those funds in fiscal year 1991. Any amount that exceeds the 110% limit shall be distributed as follows: 50% shall be disbursed to the county's general corporate fund and 50% shall be disbursed to the entity authorized by law to receive the fine imposed in the case. Not later than March 1 of each year the circuit clerk shall submit a report of the amount of funds remitted to the State Treasurer under this Section during the preceding year based upon independent verification of fines and fees. All counties shall be subject to this Section, except that counties with a population under 2,000,000 may, by ordinance, elect not to be

subject to this Section. For offenses subject to this Section, judges shall impose one total sum of money payable for violations. The circuit clerk may add on no additional amounts except for amounts that are required by Sections 27.3a and 27.3c of this Act, unless those amounts are specifically waived by the judge. With respect to money collected by the circuit clerk as a result of forfeiture of bail, ex parte judgment or guilty plea pursuant to Supreme Court Rule 529, the circuit clerk shall first deduct and pay amounts required by Sections 27.3a and 27.3c of this Act. This Section is a denial and limitation of home rule powers and functions under subsection (h) of Section 6 of Article VII of the Illinois Constitution.

(b) In addition to any other fines and court costs assessed by the courts, any person convicted or receiving an order of supervision for driving under the influence of alcohol or drugs shall pay an additional fee of \$100 to the clerk of the circuit court. This amount, less 2 1/2% that shall be used to defray administrative costs incurred by the clerk, shall be remitted by the clerk to the Treasurer within 60 days after receipt for deposit into the Trauma Center Fund. This additional fee of \$100 shall not be considered a part of the fine for purposes of any reduction in the fine for time served either before or after sentencing. Not later than March 1 of each year the Circuit Clerk shall submit a report of the amount of funds remitted to the State Treasurer under this subsection during the preceding calendar year.

(b-1) In addition to any other fines and court costs assessed by the courts, any person convicted or receiving an order of supervision for driving under the influence of alcohol or drugs shall pay an additional fee of \$5 to the clerk of the circuit court. This amount, less 2 1/2% that shall be used to defray administrative costs incurred by the clerk, shall be remitted by the clerk to the Treasurer within 60 days after receipt for deposit into the Spinal Cord Injury Paralysis Cure Research Trust Fund. This additional fee of \$5 shall not be considered a part of the fine for purposes of any reduction in the fine for time served either before or after sentencing. Not later than March 1 of each year the Circuit Clerk shall submit a report of the amount of funds remitted to the State Treasurer under this subsection during the preceding calendar year.

(c) In addition to any other fines and court costs assessed by the courts, any person convicted for a violation of Sections 24-1.1, 24-1.2, or 24-1.5 of the Criminal Code of 1961 or a person sentenced for a violation of the Cannabis Control Act, the Illinois Controlled Substances Act, or the Methamphetamine Control and Community Protection Act shall pay an additional fee of \$100 to the clerk of the circuit court. This amount, less 2 1/2% that shall be used to defray administrative costs incurred by the clerk, shall be remitted by the clerk to the Treasurer within 60 days after receipt for deposit into the Trauma Center Fund. This additional fee of \$100 shall not be considered a part of the fine for purposes of any reduction in

the fine for time served either before or after sentencing. Not later than March 1 of each year the Circuit Clerk shall submit a report of the amount of funds remitted to the State Treasurer under this subsection during the preceding calendar year.

(c-1) In addition to any other fines and court costs assessed by the courts, any person sentenced for a violation of the Cannabis Control Act, the Illinois Controlled Substances Act, or the Methamphetamine Control and Community Protection Act shall pay an additional fee of \$5 to the clerk of the circuit court. This amount, less 2 1/2% that shall be used to defray administrative costs incurred by the clerk, shall be remitted by the clerk to the Treasurer within 60 days after receipt for deposit into the Spinal Cord Injury Paralysis Cure Research Trust Fund. This additional fee of \$5 shall not be considered a part of the fine for purposes of any reduction in the fine for time served either before or after sentencing. Not later than March 1 of each year the Circuit Clerk shall submit a report of the amount of funds remitted to the State Treasurer under this subsection during the preceding calendar year.

(d) The following amounts must be remitted to the State Treasurer for deposit into the Illinois Animal Abuse Fund:

(1) 50% of the amounts collected for felony offenses under Sections 3, 3.01, 3.02, 3.03, 4, 4.01, 4.03, 4.04, 5, 5.01, 6, 7, 7.5, 7.15, and 16 of the Humane Care for Animals Act and Section 26-5 of the Criminal Code of 1961;

(2) 20% of the amounts collected for Class A and Class

B misdemeanors under Sections 3, 3.01, 4, 4.01, 4.03, 4.04, 5, 5.01, 6, 7, 7.1, 7.5, 7.15, and 16 of the Humane Care for Animals Act and Section 26-5 of the Criminal Code of 1961; and

(3) 50% of the amounts collected for Class C misdemeanors under Sections 4.01 and 7.1 of the Humane Care for Animals Act and Section 26-5 of the Criminal Code of 1961.

(e) Any person who receives a disposition of court supervision for a violation of the Illinois Vehicle Code or a similar provision of a local ordinance shall, in addition to any other fines, fees, and court costs, pay an additional fee of \$20, to be disbursed as provided in Section 16-104c of the Illinois Vehicle Code. In addition to the fee of \$20, the person shall also pay a fee of \$5, if not waived by the court. If this \$5 fee is collected, \$4.50 of the fee shall be deposited into the Circuit Court Clerk Operation and Administrative Fund created by the Clerk of the Circuit Court and 50 cents of the fee shall be deposited into the Prisoner Review Board Vehicle and Equipment Fund in the State treasury.

(f) This Section does not apply to the additional child pornography fines assessed and collected under Section 5-9-1.14 of the Unified Code of Corrections.

(g) ~~(f)~~ Of the amounts collected as fines under subsection (b) of Section 3-712 of the Illinois Vehicle Code, 99% shall be deposited into the Illinois Military Family Relief Fund and 1%

shall be deposited into the Circuit Court Clerk Operation and Administrative Fund created by the Clerk of the Circuit Court to be used to offset the costs incurred by the Circuit Court Clerk in performing the additional duties required to collect and disburse funds to entities of State and local government as provided by law.

(Source: P.A. 94-556, eff. 9-11-05; 94-1009, eff. 1-1-07; 95-191, eff. 1-1-08; 95-291, eff. 1-1-08; 95-428, eff. 8-24-07; 95-600, eff. 6-1-08; revised 11-19-07.)

Section 310. The Juvenile Court Act of 1987 is amended by changing Sections 2-10, 2-28, and 5-710 as follows:

(705 ILCS 405/2-10) (from Ch. 37, par. 802-10)

(Text of Section before amendment by P.A. 95-405 and 95-642)

Sec. 2-10. Temporary custody hearing. At the appearance of the minor before the court at the temporary custody hearing, all witnesses present shall be examined before the court in relation to any matter connected with the allegations made in the petition.

(1) If the court finds that there is not probable cause to believe that the minor is abused, neglected or dependent it shall release the minor and dismiss the petition.

(2) If the court finds that there is probable cause to believe that the minor is abused, neglected or dependent, the

court shall state in writing the factual basis supporting its finding and the minor, his or her parent, guardian, custodian and other persons able to give relevant testimony shall be examined before the court. The Department of Children and Family Services shall give testimony concerning indicated reports of abuse and neglect, of which they are aware of through the central registry, involving the minor's parent, guardian or custodian. After such testimony, the court may, consistent with the health, safety and best interests of the minor, enter an order that the minor shall be released upon the request of parent, guardian or custodian if the parent, guardian or custodian appears to take custody. Custodian shall include any agency of the State which has been given custody or wardship of the child. If it is consistent with the health, safety and best interests of the minor, the court may also prescribe shelter care and order that the minor be kept in a suitable place designated by the court or in a shelter care facility designated by the Department of Children and Family Services or a licensed child welfare agency; however, a minor charged with a criminal offense under the Criminal Code of 1961 or adjudicated delinquent shall not be placed in the custody of or committed to the Department of Children and Family Services by any court, except a minor less than 13 years of age and committed to the Department of Children and Family Services under Section 5-710 of this Act or a minor for whom an independent basis of abuse, neglect, or dependency exists,

which must be defined by departmental rule. In placing the minor, the Department or other agency shall, to the extent compatible with the court's order, comply with Section 7 of the Children and Family Services Act. In determining the health, safety and best interests of the minor to prescribe shelter care, the court must find that it is a matter of immediate and urgent necessity for the safety and protection of the minor or of the person or property of another that the minor be placed in a shelter care facility or that he or she is likely to flee the jurisdiction of the court, and must further find that reasonable efforts have been made or that, consistent with the health, safety and best interests of the minor, no efforts reasonably can be made to prevent or eliminate the necessity of removal of the minor from his or her home. The court shall require documentation from the Department of Children and Family Services as to the reasonable efforts that were made to prevent or eliminate the necessity of removal of the minor from his or her home or the reasons why no efforts reasonably could be made to prevent or eliminate the necessity of removal. When a minor is placed in the home of a relative, the Department of Children and Family Services shall complete a preliminary background review of the members of the minor's custodian's household in accordance with Section 4.3 of the Child Care Act of 1969 within 90 days of that placement. If the minor is ordered placed in a shelter care facility of the Department of Children and Family Services or a licensed child welfare

agency, the court shall, upon request of the appropriate Department or other agency, appoint the Department of Children and Family Services Guardianship Administrator or other appropriate agency executive temporary custodian of the minor and the court may enter such other orders related to the temporary custody as it deems fit and proper, including the provision of services to the minor or his family to ameliorate the causes contributing to the finding of probable cause or to the finding of the existence of immediate and urgent necessity.

Where the Department of Children and Family Services Guardianship Administrator is appointed as the executive temporary custodian, the Department of Children and Family Services shall file with the court and serve on the parties a parent-child visiting plan, within 10 days, excluding weekends and holidays, after the appointment. The parent-child visiting plan shall set out the time and place of visits, the frequency of visits, the length of visits, who shall be present at the visits, and where appropriate, the minor's opportunities to have telephone and mail communication with the parents. For good cause, the court may waive the requirement to file the parent-child visiting plan or extend the time for filing the parent-child visiting plan. Any party may, by motion, request the court to review the parent-child visiting plan to determine whether it is reasonably calculated to expeditiously facilitate the achievement of the permanency goal and is consistent with the minor's best interest. The frequency,

duration, and locations of visitation shall be measured by the needs of the child and family, and not by the convenience of Department personnel. Child development principles shall be considered by the court in its analysis of how frequent visitation should be, how long it should last, where it should take place, and who should be present. If upon motion of the party to review the plan and after receiving evidence, the court determines that the parent-child visiting plan is not reasonably calculated to expeditiously facilitate the achievement of the permanency goal or that the restrictions placed on parent-child contact are contrary to the child's best interests, the court shall put in writing the factual basis supporting the determination and enter specific findings based on the evidence. The court shall enter an order for the Department to implement changes to the parent-child visiting plan, consistent with the court's findings. At any stage of proceeding, any party may by motion request the court to enter any orders necessary to implement the parent-child visiting plan. Nothing under this subsection (2) shall restrict the court from granting discretionary authority to the Department to increase opportunities for additional parent-child contacts, without further court orders. Nothing in this subsection (2) shall restrict the Department from immediately restricting or terminating parent-child contact, without either amending the parent-child visiting plan or obtaining a court order, where the Department or its assigns reasonably

believe that continuation of parent-child contact, as set out in the parent-child visiting plan, would be contrary to the child's health, safety, and welfare. The Department shall file with the court and serve on the parties any amendments to the visitation plan within 10 days, excluding weekends and holidays, of the change of the visitation. Any party may, by motion, request the court to review the parent-child visiting plan to determine whether the parent-child visiting plan is reasonably calculated to expeditiously facilitate the achievement of the permanency goal, and is consistent with the minor's health, safety, and best interest.

Acceptance of services shall not be considered an admission of any allegation in a petition made pursuant to this Act, nor may a referral of services be considered as evidence in any proceeding pursuant to this Act, except where the issue is whether the Department has made reasonable efforts to reunite the family. In making its findings that it is consistent with the health, safety and best interests of the minor to prescribe shelter care, the court shall state in writing (i) the factual basis supporting its findings concerning the immediate and urgent necessity for the protection of the minor or of the person or property of another and (ii) the factual basis supporting its findings that reasonable efforts were made to prevent or eliminate the removal of the minor from his or her home or that no efforts reasonably could be made to prevent or eliminate the removal of the minor from his or her home. The

parents, guardian, custodian, temporary custodian and minor shall each be furnished a copy of such written findings. The temporary custodian shall maintain a copy of the court order and written findings in the case record for the child. The order together with the court's findings of fact in support thereof shall be entered of record in the court.

Once the court finds that it is a matter of immediate and urgent necessity for the protection of the minor that the minor be placed in a shelter care facility, the minor shall not be returned to the parent, custodian or guardian until the court finds that such placement is no longer necessary for the protection of the minor.

If the child is placed in the temporary custody of the Department of Children and Family Services for his or her protection, the court shall admonish the parents, guardian, custodian or responsible relative that the parents must cooperate with the Department of Children and Family Services, comply with the terms of the service plans, and correct the conditions which require the child to be in care, or risk termination of their parental rights.

(3) If prior to the shelter care hearing for a minor described in Sections 2-3, 2-4, 3-3 and 4-3 the moving party is unable to serve notice on the party respondent, the shelter care hearing may proceed ex-parte. A shelter care order from an ex-parte hearing shall be endorsed with the date and hour of issuance and shall be filed with the clerk's office and entered

of record. The order shall expire after 10 days from the time it is issued unless before its expiration it is renewed, at a hearing upon appearance of the party respondent, or upon an affidavit of the moving party as to all diligent efforts to notify the party respondent by notice as herein prescribed. The notice prescribed shall be in writing and shall be personally delivered to the minor or the minor's attorney and to the last known address of the other person or persons entitled to notice. The notice shall also state the nature of the allegations, the nature of the order sought by the State, including whether temporary custody is sought, and the consequences of failure to appear and shall contain a notice that the parties will not be entitled to further written notices or publication notices of proceedings in this case, including the filing of an amended petition or a motion to terminate parental rights, except as required by Supreme Court Rule 11; and shall explain the right of the parties and the procedures to vacate or modify a shelter care order as provided in this Section. The notice for a shelter care hearing shall be substantially as follows:

NOTICE TO PARENTS AND CHILDREN
OF SHELTER CARE HEARING

On at, before the Honorable (address:), the State of Illinois will present evidence (1) that (name of child or children) are abused, neglected

or dependent for the following reasons:

..... and (2) that there is "immediate and urgent necessity" to remove the child or children from the responsible relative.

YOUR FAILURE TO APPEAR AT THE HEARING MAY RESULT IN PLACEMENT of the child or children in foster care until a trial can be held. A trial may not be held for up to 90 days. You will not be entitled to further notices of proceedings in this case, including the filing of an amended petition or a motion to terminate parental rights.

At the shelter care hearing, parents have the following rights:

1. To ask the court to appoint a lawyer if they cannot afford one.
2. To ask the court to continue the hearing to allow them time to prepare.
3. To present evidence concerning:
 - a. Whether or not the child or children were abused, neglected or dependent.
 - b. Whether or not there is "immediate and urgent necessity" to remove the child from home (including: their ability to care for the child, conditions in the home, alternative means of protecting the child other than removal).
 - c. The best interests of the child.
4. To cross examine the State's witnesses.

The Notice for rehearings shall be substantially as follows:

NOTICE OF PARENT'S AND CHILDREN'S RIGHTS
TO REHEARING ON TEMPORARY CUSTODY

If you were not present at and did not have adequate notice of the Shelter Care Hearing at which temporary custody of was awarded to, you have the right to request a full rehearing on whether the State should have temporary custody of To request this rehearing, you must file with the Clerk of the Juvenile Court (address):, in person or by mailing a statement (affidavit) setting forth the following:

1. That you were not present at the shelter care hearing.
2. That you did not get adequate notice (explaining how the notice was inadequate).
3. Your signature.
4. Signature must be notarized.

The rehearing should be scheduled within 48 hours of your filing this affidavit.

At the rehearing, your rights are the same as at the initial shelter care hearing. The enclosed notice explains those rights.

At the Shelter Care Hearing, children have the following rights:

1. To have a guardian ad litem appointed.
2. To be declared competent as a witness and to present testimony concerning:
 - a. Whether they are abused, neglected or dependent.
 - b. Whether there is "immediate and urgent necessity" to be removed from home.
 - c. Their best interests.
3. To cross examine witnesses for other parties.
4. To obtain an explanation of any proceedings and orders of the court.

(4) If the parent, guardian, legal custodian, responsible relative, minor age 8 or over, or counsel of the minor did not have actual notice of or was not present at the shelter care hearing, he or she may file an affidavit setting forth these facts, and the clerk shall set the matter for rehearing not later than 48 hours, excluding Sundays and legal holidays, after the filing of the affidavit. At the rehearing, the court shall proceed in the same manner as upon the original hearing.

(5) Only when there is reasonable cause to believe that the minor taken into custody is a person described in subsection (3) of Section 5-105 may the minor be kept or detained in a detention home or county or municipal jail. This Section shall in no way be construed to limit subsection (6).

(6) No minor under 16 years of age may be confined in a jail or place ordinarily used for the confinement of prisoners in a police station. Minors under 17 years of age must be kept separate from confined adults and may not at any time be kept in the same cell, room, or yard with adults confined pursuant to the criminal law.

(7) If the minor is not brought before a judicial officer within the time period as specified in Section 2-9, the minor must immediately be released from custody.

(8) If neither the parent, guardian or custodian appears within 24 hours to take custody of a minor released upon request pursuant to subsection (2) of this Section, then the clerk of the court shall set the matter for rehearing not later than 7 days after the original order and shall issue a summons directed to the parent, guardian or custodian to appear. At the same time the probation department shall prepare a report on the minor. If a parent, guardian or custodian does not appear at such rehearing, the judge may enter an order prescribing that the minor be kept in a suitable place designated by the Department of Children and Family Services or a licensed child welfare agency.

(9) Notwithstanding any other provision of this Section any interested party, including the State, the temporary custodian, an agency providing services to the minor or family under a service plan pursuant to Section 8.2 of the Abused and Neglected Child Reporting Act, foster parent, or any of their

representatives, on notice to all parties entitled to notice, may file a motion that it is in the best interests of the minor to modify or vacate a temporary custody order on any of the following grounds:

(a) It is no longer a matter of immediate and urgent necessity that the minor remain in shelter care; or

(b) There is a material change in the circumstances of the natural family from which the minor was removed and the child can be cared for at home without endangering the child's health or safety; or

(c) A person not a party to the alleged abuse, neglect or dependency, including a parent, relative or legal guardian, is capable of assuming temporary custody of the minor; or

(d) Services provided by the Department of Children and Family Services or a child welfare agency or other service provider have been successful in eliminating the need for temporary custody and the child can be cared for at home without endangering the child's health or safety.

In ruling on the motion, the court shall determine whether it is consistent with the health, safety and best interests of the minor to modify or vacate a temporary custody order.

The clerk shall set the matter for hearing not later than 14 days after such motion is filed. In the event that the court modifies or vacates a temporary custody order but does not vacate its finding of probable cause, the court may order that

appropriate services be continued or initiated in behalf of the minor and his or her family.

(10) When the court finds or has found that there is probable cause to believe a minor is an abused minor as described in subsection (2) of Section 2-3 and that there is an immediate and urgent necessity for the abused minor to be placed in shelter care, immediate and urgent necessity shall be presumed for any other minor residing in the same household as the abused minor provided:

(a) Such other minor is the subject of an abuse or neglect petition pending before the court; and

(b) A party to the petition is seeking shelter care for such other minor.

Once the presumption of immediate and urgent necessity has been raised, the burden of demonstrating the lack of immediate and urgent necessity shall be on any party that is opposing shelter care for the other minor.

(Source: P.A. 94-604, eff. 1-1-06.)

(Text of Section after amendment by P.A. 95-405 and 95-642)

Sec. 2-10. Temporary custody hearing. At the appearance of the minor before the court at the temporary custody hearing, all witnesses present shall be examined before the court in relation to any matter connected with the allegations made in the petition.

(1) If the court finds that there is not probable cause to

believe that the minor is abused, neglected or dependent it shall release the minor and dismiss the petition.

(2) If the court finds that there is probable cause to believe that the minor is abused, neglected or dependent, the court shall state in writing the factual basis supporting its finding and the minor, his or her parent, guardian, custodian and other persons able to give relevant testimony shall be examined before the court. The Department of Children and Family Services shall give testimony concerning indicated reports of abuse and neglect, of which they are aware of through the central registry, involving the minor's parent, guardian or custodian. After such testimony, the court may, consistent with the health, safety and best interests of the minor, enter an order that the minor shall be released upon the request of parent, guardian or custodian if the parent, guardian or custodian appears to take custody. If it is determined that a parent's, guardian's, or custodian's compliance with critical services mitigates the necessity for removal of the minor from his or her home, the court may enter an Order of Protection setting forth reasonable conditions of behavior that a parent, guardian, or custodian must observe for a specified period of time, not to exceed 12 months, without a violation; provided, however, that the 12-month period shall begin anew after any violation. Custodian shall include any agency of the State which has been given custody or wardship of the child. If it is consistent with the health, safety and best

interests of the minor, the court may also prescribe shelter care and order that the minor be kept in a suitable place designated by the court or in a shelter care facility designated by the Department of Children and Family Services or a licensed child welfare agency; however, a minor charged with a criminal offense under the Criminal Code of 1961 or adjudicated delinquent shall not be placed in the custody of or committed to the Department of Children and Family Services by any court, except a minor less than 15 years of age and committed to the Department of Children and Family Services under Section 5-710 of this Act or a minor for whom an independent basis of abuse, neglect, or dependency exists. An independent basis exists when the allegations or adjudication of abuse, neglect, or dependency do not arise from the same facts, incident, or circumstances which give rise to a charge or adjudication of delinquency.

In placing the minor, the Department or other agency shall, to the extent compatible with the court's order, comply with Section 7 of the Children and Family Services Act. In determining the health, safety and best interests of the minor to prescribe shelter care, the court must find that it is a matter of immediate and urgent necessity for the safety and protection of the minor or of the person or property of another that the minor be placed in a shelter care facility or that he or she is likely to flee the jurisdiction of the court, and must further find that reasonable efforts have been made or

that, consistent with the health, safety and best interests of the minor, no efforts reasonably can be made to prevent or eliminate the necessity of removal of the minor from his or her home. The court shall require documentation from the Department of Children and Family Services as to the reasonable efforts that were made to prevent or eliminate the necessity of removal of the minor from his or her home or the reasons why no efforts reasonably could be made to prevent or eliminate the necessity of removal. When a minor is placed in the home of a relative, the Department of Children and Family Services shall complete a preliminary background review of the members of the minor's custodian's household in accordance with Section 4.3 of the Child Care Act of 1969 within 90 days of that placement. If the minor is ordered placed in a shelter care facility of the Department of Children and Family Services or a licensed child welfare agency, the court shall, upon request of the appropriate Department or other agency, appoint the Department of Children and Family Services Guardianship Administrator or other appropriate agency executive temporary custodian of the minor and the court may enter such other orders related to the temporary custody as it deems fit and proper, including the provision of services to the minor or his family to ameliorate the causes contributing to the finding of probable cause or to the finding of the existence of immediate and urgent necessity.

Where the Department of Children and Family Services Guardianship Administrator is appointed as the executive

temporary custodian, the Department of Children and Family Services shall file with the court and serve on the parties a parent-child visiting plan, within 10 days, excluding weekends and holidays, after the appointment. The parent-child visiting plan shall set out the time and place of visits, the frequency of visits, the length of visits, who shall be present at the visits, and where appropriate, the minor's opportunities to have telephone and mail communication with the parents. For good cause, the court may waive the requirement to file the parent-child visiting plan or extend the time for filing the parent-child visiting plan. Any party may, by motion, request the court to review the parent-child visiting plan to determine whether it is reasonably calculated to expeditiously facilitate the achievement of the permanency goal and is consistent with the minor's best interest. The frequency, duration, and locations of visitation shall be measured by the needs of the child and family, and not by the convenience of Department personnel. Child development principles shall be considered by the court in its analysis of how frequent visitation should be, how long it should last, where it should take place, and who should be present. If upon motion of the party to review the plan and after receiving evidence, the court determines that the parent-child visiting plan is not reasonably calculated to expeditiously facilitate the achievement of the permanency goal or that the restrictions placed on parent-child contact are contrary to the child's best

interests, the court shall put in writing the factual basis supporting the determination and enter specific findings based on the evidence. The court shall enter an order for the Department to implement changes to the parent-child visiting plan, consistent with the court's findings. At any stage of proceeding, any party may by motion request the court to enter any orders necessary to implement the parent-child visiting plan. Nothing under this subsection (2) shall restrict the court from granting discretionary authority to the Department to increase opportunities for additional parent-child contacts, without further court orders. Nothing in this subsection (2) shall restrict the Department from immediately restricting or terminating parent-child contact, without either amending the parent-child visiting plan or obtaining a court order, where the Department or its assigns reasonably believe that continuation of parent-child contact, as set out in the parent-child visiting plan, would be contrary to the child's health, safety, and welfare. The Department shall file with the court and serve on the parties any amendments to the visitation plan within 10 days, excluding weekends and holidays, of the change of the visitation. Any party may, by motion, request the court to review the parent-child visiting plan to determine whether the parent-child visiting plan is reasonably calculated to expeditiously facilitate the achievement of the permanency goal, and is consistent with the minor's health, safety, and best interest.

Acceptance of services shall not be considered an admission of any allegation in a petition made pursuant to this Act, nor may a referral of services be considered as evidence in any proceeding pursuant to this Act, except where the issue is whether the Department has made reasonable efforts to reunite the family. In making its findings that it is consistent with the health, safety and best interests of the minor to prescribe shelter care, the court shall state in writing (i) the factual basis supporting its findings concerning the immediate and urgent necessity for the protection of the minor or of the person or property of another and (ii) the factual basis supporting its findings that reasonable efforts were made to prevent or eliminate the removal of the minor from his or her home or that no efforts reasonably could be made to prevent or eliminate the removal of the minor from his or her home. The parents, guardian, custodian, temporary custodian and minor shall each be furnished a copy of such written findings. The temporary custodian shall maintain a copy of the court order and written findings in the case record for the child. The order together with the court's findings of fact in support thereof shall be entered of record in the court.

Once the court finds that it is a matter of immediate and urgent necessity for the protection of the minor that the minor be placed in a shelter care facility, the minor shall not be returned to the parent, custodian or guardian until the court finds that such placement is no longer necessary for the

protection of the minor.

If the child is placed in the temporary custody of the Department of Children and Family Services for his or her protection, the court shall admonish the parents, guardian, custodian or responsible relative that the parents must cooperate with the Department of Children and Family Services, comply with the terms of the service plans, and correct the conditions which require the child to be in care, or risk termination of their parental rights.

(3) If prior to the shelter care hearing for a minor described in Sections 2-3, 2-4, 3-3 and 4-3 the moving party is unable to serve notice on the party respondent, the shelter care hearing may proceed ex-parte. A shelter care order from an ex-parte hearing shall be endorsed with the date and hour of issuance and shall be filed with the clerk's office and entered of record. The order shall expire after 10 days from the time it is issued unless before its expiration it is renewed, at a hearing upon appearance of the party respondent, or upon an affidavit of the moving party as to all diligent efforts to notify the party respondent by notice as herein prescribed. The notice prescribed shall be in writing and shall be personally delivered to the minor or the minor's attorney and to the last known address of the other person or persons entitled to notice. The notice shall also state the nature of the allegations, the nature of the order sought by the State, including whether temporary custody is sought, and the

consequences of failure to appear and shall contain a notice that the parties will not be entitled to further written notices or publication notices of proceedings in this case, including the filing of an amended petition or a motion to terminate parental rights, except as required by Supreme Court Rule 11; and shall explain the right of the parties and the procedures to vacate or modify a shelter care order as provided in this Section. The notice for a shelter care hearing shall be substantially as follows:

NOTICE TO PARENTS AND CHILDREN
OF SHELTER CARE HEARING

On at, before the Honorable, (address:), the State of Illinois will present evidence (1) that (name of child or children) are abused, neglected or dependent for the following reasons:
..... and (2) whether there is "immediate and urgent necessity" to remove the child or children from the responsible relative.

YOUR FAILURE TO APPEAR AT THE HEARING MAY RESULT IN PLACEMENT of the child or children in foster care until a trial can be held. A trial may not be held for up to 90 days. You will not be entitled to further notices of proceedings in this case, including the filing of an amended petition or a motion to terminate parental rights.

At the shelter care hearing, parents have the following

rights:

1. To ask the court to appoint a lawyer if they cannot afford one.
2. To ask the court to continue the hearing to allow them time to prepare.
3. To present evidence concerning:
 - a. Whether or not the child or children were abused, neglected or dependent.
 - b. Whether or not there is "immediate and urgent necessity" to remove the child from home (including: their ability to care for the child, conditions in the home, alternative means of protecting the child other than removal).
 - c. The best interests of the child.
4. To cross examine the State's witnesses.

The Notice for rehearings shall be substantially as follows:

NOTICE OF PARENT'S AND CHILDREN'S RIGHTS
TO REHEARING ON TEMPORARY CUSTODY

If you were not present at and did not have adequate notice of the Shelter Care Hearing at which temporary custody of was awarded to, you have the right to request a full rehearing on whether the State should have temporary custody of To request this rehearing,

you must file with the Clerk of the Juvenile Court (address):, in person or by mailing a statement (affidavit) setting forth the following:

1. That you were not present at the shelter care hearing.
2. That you did not get adequate notice (explaining how the notice was inadequate).
3. Your signature.
4. Signature must be notarized.

The rehearing should be scheduled within 48 hours of your filing this affidavit.

At the rehearing, your rights are the same as at the initial shelter care hearing. The enclosed notice explains those rights.

At the Shelter Care Hearing, children have the following rights:

1. To have a guardian ad litem appointed.
2. To be declared competent as a witness and to present testimony concerning:
 - a. Whether they are abused, neglected or dependent.
 - b. Whether there is "immediate and urgent necessity" to be removed from home.
 - c. Their best interests.
3. To cross examine witnesses for other parties.

4. To obtain an explanation of any proceedings and orders of the court.

(4) If the parent, guardian, legal custodian, responsible relative, minor age 8 or over, or counsel of the minor did not have actual notice of or was not present at the shelter care hearing, he or she may file an affidavit setting forth these facts, and the clerk shall set the matter for rehearing not later than 48 hours, excluding Sundays and legal holidays, after the filing of the affidavit. At the rehearing, the court shall proceed in the same manner as upon the original hearing.

(5) Only when there is reasonable cause to believe that the minor taken into custody is a person described in subsection (3) of Section 5-105 may the minor be kept or detained in a detention home or county or municipal jail. This Section shall in no way be construed to limit subsection (6).

(6) No minor under 16 years of age may be confined in a jail or place ordinarily used for the confinement of prisoners in a police station. Minors under 17 years of age must be kept separate from confined adults and may not at any time be kept in the same cell, room, or yard with adults confined pursuant to the criminal law.

(7) If the minor is not brought before a judicial officer within the time period as specified in Section 2-9, the minor must immediately be released from custody.

(8) If neither the parent, guardian or custodian appears within 24 hours to take custody of a minor released upon

request pursuant to subsection (2) of this Section, then the clerk of the court shall set the matter for rehearing not later than 7 days after the original order and shall issue a summons directed to the parent, guardian or custodian to appear. At the same time the probation department shall prepare a report on the minor. If a parent, guardian or custodian does not appear at such rehearing, the judge may enter an order prescribing that the minor be kept in a suitable place designated by the Department of Children and Family Services or a licensed child welfare agency.

(9) Notwithstanding any other provision of this Section any interested party, including the State, the temporary custodian, an agency providing services to the minor or family under a service plan pursuant to Section 8.2 of the Abused and Neglected Child Reporting Act, foster parent, or any of their representatives, on notice to all parties entitled to notice, may file a motion that it is in the best interests of the minor to modify or vacate a temporary custody order on any of the following grounds:

(a) It is no longer a matter of immediate and urgent necessity that the minor remain in shelter care; or

(b) There is a material change in the circumstances of the natural family from which the minor was removed and the child can be cared for at home without endangering the child's health or safety; or

(c) A person not a party to the alleged abuse, neglect

or dependency, including a parent, relative or legal guardian, is capable of assuming temporary custody of the minor; or

(d) Services provided by the Department of Children and Family Services or a child welfare agency or other service provider have been successful in eliminating the need for temporary custody and the child can be cared for at home without endangering the child's health or safety.

In ruling on the motion, the court shall determine whether it is consistent with the health, safety and best interests of the minor to modify or vacate a temporary custody order.

The clerk shall set the matter for hearing not later than 14 days after such motion is filed. In the event that the court modifies or vacates a temporary custody order but does not vacate its finding of probable cause, the court may order that appropriate services be continued or initiated in behalf of the minor and his or her family.

(10) When the court finds or has found that there is probable cause to believe a minor is an abused minor as described in subsection (2) of Section 2-3 and that there is an immediate and urgent necessity for the abused minor to be placed in shelter care, immediate and urgent necessity shall be presumed for any other minor residing in the same household as the abused minor provided:

(a) Such other minor is the subject of an abuse or neglect petition pending before the court; and

(b) A party to the petition is seeking shelter care for such other minor.

Once the presumption of immediate and urgent necessity has been raised, the burden of demonstrating the lack of immediate and urgent necessity shall be on any party that is opposing shelter care for the other minor.

(Source: P.A. 94-604, eff. 1-1-06; 95-405, eff. 6-1-08; 95-642, eff. 6-1-08; revised 11-19-07.)

(705 ILCS 405/2-28) (from Ch. 37, par. 802-28)

Sec. 2-28. Court review.

(1) The court may require any legal custodian or guardian of the person appointed under this Act to report periodically to the court or may cite him into court and require him or his agency, to make a full and accurate report of his or its doings in behalf of the minor. The custodian or guardian, within 10 days after such citation, shall make the report, either in writing verified by affidavit or orally under oath in open court, or otherwise as the court directs. Upon the hearing of the report the court may remove the custodian or guardian and appoint another in his stead or restore the minor to the custody of his parents or former guardian or custodian. However, custody of the minor shall not be restored to any parent, guardian or legal custodian in any case in which the minor is found to be neglected or abused under Section 2-3 or dependent under Section 2-4 of this Act, unless the minor can

be cared for at home without endangering the minor's health or safety and it is in the best interests of the minor, and if such neglect, abuse, or dependency is found by the court under paragraph (1) of Section 2-21 of this Act to have come about due to the acts or omissions or both of such parent, guardian or legal custodian, until such time as an investigation is made as provided in paragraph (5) and a hearing is held on the issue of the fitness of such parent, guardian or legal custodian to care for the minor and the court enters an order that such parent, guardian or legal custodian is fit to care for the minor.

(2) The first permanency hearing shall be conducted by the judge. Subsequent permanency hearings may be heard by a judge or by hearing officers appointed or approved by the court in the manner set forth in Section 2-28.1 of this Act. The initial hearing shall be held (a) within 12 months from the date temporary custody was taken, (b) if the parental rights of both parents have been terminated in accordance with the procedure described in subsection (5) of Section 2-21, within 30 days of the order for termination of parental rights and appointment of a guardian with power to consent to adoption, or (c) in accordance with subsection (2) of Section 2-13.1. Subsequent permanency hearings shall be held every 6 months or more frequently if necessary in the court's determination following the initial permanency hearing, in accordance with the standards set forth in this Section, until the court determines

that the plan and goal have been achieved. Once the plan and goal have been achieved, if the minor remains in substitute care, the case shall be reviewed at least every 6 months thereafter, subject to the provisions of this Section, unless the minor is placed in the guardianship of a suitable relative or other person and the court determines that further monitoring by the court does not further the health, safety or best interest of the child and that this is a stable permanent placement. The permanency hearings must occur within the time frames set forth in this subsection and may not be delayed in anticipation of a report from any source or due to the agency's failure to timely file its written report (this written report means the one required under the next paragraph and does not mean the service plan also referred to in that paragraph).

The public agency that is the custodian or guardian of the minor, or another agency responsible for the minor's care, shall ensure that all parties to the permanency hearings are provided a copy of the most recent service plan prepared within the prior 6 months at least 14 days in advance of the hearing. If not contained in the plan, the agency shall also include a report setting forth (i) any special physical, psychological, educational, medical, emotional, or other needs of the minor or his or her family that are relevant to a permanency or placement determination and (ii) for any minor age 16 or over, a written description of the programs and services that will enable the minor to prepare for independent living. The

agency's written report must detail what progress or lack of progress the parent has made in correcting the conditions requiring the child to be in care; whether the child can be returned home without jeopardizing the child's health, safety, and welfare, and if not, what permanency goal is recommended to be in the best interests of the child, and why the other permanency goals are not appropriate. The caseworker must appear and testify at the permanency hearing. If a permanency hearing has not previously been scheduled by the court, the moving party shall move for the setting of a permanency hearing and the entry of an order within the time frames set forth in this subsection.

At the permanency hearing, the court shall determine the future status of the child. The court shall set one of the following permanency goals:

(A) The minor will be returned home by a specific date within 5 months.

(B) The minor will be in short-term care with a continued goal to return home within a period not to exceed one year, where the progress of the parent or parents is substantial giving particular consideration to the age and individual needs of the minor.

(B-1) The minor will be in short-term care with a continued goal to return home pending a status hearing. When the court finds that a parent has not made reasonable efforts or reasonable progress to date, the court shall

identify what actions the parent and the Department must take in order to justify a finding of reasonable efforts or reasonable progress and shall set a status hearing to be held not earlier than 9 months from the date of adjudication nor later than 11 months from the date of adjudication during which the parent's progress will again be reviewed.

(C) The minor will be in substitute care pending court determination on termination of parental rights.

(D) Adoption, provided that parental rights have been terminated or relinquished.

(E) The guardianship of the minor will be transferred to an individual or couple on a permanent basis provided that goals (A) through (D) have been ruled out.

(F) The minor over age 15 will be in substitute care pending independence.

(G) The minor will be in substitute care because he or she cannot be provided for in a home environment due to developmental disabilities or mental illness or because he or she is a danger to self or others, provided that goals (A) through (D) have been ruled out.

In selecting any permanency goal, the court shall indicate in writing the reasons the goal was selected and why the preceding goals were ruled out. Where the court has selected a permanency goal other than (A), (B), or (B-1), the Department of Children and Family Services shall not provide further

reunification services, but shall provide services consistent with the goal selected.

The court shall set a permanency goal that is in the best interest of the child. In determining that goal, the court shall consult with the minor in an age-appropriate manner regarding the proposed permanency or transition plan for the minor. The court's determination shall include the following factors:

(1) Age of the child.

(2) Options available for permanence, including both out-of-State and in-State placement options.

(3) Current placement of the child and the intent of the family regarding adoption.

(4) Emotional, physical, and mental status or condition of the child.

(5) Types of services previously offered and whether or not the services were successful and, if not successful, the reasons the services failed.

(6) Availability of services currently needed and whether the services exist.

(7) Status of siblings of the minor.

The court shall consider (i) the permanency goal contained in the service plan, (ii) the appropriateness of the services contained in the plan and whether those services have been provided, (iii) whether reasonable efforts have been made by all the parties to the service plan to achieve the goal, and

(iv) whether the plan and goal have been achieved. All evidence relevant to determining these questions, including oral and written reports, may be admitted and may be relied on to the extent of their probative value.

If the goal has been achieved, the court shall enter orders that are necessary to conform the minor's legal custody and status to those findings.

If, after receiving evidence, the court determines that the services contained in the plan are not reasonably calculated to facilitate achievement of the permanency goal, the court shall put in writing the factual basis supporting the determination and enter specific findings based on the evidence. The court also shall enter an order for the Department to develop and implement a new service plan or to implement changes to the current service plan consistent with the court's findings. The new service plan shall be filed with the court and served on all parties within 45 days of the date of the order. The court shall continue the matter until the new service plan is filed. Unless otherwise specifically authorized by law, the court is not empowered under this subsection (2) or under subsection (3) to order specific placements, specific services, or specific service providers to be included in the plan.

A guardian or custodian appointed by the court pursuant to this Act shall file updated case plans with the court every 6 months.

Rights of wards of the court under this Act are enforceable

against any public agency by complaints for relief by mandamus filed in any proceedings brought under this Act.

(3) Following the permanency hearing, the court shall enter a written order that includes the determinations required under subsection (2) of this Section and sets forth the following:

(a) The future status of the minor, including the permanency goal, and any order necessary to conform the minor's legal custody and status to such determination; or

(b) If the permanency goal of the minor cannot be achieved immediately, the specific reasons for continuing the minor in the care of the Department of Children and Family Services or other agency for short term placement, and the following determinations:

(i) (Blank).

(ii) Whether the services required by the court and by any service plan prepared within the prior 6 months have been provided and (A) if so, whether the services were reasonably calculated to facilitate the achievement of the permanency goal or (B) if not provided, why the services were not provided.

(iii) Whether the minor's placement is necessary, and appropriate to the plan and goal, recognizing the right of minors to the least restrictive (most family-like) setting available and in close proximity to the parents' home consistent with the health, safety, best interest and special needs of the minor

and, if the minor is placed out-of-State, whether the out-of-State placement continues to be appropriate and consistent with the health, safety, and best interest of the minor.

(iv) (Blank).

(v) (Blank).

(4) The minor or any person interested in the minor may apply to the court for a change in custody of the minor and the appointment of a new custodian or guardian of the person or for the restoration of the minor to the custody of his parents or former guardian or custodian.

When return home is not selected as the permanency goal:

(a) The Department, the minor, or the current foster parent or relative caregiver seeking private guardianship may file a motion for private guardianship of the minor. Appointment of a guardian under this Section requires approval of the court.

(b) The State's Attorney may file a motion to terminate parental rights of any parent who has failed to make reasonable efforts to correct the conditions which led to the removal of the child or reasonable progress toward the return of the child, as defined in subdivision (D)(m) of Section 1 of the Adoption Act or for whom any other unfitness ground for terminating parental rights as defined in subdivision (D) of Section 1 of the Adoption Act exists.

Custody of the minor shall not be restored to any parent, guardian or legal custodian in any case in which the minor is found to be neglected or abused under Section 2-3 or dependent under Section 2-4 of this Act, unless the minor can be cared for at home without endangering his or her health or safety and it is in the best interest of the minor, and if such neglect, abuse, or dependency is found by the court under paragraph (1) of Section 2-21 of this Act to have come about due to the acts or omissions or both of such parent, guardian or legal custodian, until such time as an investigation is made as provided in paragraph (5) and a hearing is held on the issue of the health, safety and best interest of the minor and the fitness of such parent, guardian or legal custodian to care for the minor and the court enters an order that such parent, guardian or legal custodian is fit to care for the minor. In the event that the minor has attained 18 years of age and the guardian or custodian petitions the court for an order terminating his guardianship or custody, guardianship or custody shall terminate automatically 30 days after the receipt of the petition unless the court orders otherwise. No legal custodian or guardian of the person may be removed without his consent until given notice and an opportunity to be heard by the court.

When the court orders a child restored to the custody of the parent or parents, the court shall order the parent or parents to cooperate with the Department of Children and Family

Services and comply with the terms of an after-care plan, or risk the loss of custody of the child and possible termination of their parental rights. The court may also enter an order of protective supervision in accordance with Section 2-24.

(5) Whenever a parent, guardian, or legal custodian files a motion for restoration of custody of the minor, and the minor was adjudicated neglected, abused, or dependent as a result of physical abuse, the court shall cause to be made an investigation as to whether the movant has ever been charged with or convicted of any criminal offense which would indicate the likelihood of any further physical abuse to the minor. Evidence of such criminal convictions shall be taken into account in determining whether the minor can be cared for at home without endangering his or her health or safety and fitness of the parent, guardian, or legal custodian.

(a) Any agency of this State or any subdivision thereof shall co-operate with the agent of the court in providing any information sought in the investigation.

(b) The information derived from the investigation and any conclusions or recommendations derived from the information shall be provided to the parent, guardian, or legal custodian seeking restoration of custody prior to the hearing on fitness and the movant shall have an opportunity at the hearing to refute the information or contest its significance.

(c) All information obtained from any investigation

shall be confidential as provided in Section 5-150 of this Act.

(Source: P.A. 95-10, eff. 6-30-07; 95-182, eff. 8-14-07; revised 11-19-07.)

(705 ILCS 405/5-710)

(Text of Section before amendment by P.A. 95-337 and 95-642)

Sec. 5-710. Kinds of sentencing orders.

(1) The following kinds of sentencing orders may be made in respect of wards of the court:

(a) Except as provided in Sections 5-805, 5-810, 5-815, a minor who is found guilty under Section 5-620 may be:

(i) put on probation or conditional discharge and released to his or her parents, guardian or legal custodian, provided, however, that any such minor who is not committed to the Department of Juvenile Justice under this subsection and who is found to be a delinquent for an offense which is first degree murder, a Class X felony, or a forcible felony shall be placed on probation;

(ii) placed in accordance with Section 5-740, with or without also being put on probation or conditional discharge;

(iii) required to undergo a substance abuse assessment conducted by a licensed provider and

participate in the indicated clinical level of care;

(iv) placed in the guardianship of the Department of Children and Family Services, but only if the delinquent minor is under 13 years of age;

(v) placed in detention for a period not to exceed 30 days, either as the exclusive order of disposition or, where appropriate, in conjunction with any other order of disposition issued under this paragraph, provided that any such detention shall be in a juvenile detention home and the minor so detained shall be 10 years of age or older. However, the 30-day limitation may be extended by further order of the court for a minor under age 13 committed to the Department of Children and Family Services if the court finds that the minor is a danger to himself or others. The minor shall be given credit on the sentencing order of detention for time spent in detention under Sections 5-501, 5-601, 5-710, or 5-720 of this Article as a result of the offense for which the sentencing order was imposed. The court may grant credit on a sentencing order of detention entered under a violation of probation or violation of conditional discharge under Section 5-720 of this Article for time spent in detention before the filing of the petition alleging the violation. A minor shall not be deprived of credit for time spent in detention before the filing of a

violation of probation or conditional discharge alleging the same or related act or acts;

(vi) ordered partially or completely emancipated in accordance with the provisions of the Emancipation of Minors Act;

(vii) subject to having his or her driver's license or driving privileges suspended for such time as determined by the court but only until he or she attains 18 years of age;

(viii) put on probation or conditional discharge and placed in detention under Section 3-6039 of the Counties Code for a period not to exceed the period of incarceration permitted by law for adults found guilty of the same offense or offenses for which the minor was adjudicated delinquent, and in any event no longer than upon attainment of age 21; this subdivision (viii) notwithstanding any contrary provision of the law; or

(ix) ordered to undergo a medical or other procedure to have a tattoo symbolizing allegiance to a street gang removed from his or her body.

(b) A minor found to be guilty may be committed to the Department of Juvenile Justice under Section 5-750 if the minor is 13 years of age or older, provided that the commitment to the Department of Juvenile Justice shall be made only if a term of incarceration is permitted by law for adults found guilty of the offense for which the minor

was adjudicated delinquent. The time during which a minor is in custody before being released upon the request of a parent, guardian or legal custodian shall be considered as time spent in detention.

(c) When a minor is found to be guilty for an offense which is a violation of the Illinois Controlled Substances Act, the Cannabis Control Act, or the Methamphetamine Control and Community Protection Act and made a ward of the court, the court may enter a disposition order requiring the minor to undergo assessment, counseling or treatment in a substance abuse program approved by the Department of Human Services.

(2) Any sentencing order other than commitment to the Department of Juvenile Justice may provide for protective supervision under Section 5-725 and may include an order of protection under Section 5-730.

(3) Unless the sentencing order expressly so provides, it does not operate to close proceedings on the pending petition, but is subject to modification until final closing and discharge of the proceedings under Section 5-750.

(4) In addition to any other sentence, the court may order any minor found to be delinquent to make restitution, in monetary or non-monetary form, under the terms and conditions of Section 5-5-6 of the Unified Code of Corrections, except that the "presentencing hearing" referred to in that Section shall be the sentencing hearing for purposes of this Section.

The parent, guardian or legal custodian of the minor may be ordered by the court to pay some or all of the restitution on the minor's behalf, pursuant to the Parental Responsibility Law. The State's Attorney is authorized to act on behalf of any victim in seeking restitution in proceedings under this Section, up to the maximum amount allowed in Section 5 of the Parental Responsibility Law.

(5) Any sentencing order where the minor is committed or placed in accordance with Section 5-740 shall provide for the parents or guardian of the estate of the minor to pay to the legal custodian or guardian of the person of the minor such sums as are determined by the custodian or guardian of the person of the minor as necessary for the minor's needs. The payments may not exceed the maximum amounts provided for by Section 9.1 of the Children and Family Services Act.

(6) Whenever the sentencing order requires the minor to attend school or participate in a program of training, the truant officer or designated school official shall regularly report to the court if the minor is a chronic or habitual truant under Section 26-2a of the School Code.

(7) In no event shall a guilty minor be committed to the Department of Juvenile Justice for a period of time in excess of that period for which an adult could be committed for the same act.

(8) A minor found to be guilty for reasons that include a violation of Section 21-1.3 of the Criminal Code of 1961 shall

be ordered to perform community service for not less than 30 and not more than 120 hours, if community service is available in the jurisdiction. The community service shall include, but need not be limited to, the cleanup and repair of the damage that was caused by the violation or similar damage to property located in the municipality or county in which the violation occurred. The order may be in addition to any other order authorized by this Section.

(8.5) A minor found to be guilty for reasons that include a violation of Section 3.02 or Section 3.03 of the Humane Care for Animals Act or paragraph (d) of subsection (1) of Section 21-1 of the Criminal Code of 1961 shall be ordered to undergo medical or psychiatric treatment rendered by a psychiatrist or psychological treatment rendered by a clinical psychologist. The order may be in addition to any other order authorized by this Section.

(9) In addition to any other sentencing order, the court shall order any minor found to be guilty for an act which would constitute, predatory criminal sexual assault of a child, aggravated criminal sexual assault, criminal sexual assault, aggravated criminal sexual abuse, or criminal sexual abuse if committed by an adult to 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 agency of acquired immunodeficiency syndrome (AIDS). Any 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 minor's person. Except as otherwise provided by law, the results of the 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 sentencing order 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 the results of the testing may be revealed. The court shall notify the minor of the results of the test for infection with the human immunodeficiency virus (HIV). 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 the legal guardian, of the results of the test for infection with the human immunodeficiency virus (HIV). The court shall provide information on the availability of HIV testing and counseling at the Department of Public Health facilities to all parties to whom the results of the testing are revealed. The court shall order that the cost of any test shall be paid by the county and may be taxed as costs against the minor.

(10) When a court finds a minor to be guilty the court shall, before entering a sentencing order under this Section,

make a finding whether the offense committed either: (a) was related to or in furtherance of the criminal activities of an organized gang or was motivated by the minor's membership in or allegiance to an organized gang, or (b) involved a violation of subsection (a) of Section 12-7.1 of the Criminal Code of 1961, a violation of any Section of Article 24 of the Criminal Code of 1961, or a violation of any statute that involved the wrongful use of a firearm. If the court determines the question in the affirmative, and the court does not commit the minor to the Department of Juvenile Justice, the court shall order the minor to perform community service for not less than 30 hours nor more than 120 hours, provided that community service is available in the jurisdiction and is funded and approved by the county board of the county where the offense was committed. The community service shall include, but need not be limited to, the cleanup and repair of any damage caused by a violation of Section 21-1.3 of the Criminal Code of 1961 and similar damage to property located in the municipality or county in which the violation occurred. When possible and reasonable, the community service shall be performed in the minor's neighborhood. This order shall be in addition to any other order authorized by this Section except for an order to place the minor in the custody of the Department of Juvenile Justice. For the purposes of this Section, "organized gang" has the meaning ascribed to it in Section 10 of the Illinois Streetgang Terrorism Omnibus Prevention Act.

(Source: P.A. 94-556, eff. 9-11-05; 94-696, eff. 6-1-06.)

(Text of Section after amendment by P.A. 95-337 and 95-642)
Sec. 5-710. Kinds of sentencing orders.

(1) The following kinds of sentencing orders may be made in respect of wards of the court:

(a) Except as provided in Sections 5-805, 5-810, 5-815, a minor who is found guilty under Section 5-620 may be:

(i) put on probation or conditional discharge and released to his or her parents, guardian or legal custodian, provided, however, that any such minor who is not committed to the Department of Juvenile Justice under this subsection and who is found to be a delinquent for an offense which is first degree murder, a Class X felony, or a forcible felony shall be placed on probation;

(ii) placed in accordance with Section 5-740, with or without also being put on probation or conditional discharge;

(iii) required to undergo a substance abuse assessment conducted by a licensed provider and participate in the indicated clinical level of care;

(iv) placed in the guardianship of the Department of Children and Family Services, but only if the delinquent minor is under 15 years of age or, pursuant to Article II of this Act, a minor for whom an

independent basis of abuse, neglect, or dependency exists. An independent basis exists when the allegations or adjudication of abuse, neglect, or dependency do not arise from the same facts, incident, or circumstances which give rise to a charge or adjudication of delinquency;

(v) placed in detention for a period not to exceed 30 days, either as the exclusive order of disposition or, where appropriate, in conjunction with any other order of disposition issued under this paragraph, provided that any such detention shall be in a juvenile detention home and the minor so detained shall be 10 years of age or older. However, the 30-day limitation may be extended by further order of the court for a minor under age 15 committed to the Department of Children and Family Services if the court finds that the minor is a danger to himself or others. The minor shall be given credit on the sentencing order of detention for time spent in detention under Sections 5-501, 5-601, 5-710, or 5-720 of this Article as a result of the offense for which the sentencing order was imposed. The court may grant credit on a sentencing order of detention entered under a violation of probation or violation of conditional discharge under Section 5-720 of this Article for time spent in detention before the filing of the petition alleging

the violation. A minor shall not be deprived of credit for time spent in detention before the filing of a violation of probation or conditional discharge alleging the same or related act or acts;

(vi) ordered partially or completely emancipated in accordance with the provisions of the Emancipation of Minors Act;

(vii) subject to having his or her driver's license or driving privileges suspended for such time as determined by the court but only until he or she attains 18 years of age;

(viii) put on probation or conditional discharge and placed in detention under Section 3-6039 of the Counties Code for a period not to exceed the period of incarceration permitted by law for adults found guilty of the same offense or offenses for which the minor was adjudicated delinquent, and in any event no longer than upon attainment of age 21; this subdivision (viii) notwithstanding any contrary provision of the law; or

(ix) ordered to undergo a medical or other procedure to have a tattoo symbolizing allegiance to a street gang removed from his or her body.

(b) A minor found to be guilty may be committed to the Department of Juvenile Justice under Section 5-750 if the minor is 13 years of age or older, provided that the commitment to the Department of Juvenile Justice shall be

made only if a term of incarceration is permitted by law for adults found guilty of the offense for which the minor was adjudicated delinquent. The time during which a minor is in custody before being released upon the request of a parent, guardian or legal custodian shall be considered as time spent in detention.

(c) When a minor is found to be guilty for an offense which is a violation of the Illinois Controlled Substances Act, the Cannabis Control Act, or the Methamphetamine Control and Community Protection Act and made a ward of the court, the court may enter a disposition order requiring the minor to undergo assessment, counseling or treatment in a substance abuse program approved by the Department of Human Services.

(2) Any sentencing order other than commitment to the Department of Juvenile Justice may provide for protective supervision under Section 5-725 and may include an order of protection under Section 5-730.

(3) Unless the sentencing order expressly so provides, it does not operate to close proceedings on the pending petition, but is subject to modification until final closing and discharge of the proceedings under Section 5-750.

(4) In addition to any other sentence, the court may order any minor found to be delinquent to make restitution, in monetary or non-monetary form, under the terms and conditions of Section 5-5-6 of the Unified Code of Corrections, except

that the "presentencing hearing" referred to in that Section shall be the sentencing hearing for purposes of this Section. The parent, guardian or legal custodian of the minor may be ordered by the court to pay some or all of the restitution on the minor's behalf, pursuant to the Parental Responsibility Law. The State's Attorney is authorized to act on behalf of any victim in seeking restitution in proceedings under this Section, up to the maximum amount allowed in Section 5 of the Parental Responsibility Law.

(5) Any sentencing order where the minor is committed or placed in accordance with Section 5-740 shall provide for the parents or guardian of the estate of the minor to pay to the legal custodian or guardian of the person of the minor such sums as are determined by the custodian or guardian of the person of the minor as necessary for the minor's needs. The payments may not exceed the maximum amounts provided for by Section 9.1 of the Children and Family Services Act.

(6) Whenever the sentencing order requires the minor to attend school or participate in a program of training, the truant officer or designated school official shall regularly report to the court if the minor is a chronic or habitual truant under Section 26-2a of the School Code.

(7) In no event shall a guilty minor be committed to the Department of Juvenile Justice for a period of time in excess of that period for which an adult could be committed for the same act.

(8) A minor found to be guilty for reasons that include a violation of Section 21-1.3 of the Criminal Code of 1961 shall be ordered to perform community service for not less than 30 and not more than 120 hours, if community service is available in the jurisdiction. The community service shall include, but need not be limited to, the cleanup and repair of the damage that was caused by the violation or similar damage to property located in the municipality or county in which the violation occurred. The order may be in addition to any other order authorized by this Section.

(8.5) A minor found to be guilty for reasons that include a violation of Section 3.02 or Section 3.03 of the Humane Care for Animals Act or paragraph (d) of subsection (1) of Section 21-1 of the Criminal Code of 1961 shall be ordered to undergo medical or psychiatric treatment rendered by a psychiatrist or psychological treatment rendered by a clinical psychologist. The order may be in addition to any other order authorized by this Section.

(9) In addition to any other sentencing order, the court shall order any minor found to be guilty for an act which would constitute, predatory criminal sexual assault of a child, aggravated criminal sexual assault, criminal sexual assault, aggravated criminal sexual abuse, or criminal sexual abuse if committed by an adult to 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 agency of acquired immunodeficiency syndrome (AIDS). Any 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 minor's person. Except as otherwise provided by law, the results of the 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 sentencing order 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 the results of the testing may be revealed. The court shall notify the minor of the results of the test for infection with the human immunodeficiency virus (HIV). 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 the legal guardian, of the results of the test for infection with the human immunodeficiency virus (HIV). The court shall provide information on the availability of HIV testing and counseling at the Department of Public Health facilities to all parties to whom the results of the testing are revealed. The court shall order that the cost of any test shall be paid by the county and may be taxed as costs against the minor.

(10) When a court finds a minor to be guilty the court shall, before entering a sentencing order under this Section, make a finding whether the offense committed either: (a) was related to or in furtherance of the criminal activities of an organized gang or was motivated by the minor's membership in or allegiance to an organized gang, or (b) involved a violation of subsection (a) of Section 12-7.1 of the Criminal Code of 1961, a violation of any Section of Article 24 of the Criminal Code of 1961, or a violation of any statute that involved the wrongful use of a firearm. If the court determines the question in the affirmative, and the court does not commit the minor to the Department of Juvenile Justice, the court shall order the minor to perform community service for not less than 30 hours nor more than 120 hours, provided that community service is available in the jurisdiction and is funded and approved by the county board of the county where the offense was committed. The community service shall include, but need not be limited to, the cleanup and repair of any damage caused by a violation of Section 21-1.3 of the Criminal Code of 1961 and similar damage to property located in the municipality or county in which the violation occurred. When possible and reasonable, the community service shall be performed in the minor's neighborhood. This order shall be in addition to any other order authorized by this Section except for an order to place the minor in the custody of the Department of Juvenile Justice. For the purposes of this Section, "organized gang" has the

meaning ascribed to it in Section 10 of the Illinois Streetgang Terrorism Omnibus Prevention Act.

(11) If the court determines that the offense was committed in furtherance of the criminal activities of an organized gang, as provided in subsection (10), and that the offense involved the operation or use of a motor vehicle or the use of a driver's license or permit, the court shall notify the Secretary of State of that determination and of the period for which the minor shall be denied driving privileges. If, at the time of the determination, the minor does not hold a driver's license or permit, the court shall provide that the minor shall not be issued a driver's license or permit until his or her 18th birthday. If the minor holds a driver's license or permit at the time of the determination, the court shall provide that the minor's driver's license or permit shall be revoked until his or her 21st birthday, or until a later date or occurrence determined by the court. If the minor holds a driver's license at the time of the determination, the court may direct the Secretary of State to issue the minor a judicial driving permit, also known as a JDP. The JDP shall be subject to the same terms as a JDP issued under Section 6-206.1 of the Illinois Vehicle Code, except that the court may direct that the JDP be effective immediately.

(Source: P.A. 94-556, eff. 9-11-05; 94-696, eff. 6-1-06; 95-337, eff. 6-1-08; 95-642, eff. 6-1-08; revised 11-19-07.)

Section 315. The Criminal Code of 1961 is amended by changing Sections 9-3, 11-9.3, 11-9.4, 12-2, 12-4, 14-3, 26-4, and 32-5 as follows:

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

(Text of Section before amendment by P.A. 95-467, 95-551, and 95-587)

Sec. 9-3. Involuntary Manslaughter and Reckless Homicide.

(a) A person who unintentionally kills an individual without lawful justification commits involuntary manslaughter if his acts whether lawful or unlawful which cause the death are such as are likely to cause death or great bodily harm to some individual, and he performs them recklessly, except in cases in which the cause of the death consists of the driving of a motor vehicle or operating a snowmobile, all-terrain vehicle, or watercraft, in which case the person commits reckless homicide. A person commits reckless homicide if he or she unintentionally kills an individual while driving a vehicle and using an incline in a roadway, such as a railroad crossing, bridge approach, or hill, to cause the vehicle to become airborne.

(b) (Blank).

(c) (Blank).

(d) Sentence.

(1) Involuntary manslaughter is a Class 3 felony.

(2) Reckless homicide is a Class 3 felony.

(e) (Blank).

(e-5) (Blank).

(e-7) Except as otherwise provided in subsection (e-8), in cases involving reckless homicide in which the defendant: (1) was driving in a construction or maintenance zone, as defined in Section 11-605 of the Illinois Vehicle Code, or (2) was operating a vehicle while failing or refusing to comply with any lawful order or direction of any authorized police officer or traffic control aide engaged in traffic control, the penalty is a Class 2 felony, for which a person, if sentenced to a term of imprisonment, shall be sentenced to a term of not less than 3 years and not more than 14 years.

(e-8) In cases involving reckless homicide in which the defendant caused the deaths of 2 or more persons as part of a single course of conduct and: (1) was driving in a construction or maintenance zone, as defined in Section 11-605 of the Illinois Vehicle Code, or (2) was operating a vehicle while failing or refusing to comply with any lawful order or direction of any authorized police officer or traffic control aide engaged in traffic control, the penalty is a Class 2 felony, for which a person, if sentenced to a term of imprisonment, shall be sentenced to a term of not less than 6 years and not more than 28 years.

(e-9) In cases involving reckless homicide in which the defendant drove a vehicle and used an incline in a roadway, such as a railroad crossing, bridge approach, or hill, to cause

the vehicle to become airborne, and caused the deaths of 2 or more persons as part of a single course of conduct, the penalty is a Class 2 felony.

(f) In cases involving involuntary manslaughter in which the victim was a family or household member as defined in paragraph (3) of Section 112A-3 of the Code of Criminal Procedure of 1963, the penalty shall be a Class 2 felony, for which a person if sentenced to a term of imprisonment, shall be sentenced to a term of not less than 3 years and not more than 14 years.

(Source: P.A. 95-591, eff. 9-10-07.)

(Text of Section after amendment by P.A. 95-467, 95-551, and 95-587)

Sec. 9-3. Involuntary Manslaughter and Reckless Homicide.

(a) A person who unintentionally kills an individual without lawful justification commits involuntary manslaughter if his acts whether lawful or unlawful which cause the death are such as are likely to cause death or great bodily harm to some individual, and he performs them recklessly, except in cases in which the cause of the death consists of the driving of a motor vehicle or operating a snowmobile, all-terrain vehicle, or watercraft, in which case the person commits reckless homicide. A person commits reckless homicide if he or she unintentionally kills an individual while driving a vehicle and using an incline in a roadway, such as a railroad crossing,

bridge approach, or hill, to cause the vehicle to become airborne.

(b) (Blank).

(c) (Blank).

(d) Sentence.

(1) Involuntary manslaughter is a Class 3 felony.

(2) Reckless homicide is a Class 3 felony.

(e) (Blank).

(e-2) Except as provided in subsection (e-3), in cases involving reckless homicide in which the offense is committed upon a public thoroughfare where children pass going to and from school when a school crossing guard is performing official duties, the penalty is a Class 2 felony, for which a person, if sentenced to a term of imprisonment, shall be sentenced to a term of not less than 3 years and not more than 14 years.

(e-3) In cases involving reckless homicide in which (i) the offense is committed upon a public thoroughfare where children pass going to and from school when a school crossing guard is performing official duties and (ii) the defendant causes the deaths of 2 or more persons as part of a single course of conduct, the penalty is a Class 2 felony, for which a person, if sentenced to a term of imprisonment, shall be sentenced to a term of not less than 6 years and not more than 28 years.

(e-5) (Blank).

(e-7) Except as otherwise provided in subsection (e-8), in cases involving reckless homicide in which the defendant: (1)

was driving in a construction or maintenance zone, as defined in Section 11-605.1 of the Illinois Vehicle Code, or (2) was operating a vehicle while failing or refusing to comply with any lawful order or direction of any authorized police officer or traffic control aide engaged in traffic control, the penalty is a Class 2 felony, for which a person, if sentenced to a term of imprisonment, shall be sentenced to a term of not less than 3 years and not more than 14 years.

(e-8) In cases involving reckless homicide in which the defendant caused the deaths of 2 or more persons as part of a single course of conduct and: (1) was driving in a construction or maintenance zone, as defined in Section 11-605.1 of the Illinois Vehicle Code, or (2) was operating a vehicle while failing or refusing to comply with any lawful order or direction of any authorized police officer or traffic control aide engaged in traffic control, the penalty is a Class 2 felony, for which a person, if sentenced to a term of imprisonment, shall be sentenced to a term of not less than 6 years and not more than 28 years.

(e-9) In cases involving reckless homicide in which the defendant drove a vehicle and used an incline in a roadway, such as a railroad crossing, bridge approach, or hill, to cause the vehicle to become airborne, and caused the deaths of 2 or more persons as part of a single course of conduct, the penalty is a Class 2 felony.

(e-10) In cases involving involuntary manslaughter or

reckless homicide resulting in the death of a peace officer killed in the performance of his or her duties as a peace officer, the penalty is a Class 2 felony.

(e-11) ~~(e-10)~~ In cases involving reckless homicide in which the defendant unintentionally kills an individual while driving in a posted school zone, as defined in Section 11-605 of the Illinois Vehicle Code, while children are present or in a construction or maintenance zone, as defined in Section 11-605.1 of the Illinois Vehicle Code, when construction or maintenance workers are present the trier of fact may infer that the defendant's actions were performed recklessly where he or she was also either driving at a speed of more than 20 miles per hour in excess of the posted speed limit or violating Section 11-501 of the Illinois Vehicle Code.

(f) In cases involving involuntary manslaughter in which the victim was a family or household member as defined in paragraph (3) of Section 112A-3 of the Code of Criminal Procedure of 1963, the penalty shall be a Class 2 felony, for which a person if sentenced to a term of imprisonment, shall be sentenced to a term of not less than 3 years and not more than 14 years.

(Source: P.A. 95-467, eff. 6-1-08; 95-551, eff. 6-1-08; 95-587, eff. 6-1-08; 95-591, eff. 9-10-07; revised 10-30-07.)

(720 ILCS 5/11-9.3)

(Text of Section before amendment by P.A. 95-640)

Sec. 11-9.3. Presence within school zone by child sex offenders prohibited.

(a) It is unlawful for a child sex offender to knowingly be present in any school building, on real property comprising any school, or in any conveyance owned, leased, or contracted by a school to transport students to or from school or a school related activity when persons under the age of 18 are present in the building, on the grounds or in the conveyance, unless the offender is a parent or guardian of a student attending the school and the parent or guardian is: (i) attending a conference at the school with school personnel to discuss the progress of his or her child academically or socially, (ii) participating in child review conferences in which evaluation and placement decisions may be made with respect to his or her child regarding special education services, or (iii) attending conferences to discuss other student issues concerning his or her child such as retention and promotion and notifies the principal of the school of his or her presence at the school or unless the offender has permission to be present from the superintendent or the school board or in the case of a private school from the principal. In the case of a public school, if permission is granted, the superintendent or school board president must inform the principal of the school where the sex offender will be present. Notification includes the nature of the sex offender's visit and the hours in which the sex offender will be present in the school. The sex offender is

responsible for notifying the principal's office when he or she arrives on school property and when he or she departs from school property. If the sex offender is to be present in the vicinity of children, the sex offender has the duty to remain under the direct supervision of a school official. A child sex offender who violates this provision is guilty of a Class 4 felony.

(a-5) It is unlawful for a child sex offender to knowingly be present within 100 feet of a site posted as a pick-up or discharge stop for a conveyance owned, leased, or contracted by a school to transport students to or from school or a school related activity when one or more persons under the age of 18 are present at the site.

(b) It is unlawful for a child sex offender to knowingly loiter within 500 feet of a school building or real property comprising any school while persons under the age of 18 are present in the building or on the grounds, unless the offender is a parent or guardian of a student attending the school and the parent or guardian is: (i) attending a conference at the school with school personnel to discuss the progress of his or her child academically or socially, (ii) participating in child review conferences in which evaluation and placement decisions may be made with respect to his or her child regarding special education services, or (iii) attending conferences to discuss other student issues concerning his or her child such as retention and promotion and notifies the principal of the

school of his or her presence at the school or has permission to be present from the superintendent or the school board or in the case of a private school from the principal. In the case of a public school, if permission is granted, the superintendent or school board president must inform the principal of the school where the sex offender will be present. Notification includes the nature of the sex offender's visit and the hours in which the sex offender will be present in the school. The sex offender is responsible for notifying the principal's office when he or she arrives on school property and when he or she departs from school property. If the sex offender is to be present in the vicinity of children, the sex offender has the duty to remain under the direct supervision of a school official. A child sex offender who violates this provision is guilty of a Class 4 felony.

(b-5) It is unlawful for a child sex offender to knowingly reside within 500 feet of a school building or the real property comprising any school that persons under the age of 18 attend. Nothing in this subsection (b-5) prohibits a child sex offender from residing within 500 feet of a school building or the real property comprising any school that persons under 18 attend if the property is owned by the child sex offender and was purchased before the effective date of this amendatory Act of the 91st General Assembly.

(c) Definitions. In this Section:

(1) "Child sex offender" means any person who:

(i) has been charged under Illinois law, or any substantially similar federal law or law of another state, with a sex offense set forth in paragraph (2) of this subsection (c) or the attempt to commit an included sex offense, and:

(A) is convicted of such offense or an attempt to commit such offense; or

(B) is found not guilty by reason of insanity of such offense or an attempt to commit such offense; or

(C) is found not guilty by reason of insanity pursuant to subsection (c) of Section 104-25 of the Code of Criminal Procedure of 1963 of such offense or an attempt to commit such offense; or

(D) is the subject of a finding not resulting in an acquittal at a hearing conducted pursuant to subsection (a) of Section 104-25 of the Code of Criminal Procedure of 1963 for the alleged commission or attempted commission of such offense; or

(E) is found not guilty by reason of insanity following a hearing conducted pursuant to a federal law or the law of another state substantially similar to subsection (c) of Section 104-25 of the Code of Criminal Procedure of 1963 of such offense or of the attempted commission of such

offense; or

(F) is the subject of a finding not resulting in an acquittal at a hearing conducted pursuant to a federal law or the law of another state substantially similar to subsection (a) of Section 104-25 of the Code of Criminal Procedure of 1963 for the alleged violation or attempted commission of such offense; or

(ii) is certified as a sexually dangerous person pursuant to the Illinois Sexually Dangerous Persons Act, or any substantially similar federal law or the law of another state, when any conduct giving rise to such certification is committed or attempted against a person less than 18 years of age; or

(iii) is subject to the provisions of Section 2 of the Interstate Agreements on Sexually Dangerous Persons Act.

Convictions that result from or are connected with the same act, or result from offenses committed at the same time, shall be counted for the purpose of this Section as one conviction. Any conviction set aside pursuant to law is not a conviction for purposes of this Section.

(2) Except as otherwise provided in paragraph (2.5), "sex offense" means:

(i) A violation of any of the following Sections of the Criminal Code of 1961: 10-7 (aiding and abetting

child abduction under Section 10-5(b)(10)), 10-5(b)(10) (child luring), 11-6 (indecent solicitation of a child), 11-6.5 (indecent solicitation of an adult), 11-9 (public indecency when committed in a school, on the real property comprising a school, or on a conveyance, owned, leased, or contracted by a school to transport students to or from school or a school related activity), 11-9.1 (sexual exploitation of a child), 11-15.1 (soliciting for a juvenile prostitute), 11-17.1 (keeping a place of juvenile prostitution), 11-18.1 (patronizing a juvenile prostitute), 11-19.1 (juvenile pimping), 11-19.2 (exploitation of a child), 11-20.1 (child pornography), 11-21 (harmful material), 12-14.1 (predatory criminal sexual assault of a child), 12-33 (ritualized abuse of a child), 11-20 (obscenity) (when that offense was committed in any school, on real property comprising any school, in any conveyance owned, leased, or contracted by a school to transport students to or from school or a school related activity). An attempt to commit any of these offenses.

(ii) A violation of any of the following Sections of the Criminal Code of 1961, when the victim is a person under 18 years of age: 12-13 (criminal sexual assault), 12-14 (aggravated criminal sexual assault), 12-15 (criminal sexual abuse), 12-16 (aggravated

criminal sexual abuse). An attempt to commit any of these offenses.

(iii) A violation of any of the following Sections of the Criminal Code of 1961, when the victim is a person under 18 years of age and the defendant is not a parent of the victim:

- 10-1 (kidnapping),
- 10-2 (aggravated kidnapping),
- 10-3 (unlawful restraint),
- 10-3.1 (aggravated unlawful restraint).

An attempt to commit any of these offenses.

(iv) A violation of any former law of this State substantially equivalent to any offense listed in clause (2)(i) of subsection (c) of this Section.

(2.5) For the purposes of subsection (b-5) only, a sex offense means:

(i) A violation of any of the following Sections of the Criminal Code of 1961:

- 10-5(b)(10) (child luring), 10-7 (aiding and abetting child abduction under Section 10-5(b)(10)), 11-6 (indecent solicitation of a child), 11-6.5 (indecent solicitation of an adult), 11-15.1 (soliciting for a juvenile prostitute), 11-17.1 (keeping a place of juvenile prostitution), 11-18.1 (patronizing a juvenile prostitute), 11-19.1 (juvenile pimping), 11-19.2

(exploitation of a child), 11-20.1 (child pornography), 12-14.1 (predatory criminal sexual assault of a child), or 12-33 (ritualized abuse of a child). An attempt to commit any of these offenses.

(ii) A violation of any of the following Sections of the Criminal Code of 1961, when the victim is a person under 18 years of age: 12-13 (criminal sexual assault), 12-14 (aggravated criminal sexual assault), 12-16 (aggravated criminal sexual abuse), and subsection (a) of Section 12-15 (criminal sexual abuse). An attempt to commit any of these offenses.

(iii) A violation of any of the following Sections of the Criminal Code of 1961, when the victim is a person under 18 years of age and the defendant is not a parent of the victim:

10-1 (kidnapping),
10-2 (aggravated kidnapping),
10-3 (unlawful restraint),
10-3.1 (aggravated unlawful restraint).

An attempt to commit any of these offenses.

(iv) A violation of any former law of this State substantially equivalent to any offense listed in this paragraph (2.5) of this subsection.

(3) A conviction for an offense of federal law or the law of another state that is substantially equivalent to

any offense listed in paragraph (2) of subsection (c) of this Section shall constitute a conviction for the purpose of this Article. A finding or adjudication as a sexually dangerous person under any federal law or law of another state that is substantially equivalent to the Sexually Dangerous Persons Act shall constitute an adjudication for the purposes of this Section.

(4) "School" means a public or private pre-school, elementary, or secondary school.

(5) "Loiter" means:

(i) Standing, sitting idly, whether or not the person is in a vehicle or remaining in or around school property.

(ii) Standing, sitting idly, whether or not the person is in a vehicle or remaining in or around school property, for the purpose of committing or attempting to commit a sex offense.

(iii) Entering or remaining in a building in or around school property, other than the offender's residence.

(6) "School official" means the principal, a teacher, or any other certified employee of the school, the superintendent of schools or a member of the school board.

(d) Sentence. A person who violates this Section is guilty of a Class 4 felony.

(Source: P.A. 94-158, eff. 7-11-05; 94-164, eff. 1-1-06;

94-170, eff. 7-11-05; 95-331, eff. 8-21-07; 95-440, eff. 8-27-07.)

(Text of Section after amendment by P.A. 95-640)

Sec. 11-9.3. Presence within school zone by child sex offenders prohibited.

(a) It is unlawful for a child sex offender to knowingly be present in any school building, on real property comprising any school, or in any conveyance owned, leased, or contracted by a school to transport students to or from school or a school related activity when persons under the age of 18 are present in the building, on the grounds or in the conveyance, unless the offender is a parent or guardian of a student attending the school and the parent or guardian is: (i) attending a conference at the school with school personnel to discuss the progress of his or her child academically or socially, (ii) participating in child review conferences in which evaluation and placement decisions may be made with respect to his or her child regarding special education services, or (iii) attending conferences to discuss other student issues concerning his or her child such as retention and promotion and notifies the principal of the school of his or her presence at the school or unless the offender has permission to be present from the superintendent or the school board or in the case of a private school from the principal. In the case of a public school, if permission is granted, the superintendent or school board

president must inform the principal of the school where the sex offender will be present. Notification includes the nature of the sex offender's visit and the hours in which the sex offender will be present in the school. The sex offender is responsible for notifying the principal's office when he or she arrives on school property and when he or she departs from school property. If the sex offender is to be present in the vicinity of children, the sex offender has the duty to remain under the direct supervision of a school official. A child sex offender who violates this provision is guilty of a Class 4 felony.

(a-5) It is unlawful for a child sex offender to knowingly be present within 100 feet of a site posted as a pick-up or discharge stop for a conveyance owned, leased, or contracted by a school to transport students to or from school or a school related activity when one or more persons under the age of 18 are present at the site.

(b) It is unlawful for a child sex offender to knowingly loiter within 500 feet of a school building or real property comprising any school while persons under the age of 18 are present in the building or on the grounds, unless the offender is a parent or guardian of a student attending the school and the parent or guardian is: (i) attending a conference at the school with school personnel to discuss the progress of his or her child academically or socially, (ii) participating in child review conferences in which evaluation and placement decisions

may be made with respect to his or her child regarding special education services, or (iii) attending conferences to discuss other student issues concerning his or her child such as retention and promotion and notifies the principal of the school of his or her presence at the school or has permission to be present from the superintendent or the school board or in the case of a private school from the principal. In the case of a public school, if permission is granted, the superintendent or school board president must inform the principal of the school where the sex offender will be present. Notification includes the nature of the sex offender's visit and the hours in which the sex offender will be present in the school. The sex offender is responsible for notifying the principal's office when he or she arrives on school property and when he or she departs from school property. If the sex offender is to be present in the vicinity of children, the sex offender has the duty to remain under the direct supervision of a school official. A child sex offender who violates this provision is guilty of a Class 4 felony.

(b-5) It is unlawful for a child sex offender to knowingly reside within 500 feet of a school building or the real property comprising any school that persons under the age of 18 attend. Nothing in this subsection (b-5) prohibits a child sex offender from residing within 500 feet of a school building or the real property comprising any school that persons under 18 attend if the property is owned by the child sex offender and

was purchased before the effective date of this amendatory Act of the 91st General Assembly.

(c) Definitions. In this Section:

(1) "Child sex offender" means any person who:

(i) has been charged under Illinois law, or any substantially similar federal law or law of another state, with a sex offense set forth in paragraph (2) of this subsection (c) or the attempt to commit an included sex offense, and:

(A) is convicted of such offense or an attempt to commit such offense; or

(B) is found not guilty by reason of insanity of such offense or an attempt to commit such offense; or

(C) is found not guilty by reason of insanity pursuant to subsection (c) of Section 104-25 of the Code of Criminal Procedure of 1963 of such offense or an attempt to commit such offense; or

(D) is the subject of a finding not resulting in an acquittal at a hearing conducted pursuant to subsection (a) of Section 104-25 of the Code of Criminal Procedure of 1963 for the alleged commission or attempted commission of such offense; or

(E) is found not guilty by reason of insanity following a hearing conducted pursuant to a

federal law or the law of another state substantially similar to subsection (c) of Section 104-25 of the Code of Criminal Procedure of 1963 of such offense or of the attempted commission of such offense; or

(F) is the subject of a finding not resulting in an acquittal at a hearing conducted pursuant to a federal law or the law of another state substantially similar to subsection (a) of Section 104-25 of the Code of Criminal Procedure of 1963 for the alleged violation or attempted commission of such offense; or

(ii) is certified as a sexually dangerous person pursuant to the Illinois Sexually Dangerous Persons Act, or any substantially similar federal law or the law of another state, when any conduct giving rise to such certification is committed or attempted against a person less than 18 years of age; or

(iii) is subject to the provisions of Section 2 of the Interstate Agreements on Sexually Dangerous Persons Act.

Convictions that result from or are connected with the same act, or result from offenses committed at the same time, shall be counted for the purpose of this Section as one conviction. Any conviction set aside pursuant to law is not a conviction for purposes of this Section.

(2) Except as otherwise provided in paragraph (2.5), "sex offense" means:

(i) A violation of any of the following Sections of the Criminal Code of 1961: 10-7 (aiding and abetting child abduction under Section 10-5(b)(10)), 10-5(b)(10) (child luring), 11-6 (indecent solicitation of a child), 11-6.5 (indecent solicitation of an adult), 11-9 (public indecency when committed in a school, on the real property comprising a school, or on a conveyance, owned, leased, or contracted by a school to transport students to or from school or a school related activity), 11-9.1 (sexual exploitation of a child), 11-15.1 (soliciting for a juvenile prostitute), 11-17.1 (keeping a place of juvenile prostitution), 11-18.1 (patronizing a juvenile prostitute), 11-19.1 (juvenile pimping), 11-19.2 (exploitation of a child), 11-20.1 (child pornography), 11-20.3 (aggravated child pornography), 11-21 (harmful material), 12-14.1 (predatory criminal sexual assault of a child), 12-33 (ritualized abuse of a child), 11-20 (obscenity) (when that offense was committed in any school, on real property comprising any school, in any conveyance owned, leased, or contracted by a school to transport students to or from school or a school related activity). An attempt to commit any of these offenses.

(ii) A violation of any of the following Sections of the Criminal Code of 1961, when the victim is a person under 18 years of age: 12-13 (criminal sexual assault), 12-14 (aggravated criminal sexual assault), 12-15 (criminal sexual abuse), 12-16 (aggravated criminal sexual abuse). An attempt to commit any of these offenses.

(iii) A violation of any of the following Sections of the Criminal Code of 1961, when the victim is a person under 18 years of age and the defendant is not a parent of the victim:

- 10-1 (kidnapping),
- 10-2 (aggravated kidnapping),
- 10-3 (unlawful restraint),
- 10-3.1 (aggravated unlawful restraint).

An attempt to commit any of these offenses.

(iv) A violation of any former law of this State substantially equivalent to any offense listed in clause (2) (i) of subsection (c) of this Section.

(2.5) For the purposes of subsection (b-5) only, a sex offense means:

(i) A violation of any of the following Sections of the Criminal Code of 1961:

- 10-5(b)(10) (child luring), 10-7 (aiding and abetting child abduction under Section 10-5(b)(10)), 11-6 (indecent solicitation of a

child), 11-6.5 (indecent solicitation of an adult), 11-15.1 (soliciting for a juvenile prostitute), 11-17.1 (keeping a place of juvenile prostitution), 11-18.1 (patronizing a juvenile prostitute), 11-19.1 (juvenile pimping), 11-19.2 (exploitation of a child), 11-20.1 (child pornography), 11-20.3 (aggravated child pornography), 12-14.1 (predatory criminal sexual assault of a child), or 12-33 (ritualized abuse of a child). An attempt to commit any of these offenses.

(ii) A violation of any of the following Sections of the Criminal Code of 1961, when the victim is a person under 18 years of age: 12-13 (criminal sexual assault), 12-14 (aggravated criminal sexual assault), 12-16 (aggravated criminal sexual abuse), and subsection (a) of Section 12-15 (criminal sexual abuse). An attempt to commit any of these offenses.

(iii) A violation of any of the following Sections of the Criminal Code of 1961, when the victim is a person under 18 years of age and the defendant is not a parent of the victim:

- 10-1 (kidnapping),
- 10-2 (aggravated kidnapping),
- 10-3 (unlawful restraint),
- 10-3.1 (aggravated unlawful restraint).

An attempt to commit any of these offenses.

(iv) A violation of any former law of this State substantially equivalent to any offense listed in this paragraph (2.5) of this subsection.

(3) A conviction for an offense of federal law or the law of another state that is substantially equivalent to any offense listed in paragraph (2) of subsection (c) of this Section shall constitute a conviction for the purpose of this Article. A finding or adjudication as a sexually dangerous person under any federal law or law of another state that is substantially equivalent to the Sexually Dangerous Persons Act shall constitute an adjudication for the purposes of this Section.

(4) "School" means a public or private pre-school, elementary, or secondary school.

(5) "Loiter" means:

(i) Standing, sitting idly, whether or not the person is in a vehicle or remaining in or around school property.

(ii) Standing, sitting idly, whether or not the person is in a vehicle or remaining in or around school property, for the purpose of committing or attempting to commit a sex offense.

(iii) Entering or remaining in a building in or around school property, other than the offender's residence.

(6) "School official" means the principal, a teacher, or any other certified employee of the school, the superintendent of schools or a member of the school board.

(d) Sentence. A person who violates this Section is guilty of a Class 4 felony.

(Source: P.A. 94-158, eff. 7-11-05; 94-164, eff. 1-1-06; 94-170, eff. 7-11-05; 95-331, eff. 8-21-07; 95-440, eff. 8-27-07; 95-640, eff. 6-1-08; revised 11-19-07 .)

(720 ILCS 5/11-9.4)

(Text of Section before amendment by P.A. 95-640)

Sec. 11-9.4. Approaching, contacting, residing, or communicating with a child within certain places by child sex offenders prohibited.

(a) It is unlawful for a child sex offender to knowingly be present in any public park building or on real property comprising any public park when persons under the age of 18 are present in the building or on the grounds and to approach, contact, or communicate with a child under 18 years of age, unless the offender is a parent or guardian of a person under 18 years of age present in the building or on the grounds.

(b) It is unlawful for a child sex offender to knowingly loiter on a public way within 500 feet of a public park building or real property comprising any public park while persons under the age of 18 are present in the building or on the grounds and to approach, contact, or communicate with a

child under 18 years of age, unless the offender is a parent or guardian of a person under 18 years of age present in the building or on the grounds.

(b-5) It is unlawful for a child sex offender to knowingly reside within 500 feet of a playground, child care institution, day care center, part day child care facility, or a facility providing programs or services exclusively directed toward persons under 18 years of age. Nothing in this subsection (b-5) prohibits a child sex offender from residing within 500 feet of a playground or a facility providing programs or services exclusively directed toward persons under 18 years of age if the property is owned by the child sex offender and was purchased before the effective date of this amendatory Act of the 91st General Assembly. Nothing in this subsection (b-5) prohibits a child sex offender from residing within 500 feet of a child care institution, day care center, or part day child care facility if the property is owned by the child sex offender and was purchased before the effective date of this amendatory Act of the 94th General Assembly.

(b-6) It is unlawful for a child sex offender to knowingly reside within 500 feet of the victim of the sex offense. Nothing in this subsection (b-6) prohibits a child sex offender from residing within 500 feet of the victim if the property in which the child sex offender resides is owned by the child sex offender and was purchased before the effective date of this amendatory Act of the 92nd General Assembly.

This subsection (b-6) does not apply if the victim of the sex offense is 21 years of age or older.

(c) It is unlawful for a child sex offender to knowingly operate, manage, be employed by, volunteer at, be associated with, or knowingly be present at any: (i) facility providing programs or services exclusively directed towards persons under the age of 18; (ii) day care center; (iii) part day child care facility; (iv) child care institution, or (v) school providing before and after school programs for children under 18 years of age. This does not prohibit a child sex offender from owning the real property upon which the programs or services are offered or upon which the day care center, part day child care facility, child care institution, or school providing before and after school programs for children under 18 years of age is located, provided the child sex offender refrains from being present on the premises for the hours during which: (1) the programs or services are being offered or (2) the day care center, part day child care facility, child care institution, or school providing before and after school programs for children under 18 years of age is operated.

(c-5) It is unlawful for a child sex offender to knowingly operate, manage, be employed by, or be associated with any county fair when persons under the age of 18 are present.

(d) Definitions. In this Section:

(1) "Child sex offender" means any person who:

(i) has been charged under Illinois law, or any

substantially similar federal law or law of another state, with a sex offense set forth in paragraph (2) of this subsection (d) or the attempt to commit an included sex offense, and:

(A) is convicted of such offense or an attempt to commit such offense; or

(B) is found not guilty by reason of insanity of such offense or an attempt to commit such offense; or

(C) is found not guilty by reason of insanity pursuant to subsection (c) of Section 104-25 of the Code of Criminal Procedure of 1963 of such offense or an attempt to commit such offense; or

(D) is the subject of a finding not resulting in an acquittal at a hearing conducted pursuant to subsection (a) of Section 104-25 of the Code of Criminal Procedure of 1963 for the alleged commission or attempted commission of such offense; or

(E) is found not guilty by reason of insanity following a hearing conducted pursuant to a federal law or the law of another state substantially similar to subsection (c) of Section 104-25 of the Code of Criminal Procedure of 1963 of such offense or of the attempted commission of such offense; or

(F) is the subject of a finding not resulting in an acquittal at a hearing conducted pursuant to a federal law or the law of another state substantially similar to subsection (a) of Section 104-25 of the Code of Criminal Procedure of 1963 for the alleged violation or attempted commission of such offense; or

(ii) is certified as a sexually dangerous person pursuant to the Illinois Sexually Dangerous Persons Act, or any substantially similar federal law or the law of another state, when any conduct giving rise to such certification is committed or attempted against a person less than 18 years of age; or

(iii) is subject to the provisions of Section 2 of the Interstate Agreements on Sexually Dangerous Persons Act.

Convictions that result from or are connected with the same act, or result from offenses committed at the same time, shall be counted for the purpose of this Section as one conviction. Any conviction set aside pursuant to law is not a conviction for purposes of this Section.

(2) Except as otherwise provided in paragraph (2.5), "sex offense" means:

(i) A violation of any of the following Sections of the Criminal Code of 1961: 10-7 (aiding and abetting child abduction under Section 10-5(b)(10)),

10-5(b)(10) (child luring), 11-6 (indecent solicitation of a child), 11-6.5 (indecent solicitation of an adult), 11-9 (public indecency when committed in a school, on the real property comprising a school, on a conveyance owned, leased, or contracted by a school to transport students to or from school or a school related activity, or in a public park), 11-9.1 (sexual exploitation of a child), 11-15.1 (soliciting for a juvenile prostitute), 11-17.1 (keeping a place of juvenile prostitution), 11-18.1 (patronizing a juvenile prostitute), 11-19.1 (juvenile pimping), 11-19.2 (exploitation of a child), 11-20.1 (child pornography), 11-21 (harmful material), 12-14.1 (predatory criminal sexual assault of a child), 12-33 (ritualized abuse of a child), 11-20 (obscenity) (when that offense was committed in any school, on real property comprising any school, on any conveyance owned, leased, or contracted by a school to transport students to or from school or a school related activity, or in a public park). An attempt to commit any of these offenses.

(ii) A violation of any of the following Sections of the Criminal Code of 1961, when the victim is a person under 18 years of age: 12-13 (criminal sexual assault), 12-14 (aggravated criminal sexual assault), 12-15 (criminal sexual abuse), 12-16 (aggravated

criminal sexual abuse). An attempt to commit any of these offenses.

(iii) A violation of any of the following Sections of the Criminal Code of 1961, when the victim is a person under 18 years of age and the defendant is not a parent of the victim:

- 10-1 (kidnapping),
- 10-2 (aggravated kidnapping),
- 10-3 (unlawful restraint),
- 10-3.1 (aggravated unlawful restraint).

An attempt to commit any of these offenses.

(iv) A violation of any former law of this State substantially equivalent to any offense listed in clause (2)(i) of this subsection (d).

(2.5) For the purposes of subsection (b-5) only, a sex offense means:

(i) A violation of any of the following Sections of the Criminal Code of 1961:

- 10-5(b)(10) (child luring), 10-7 (aiding and abetting child abduction under Section 10-5(b)(10)), 11-6 (indecent solicitation of a child), 11-6.5 (indecent solicitation of an adult), 11-15.1 (soliciting for a juvenile prostitute), 11-17.1 (keeping a place of juvenile prostitution), 11-18.1 (patronizing a juvenile prostitute), 11-19.1 (juvenile pimping), 11-19.2

(exploitation of a child), 11-20.1 (child pornography), 12-14.1 (predatory criminal sexual assault of a child), or 12-33 (ritualized abuse of a child). An attempt to commit any of these offenses.

(ii) A violation of any of the following Sections of the Criminal Code of 1961, when the victim is a person under 18 years of age: 12-13 (criminal sexual assault), 12-14 (aggravated criminal sexual assault), 12-16 (aggravated criminal sexual abuse), and subsection (a) of Section 12-15 (criminal sexual abuse). An attempt to commit any of these offenses.

(iii) A violation of any of the following Sections of the Criminal Code of 1961, when the victim is a person under 18 years of age and the defendant is not a parent of the victim:

10-1 (kidnapping),
10-2 (aggravated kidnapping),
10-3 (unlawful restraint),
10-3.1 (aggravated unlawful restraint).

An attempt to commit any of these offenses.

(iv) A violation of any former law of this State substantially equivalent to any offense listed in this paragraph (2.5) of this subsection.

(3) A conviction for an offense of federal law or the law of another state that is substantially equivalent to

any offense listed in paragraph (2) of this subsection (d) shall constitute a conviction for the purpose of this Section. A finding or adjudication as a sexually dangerous person under any federal law or law of another state that is substantially equivalent to the Sexually Dangerous Persons Act shall constitute an adjudication for the purposes of this Section.

(4) "Public park" includes a park, forest preserve, or conservation area under the jurisdiction of the State or a unit of local government.

(5) "Facility providing programs or services directed towards persons under the age of 18" means any facility providing programs or services exclusively directed towards persons under the age of 18.

(6) "Loiter" means:

(i) Standing, sitting idly, whether or not the person is in a vehicle or remaining in or around public park property.

(ii) Standing, sitting idly, whether or not the person is in a vehicle or remaining in or around public park property, for the purpose of committing or attempting to commit a sex offense.

(7) "Playground" means a piece of land owned or controlled by a unit of local government that is designated by the unit of local government for use solely or primarily for children's recreation.

(8) "Child care institution" has the meaning ascribed to it in Section 2.06 of the Child Care Act of 1969.

(9) "Day care center" has the meaning ascribed to it in Section 2.09 of the Child Care Act of 1969.

(10) "Part day child care facility" has the meaning ascribed to it in Section 2.10 of the Child Care Act of 1969.

(e) Sentence. A person who violates this Section is guilty of a Class 4 felony.

(Source: P.A. 94-925, eff. 6-26-06; 95-32, eff. 1-1-08.)

(Text of Section after amendment by P.A. 95-640)

Sec. 11-9.4. Approaching, contacting, residing, or communicating with a child within certain places by child sex offenders prohibited.

(a) It is unlawful for a child sex offender to knowingly be present in any public park building or on real property comprising any public park when persons under the age of 18 are present in the building or on the grounds and to approach, contact, or communicate with a child under 18 years of age, unless the offender is a parent or guardian of a person under 18 years of age present in the building or on the grounds.

(b) It is unlawful for a child sex offender to knowingly loiter on a public way within 500 feet of a public park building or real property comprising any public park while persons under the age of 18 are present in the building or on

the grounds and to approach, contact, or communicate with a child under 18 years of age, unless the offender is a parent or guardian of a person under 18 years of age present in the building or on the grounds.

(b-5) It is unlawful for a child sex offender to knowingly reside within 500 feet of a playground, child care institution, day care center, part day child care facility, or a facility providing programs or services exclusively directed toward persons under 18 years of age. Nothing in this subsection (b-5) prohibits a child sex offender from residing within 500 feet of a playground or a facility providing programs or services exclusively directed toward persons under 18 years of age if the property is owned by the child sex offender and was purchased before the effective date of this amendatory Act of the 91st General Assembly. Nothing in this subsection (b-5) prohibits a child sex offender from residing within 500 feet of a child care institution, day care center, or part day child care facility if the property is owned by the child sex offender and was purchased before the effective date of this amendatory Act of the 94th General Assembly.

(b-6) It is unlawful for a child sex offender to knowingly reside within 500 feet of the victim of the sex offense. Nothing in this subsection (b-6) prohibits a child sex offender from residing within 500 feet of the victim if the property in which the child sex offender resides is owned by the child sex offender and was purchased before the effective date of this

amendatory Act of the 92nd General Assembly.

This subsection (b-6) does not apply if the victim of the sex offense is 21 years of age or older.

(c) It is unlawful for a child sex offender to knowingly operate, manage, be employed by, volunteer at, be associated with, or knowingly be present at any: (i) facility providing programs or services exclusively directed towards persons under the age of 18; (ii) day care center; (iii) part day child care facility; (iv) child care institution, or (v) school providing before and after school programs for children under 18 years of age. This does not prohibit a child sex offender from owning the real property upon which the programs or services are offered or upon which the day care center, part day child care facility, child care institution, or school providing before and after school programs for children under 18 years of age is located, provided the child sex offender refrains from being present on the premises for the hours during which: (1) the programs or services are being offered or (2) the day care center, part day child care facility, child care institution, or school providing before and after school programs for children under 18 years of age is operated.

(c-5) It is unlawful for a child sex offender to knowingly operate, manage, be employed by, or be associated with any county fair when persons under the age of 18 are present.

(d) Definitions. In this Section:

(1) "Child sex offender" means any person who:

(i) has been charged under Illinois law, or any substantially similar federal law or law of another state, with a sex offense set forth in paragraph (2) of this subsection (d) or the attempt to commit an included sex offense, and:

(A) is convicted of such offense or an attempt to commit such offense; or

(B) is found not guilty by reason of insanity of such offense or an attempt to commit such offense; or

(C) is found not guilty by reason of insanity pursuant to subsection (c) of Section 104-25 of the Code of Criminal Procedure of 1963 of such offense or an attempt to commit such offense; or

(D) is the subject of a finding not resulting in an acquittal at a hearing conducted pursuant to subsection (a) of Section 104-25 of the Code of Criminal Procedure of 1963 for the alleged commission or attempted commission of such offense; or

(E) is found not guilty by reason of insanity following a hearing conducted pursuant to a federal law or the law of another state substantially similar to subsection (c) of Section 104-25 of the Code of Criminal Procedure of 1963 of such offense or of the attempted commission of such

offense; or

(F) is the subject of a finding not resulting in an acquittal at a hearing conducted pursuant to a federal law or the law of another state substantially similar to subsection (a) of Section 104-25 of the Code of Criminal Procedure of 1963 for the alleged violation or attempted commission of such offense; or

(ii) is certified as a sexually dangerous person pursuant to the Illinois Sexually Dangerous Persons Act, or any substantially similar federal law or the law of another state, when any conduct giving rise to such certification is committed or attempted against a person less than 18 years of age; or

(iii) is subject to the provisions of Section 2 of the Interstate Agreements on Sexually Dangerous Persons Act.

Convictions that result from or are connected with the same act, or result from offenses committed at the same time, shall be counted for the purpose of this Section as one conviction. Any conviction set aside pursuant to law is not a conviction for purposes of this Section.

(2) Except as otherwise provided in paragraph (2.5), "sex offense" means:

(i) A violation of any of the following Sections of the Criminal Code of 1961: 10-7 (aiding and abetting

child abduction under Section 10-5(b)(10)), 10-5(b)(10) (child luring), 11-6 (indecent solicitation of a child), 11-6.5 (indecent solicitation of an adult), 11-9 (public indecency when committed in a school, on the real property comprising a school, on a conveyance owned, leased, or contracted by a school to transport students to or from school or a school related activity, or in a public park), 11-9.1 (sexual exploitation of a child), 11-15.1 (soliciting for a juvenile prostitute), 11-17.1 (keeping a place of juvenile prostitution), 11-18.1 (patronizing a juvenile prostitute), 11-19.1 (juvenile pimping), 11-19.2 (exploitation of a child), 11-20.1 (child pornography), 11-20.3 (aggravated child pornography), 11-21 (harmful material), 12-14.1 (predatory criminal sexual assault of a child), 12-33 (ritualized abuse of a child), 11-20 (obscenity) (when that offense was committed in any school, on real property comprising any school, on any conveyance owned, leased, or contracted by a school to transport students to or from school or a school related activity, or in a public park). An attempt to commit any of these offenses.

(ii) A violation of any of the following Sections of the Criminal Code of 1961, when the victim is a person under 18 years of age: 12-13 (criminal sexual assault), 12-14 (aggravated criminal sexual assault),

12-15 (criminal sexual abuse), 12-16 (aggravated criminal sexual abuse). An attempt to commit any of these offenses.

(iii) A violation of any of the following Sections of the Criminal Code of 1961, when the victim is a person under 18 years of age and the defendant is not a parent of the victim:

- 10-1 (kidnapping),
- 10-2 (aggravated kidnapping),
- 10-3 (unlawful restraint),
- 10-3.1 (aggravated unlawful restraint).

An attempt to commit any of these offenses.

(iv) A violation of any former law of this State substantially equivalent to any offense listed in clause (2)(i) of this subsection (d).

(2.5) For the purposes of subsection (b-5) only, a sex offense means:

(i) A violation of any of the following Sections of the Criminal Code of 1961:

- 10-5(b)(10) (child luring), 10-7 (aiding and abetting child abduction under Section 10-5(b)(10)), 11-6 (indecent solicitation of a child), 11-6.5 (indecent solicitation of an adult), 11-15.1 (soliciting for a juvenile prostitute), 11-17.1 (keeping a place of juvenile prostitution), 11-18.1 (patronizing a juvenile

prostitute), 11-19.1 (juvenile pimping), 11-19.2 (exploitation of a child), 11-20.1 (child pornography), 11-20.3 (aggravated child pornography), 12-14.1 (predatory criminal sexual assault of a child), or 12-33 (ritualized abuse of a child). An attempt to commit any of these offenses.

(ii) A violation of any of the following Sections of the Criminal Code of 1961, when the victim is a person under 18 years of age: 12-13 (criminal sexual assault), 12-14 (aggravated criminal sexual assault), 12-16 (aggravated criminal sexual abuse), and subsection (a) of Section 12-15 (criminal sexual abuse). An attempt to commit any of these offenses.

(iii) A violation of any of the following Sections of the Criminal Code of 1961, when the victim is a person under 18 years of age and the defendant is not a parent of the victim:

10-1 (kidnapping),
10-2 (aggravated kidnapping),
10-3 (unlawful restraint),
10-3.1 (aggravated unlawful restraint).

An attempt to commit any of these offenses.

(iv) A violation of any former law of this State substantially equivalent to any offense listed in this paragraph (2.5) of this subsection.

(3) A conviction for an offense of federal law or the law of another state that is substantially equivalent to any offense listed in paragraph (2) of this subsection (d) shall constitute a conviction for the purpose of this Section. A finding or adjudication as a sexually dangerous person under any federal law or law of another state that is substantially equivalent to the Sexually Dangerous Persons Act shall constitute an adjudication for the purposes of this Section.

(4) "Public park" includes a park, forest preserve, or conservation area under the jurisdiction of the State or a unit of local government.

(5) "Facility providing programs or services directed towards persons under the age of 18" means any facility providing programs or services exclusively directed towards persons under the age of 18.

(6) "Loiter" means:

(i) Standing, sitting idly, whether or not the person is in a vehicle or remaining in or around public park property.

(ii) Standing, sitting idly, whether or not the person is in a vehicle or remaining in or around public park property, for the purpose of committing or attempting to commit a sex offense.

(7) "Playground" means a piece of land owned or controlled by a unit of local government that is designated

by the unit of local government for use solely or primarily for children's recreation.

(8) "Child care institution" has the meaning ascribed to it in Section 2.06 of the Child Care Act of 1969.

(9) "Day care center" has the meaning ascribed to it in Section 2.09 of the Child Care Act of 1969.

(10) "Part day child care facility" has the meaning ascribed to it in Section 2.10 of the Child Care Act of 1969.

(e) Sentence. A person who violates this Section is guilty of a Class 4 felony.

(Source: P.A. 94-925, eff. 6-26-06; 95-32, eff. 1-1-08; 95-640, eff. 6-1-08; revised 10-30-07.)

(720 ILCS 5/12-2) (from Ch. 38, par. 12-2)

Sec. 12-2. Aggravated assault.

(a) A person commits an aggravated assault, when, in committing an assault, he:

(1) Uses a deadly weapon or any device manufactured and designed to be substantially similar in appearance to a firearm, other than by discharging a firearm in the direction of another person, a peace officer, a person summoned or directed by a peace officer, a correctional officer, a private security officer, or a fireman or in the direction of a vehicle occupied by another person, a peace officer, a person summoned or directed by a peace officer,

a correctional officer, a private security officer, or a fireman while the officer or fireman is engaged in the execution of any of his official duties, or to prevent the officer or fireman from performing his official duties, or in retaliation for the officer or fireman performing his official duties;

(2) Is hooded, robed or masked in such manner as to conceal his identity or any device manufactured and designed to be substantially similar in appearance to a firearm;

(3) Knows the individual assaulted to be a teacher or other person employed in any school and such teacher or other employee is upon the grounds of a school or grounds adjacent thereto, or is in any part of a building used for school purposes;

(4) Knows the individual assaulted to be a supervisor, director, instructor or other person employed in any park district and such supervisor, director, instructor or other employee is upon the grounds of the park or grounds adjacent thereto, or is in any part of a building used for park purposes;

(5) Knows the individual assaulted to be a caseworker, investigator, or other person employed by the Department of Healthcare and Family Services (formerly State Department of Public Aid), a County Department of Public Aid, or the Department of Human Services (acting as successor to the

Illinois Department of Public Aid under the Department of Human Services Act) and such caseworker, investigator, or other person is upon the grounds of a public aid office or grounds adjacent thereto, or is in any part of a building used for public aid purposes, or upon the grounds of a home of a public aid applicant, recipient or any other person being interviewed or investigated in the employees' discharge of his duties, or on grounds adjacent thereto, or is in any part of a building in which the applicant, recipient, or other such person resides or is located;

(6) Knows the individual assaulted to be a peace officer, a community policing volunteer, a private security officer, or a fireman while the officer or fireman is engaged in the execution of any of his official duties, or to prevent the officer, community policing volunteer, or fireman from performing his official duties, or in retaliation for the officer, community policing volunteer, or fireman performing his official duties, and the assault is committed other than by the discharge of a firearm in the direction of the officer or fireman or in the direction of a vehicle occupied by the officer or fireman;

(7) Knows the individual assaulted to be an emergency medical technician - ambulance, emergency medical technician - intermediate, emergency medical technician - paramedic, ambulance driver or other medical assistance or first aid personnel engaged in the execution of any of his

official duties, or to prevent the emergency medical technician - ambulance, emergency medical technician - intermediate, emergency medical technician - paramedic, ambulance driver, or other medical assistance or first aid personnel from performing his official duties, or in retaliation for the emergency medical technician - ambulance, emergency medical technician - intermediate, emergency medical technician - paramedic, ambulance driver, or other medical assistance or first aid personnel performing his official duties;

(8) Knows the individual assaulted to be the driver, operator, employee or passenger of any transportation facility or system engaged in the business of transportation of the public for hire and the individual assaulted is then performing in such capacity or then using such public transportation as a passenger or using any area of any description designated by the transportation facility or system as a vehicle boarding, departure, or transfer location;

(9) Or the individual assaulted is on or about a public way, public property, or public place of accommodation or amusement;

(9.5) Is, or the individual assaulted is, in or about a publicly or privately owned sports or entertainment arena, stadium, community or convention hall, special event center, amusement facility, or a special event center in a

public park during any 24-hour period when a professional sporting event, National Collegiate Athletic Association (NCAA)-sanctioned sporting event, United States Olympic Committee-sanctioned sporting event, or International Olympic Committee-sanctioned sporting event is taking place in this venue;

(10) Knows the individual assaulted to be an employee of the State of Illinois, a municipal corporation therein or a political subdivision thereof, engaged in the performance of his authorized duties as such employee;

(11) Knowingly and without legal justification, commits an assault on a physically handicapped person;

(12) Knowingly and without legal justification, commits an assault on a person 60 years of age or older;

(13) Discharges a firearm, other than from a motor vehicle;

(13.5) Discharges a firearm from a motor vehicle;

(14) Knows the individual assaulted to be a correctional officer, while the officer is engaged in the execution of any of his or her official duties, or to prevent the officer from performing his or her official duties, or in retaliation for the officer performing his or her official duties;

(15) Knows the individual assaulted to be a correctional employee or an employee of the Department of Human Services supervising or controlling sexually

dangerous persons or sexually violent persons, while the employee is engaged in the execution of any of his or her official duties, or to prevent the employee from performing his or her official duties, or in retaliation for the employee performing his or her official duties, and the assault is committed other than by the discharge of a firearm in the direction of the employee or in the direction of a vehicle occupied by the employee;

(16) Knows the individual assaulted to be an employee of a police or sheriff's department, or a person who is employed by a municipality and whose duties include traffic control, engaged in the performance of his or her official duties as such employee;

(17) Knows the individual assaulted to be a sports official or coach at any level of competition and the act causing the assault to the sports official or coach occurred within an athletic facility or an indoor or outdoor playing field or within the immediate vicinity of the athletic facility or an indoor or outdoor playing field at which the sports official or coach was an active participant in the athletic contest held at the athletic facility. For the purposes of this paragraph (17), "sports official" means a person at an athletic contest who enforces the rules of the contest, such as an umpire or referee; and "coach" means a person recognized as a coach by the sanctioning authority that conducted the athletic

contest; ~~or~~

(18) Knows the individual assaulted to be an emergency management worker, while the emergency management worker is engaged in the execution of any of his or her official duties, or to prevent the emergency management worker from performing his or her official duties, or in retaliation for the emergency management worker performing his or her official duties, and the assault is committed other than by the discharge of a firearm in the direction of the emergency management worker or in the direction of a vehicle occupied by the emergency management worker; or

(19) Knows the individual assaulted to be a utility worker, while the utility worker is engaged in the execution of his or her duties, or to prevent the utility worker from performing his or her duties, or in retaliation for the utility worker performing his or her duties. In this paragraph (19), "utility worker" means a person employed by a public utility as defined in Section 3-105 of the Public Utilities Act and also includes an employee of a municipally owned utility, an employee of a cable television company, an employee of an electric cooperative as defined in Section 3-119 of the Public Utilities Act, an independent contractor or an employee of an independent contractor working on behalf of a cable television company, public utility, municipally owned utility, or an electric cooperative, or an employee of a telecommunications

carrier as defined in Section 13-202 of the Public Utilities Act, an independent contractor or an employee of an independent contractor working on behalf of a telecommunications carrier, or an employee of a telephone or telecommunications cooperative as defined in Section 13-212 of the Public Utilities Act, or an independent contractor or an employee of an independent contractor working on behalf of a telephone or telecommunications cooperative.

(a-5) A person commits an aggravated assault when he or she knowingly and without lawful justification shines or flashes a laser gunsight or other laser device that is attached or affixed to a firearm, or used in concert with a firearm, so that the laser beam strikes near or in the immediate vicinity of any person.

(b) Sentence.

Aggravated assault as defined in paragraphs (1) through (5) and (8) through (12) and (17) and (19) of subsection (a) of this Section is a Class A misdemeanor. Aggravated assault as defined in paragraphs (13), (14), and (15) of subsection (a) of this Section and as defined in subsection (a-5) of this Section is a Class 4 felony. Aggravated assault as defined in paragraphs (6), (7), (16), and (18) of subsection (a) of this Section is a Class A misdemeanor if a firearm is not used in the commission of the assault. Aggravated assault as defined in paragraphs (6), (7), (16), and (18) of subsection (a) of this

Section is a Class 4 felony if a firearm is used in the commission of the assault. Aggravated assault as defined in paragraph (13.5) of subsection (a) is a Class 3 felony.

(c) For the purposes of paragraphs (1) and (6) of subsection (a), "private security officer" means a registered employee of a private security contractor agency under the Private Detective, Private Alarm, Private Security, Fingerprint Vendor, and Locksmith Act of 2004.

(Source: P.A. 94-243, eff. 1-1-06; 94-482, eff. 1-1-06; 95-236, eff. 1-1-08; 95-292, eff. 8-20-07; 95-331, eff. 8-21-07; 95-429, eff. 1-1-08; 95-591, eff. 9-10-07; revised 11-19-07.)

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

Sec. 12-4. Aggravated Battery.

(a) A person who, in committing a battery, intentionally or knowingly causes great bodily harm, or permanent disability or disfigurement commits aggravated battery.

(b) In committing a battery, a person commits aggravated battery if he or she:

(1) Uses a deadly weapon other than by the discharge of a firearm;

(2) Is hooded, robed or masked, in such manner as to conceal his identity;

(3) Knows the individual harmed to be a teacher or other person employed in any school and such teacher or other employee is upon the grounds of a school or grounds

adjacent thereto, or is in any part of a building used for school purposes;

(4) (Blank);

(5) (Blank);

(6) Knows the individual harmed to be a community policing volunteer while such volunteer is engaged in the execution of any official duties, or to prevent the volunteer from performing official duties, or in retaliation for the volunteer performing official duties, and the battery is committed other than by the discharge of a firearm;

(7) Knows the individual harmed to be an emergency medical technician - ambulance, emergency medical technician - intermediate, emergency medical technician - paramedic, ambulance driver, other medical assistance, first aid personnel, or hospital personnel engaged in the performance of any of his or her official duties, or to prevent the emergency medical technician - ambulance, emergency medical technician - intermediate, emergency medical technician - paramedic, ambulance driver, other medical assistance, first aid personnel, or hospital personnel from performing official duties, or in retaliation for performing official duties;

(8) Is, or the person battered is, on or about a public way, public property or public place of accommodation or amusement;

(8.5) Is, or the person battered is, on a publicly or privately owned sports or entertainment arena, stadium, community or convention hall, special event center, amusement facility, or a special event center in a public park during any 24-hour period when a professional sporting event, National Collegiate Athletic Association (NCAA)-sanctioned sporting event, United States Olympic Committee-sanctioned sporting event, or International Olympic Committee-sanctioned sporting event is taking place in this venue;

(9) Knows the individual harmed to be the driver, operator, employee or passenger of any transportation facility or system engaged in the business of transportation of the public for hire and the individual assaulted is then performing in such capacity or then using such public transportation as a passenger or using any area of any description designated by the transportation facility or system as a vehicle boarding, departure, or transfer location;

(10) Knows the individual harmed to be an individual of 60 years of age or older;

(11) Knows the individual harmed is pregnant;

(12) Knows the individual harmed to be a judge whom the person intended to harm as a result of the judge's performance of his or her official duties as a judge;

(13) (Blank);

(14) Knows the individual harmed to be a person who is physically handicapped;

(15) Knowingly and without legal justification and by any means causes bodily harm to a merchant who detains the person for an alleged commission of retail theft under Section 16A-5 of this Code. In this item (15), "merchant" has the meaning ascribed to it in Section 16A-2.4 of this Code;

(16) Is, or the person battered is, in 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 the person battered is within 500 feet of such a building or other structure while going to or from such a building or other structure. "Domestic violence" has the meaning ascribed to it in Section 103 of the Illinois Domestic Violence Act of 1986. "Building or other structure used to provide shelter" has the meaning ascribed to "shelter" in Section 1 of the Domestic Violence Shelters Act;

(17) (Blank);

(18) Knows the individual harmed to be an officer or employee of the State of Illinois, a unit of local government, or school district engaged in the performance of his or her authorized duties as such officer or

employee; ~~or~~

(19) Knows the individual harmed to be an emergency management worker engaged in the performance of any of his or her official duties, or to prevent the emergency management worker from performing official duties, or in retaliation for the emergency management worker performing official duties; ~~or~~

(20) Knows the individual harmed to be a private security officer engaged in the performance of any of his or her official duties, or to prevent the private security officer from performing official duties, or in retaliation for the private security officer performing official duties; or

(21) ~~(20)~~ Knows the individual harmed to be a taxi driver and the battery is committed while the taxi driver is on duty; or

(22) ~~(20)~~ Knows the individual harmed to be a utility worker, while the utility worker is engaged in the execution of his or her duties, or to prevent the utility worker from performing his or her duties, or in retaliation for the utility worker performing his or her duties. In this paragraph (22) ~~(20)~~, "utility worker" means a person employed by a public utility as defined in Section 3-105 of the Public Utilities Act and also includes an employee of a municipally owned utility, an employee of a cable television company, an employee of an electric cooperative

as defined in Section 3-119 of the Public Utilities Act, an independent contractor or an employee of an independent contractor working on behalf of a cable television company, public utility, municipally owned utility, or an electric cooperative, or an employee of a telecommunications carrier as defined in Section 13-202 of the Public Utilities Act, an independent contractor or an employee of an independent contractor working on behalf of a telecommunications carrier, or an employee of a telephone or telecommunications cooperative as defined in Section 13-212 of the Public Utilities Act, or an independent contractor or an employee of an independent contractor working on behalf of a telephone or telecommunications cooperative.

For the purpose of paragraph (14) of subsection (b) of this Section, a physically handicapped person is a person who suffers from a permanent and disabling physical characteristic, resulting from disease, injury, functional disorder or congenital condition.

For the purpose of paragraph (20) of subsection (b) and subsection (e) of this Section, "private security officer" means a registered employee of a private security contractor agency under the Private Detective, Private Alarm, Private Security, Fingerprint Vendor, and Locksmith Act of 2004.

(c) A person who administers to an individual or causes him to take, without his consent or by threat or deception, and for

other than medical purposes, any intoxicating, poisonous, stupefying, narcotic, anesthetic, or controlled substance commits aggravated battery.

(d) A person who knowingly gives to another person any food that contains any substance or object that is intended to cause physical injury if eaten, commits aggravated battery.

(d-3) A person commits aggravated battery when he or she knowingly and without lawful justification shines or flashes a laser gunsight or other laser device that is attached or affixed to a firearm, or used in concert with a firearm, so that the laser beam strikes upon or against the person of another.

(d-5) An inmate of a penal institution or a sexually dangerous person or a sexually violent person in the custody of the Department of Human Services who causes or attempts to cause a correctional employee of the penal institution or an employee of the Department of Human Services to come into contact with blood, seminal fluid, urine, or feces, by throwing, tossing, or expelling that fluid or material commits aggravated battery. For purposes of this subsection (d-5), "correctional employee" means a person who is employed by a penal institution.

(e) Sentence.

(1) Except as otherwise provided in paragraphs (2) and (3), aggravated battery is a Class 3 felony.

(2) Aggravated battery that does not cause great bodily

harm or permanent disability or disfigurement is a Class 2 felony when the person knows the individual harmed to be a peace officer, a community policing volunteer, a private security officer, a correctional institution employee, an employee of the Department of Human Services supervising or controlling sexually dangerous persons or sexually violent persons, or a fireman while such officer, volunteer, employee, or fireman is engaged in the execution of any official duties including arrest or attempted arrest, or to prevent the officer, volunteer, employee, or fireman from performing official duties, or in retaliation for the officer, volunteer, employee, or fireman performing official duties, and the battery is committed other than by the discharge of a firearm.

(3) Aggravated battery that causes great bodily harm or permanent disability or disfigurement in violation of subsection (a) is a Class 1 felony when the person knows the individual harmed to be a peace officer, a community policing volunteer, a private security officer, a correctional institution employee, an employee of the Department of Human Services supervising or controlling sexually dangerous persons or sexually violent persons, or a fireman while such officer, volunteer, employee, or fireman is engaged in the execution of any official duties including arrest or attempted arrest, or to prevent the officer, volunteer, employee, or fireman from performing

official duties, or in retaliation for the officer, volunteer, employee, or fireman performing official duties, and the battery is committed other than by the discharge of a firearm.

(Source: P.A. 94-243, eff. 1-1-06; 94-327, eff. 1-1-06; 94-333, eff. 7-26-05; 94-363, eff. 7-29-05; 94-482, eff. 1-1-06; 95-236, eff. 1-1-08; 95-256, eff. 1-1-08; 95-331, eff. 8-21-07; 95-429, eff. 1-1-08; revised 10-30-07.)

(720 ILCS 5/14-3)

(Text of Section before amendment by P.A. 95-463)

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

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

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

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

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

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

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

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

(g) With prior notification to the State's Attorney of the county in which it is to occur, recording or listening with the aid of any device to any conversation where a law enforcement officer, or any person acting at the direction of law enforcement, is a party to the conversation and has consented

to it being intercepted or recorded under circumstances where the use of the device is necessary for the protection of the law enforcement officer or any person acting at the direction of law enforcement, in the course of an investigation of a forcible felony, a felony violation of the Illinois Controlled Substances Act, a felony violation of the Cannabis Control Act, a felony violation of the Methamphetamine Control and Community Protection Act, or any "streetgang related" or "gang-related" felony as those terms are defined in the Illinois Streetgang Terrorism Omnibus Prevention Act. Any recording or evidence derived as the result of this exemption shall be inadmissible in any proceeding, criminal, civil or administrative, except (i) where a party to the conversation suffers great bodily injury or is killed during such conversation, or (ii) when used as direct impeachment of a witness concerning matters contained in the interception or recording. The Director of the Department of State Police shall issue regulations as are necessary concerning the use of devices, retention of tape recordings, and reports regarding their use;

(g-5) With approval of the State's Attorney of the county in which it is to occur, recording or listening with the aid of any device to any conversation where a law enforcement officer, or any person acting at the direction of law enforcement, is a party to the conversation and has consented to it being intercepted or recorded in the course of an investigation of any offense defined in Article 29D of this Code. In all such

cases, an application for an order approving the previous or continuing use of an eavesdropping device must be made within 48 hours of the commencement of such use. In the absence of such an order, or upon its denial, any continuing use shall immediately terminate. The Director of State Police shall issue rules as are necessary concerning the use of devices, retention of tape recordings, and reports regarding their use.

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

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

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

(i) Recording of a conversation made by or at the request of a person, not a law enforcement officer or agent of a law

enforcement officer, who is a party to the conversation, under reasonable suspicion that another party to the conversation is committing, is about to commit, or has committed a criminal offense against the person or a member of his or her immediate household, and there is reason to believe that evidence of the criminal offense may be obtained by the recording;

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

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

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

No communication or conversation or any part, portion, or

aspect of the communication or conversation made, acquired, or obtained, directly or indirectly, under this exemption (j), may be, directly or indirectly, furnished to any law enforcement officer, agency, or official for any purpose or used in any inquiry or investigation, or used, directly or indirectly, in any administrative, judicial, or other proceeding, or divulged to any third party.

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

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

Business entities that use a telephone monitoring or telephone recording system pursuant to this exemption (j) shall provide their employees or agents with access to personal-only

telephone lines which may be pay telephones, that are not subject to telephone monitoring or telephone recording.

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

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

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

(k) Electronic recordings, including but not limited to, a motion picture, videotape, digital, or other visual or audio recording, made of a custodial interrogation of an individual at a police station or other place of detention by a law enforcement officer under Section 5-401.5 of the Juvenile Court Act of 1987 or Section 103-2.1 of the Code of Criminal Procedure of 1963;

(l) Recording the interview or statement of any person when the person knows that the interview is being conducted by a law enforcement officer or prosecutor and the interview takes place at a police station that is currently participating in the Custodial Interview Pilot Program established under the Illinois Criminal Justice Information Act; ~~and~~

(m) An electronic recording, including but not limited to, a motion picture, videotape, digital, or other visual or audio recording, made of the interior of a school bus while the school bus is being used in the transportation of students to and from school and school-sponsored activities, when the school board has adopted a policy authorizing such recording, notice of such recording policy is included in student handbooks and other documents including the policies of the school, notice of the policy regarding recording is provided to parents of students, and notice of such recording is clearly posted on the door of and inside the school bus.

Recordings made pursuant to this subsection (m) shall be confidential records and may only be used by school officials (or their designees) and law enforcement personnel for investigations, school disciplinary actions and hearings, proceedings under the Juvenile Court Act of 1987, and criminal prosecutions, related to incidents occurring in or around the school bus; ~~and-~~

(n) ~~(m)~~ Recording or listening to an audio transmission from a microphone placed by a person under the authority of a

law enforcement agency inside a bait car surveillance vehicle while simultaneously capturing a photographic or video image.

(Source: P.A. 94-556, eff. 9-11-05; 95-258, eff. 1-1-08; 95-352, eff. 8-23-07; revised 11-19-07.)

(Text of Section after amendment by P.A. 95-463)

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

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

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

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

(d) Recording or listening with the aid of any device to any emergency communication made in the normal course of operations by any federal, state or local law enforcement agency or institutions dealing in emergency services, including, but not limited to, hospitals, clinics, ambulance services, fire fighting agencies, any public utility,

emergency repair facility, civilian defense establishment or military installation;

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

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

(g) With prior notification to the State's Attorney of the county in which it is to occur, recording or listening with the aid of any device to any conversation where a law enforcement officer, or any person acting at the direction of law enforcement, is a party to the conversation and has consented to it being intercepted or recorded under circumstances where the use of the device is necessary for the protection of the law enforcement officer or any person acting at the direction of law enforcement, in the course of an investigation of a forcible felony, a felony violation of the Illinois Controlled

Substances Act, a felony violation of the Cannabis Control Act, a felony violation of the Methamphetamine Control and Community Protection Act, or any "streetgang related" or "gang-related" felony as those terms are defined in the Illinois Streetgang Terrorism Omnibus Prevention Act. Any recording or evidence derived as the result of this exemption shall be inadmissible in any proceeding, criminal, civil or administrative, except (i) where a party to the conversation suffers great bodily injury or is killed during such conversation, or (ii) when used as direct impeachment of a witness concerning matters contained in the interception or recording. The Director of the Department of State Police shall issue regulations as are necessary concerning the use of devices, retention of tape recordings, and reports regarding their use;

(g-5) With approval of the State's Attorney of the county in which it is to occur, recording or listening with the aid of any device to any conversation where a law enforcement officer, or any person acting at the direction of law enforcement, is a party to the conversation and has consented to it being intercepted or recorded in the course of an investigation of any offense defined in Article 29D of this Code. In all such cases, an application for an order approving the previous or continuing use of an eavesdropping device must be made within 48 hours of the commencement of such use. In the absence of such an order, or upon its denial, any continuing use shall immediately terminate. The Director of State Police shall issue

rules as are necessary concerning the use of devices, retention of tape recordings, and reports regarding their use.

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

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

(g-6) With approval of the State's Attorney of the county in which it is to occur, recording or listening with the aid of any device to any conversation where a law enforcement officer, or any person acting at the direction of law enforcement, is a party to the conversation and has consented to it being intercepted or recorded in the course of an investigation of child pornography. In all such cases, an application for an order approving the previous or continuing use of an eavesdropping device must be made within 48 hours of the commencement of such use. In the absence of such an order, or upon its denial, any continuing use shall immediately

terminate. The Director of State Police shall issue rules as are necessary concerning the use of devices, retention of recordings, and reports regarding their use. Any recording or evidence obtained or derived in the course of an investigation of child pornography shall, upon motion of the State's Attorney or Attorney General prosecuting any case involving child pornography, be reviewed in camera with notice to all parties present by the court presiding over the criminal case, and, if ruled by the court to be relevant and otherwise admissible, it shall be admissible at the trial of the criminal case. Absent such a ruling, any such recording or evidence shall not be admissible at the trial of the criminal case;

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

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

(j) The use of a telephone monitoring device by either (1) a corporation or other business entity engaged in marketing or

opinion research or (2) a corporation or other business entity engaged in telephone solicitation, as defined in this subsection, to record or listen to oral telephone solicitation conversations or marketing or opinion research conversations by an employee of the corporation or other business entity when:

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

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

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

When recording or listening authorized by this subsection

(j) on telephone lines used for marketing or opinion research or telephone solicitation purposes results in recording or listening to a conversation that does not relate to marketing or opinion research or telephone solicitation; the person recording or listening shall, immediately upon determining that the conversation does not relate to marketing or opinion research or telephone solicitation, terminate the recording or listening and destroy any such recording as soon as is practicable.

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

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

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

- (i) soliciting the sale of goods or services;
- (ii) receiving orders for the sale of goods or services;

(iii) assisting in the use of goods or services; or

(iv) engaging in the solicitation, administration, or collection of bank or retail credit accounts.

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

(k) Electronic recordings, including but not limited to, a motion picture, videotape, digital, or other visual or audio recording, made of a custodial interrogation of an individual at a police station or other place of detention by a law enforcement officer under Section 5-401.5 of the Juvenile Court Act of 1987 or Section 103-2.1 of the Code of Criminal Procedure of 1963;

(l) Recording the interview or statement of any person when the person knows that the interview is being conducted by a law enforcement officer or prosecutor and the interview takes place at a police station that is currently participating in the Custodial Interview Pilot Program established under the Illinois Criminal Justice Information Act; ~~and~~

(m) An electronic recording, including but not limited to, a motion picture, videotape, digital, or other visual or audio

recording, made of the interior of a school bus while the school bus is being used in the transportation of students to and from school and school-sponsored activities, when the school board has adopted a policy authorizing such recording, notice of such recording policy is included in student handbooks and other documents including the policies of the school, notice of the policy regarding recording is provided to parents of students, and notice of such recording is clearly posted on the door of and inside the school bus.

Recordings made pursuant to this subsection (m) shall be confidential records and may only be used by school officials (or their designees) and law enforcement personnel for investigations, school disciplinary actions and hearings, proceedings under the Juvenile Court Act of 1987, and criminal prosecutions, related to incidents occurring in or around the school bus; and.

(n) ~~(m)~~ Recording or listening to an audio transmission from a microphone placed by a person under the authority of a law enforcement agency inside a bait car surveillance vehicle while simultaneously capturing a photographic or video image.

(Source: P.A. 94-556, eff. 9-11-05; 95-258, eff. 1-1-08; 95-352, eff. 8-23-07; 95-463, eff. 6-1-08; revised 11-19-07.)

(720 ILCS 5/26-4) (from Ch. 38, par. 26-4)

Sec. 26-4. Unauthorized video recording and live video transmission.

(a) It is unlawful for any person to knowingly make a video record or transmit live video of another person without that person's consent in a restroom, tanning bed, tanning salon, locker room, changing room, or hotel bedroom.

(a-5) It is unlawful for any person to knowingly make a video record or transmit live video of another person in that other person's residence without that person's consent.

(a-10) It is unlawful for any person to knowingly make a video record or transmit live video of another person under or through the clothing worn by that other person for the purpose of viewing the body of or the undergarments worn by that other person without that person's consent.

(a-15) It is unlawful for any person to place or cause to be placed a device that makes a video record or transmits a live video in a restroom, tanning bed, tanning salon, locker room, changing room, or hotel bedroom with the intent to make a video record or transmit live video of another person without that person's consent.

(a-20) It is unlawful for any person to place or cause to be placed a device that makes a video record or transmits a live video with the intent to make a video record or transmit live video of another person in that other person's residence without that person's consent.

(a-25) It is unlawful for any person to, by any means, knowingly disseminate, or permit to be disseminated, a video record or live video that he or she knows to have been made or

transmitted in violation of (a), (a-5), (a-10), (a-15), or (a-20).

(b) Exemptions. The following activities shall be exempt from the provisions of this Section:

(1) The making of a video record or transmission of live video by law enforcement officers pursuant to a criminal investigation, which is otherwise lawful;

(2) The making of a video record or transmission of live video by correctional officials for security reasons or for investigation of alleged misconduct involving a person committed to the Department of Corrections.

(3) The making of a video record or transmission of live video in a locker room by a reporter or news medium, as those terms are defined in Section 8-902 of the Code of Civil Procedure, where the reporter or news medium has been granted access to the locker room by an appropriate authority for the purpose of conducting interviews.

(c) The provisions of this Section do not apply to any sound recording or transmission of an oral conversation made as the result of the making of a video record or transmission of live video, and to which Article 14 of this Code applies.

(d) Sentence.

(1) A violation of subsection (a-10), (a-15), or (a-20) is a Class A misdemeanor.

(2) A violation of subsection (a) or (a-5) is a Class 4 felony.

(3) A violation of subsection (a-25) is a Class 3 felony.

(4) A violation of subsection (a), (a-5), (a-10), (a-15) or (a-20) is a Class 3 felony if the victim is a person under 18 years of age or if the violation is committed by an individual who is required to register as a sex offender under the Sex Offender Registration Act.

(5) A violation of subsection (a-25) is a Class 2 felony if the victim is a person under 18 years of age or if the violation is committed by an individual who is required to register as a sex offender under the Sex Offender Registration Act.

(e) For purposes of this Section:

(1) "Residence" includes a rental dwelling, but does not include stairwells, corridors, laundry facilities, or additional areas in which the general public has access.

(2) "Video record" means and includes any videotape, photograph, film, or other electronic or digital recording of a still or moving visual image; and "live video" means and includes any real-time or contemporaneous electronic or digital transmission of a still or moving visual image.

(Source: P.A. 95-178, eff. 8-14-07; 95-265, eff. 1-1-08; revised 11-19-07.)

(720 ILCS 5/32-5) (from Ch. 38, par. 32-5)

(Text of Section before amendment by P.A. 95-625)

Sec. 32-5. False personation of attorney, judicial, or governmental officials.

(a) A person who falsely represents himself or herself to be an attorney authorized to practice law for purposes of compensation or consideration commits a Class 4 felony. This subsection (a) does not apply to a person who unintentionally fails to pay attorney registration fees established by Supreme Court Rule.

(b) A person who falsely represents himself or herself to be a public officer or a public employee or an official or employee of the federal government commits a Class A misdemeanor. If the false representation is made in furtherance of the commission of a felony, the penalty for a violation of this subsection (b) is a Class 4 felony.

(Source: P.A. 94-985, eff. 1-1-07; 95-324, eff. 1-1-08.)

(Text of Section after amendment by P.A. 95-625)

Sec. 32-5. False personation of attorney, judicial, or governmental officials.

(a) A person who falsely represents himself or herself to be an attorney authorized to practice law for purposes of compensation or consideration commits a Class 4 felony. This subsection (a) does not apply to a person who unintentionally fails to pay attorney registration fees established by Supreme Court Rule.

(b) A person who falsely represents himself or herself to

be a public officer or a public employee or an official or employee of the federal government commits a Class A misdemeanor. If the false representation is made in furtherance of the commission of a felony, the penalty for a violation of this subsection (b) is a Class 4 felony.

(c) A person who falsely represents himself or herself to be a public officer or a public employee commits a Class 4 felony if that false representation was for the purpose of effectuating identity theft as defined in Section 16G-15 of this Code.

(Source: P.A. 94-985, eff. 1-1-07; 95-324, eff. 1-1-08; 95-625, eff. 6-1-08; revised 11-19-07.)

Section 320. The Illinois Abortion Law of 1975 is amended by changing Section 11 as follows:

(720 ILCS 510/11) (from Ch. 38, par. 81-31)

Sec. 11. (1) Any person who intentionally violates any provision of this Law commits a Class A misdemeanor unless a specific penalty is otherwise provided. Any person who intentionally falsifies any writing required by this Law commits a Class A misdemeanor.

Intentional, knowing, reckless, or negligent violations of this Law shall constitute unprofessional conduct which causes public harm under Section 22 of the Medical Practice Act of 1987, as amended; Section ~~Sections~~ 70-5 of the Nurse Practice

Act, and Section 21 of the Physician Assistant Practice Act of 1987, as amended.

Intentional, knowing, reckless or negligent violations of this Law will constitute grounds for refusal, denial, revocation, suspension, or withdrawal of license, certificate, or permit under Section 30 of the Pharmacy Practice Act, as amended; Section 7 of the Ambulatory Surgical Treatment Center Act, effective July 19, 1973, as amended; and Section 7 of the Hospital Licensing Act.

(2) Any hospital or licensed facility which, or any physician who intentionally, knowingly, or recklessly fails to submit a complete report to the Department in accordance with the provisions of Section 10 of this Law and any person who intentionally, knowingly, recklessly or negligently fails to maintain the confidentiality of any reports required under this Law or reports required by Sections 10.1 or 12 of this Law commits a Class B misdemeanor.

(3) Any person who sells any drug, medicine, instrument or other substance which he knows to be an abortifacient and which is in fact an abortifacient, unless upon prescription of a physician, is guilty of a Class B misdemeanor. Any person who prescribes or administers any instrument, medicine, drug or other substance or device, which he knows to be an abortifacient, and which is in fact an abortifacient, and intentionally, knowingly or recklessly fails to inform the person for whom it is prescribed or upon whom it is

administered that it is an abortifacient commits a Class C misdemeanor.

(4) Any person who intentionally, knowingly or recklessly performs upon a woman what he represents to that woman to be an abortion when he knows or should know that she is not pregnant commits a Class 2 felony and shall be answerable in civil damages equal to 3 times the amount of proved damages.

(Source: P.A. 95-639, eff. 10-5-07; 95-689, eff. 10-29-07; revised 11-19-07.)

Section 325. The Illinois Controlled Substances Act is amended by changing Sections 102 and 103 as follows:

(720 ILCS 570/102) (from Ch. 56 1/2, par. 1102)

Sec. 102. Definitions. As used in this Act, unless the context otherwise requires:

(a) "Addict" means any person who habitually uses any drug, chemical, substance or dangerous drug other than alcohol so as to endanger the public morals, health, safety or welfare or who is so far addicted to the use of a dangerous drug or controlled substance other than alcohol as to have lost the power of self control with reference to his addiction.

(b) "Administer" means the direct application of a controlled substance, whether by injection, inhalation, ingestion, or any other means, to the body of a patient, research subject, or animal (as defined by the Humane

Euthanasia in Animal Shelters Act) by:

(1) a practitioner (or, in his presence, by his authorized agent),

(2) the patient or research subject at the lawful direction of the practitioner, or

(3) a euthanasia technician as defined by the Humane Euthanasia in Animal Shelters Act.

(c) "Agent" means an authorized person who acts on behalf of or at the direction of a manufacturer, distributor, or dispenser. It does not include a common or contract carrier, public warehouseman or employee of the carrier or warehouseman.

(c-1) "Anabolic Steroids" means any drug or hormonal substance, chemically and pharmacologically related to testosterone (other than estrogens, progestins, and corticosteroids) that promotes muscle growth, and includes:

- (i) boldenone,
- (ii) chlorotestosterone,
- (iii) chostebol,
- (iv) dehydrochlormethyltestosterone,
- (v) dihydrotestosterone,
- (vi) drostanolone,
- (vii) ethylestrenol,
- (viii) fluoxymesterone,
- (ix) formebulone,
- (x) mesterolone,
- (xi) methandienone,

- (xii) methandranone,
- (xiii) methandriol,
- (xiv) methandrostenolone,
- (xv) methenolone,
- (xvi) methyltestosterone,
- (xvii) mibolerone,
- (xviii) nandrolone,
- (xix) norethandrolone,
- (xx) oxandrolone,
- (xxi) oxymesterone,
- (xxii) oxymetholone,
- (xxiii) stanolone,
- (xxiv) stanozolol,
- (xxv) testolactone,
- (xxvi) testosterone,
- (xxvii) trenbolone, and
- (xxviii) any salt, ester, or isomer of a drug or substance described or listed in this paragraph, if that salt, ester, or isomer promotes muscle growth.

Any person who is otherwise lawfully in possession of an anabolic steroid, or who otherwise lawfully manufactures, distributes, dispenses, delivers, or possesses with intent to deliver an anabolic steroid, which anabolic steroid is expressly intended for and lawfully allowed to be administered through implants to livestock or other nonhuman species, and which is approved by the Secretary of Health and Human Services

for such administration, and which the person intends to administer or have administered through such implants, shall not be considered to be in unauthorized possession or to unlawfully manufacture, distribute, dispense, deliver, or possess with intent to deliver such anabolic steroid for purposes of this Act.

(d) "Administration" means the Drug Enforcement Administration, United States Department of Justice, or its successor agency.

(e) "Control" means to add a drug or other substance, or immediate precursor, to a Schedule under Article II of this Act whether by transfer from another Schedule or otherwise.

(f) "Controlled Substance" means a drug, substance, or immediate precursor in the Schedules of Article II of this Act.

(g) "Counterfeit substance" means a controlled substance, which, or the container or labeling of which, without authorization bears the trademark, trade name, or other identifying mark, imprint, number or device, or any likeness thereof, of a manufacturer, distributor, or dispenser other than the person who in fact manufactured, distributed, or dispensed the substance.

(h) "Deliver" or "delivery" means the actual, constructive or attempted transfer of possession of a controlled substance, with or without consideration, whether or not there is an agency relationship.

(i) "Department" means the Illinois Department of Human

Services (as successor to the Department of Alcoholism and Substance Abuse) or its successor agency.

(j) "Department of State Police" means the Department of State Police of the State of Illinois or its successor agency.

(k) "Department of Corrections" means the Department of Corrections of the State of Illinois or its successor agency.

(l) "Department of Professional Regulation" means the Department of Professional Regulation of the State of Illinois or its successor agency.

(m) "Depressant" or "stimulant substance" means:

(1) a drug which contains any quantity of (i) barbituric acid or any of the salts of barbituric acid which has been designated as habit forming under section 502 (d) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 352 (d)); or

(2) a drug which contains any quantity of (i) amphetamine or methamphetamine and any of their optical isomers; (ii) any salt of amphetamine or methamphetamine or any salt of an optical isomer of amphetamine; or (iii) any substance which the Department, after investigation, has found to be, and by rule designated as, habit forming because of its depressant or stimulant effect on the central nervous system; or

(3) lysergic acid diethylamide; or

(4) any drug which contains any quantity of a substance which the Department, after investigation, has found to

have, and by rule designated as having, a potential for abuse because of its depressant or stimulant effect on the central nervous system or its hallucinogenic effect.

(n) (Blank).

(o) "Director" means the Director of the Department of State Police or the Department of Professional Regulation or his designated agents.

(p) "Dispense" means to deliver a controlled substance to an ultimate user or research subject by or pursuant to the lawful order of a prescriber, including the prescribing, administering, packaging, labeling, or compounding necessary to prepare the substance for that delivery.

(q) "Dispenser" means a practitioner who dispenses.

(r) "Distribute" means to deliver, other than by administering or dispensing, a controlled substance.

(s) "Distributor" means a person who distributes.

(t) "Drug" means (1) substances recognized as drugs in the official United States Pharmacopoeia, Official Homeopathic Pharmacopoeia of the United States, or official National Formulary, or any supplement to any of them; (2) substances intended for use in diagnosis, cure, mitigation, treatment, or prevention of disease in man or animals; (3) substances (other than food) intended to affect the structure of any function of the body of man or animals and (4) substances intended for use as a component of any article specified in clause (1), (2), or (3) of this subsection. It does not include devices or their

components, parts, or accessories.

(t-5) "Euthanasia agency" means an entity certified by the Department of Professional Regulation for the purpose of animal euthanasia that holds an animal control facility license or animal shelter license under the Animal Welfare Act. A euthanasia agency is authorized to purchase, store, possess, and utilize Schedule II nonnarcotic and Schedule III nonnarcotic drugs for the sole purpose of animal euthanasia.

(t-10) "Euthanasia drugs" means Schedule II or Schedule III substances (nonnarcotic controlled substances) that are used by a euthanasia agency for the purpose of animal euthanasia.

(u) "Good faith" means the prescribing or dispensing of a controlled substance by a practitioner in the regular course of professional treatment to or for any person who is under his treatment for a pathology or condition other than that individual's physical or psychological dependence upon or addiction to a controlled substance, except as provided herein: and application of the term to a pharmacist shall mean the dispensing of a controlled substance pursuant to the prescriber's order which in the professional judgment of the pharmacist is lawful. The pharmacist shall be guided by accepted professional standards including, but not limited to the following, in making the judgment:

(1) lack of consistency of doctor-patient relationship,

(2) frequency of prescriptions for same drug by one

prescriber for large numbers of patients,

(3) quantities beyond those normally prescribed,

(4) unusual dosages,

(5) unusual geographic distances between patient,
pharmacist and prescriber,

(6) consistent prescribing of habit-forming drugs.

(u-1) "Home infusion services" means services provided by a pharmacy in compounding solutions for direct administration to a patient in a private residence, long-term care facility, or hospice setting by means of parenteral, intravenous, intramuscular, subcutaneous, or intraspinal infusion.

(v) "Immediate precursor" means a substance:

(1) which the Department has found to be and by rule designated as being a principal compound used, or produced primarily for use, in the manufacture of a controlled substance;

(2) which is an immediate chemical intermediary used or likely to be used in the manufacture of such controlled substance; and

(3) the control of which is necessary to prevent, curtail or limit the manufacture of such controlled substance.

(w) "Instructional activities" means the acts of teaching, educating or instructing by practitioners using controlled substances within educational facilities approved by the State Board of Education or its successor agency.

(x) "Local authorities" means a duly organized State, County or Municipal peace unit or police force.

(y) "Look-alike substance" means a substance, other than a controlled substance which (1) by overall dosage unit appearance, including shape, color, size, markings or lack thereof, taste, consistency, or any other identifying physical characteristic of the substance, would lead a reasonable person to believe that the substance is a controlled substance, or (2) is expressly or impliedly represented to be a controlled substance or is distributed under circumstances which would lead a reasonable person to believe that the substance is a controlled substance. For the purpose of determining whether the representations made or the circumstances of the distribution would lead a reasonable person to believe the substance to be a controlled substance under this clause (2) of subsection (y), the court or other authority may consider the following factors in addition to any other factor that may be relevant:

(a) statements made by the owner or person in control of the substance concerning its nature, use or effect;

(b) statements made to the buyer or recipient that the substance may be resold for profit;

(c) whether the substance is packaged in a manner normally used for the illegal distribution of controlled substances;

(d) whether the distribution or attempted distribution

included an exchange of or demand for money or other property as consideration, and whether the amount of the consideration was substantially greater than the reasonable retail market value of the substance.

Clause (1) of this subsection (y) shall not apply to a noncontrolled substance in its finished dosage form that was initially introduced into commerce prior to the initial introduction into commerce of a controlled substance in its finished dosage form which it may substantially resemble.

Nothing in this subsection (y) prohibits the dispensing or distributing of noncontrolled substances by persons authorized to dispense and distribute controlled substances under this Act, provided that such action would be deemed to be carried out in good faith under subsection (u) if the substances involved were controlled substances.

Nothing in this subsection (y) or in this Act prohibits the manufacture, preparation, propagation, compounding, processing, packaging, advertising or distribution of a drug or drugs by any person registered pursuant to Section 510 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360).

(y-1) "Mail-order pharmacy" means a pharmacy that is located in a state of the United States, other than Illinois, that delivers, dispenses or distributes, through the United States Postal Service or other common carrier, to Illinois residents, any substance which requires a prescription.

(z) "Manufacture" means the production, preparation,

propagation, compounding, conversion or processing of a controlled substance other than methamphetamine, either directly or indirectly, by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling of its container, except that this term does not include:

(1) by an ultimate user, the preparation or compounding of a controlled substance for his own use; or

(2) by a practitioner, or his authorized agent under his supervision, the preparation, compounding, packaging, or labeling of a controlled substance:

(a) as an incident to his administering or dispensing of a controlled substance in the course of his professional practice; or

(b) as an incident to lawful research, teaching or chemical analysis and not for sale.

(z-1) (Blank).

(aa) "Narcotic drug" means any of the following, whether produced directly or indirectly by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

(1) opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate;

(2) any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in clause (1), but not including the isoquinoline alkaloids of opium;

(3) opium poppy and poppy straw;

(4) coca leaves and any salts, compound, isomer, salt of an isomer, derivative, or preparation of coca leaves including cocaine or ecgonine, and any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of these substances, but not including decocainized coca leaves or extractions of coca leaves which do not contain cocaine or ecgonine (for the purpose of this paragraph, the term "isomer" includes optical, positional and geometric isomers).

(bb) "Nurse" means a registered nurse licensed under the Nurse Practice Act.

(cc) (Blank).

(dd) "Opiate" means any substance having an addiction forming or addiction sustaining liability similar to morphine or being capable of conversion into a drug having addiction forming or addiction sustaining liability.

(ee) "Opium poppy" means the plant of the species *Papaver somniferum* L., except its seeds.

(ff) "Parole and Pardon Board" means the Parole and Pardon Board of the State of Illinois or its successor agency.

(gg) "Person" means any individual, corporation, mail-order pharmacy, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other entity.

(hh) "Pharmacist" means any person who holds a license or certificate of registration as a registered pharmacist, a local registered pharmacist or a registered assistant pharmacist under the Pharmacy Practice Act.

(ii) "Pharmacy" means any store, ship or other place in which pharmacy is authorized to be practiced under the Pharmacy Practice Act.

(jj) "Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing.

(kk) "Practitioner" means a physician licensed to practice medicine in all its branches, dentist, optometrist, podiatrist, veterinarian, scientific investigator, pharmacist, physician assistant, advanced practice nurse, licensed practical nurse, registered nurse, hospital, laboratory, or pharmacy, or other person licensed, registered, or otherwise lawfully permitted by the United States or this State to distribute, dispense, conduct research with respect to, administer or use in teaching or chemical analysis, a controlled substance in the course of professional practice or research.

(ll) "Pre-printed prescription" means a written prescription upon which the designated drug has been indicated

prior to the time of issuance.

(mm) "Prescriber" means a physician licensed to practice medicine in all its branches, dentist, optometrist, podiatrist or veterinarian who issues a prescription, a physician assistant who issues a prescription for a Schedule III, IV, or V controlled substance in accordance with Section 303.05 and the written guidelines required under Section 7.5 of the Physician Assistant Practice Act of 1987, or an advanced practice nurse with prescriptive authority delegated under Section 65-40 of the Nurse Practice Act and in accordance with Section 303.05 and a written collaborative agreement under Section 65-35 of the Nurse Practice Act.

(nn) "Prescription" means a lawful written, facsimile, or verbal order of a physician licensed to practice medicine in all its branches, dentist, podiatrist or veterinarian for any controlled substance, of an optometrist for a Schedule III, IV, or V controlled substance in accordance with Section 15.1 of the Illinois Optometric Practice Act of 1987, of a physician assistant for a Schedule III, IV, or V controlled substance in accordance with Section 303.05 and the written guidelines required under Section 7.5 of the Physician Assistant Practice Act of 1987, or of an advanced practice nurse with prescriptive authority delegated under Section 65-40 of the Nurse Practice Act who issues a prescription for a Schedule III, IV, or V controlled substance in accordance with Section 303.05 and a written collaborative agreement under Section 65-35 of the

Nurse Practice Act.

(oo) "Production" or "produce" means manufacture, planting, cultivating, growing, or harvesting of a controlled substance other than methamphetamine.

(pp) "Registrant" means every person who is required to register under Section 302 of this Act.

(qq) "Registry number" means the number assigned to each person authorized to handle controlled substances under the laws of the United States and of this State.

(rr) "State" includes the State of Illinois and any state, district, commonwealth, territory, insular possession thereof, and any area subject to the legal authority of the United States of America.

(ss) "Ultimate user" means a person who lawfully possesses a controlled substance for his own use or for the use of a member of his household or for administering to an animal owned by him or by a member of his household.

(Source: P.A. 94-556, eff. 9-11-05; 95-242, eff. 1-1-08; 95-639, eff. 10-5-07; 95-689, eff. 10-29-07; revised 11-19-07.)

(720 ILCS 570/103) (from Ch. 56 1/2, par. 1103)

Sec. 103. Scope of Act. Nothing in this Act limits the lawful authority granted by the Medical Practice Act of 1987, the Nurse Practice Act, the Illinois Optometric Practice Act of 1987, or the Pharmacy Practice Act.

(Source: P.A. 95-242, eff. 1-1-08; 95-639, eff. 10-5-07; 95-689, eff. 10-29-07; revised 11-19-07.)

Section 330. The Methamphetamine Control and Community Protection Act is amended by changing Section 110 as follows:

(720 ILCS 646/110)

Sec. 110. Scope of Act. Nothing in this Act limits any authority or activity authorized by the Illinois Controlled Substances Act, the Medical Practice Act of 1987, the Nurse Practice Act, the Pharmacy Practice Act, the Illinois Dental Practice Act, the Podiatric Medical Practice Act of 1987, or the Veterinary Medicine and Surgery Practice Act of 2004. Nothing in this Act limits the authority or activity of any law enforcement officer acting within the scope of his or her employment.

(Source: P.A. 94-556, eff. 9-11-05; 95-639, eff. 10-5-07; 95-689, eff. 10-29-07; revised 11-19-07.)

Section 335. The Methamphetamine Precursor Control Act is amended by changing Sections 25, 40, and 50 as follows:

(720 ILCS 648/25)

(Text of Section before amendment by P.A. 95-640)

Sec. 25. Pharmacies.

(a) No targeted methamphetamine precursor may be knowingly

distributed through a pharmacy, including a pharmacy located within, owned by, operated by, or associated with a retail distributor unless all terms of this Section are satisfied.

(b) Any targeted methamphetamine precursor other than a convenience package or a liquid, including but not limited to any targeted methamphetamine precursor in liquid-filled capsules, shall: be packaged in blister packs, with each blister containing not more than 2 dosage units, or when the use of blister packs is technically infeasible, in unit dose packets. Each targeted package shall contain no more than 3,000 milligrams of ephedrine or pseudoephedrine, their salts or optical isomers, or salts of optical isomers.

(c) The targeted methamphetamine precursor shall be stored behind the pharmacy counter and distributed by a pharmacist or pharmacy technician licensed under the Pharmacy Practice Act.

(d) Any retail distributor operating a pharmacy, and any pharmacist or pharmacy technician involved in the transaction or transactions, shall ensure that any person purchasing, receiving, or otherwise acquiring the targeted methamphetamine precursor complies with subsection (a) of Section 20 of this Act.

(e) Any retail distributor operating a pharmacy, and any pharmacist or pharmacy technician involved in the transaction or transactions, shall verify that:

(1) The person purchasing, receiving, or otherwise acquiring the targeted methamphetamine precursor is 18

years of age or older and resembles the photograph of the person on the government-issued identification presented by the person; and

(2) The name entered into the log referred to in subsection (a) of Section 20 of this Act corresponds to the name on the government-issued identification presented by the person.

(f) The logs referred to in subsection (a) of Section 20 of this Act shall be kept confidential, maintained for not less than 2 years, and made available for inspection and copying by any law enforcement officer upon request of that officer. These logs may be kept in an electronic format if they include all the information specified in subsection (a) of Section 20 of this Act in a manner that is readily retrievable and reproducible in hard-copy format.

(g) No retail distributor operating a pharmacy, and no pharmacist or pharmacy technician, shall knowingly distribute any targeted methamphetamine precursor to any person under 18 years of age.

(h) No retail distributor operating a pharmacy, and no pharmacist or pharmacy technician, shall knowingly distribute to a single person more than 2 targeted packages in a single retail transaction.

(i) No retail distributor operating a pharmacy, and no pharmacist or pharmacy technician, shall knowingly distribute to a single person in any 30-day period products containing

more than a total of 7,500 milligrams of ephedrine or pseudoephedrine, their salts or optical isomers, or salts of optical isomers.

(j) A pharmacist or pharmacy technician may distribute a targeted methamphetamine precursor to a person who is without a form of identification specified in paragraph (1) of subsection (a) of Section 20 of this Act only if all other provisions of this Act are followed and either:

(1) the person presents a driver's license issued without a photograph by the State of Illinois pursuant to the Illinois Administrative Code, Title 92, Section 1030.90(b)(1) or 1030.90(b)(2); or

(2) the person is known to the pharmacist or pharmacy technician, the person presents some form of identification, and the pharmacist or pharmacy technician reasonably believes that the targeted methamphetamine precursor will be used for a legitimate medical purpose and not to manufacture methamphetamine.

(k) When a pharmacist or pharmacy technician distributes a targeted methamphetamine precursor to a person according to the procedures set forth in this Act, and the pharmacist or pharmacy technician does not have access to a working cash register at the pharmacy counter, the pharmacist or pharmacy technician may instruct the person to pay for the targeted methamphetamine precursor at a cash register located elsewhere in the retail establishment, whether that register is operated

by a pharmacist, pharmacy technician, or other employee or agent of the retail establishment.

(Source: P.A. 94-694, eff. 1-15-06; 94-830, eff. 6-5-06; 95-689, eff. 10-29-07.)

(Text of Section after amendment by P.A. 95-640)

Sec. 25. Pharmacies.

(a) No targeted methamphetamine precursor may be knowingly distributed through a pharmacy, including a pharmacy located within, owned by, operated by, or associated with a retail distributor unless all terms of this Section are satisfied.

(b) Any targeted methamphetamine precursor other than a convenience package or a liquid, including but not limited to any targeted methamphetamine precursor in liquid-filled capsules, shall: be packaged in blister packs, with each blister containing not more than 2 dosage units, or when the use of blister packs is technically infeasible, in unit dose packets. Each targeted package shall contain no more than 3,000 milligrams of ephedrine or pseudoephedrine, their salts or optical isomers, or salts of optical isomers.

(c) The targeted methamphetamine precursor shall be stored behind the pharmacy counter and distributed by a pharmacist or pharmacy technician licensed under the Pharmacy Practice Act.

(d) Any retail distributor operating a pharmacy, and any pharmacist or pharmacy technician involved in the transaction or transactions, shall ensure that any person purchasing,

receiving, or otherwise acquiring the targeted methamphetamine precursor complies with subsection (a) of Section 20 of this Act.

(e) Any retail distributor operating a pharmacy, and any pharmacist or pharmacy technician involved in the transaction or transactions, shall verify that:

(1) The person purchasing, receiving, or otherwise acquiring the targeted methamphetamine precursor is 18 years of age or older and resembles the photograph of the person on the government-issued identification presented by the person; and

(2) The name entered into the log referred to in subsection (a) of Section 20 of this Act corresponds to the name on the government-issued identification presented by the person.

(f) The logs referred to in subsection (a) of Section 20 of this Act shall be kept confidential, maintained for not less than 2 years, and made available for inspection and copying by any law enforcement officer upon request of that officer. These logs may be kept in an electronic format if they include all the information specified in subsection (a) of Section 20 of this Act in a manner that is readily retrievable and reproducible in hard-copy format. Pharmacies covered by the Williamson County Pilot Program described in Sections 36, 37, 38, 39, and 39.5 of this Act are required to transmit electronic transaction records or handwritten logs to the Pilot

Program Authority in the manner described in those Sections.

(g) No retail distributor operating a pharmacy, and no pharmacist or pharmacy technician, shall knowingly distribute any targeted methamphetamine precursor to any person under 18 years of age.

(h) No retail distributor operating a pharmacy, and no pharmacist or pharmacy technician, shall knowingly distribute to a single person more than 2 targeted packages in a single retail transaction.

(i) No retail distributor operating a pharmacy, and no pharmacist or pharmacy technician, shall knowingly distribute to a single person in any 30-day period products containing more than a total of 7,500 milligrams of ephedrine or pseudoephedrine, their salts or optical isomers, or salts of optical isomers.

(j) A pharmacist or pharmacy technician may distribute a targeted methamphetamine precursor to a person who is without a form of identification specified in paragraph (1) of subsection (a) of Section 20 of this Act only if all other provisions of this Act are followed and either:

(1) the person presents a driver's license issued without a photograph by the State of Illinois pursuant to the Illinois Administrative Code, Title 92, Section 1030.90(b)(1) or 1030.90(b)(2); or

(2) the person is known to the pharmacist or pharmacy technician, the person presents some form of

identification, and the pharmacist or pharmacy technician reasonably believes that the targeted methamphetamine precursor will be used for a legitimate medical purpose and not to manufacture methamphetamine.

(k) When a pharmacist or pharmacy technician distributes a targeted methamphetamine precursor to a person according to the procedures set forth in this Act, and the pharmacist or pharmacy technician does not have access to a working cash register at the pharmacy counter, the pharmacist or pharmacy technician may instruct the person to pay for the targeted methamphetamine precursor at a cash register located elsewhere in the retail establishment, whether that register is operated by a pharmacist, pharmacy technician, or other employee or agent of the retail establishment.

(Source: P.A. 94-694, eff. 1-15-06; 94-830, eff. 6-5-06; 95-640, eff. 6-1-08; 95-689, eff. 10-29-07; revised 11-19-07.)

(720 ILCS 648/40)

(Text of Section before amendment by P.A. 95-640)

Sec. 40. Penalties.

(a) Any pharmacy or retail distributor that violates this Act is guilty of a petty offense and subject to a fine of \$500 for a first offense; and \$1,000 for a second offense occurring at the same retail location as and within 3 years of the prior offense. A pharmacy or retail distributor that violates this Act is guilty of a business offense and subject to a fine of

\$5,000 for a third or subsequent offense occurring at the same retail location as and within 3 years of the prior offenses.

(b) An employee or agent of a pharmacy or retail distributor who violates this Act is guilty of a Class A misdemeanor for a first offense, a Class 4 felony for a second offense, and a Class 1 felony for a third or subsequent offense.

(c) Any other person who violates this Act is guilty of a Class B misdemeanor for a first offense, a Class A misdemeanor for a second offense, and a Class 4 felony for a third or subsequent offense.

(d) Any person who, in order to acquire a targeted methamphetamine precursor, knowingly uses or provides the driver's license or government-issued identification of another person, or who knowingly uses or provides a fictitious or unlawfully altered driver's license or government-issued identification, or who otherwise knowingly provides false information, is guilty of a Class 4 felony for a first offense, a Class 3 felony for a second offense, and a Class 2 felony for a third or subsequent offense.

For purposes of this subsection (d), the terms "fictitious driver's license", "unlawfully altered driver's license", and "false information" have the meanings ascribed to them in Section 6-301.1 of the Illinois Vehicle Code.

(Source: P.A. 94-694, eff. 1-15-06; 95-252, eff. 1-1-08.)

(Text of Section after amendment by P.A. 95-640)

Sec. 40. Penalties.

(a) Violations of subsection (b) of Section 20 of this Act.

(1) Any person who knowingly purchases, receives, or otherwise acquires, within any 30-day period, products containing more than a total of 7,500 milligrams of ephedrine or pseudoephedrine, their salts or optical isomers, or salts of optical isomers in violation of subsection (b) of Section 20 of this Act is subject to the following penalties:

(A) More than 7,500 milligrams but less than 15,000 milligrams, Class B misdemeanor;

(B) 15,000 or more but less than 22,500 milligrams, Class A misdemeanor;

(C) 22,500 or more but less than 30,000 milligrams, Class 4 felony;

(D) 30,000 or more but less than 37,500 milligrams, Class 3 felony;

(E) 37,500 or more but less than 45,000 milligrams, Class 2 felony;

(F) 45,000 or more milligrams, Class 1 felony.

(2) Any person who knowingly purchases, receives, or otherwise acquires, within any 30-day period, products containing more than a total of 7,500 milligrams of ephedrine or pseudoephedrine, their salts or optical isomers, or salts of optical isomers in violation of

subsection (b) of Section 20 of this Act, and who has previously been convicted of any methamphetamine-related offense under any State or federal law, is subject to the following penalties:

(A) More than 7,500 milligrams but less than 15,000 milligrams, Class A misdemeanor;

(B) 15,000 or more but less than 22,500 milligrams, Class 4 felony;

(C) 22,500 or more but less than 30,000 milligrams, Class 3 felony;

(D) 30,000 or more but less than 37,500 milligrams, Class 2 felony;

(E) 37,500 or more milligrams, Class 1 felony.

(3) Any person who knowingly purchases, receives, or otherwise acquires, within any 30-day period, products containing more than a total of 7,500 milligrams of ephedrine or pseudoephedrine, their salts or optical isomers, or salts of optical isomers in violation of subsection (b) of Section 20 of this Act, and who has previously been convicted 2 or more times of any methamphetamine-related offense under State or federal law, is subject to the following penalties:

(A) More than 7,500 milligrams but less than 15,000 milligrams, Class 4 felony;

(B) 15,000 or more but less than 22,500 milligrams, Class 3 felony;

(C) 22,500 or more but less than 30,000 milligrams,
Class 2 felony;

(D) 30,000 or more milligrams, Class 1 felony.

(b) Violations of Section 15, 20, 25, 30, or 35 of this Act, other than violations of subsection (b) of Section 20 of this Act.

(1) Any pharmacy or retail distributor that violates Section 15, 20, 25, 30, or 35 of this Act, other than subsection (b) of Section 20 of this Act, is guilty of a petty offense and subject to a fine of \$500 for a first offense; and \$1,000 for a second offense occurring at the same retail location as and within 3 years of the prior offense. A pharmacy or retail distributor that violates this Act is guilty of a business offense and subject to a fine of \$5,000 for a third or subsequent offense occurring at the same retail location as and within 3 years of the prior offenses.

(2) An employee or agent of a pharmacy or retail distributor who violates Section 15, 20, 25, 30, or 35 of this Act, other than subsection (b) of Section 20 of this Act, is guilty of a Class A misdemeanor for a first offense, a Class 4 felony for a second offense, and a Class 1 felony for a third or subsequent offense.

(3) Any other person who violates Section 15, 20, 25, 30, or 35 of this Act, other than subsection (b) of Section 20 of this Act, is guilty of a Class B misdemeanor for a

first offense, a Class A misdemeanor for a second offense, and a Class 4 felony for a third or subsequent offense.

(c) Any pharmacy or retail distributor that violates Section 36, 37, 38, 39, or 39.5 of this Act is guilty of a petty offense and subject to a fine of \$100 for a first offense, \$250 for a second offense, or \$500 for a third or subsequent offense.

(d) Any person that violates Section 39.5 of this Act is guilty of a Class B misdemeanor for a first offense, a Class A misdemeanor for a second offense, and a Class 4 felony for a third offense.

(e) ~~(d)~~ Any person who, in order to acquire a targeted methamphetamine precursor, knowingly uses or provides the driver's license or government-issued identification of another person, or who knowingly uses or provides a fictitious or unlawfully altered driver's license or government-issued identification, or who otherwise knowingly provides false information, is guilty of a Class 4 felony for a first offense, a Class 3 felony for a second offense, and a Class 2 felony for a third or subsequent offense.

For purposes of this subsection (e) ~~(d)~~, the terms "fictitious driver's license", "unlawfully altered driver's license", and "false information" have the meanings ascribed to them in Section 6-301.1 of the Illinois Vehicle Code.

(Source: P.A. 94-694, eff. 1-15-06; 95-252, eff. 1-1-08; 95-640, eff. 6-1-08; revised 12-12-07.)

(720 ILCS 648/50)

Sec. 50. Scope of Act.

(a) Nothing in this Act limits the scope, terms, or effect of the Methamphetamine Control and Community Protection Act.

(b) Nothing in this Act limits the lawful authority granted by the Medical Practice Act of 1987, the Nurse Practice Act, or the Pharmacy Practice Act.

(c) Nothing in this Act limits the authority or activity of any law enforcement officer acting within the scope of his or her employment.

(Source: P.A. 94-694, eff. 1-15-06; 95-639, eff. 10-5-07; 95-689, eff. 10-29-07; revised 11-19-07.)

Section 340. The Rights of Crime Victims and Witnesses Act is amended by changing Section 3 as follows:

(725 ILCS 120/3) (from Ch. 38, par. 1403)

(Text of Section before amendment by P.A. 95-591)

Sec. 3. The terms used in this Act, unless the context clearly requires otherwise, shall have the following meanings:

(a) "Crime victim" means (1) a person physically injured in this State as a result of a violent crime perpetrated or attempted against that person or (2) a person who suffers injury to or loss of property as a result of a violent crime perpetrated or attempted against that person or (3) a single

representative who may be the spouse, parent, child or sibling of a person killed as a result of a violent crime perpetrated against the person killed or the spouse, parent, child or sibling of any person granted rights under this Act who is physically or mentally incapable of exercising such rights, except where the spouse, parent, child or sibling is also the defendant or prisoner or (4) any person against whom a violent crime has been committed or (5) any person who has suffered personal injury as a result of a violation of Section 11-501 of the Illinois Vehicle Code, or of a similar provision of a local ordinance, or of Section 9-3 of the Criminal Code of 1961, as amended or (6) in proceedings under the Juvenile Court Act of 1987, both parents of a deceased minor who is a crime victim.†

(b) "Witness" means any person who personally observed the commission of a violent crime and who will testify on behalf of the State of Illinois in the criminal prosecution of the violent crime.†

(c) "Violent Crime" means any felony in which force or threat of force was used against the victim, or any offense involving sexual exploitation, sexual conduct or sexual penetration, domestic battery, violation of an order of protection, stalking, or any misdemeanor which results in death or great bodily harm to the victim or any violation of Section 9-3 of the Criminal Code of 1961, or Section 11-501 of the Illinois Vehicle Code, or a similar provision of a local ordinance, if the violation resulted in personal injury or

death, and includes any action committed by a juvenile that would be a violent crime if committed by an adult. For the purposes of this paragraph, "personal injury" shall include any Type A injury as indicated on the traffic accident report completed by a law enforcement officer that requires immediate professional attention in either a doctor's office or medical facility. A type A injury shall include severely bleeding wounds, distorted extremities, and injuries that require the injured party to be carried from the scene.†

(d) "Sentencing Hearing" means any hearing where a sentence is imposed by the court on a convicted defendant and includes hearings conducted pursuant to Sections 5-6-4, 5-6-4.1, 5-7-2 and 5-7-7 of the Unified Code of Corrections except those cases in which both parties have agreed to the imposition of a specific sentence.

(e) "Court proceedings" includes the preliminary hearing, any hearing the effect of which may be the release of the defendant from custody or to alter the conditions of bond, the trial, sentencing hearing, notice of appeal, any modification of sentence, probation revocation hearings or parole hearings. (Source: P.A. 94-271, eff. 1-1-06; revised 11-16-07.)

(Text of Section after amendment by P.A. 95-591)

Sec. 3. The terms used in this Act, unless the context clearly requires otherwise, shall have the following meanings:

(a) "Crime victim" means (1) a person physically injured in

this State as a result of a violent crime perpetrated or attempted against that person or (2) a person who suffers injury to or loss of property as a result of a violent crime perpetrated or attempted against that person or (3) a single representative who may be the spouse, parent, child or sibling of a person killed as a result of a violent crime perpetrated against the person killed or the spouse, parent, child or sibling of any person granted rights under this Act who is physically or mentally incapable of exercising such rights, except where the spouse, parent, child or sibling is also the defendant or prisoner or (4) any person against whom a violent crime has been committed or (5) any person who has suffered personal injury as a result of a violation of Section 11-501 of the Illinois Vehicle Code, or of a similar provision of a local ordinance, or of Section 9-3 of the Criminal Code of 1961, as amended or (6) in proceedings under the Juvenile Court Act of 1987, both parents, legal guardians, foster parents, or a single adult representative of a minor or disabled person who is a crime victim.†

(b) "Witness" means any person who personally observed the commission of a violent crime and who will testify on behalf of the State of Illinois in the criminal prosecution of the violent crime.†

(c) "Violent Crime" means any felony in which force or threat of force was used against the victim, or any offense involving sexual exploitation, sexual conduct or sexual

penetration, domestic battery, violation of an order of protection, stalking, or any misdemeanor which results in death or great bodily harm to the victim or any violation of Section 9-3 of the Criminal Code of 1961, or Section 11-501 of the Illinois Vehicle Code, or a similar provision of a local ordinance, if the violation resulted in personal injury or death, and includes any action committed by a juvenile that would be a violent crime if committed by an adult. For the purposes of this paragraph, "personal injury" shall include any Type A injury as indicated on the traffic accident report completed by a law enforcement officer that requires immediate professional attention in either a doctor's office or medical facility. A type A injury shall include severely bleeding wounds, distorted extremities, and injuries that require the injured party to be carried from the scene. ~~+~~

(d) "Sentencing Hearing" means any hearing where a sentence is imposed by the court on a convicted defendant and includes hearings conducted pursuant to Sections 5-6-4, 5-6-4.1, 5-7-2 and 5-7-7 of the Unified Code of Corrections except those cases in which both parties have agreed to the imposition of a specific sentence.

(e) "Court proceedings" includes the preliminary hearing, any hearing the effect of which may be the release of the defendant from custody or to alter the conditions of bond, the trial, sentencing hearing, notice of appeal, any modification of sentence, probation revocation hearings or parole hearings.

(Source: P.A. 94-271, eff. 1-1-06; 95-591, eff. 6-1-08; revised 11-16-07.)

Section 345. The Privacy of Child Victims of Criminal Sexual Offenses Act is amended by changing Section 3 as follows:

(725 ILCS 190/3) (from Ch. 38, par. 1453)

(Text of Section before amendment by P.A. 95-599)

Sec. 3. Confidentiality of Law Enforcement and Court Records. Notwithstanding any other law to the contrary, inspection and copying of law enforcement records maintained by any law enforcement agency or circuit court records maintained by any circuit clerk relating to any investigation or proceeding pertaining to a criminal sexual offense, by any person, except a judge, state's attorney, assistant state's attorney, psychologist, psychiatrist, social worker, doctor, parent, parole agent, probation officer, defendant or defendant's attorney in any criminal proceeding or investigation related thereto, shall be restricted to exclude the identity of any child who is a victim of such criminal sexual offense or alleged criminal sexual offense. A court may for the child's protection and for good cause shown, prohibit any person or agency present in court from further disclosing the child's identity.

When a criminal sexual offense is committed or alleged to

have been committed by a school district employee on the premises under the jurisdiction of a public school district or during an official school sponsored activity, a copy of the law enforcement records maintained by any law enforcement agency or circuit court records maintained by any circuit clerk relating to the investigation of the offense or alleged offense shall be made available for inspection and copying by the superintendent of schools of the district. The superintendent shall be restricted from specifically revealing the name of the victim without written consent of the victim or victim's parent or guardian.

A court may prohibit such disclosure only after giving notice and a hearing to all affected parties. In determining whether to prohibit disclosure of the minor's identity the court shall consider:

(a) the best interest of the child; and

(b) whether such nondisclosure would further a compelling State interest.

(Source: P.A. 95-69, eff. 1-1-08.)

(Text of Section after amendment by P.A. 95-599)

Sec. 3. Confidentiality of Law Enforcement and Court Records. Notwithstanding any other law to the contrary, inspection and copying of law enforcement records maintained by any law enforcement agency or circuit court records maintained by any circuit clerk relating to any investigation or

proceeding pertaining to a criminal sexual offense, by any person, except a judge, state's attorney, assistant state's attorney, psychologist, psychiatrist, social worker, doctor, parent, parole agent, probation officer, defendant or defendant's attorney in any criminal proceeding or investigation related thereto, shall be restricted to exclude the identity of any child who is a victim of such criminal sexual offense or alleged criminal sexual offense. A court may for the child's protection and for good cause shown, prohibit any person or agency present in court from further disclosing the child's identity.

When a criminal sexual offense is committed or alleged to have been committed by a school district employee or any individual contractually employed by a school district, a copy of the criminal history record information relating to the investigation of the offense or alleged offense shall be transmitted to the superintendent of schools of the district immediately upon request or if the law enforcement agency knows that a school district employee or any individual contractually employed by a school district has committed or is alleged to have committed a criminal sexual offense, the superintendent of schools of the district shall be immediately provided a copy of the criminal history record information. The superintendent shall be restricted from specifically revealing the name of the victim without written consent of the victim or victim's parent or guardian.

A court may prohibit such disclosure only after giving notice and a hearing to all affected parties. In determining whether to prohibit disclosure of the minor's identity the court shall consider:

(a) the best interest of the child; and

(b) whether such nondisclosure would further a compelling State interest.

For the purposes of this Act, "criminal history record information" means:

(i) chronologically maintained arrest information, such as traditional arrest logs or blotters;

(ii) the name of a person in the custody of a law enforcement agency and the charges for which that person is being held;

(iii) court records that are public;

(iv) records that are otherwise available under State or local law; or

(v) records in which the requesting party is the individual identified, except as provided under part (vii) of paragraph (c) of subsection (1) of Section 7 of the Freedom of Information Act.

(Source: P.A. 95-69, eff. 1-1-08; 95-599, eff. 6-1-08; revised 11-19-07.)

Section 350. The State's Attorneys Appellate Prosecutor's Act is amended by changing Section 4.11 as follows:

(725 ILCS 210/4.11)

Sec. 4.11. Juvenile Justice Resource Center. The Office may develop a Juvenile Justice Resource Center to: (i) study, design, develop, and implement model systems for the adjudication of juveniles in the justice system; (ii) in cases in which a sentence of incarceration or an adult sentence, or both, is an authorized disposition, provide trial counsel with legal advice and the assistance of expert witnesses and investigators from funds appropriated to the Office by the General Assembly specifically for that purpose; (iii) develop and provide training to assistant State's Attorneys on juvenile justice issues, and~~7~~ (iv) make an annual report to the General Assembly.

(Source: P.A. 95-376, eff. 1-1-08; revised 11-16-07.)

Section 355. The Unified Code of Corrections is amended by changing Sections 3-3-7, 3-6-3, 5-5-3, 5-5-3.2, 5-6-1, 5-6-3, 5-6-3.1, and 5-9-3 and by setting forth and renumbering multiple versions of Section 5-9-1.14 as follows:

(730 ILCS 5/3-3-7) (from Ch. 38, par. 1003-3-7)

(Text of Section before amendment by P.A. 95-464, 95-579, and 95-640)

Sec. 3-3-7. Conditions of Parole or Mandatory Supervised Release.

(a) The conditions of parole or mandatory supervised release shall be such as the Prisoner Review Board deems necessary to assist the subject in leading a law-abiding life. The conditions of every parole and mandatory supervised release are that the subject:

(1) not violate any criminal statute of any jurisdiction during the parole or release term;

(2) refrain from possessing a firearm or other dangerous weapon;

(3) report to an agent of the Department of Corrections;

(4) permit the agent to visit him or her at his or her home, employment, or elsewhere to the extent necessary for the agent to discharge his or her duties;

(5) attend or reside in a facility established for the instruction or residence of persons on parole or mandatory supervised release;

(6) secure permission before visiting or writing a committed person in an Illinois Department of Corrections facility;

(7) report all arrests to an agent of the Department of Corrections as soon as permitted by the arresting authority but in no event later than 24 hours after release from custody;

(7.5) if convicted of a sex offense as defined in the Sex Offender Management Board Act, the individual shall

undergo and successfully complete sex offender treatment conducted in conformance with the standards developed by the Sex Offender Management Board Act by a treatment provider approved by the Board;

(7.6) if convicted of a sex offense as defined in the Sex Offender Management Board Act, refrain from residing at the same address or in the same condominium unit or apartment unit or in the same condominium complex or apartment complex with another person he or she knows or reasonably should know is a convicted sex offender or has been placed on supervision for a sex offense; the provisions of this paragraph do not apply to a person convicted of a sex offense who is placed in a Department of Corrections licensed transitional housing facility for sex offenders, or is in any facility operated or licensed by the Department of Children and Family Services or by the Department of Human Services, or is in any licensed medical facility;

(7.7) if convicted for an offense that would qualify the accused as a sexual predator under the Sex Offender Registration Act on or after the effective date of this amendatory Act of the 94th General Assembly, wear an approved electronic monitoring device as defined in Section 5-8A-2 for the duration of the person's parole, mandatory supervised release term, or extended mandatory supervised release term, provided funding is appropriated

by the General Assembly;

(8) obtain permission of an agent of the Department of Corrections before leaving the State of Illinois;

(9) obtain permission of an agent of the Department of Corrections before changing his or her residence or employment;

(10) consent to a search of his or her person, property, or residence under his or her control;

(11) refrain from the use or possession of narcotics or other controlled substances in any form, or both, or any paraphernalia related to those substances and submit to a urinalysis test as instructed by a parole agent of the Department of Corrections;

(12) not frequent places where controlled substances are illegally sold, used, distributed, or administered;

(13) not knowingly associate with other persons on parole or mandatory supervised release without prior written permission of his or her parole agent and not associate with persons who are members of an organized gang as that term is defined in the Illinois Streetgang Terrorism Omnibus Prevention Act;

(14) provide true and accurate information, as it relates to his or her adjustment in the community while on parole or mandatory supervised release or to his or her conduct while incarcerated, in response to inquiries by his or her parole agent or of the Department of Corrections;

(15) follow any specific instructions provided by the parole agent that are consistent with furthering conditions set and approved by the Prisoner Review Board or by law, exclusive of placement on electronic detention, to achieve the goals and objectives of his or her parole or mandatory supervised release or to protect the public. These instructions by the parole agent may be modified at any time, as the agent deems appropriate; and

(16) if convicted of a sex offense as defined in subsection (a-5) of Section 3-1-2 of this Code, unless the offender is a parent or guardian of the person under 18 years of age present in the home and no non-familial minors are present, not participate in a holiday event involving children under 18 years of age, such as distributing candy or other items to children on Halloween, wearing a Santa Claus costume on or preceding Christmas, being employed as a department store Santa Claus, or wearing an Easter Bunny costume on or preceding Easter.

(b) The Board may in addition to other conditions require that the subject:

(1) work or pursue a course of study or vocational training;

(2) undergo medical or psychiatric treatment, or treatment for drug addiction or alcoholism;

(3) attend or reside in a facility established for the instruction or residence of persons on probation or parole;

(4) support his dependents;

(5) (blank);

(6) (blank);

(7) comply with the terms and conditions of an order of protection issued pursuant to the Illinois Domestic Violence Act of 1986, enacted by the 84th General Assembly, or an order of protection issued by the court of another state, tribe, or United States territory; and

(8) in addition, if a minor:

(i) reside with his parents or in a foster home;

(ii) attend school;

(iii) attend a non-residential program for youth;

or

(iv) contribute to his own support at home or in a foster home.

(b-1) In addition to the conditions set forth in subsections (a) and (b), persons required to register as sex offenders pursuant to the Sex Offender Registration Act, upon release from the custody of the Illinois Department of Corrections, may be required by the Board to comply with the following specific conditions of release:

(1) reside only at a Department approved location;

(2) comply with all requirements of the Sex Offender Registration Act;

(3) notify third parties of the risks that may be occasioned by his or her criminal record;

(4) obtain the approval of an agent of the Department of Corrections prior to accepting employment or pursuing a course of study or vocational training and notify the Department prior to any change in employment, study, or training;

(5) not be employed or participate in any volunteer activity that involves contact with children, except under circumstances approved in advance and in writing by an agent of the Department of Corrections;

(6) be electronically monitored for a minimum of 12 months from the date of release as determined by the Board;

(7) refrain from entering into a designated geographic area except upon terms approved in advance by an agent of the Department of Corrections. The terms may include consideration of the purpose of the entry, the time of day, and others accompanying the person;

(8) refrain from having any contact, including written or oral communications, directly or indirectly, personally or by telephone, letter, or through a third party with certain specified persons including, but not limited to, the victim or the victim's family without the prior written approval of an agent of the Department of Corrections;

(9) refrain from all contact, directly or indirectly, personally, by telephone, letter, or through a third party, with minor children without prior identification and approval of an agent of the Department of Corrections;

(10) neither possess or have under his or her control any material that is sexually oriented, sexually stimulating, or that shows male or female sex organs or any pictures depicting children under 18 years of age nude or any written or audio material describing sexual intercourse or that depicts or alludes to sexual activity, including but not limited to visual, auditory, telephonic, or electronic media, or any matter obtained through access to any computer or material linked to computer access use;

(11) not patronize any business providing sexually stimulating or sexually oriented entertainment nor utilize "900" or adult telephone numbers;

(12) not reside near, visit, or be in or about parks, schools, day care centers, swimming pools, beaches, theaters, or any other places where minor children congregate without advance approval of an agent of the Department of Corrections and immediately report any incidental contact with minor children to the Department;

(13) not possess or have under his or her control certain specified items of contraband related to the incidence of sexually offending as determined by an agent of the Department of Corrections;

(14) may be required to provide a written daily log of activities if directed by an agent of the Department of Corrections;

(15) comply with all other special conditions that the

Department may impose that restrict the person from high-risk situations and limit access to potential victims.

(c) The conditions under which the parole or mandatory supervised release is to be served shall be communicated to the person in writing prior to his release, and he shall sign the same before release. A signed copy of these conditions, including a copy of an order of protection where one had been issued by the criminal court, shall be retained by the person and another copy forwarded to the officer in charge of his supervision.

(d) After a hearing under Section 3-3-9, the Prisoner Review Board may modify or enlarge the conditions of parole or mandatory supervised release.

(e) The Department shall inform all offenders committed to the Department of the optional services available to them upon release and shall assist inmates in availing themselves of such optional services upon their release on a voluntary basis.

(f) When the subject is in compliance with all conditions of his or her parole or mandatory supervised release, the subject shall receive a reduction of the period of his or her parole or mandatory supervised release of 90 days upon passage of the high school level Test of General Educational Development during the period of his or her parole or mandatory supervised release. This reduction in the period of a subject's term of parole or mandatory supervised release shall be

available only to subjects who have not previously earned a high school diploma or who have not previously passed the high school level Test of General Educational Development.

(Source: P.A. 94-159, eff. 7-11-05; 94-161, eff. 7-11-05; 94-988, eff. 1-1-07; 95-539, eff. 1-1-08.)

(Text of Section after amendment by P.A. 95-464, 95-579, and 95-640)

Sec. 3-3-7. Conditions of Parole or Mandatory Supervised Release.

(a) The conditions of parole or mandatory supervised release shall be such as the Prisoner Review Board deems necessary to assist the subject in leading a law-abiding life. The conditions of every parole and mandatory supervised release are that the subject:

(1) not violate any criminal statute of any jurisdiction during the parole or release term;

(2) refrain from possessing a firearm or other dangerous weapon;

(3) report to an agent of the Department of Corrections;

(4) permit the agent to visit him or her at his or her home, employment, or elsewhere to the extent necessary for the agent to discharge his or her duties;

(5) attend or reside in a facility established for the instruction or residence of persons on parole or mandatory

supervised release;

(6) secure permission before visiting or writing a committed person in an Illinois Department of Corrections facility;

(7) report all arrests to an agent of the Department of Corrections as soon as permitted by the arresting authority but in no event later than 24 hours after release from custody;

(7.5) if convicted of a sex offense as defined in the Sex Offender Management Board Act, the individual shall undergo and successfully complete sex offender treatment conducted in conformance with the standards developed by the Sex Offender Management Board Act by a treatment provider approved by the Board;

(7.6) if convicted of a sex offense as defined in the Sex Offender Management Board Act, refrain from residing at the same address or in the same condominium unit or apartment unit or in the same condominium complex or apartment complex with another person he or she knows or reasonably should know is a convicted sex offender or has been placed on supervision for a sex offense; the provisions of this paragraph do not apply to a person convicted of a sex offense who is placed in a Department of Corrections licensed transitional housing facility for sex offenders, or is in any facility operated or licensed by the Department of Children and Family Services or by the

Department of Human Services, or is in any licensed medical facility;

(7.7) if convicted for an offense that would qualify the accused as a sexual predator under the Sex Offender Registration Act on or after the effective date of this amendatory Act of the 94th General Assembly, wear an approved electronic monitoring device as defined in Section 5-8A-2 for the duration of the person's parole, mandatory supervised release term, or extended mandatory supervised release term;

(7.8) if convicted for an offense committed on or after the effective date of this amendatory Act of the 95th General Assembly that would qualify the accused as a child sex offender as defined in Section 11-9.3 or 11-9.4 of the Criminal Code of 1961, refrain from communicating with or contacting, by means of the Internet, a person who is not related to the accused and whom the accused reasonably believes to be under 18 years of age; for purposes of this paragraph (7.8), "Internet" has the meaning ascribed to it in Section 16J-5 of the Criminal Code of 1961, ~~as added by Public Act 94-179~~; and a person is not related to the accused if the person is not: (i) the spouse, brother, or sister of the accused; (ii) a descendant of the accused; (iii) a first or second cousin of the accused; or (iv) a step-child or adopted child of the accused;

(7.9) ~~(7.8)~~ if convicted under Section 11-6, 11-20.1,

11-20.3, or 11-21 of the Criminal Code of 1961, consent to search of computers, PDAs, cellular phones, and other devices under his or her control that are capable of accessing the Internet or storing electronic files, in order to confirm Internet protocol addresses reported in accordance with the Sex Offender Registration Act and compliance with conditions in this Act;

(7.10) ~~(7.8)~~ if convicted for an offense that would qualify the accused as a sex offender or sexual predator under the Sex Offender Registration Act on or after the effective date of this amendatory Act of the 95th General Assembly, not possess prescription drugs for erectile dysfunction;

(8) obtain permission of an agent of the Department of Corrections before leaving the State of Illinois;

(9) obtain permission of an agent of the Department of Corrections before changing his or her residence or employment;

(10) consent to a search of his or her person, property, or residence under his or her control;

(11) refrain from the use or possession of narcotics or other controlled substances in any form, or both, or any paraphernalia related to those substances and submit to a urinalysis test as instructed by a parole agent of the Department of Corrections;

(12) not frequent places where controlled substances

are illegally sold, used, distributed, or administered;

(13) not knowingly associate with other persons on parole or mandatory supervised release without prior written permission of his or her parole agent and not associate with persons who are members of an organized gang as that term is defined in the Illinois Streetgang Terrorism Omnibus Prevention Act;

(14) provide true and accurate information, as it relates to his or her adjustment in the community while on parole or mandatory supervised release or to his or her conduct while incarcerated, in response to inquiries by his or her parole agent or of the Department of Corrections;

(15) follow any specific instructions provided by the parole agent that are consistent with furthering conditions set and approved by the Prisoner Review Board or by law, exclusive of placement on electronic detention, to achieve the goals and objectives of his or her parole or mandatory supervised release or to protect the public. These instructions by the parole agent may be modified at any time, as the agent deems appropriate; and

(16) if convicted of a sex offense as defined in subsection (a-5) of Section 3-1-2 of this Code, unless the offender is a parent or guardian of the person under 18 years of age present in the home and no non-familial minors are present, not participate in a holiday event involving children under 18 years of age, such as distributing candy

or other items to children on Halloween, wearing a Santa Claus costume on or preceding Christmas, being employed as a department store Santa Claus, or wearing an Easter Bunny costume on or preceding Easter.

(b) The Board may in addition to other conditions require that the subject:

(1) work or pursue a course of study or vocational training;

(2) undergo medical or psychiatric treatment, or treatment for drug addiction or alcoholism;

(3) attend or reside in a facility established for the instruction or residence of persons on probation or parole;

(4) support his dependents;

(5) (blank);

(6) (blank);

(7) comply with the terms and conditions of an order of protection issued pursuant to the Illinois Domestic Violence Act of 1986, enacted by the 84th General Assembly, or an order of protection issued by the court of another state, tribe, or United States territory;

(7.5) if convicted for an offense committed on or after the effective date of this amendatory Act of the 95th General Assembly that would qualify the accused as a child sex offender as defined in Section 11-9.3 or 11-9.4 of the Criminal Code of 1961, refrain from communicating with or contacting, by means of the Internet, a person who is

related to the accused and whom the accused reasonably believes to be under 18 years of age; for purposes of this paragraph (7.5), "Internet" has the meaning ascribed to it in Section 16J-5 of the Criminal Code of 1961, ~~as added by Public Act 94-179~~; and a person is related to the accused if the person is: (i) the spouse, brother, or sister of the accused; (ii) a descendant of the accused; (iii) a first or second cousin of the accused; or (iv) a step-child or adopted child of the accused; and

(8) in addition, if a minor:

(i) reside with his parents or in a foster home;

(ii) attend school;

(iii) attend a non-residential program for youth;

or

(iv) contribute to his own support at home or in a foster home.

(b-1) In addition to the conditions set forth in subsections (a) and (b), persons required to register as sex offenders pursuant to the Sex Offender Registration Act, upon release from the custody of the Illinois Department of Corrections, may be required by the Board to comply with the following specific conditions of release:

(1) reside only at a Department approved location;

(2) comply with all requirements of the Sex Offender Registration Act;

(3) notify third parties of the risks that may be

occasioned by his or her criminal record;

(4) obtain the approval of an agent of the Department of Corrections prior to accepting employment or pursuing a course of study or vocational training and notify the Department prior to any change in employment, study, or training;

(5) not be employed or participate in any volunteer activity that involves contact with children, except under circumstances approved in advance and in writing by an agent of the Department of Corrections;

(6) be electronically monitored for a minimum of 12 months from the date of release as determined by the Board;

(7) refrain from entering into a designated geographic area except upon terms approved in advance by an agent of the Department of Corrections. The terms may include consideration of the purpose of the entry, the time of day, and others accompanying the person;

(8) refrain from having any contact, including written or oral communications, directly or indirectly, personally or by telephone, letter, or through a third party with certain specified persons including, but not limited to, the victim or the victim's family without the prior written approval of an agent of the Department of Corrections;

(9) refrain from all contact, directly or indirectly, personally, by telephone, letter, or through a third party, with minor children without prior identification and

approval of an agent of the Department of Corrections;

(10) neither possess or have under his or her control any material that is sexually oriented, sexually stimulating, or that shows male or female sex organs or any pictures depicting children under 18 years of age nude or any written or audio material describing sexual intercourse or that depicts or alludes to sexual activity, including but not limited to visual, auditory, telephonic, or electronic media, or any matter obtained through access to any computer or material linked to computer access use;

(11) not patronize any business providing sexually stimulating or sexually oriented entertainment nor utilize "900" or adult telephone numbers;

(12) not reside near, visit, or be in or about parks, schools, day care centers, swimming pools, beaches, theaters, or any other places where minor children congregate without advance approval of an agent of the Department of Corrections and immediately report any incidental contact with minor children to the Department;

(13) not possess or have under his or her control certain specified items of contraband related to the incidence of sexually offending as determined by an agent of the Department of Corrections;

(14) may be required to provide a written daily log of activities if directed by an agent of the Department of Corrections;

(15) comply with all other special conditions that the Department may impose that restrict the person from high-risk situations and limit access to potential victims;

(16) take an annual polygraph exam;

(17) maintain a log of his or her travel; or

(18) obtain prior approval of his or her parole officer before driving alone in a motor vehicle.

(c) The conditions under which the parole or mandatory supervised release is to be served shall be communicated to the person in writing prior to his release, and he shall sign the same before release. A signed copy of these conditions, including a copy of an order of protection where one had been issued by the criminal court, shall be retained by the person and another copy forwarded to the officer in charge of his supervision.

(d) After a hearing under Section 3-3-9, the Prisoner Review Board may modify or enlarge the conditions of parole or mandatory supervised release.

(e) The Department shall inform all offenders committed to the Department of the optional services available to them upon release and shall assist inmates in availing themselves of such optional services upon their release on a voluntary basis.

(f) When the subject is in compliance with all conditions of his or her parole or mandatory supervised release, the subject shall receive a reduction of the period of his or her

parole or mandatory supervised release of 90 days upon passage of the high school level Test of General Educational Development during the period of his or her parole or mandatory supervised release. This reduction in the period of a subject's term of parole or mandatory supervised release shall be available only to subjects who have not previously earned a high school diploma or who have not previously passed the high school level Test of General Educational Development.

(Source: P.A. 94-159, eff. 7-11-05; 94-161, eff. 7-11-05; 94-988, eff. 1-1-07; 95-464, eff. 6-1-08; 95-539, eff. 1-1-08; 95-579, eff. 6-1-08; 95-640, eff. 6-1-08; revised 12-26-07.)

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

(Text of Section before amendment by P.A. 95-585, 95-625, and 95-640)

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

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

(2) The rules and regulations on early release 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 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) ~~this amendatory Act of the 95th General Assembly~~, 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 good conduct credit and shall serve the entire sentence imposed by the court;

(ii) that a prisoner serving a sentence for 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, heinous battery, being an armed habitual criminal, aggravated battery of a senior citizen, or aggravated battery of a child shall receive no more than 4.5 days of good conduct 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 good conduct 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 good conduct credit for each month of his or her sentence of imprisonment; and

(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 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 good conduct 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) ~~the effective date of this amendatory Act of the 95th General Assembly~~, and other than the offense of reckless homicide as defined in subsection (e) of Section 9-3 of the Criminal Code of 1961 committed on or after January 1, 1999, or 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, the rules and regulations shall provide that a prisoner who is serving a term of

imprisonment shall receive one day of good conduct credit for each day of his or her sentence of imprisonment or recommitment under Section 3-3-9. Each day of good conduct 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 good conduct credit.

(2.3) The rules and regulations on early release shall provide that a prisoner who is serving a sentence for reckless homicide as defined in subsection (e) of Section 9-3 of the Criminal Code of 1961 committed on or after January 1, 1999, or 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 good conduct credit for each month of his or her sentence of imprisonment.

(2.4) The rules and regulations on early release 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 good conduct credit for each month of his or her sentence of imprisonment.

(2.5) The rules and regulations on early release 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 good conduct credit for each month of his or her sentence of imprisonment.

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

sexual assault, aggravated criminal sexual abuse, aggravated indecent liberties with a child, indecent liberties with a child, child pornography, heinous battery, aggravated battery of a spouse, aggravated battery of a spouse with a firearm, stalking, aggravated stalking, aggravated battery of a child, endangering the life or health of a child, or cruelty to a child. Notwithstanding the foregoing, good conduct credit for meritorious service shall not be awarded on a sentence of imprisonment imposed for conviction of: (i) one of the offenses enumerated in subdivision (a)(2)(i), (ii), or (iii) when the offense is committed on or after June 19, 1998 or subdivision (a)(2)(iv) when the offense is committed on or after June 23, 2005 (the effective date of Public Act 94-71) or subdivision (a)(2)(v) when the offense is committed on or after August 13, 2007 (the effective date of Public Act 95-134) ~~the effective date of this amendatory Act of the 95th General Assembly~~, (ii) reckless homicide as defined in subsection (e) of Section 9-3 of the Criminal Code of 1961 when the offense is committed on or after January 1, 1999, or 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, (iii) one of the offenses enumerated in subdivision (a)(2.4) when

the offense is committed on or after July 15, 1999 (the effective date of Public Act 91-121), or (iv) aggravated arson when the offense is committed on or after July 27, 2001 (the effective date of Public Act 92-176).

(4) The rules and regulations shall also provide that the good conduct credit accumulated and retained under paragraph (2.1) of subsection (a) of this Section by any inmate during specific periods of time in which such inmate is engaged full-time in substance abuse programs, correctional industry assignments, or educational programs provided by the Department under this paragraph (4) and satisfactorily completes the assigned program as determined by the standards of the Department, shall be multiplied by a factor of 1.25 for program participation before August 11, 1993 and 1.50 for program participation on or after that date. However, no inmate shall be eligible for the additional good conduct credit under this paragraph (4) or (4.1) of this subsection (a) while assigned to a boot camp or electronic detention, or if convicted of an offense enumerated in subdivision (a)(2)(i), (ii), or (iii) of this Section that is committed on or after June 19, 1998 or subdivision (a)(2)(iv) of this Section that is committed on or after June 23, 2005 (the effective date of Public Act 94-71) or subdivision (a)(2)(v) of this Section that is committed on or after August 13, 2007 (the effective date of Public Act 95-134) ~~this amendatory Act of~~

~~the 95th General Assembly,~~ or if convicted of reckless homicide as defined in subsection (e) of Section 9-3 of the Criminal Code of 1961 if the offense is committed on or after January 1, 1999, or 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, or if convicted of an offense enumerated in paragraph (a) (2.4) of this Section that is committed on or after July 15, 1999 (the effective date of Public Act 91-121), or first degree murder, a Class X felony, criminal sexual assault, felony criminal sexual abuse, aggravated criminal sexual abuse, aggravated battery with a firearm, or any predecessor or successor offenses with the same or substantially the same elements, or any inchoate offenses relating to the foregoing offenses. No inmate shall be eligible for the additional good conduct credit under this paragraph (4) who (i) has previously received increased good conduct credit under this paragraph (4) and has subsequently been convicted of a felony, or (ii) has previously served more than one prior sentence of imprisonment for a felony in an adult correctional facility.

Educational, vocational, substance abuse and correctional industry programs under which good conduct credit may be increased 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 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.

(4.1) The rules and regulations shall also provide that an additional 60 days of good conduct credit shall be awarded to any prisoner who passes the high school level Test of General Educational Development (GED) while the prisoner is incarcerated. The good conduct credit awarded under this paragraph (4.1) shall be in addition to, and shall not affect, the award of good conduct 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 good conduct credit provided for in this paragraph shall be available only to those prisoners who have not previously earned a high school diploma or a GED. If, after an award of the GED good conduct credit has been made and the Department determines that the prisoner was not eligible, then the award shall be revoked.

(4.5) The rules and regulations on early release 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 good conduct credit awarded under clause (3) of this subsection (a) unless he or she participates in and completes a substance abuse treatment program. The Director may waive the requirement to participate in or complete a substance abuse treatment program and award the good conduct credit 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 good conduct credit under clause (3) of this subsection (a) at the discretion of the Director.

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

(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 good time.

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

year of good conduct credit for any one infraction.

When the Department seeks to revoke, suspend or reduce the rate of accumulation of any good conduct credits for an alleged infraction of its rules, it shall bring charges therefor against the prisoner sought to be so deprived of good conduct 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 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 good conduct credit. The Board may subsequently approve the revocation of additional good conduct credit, if the Department seeks to revoke good conduct 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 good conduct credit within any calendar year for any prisoner or to increase any penalty beyond the length requested by the Department.

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

amount requested by the Director.

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 good conduct 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 good conduct credit by bringing charges against the prisoner sought to be deprived of the good conduct 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 good conduct credit at the time of the finding, then the Prisoner Review Board may revoke all good conduct 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 petition for post-conviction relief under Article 122 of the Code of Criminal Procedure of 1963, 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 or an action under the federal Civil Rights Act (42 U.S.C. 1983).

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

(Source: P.A. 94-71, eff. 6-23-05; 94-128, eff. 7-7-05; 94-156, eff. 7-8-05; 94-398, eff. 8-2-05; 94-491, eff. 8-8-05; 94-744, eff. 5-8-06; 95-134, eff. 8-13-07.)

(Text of Section after amendment by P.A. 95-585, 95-625, and 95-640)

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

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

(2) The rules and regulations on early release 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) ~~(v)~~ committed on or after June 1, 2008 (the effective date of Public Act 95-625) ~~this amendatory Act of the 95th General Assembly~~ 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) ~~this amendatory Act of the 95th General Assembly~~, 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 good conduct credit and shall serve the entire sentence imposed by the court;

(ii) that a prisoner serving a sentence for 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, heinous battery, being an armed habitual criminal, aggravated battery of a senior citizen, or aggravated battery of a child shall receive no more than 4.5 days of good conduct 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 good conduct 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 good conduct credit for each month of his or her sentence of imprisonment; ~~and~~

(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 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 good conduct credit for each month of his or her sentence of imprisonment; and-

(vi) ~~(v)~~ 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 good conduct 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) ~~this amendatory Act of the 95th General Assembly~~ or subdivision (a)(2)(vi) ~~(v)~~ committed on or after June 1, 2008 (the effective date of Public Act 95-625) ~~this amendatory Act of the 95th General Assembly~~, and other than the offense of reckless homicide as defined in subsection (e) of Section 9-3 of the Criminal Code of 1961 committed on or after January 1, 1999, or 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, the rules and regulations shall provide that a prisoner who is serving a term of imprisonment shall receive one day of good conduct credit for each day of his or her sentence of imprisonment or recommitment under Section 3-3-9. Each day of good conduct 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 good conduct credit.

(2.3) The rules and regulations on early release shall provide that a prisoner who is serving a sentence for reckless homicide as defined in subsection (e) of Section 9-3 of the Criminal Code of 1961 committed on or after January 1, 1999, or 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 good conduct credit for each month of his or her sentence of imprisonment.

(2.4) The rules and regulations on early release 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 good conduct credit for each month of his or her sentence of imprisonment.

(2.5) The rules and regulations on early release 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 good conduct credit for each month of his or her sentence of imprisonment.

(3) The rules and regulations shall also provide that the Director may award up to 180 days additional good conduct credit for meritorious service in specific instances as the Director deems proper; except that no more than 90 days of good conduct credit for meritorious service shall be awarded to any prisoner who is serving a sentence for conviction of first degree murder, reckless homicide while under the influence of alcohol or any other drug, or 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, aggravated kidnapping, kidnapping, predatory criminal sexual assault of a child, aggravated criminal sexual assault, criminal sexual assault, deviate sexual assault, aggravated criminal sexual abuse, aggravated indecent liberties with a child, indecent liberties with a child, child pornography, heinous battery, aggravated battery of a spouse, aggravated battery of a spouse with a firearm, stalking, aggravated stalking, aggravated battery of a child, endangering the life or health of a child, or cruelty to a child. Notwithstanding the foregoing, good conduct credit for meritorious service shall not be awarded on a sentence of imprisonment imposed for conviction of: (i) one of the offenses enumerated in subdivision (a)(2)(i), (ii), or (iii) when the offense is committed on or after June 19, 1998 or subdivision (a)(2)(iv) when the offense is committed on or after June 23, 2005 (the effective date of Public Act 94-71) or subdivision (a)(2)(v) when the offense is committed on or after August 13, 2007 (the effective date of Public Act 95-134) ~~this amendatory Act of the 95th General Assembly~~ or subdivision (a)(2)(vi) ~~(v)~~ when the offense is committed on or after June 1, 2008 (the effective date of Public Act 95-625) ~~this amendatory Act of the 95th General Assembly~~, (ii) reckless homicide as defined in subsection (e) of Section 9-3 of the Criminal Code of 1961 when the offense is committed on or after

January 1, 1999, or 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, (iii) one of the offenses enumerated in subdivision (a)(2.4) when the offense is committed on or after July 15, 1999 (the effective date of Public Act 91-121), or (iv) aggravated arson when the offense is committed on or after July 27, 2001 (the effective date of Public Act 92-176).

(4) The rules and regulations shall also provide that the good conduct credit accumulated and retained under paragraph (2.1) of subsection (a) of this Section by any inmate during specific periods of time in which such inmate is engaged full-time in substance abuse programs, correctional industry assignments, or educational programs provided by the Department under this paragraph (4) and satisfactorily completes the assigned program as determined by the standards of the Department, shall be multiplied by a factor of 1.25 for program participation before August 11, 1993 and 1.50 for program participation on or after that date. However, no inmate shall be eligible for the additional good conduct credit under this paragraph (4) or (4.1) of this subsection (a) while assigned to a boot camp or electronic detention, or if convicted of an offense enumerated in subdivision (a)(2)(i), (ii), or

(iii) of this Section that is committed on or after June 19, 1998 or subdivision (a)(2)(iv) of this Section that is committed on or after June 23, 2005 (the effective date of Public Act 94-71) or subdivision (a)(2)(v) of this Section that is committed on or after August 13, 2007 (the effective date of Public Act 95-134) ~~this amendatory Act of the 95th General Assembly~~ or subdivision (a)(2)(vi)-(v) when the offense is committed on or after June 1, 2008 (the effective date of Public Act 95-625) ~~this amendatory Act of the 95th General Assembly~~, or if convicted of reckless homicide as defined in subsection (e) of Section 9-3 of the Criminal Code of 1961 if the offense is committed on or after January 1, 1999, or 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, or if convicted of an offense enumerated in paragraph (a)(2.4) of this Section that is committed on or after July 15, 1999 (the effective date of Public Act 91-121), or first degree murder, a Class X felony, criminal sexual assault, felony criminal sexual abuse, aggravated criminal sexual abuse, aggravated battery with a firearm, or any predecessor or successor offenses with the same or substantially the same elements, or any inchoate offenses relating to the foregoing offenses. No inmate shall be eligible for the

additional good conduct credit under this paragraph (4) who (i) has previously received increased good conduct credit under this paragraph (4) and has subsequently been convicted of a felony, or (ii) has previously served more than one prior sentence of imprisonment for a felony in an adult correctional facility.

Educational, vocational, substance abuse and correctional industry programs under which good conduct credit may be increased 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 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.

(4.1) The rules and regulations shall also provide that an additional 60 days of good conduct credit shall be awarded to any prisoner who passes the high school level Test of General Educational Development (GED) while the prisoner is incarcerated. The good conduct credit awarded under this paragraph (4.1) shall be in addition to, and shall not affect, the award of good conduct 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 good conduct credit provided for in this paragraph shall be available only to those prisoners who have not previously earned a high school diploma or a GED. If, after an award of the GED good conduct credit has been made and the Department determines that the prisoner was not eligible, then the award shall be revoked.

(4.5) The rules and regulations on early release 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 good conduct credit awarded under clause (3) of this subsection (a) unless he or she participates in and completes a substance abuse treatment program. The Director may waive the requirement to participate in or

complete a substance abuse treatment program and award the good conduct credit 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 good conduct credit under clause (3) of this subsection (a) at the discretion of the Director.

(4.6) The rules and regulations on early release 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 good conduct 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 such treatment, but who are unable to do so due solely to the lack of resources on the part of the Department, may, at the Director's sole discretion, be awarded good conduct credit at such rate as the Director shall determine.

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

(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 good time.

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

When the Department seeks to revoke, suspend or reduce the rate of accumulation of any good conduct credits for an alleged infraction of its rules, it shall bring charges therefor against the prisoner sought to be so deprived of good conduct

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 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 good conduct credit. The Board may subsequently approve the revocation of additional good conduct credit, if the Department seeks to revoke good conduct 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 good conduct credit within any calendar year for any prisoner or to increase any penalty beyond the length requested by the Department.

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

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 good conduct 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 good conduct credit by bringing charges against the prisoner sought to be deprived of the good conduct 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 good conduct credit at the time of the finding, then the Prisoner Review Board may revoke all good conduct 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.

(Source: P.A. 94-71, eff. 6-23-05; 94-128, eff. 7-7-05; 94-156, eff. 7-8-05; 94-398, eff. 8-2-05; 94-491, eff. 8-8-05; 94-744, eff. 5-8-06; 95-134, eff. 8-13-07; 95-585, eff. 6-1-08; 95-625, eff. 6-1-08; 95-640, eff. 6-1-08; revised 11-19-07.)

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

(Text of Section before amendment by P.A. 95-579)

Sec. 5-5-3. Disposition.

(a) Except as provided in Section 11-501 of the Illinois Vehicle Code, every person convicted of an offense shall be sentenced as provided in this Section.

(b) The following options shall be appropriate dispositions, alone or in combination, for all felonies and misdemeanors other than those identified in subsection (c) of this Section:

(1) A period of probation.

(2) A term of periodic imprisonment.

(3) A term of conditional discharge.

(4) A term of imprisonment.

(5) An order directing the offender to clean up and repair the damage, if the offender was convicted under paragraph (h) of Section 21-1 of the Criminal Code of 1961 (now repealed).

(6) A fine.

(7) An order directing the offender to make restitution to the victim under Section 5-5-6 of this Code.

(8) A sentence of participation in a county impact incarceration program under Section 5-8-1.2 of this Code.

(9) A term of imprisonment in combination with a term of probation when the offender has been admitted into a drug court program under Section 20 of the Drug Court Treatment Act.

Neither a fine nor restitution shall be the sole disposition for a felony and either or both may be imposed only in conjunction with another disposition.

(c) (1) When a defendant is found guilty of first degree murder the State may either seek a sentence of imprisonment under Section 5-8-1 of this Code, or where appropriate seek a sentence of death under Section 9-1 of the Criminal Code of 1961.

(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), (c) (1.5), or (c) (2) of Section 401 of that Act which relates to more than 5 grams of a substance containing heroin, cocaine, fentanyl, or an analog thereof.

(E) A violation of Section 5.1 or 9 of the Cannabis Control Act.

(F) A Class 2 or greater felony if the offender had been convicted of 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 Alcoholism and Other Drug Abuse and Dependency Act.

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

(G) Residential burglary, except as otherwise provided in Section 40-10 of the Alcoholism and Other Drug Abuse and Dependency Act.

(H) Criminal sexual assault.

(I) Aggravated battery of a senior citizen.

(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 of the Criminal Code of 1961.

(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.

(Q) A violation of Section 20-1.2 or 20-1.3 of the Criminal Code of 1961.

(R) A violation of Section 24-3A of the Criminal

Code of 1961.

(S) (Blank).

(T) A second or subsequent violation of the Methamphetamine Control and Community Protection Act.

(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, relating to the offense of reckless homicide, or a similar provision of a law of another state.

(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.

(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 an offender convicted of a business offense or a petty offense or 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 penalties imposed under paragraph (5) of this subsection (c), 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 penalties imposed under paragraph (5) of this subsection (c), 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 penalties imposed under paragraph (5) of this subsection (c), 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 penalties imposed under paragraph (5) of this subsection (c), 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 penalties imposed under paragraph (5) of this subsection (c), 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) In no case shall an offender be eligible for a disposition of probation or conditional discharge for a Class 1 felony committed while he was serving a term of probation or conditional discharge for a felony.

(7) When a defendant is adjudged a habitual criminal under Article 33B of the Criminal Code of 1961, the court shall sentence the defendant to a term of natural life imprisonment.

(8) When a defendant, over the age of 21 years, is convicted of a Class 1 or Class 2 felony, after having twice been convicted in any state or federal court of an offense that contains the same elements as an offense now classified in Illinois as a Class 2 or greater Class felony and such charges are separately brought and tried and arise out of different series of acts, such defendant shall be sentenced as a Class X offender. This paragraph shall not apply unless (1) the first felony was committed after the effective date of this amendatory Act of 1977; and (2) the second felony was committed after conviction on the first; and (3) the third felony was committed after conviction on the second. A person sentenced as a Class X offender under this paragraph is not eligible to apply for treatment as a condition of probation as provided by Section 40-10 of the

Alcoholism and Other Drug Abuse and Dependency Act.

(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 the Unified Code of Corrections 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 the Unified Code of Corrections. 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 12-16 of the Criminal Code of 1961 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 12-12 of the Criminal Code of 1961.

(f) This Article shall not deprive a court in other proceedings to order a forfeiture of property, to suspend or cancel a license, to remove a person from office, or to impose any other civil penalty.

(g) Whenever a defendant is convicted of an offense under Sections 11-14, 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, 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. A State's Attorney may petition the court to obtain the results of any HIV test administered under this Section, and the court shall grant the disclosure if the State's Attorney shows it is relevant in order to prosecute a charge of criminal

transmission of HIV under Section 12-16.2 of the Criminal Code of 1961 against the defendant. 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. A State's Attorney may petition the court to obtain the results of any HIV test administered under this Section, and the court shall grant the disclosure if the State's Attorney shows it is relevant in order to prosecute a charge of criminal transmission of HIV under Section 12-16.2 of the Criminal Code of 1961 against the defendant. 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 Section 27.5 of the Clerks of Courts Act.

(j) In cases when prosecution for any violation of Section 11-6, 11-8, 11-9, 11-11, 11-14, 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, 11-21, 12-13, 12-14, 12-14.1, 12-15, or 12-16 of the Criminal Code of 1961, 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 Substance 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 the high school level Test of General Educational Development (GED) 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 the GED test. 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 the GED test. This subsection (j-5) does not apply to a defendant who is

determined by the court to be developmentally disabled or otherwise mentally incapable of completing the educational or vocational program.

(k) A court may not impose a sentence or disposition for a felony or misdemeanor that requires the defendant to be implanted or injected with or to use any form of birth control.

(1) (A) Except as provided in paragraph (C) of subsection (1), whenever a defendant, who is an alien as defined by the Immigration and Nationality Act, 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 good conduct credit for meritorious service as provided under Section 3-6-6.

(m) A person convicted of criminal defacement of property under Section 21-1.3 of the Criminal Code of 1961, 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, or 16-1.3 of the Criminal Code of 1961 (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 is an addict or alcoholic, as defined in the Alcoholism and Other Drug Abuse and Dependency Act, to a substance or alcohol abuse 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. 94-72, eff. 1-1-06; 94-556, eff. 9-11-05; 94-993, eff. 1-1-07; 94-1035, eff. 7-1-07; 95-188, eff. 8-16-07; 95-259, eff. 8-17-07; 95-331, eff. 8-21-07; 95-377, eff. 1-1-08; revised 11-19-07.)

(Text of Section after amendment by P.A. 95-579)

Sec. 5-5-3. Disposition.

(a) Except as provided in Section 11-501 of the Illinois Vehicle Code, every person convicted of an offense shall be

sentenced as provided in this Section.

(b) The following options shall be appropriate dispositions, alone or in combination, for all felonies and misdemeanors other than those identified in subsection (c) of this Section:

(1) A period of probation.

(2) A term of periodic imprisonment.

(3) A term of conditional discharge.

(4) A term of imprisonment.

(5) An order directing the offender to clean up and repair the damage, if the offender was convicted under paragraph (h) of Section 21-1 of the Criminal Code of 1961 (now repealed).

(6) A fine.

(7) An order directing the offender to make restitution to the victim under Section 5-5-6 of this Code.

(8) A sentence of participation in a county impact incarceration program under Section 5-8-1.2 of this Code.

(9) A term of imprisonment in combination with a term of probation when the offender has been admitted into a drug court program under Section 20 of the Drug Court Treatment Act.

Neither a fine nor restitution shall be the sole disposition for a felony and either or both may be imposed only in conjunction with another disposition.

(c) (1) When a defendant is found guilty of first degree

murder the State may either seek a sentence of imprisonment under Section 5-8-1 of this Code, or where appropriate seek a sentence of death under Section 9-1 of the Criminal Code of 1961.

(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), (c)(1.5), or (c)(2) of Section 401 of that Act which relates to more than 5 grams of a substance containing heroin, cocaine, fentanyl, or an analog thereof.

(E) A violation of Section 5.1 or 9 of the Cannabis Control Act.

(F) A Class 2 or greater felony if the offender had been convicted of 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 Alcoholism and Other Drug Abuse and Dependency Act.

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

(G) Residential burglary, except as otherwise provided in Section 40-10 of the Alcoholism and Other Drug Abuse and Dependency Act.

(H) Criminal sexual assault.

(I) Aggravated battery of a senior citizen.

(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 of the Criminal Code of 1961.

(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.

(Q) A violation of Section 20-1.2 or 20-1.3 of the Criminal Code of 1961.

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

(S) (Blank).

(T) A second or subsequent violation of the Methamphetamine Control and Community Protection Act.

(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, relating to the offense of reckless homicide, or a similar provision of a law of

another state.

(V) ~~(U)~~ A violation of paragraph (4) of subsection (c) of Section 11-20.3 of the Criminal Code of 1961.

(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.

(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 an offender convicted of a business offense or a petty offense or 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 penalties imposed under paragraph (5) of this subsection (c), 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 penalties imposed under paragraph (5) of this subsection (c), 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 penalties imposed under paragraph (5) of this subsection (c), 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 penalties imposed under paragraph (5) of this subsection (c), 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 penalties imposed under paragraph (5) of this subsection (c), 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) In no case shall an offender be eligible for a disposition of probation or conditional discharge for a Class 1 felony committed while he was serving a term of probation or conditional discharge for a felony.

(7) When a defendant is adjudged a habitual criminal

under Article 33B of the Criminal Code of 1961, the court shall sentence the defendant to a term of natural life imprisonment.

(8) When a defendant, over the age of 21 years, is convicted of a Class 1 or Class 2 felony, after having twice been convicted in any state or federal court of an offense that contains the same elements as an offense now classified in Illinois as a Class 2 or greater Class felony and such charges are separately brought and tried and arise out of different series of acts, such defendant shall be sentenced as a Class X offender. This paragraph shall not apply unless (1) the first felony was committed after the effective date of this amendatory Act of 1977; and (2) the second felony was committed after conviction on the first; and (3) the third felony was committed after conviction on the second. A person sentenced as a Class X offender under this paragraph is not eligible to apply for treatment as a condition of probation as provided by Section 40-10 of the Alcoholism and Other Drug Abuse and Dependency Act.

(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 the Unified Code of Corrections 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 the Unified Code of Corrections. 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 12-16 of the Criminal Code of 1961 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 12-12 of the Criminal Code of 1961.

(f) This Article shall not deprive a court in other proceedings to order a forfeiture of property, to suspend or cancel a license, to remove a person from office, or to impose any other civil penalty.

(g) Whenever a defendant is convicted of an offense under Sections 11-14, 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, 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. A State's Attorney may petition the court to obtain the results of any HIV test administered under this Section, and the court shall grant the disclosure if the State's Attorney shows it is relevant in order to prosecute a charge of criminal transmission of HIV under Section 12-16.2 of the Criminal Code of 1961 against the defendant. 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. A State's Attorney may petition the court to obtain the results of any HIV test administered under this Section, and the court shall grant the disclosure if the State's Attorney shows it is relevant in order to prosecute a charge of criminal transmission of HIV under Section 12-16.2 of the Criminal Code of 1961 against the defendant. 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 Section 27.5 of the Clerks of Courts Act.

(j) In cases when prosecution for any violation of Section 11-6, 11-8, 11-9, 11-11, 11-14, 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, 11-21, 12-13, 12-14, 12-14.1, 12-15, or 12-16 of the Criminal Code of 1961, 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 Substance 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 the high school level Test of General Educational Development (GED) 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 the GED test. 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 the GED test. This subsection (j-5) does not apply to a defendant who is determined by the court to be developmentally disabled or otherwise mentally incapable of completing the educational or vocational program.

(k) A court may not impose a sentence or disposition for a felony or misdemeanor that requires the defendant to be implanted or injected with or to use any form of birth control.

(l) (A) Except as provided in paragraph (C) of subsection (l), whenever a defendant, who is an alien as defined by

the Immigration and Nationality Act, 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 good conduct credit for meritorious service as provided under Section 3-6-6.

(m) A person convicted of criminal defacement of property under Section 21-1.3 of the Criminal Code of 1961, 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, or 16-1.3 of the Criminal Code of 1961 (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 is an addict or alcoholic, as defined in the Alcoholism and Other Drug Abuse and Dependency Act, to a substance or alcohol abuse 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. 94-72, eff. 1-1-06; 94-556, eff. 9-11-05; 94-993, eff. 1-1-07; 94-1035, eff. 7-1-07; 95-188, eff. 8-16-07; 95-259, eff. 8-17-07; 95-331, eff. 8-21-07; 95-377, eff. 1-1-08; 95-579, eff. 6-1-08; revised 11-19-07.)

(730 ILCS 5/5-5-3.2) (from Ch. 38, par. 1005-5-3.2)

(Text of Section before amendment by P.A. 95-569)

Sec. 5-5-3.2. Factors in Aggravation.

(a) The following factors shall be accorded weight in favor of imposing a term of imprisonment or may be considered by the court as reasons to impose a more severe sentence under Section 5-8-1:

(1) the defendant's conduct caused or threatened serious harm;

(2) the defendant received compensation for committing the offense;

(3) the defendant has a history of prior delinquency or

criminal activity;

(4) the defendant, by the duties of his office or by his position, was obliged to prevent the particular offense committed or to bring the offenders committing it to justice;

(5) the defendant held public office at the time of the offense, and the offense related to the conduct of that office;

(6) the defendant utilized his professional reputation or position in the community to commit the offense, or to afford him an easier means of committing it;

(7) the sentence is necessary to deter others from committing the same crime;

(8) the defendant committed the offense against a person 60 years of age or older or such person's property;

(9) the defendant committed the offense against a person who is physically handicapped or such person's property;

(10) by reason of another individual's actual or perceived race, color, creed, religion, ancestry, gender, sexual orientation, physical or mental disability, or national origin, the defendant committed the offense against (i) the person or property of that individual; (ii) the person or property of a person who has an association with, is married to, or has a friendship with the other individual; or (iii) the person or property of a relative

(by blood or marriage) of a person described in clause (i) or (ii). For the purposes of this Section, "sexual orientation" means heterosexuality, homosexuality, or bisexuality;

(11) the offense took place in a place of worship or on the grounds of a place of worship, immediately prior to, during or immediately following worship services. For purposes of this subparagraph, "place of worship" shall mean any church, synagogue or other building, structure or place used primarily for religious worship;

(12) the defendant was convicted of a felony committed while he was released on bail or his own recognizance pending trial for a prior felony and was convicted of such prior felony, or the defendant was convicted of a felony committed while he was serving a period of probation, conditional discharge, or mandatory supervised release under subsection (d) of Section 5-8-1 for a prior felony;

(13) the defendant committed or attempted to commit a felony while he was wearing a bulletproof vest. For the purposes of this paragraph (13), a bulletproof vest is any device which is designed for the purpose of protecting the wearer from bullets, shot or other lethal projectiles;

(14) the defendant held a position of trust or supervision such as, but not limited to, family member as defined in Section 12-12 of the Criminal Code of 1961, teacher, scout leader, baby sitter, or day care worker, in

relation to a victim under 18 years of age, and the defendant committed an offense in violation of Section 11-6, 11-11, 11-15.1, 11-19.1, 11-19.2, 11-20.1, 12-13, 12-14, 12-14.1, 12-15 or 12-16 of the Criminal Code of 1961 against that victim;

(15) the defendant committed an offense related to the activities of an organized gang. For the purposes of this factor, "organized gang" has the meaning ascribed to it in Section 10 of the Streetgang Terrorism Omnibus Prevention Act;

(16) the defendant committed an offense in violation of one of the following Sections while in a school, regardless of the time of day or time of year; on any conveyance owned, leased, or contracted by a school to transport students to or from school or a school related activity; on the real property of a school; or on a public way within 1,000 feet of the real property comprising any school: Section 10-1, 10-2, 10-5, 11-15.1, 11-17.1, 11-18.1, 11-19.1, 11-19.2, 12-2, 12-4, 12-4.1, 12-4.2, 12-4.3, 12-6, 12-6.1, 12-13, 12-14, 12-14.1, 12-15, 12-16, 18-2, or 33A-2 of the Criminal Code of 1961;

(16.5) the defendant committed an offense in violation of one of the following Sections while in a day care center, regardless of the time of day or time of year; on the real property of a day care center, regardless of the time of day or time of year; or on a public way within

1,000 feet of the real property comprising any day care center, regardless of the time of day or time of year: Section 10-1, 10-2, 10-5, 11-15.1, 11-17.1, 11-18.1, 11-19.1, 11-19.2, 12-2, 12-4, 12-4.1, 12-4.2, 12-4.3, 12-6, 12-6.1, 12-13, 12-14, 12-14.1, 12-15, 12-16, 18-2, or 33A-2 of the Criminal Code of 1961;

(17) the defendant committed the offense 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 1961;

(18) the defendant committed the offense in a nursing home or on the real property comprising a nursing home. For the purposes of this paragraph (18), "nursing home" means a skilled nursing or intermediate long term care facility that is subject to license by the Illinois Department of Public Health under the Nursing Home Care Act;

(19) the defendant was a federally licensed firearm dealer and was previously convicted of a violation of subsection (a) of Section 3 of the Firearm Owners Identification Card Act and has now committed either a felony violation of the Firearm Owners Identification Card Act or an act of armed violence while armed with a firearm;

(20) the defendant (i) committed the offense of

reckless homicide under Section 9-3 of the Criminal Code of 1961 or the offense of driving under the influence of alcohol, other drug or drugs, intoxicating compound or compounds or any combination thereof under Section 11-501 of the Illinois Vehicle Code or a similar provision of a local ordinance and (ii) was operating a motor vehicle in excess of 20 miles per hour over the posted speed limit as provided in Article VI of Chapter 11 of the Illinois Vehicle Code;

(21) the defendant (i) committed the offense of reckless driving or aggravated reckless driving under Section 11-503 of the Illinois Vehicle Code and (ii) was operating a motor vehicle in excess of 20 miles per hour over the posted speed limit as provided in Article VI of Chapter 11 of the Illinois Vehicle Code; or

(22) the defendant committed the offense against a person that the defendant knew, or reasonably should have known, was a member of the Armed Forces of the United States serving on active duty. For purposes of this clause (22), the term "Armed Forces" means any of the Armed Forces of the United States, including a member of any reserve component thereof or National Guard unit called to active duty.

For the purposes of this Section:

"School" is defined as a public or private elementary or secondary school, community college, college, or university.

"Day care center" means a public or private State certified and licensed day care center as defined in Section 2.09 of the Child Care Act of 1969 that displays a sign in plain view stating that the property is a day care center.

(b) The following factors may be considered by the court as reasons to impose an extended term sentence under Section 5-8-2 upon any offender:

(1) When a defendant is convicted of any felony, after having been previously convicted in Illinois or any other jurisdiction of the same or similar class felony or greater class felony, when such conviction has occurred within 10 years after the previous conviction, excluding time spent in custody, and such charges are separately brought and tried and arise out of different series of acts; or

(2) When a defendant is convicted of any felony and the court finds that the offense was accompanied by exceptionally brutal or heinous behavior indicative of wanton cruelty; or

(3) When a defendant is convicted of voluntary manslaughter, second degree murder, involuntary manslaughter or reckless homicide in which the defendant has been convicted of causing the death of more than one individual; or

(4) When a defendant is convicted of any felony committed against:

(i) a person under 12 years of age at the time of

the offense or such person's property;

(ii) a person 60 years of age or older at the time of the offense or such person's property; or

(iii) a person physically handicapped at the time of the offense or such person's property; or

(5) In the case of a defendant convicted of aggravated criminal sexual assault or criminal sexual assault, when the court finds that aggravated criminal sexual assault or criminal sexual assault was also committed on the same victim by one or more other individuals, and the defendant voluntarily participated in the crime with the knowledge of the participation of the others in the crime, and the commission of the crime was part of a single course of conduct during which there was no substantial change in the nature of the criminal objective; or

(6) When a defendant is convicted of any felony and the offense involved any of the following types of specific misconduct committed as part of a ceremony, rite, initiation, observance, performance, practice or activity of any actual or ostensible religious, fraternal, or social group:

(i) the brutalizing or torturing of humans or animals;

(ii) the theft of human corpses;

(iii) the kidnapping of humans;

(iv) the desecration of any cemetery, religious,

fraternal, business, governmental, educational, or other building or property; or

(v) ritualized abuse of a child; or

(7) When a defendant is convicted of first degree murder, after having been previously convicted in Illinois of any offense listed under paragraph (c)(2) of Section 5-5-3, when such conviction has occurred within 10 years after the previous conviction, excluding time spent in custody, and such charges are separately brought and tried and arise out of different series of acts; or

(8) When a defendant is convicted of a felony other than conspiracy and the court finds that the felony was committed under an agreement with 2 or more other persons to commit that offense and the defendant, with respect to the other individuals, occupied a position of organizer, supervisor, financier, or any other position of management or leadership, and the court further finds that the felony committed was related to or in furtherance of the criminal activities of an organized gang or was motivated by the defendant's leadership in an organized gang; or

(9) When a defendant is convicted of a felony violation of Section 24-1 of the Criminal Code of 1961 and the court finds that the defendant is a member of an organized gang; or

(10) When a defendant committed the offense using a firearm with a laser sight attached to it. For purposes of

this paragraph (10), "laser sight" has the meaning ascribed to it in Section 24.6-5 of the Criminal Code of 1961; or

(11) When a defendant who was at least 17 years of age at the time of the commission of the offense is convicted of a felony and has been previously adjudicated a delinquent minor under the Juvenile Court Act of 1987 for an act that if committed by an adult would be a Class X or Class 1 felony when the conviction has occurred within 10 years after the previous adjudication, excluding time spent in custody; or

(12) When a defendant commits an offense involving the illegal manufacture of a controlled substance under Section 401 of the Illinois Controlled Substances Act, the illegal manufacture of methamphetamine under Section 25 of the Methamphetamine Control and Community Protection Act, or the illegal possession of explosives and an emergency response officer in the performance of his or her duties is killed or injured at the scene of the offense while responding to the emergency caused by the commission of the offense. In this paragraph (12), "emergency" means a situation in which a person's life, health, or safety is in jeopardy; and "emergency response officer" means a peace officer, community policing volunteer, fireman, emergency medical technician-ambulance, emergency medical technician-intermediate, emergency medical technician-paramedic, ambulance driver, other medical

assistance or first aid personnel, or hospital emergency room personnel; or

(13) When a defendant commits any felony and the defendant used, possessed, exercised control over, or otherwise directed an animal to assault a law enforcement officer engaged in the execution of his or her official duties or in furtherance of the criminal activities of an organized gang in which the defendant is engaged.

(b-1) For the purposes of this Section, "organized gang" has the meaning ascribed to it in Section 10 of the Illinois Streetgang Terrorism Omnibus Prevention Act.

(c) The court may impose an extended term sentence under Section 5-8-2 upon any offender who was convicted of aggravated criminal sexual assault or predatory criminal sexual assault of a child under subsection (a)(1) of Section 12-14.1 of the Criminal Code of 1961 where the victim was under 18 years of age at the time of the commission of the offense.

(d) The court may impose an extended term sentence under Section 5-8-2 upon any offender who was convicted of unlawful use of weapons under Section 24-1 of the Criminal Code of 1961 for possessing a weapon that is not readily distinguishable as one of the weapons enumerated in Section 24-1 of the Criminal Code of 1961.

(e) The court may impose an extended term sentence under Section 5-8-2 upon an offender who has been convicted of first degree murder when the offender has previously been convicted

of domestic battery or aggravated domestic battery committed against the murdered individual or has previously been convicted of violation of an order of protection in which the murdered individual was the protected person.

(Source: P.A. 94-131, eff. 7-7-05; 94-375, eff. 1-1-06; 94-556, eff. 9-11-05; 94-819, eff. 5-31-06; 95-85, eff. 1-1-08; 95-362, eff. 1-1-08; revised 11-19-07.)

(Text of Section after amendment by P.A. 95-569)

Sec. 5-5-3.2. Factors in Aggravation.

(a) The following factors shall be accorded weight in favor of imposing a term of imprisonment or may be considered by the court as reasons to impose a more severe sentence under Section 5-8-1:

(1) the defendant's conduct caused or threatened serious harm;

(2) the defendant received compensation for committing the offense;

(3) the defendant has a history of prior delinquency or criminal activity;

(4) the defendant, by the duties of his office or by his position, was obliged to prevent the particular offense committed or to bring the offenders committing it to justice;

(5) the defendant held public office at the time of the offense, and the offense related to the conduct of that

office;

(6) the defendant utilized his professional reputation or position in the community to commit the offense, or to afford him an easier means of committing it;

(7) the sentence is necessary to deter others from committing the same crime;

(8) the defendant committed the offense against a person 60 years of age or older or such person's property;

(9) the defendant committed the offense against a person who is physically handicapped or such person's property;

(10) by reason of another individual's actual or perceived race, color, creed, religion, ancestry, gender, sexual orientation, physical or mental disability, or national origin, the defendant committed the offense against (i) the person or property of that individual; (ii) the person or property of a person who has an association with, is married to, or has a friendship with the other individual; or (iii) the person or property of a relative (by blood or marriage) of a person described in clause (i) or (ii). For the purposes of this Section, "sexual orientation" means heterosexuality, homosexuality, or bisexuality;

(11) the offense took place in a place of worship or on the grounds of a place of worship, immediately prior to, during or immediately following worship services. For

purposes of this subparagraph, "place of worship" shall mean any church, synagogue or other building, structure or place used primarily for religious worship;

(12) the defendant was convicted of a felony committed while he was released on bail or his own recognizance pending trial for a prior felony and was convicted of such prior felony, or the defendant was convicted of a felony committed while he was serving a period of probation, conditional discharge, or mandatory supervised release under subsection (d) of Section 5-8-1 for a prior felony;

(13) the defendant committed or attempted to commit a felony while he was wearing a bulletproof vest. For the purposes of this paragraph (13), a bulletproof vest is any device which is designed for the purpose of protecting the wearer from bullets, shot or other lethal projectiles;

(14) the defendant held a position of trust or supervision such as, but not limited to, family member as defined in Section 12-12 of the Criminal Code of 1961, teacher, scout leader, baby sitter, or day care worker, in relation to a victim under 18 years of age, and the defendant committed an offense in violation of Section 11-6, 11-11, 11-15.1, 11-19.1, 11-19.2, 11-20.1, 12-13, 12-14, 12-14.1, 12-15 or 12-16 of the Criminal Code of 1961 against that victim;

(15) the defendant committed an offense related to the activities of an organized gang. For the purposes of this

factor, "organized gang" has the meaning ascribed to it in Section 10 of the Streetgang Terrorism Omnibus Prevention Act;

(16) the defendant committed an offense in violation of one of the following Sections while in a school, regardless of the time of day or time of year; on any conveyance owned, leased, or contracted by a school to transport students to or from school or a school related activity; on the real property of a school; or on a public way within 1,000 feet of the real property comprising any school: Section 10-1, 10-2, 10-5, 11-15.1, 11-17.1, 11-18.1, 11-19.1, 11-19.2, 12-2, 12-4, 12-4.1, 12-4.2, 12-4.3, 12-6, 12-6.1, 12-13, 12-14, 12-14.1, 12-15, 12-16, 18-2, or 33A-2 of the Criminal Code of 1961;

(16.5) the defendant committed an offense in violation of one of the following Sections while in a day care center, regardless of the time of day or time of year; on the real property of a day care center, regardless of the time of day or time of year; or on a public way within 1,000 feet of the real property comprising any day care center, regardless of the time of day or time of year: Section 10-1, 10-2, 10-5, 11-15.1, 11-17.1, 11-18.1, 11-19.1, 11-19.2, 12-2, 12-4, 12-4.1, 12-4.2, 12-4.3, 12-6, 12-6.1, 12-13, 12-14, 12-14.1, 12-15, 12-16, 18-2, or 33A-2 of the Criminal Code of 1961;

(17) the defendant committed the offense 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 1961;

(18) the defendant committed the offense in a nursing home or on the real property comprising a nursing home. For the purposes of this paragraph (18), "nursing home" means a skilled nursing or intermediate long term care facility that is subject to license by the Illinois Department of Public Health under the Nursing Home Care Act;

(19) the defendant was a federally licensed firearm dealer and was previously convicted of a violation of subsection (a) of Section 3 of the Firearm Owners Identification Card Act and has now committed either a felony violation of the Firearm Owners Identification Card Act or an act of armed violence while armed with a firearm;

(20) the defendant (i) committed the offense of reckless homicide under Section 9-3 of the Criminal Code of 1961 or the offense of driving under the influence of alcohol, other drug or drugs, intoxicating compound or compounds or any combination thereof under Section 11-501 of the Illinois Vehicle Code or a similar provision of a local ordinance and (ii) was operating a motor vehicle in excess of 20 miles per hour over the posted speed limit as

provided in Article VI of Chapter 11 of the Illinois Vehicle Code;

(21) the defendant (i) committed the offense of reckless driving or aggravated reckless driving under Section 11-503 of the Illinois Vehicle Code and (ii) was operating a motor vehicle in excess of 20 miles per hour over the posted speed limit as provided in Article VI of Chapter 11 of the Illinois Vehicle Code; ~~or~~

(22) the defendant committed the offense against a person that the defendant knew, or reasonably should have known, was a member of the Armed Forces of the United States serving on active duty. For purposes of this clause (22), the term "Armed Forces" means any of the Armed Forces of the United States, including a member of any reserve component thereof or National Guard unit called to active duty; or -

(23) ~~(22)~~ the defendant committed the offense against a person who was elderly, disabled, or infirm by taking advantage of a family or fiduciary relationship with the elderly, disabled, or infirm person.

For the purposes of this Section:

"School" is defined as a public or private elementary or secondary school, community college, college, or university.

"Day care center" means a public or private State certified and licensed day care center as defined in Section 2.09 of the Child Care Act of 1969 that displays a sign in plain view

stating that the property is a day care center.

(b) The following factors may be considered by the court as reasons to impose an extended term sentence under Section 5-8-2 upon any offender:

(1) When a defendant is convicted of any felony, after having been previously convicted in Illinois or any other jurisdiction of the same or similar class felony or greater class felony, when such conviction has occurred within 10 years after the previous conviction, excluding time spent in custody, and such charges are separately brought and tried and arise out of different series of acts; or

(2) When a defendant is convicted of any felony and the court finds that the offense was accompanied by exceptionally brutal or heinous behavior indicative of wanton cruelty; or

(3) When a defendant is convicted of voluntary manslaughter, second degree murder, involuntary manslaughter or reckless homicide in which the defendant has been convicted of causing the death of more than one individual; or

(4) When a defendant is convicted of any felony committed against:

(i) a person under 12 years of age at the time of the offense or such person's property;

(ii) a person 60 years of age or older at the time of the offense or such person's property; or

(iii) a person physically handicapped at the time of the offense or such person's property; or

(5) In the case of a defendant convicted of aggravated criminal sexual assault or criminal sexual assault, when the court finds that aggravated criminal sexual assault or criminal sexual assault was also committed on the same victim by one or more other individuals, and the defendant voluntarily participated in the crime with the knowledge of the participation of the others in the crime, and the commission of the crime was part of a single course of conduct during which there was no substantial change in the nature of the criminal objective; or

(6) When a defendant is convicted of any felony and the offense involved any of the following types of specific misconduct committed as part of a ceremony, rite, initiation, observance, performance, practice or activity of any actual or ostensible religious, fraternal, or social group:

(i) the brutalizing or torturing of humans or animals;

(ii) the theft of human corpses;

(iii) the kidnapping of humans;

(iv) the desecration of any cemetery, religious, fraternal, business, governmental, educational, or other building or property; or

(v) ritualized abuse of a child; or

(7) When a defendant is convicted of first degree murder, after having been previously convicted in Illinois of any offense listed under paragraph (c)(2) of Section 5-5-3, when such conviction has occurred within 10 years after the previous conviction, excluding time spent in custody, and such charges are separately brought and tried and arise out of different series of acts; or

(8) When a defendant is convicted of a felony other than conspiracy and the court finds that the felony was committed under an agreement with 2 or more other persons to commit that offense and the defendant, with respect to the other individuals, occupied a position of organizer, supervisor, financier, or any other position of management or leadership, and the court further finds that the felony committed was related to or in furtherance of the criminal activities of an organized gang or was motivated by the defendant's leadership in an organized gang; or

(9) When a defendant is convicted of a felony violation of Section 24-1 of the Criminal Code of 1961 and the court finds that the defendant is a member of an organized gang; or

(10) When a defendant committed the offense using a firearm with a laser sight attached to it. For purposes of this paragraph (10), "laser sight" has the meaning ascribed to it in Section 24.6-5 of the Criminal Code of 1961; or

(11) When a defendant who was at least 17 years of age

at the time of the commission of the offense is convicted of a felony and has been previously adjudicated a delinquent minor under the Juvenile Court Act of 1987 for an act that if committed by an adult would be a Class X or Class 1 felony when the conviction has occurred within 10 years after the previous adjudication, excluding time spent in custody; or

(12) When a defendant commits an offense involving the illegal manufacture of a controlled substance under Section 401 of the Illinois Controlled Substances Act, the illegal manufacture of methamphetamine under Section 25 of the Methamphetamine Control and Community Protection Act, or the illegal possession of explosives and an emergency response officer in the performance of his or her duties is killed or injured at the scene of the offense while responding to the emergency caused by the commission of the offense. In this paragraph (12), "emergency" means a situation in which a person's life, health, or safety is in jeopardy; and "emergency response officer" means a peace officer, community policing volunteer, fireman, emergency medical technician-ambulance, emergency medical technician-intermediate, emergency medical technician-paramedic, ambulance driver, other medical assistance or first aid personnel, or hospital emergency room personnel; or

(13) When a defendant commits any felony and the

defendant used, possessed, exercised control over, or otherwise directed an animal to assault a law enforcement officer engaged in the execution of his or her official duties or in furtherance of the criminal activities of an organized gang in which the defendant is engaged.

(b-1) For the purposes of this Section, "organized gang" has the meaning ascribed to it in Section 10 of the Illinois Streetgang Terrorism Omnibus Prevention Act.

(c) The court may impose an extended term sentence under Section 5-8-2 upon any offender who was convicted of aggravated criminal sexual assault or predatory criminal sexual assault of a child under subsection (a)(1) of Section 12-14.1 of the Criminal Code of 1961 where the victim was under 18 years of age at the time of the commission of the offense.

(d) The court may impose an extended term sentence under Section 5-8-2 upon any offender who was convicted of unlawful use of weapons under Section 24-1 of the Criminal Code of 1961 for possessing a weapon that is not readily distinguishable as one of the weapons enumerated in Section 24-1 of the Criminal Code of 1961.

(e) The court may impose an extended term sentence under Section 5-8-2 upon an offender who has been convicted of first degree murder when the offender has previously been convicted of domestic battery or aggravated domestic battery committed against the murdered individual or has previously been convicted of violation of an order of protection in which the

murdered individual was the protected person.

(Source: P.A. 94-131, eff. 7-7-05; 94-375, eff. 1-1-06; 94-556, eff. 9-11-05; 94-819, eff. 5-31-06; 95-85, eff. 1-1-08; 95-362, eff. 1-1-08; 95-569, eff. 6-1-08; revised 11-19-07.)

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

(Text of Section before amendment by P.A. 95-400)

Sec. 5-6-1. Sentences of Probation and of Conditional Discharge and Disposition of Supervision. The General Assembly finds that in order to protect the public, the criminal justice system must compel compliance with the conditions of probation by responding to violations with swift, certain and fair punishments and intermediate sanctions. The Chief Judge of each circuit shall adopt a system of structured, intermediate sanctions for violations of the terms and conditions of a sentence of probation, conditional discharge or disposition of supervision.

(a) Except where specifically prohibited by other provisions of this Code, the court shall impose a sentence of probation or conditional discharge upon an offender unless, having regard to the nature and circumstance of the offense, and to the history, character and condition of the offender, the court is of the opinion that:

(1) his imprisonment or periodic imprisonment is necessary for the protection of the public; or

(2) probation or conditional discharge would deprecate

the seriousness of the offender's conduct and would be inconsistent with the ends of justice; or

(3) a combination of imprisonment with concurrent or consecutive probation when an offender has been admitted into a drug court program under Section 20 of the Drug Court Treatment Act is necessary for the protection of the public and for the rehabilitation of the offender.

The court shall impose as a condition of a sentence of probation, conditional discharge, or supervision, that the probation agency may invoke any sanction from the list of intermediate sanctions adopted by the chief judge of the circuit court for violations of the terms and conditions of the sentence of probation, conditional discharge, or supervision, subject to the provisions of Section 5-6-4 of this Act.

(b) The court may impose a sentence of conditional discharge for an offense if the court is of the opinion that neither a sentence of imprisonment nor of periodic imprisonment nor of probation supervision is appropriate.

(b-1) Subsections (a) and (b) of this Section do not apply to a defendant charged with a misdemeanor or felony under the Illinois Vehicle Code or reckless homicide under Section 9-3 of the Criminal Code of 1961 if the defendant within the past 12 months has been convicted of or pleaded guilty to a misdemeanor or felony under the Illinois Vehicle Code or reckless homicide under Section 9-3 of the Criminal Code of 1961.

(c) The court may, upon a plea of guilty or a stipulation

by the defendant of the facts supporting the charge or a finding of guilt, defer further proceedings and the imposition of a sentence, and enter an order for supervision of the defendant, if the defendant is not charged with: (i) a Class A misdemeanor, as defined by the following provisions of the Criminal Code of 1961: Sections 11-9.1; 12-3.2; 12-15; 26-5; 31-1; 31-6; 31-7; subsections (b) and (c) of Section 21-1; paragraph (1) through (5), (8), (10), and (11) of subsection (a) of Section 24-1; (ii) a Class A misdemeanor violation of Section 3.01, 3.03-1, or 4.01 of the Humane Care for Animals Act; or (iii) felony. If the defendant is not barred from receiving an order for supervision as provided in this subsection, the court may enter an order for supervision after considering the circumstances of the offense, and the history, character and condition of the offender, if the court is of the opinion that:

(1) the offender is not likely to commit further crimes;

(2) the defendant and the public would be best served if the defendant were not to receive a criminal record; and

(3) in the best interests of justice an order of supervision is more appropriate than a sentence otherwise permitted under this Code.

(c-5) Subsections (a), (b), and (c) of this Section do not apply to a defendant charged with a second or subsequent violation of Section 6-303 of the Illinois Vehicle Code

committed while his or her driver's license, permit or privileges were revoked because of a violation of Section 9-3 of the Criminal Code of 1961, relating to the offense of reckless homicide, or a similar provision of a law of another state.

(d) The provisions of paragraph (c) shall not apply to a defendant charged with violating Section 11-501 of the Illinois Vehicle Code or a similar provision of a local ordinance when the defendant has previously been:

(1) convicted for a violation of Section 11-501 of the Illinois Vehicle Code or a similar provision of a local ordinance or any similar law or ordinance of another state; or

(2) assigned supervision for a violation of Section 11-501 of the Illinois Vehicle Code or a similar provision of a local ordinance or any similar law or ordinance of another state; or

(3) pleaded guilty to or stipulated to the facts supporting a charge or a finding of guilty to a violation of Section 11-503 of the Illinois Vehicle Code or a similar provision of a local ordinance or any similar law or ordinance of another state, and the plea or stipulation was the result of a plea agreement.

The court shall consider the statement of the prosecuting authority with regard to the standards set forth in this Section.

(e) The provisions of paragraph (c) shall not apply to a defendant charged with violating Section 16A-3 of the Criminal Code of 1961 if said defendant has within the last 5 years been:

(1) convicted for a violation of Section 16A-3 of the Criminal Code of 1961; or

(2) assigned supervision for a violation of Section 16A-3 of the Criminal Code of 1961.

The court shall consider the statement of the prosecuting authority with regard to the standards set forth in this Section.

(f) The provisions of paragraph (c) shall not apply to a defendant charged with violating Sections 15-111, 15-112, 15-301, paragraph (b) of Section 6-104, Section 11-605, Section 11-1002.5, or Section 11-1414 of the Illinois Vehicle Code or a similar provision of a local ordinance.

(g) Except as otherwise provided in paragraph (i) of this Section, the provisions of paragraph (c) shall not apply to a defendant charged with violating Section 3-707, 3-708, 3-710, or 5-401.3 of the Illinois Vehicle Code or a similar provision of a local ordinance if the defendant has within the last 5 years been:

(1) convicted for a violation of Section 3-707, 3-708, 3-710, or 5-401.3 of the Illinois Vehicle Code or a similar provision of a local ordinance; or

(2) assigned supervision for a violation of Section

3-707, 3-708, 3-710, or 5-401.3 of the Illinois Vehicle Code or a similar provision of a local ordinance.

The court shall consider the statement of the prosecuting authority with regard to the standards set forth in this Section.

(h) The provisions of paragraph (c) shall not apply to a defendant under the age of 21 years charged with violating a serious traffic offense as defined in Section 1-187.001 of the Illinois Vehicle Code:

(1) unless the defendant, upon payment of the fines, penalties, and costs provided by law, agrees to attend and successfully complete a traffic safety program approved by the court under standards set by the Conference of Chief Circuit Judges. The accused shall be responsible for payment of any traffic safety program fees. If the accused fails to file a certificate of successful completion on or before the termination date of the supervision order, the supervision shall be summarily revoked and conviction entered. The provisions of Supreme Court Rule 402 relating to pleas of guilty do not apply in cases when a defendant enters a guilty plea under this provision; or

(2) if the defendant has previously been sentenced under the provisions of paragraph (c) on or after January 1, 1998 for any serious traffic offense as defined in Section 1-187.001 of the Illinois Vehicle Code.

(h-1) The provisions of paragraph (c) shall not apply to a

defendant under the age of 21 years charged with an offense against traffic regulations governing the movement of vehicles or any violation of Section 6-107 or Section 12-603.1 of the Illinois Vehicle Code, unless the defendant, upon payment of the fines, penalties, and costs provided by law, agrees to attend and successfully complete a traffic safety program approved by the court under standards set by the Conference of Chief Circuit Judges. The accused shall be responsible for payment of any traffic safety program fees. If the accused fails to file a certificate of successful completion on or before the termination date of the supervision order, the supervision shall be summarily revoked and conviction entered. The provisions of Supreme Court Rule 402 relating to pleas of guilty do not apply in cases when a defendant enters a guilty plea under this provision.

(i) The provisions of paragraph (c) shall not apply to a defendant charged with violating Section 3-707 of the Illinois Vehicle Code or a similar provision of a local ordinance if the defendant has been assigned supervision for a violation of Section 3-707 of the Illinois Vehicle Code or a similar provision of a local ordinance.

(j) The provisions of paragraph (c) shall not apply to a defendant charged with violating Section 6-303 of the Illinois Vehicle Code or a similar provision of a local ordinance when the revocation or suspension was for a violation of Section 11-501 or a similar provision of a local ordinance or a

violation of Section 11-501.1 or paragraph (b) of Section 11-401 of the Illinois Vehicle Code, if the defendant has within the last 10 years been:

(1) convicted for a violation of Section 6-303 of the Illinois Vehicle Code or a similar provision of a local ordinance; or

(2) assigned supervision for a violation of Section 6-303 of the Illinois Vehicle Code or a similar provision of a local ordinance.

(k) The provisions of paragraph (c) shall not apply to a defendant charged with violating any provision of the Illinois Vehicle Code or a similar provision of a local ordinance that governs the movement of vehicles if, within the 12 months preceding the date of the defendant's arrest, the defendant has been assigned court supervision on 2 occasions for a violation that governs the movement of vehicles under the Illinois Vehicle Code or a similar provision of a local ordinance.

(l) A defendant charged with violating any provision of the Illinois Vehicle Code or a similar provision of a local ordinance who, after a court appearance in the same matter, receives a disposition of supervision under subsection (c) shall pay an additional fee of \$20, to be collected as provided in Sections 27.5 and 27.6 of the Clerks of Courts Act. In addition to the \$20 fee, the person shall also pay a fee of \$5, which, if not waived by the court, shall be collected as provided in Sections 27.5 and 27.6 of the Clerks of Courts Act.

The \$20 fee shall be disbursed as provided in Section 16-104c of the Illinois Vehicle Code. If the \$5 fee is collected, \$4.50 of the fee shall be deposited into the Circuit Court Clerk Operation and Administrative Fund created by the Clerk of the Circuit Court and 50 cents of the fee shall be deposited into the Prisoner Review Board Vehicle and Equipment Fund in the State treasury.

(m) Any person convicted of or pleading guilty to a serious traffic violation, as defined in Section 1-187.001 of the Illinois Vehicle Code, shall pay an additional fee of \$20, to be disbursed as provided in Section 16-104d of that Code.

This subsection (m) becomes inoperative 7 years after October 13, 2007 (the effective date of Public Act 95-154) ~~this amendatory Act of the 95th General Assembly.~~

(n) ~~(m)~~ The provisions of paragraph (c) shall not apply to any person under the age of 18 who commits an offense against traffic regulations governing the movement of vehicles or any violation of Section 6-107 or Section 12-603.1 of the Illinois Vehicle Code, except upon personal appearance of the defendant in court and upon the written consent of the defendant's parent or legal guardian, executed before the presiding judge. The presiding judge shall have the authority to waive this requirement upon the showing of good cause by the defendant.

(Source: P.A. 94-169, eff. 1-1-06; 94-330, eff. 1-1-06; 94-375, eff. 1-1-06; 94-1009, eff. 1-1-07; 95-154, eff. 10-13-07; 95-302, eff. 1-1-08; 95-310, eff. 1-1-08; 95-377, eff. 1-1-08;

95-428, 8-24-07; revised 11-19-07.)

(Text of Section after amendment by P.A. 95-400)

Sec. 5-6-1. Sentences of Probation and of Conditional Discharge and Disposition of Supervision. The General Assembly finds that in order to protect the public, the criminal justice system must compel compliance with the conditions of probation by responding to violations with swift, certain and fair punishments and intermediate sanctions. The Chief Judge of each circuit shall adopt a system of structured, intermediate sanctions for violations of the terms and conditions of a sentence of probation, conditional discharge or disposition of supervision.

(a) Except where specifically prohibited by other provisions of this Code, the court shall impose a sentence of probation or conditional discharge upon an offender unless, having regard to the nature and circumstance of the offense, and to the history, character and condition of the offender, the court is of the opinion that:

(1) his imprisonment or periodic imprisonment is necessary for the protection of the public; or

(2) probation or conditional discharge would deprecate the seriousness of the offender's conduct and would be inconsistent with the ends of justice; or

(3) a combination of imprisonment with concurrent or consecutive probation when an offender has been admitted

into a drug court program under Section 20 of the Drug Court Treatment Act is necessary for the protection of the public and for the rehabilitation of the offender.

The court shall impose as a condition of a sentence of probation, conditional discharge, or supervision, that the probation agency may invoke any sanction from the list of intermediate sanctions adopted by the chief judge of the circuit court for violations of the terms and conditions of the sentence of probation, conditional discharge, or supervision, subject to the provisions of Section 5-6-4 of this Act.

(b) The court may impose a sentence of conditional discharge for an offense if the court is of the opinion that neither a sentence of imprisonment nor of periodic imprisonment nor of probation supervision is appropriate.

(b-1) Subsections (a) and (b) of this Section do not apply to a defendant charged with a misdemeanor or felony under the Illinois Vehicle Code or reckless homicide under Section 9-3 of the Criminal Code of 1961 if the defendant within the past 12 months has been convicted of or pleaded guilty to a misdemeanor or felony under the Illinois Vehicle Code or reckless homicide under Section 9-3 of the Criminal Code of 1961.

(c) The court may, upon a plea of guilty or a stipulation by the defendant of the facts supporting the charge or a finding of guilt, defer further proceedings and the imposition of a sentence, and enter an order for supervision of the defendant, if the defendant is not charged with: (i) a Class A

misdemeanor, as defined by the following provisions of the Criminal Code of 1961: Sections 11-9.1; 12-3.2; 12-15; 26-5; 31-1; 31-6; 31-7; subsections (b) and (c) of Section 21-1; paragraph (1) through (5), (8), (10), and (11) of subsection (a) of Section 24-1; (ii) a Class A misdemeanor violation of Section 3.01, 3.03-1, or 4.01 of the Humane Care for Animals Act; or (iii) felony. If the defendant is not barred from receiving an order for supervision as provided in this subsection, the court may enter an order for supervision after considering the circumstances of the offense, and the history, character and condition of the offender, if the court is of the opinion that:

(1) the offender is not likely to commit further crimes;

(2) the defendant and the public would be best served if the defendant were not to receive a criminal record; and

(3) in the best interests of justice an order of supervision is more appropriate than a sentence otherwise permitted under this Code.

(c-5) Subsections (a), (b), and (c) of this Section do not apply to a defendant charged with a second or subsequent violation of Section 6-303 of the Illinois Vehicle Code committed while his or her driver's license, permit or privileges were revoked because of a violation of Section 9-3 of the Criminal Code of 1961, relating to the offense of reckless homicide, or a similar provision of a law of another

state.

(d) The provisions of paragraph (c) shall not apply to a defendant charged with violating Section 11-501 of the Illinois Vehicle Code or a similar provision of a local ordinance when the defendant has previously been:

(1) convicted for a violation of Section 11-501 of the Illinois Vehicle Code or a similar provision of a local ordinance or any similar law or ordinance of another state; or

(2) assigned supervision for a violation of Section 11-501 of the Illinois Vehicle Code or a similar provision of a local ordinance or any similar law or ordinance of another state; or

(3) pleaded guilty to or stipulated to the facts supporting a charge or a finding of guilty to a violation of Section 11-503 of the Illinois Vehicle Code or a similar provision of a local ordinance or any similar law or ordinance of another state, and the plea or stipulation was the result of a plea agreement.

The court shall consider the statement of the prosecuting authority with regard to the standards set forth in this Section.

(e) The provisions of paragraph (c) shall not apply to a defendant charged with violating Section 16A-3 of the Criminal Code of 1961 if said defendant has within the last 5 years been:

(1) convicted for a violation of Section 16A-3 of the Criminal Code of 1961; or

(2) assigned supervision for a violation of Section 16A-3 of the Criminal Code of 1961.

The court shall consider the statement of the prosecuting authority with regard to the standards set forth in this Section.

(f) The provisions of paragraph (c) shall not apply to a defendant charged with violating Sections 15-111, 15-112, 15-301, paragraph (b) of Section 6-104, Section 11-605, Section 11-1002.5, or Section 11-1414 of the Illinois Vehicle Code or a similar provision of a local ordinance.

(g) Except as otherwise provided in paragraph (i) of this Section, the provisions of paragraph (c) shall not apply to a defendant charged with violating Section 3-707, 3-708, 3-710, or 5-401.3 of the Illinois Vehicle Code or a similar provision of a local ordinance if the defendant has within the last 5 years been:

(1) convicted for a violation of Section 3-707, 3-708, 3-710, or 5-401.3 of the Illinois Vehicle Code or a similar provision of a local ordinance; or

(2) assigned supervision for a violation of Section 3-707, 3-708, 3-710, or 5-401.3 of the Illinois Vehicle Code or a similar provision of a local ordinance.

The court shall consider the statement of the prosecuting authority with regard to the standards set forth in this

Section.

(h) The provisions of paragraph (c) shall not apply to a defendant under the age of 21 years charged with violating a serious traffic offense as defined in Section 1-187.001 of the Illinois Vehicle Code:

(1) unless the defendant, upon payment of the fines, penalties, and costs provided by law, agrees to attend and successfully complete a traffic safety program approved by the court under standards set by the Conference of Chief Circuit Judges. The accused shall be responsible for payment of any traffic safety program fees. If the accused fails to file a certificate of successful completion on or before the termination date of the supervision order, the supervision shall be summarily revoked and conviction entered. The provisions of Supreme Court Rule 402 relating to pleas of guilty do not apply in cases when a defendant enters a guilty plea under this provision; or

(2) if the defendant has previously been sentenced under the provisions of paragraph (c) on or after January 1, 1998 for any serious traffic offense as defined in Section 1-187.001 of the Illinois Vehicle Code.

(h-1) The provisions of paragraph (c) shall not apply to a defendant under the age of 21 years charged with an offense against traffic regulations governing the movement of vehicles or any violation of Section 6-107 or Section 12-603.1 of the Illinois Vehicle Code, unless the defendant, upon payment of

the fines, penalties, and costs provided by law, agrees to attend and successfully complete a traffic safety program approved by the court under standards set by the Conference of Chief Circuit Judges. The accused shall be responsible for payment of any traffic safety program fees. If the accused fails to file a certificate of successful completion on or before the termination date of the supervision order, the supervision shall be summarily revoked and conviction entered. The provisions of Supreme Court Rule 402 relating to pleas of guilty do not apply in cases when a defendant enters a guilty plea under this provision.

(i) The provisions of paragraph (c) shall not apply to a defendant charged with violating Section 3-707 of the Illinois Vehicle Code or a similar provision of a local ordinance if the defendant has been assigned supervision for a violation of Section 3-707 of the Illinois Vehicle Code or a similar provision of a local ordinance.

(j) The provisions of paragraph (c) shall not apply to a defendant charged with violating Section 6-303 of the Illinois Vehicle Code or a similar provision of a local ordinance when the revocation or suspension was for a violation of Section 11-501 or a similar provision of a local ordinance or a violation of Section 11-501.1 or paragraph (b) of Section 11-401 of the Illinois Vehicle Code, if the defendant has within the last 10 years been:

(1) convicted for a violation of Section 6-303 of the

Illinois Vehicle Code or a similar provision of a local ordinance; or

(2) assigned supervision for a violation of Section 6-303 of the Illinois Vehicle Code or a similar provision of a local ordinance.

(k) The provisions of paragraph (c) shall not apply to a defendant charged with violating any provision of the Illinois Vehicle Code or a similar provision of a local ordinance that governs the movement of vehicles if, within the 12 months preceding the date of the defendant's arrest, the defendant has been assigned court supervision on 2 occasions for a violation that governs the movement of vehicles under the Illinois Vehicle Code or a similar provision of a local ordinance.

(l) A defendant charged with violating any provision of the Illinois Vehicle Code or a similar provision of a local ordinance who, after a court appearance in the same matter, receives a disposition of supervision under subsection (c) shall pay an additional fee of \$20, to be collected as provided in Sections 27.5 and 27.6 of the Clerks of Courts Act. In addition to the \$20 fee, the person shall also pay a fee of \$5, which, if not waived by the court, shall be collected as provided in Sections 27.5 and 27.6 of the Clerks of Courts Act. The \$20 fee shall be disbursed as provided in Section 16-104c of the Illinois Vehicle Code. If the \$5 fee is collected, \$4.50 of the fee shall be deposited into the Circuit Court Clerk Operation and Administrative Fund created by the Clerk of the

Circuit Court and 50 cents of the fee shall be deposited into the Prisoner Review Board Vehicle and Equipment Fund in the State treasury.

(m) Any person convicted of or pleading guilty to a serious traffic violation, as defined in Section 1-187.001 of the Illinois Vehicle Code, shall pay an additional fee of \$20, to be disbursed as provided in Section 16-104d of that Code.

This subsection (m) becomes inoperative 7 years after October 13, 2007 (the effective date of Public Act 95-154) ~~this amendatory Act of the 95th General Assembly.~~

(n) ~~(m)~~ The provisions of paragraph (c) shall not apply to any person under the age of 18 who commits an offense against traffic regulations governing the movement of vehicles or any violation of Section 6-107 or Section 12-603.1 of the Illinois Vehicle Code, except upon personal appearance of the defendant in court and upon the written consent of the defendant's parent or legal guardian, executed before the presiding judge. The presiding judge shall have the authority to waive this requirement upon the showing of good cause by the defendant.

(o) ~~(m)~~ The provisions of paragraph (c) shall not apply to a defendant charged with violating Section 6-303 of the Illinois Vehicle Code or a similar provision of a local ordinance when the suspension was for a violation of Section 11-501.1 of the Illinois Vehicle Code and when:

- (1) at the time of the violation of Section 11-501.1 of the Illinois Vehicle Code, the defendant was a first

offender pursuant to Section 11-500 of the Illinois Vehicle Code and the defendant failed to obtain a monitoring device driving permit; or

(2) at the time of the violation of Section 11-501.1 of the Illinois Vehicle Code, the defendant was a first offender pursuant to Section 11-500 of the Illinois Vehicle Code, had subsequently obtained a monitoring device driving permit, but was driving a vehicle not equipped with a breath alcohol ignition interlock device as defined in Section 1-129.1 of the Illinois Vehicle Code.

(Source: P.A. 94-169, eff. 1-1-06; 94-330, eff. 1-1-06; 94-375, eff. 1-1-06; 94-1009, eff. 1-1-07; 95-154, eff. 10-13-07; 95-302, eff. 1-1-08; 95-310, eff. 1-1-08; 95-377, eff. 1-1-08; 95-400, eff. 1-1-09; 95-428, 8-24-07; revised 11-19-07.)

(730 ILCS 5/5-6-3) (from Ch. 38, par. 1005-6-3)

(Text of Section before amendment by P.A. 95-464, 95-578, and 95-696)

Sec. 5-6-3. Conditions of Probation and of Conditional Discharge.

(a) The conditions of probation and of conditional discharge shall be that the person:

(1) not violate any criminal statute of any jurisdiction;

(2) report to or appear in person before such person or agency as directed by the court;

(3) refrain from possessing a firearm or other dangerous weapon;

(4) not leave the State without the consent of the court or, in circumstances in which the reason for the absence is of such an emergency nature that prior consent by the court is not possible, without the prior notification and approval of the person's probation officer. Transfer of a person's probation or conditional discharge supervision to another state is subject to acceptance by the other state pursuant to the Interstate Compact for Adult Offender Supervision;

(5) permit the probation officer to visit him at his home or elsewhere to the extent necessary to discharge his duties;

(6) perform no less than 30 hours of community service and not more than 120 hours of community service, if community service is available in the jurisdiction and is funded and approved by the county board where the offense was committed, where the offense was related to or in furtherance of the criminal activities of an organized gang and was motivated by the offender's membership in or allegiance to an organized gang. The community service shall include, but not be limited to, the cleanup and repair of any damage caused by a violation of Section 21-1.3 of the Criminal Code of 1961 and similar damage to property located within the municipality or county in which

the violation occurred. When possible and reasonable, the community service should be performed in the offender's neighborhood. For purposes of this Section, "organized gang" has the meaning ascribed to it in Section 10 of the Illinois Streetgang Terrorism Omnibus Prevention Act;

(7) if he or she is at least 17 years of age and has been sentenced to probation or conditional discharge for a misdemeanor or felony in a county of 3,000,000 or more inhabitants and has not been previously convicted of a misdemeanor or felony, may be required by the sentencing 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 the high school level Test of General Educational Development (GED) or to work toward completing a vocational training program approved by the court. The person on probation or conditional discharge must attend a public institution of education to obtain the educational or vocational training required by this clause (7). The court shall revoke the probation or conditional discharge of a person who wilfully fails to comply with this clause (7). The person on probation or conditional discharge shall be required to pay for the cost of the educational courses or GED test, if a fee is charged for those courses or test. The court shall resentence the offender whose probation or conditional discharge has been revoked as provided in Section 5-6-4.

This clause (7) does not apply to a person who has a high school diploma or has successfully passed the GED test. This clause (7) does not apply to a person who is determined by the court to be developmentally disabled or otherwise mentally incapable of completing the educational or vocational program;

(8) if convicted of possession of a substance prohibited by the Cannabis Control Act, the Illinois Controlled Substances Act, or the Methamphetamine Control and Community Protection Act after a previous conviction or disposition of supervision for possession of a substance prohibited by the Cannabis Control Act or Illinois Controlled Substances Act or after a sentence of 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 and upon a finding by the court that the person is addicted, undergo treatment at a substance abuse program approved by the court;

(8.5) if convicted of a felony sex offense as defined in the Sex Offender Management Board Act, the person shall undergo and successfully complete sex offender treatment by a treatment provider approved by the Board and conducted in conformance with the standards developed under the Sex Offender Management Board Act;

(8.6) if convicted of a sex offense as defined in the

Sex Offender Management Board Act, refrain from residing at the same address or in the same condominium unit or apartment unit or in the same condominium complex or apartment complex with another person he or she knows or reasonably should know is a convicted sex offender or has been placed on supervision for a sex offense; the provisions of this paragraph do not apply to a person convicted of a sex offense who is placed in a Department of Corrections licensed transitional housing facility for sex offenders;

(9) if convicted of a felony, physically surrender at a time and place designated by the court, his or her Firearm Owner's Identification Card and any and all firearms in his or her possession; and

(10) if convicted of a sex offense as defined in subsection (a-5) of Section 3-1-2 of this Code, unless the offender is a parent or guardian of the person under 18 years of age present in the home and no non-familial minors are present, not participate in a holiday event involving children under 18 years of age, such as distributing candy or other items to children on Halloween, wearing a Santa Claus costume on or preceding Christmas, being employed as a department store Santa Claus, or wearing an Easter Bunny costume on or preceding Easter.

(b) The Court may in addition to other reasonable conditions relating to the nature of the offense or the

rehabilitation of the defendant as determined for each defendant in the proper discretion of the Court require that the person:

(1) serve a term of periodic imprisonment under Article 7 for a period not to exceed that specified in paragraph (d) of Section 5-7-1;

(2) pay a fine and costs;

(3) work or pursue a course of study or vocational training;

(4) undergo medical, psychological or psychiatric treatment; or treatment for drug addiction or alcoholism;

(5) attend or reside in a facility established for the instruction or residence of defendants on probation;

(6) support his dependents;

(7) and in addition, if a minor:

(i) reside with his parents or in a foster home;

(ii) attend school;

(iii) attend a non-residential program for youth;

(iv) contribute to his own support at home or in a foster home;

(v) with the consent of the superintendent of the facility, attend an educational program at a facility other than the school in which the offense was committed if he or she is convicted of a crime of violence as defined in Section 2 of the Crime Victims Compensation Act committed in a school, on the real

property comprising a school, or within 1,000 feet of the real property comprising a school;

(8) make restitution as provided in Section 5-5-6 of this Code;

(9) perform some reasonable public or community service;

(10) serve a term of home confinement. In addition to any other applicable condition of probation or conditional discharge, the conditions of home confinement shall be that the offender:

(i) remain within the interior premises of the place designated for his confinement during the hours designated by the court;

(ii) admit any person or agent designated by the court into the offender's place of confinement at any time for purposes of verifying the offender's compliance with the conditions of his confinement; and

(iii) if further deemed necessary by the court or the Probation or Court Services Department, be placed on an approved electronic monitoring device, subject to Article 8A of Chapter V;

(iv) for persons convicted of any alcohol, cannabis or controlled substance violation who are placed on an approved monitoring device as a condition of probation or conditional discharge, the court shall impose a reasonable fee for each day of the use of the

device, as established by the county board in subsection (g) of this Section, unless after determining the inability of the offender to pay the fee, the court assesses a lesser fee or no fee as the case may be. This fee shall be imposed in addition to the fees imposed under subsections (g) and (i) of this Section. The fee shall be collected by the clerk of the circuit court. The clerk of the circuit court shall pay all monies collected from this fee to the county treasurer for deposit in the substance abuse services fund under Section 5-1086.1 of the Counties Code; and

(v) for persons convicted of offenses other than those referenced in clause (iv) above and who are placed on an approved monitoring device as a condition of probation or conditional discharge, the court shall impose a reasonable fee for each day of the use of the device, as established by the county board in subsection (g) of this Section, unless after determining the inability of the defendant to pay the fee, the court assesses a lesser fee or no fee as the case may be. This fee shall be imposed in addition to the fees imposed under subsections (g) and (i) of this Section. The fee shall be collected by the clerk of the circuit court. The clerk of the circuit court shall pay all monies collected from this fee to the county treasurer who shall use the monies collected to defray

the costs of corrections. The county treasurer shall deposit the fee collected in the county working cash fund under Section 6-27001 or Section 6-29002 of the Counties Code, as the case may be.

(11) comply with the terms and conditions of an order of protection issued by the court pursuant to the Illinois Domestic Violence Act of 1986, as now or hereafter amended, or an order of protection issued by the court of another state, tribe, or United States territory. A copy of the order of protection shall be transmitted to the probation officer or agency having responsibility for the case;

(12) reimburse any "local anti-crime program" as defined in Section 7 of the Anti-Crime Advisory Council Act for any reasonable expenses incurred by the program on the offender's case, not to exceed the maximum amount of the fine authorized for the offense for which the defendant was sentenced;

(13) contribute a reasonable sum of money, not to exceed the maximum amount of the fine authorized for the offense for which the defendant was sentenced, to a "local anti-crime program", as defined in Section 7 of the Anti-Crime Advisory Council Act;

(14) refrain from entering into a designated geographic area except upon such terms as the court finds appropriate. Such terms may include consideration of the purpose of the entry, the time of day, other persons

accompanying the defendant, and advance approval by a probation officer, if the defendant has been placed on probation or advance approval by the court, if the defendant was placed on conditional discharge;

(15) refrain from having any contact, directly or indirectly, with certain specified persons or particular types of persons, including but not limited to members of street gangs and drug users or dealers;

(16) refrain from having in his or her body the presence of any illicit drug prohibited by the Cannabis Control Act, the Illinois Controlled Substances Act, or the Methamphetamine Control and Community Protection Act, unless prescribed by a physician, and submit samples of his or her blood or urine or both for tests to determine the presence of any illicit drug.

(c) The court may as a condition of probation or of conditional discharge require that a person under 18 years of age found guilty of any alcohol, cannabis or controlled substance violation, refrain from acquiring a driver's license during the period of probation or conditional discharge. If such person is in possession of a permit or license, the court may require that the minor refrain from driving or operating any motor vehicle during the period of probation or conditional discharge, except as may be necessary in the course of the minor's lawful employment.

(d) An offender sentenced to probation or to conditional

discharge shall be given a certificate setting forth the conditions thereof.

(e) Except where the offender has committed a fourth or subsequent violation of subsection (c) of Section 6-303 of the Illinois Vehicle Code, the court shall not require as a condition of the sentence of probation or conditional discharge that the offender be committed to a period of imprisonment in excess of 6 months. This 6 month limit shall not include periods of confinement given pursuant to a sentence of county impact incarceration under Section 5-8-1.2. This 6 month limit does not apply to a person sentenced to probation as a result of a conviction of a fourth or subsequent violation of subsection (c-4) of Section 11-501 of the Illinois Vehicle Code or a similar provision of a local ordinance.

Persons committed to imprisonment as a condition of probation or conditional discharge shall not be committed to the Department of Corrections.

(f) The court may combine a sentence of periodic imprisonment under Article 7 or a sentence to a county impact incarceration program under Article 8 with a sentence of probation or conditional discharge.

(g) An offender sentenced to probation or to conditional discharge and who during the term of either undergoes mandatory drug or alcohol testing, or both, or is assigned to be placed on an approved electronic monitoring device, shall be ordered to pay all costs incidental to such mandatory drug or alcohol

testing, or both, and all costs incidental to such approved electronic monitoring in accordance with the defendant's ability to pay those costs. The county board with the concurrence of the Chief Judge of the judicial circuit in which the county is located shall establish reasonable fees for the cost of maintenance, testing, and incidental expenses related to the mandatory drug or alcohol testing, or both, and all costs incidental to approved electronic monitoring, involved in a successful probation program for the county. The concurrence of the Chief Judge shall be in the form of an administrative order. The fees shall be collected by the clerk of the circuit court. The clerk of the circuit court shall pay all moneys collected from these fees to the county treasurer who shall use the moneys collected to defray the costs of drug testing, alcohol testing, and electronic monitoring. The county treasurer shall deposit the fees collected in the county working cash fund under Section 6-27001 or Section 6-29002 of the Counties Code, as the case may be.

(h) Jurisdiction over an offender may be transferred from the sentencing court to the court of another circuit with the concurrence of both courts. Further transfers or retransfers of jurisdiction are also authorized in the same manner. The court to which jurisdiction has been transferred shall have the same powers as the sentencing court.

(i) The court shall impose upon an offender sentenced to probation after January 1, 1989 or to conditional discharge

after January 1, 1992 or to community service under the supervision of a probation or court services department after January 1, 2004, as a condition of such probation or conditional discharge or supervised community service, a fee of \$50 for each month of probation or conditional discharge supervision or supervised community service ordered by the court, unless after determining the inability of the person sentenced to probation or conditional discharge or supervised community service to pay the fee, the court assesses a lesser fee. The court may not impose the fee on a minor who is made a ward of the State under the Juvenile Court Act of 1987 while the minor is in placement. The fee shall be imposed only upon an offender who is actively supervised by the probation and court services department. The fee shall be collected by the clerk of the circuit court. The clerk of the circuit court shall pay all monies collected from this fee to the county treasurer for deposit in the probation and court services fund under Section 15.1 of the Probation and Probation Officers Act.

A circuit court may not impose a probation fee under this subsection (i) in excess of \$25 per month unless: (1) the circuit court has adopted, by administrative order issued by the chief judge, a standard probation fee guide determining an offender's ability to pay, under guidelines developed by the Administrative Office of the Illinois Courts; and (2) the circuit court has authorized, by administrative order issued by the chief judge, the creation of a Crime Victim's Services

Fund, to be administered by the Chief Judge or his or her designee, for services to crime victims and their families. Of the amount collected as a probation fee, up to \$5 of that fee collected per month may be used to provide services to crime victims and their families.

This amendatory Act of the 93rd General Assembly deletes the \$10 increase in the fee under this subsection that was imposed by Public Act 93-616. This deletion is intended to control over any other Act of the 93rd General Assembly that retains or incorporates that fee increase.

(i-5) In addition to the fees imposed under subsection (i) of this Section, in the case of an offender convicted of a felony sex offense (as defined in the Sex Offender Management Board Act) or an offense that the court or probation department has determined to be sexually motivated (as defined in the Sex Offender Management Board Act), the court or the probation department shall assess additional fees to pay for all costs of treatment, assessment, evaluation for risk and treatment, and monitoring the offender, based on that offender's ability to pay those costs either as they occur or under a payment plan.

(j) All fines and costs 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 Section 27.5

of the Clerks of Courts Act.

(k) Any offender who is sentenced to probation or conditional discharge for a felony sex offense as defined in the Sex Offender Management Board Act or any offense that the court or probation department has determined to be sexually motivated as defined in the Sex Offender Management Board Act shall be required to refrain from any contact, directly or indirectly, with any persons specified by the court and shall be available for all evaluations and treatment programs required by the court or the probation department.

(Source: P.A. 94-159, eff. 7-11-05; 94-161, eff. 7-11-05; 94-556, eff. 9-11-05; 95-331, eff. 8-21-07.)

(Text of Section after amendment by P.A. 95-464, 95-578, and 95-696)

Sec. 5-6-3. Conditions of Probation and of Conditional Discharge.

(a) The conditions of probation and of conditional discharge shall be that the person:

(1) not violate any criminal statute of any jurisdiction;

(2) report to or appear in person before such person or agency as directed by the court;

(3) refrain from possessing a firearm or other dangerous weapon;

(4) not leave the State without the consent of the

court or, in circumstances in which the reason for the absence is of such an emergency nature that prior consent by the court is not possible, without the prior notification and approval of the person's probation officer. Transfer of a person's probation or conditional discharge supervision to another state is subject to acceptance by the other state pursuant to the Interstate Compact for Adult Offender Supervision;

(5) permit the probation officer to visit him at his home or elsewhere to the extent necessary to discharge his duties;

(6) perform no less than 30 hours of community service and not more than 120 hours of community service, if community service is available in the jurisdiction and is funded and approved by the county board where the offense was committed, where the offense was related to or in furtherance of the criminal activities of an organized gang and was motivated by the offender's membership in or allegiance to an organized gang. The community service shall include, but not be limited to, the cleanup and repair of any damage caused by a violation of Section 21-1.3 of the Criminal Code of 1961 and similar damage to property located within the municipality or county in which the violation occurred. When possible and reasonable, the community service should be performed in the offender's neighborhood. For purposes of this Section, "organized

gang" has the meaning ascribed to it in Section 10 of the Illinois Streetgang Terrorism Omnibus Prevention Act;

(7) if he or she is at least 17 years of age and has been sentenced to probation or conditional discharge for a misdemeanor or felony in a county of 3,000,000 or more inhabitants and has not been previously convicted of a misdemeanor or felony, may be required by the sentencing 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 the high school level Test of General Educational Development (GED) or to work toward completing a vocational training program approved by the court. The person on probation or conditional discharge must attend a public institution of education to obtain the educational or vocational training required by this clause (7). The court shall revoke the probation or conditional discharge of a person who wilfully fails to comply with this clause (7). The person on probation or conditional discharge shall be required to pay for the cost of the educational courses or GED test, if a fee is charged for those courses or test. The court shall resentence the offender whose probation or conditional discharge has been revoked as provided in Section 5-6-4. This clause (7) does not apply to a person who has a high school diploma or has successfully passed the GED test. This clause (7) does not apply to a person who is

determined by the court to be developmentally disabled or otherwise mentally incapable of completing the educational or vocational program;

(8) if convicted of possession of a substance prohibited by the Cannabis Control Act, the Illinois Controlled Substances Act, or the Methamphetamine Control and Community Protection Act after a previous conviction or disposition of supervision for possession of a substance prohibited by the Cannabis Control Act or Illinois Controlled Substances Act or after a sentence of 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 and upon a finding by the court that the person is addicted, undergo treatment at a substance abuse program approved by the court;

(8.5) if convicted of a felony sex offense as defined in the Sex Offender Management Board Act, the person shall undergo and successfully complete sex offender treatment by a treatment provider approved by the Board and conducted in conformance with the standards developed under the Sex Offender Management Board Act;

(8.6) if convicted of a sex offense as defined in the Sex Offender Management Board Act, refrain from residing at the same address or in the same condominium unit or apartment unit or in the same condominium complex or

apartment complex with another person he or she knows or reasonably should know is a convicted sex offender or has been placed on supervision for a sex offense; the provisions of this paragraph do not apply to a person convicted of a sex offense who is placed in a Department of Corrections licensed transitional housing facility for sex offenders;

(8.7) if convicted for an offense committed on or after the effective date of this amendatory Act of the 95th General Assembly that would qualify the accused as a child sex offender as defined in Section 11-9.3 or 11-9.4 of the Criminal Code of 1961, refrain from communicating with or contacting, by means of the Internet, a person who is not related to the accused and whom the accused reasonably believes to be under 18 years of age; for purposes of this paragraph (8.7), "Internet" has the meaning ascribed to it in Section 16J-5 of the Criminal Code of 1961, ~~as added by Public Act 94-179~~; and a person is not related to the accused if the person is not: (i) the spouse, brother, or sister of the accused; (ii) a descendant of the accused; (iii) a first or second cousin of the accused; or (iv) a step-child or adopted child of the accused;

(9) if convicted of a felony, physically surrender at a time and place designated by the court, his or her Firearm Owner's Identification Card and any and all firearms in his or her possession; and

(10) if convicted of a sex offense as defined in subsection (a-5) of Section 3-1-2 of this Code, unless the offender is a parent or guardian of the person under 18 years of age present in the home and no non-familial minors are present, not participate in a holiday event involving children under 18 years of age, such as distributing candy or other items to children on Halloween, wearing a Santa Claus costume on or preceding Christmas, being employed as a department store Santa Claus, or wearing an Easter Bunny costume on or preceding Easter.

(b) The Court may in addition to other reasonable conditions relating to the nature of the offense or the rehabilitation of the defendant as determined for each defendant in the proper discretion of the Court require that the person:

(1) serve a term of periodic imprisonment under Article 7 for a period not to exceed that specified in paragraph (d) of Section 5-7-1;

(2) pay a fine and costs;

(3) work or pursue a course of study or vocational training;

(4) undergo medical, psychological or psychiatric treatment; or treatment for drug addiction or alcoholism;

(5) attend or reside in a facility established for the instruction or residence of defendants on probation;

(6) support his dependents;

(7) and in addition, if a minor:

(i) reside with his parents or in a foster home;

(ii) attend school;

(iii) attend a non-residential program for youth;

(iv) contribute to his own support at home or in a foster home;

(v) with the consent of the superintendent of the facility, attend an educational program at a facility other than the school in which the offense was committed if he or she is convicted of a crime of violence as defined in Section 2 of the Crime Victims Compensation Act committed in a school, on the real property comprising a school, or within 1,000 feet of the real property comprising a school;

(8) make restitution as provided in Section 5-5-6 of this Code;

(9) perform some reasonable public or community service;

(10) serve a term of home confinement. In addition to any other applicable condition of probation or conditional discharge, the conditions of home confinement shall be that the offender:

(i) remain within the interior premises of the place designated for his confinement during the hours designated by the court;

(ii) admit any person or agent designated by the

court into the offender's place of confinement at any time for purposes of verifying the offender's compliance with the conditions of his confinement; and

(iii) if further deemed necessary by the court or the Probation or Court Services Department, be placed on an approved electronic monitoring device, subject to Article 8A of Chapter V;

(iv) for persons convicted of any alcohol, cannabis or controlled substance violation who are placed on an approved monitoring device as a condition of probation or conditional discharge, the court shall impose a reasonable fee for each day of the use of the device, as established by the county board in subsection (g) of this Section, unless after determining the inability of the offender to pay the fee, the court assesses a lesser fee or no fee as the case may be. This fee shall be imposed in addition to the fees imposed under subsections (g) and (i) of this Section. The fee shall be collected by the clerk of the circuit court. The clerk of the circuit court shall pay all monies collected from this fee to the county treasurer for deposit in the substance abuse services fund under Section 5-1086.1 of the Counties Code; and

(v) for persons convicted of offenses other than those referenced in clause (iv) above and who are placed on an approved monitoring device as a condition

of probation or conditional discharge, the court shall impose a reasonable fee for each day of the use of the device, as established by the county board in subsection (g) of this Section, unless after determining the inability of the defendant to pay the fee, the court assesses a lesser fee or no fee as the case may be. This fee shall be imposed in addition to the fees imposed under subsections (g) and (i) of this Section. The fee shall be collected by the clerk of the circuit court. The clerk of the circuit court shall pay all monies collected from this fee to the county treasurer who shall use the monies collected to defray the costs of corrections. The county treasurer shall deposit the fee collected in the county working cash fund under Section 6-27001 or Section 6-29002 of the Counties Code, as the case may be.

(11) comply with the terms and conditions of an order of protection issued by the court pursuant to the Illinois Domestic Violence Act of 1986, as now or hereafter amended, or an order of protection issued by the court of another state, tribe, or United States territory. A copy of the order of protection shall be transmitted to the probation officer or agency having responsibility for the case;

(12) reimburse any "local anti-crime program" as defined in Section 7 of the Anti-Crime Advisory Council Act for any reasonable expenses incurred by the program on the

offender's case, not to exceed the maximum amount of the fine authorized for the offense for which the defendant was sentenced;

(13) contribute a reasonable sum of money, not to exceed the maximum amount of the fine authorized for the offense for which the defendant was sentenced, (i) to a "local anti-crime program", as defined in Section 7 of the Anti-Crime Advisory Council Act, or (ii) for offenses under the jurisdiction of the Department of Natural Resources, to the fund established by the Department of Natural Resources for the purchase of evidence for investigation purposes and to conduct investigations as outlined in Section 805-105 of the Department of Natural Resources (Conservation) Law;

(14) refrain from entering into a designated geographic area except upon such terms as the court finds appropriate. Such terms may include consideration of the purpose of the entry, the time of day, other persons accompanying the defendant, and advance approval by a probation officer, if the defendant has been placed on probation or advance approval by the court, if the defendant was placed on conditional discharge;

(15) refrain from having any contact, directly or indirectly, with certain specified persons or particular types of persons, including but not limited to members of street gangs and drug users or dealers;

(16) refrain from having in his or her body the

presence of any illicit drug prohibited by the Cannabis Control Act, the Illinois Controlled Substances Act, or the Methamphetamine Control and Community Protection Act, unless prescribed by a physician, and submit samples of his or her blood or urine or both for tests to determine the presence of any illicit drug; and

(17) if convicted for an offense committed on or after the effective date of this amendatory Act of the 95th General Assembly that would qualify the accused as a child sex offender as defined in Section 11-9.3 or 11-9.4 of the Criminal Code of 1961, refrain from communicating with or contacting, by means of the Internet, a person who is related to the accused and whom the accused reasonably believes to be under 18 years of age; for purposes of this paragraph (17), "Internet" has the meaning ascribed to it in Section 16J-5 of the Criminal Code of 1961, ~~as added by Public Act 94-179~~; and a person is related to the accused if the person is: (i) the spouse, brother, or sister of the accused; (ii) a descendant of the accused; (iii) a first or second cousin of the accused; or (iv) a step-child or adopted child of the accused.

(c) The court may as a condition of probation or of conditional discharge require that a person under 18 years of age found guilty of any alcohol, cannabis or controlled substance violation, refrain from acquiring a driver's license during the period of probation or conditional discharge. If

such person is in possession of a permit or license, the court may require that the minor refrain from driving or operating any motor vehicle during the period of probation or conditional discharge, except as may be necessary in the course of the minor's lawful employment.

(d) An offender sentenced to probation or to conditional discharge shall be given a certificate setting forth the conditions thereof.

(e) Except where the offender has committed a fourth or subsequent violation of subsection (c) of Section 6-303 of the Illinois Vehicle Code, the court shall not require as a condition of the sentence of probation or conditional discharge that the offender be committed to a period of imprisonment in excess of 6 months. This 6 month limit shall not include periods of confinement given pursuant to a sentence of county impact incarceration under Section 5-8-1.2.

Persons committed to imprisonment as a condition of probation or conditional discharge shall not be committed to the Department of Corrections.

(f) The court may combine a sentence of periodic imprisonment under Article 7 or a sentence to a county impact incarceration program under Article 8 with a sentence of probation or conditional discharge.

(g) An offender sentenced to probation or to conditional discharge and who during the term of either undergoes mandatory drug or alcohol testing, or both, or is assigned to be placed

on an approved electronic monitoring device, shall be ordered to pay all costs incidental to such mandatory drug or alcohol testing, or both, and all costs incidental to such approved electronic monitoring in accordance with the defendant's ability to pay those costs. The county board with the concurrence of the Chief Judge of the judicial circuit in which the county is located shall establish reasonable fees for the cost of maintenance, testing, and incidental expenses related to the mandatory drug or alcohol testing, or both, and all costs incidental to approved electronic monitoring, involved in a successful probation program for the county. The concurrence of the Chief Judge shall be in the form of an administrative order. The fees shall be collected by the clerk of the circuit court. The clerk of the circuit court shall pay all moneys collected from these fees to the county treasurer who shall use the moneys collected to defray the costs of drug testing, alcohol testing, and electronic monitoring. The county treasurer shall deposit the fees collected in the county working cash fund under Section 6-27001 or Section 6-29002 of the Counties Code, as the case may be.

(h) Jurisdiction over an offender may be transferred from the sentencing court to the court of another circuit with the concurrence of both courts. Further transfers or retransfers of jurisdiction are also authorized in the same manner. The court to which jurisdiction has been transferred shall have the same powers as the sentencing court.

(i) The court shall impose upon an offender sentenced to probation after January 1, 1989 or to conditional discharge after January 1, 1992 or to community service under the supervision of a probation or court services department after January 1, 2004, as a condition of such probation or conditional discharge or supervised community service, a fee of \$50 for each month of probation or conditional discharge supervision or supervised community service ordered by the court, unless after determining the inability of the person sentenced to probation or conditional discharge or supervised community service to pay the fee, the court assesses a lesser fee. The court may not impose the fee on a minor who is made a ward of the State under the Juvenile Court Act of 1987 while the minor is in placement. The fee shall be imposed only upon an offender who is actively supervised by the probation and court services department. The fee shall be collected by the clerk of the circuit court. The clerk of the circuit court shall pay all monies collected from this fee to the county treasurer for deposit in the probation and court services fund under Section 15.1 of the Probation and Probation Officers Act.

A circuit court may not impose a probation fee under this subsection (i) in excess of \$25 per month unless: (1) the circuit court has adopted, by administrative order issued by the chief judge, a standard probation fee guide determining an offender's ability to pay, under guidelines developed by the Administrative Office of the Illinois Courts; and (2) the

circuit court has authorized, by administrative order issued by the chief judge, the creation of a Crime Victim's Services Fund, to be administered by the Chief Judge or his or her designee, for services to crime victims and their families. Of the amount collected as a probation fee, up to \$5 of that fee collected per month may be used to provide services to crime victims and their families.

This amendatory Act of the 93rd General Assembly deletes the \$10 increase in the fee under this subsection that was imposed by Public Act 93-616. This deletion is intended to control over any other Act of the 93rd General Assembly that retains or incorporates that fee increase.

(i-5) In addition to the fees imposed under subsection (i) of this Section, in the case of an offender convicted of a felony sex offense (as defined in the Sex Offender Management Board Act) or an offense that the court or probation department has determined to be sexually motivated (as defined in the Sex Offender Management Board Act), the court or the probation department shall assess additional fees to pay for all costs of treatment, assessment, evaluation for risk and treatment, and monitoring the offender, based on that offender's ability to pay those costs either as they occur or under a payment plan.

(j) All fines and costs 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 Section 27.5 of the Clerks of Courts Act.

(k) Any offender who is sentenced to probation or conditional discharge for a felony sex offense as defined in the Sex Offender Management Board Act or any offense that the court or probation department has determined to be sexually motivated as defined in the Sex Offender Management Board Act shall be required to refrain from any contact, directly or indirectly, with any persons specified by the court and shall be available for all evaluations and treatment programs required by the court or the probation department.

(Source: P.A. 94-159, eff. 7-11-05; 94-161, eff. 7-11-05; 94-556, eff. 9-11-05; 95-331, eff. 8-21-07; 95-464, eff. 6-1-08; 95-578, eff. 6-1-08; 95-696, eff. 6-1-08; revised 12-26-07.)

(730 ILCS 5/5-6-3.1) (from Ch. 38, par. 1005-6-3.1)

(Text of Section before amendment by P.A. 95-464 and 95-696)

Sec. 5-6-3.1. Incidents and Conditions of Supervision.

(a) When a defendant is placed on supervision, the court shall enter an order for supervision specifying the period of such supervision, and shall defer further proceedings in the case until the conclusion of the period.

(b) The period of supervision shall be reasonable under all

of the circumstances of the case, but may not be longer than 2 years, unless the defendant has failed to pay the assessment required by Section 10.3 of the Cannabis Control Act, Section 411.2 of the Illinois Controlled Substances Act, or Section 80 of the Methamphetamine Control and Community Protection Act, in which case the court may extend supervision beyond 2 years. Additionally, the court shall order the defendant to perform no less than 30 hours of community service and not more than 120 hours of community service, if community service is available in the jurisdiction and is funded and approved by the county board where the offense was committed, when the offense (1) was related to or in furtherance of the criminal activities of an organized gang or was motivated by the defendant's membership in or allegiance to an organized gang; or (2) is a violation of any Section of Article 24 of the Criminal Code of 1961 where a disposition of supervision is not prohibited by Section 5-6-1 of this Code. The community service shall include, but not be limited to, the cleanup and repair of any damage caused by violation of Section 21-1.3 of the Criminal Code of 1961 and similar damages to property located within the municipality or county in which the violation occurred. Where possible and reasonable, the community service should be performed in the offender's neighborhood.

For the purposes of this Section, "organized gang" has the meaning ascribed to it in Section 10 of the Illinois Streetgang Terrorism Omnibus Prevention Act.

(c) The court may in addition to other reasonable conditions relating to the nature of the offense or the rehabilitation of the defendant as determined for each defendant in the proper discretion of the court require that the person:

(1) make a report to and appear in person before or participate with the court or such courts, person, or social service agency as directed by the court in the order of supervision;

(2) pay a fine and costs;

(3) work or pursue a course of study or vocational training;

(4) undergo medical, psychological or psychiatric treatment; or treatment for drug addiction or alcoholism;

(5) attend or reside in a facility established for the instruction or residence of defendants on probation;

(6) support his dependents;

(7) refrain from possessing a firearm or other dangerous weapon;

(8) and in addition, if a minor:

(i) reside with his parents or in a foster home;

(ii) attend school;

(iii) attend a non-residential program for youth;

(iv) contribute to his own support at home or in a foster home; or

(v) with the consent of the superintendent of the

facility, attend an educational program at a facility other than the school in which the offense was committed if he or she is placed on supervision for a crime of violence as defined in Section 2 of the Crime Victims Compensation Act committed in a school, on the real property comprising a school, or within 1,000 feet of the real property comprising a school;

(9) make restitution or reparation in an amount not to exceed actual loss or damage to property and pecuniary loss or make restitution under Section 5-5-6 to a domestic violence shelter. The court shall determine the amount and conditions of payment;

(10) perform some reasonable public or community service;

(11) comply with the terms and conditions of an order of protection issued by the court pursuant to the Illinois Domestic Violence Act of 1986 or an order of protection issued by the court of another state, tribe, or United States territory. If the court has ordered the defendant to make a report and appear in person under paragraph (1) of this subsection, a copy of the order of protection shall be transmitted to the person or agency so designated by the court;

(12) reimburse any "local anti-crime program" as defined in Section 7 of the Anti-Crime Advisory Council Act for any reasonable expenses incurred by the program on the

offender's case, not to exceed the maximum amount of the fine authorized for the offense for which the defendant was sentenced;

(13) contribute a reasonable sum of money, not to exceed the maximum amount of the fine authorized for the offense for which the defendant was sentenced, to a "local anti-crime program", as defined in Section 7 of the Anti-Crime Advisory Council Act;

(14) refrain from entering into a designated geographic area except upon such terms as the court finds appropriate. Such terms may include consideration of the purpose of the entry, the time of day, other persons accompanying the defendant, and advance approval by a probation officer;

(15) refrain from having any contact, directly or indirectly, with certain specified persons or particular types of person, including but not limited to members of street gangs and drug users or dealers;

(16) refrain from having in his or her body the presence of any illicit drug prohibited by the Cannabis Control Act, the Illinois Controlled Substances Act, or the Methamphetamine Control and Community Protection Act, unless prescribed by a physician, and submit samples of his or her blood or urine or both for tests to determine the presence of any illicit drug;

(17) refrain from operating any motor vehicle not

equipped with an ignition interlock device as defined in Section 1-129.1 of the Illinois Vehicle Code; under ~~Under~~ this condition the court may allow a defendant who is not self-employed to operate a vehicle owned by the defendant's employer that is not equipped with an ignition interlock device in the course and scope of the defendant's employment; and

(18) if placed on supervision for a sex offense as defined in subsection (a-5) of Section 3-1-2 of this Code, unless the offender is a parent or guardian of the person under 18 years of age present in the home and no non-familial minors are present, not participate in a holiday event involving children under 18 years of age, such as distributing candy or other items to children on Halloween, wearing a Santa Claus costume on or preceding Christmas, being employed as a department store Santa Claus, or wearing an Easter Bunny costume on or preceding Easter.

(d) The court shall defer entering any judgment on the charges until the conclusion of the supervision.

(e) At the conclusion of the period of supervision, if the court determines that the defendant has successfully complied with all of the conditions of supervision, the court shall discharge the defendant and enter a judgment dismissing the charges.

(f) Discharge and dismissal upon a successful conclusion of

a disposition of supervision shall be deemed without adjudication of guilt and shall not be termed a conviction for purposes of disqualification or disabilities imposed by law upon conviction of a crime. Two years after the discharge and dismissal under this Section, unless the disposition of supervision was for a violation of Sections 3-707, 3-708, 3-710, 5-401.3, or 11-503 of the Illinois Vehicle Code or a similar provision of a local ordinance, or for a violation of Sections 12-3.2 or 16A-3 of the Criminal Code of 1961, in which case it shall be 5 years after discharge and dismissal, a person may have his record of arrest sealed or expunged as may be provided by law. However, any defendant placed on supervision before January 1, 1980, may move for sealing or expungement of his arrest record, as provided by law, at any time after discharge and dismissal under this Section. A person placed on supervision for a sexual offense committed against a minor as defined in subsection (g) of Section 5 of the Criminal Identification Act or for a violation of Section 11-501 of the Illinois Vehicle Code or a similar provision of a local ordinance shall not have his or her record of arrest sealed or expunged.

(g) A defendant placed on supervision and who during the period of supervision undergoes mandatory drug or alcohol testing, or both, or is assigned to be placed on an approved electronic monitoring device, shall be ordered to pay the costs incidental to such mandatory drug or alcohol testing, or both,

and costs incidental to such approved electronic monitoring in accordance with the defendant's ability to pay those costs. The county board with the concurrence of the Chief Judge of the judicial circuit in which the county is located shall establish reasonable fees for the cost of maintenance, testing, and incidental expenses related to the mandatory drug or alcohol testing, or both, and all costs incidental to approved electronic monitoring, of all defendants placed on supervision. The concurrence of the Chief Judge shall be in the form of an administrative order. The fees shall be collected by the clerk of the circuit court. The clerk of the circuit court shall pay all moneys collected from these fees to the county treasurer who shall use the moneys collected to defray the costs of drug testing, alcohol testing, and electronic monitoring. The county treasurer shall deposit the fees collected in the county working cash fund under Section 6-27001 or Section 6-29002 of the Counties Code, as the case may be.

(h) A disposition of supervision is a final order for the purposes of appeal.

(i) The court shall impose upon a defendant placed on supervision after January 1, 1992 or to community service under the supervision of a probation or court services department after January 1, 2004, as a condition of supervision or supervised community service, a fee of \$50 for each month of supervision or supervised community service ordered by the court, unless after determining the inability of the person

placed on supervision or supervised community service to pay the fee, the court assesses a lesser fee. The court may not impose the fee on a minor who is made a ward of the State under the Juvenile Court Act of 1987 while the minor is in placement. The fee shall be imposed only upon a defendant who is actively supervised by the probation and court services department. The fee shall be collected by the clerk of the circuit court. The clerk of the circuit court shall pay all monies collected from this fee to the county treasurer for deposit in the probation and court services fund pursuant to Section 15.1 of the Probation and Probation Officers Act.

A circuit court may not impose a probation fee in excess of \$25 per month unless: (1) the circuit court has adopted, by administrative order issued by the chief judge, a standard probation fee guide determining an offender's ability to pay, under guidelines developed by the Administrative Office of the Illinois Courts; and (2) the circuit court has authorized, by administrative order issued by the chief judge, the creation of a Crime Victim's Services Fund, to be administered by the Chief Judge or his or her designee, for services to crime victims and their families. Of the amount collected as a probation fee, not to exceed \$5 of that fee collected per month may be used to provide services to crime victims and their families.

(j) All fines and costs 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 Section 27.5 of the Clerks of Courts Act.

(k) A defendant at least 17 years of age who is placed on supervision for a misdemeanor in a county of 3,000,000 or more inhabitants and who has not been previously convicted of a misdemeanor or felony may as a condition of his or her supervision 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 the high school level Test of General Educational Development (GED) or to work toward completing a vocational training program approved by the court. The defendant placed on supervision must attend a public institution of education to obtain the educational or vocational training required by this subsection (k). The defendant placed on supervision shall be required to pay for the cost of the educational courses or GED test, if a fee is charged for those courses or test. The court shall revoke the supervision of a person who wilfully fails to comply with this subsection (k). The court shall resentence the defendant upon revocation of supervision as provided in Section 5-6-4. This subsection (k) does not apply to a defendant who has a high school diploma or has successfully passed the GED test. This subsection (k) does not apply to a defendant who is determined

by the court to be developmentally disabled or otherwise mentally incapable of completing the educational or vocational program.

(l) The court shall require a defendant placed on supervision for possession of a substance prohibited by the Cannabis Control Act, the Illinois Controlled Substances Act, or the Methamphetamine Control and Community Protection Act after a previous conviction or disposition of supervision for possession of a substance prohibited by the Cannabis Control Act, the Illinois Controlled Substances Act, or the Methamphetamine Control and Community Protection Act or a sentence of probation under Section 10 of the Cannabis Control Act or Section 410 of the Illinois Controlled Substances Act and after a finding by the court that the person is addicted, to undergo treatment at a substance abuse program approved by the court.

(m) The Secretary of State shall require anyone placed on court supervision for a violation of Section 3-707 of the Illinois Vehicle Code or a similar provision of a local ordinance to give proof of his or her financial responsibility as defined in Section 7-315 of the Illinois Vehicle Code. The proof shall be maintained by the individual in a manner satisfactory to the Secretary of State for a minimum period of 3 years after the date the proof is first filed. The proof shall be limited to a single action per arrest and may not be affected by any post-sentence disposition. The Secretary of

State shall suspend the driver's license of any person determined by the Secretary to be in violation of this subsection.

(n) Any offender placed on supervision for any offense that the court or probation department has determined to be sexually motivated as defined in the Sex Offender Management Board Act shall be required to refrain from any contact, directly or indirectly, with any persons specified by the court and shall be available for all evaluations and treatment programs required by the court or the probation department.

(o) An offender placed on supervision for a sex offense as defined in the Sex Offender Management Board Act shall refrain from residing at the same address or in the same condominium unit or apartment unit or in the same condominium complex or apartment complex with another person he or she knows or reasonably should know is a convicted sex offender or has been placed on supervision for a sex offense. The provisions of this subsection (o) do not apply to a person convicted of a sex offense who is placed in a Department of Corrections licensed transitional housing facility for sex offenders.

(Source: P.A. 94-159, eff. 7-11-05; 94-161, eff. 7-11-05; 94-556, eff. 9-11-05; 95-211, eff. 1-1-08; 95-331, eff. 8-21-07.)

(Text of Section after amendment by P.A. 95-464 and 95-696)
Sec. 5-6-3.1. Incidents and Conditions of Supervision.

(a) When a defendant is placed on supervision, the court shall enter an order for supervision specifying the period of such supervision, and shall defer further proceedings in the case until the conclusion of the period.

(b) The period of supervision shall be reasonable under all of the circumstances of the case, but may not be longer than 2 years, unless the defendant has failed to pay the assessment required by Section 10.3 of the Cannabis Control Act, Section 411.2 of the Illinois Controlled Substances Act, or Section 80 of the Methamphetamine Control and Community Protection Act, in which case the court may extend supervision beyond 2 years. Additionally, the court shall order the defendant to perform no less than 30 hours of community service and not more than 120 hours of community service, if community service is available in the jurisdiction and is funded and approved by the county board where the offense was committed, when the offense (1) was related to or in furtherance of the criminal activities of an organized gang or was motivated by the defendant's membership in or allegiance to an organized gang; or (2) is a violation of any Section of Article 24 of the Criminal Code of 1961 where a disposition of supervision is not prohibited by Section 5-6-1 of this Code. The community service shall include, but not be limited to, the cleanup and repair of any damage caused by violation of Section 21-1.3 of the Criminal Code of 1961 and similar damages to property located within the municipality or county in which the violation occurred. Where possible and

reasonable, the community service should be performed in the offender's neighborhood.

For the purposes of this Section, "organized gang" has the meaning ascribed to it in Section 10 of the Illinois Streetgang Terrorism Omnibus Prevention Act.

(c) The court may in addition to other reasonable conditions relating to the nature of the offense or the rehabilitation of the defendant as determined for each defendant in the proper discretion of the court require that the person:

(1) make a report to and appear in person before or participate with the court or such courts, person, or social service agency as directed by the court in the order of supervision;

(2) pay a fine and costs;

(3) work or pursue a course of study or vocational training;

(4) undergo medical, psychological or psychiatric treatment; or treatment for drug addiction or alcoholism;

(5) attend or reside in a facility established for the instruction or residence of defendants on probation;

(6) support his dependents;

(7) refrain from possessing a firearm or other dangerous weapon;

(8) and in addition, if a minor:

(i) reside with his parents or in a foster home;

(ii) attend school;

(iii) attend a non-residential program for youth;

(iv) contribute to his own support at home or in a foster home; or

(v) with the consent of the superintendent of the facility, attend an educational program at a facility other than the school in which the offense was committed if he or she is placed on supervision for a crime of violence as defined in Section 2 of the Crime Victims Compensation Act committed in a school, on the real property comprising a school, or within 1,000 feet of the real property comprising a school;

(9) make restitution or reparation in an amount not to exceed actual loss or damage to property and pecuniary loss or make restitution under Section 5-5-6 to a domestic violence shelter. The court shall determine the amount and conditions of payment;

(10) perform some reasonable public or community service;

(11) comply with the terms and conditions of an order of protection issued by the court pursuant to the Illinois Domestic Violence Act of 1986 or an order of protection issued by the court of another state, tribe, or United States territory. If the court has ordered the defendant to make a report and appear in person under paragraph (1) of this subsection, a copy of the order of protection shall be

transmitted to the person or agency so designated by the court;

(12) reimburse any "local anti-crime program" as defined in Section 7 of the Anti-Crime Advisory Council Act for any reasonable expenses incurred by the program on the offender's case, not to exceed the maximum amount of the fine authorized for the offense for which the defendant was sentenced;

(13) contribute a reasonable sum of money, not to exceed the maximum amount of the fine authorized for the offense for which the defendant was sentenced, (i) to a "local anti-crime program", as defined in Section 7 of the Anti-Crime Advisory Council Act, or (ii) for offenses under the jurisdiction of the Department of Natural Resources, to the fund established by the Department of Natural Resources for the purchase of evidence for investigation purposes and to conduct investigations as outlined in Section 805-105 of the Department of Natural Resources (Conservation) Law;

(14) refrain from entering into a designated geographic area except upon such terms as the court finds appropriate. Such terms may include consideration of the purpose of the entry, the time of day, other persons accompanying the defendant, and advance approval by a probation officer;

(15) refrain from having any contact, directly or indirectly, with certain specified persons or particular

types of person, including but not limited to members of street gangs and drug users or dealers;

(16) refrain from having in his or her body the presence of any illicit drug prohibited by the Cannabis Control Act, the Illinois Controlled Substances Act, or the Methamphetamine Control and Community Protection Act, unless prescribed by a physician, and submit samples of his or her blood or urine or both for tests to determine the presence of any illicit drug;

(17) refrain from operating any motor vehicle not equipped with an ignition interlock device as defined in Section 1-129.1 of the Illinois Vehicle Code; under. ~~Under~~ this condition the court may allow a defendant who is not self-employed to operate a vehicle owned by the defendant's employer that is not equipped with an ignition interlock device in the course and scope of the defendant's employment; and

(18) if placed on supervision for a sex offense as defined in subsection (a-5) of Section 3-1-2 of this Code, unless the offender is a parent or guardian of the person under 18 years of age present in the home and no non-familial minors are present, not participate in a holiday event involving children under 18 years of age, such as distributing candy or other items to children on Halloween, wearing a Santa Claus costume on or preceding Christmas, being employed as a department store Santa

Claus, or wearing an Easter Bunny costume on or preceding Easter.

(d) The court shall defer entering any judgment on the charges until the conclusion of the supervision.

(e) At the conclusion of the period of supervision, if the court determines that the defendant has successfully complied with all of the conditions of supervision, the court shall discharge the defendant and enter a judgment dismissing the charges.

(f) Discharge and dismissal upon a successful conclusion of a disposition of supervision shall be deemed without adjudication of guilt and shall not be termed a conviction for purposes of disqualification or disabilities imposed by law upon conviction of a crime. Two years after the discharge and dismissal under this Section, unless the disposition of supervision was for a violation of Sections 3-707, 3-708, 3-710, 5-401.3, or 11-503 of the Illinois Vehicle Code or a similar provision of a local ordinance, or for a violation of Sections 12-3.2 or 16A-3 of the Criminal Code of 1961, in which case it shall be 5 years after discharge and dismissal, a person may have his record of arrest sealed or expunged as may be provided by law. However, any defendant placed on supervision before January 1, 1980, may move for sealing or expungement of his arrest record, as provided by law, at any time after discharge and dismissal under this Section. A person placed on supervision for a sexual offense committed against a

minor as defined in subsection (g) of Section 5 of the Criminal Identification Act or for a violation of Section 11-501 of the Illinois Vehicle Code or a similar provision of a local ordinance shall not have his or her record of arrest sealed or expunged.

(g) A defendant placed on supervision and who during the period of supervision undergoes mandatory drug or alcohol testing, or both, or is assigned to be placed on an approved electronic monitoring device, shall be ordered to pay the costs incidental to such mandatory drug or alcohol testing, or both, and costs incidental to such approved electronic monitoring in accordance with the defendant's ability to pay those costs. The county board with the concurrence of the Chief Judge of the judicial circuit in which the county is located shall establish reasonable fees for the cost of maintenance, testing, and incidental expenses related to the mandatory drug or alcohol testing, or both, and all costs incidental to approved electronic monitoring, of all defendants placed on supervision. The concurrence of the Chief Judge shall be in the form of an administrative order. The fees shall be collected by the clerk of the circuit court. The clerk of the circuit court shall pay all moneys collected from these fees to the county treasurer who shall use the moneys collected to defray the costs of drug testing, alcohol testing, and electronic monitoring. The county treasurer shall deposit the fees collected in the county working cash fund under Section 6-27001

or Section 6-29002 of the Counties Code, as the case may be.

(h) A disposition of supervision is a final order for the purposes of appeal.

(i) The court shall impose upon a defendant placed on supervision after January 1, 1992 or to community service under the supervision of a probation or court services department after January 1, 2004, as a condition of supervision or supervised community service, a fee of \$50 for each month of supervision or supervised community service ordered by the court, unless after determining the inability of the person placed on supervision or supervised community service to pay the fee, the court assesses a lesser fee. The court may not impose the fee on a minor who is made a ward of the State under the Juvenile Court Act of 1987 while the minor is in placement. The fee shall be imposed only upon a defendant who is actively supervised by the probation and court services department. The fee shall be collected by the clerk of the circuit court. The clerk of the circuit court shall pay all monies collected from this fee to the county treasurer for deposit in the probation and court services fund pursuant to Section 15.1 of the Probation and Probation Officers Act.

A circuit court may not impose a probation fee in excess of \$25 per month unless: (1) the circuit court has adopted, by administrative order issued by the chief judge, a standard probation fee guide determining an offender's ability to pay, under guidelines developed by the Administrative Office of the

Illinois Courts; and (2) the circuit court has authorized, by administrative order issued by the chief judge, the creation of a Crime Victim's Services Fund, to be administered by the Chief Judge or his or her designee, for services to crime victims and their families. Of the amount collected as a probation fee, not to exceed \$5 of that fee collected per month may be used to provide services to crime victims and their families.

(j) All fines and costs 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 Section 27.5 of the Clerks of Courts Act.

(k) A defendant at least 17 years of age who is placed on supervision for a misdemeanor in a county of 3,000,000 or more inhabitants and who has not been previously convicted of a misdemeanor or felony may as a condition of his or her supervision 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 the high school level Test of General Educational Development (GED) or to work toward completing a vocational training program approved by the court. The defendant placed on supervision must attend a public institution of education to obtain the educational or

vocational training required by this subsection (k). The defendant placed on supervision shall be required to pay for the cost of the educational courses or GED test, if a fee is charged for those courses or test. The court shall revoke the supervision of a person who wilfully fails to comply with this subsection (k). The court shall resentence the defendant upon revocation of supervision as provided in Section 5-6-4. This subsection (k) does not apply to a defendant who has a high school diploma or has successfully passed the GED test. This subsection (k) does not apply to a defendant who is determined by the court to be developmentally disabled or otherwise mentally incapable of completing the educational or vocational program.

(1) The court shall require a defendant placed on supervision for possession of a substance prohibited by the Cannabis Control Act, the Illinois Controlled Substances Act, or the Methamphetamine Control and Community Protection Act after a previous conviction or disposition of supervision for possession of a substance prohibited by the Cannabis Control Act, the Illinois Controlled Substances Act, or the Methamphetamine Control and Community Protection Act or a sentence of probation under Section 10 of the Cannabis Control Act or Section 410 of the Illinois Controlled Substances Act and after a finding by the court that the person is addicted, to undergo treatment at a substance abuse program approved by the court.

(m) The Secretary of State shall require anyone placed on court supervision for a violation of Section 3-707 of the Illinois Vehicle Code or a similar provision of a local ordinance to give proof of his or her financial responsibility as defined in Section 7-315 of the Illinois Vehicle Code. The proof shall be maintained by the individual in a manner satisfactory to the Secretary of State for a minimum period of 3 years after the date the proof is first filed. The proof shall be limited to a single action per arrest and may not be affected by any post-sentence disposition. The Secretary of State shall suspend the driver's license of any person determined by the Secretary to be in violation of this subsection.

(n) Any offender placed on supervision for any offense that the court or probation department has determined to be sexually motivated as defined in the Sex Offender Management Board Act shall be required to refrain from any contact, directly or indirectly, with any persons specified by the court and shall be available for all evaluations and treatment programs required by the court or the probation department.

(o) An offender placed on supervision for a sex offense as defined in the Sex Offender Management Board Act shall refrain from residing at the same address or in the same condominium unit or apartment unit or in the same condominium complex or apartment complex with another person he or she knows or reasonably should know is a convicted sex offender or has been

placed on supervision for a sex offense. The provisions of this subsection (o) do not apply to a person convicted of a sex offense who is placed in a Department of Corrections licensed transitional housing facility for sex offenders.

(p) An offender placed on supervision for an offense committed on or after June 1, 2008 ~~(the effective date of Public Act 95-464) this amendatory Act of the 95th General Assembly~~ that would qualify the accused as a child sex offender as defined in Section 11-9.3 or 11-9.4 of the Criminal Code of 1961 shall refrain from communicating with or contacting, by means of the Internet, a person who is not related to the accused and whom the accused reasonably believes to be under 18 years of age. For purposes of this subsection (p), "Internet" has the meaning ascribed to it in Section 16J-5 of the Criminal Code of 1961, ~~as added by Public Act 94-179~~; and a person is not related to the accused if the person is not: (i) the spouse, brother, or sister of the accused; (ii) a descendant of the accused; (iii) a first or second cousin of the accused; or (iv) a step-child or adopted child of the accused.

(q) An offender placed on supervision for an offense committed on or after June 1, 2008 ~~(the effective date of Public Act 95-464) this amendatory Act of the 95th General Assembly~~ that would qualify the accused as a child sex offender as defined in Section 11-9.3 or 11-9.4 of the Criminal Code of 1961 shall, if so ordered by the court, refrain from communicating with or contacting, by means of the Internet, a

person who is related to the accused and whom the accused reasonably believes to be under 18 years of age. For purposes of this subsection (q), "Internet" has the meaning ascribed to it in Section 16J-5 of the Criminal Code of 1961, ~~as added by Public Act 94-179~~; and a person is related to the accused if the person is: (i) the spouse, brother, or sister of the accused; (ii) a descendant of the accused; (iii) a first or second cousin of the accused; or (iv) a step-child or adopted child of the accused.

(Source: P.A. 94-159, eff. 7-11-05; 94-161, eff. 7-11-05; 94-556, eff. 9-11-05; 95-211, eff. 1-1-08; 95-331, eff. 8-21-07; 95-464, eff. 6-1-08; 95-696, eff. 6-1-08; revised 11-19-07.)

(730 ILCS 5/5-9-1.14)

Sec. 5-9-1.14. Additional child pornography fines. In addition to any other penalty imposed, a fine of \$500 shall be imposed upon a person convicted of child pornography under Section 11-20.1 of the Criminal Code of 1961. Such additional fine shall be assessed by the court imposing sentence and shall be collected by the circuit clerk. Of this fee, \$5 shall be deposited into the Circuit Court Clerk Operation and Administrative Fund created by the Clerk of the Circuit Court to be used to offset the costs incurred by the Circuit Court Clerk in performing the additional duties required to collect and disburse funds to entities of State and local government as

provided by law. Each such additional fine shall be remitted by the Circuit Court Clerk within one month after receipt to the unit of local government whose law enforcement officers investigated the case that gave rise to the conviction of the defendant for child pornography.

(Source: P.A. 95-191, eff. 1-1-08.)

(730 ILCS 5/5-9-1.15)

(This Section may contain text from a Public Act with a delayed effective date)

Sec. 5-9-1.15 ~~5-9-1.14~~. Sex offender fines.

(a) There shall be added to every penalty imposed in sentencing for a sex offense as defined in Section 2 of the Sex Offender Registration Act an additional fine in the amount of \$500 to be imposed upon a plea of guilty, stipulation of facts or finding of guilty resulting in a judgment of conviction or order of supervision.

(b) Such additional amount shall be assessed by the court imposing sentence and shall be collected by the circuit clerk in addition to the fine, if any, and costs in the case. Each such additional penalty shall be remitted by the circuit clerk within one month after receipt to the State Treasurer for deposit into the Sex Offender Investigation Fund. The circuit clerk shall retain 10% of such penalty for deposit into the Circuit Court Clerk Operation and Administrative Fund created by the Clerk of the Circuit Court to cover the costs incurred

in administering and enforcing this Section. Such additional penalty shall not be considered a part of the fine for purposes of any reduction in the fine for time served either before or after sentencing.

(c) Not later than March 1 of each year the clerk of the circuit court shall submit to the State Comptroller a report of the amount of funds remitted by him or her to the State Treasurer under this Section during the preceding calendar year. Except as otherwise provided by Supreme Court Rules, if a court in sentencing an offender levies a gross amount for fine, costs, fees and penalties, the amount of the additional penalty provided for herein shall be collected from the amount remaining after deducting from the gross amount levied all fees of the circuit clerk, the State's Attorney, and the sheriff. After deducting from the gross amount levied the fees and additional penalty provided for herein, less any other additional penalties provided by law, the clerk shall remit \$100 of each \$500 additional fine imposed under this Section to the State's Attorney of the county which prosecuted the case or the local law enforcement agency that investigated the case leading to the defendant's judgment of conviction or order of supervision and after such remission the net balance remaining to the entity authorized by law to receive the fine imposed in the case. For purposes of this Section "fees of the circuit clerk" shall include, if applicable, the fee provided for under Section 27.3a of the Clerks of Courts Act and the fee, if

applicable, payable to the county in which the violation occurred under Section 5-1101 of the Counties Code.

(d) Subject to appropriation, moneys in the Sex Offender Investigation Fund shall be used by the Department of State Police to investigate alleged sex offenses and to make grants to local law enforcement agencies to investigate alleged sex offenses as such grants are awarded by the Director of State Police under rules established by the Director of State Police. (Source: P.A. 95-600, eff. 6-1-08; revised 12-10-07.)

(730 ILCS 5/5-9-3) (from Ch. 38, par. 1005-9-3)

(Text of Section before amendment by P.A. 95-606)

Sec. 5-9-3. Default.

(a) An offender who defaults in the payment of a fine or any installment of that fine may be held in contempt and imprisoned for nonpayment. The court may issue a summons for his appearance or a warrant of arrest.

(b) Unless the offender shows that his default was not due to his intentional refusal to pay, or not due to a failure on his part to make a good faith effort to pay, the court may order the offender imprisoned for a term not to exceed 6 months if the fine was for a felony, or 30 days if the fine was for a misdemeanor, a petty offense or a business offense. Payment of the fine at any time will entitle the offender to be released, but imprisonment under this Section shall not satisfy the payment of the fine.

(c) If it appears that the default in the payment of a fine is not intentional under paragraph (b) of this Section, the court may enter an order allowing the offender additional time for payment, reducing the amount of the fine or of each installment, or revoking the fine or the unpaid portion.

(d) When a fine is imposed on a corporation or unincorporated organization or association, it is the duty of the person or persons authorized to make disbursement of assets, and their superiors, to pay the fine from assets of the corporation or unincorporated organization or association. The failure of such persons to do so shall render them subject to proceedings under paragraphs (a) and (b) of this Section.

(e) A default in the payment of a fine, judgment order of forfeiture, order of restitution, or any installment thereof may be collected by any and all means authorized for the collection of money judgments. The State's Attorney of the county in which the fine, judgment order of forfeiture, or order of restitution was imposed may retain attorneys and private collection agents for the purpose of collecting any default in payment of any fine, judgment order of forfeiture, order of restitution, or installment thereof. The fees and costs incurred by the State's Attorney in any such collection and the fees and charges of attorneys and private collection agents retained by the State's Attorney for those purposes shall be charged to the offender.

(Source: P.A. 95-514, eff. 1-1-08.)

(Text of Section after amendment by P.A. 95-606)

Sec. 5-9-3. Default.

(a) An offender who defaults in the payment of a fine or any installment of that fine may be held in contempt and imprisoned for nonpayment. The court may issue a summons for his appearance or a warrant of arrest.

(b) Unless the offender shows that his default was not due to his intentional refusal to pay, or not due to a failure on his part to make a good faith effort to pay, the court may order the offender imprisoned for a term not to exceed 6 months if the fine was for a felony, or 30 days if the fine was for a misdemeanor, a petty offense or a business offense. Payment of the fine at any time will entitle the offender to be released, but imprisonment under this Section shall not satisfy the payment of the fine.

(c) If it appears that the default in the payment of a fine is not intentional under paragraph (b) of this Section, the court may enter an order allowing the offender additional time for payment, reducing the amount of the fine or of each installment, or revoking the fine or the unpaid portion.

(d) When a fine is imposed on a corporation or unincorporated organization or association, it is the duty of the person or persons authorized to make disbursement of assets, and their superiors, to pay the fine from assets of the corporation or unincorporated organization or association. The

failure of such persons to do so shall render them subject to proceedings under paragraphs (a) and (b) of this Section.

(e) A default in the payment of a fine, fee, cost, order of restitution, ~~or~~ judgment of bond forfeiture, judgment order of forfeiture, ~~order of restitution~~, or any installment thereof may be collected by any and all means authorized for the collection of money judgments. The State's Attorney of the county in which the fine, fee, cost, order of restitution, ~~or~~ judgment of bond forfeiture, or judgment order of forfeiture, ~~or order of restitution~~ was imposed may retain attorneys and private collection agents for the purpose of collecting any default in payment of any fine, fee, cost, order of restitution, ~~or~~ judgment of bond forfeiture, judgment order of forfeiture, ~~order of restitution~~, or installment thereof, ~~fee, cost, restitution, or judgment of bond forfeiture~~. An additional fee of 30% of the delinquent amount is to be charged to the offender for any amount of the fine, fee, cost, restitution, or judgment of bond forfeiture or installment of the fine, fee, cost, restitution, or judgment of bond forfeiture that remains unpaid after the time fixed for payment of the fine, fee, cost, restitution, or judgment of bond forfeiture by the court. The additional fee shall be payable to the State's Attorney in order to compensate the State's Attorney for costs incurred in collecting the delinquent amount. The State's Attorney may enter into agreements assigning any portion of the fee to the retained attorneys or

the private collection agent retained by the State's Attorney. Any agreement between the State's Attorney and the retained attorneys or collection agents shall require the approval of the Circuit Clerk of that county. A default in payment of a fine, fee, cost, restitution, or judgment of bond forfeiture shall draw interest at the rate of 9% per annum.

(Source: P.A. 95-514, eff. 1-1-08; 95-606, eff. 6-1-08; revised 11-19-07.)

Section 360. The Sex Offender Registration Act is amended by changing Sections 2, 3, 6, and 7 as follows:

(730 ILCS 150/2) (from Ch. 38, par. 222)

(Text of Section before amendment by P.A. 95-579 and 95-625)

Sec. 2. Definitions.

(A) As used in this Article, "sex offender" means any person who is:

(1) charged pursuant to Illinois law, or any substantially similar federal, Uniform Code of Military Justice, sister state, or foreign country law, with a sex offense set forth in subsection (B) of this Section or the attempt to commit an included sex offense, and:

(a) is convicted of such offense or an attempt to commit such offense; or

(b) is found not guilty by reason of insanity of

such offense or an attempt to commit such offense; or

(c) is found not guilty by reason of insanity pursuant to Section 104-25(c) of the Code of Criminal Procedure of 1963 of such offense or an attempt to commit such offense; or

(d) is the subject of a finding not resulting in an acquittal at a hearing conducted pursuant to Section 104-25(a) of the Code of Criminal Procedure of 1963 for the alleged commission or attempted commission of such offense; or

(e) is found not guilty by reason of insanity following a hearing conducted pursuant to a federal, Uniform Code of Military Justice, sister state, or foreign country law substantially similar to Section 104-25(c) of the Code of Criminal Procedure of 1963 of such offense or of the attempted commission of such offense; or

(f) is the subject of a finding not resulting in an acquittal at a hearing conducted pursuant to a federal, Uniform Code of Military Justice, sister state, or foreign country law substantially similar to Section 104-25(a) of the Code of Criminal Procedure of 1963 for the alleged violation or attempted commission of such offense; or

(2) certified as a sexually dangerous person pursuant to the Illinois Sexually Dangerous Persons Act, or any

substantially similar federal, Uniform Code of Military Justice, sister state, or foreign country law; or

(3) subject to the provisions of Section 2 of the Interstate Agreements on Sexually Dangerous Persons Act; or

(4) found to be a sexually violent person pursuant to the Sexually Violent Persons Commitment Act or any substantially similar federal, Uniform Code of Military Justice, sister state, or foreign country law; or

(5) adjudicated a juvenile delinquent as the result of committing or attempting to commit an act which, if committed by an adult, would constitute any of the offenses specified in item (B), (C), or (C-5) of this Section or a violation of any substantially similar federal, Uniform Code of Military Justice, sister state, or foreign country law, or found guilty under Article V of the Juvenile Court Act of 1987 of committing or attempting to commit an act which, if committed by an adult, would constitute any of the offenses specified in item (B), (C), or (C-5) of this Section or a violation of any substantially similar federal, Uniform Code of Military Justice, sister state, or foreign country law.

Convictions that result from or are connected with the same act, or result from offenses committed at the same time, shall be counted for the purpose of this Article as one conviction. Any conviction set aside pursuant to law is not a conviction

for purposes of this Article.

For purposes of this Section, "convicted" shall have the same meaning as "adjudicated".

(B) As used in this Article, "sex offense" means:

(1) A violation of any of the following Sections of the Criminal Code of 1961:

- 11-20.1 (child pornography),
- 11-6 (indecent solicitation of a child),
- 11-9.1 (sexual exploitation of a child),
- 11-9.2 (custodial sexual misconduct),
- 11-9.5 (sexual misconduct with a person with a disability),
- 11-15.1 (soliciting for a juvenile prostitute),
- 11-18.1 (patronizing a juvenile prostitute),
- 11-17.1 (keeping a place of juvenile prostitution),
- 11-19.1 (juvenile pimping),
- 11-19.2 (exploitation of a child),
- 12-13 (criminal sexual assault),
- 12-14 (aggravated criminal sexual assault),
- 12-14.1 (predatory criminal sexual assault of a child),
- 12-15 (criminal sexual abuse),
- 12-16 (aggravated criminal sexual abuse),
- 12-33 (ritualized abuse of a child).

An attempt to commit any of these offenses.

(1.5) A violation of any of the following Sections of the Criminal Code of 1961, when the victim is a person under 18 years of age, the defendant is not a parent of the victim, the offense was sexually motivated as defined in Section 10 of the Sex Offender Management Board Act, and the offense was committed on or after January 1, 1996:

- 10-1 (kidnapping),
- 10-2 (aggravated kidnapping),
- 10-3 (unlawful restraint),
- 10-3.1 (aggravated unlawful restraint).

(1.6) First degree murder under Section 9-1 of the Criminal Code of 1961, when the victim was a person under 18 years of age and the defendant was at least 17 years of age at the time of the commission of the offense, provided the offense was sexually motivated as defined in Section 10 of the Sex Offender Management Board Act.

(1.7) (Blank).

(1.8) A violation or attempted violation of Section 11-11 (sexual relations within families) of the Criminal Code of 1961, and the offense was committed on or after June 1, 1997.

(1.9) Child abduction under paragraph (10) of subsection (b) of Section 10-5 of the Criminal Code of 1961 committed by luring or attempting to lure a child under the age of 16 into a motor vehicle, building, house trailer, or dwelling place without the consent of the parent or lawful

custodian of the child for other than a lawful purpose and the offense was committed on or after January 1, 1998, provided the offense was sexually motivated as defined in Section 10 of the Sex Offender Management Board Act.

(1.10) A violation or attempted violation of any of the following Sections of the Criminal Code of 1961 when the offense was committed on or after July 1, 1999:

10-4 (forcible detention, if the victim is under 18 years of age), provided the offense was sexually motivated as defined in Section 10 of the Sex Offender Management Board Act,

11-6.5 (indecent solicitation of an adult),

11-15 (soliciting for a prostitute, if the victim is under 18 years of age),

11-16 (pandering, if the victim is under 18 years of age),

11-18 (patronizing a prostitute, if the victim is under 18 years of age),

11-19 (pimping, if the victim is under 18 years of age).

(1.11) A violation or attempted violation of any of the following Sections of the Criminal Code of 1961 when the offense was committed on or after August 22, 2002:

11-9 (public indecency for a third or subsequent conviction).

(1.12) A violation or attempted violation of Section

5.1 of the Wrongs to Children Act (permitting sexual abuse) when the offense was committed on or after August 22, 2002.

(2) A violation of any former law of this State substantially equivalent to any offense listed in subsection (B) of this Section.

(C) A conviction for an offense of federal law, Uniform Code of Military Justice, or the law of another state or a foreign country that is substantially equivalent to any offense listed in subsections (B), (C), and (E) of this Section shall constitute a conviction for the purpose of this Article. A finding or adjudication as a sexually dangerous person or a sexually violent person under any federal law, Uniform Code of Military Justice, or the law of another state or foreign country that is substantially equivalent to the Sexually Dangerous Persons Act or the Sexually Violent Persons Commitment Act shall constitute an adjudication for the purposes of this Article.

(C-5) A person at least 17 years of age at the time of the commission of the offense who is convicted of first degree murder under Section 9-1 of the Criminal Code of 1961, against a person under 18 years of age, shall be required to register for natural life. A conviction for an offense of federal, Uniform Code of Military Justice, sister state, or foreign country law that is substantially equivalent to any offense listed in subsection (C-5) of this Section shall constitute a conviction for the purpose of this Article. This subsection

(C-5) applies to a person who committed the offense before June 1, 1996 only if the person is incarcerated in an Illinois Department of Corrections facility on August 20, 2004 (the effective date of Public Act 93-977).

(D) As used in this Article, "law enforcement agency having jurisdiction" means the Chief of Police in each of the municipalities in which the sex offender expects to reside, work, or attend school (1) upon his or her discharge, parole or release or (2) during the service of his or her sentence of probation or conditional discharge, or the Sheriff of the county, in the event no Police Chief exists or if the offender intends to reside, work, or attend school in an unincorporated area. "Law enforcement agency having jurisdiction" includes the location where out-of-state students attend school and where out-of-state employees are employed or are otherwise required to register.

(D-1) As used in this Article, "supervising officer" means the assigned Illinois Department of Corrections parole agent or county probation officer.

(E) As used in this Article, "sexual predator" means any person who, after July 1, 1999, is:

(1) Convicted for an offense of federal, Uniform Code of Military Justice, sister state, or foreign country law that is substantially equivalent to any offense listed in subsection (E) of this Section shall constitute a conviction for the purpose of this Article. Convicted of a

violation or attempted violation of any of the following Sections of the Criminal Code of 1961, if the conviction occurred after July 1, 1999:

11-17.1 (keeping a place of juvenile prostitution),

11-19.1 (juvenile pimping),

11-19.2 (exploitation of a child),

11-20.1 (child pornography),

12-13 (criminal sexual assault),

12-14 (aggravated criminal sexual assault),

12-14.1 (predatory criminal sexual assault of a child),

12-16 (aggravated criminal sexual abuse),

12-33 (ritualized abuse of a child); or

(2) (blank); or

(3) certified as a sexually dangerous person pursuant to the Sexually Dangerous Persons Act or any substantially similar federal, Uniform Code of Military Justice, sister state, or foreign country law; or

(4) found to be a sexually violent person pursuant to the Sexually Violent Persons Commitment Act or any substantially similar federal, Uniform Code of Military Justice, sister state, or foreign country law; or

(5) convicted of a second or subsequent offense which requires registration pursuant to this Act. The conviction for the second or subsequent offense must have occurred

after July 1, 1999. For purposes of this paragraph (5), "convicted" shall include a conviction under any substantially similar Illinois, federal, Uniform Code of Military Justice, sister state, or foreign country law.

(F) As used in this Article, "out-of-state student" means any sex offender, as defined in this Section, or sexual predator who is enrolled in Illinois, on a full-time or part-time basis, in any public or private educational institution, including, but not limited to, any secondary school, trade or professional institution, or institution of higher learning.

(G) As used in this Article, "out-of-state employee" means any sex offender, as defined in this Section, or sexual predator who works in Illinois, regardless of whether the individual receives payment for services performed, for a period of time of 10 or more days or for an aggregate period of time of 30 or more days during any calendar year. Persons who operate motor vehicles in the State accrue one day of employment time for any portion of a day spent in Illinois.

(H) As used in this Article, "school" means any public or private educational institution, including, but not limited to, any elementary or secondary school, trade or professional institution, or institution of higher education.

(I) As used in this Article, "fixed residence" means any and all places that a sex offender resides for an aggregate period of time of 5 or more days in a calendar year.

(Source: P.A. 94-166, eff. 1-1-06; 94-168, eff. 1-1-06; 94-945, eff. 6-27-06; 94-1053, eff. 7-24-06; 95-331, eff. 8-21-07; 95-658, eff. 10-11-07.)

(Text of Section after amendment by P.A. 95-579 and 95-625)

Sec. 2. Definitions.

(A) As used in this Article, "sex offender" means any person who is:

(1) charged pursuant to Illinois law, or any substantially similar federal, Uniform Code of Military Justice, sister state, or foreign country law, with a sex offense set forth in subsection (B) of this Section or the attempt to commit an included sex offense, and:

(a) is convicted of such offense or an attempt to commit such offense; or

(b) is found not guilty by reason of insanity of such offense or an attempt to commit such offense; or

(c) is found not guilty by reason of insanity pursuant to Section 104-25(c) of the Code of Criminal Procedure of 1963 of such offense or an attempt to commit such offense; or

(d) is the subject of a finding not resulting in an acquittal at a hearing conducted pursuant to Section 104-25(a) of the Code of Criminal Procedure of 1963 for the alleged commission or attempted commission of such offense; or

(e) is found not guilty by reason of insanity following a hearing conducted pursuant to a federal, Uniform Code of Military Justice, sister state, or foreign country law substantially similar to Section 104-25(c) of the Code of Criminal Procedure of 1963 of such offense or of the attempted commission of such offense; or

(f) is the subject of a finding not resulting in an acquittal at a hearing conducted pursuant to a federal, Uniform Code of Military Justice, sister state, or foreign country law substantially similar to Section 104-25(a) of the Code of Criminal Procedure of 1963 for the alleged violation or attempted commission of such offense; or

(2) certified as a sexually dangerous person pursuant to the Illinois Sexually Dangerous Persons Act, or any substantially similar federal, Uniform Code of Military Justice, sister state, or foreign country law; or

(3) subject to the provisions of Section 2 of the Interstate Agreements on Sexually Dangerous Persons Act; or

(4) found to be a sexually violent person pursuant to the Sexually Violent Persons Commitment Act or any substantially similar federal, Uniform Code of Military Justice, sister state, or foreign country law; or

(5) adjudicated a juvenile delinquent as the result of

committing or attempting to commit an act which, if committed by an adult, would constitute any of the offenses specified in item (B), (C), or (C-5) of this Section or a violation of any substantially similar federal, Uniform Code of Military Justice, sister state, or foreign country law, or found guilty under Article V of the Juvenile Court Act of 1987 of committing or attempting to commit an act which, if committed by an adult, would constitute any of the offenses specified in item (B), (C), or (C-5) of this Section or a violation of any substantially similar federal, Uniform Code of Military Justice, sister state, or foreign country law.

Convictions that result from or are connected with the same act, or result from offenses committed at the same time, shall be counted for the purpose of this Article as one conviction. Any conviction set aside pursuant to law is not a conviction for purposes of this Article.

For purposes of this Section, "convicted" shall have the same meaning as "adjudicated".

(B) As used in this Article, "sex offense" means:

(1) A violation of any of the following Sections of the Criminal Code of 1961:

- 11-20.1 (child pornography),
- 11-20.3 (aggravated child pornography),
- 11-6 (indecent solicitation of a child),
- 11-9.1 (sexual exploitation of a child),

11-9.2 (custodial sexual misconduct),
11-9.5 (sexual misconduct with a person with a disability),
11-15.1 (soliciting for a juvenile prostitute),
11-18.1 (patronizing a juvenile prostitute),
11-17.1 (keeping a place of juvenile prostitution),
11-19.1 (juvenile pimping),
11-19.2 (exploitation of a child),
12-13 (criminal sexual assault),
12-14 (aggravated criminal sexual assault),
12-14.1 (predatory criminal sexual assault of a child),
12-15 (criminal sexual abuse),
12-16 (aggravated criminal sexual abuse),
12-33 (ritualized abuse of a child).

An attempt to commit any of these offenses.

(1.5) A violation of any of the following Sections of the Criminal Code of 1961, when the victim is a person under 18 years of age, the defendant is not a parent of the victim, the offense was sexually motivated as defined in Section 10 of the Sex Offender Management Board Act, and the offense was committed on or after January 1, 1996:

10-1 (kidnapping),
10-2 (aggravated kidnapping),
10-3 (unlawful restraint),

10-3.1 (aggravated unlawful restraint).

(1.6) First degree murder under Section 9-1 of the Criminal Code of 1961, when the victim was a person under 18 years of age and the defendant was at least 17 years of age at the time of the commission of the offense, provided the offense was sexually motivated as defined in Section 10 of the Sex Offender Management Board Act.

(1.7) (Blank).

(1.8) A violation or attempted violation of Section 11-11 (sexual relations within families) of the Criminal Code of 1961, and the offense was committed on or after June 1, 1997.

(1.9) Child abduction under paragraph (10) of subsection (b) of Section 10-5 of the Criminal Code of 1961 committed by luring or attempting to lure a child under the age of 16 into a motor vehicle, building, house trailer, or dwelling place without the consent of the parent or lawful custodian of the child for other than a lawful purpose and the offense was committed on or after January 1, 1998, provided the offense was sexually motivated as defined in Section 10 of the Sex Offender Management Board Act.

(1.10) A violation or attempted violation of any of the following Sections of the Criminal Code of 1961 when the offense was committed on or after July 1, 1999:

10-4 (forcible detention, if the victim is under 18 years of age), provided the offense was sexually

motivated as defined in Section 10 of the Sex Offender Management Board Act,

11-6.5 (indecent solicitation of an adult),

11-15 (soliciting for a prostitute, if the victim is under 18 years of age),

11-16 (pandering, if the victim is under 18 years of age),

11-18 (patronizing a prostitute, if the victim is under 18 years of age),

11-19 (pimping, if the victim is under 18 years of age).

(1.11) A violation or attempted violation of any of the following Sections of the Criminal Code of 1961 when the offense was committed on or after August 22, 2002:

11-9 (public indecency for a third or subsequent conviction).

(1.12) A violation or attempted violation of Section 5.1 of the Wrongs to Children Act (permitting sexual abuse) when the offense was committed on or after August 22, 2002.

(2) A violation of any former law of this State substantially equivalent to any offense listed in subsection (B) of this Section.

(C) A conviction for an offense of federal law, Uniform Code of Military Justice, or the law of another state or a foreign country that is substantially equivalent to any offense listed in subsections (B), (C), and (E) of this Section shall

constitute a conviction for the purpose of this Article. A finding or adjudication as a sexually dangerous person or a sexually violent person under any federal law, Uniform Code of Military Justice, or the law of another state or foreign country that is substantially equivalent to the Sexually Dangerous Persons Act or the Sexually Violent Persons Commitment Act shall constitute an adjudication for the purposes of this Article.

(C-5) A person at least 17 years of age at the time of the commission of the offense who is convicted of first degree murder under Section 9-1 of the Criminal Code of 1961, against a person under 18 years of age, shall be required to register for natural life. A conviction for an offense of federal, Uniform Code of Military Justice, sister state, or foreign country law that is substantially equivalent to any offense listed in subsection (C-5) of this Section shall constitute a conviction for the purpose of this Article. This subsection (C-5) applies to a person who committed the offense before June 1, 1996 only if the person is incarcerated in an Illinois Department of Corrections facility on August 20, 2004 (the effective date of Public Act 93-977).

(D) As used in this Article, "law enforcement agency having jurisdiction" means the Chief of Police in each of the municipalities in which the sex offender expects to reside, work, or attend school (1) upon his or her discharge, parole or release or (2) during the service of his or her sentence of

probation or conditional discharge, or the Sheriff of the county, in the event no Police Chief exists or if the offender intends to reside, work, or attend school in an unincorporated area. "Law enforcement agency having jurisdiction" includes the location where out-of-state students attend school and where out-of-state employees are employed or are otherwise required to register.

(D-1) As used in this Article, "supervising officer" means the assigned Illinois Department of Corrections parole agent or county probation officer.

(E) As used in this Article, "sexual predator" means any person who, after July 1, 1999, is:

(1) Convicted for an offense of federal, Uniform Code of Military Justice, sister state, or foreign country law that is substantially equivalent to any offense listed in subsection (E) of this Section shall constitute a conviction for the purpose of this Article. Convicted of a violation or attempted violation of any of the following Sections of the Criminal Code of 1961, if the conviction occurred after July 1, 1999:

11-17.1 (keeping a place of juvenile prostitution),

11-19.1 (juvenile pimping),

11-19.2 (exploitation of a child),

11-20.1 (child pornography),

11-20.3 (aggravated child pornography),

12-13 (criminal sexual assault),
12-14 (aggravated criminal sexual assault),
12-14.1 (predatory criminal sexual assault of a
child),

12-16 (aggravated criminal sexual abuse),

12-33 (ritualized abuse of a child); ~~or~~

(2) (blank); ~~or~~

(3) certified as a sexually dangerous person pursuant
to the Sexually Dangerous Persons Act or any substantially
similar federal, Uniform Code of Military Justice, sister
state, or foreign country law; ~~or~~

(4) found to be a sexually violent person pursuant to
the Sexually Violent Persons Commitment Act or any
substantially similar federal, Uniform Code of Military
Justice, sister state, or foreign country law;

(5) convicted of a second or subsequent offense which
requires registration pursuant to this Act. The conviction
for the second or subsequent offense must have occurred
after July 1, 1999. For purposes of this paragraph (5),
"convicted" shall include a conviction under any
substantially similar Illinois, federal, Uniform Code of
Military Justice, sister state, or foreign country law; or

(6) convicted of a second or subsequent offense of
luring a minor under Section 10-5.1 of the Criminal Code of
1961.

(F) As used in this Article, "out-of-state student" means

any sex offender, as defined in this Section, or sexual predator who is enrolled in Illinois, on a full-time or part-time basis, in any public or private educational institution, including, but not limited to, any secondary school, trade or professional institution, or institution of higher learning.

(G) As used in this Article, "out-of-state employee" means any sex offender, as defined in this Section, or sexual predator who works in Illinois, regardless of whether the individual receives payment for services performed, for a period of time of 10 or more days or for an aggregate period of time of 30 or more days during any calendar year. Persons who operate motor vehicles in the State accrue one day of employment time for any portion of a day spent in Illinois.

(H) As used in this Article, "school" means any public or private educational institution, including, but not limited to, any elementary or secondary school, trade or professional institution, or institution of higher education.

(I) As used in this Article, "fixed residence" means any and all places that a sex offender resides for an aggregate period of time of 5 or more days in a calendar year.

(J) As used in this Article, "Internet protocol address" means the string of numbers by which a location on the Internet is identified by routers or other computers connected to the Internet.

(Source: P.A. 94-166, eff. 1-1-06; 94-168, eff. 1-1-06; 94-945,

eff. 6-27-06; 94-1053, eff. 7-24-06; 95-331, eff. 8-21-07; 95-579, eff. 6-1-08; 95-625, eff. 6-1-08; 95-658, eff. 10-11-07; revised 11-19-07.)

(730 ILCS 150/3)

(Text of Section before amendment by P.A. 95-579 and 95-640)

Sec. 3. Duty to register.

(a) A sex offender, as defined in Section 2 of this Act, or sexual predator shall, within the time period prescribed in subsections (b) and (c), register in person and provide accurate information as required by the Department of State Police. Such information shall include a current photograph, current address, current place of employment, the employer's telephone number, school attended, all e-mail addresses, instant messaging identities, chat room identities, and other Internet communications identities that the sex offender uses or plans to use, all Uniform Resource Locators (URLs) registered or used by the sex offender, all blogs and other Internet sites maintained by the sex offender or to which the sex offender has uploaded any content or posted any messages or information, extensions of the time period for registering as provided in this Article and, if an extension was granted, the reason why the extension was granted and the date the sex offender was notified of the extension. The information shall also include the county of conviction, license plate numbers

for every vehicle registered in the name of the sex offender, the age of the sex offender at the time of the commission of the offense, the age of the victim at the time of the commission of the offense, and any distinguishing marks located on the body of the sex offender. The sex offender or sexual predator shall register:

(1) with the chief of police in the municipality in which he or she resides or is temporarily domiciled for a period of time of 5 or more days, unless the municipality is the City of Chicago, in which case he or she shall register at the Chicago Police Department Headquarters; or

(2) with the sheriff in the county in which he or she resides or is temporarily domiciled for a period of time of 5 or more days in an unincorporated area or, if incorporated, no police chief exists.

If the sex offender or sexual predator is employed at or attends an institution of higher education, he or she shall register:

(i) with the chief of police in the municipality in which he or she is employed at or attends an institution of higher education, unless the municipality is the City of Chicago, in which case he or she shall register at the Chicago Police Department Headquarters; or

(ii) with the sheriff in the county in which he or she is employed or attends an institution of higher education located in an unincorporated area, or if incorporated, no

police chief exists.

For purposes of this Article, the place of residence or temporary domicile is defined as any and all places where the sex offender resides for an aggregate period of time of 5 or more days during any calendar year. Any person required to register under this Article who lacks a fixed address or temporary domicile must notify, in person, the agency of jurisdiction of his or her last known address within 5 days after ceasing to have a fixed residence.

Any person who lacks a fixed residence must report weekly, in person, with the sheriff's office of the county in which he or she is located in an unincorporated area, or with the chief of police in the municipality in which he or she is located. The agency of jurisdiction will document each weekly registration to include all the locations where the person has stayed during the past 7 days.

The sex offender or sexual predator shall provide accurate information as required by the Department of State Police. That information shall include the sex offender's or sexual predator's current place of employment.

(a-5) An out-of-state student or out-of-state employee shall, within 5 days after beginning school or employment in this State, register in person and provide accurate information as required by the Department of State Police. Such information will include current place of employment, school attended, and address in state of residence. The out-of-state student or

out-of-state employee shall register:

(1) with the chief of police in the municipality in which he or she attends school or is employed for a period of time of 5 or more days or for an aggregate period of time of more than 30 days during any calendar year, unless the municipality is the City of Chicago, in which case he or she shall register at the Chicago Police Department Headquarters; or

(2) with the sheriff in the county in which he or she attends school or is employed for a period of time of 5 or more days or for an aggregate period of time of more than 30 days during any calendar year in an unincorporated area or, if incorporated, no police chief exists.

The out-of-state student or out-of-state employee shall provide accurate information as required by the Department of State Police. That information shall include the out-of-state student's current place of school attendance or the out-of-state employee's current place of employment.

(b) Any sex offender, as defined in Section 2 of this Act, or sexual predator, regardless of any initial, prior, or other registration, shall, within 5 days of beginning school, or establishing a residence, place of employment, or temporary domicile in any county, register in person as set forth in subsection (a) or (a-5).

(c) The registration for any person required to register under this Article shall be as follows:

(1) Any person registered under the Habitual Child Sex Offender Registration Act or the Child Sex Offender Registration Act prior to January 1, 1996, shall be deemed initially registered as of January 1, 1996; however, this shall not be construed to extend the duration of registration set forth in Section 7.

(2) Except as provided in subsection (c)(4), any person convicted or adjudicated prior to January 1, 1996, whose liability for registration under Section 7 has not expired, shall register in person prior to January 31, 1996.

(2.5) Except as provided in subsection (c)(4), any person who has not been notified of his or her responsibility to register shall be notified by a criminal justice entity of his or her responsibility to register. Upon notification the person must then register within 5 days of notification of his or her requirement to register. If notification is not made within the offender's 10 year registration requirement, and the Department of State Police determines no evidence exists or indicates the offender attempted to avoid registration, the offender will no longer be required to register under this Act.

(3) Except as provided in subsection (c)(4), any person convicted on or after January 1, 1996, shall register in person within 5 days after the entry of the sentencing order based upon his or her conviction.

(4) Any person unable to comply with the registration

requirements of this Article because he or she is confined, institutionalized, or imprisoned in Illinois on or after January 1, 1996, shall register in person within 5 days of discharge, parole or release.

(5) The person shall provide positive identification and documentation that substantiates proof of residence at the registering address.

(6) The person shall pay a \$20 initial registration fee and a \$10 annual renewal fee. The fees shall be used by the registering agency for official purposes. The agency shall establish procedures to document receipt and use of the funds. The law enforcement agency having jurisdiction may waive the registration fee if it determines that the person is indigent and unable to pay the registration fee. Ten dollars for the initial registration fee and \$5 of the annual renewal fee shall be used by the registering agency for official purposes. Ten dollars of the initial registration fee and \$5 of the annual fee shall be deposited into the Sex Offender Management Board Fund under Section 19 of the Sex Offender Management Board Act. Money deposited into the Sex Offender Management Board Fund shall be administered by the Sex Offender Management Board and shall be used to fund practices endorsed or required by the Sex Offender Management Board Act including but not limited to sex offenders evaluation, treatment, or monitoring programs that are or may be developed, as well as for

administrative costs, including staff, incurred by the Board.

(d) Within 5 days after obtaining or changing employment and, if employed on January 1, 2000, within 5 days after that date, a person required to register under this Section must report, in person to the law enforcement agency having jurisdiction, the business name and address where he or she is employed. If the person has multiple businesses or work locations, every business and work location must be reported to the law enforcement agency having jurisdiction.

(Source: P.A. 94-166, eff. 1-1-06; 94-168, eff. 1-1-06; 94-994, eff. 1-1-07; 95-229, eff. 8-16-07; 95-658, eff. 10-11-07; revised 11-19-07.)

(Text of Section after amendment by P.A. 95-579 and 95-640)

Sec. 3. Duty to register.

(a) A sex offender, as defined in Section 2 of this Act, or sexual predator shall, within the time period prescribed in subsections (b) and (c), register in person and provide accurate information as required by the Department of State Police. Such information shall include a current photograph, current address, current place of employment, the employer's telephone number, school attended, all e-mail addresses, instant messaging identities, chat room identities, and other Internet communications identities that the sex offender uses or plans to use, all Uniform Resource Locators (URLs)

registered or used by the sex offender, all blogs and other Internet sites maintained by the sex offender or to which the sex offender has uploaded any content or posted any messages or information, extensions of the time period for registering as provided in this Article and, if an extension was granted, the reason why the extension was granted and the date the sex offender was notified of the extension. The information shall also include the county of conviction, license plate numbers for every vehicle registered in the name of the sex offender, the age of the sex offender at the time of the commission of the offense, the age of the victim at the time of the commission of the offense, and any distinguishing marks located on the body of the sex offender. A sex offender convicted under Section 11-6, 11-20.1, 11-20.3, or 11-21 of the Criminal Code of 1961 shall provide all Internet protocol (IP) addresses in his or her residence, registered in his or her name, accessible at his or her place of employment, or otherwise under his or her control or custody. The sex offender or sexual predator shall register:

(1) with the chief of police in the municipality in which he or she resides or is temporarily domiciled for a period of time of 5 or more days, unless the municipality is the City of Chicago, in which case he or she shall register at the Chicago Police Department Headquarters; or

(2) with the sheriff in the county in which he or she resides or is temporarily domiciled for a period of time of

5 or more days in an unincorporated area or, if incorporated, no police chief exists.

If the sex offender or sexual predator is employed at or attends an institution of higher education, he or she shall register:

(i) with the chief of police in the municipality in which he or she is employed at or attends an institution of higher education, unless the municipality is the City of Chicago, in which case he or she shall register at the Chicago Police Department Headquarters; or

(ii) with the sheriff in the county in which he or she is employed or attends an institution of higher education located in an unincorporated area, or if incorporated, no police chief exists.

For purposes of this Article, the place of residence or temporary domicile is defined as any and all places where the sex offender resides for an aggregate period of time of 5 or more days during any calendar year. Any person required to register under this Article who lacks a fixed address or temporary domicile must notify, in person, the agency of jurisdiction of his or her last known address within 3 days after ceasing to have a fixed residence.

Any person who lacks a fixed residence must report weekly, in person, with the sheriff's office of the county in which he or she is located in an unincorporated area, or with the chief of police in the municipality in which he or she is located.

The agency of jurisdiction will document each weekly registration to include all the locations where the person has stayed during the past 7 days.

The sex offender or sexual predator shall provide accurate information as required by the Department of State Police. That information shall include the sex offender's or sexual predator's current place of employment.

(a-5) An out-of-state student or out-of-state employee shall, within 3 days after beginning school or employment in this State, register in person and provide accurate information as required by the Department of State Police. Such information will include current place of employment, school attended, and address in state of residence. A sex offender convicted under Section 11-6, 11-20.1, 11-20.3, or 11-21 of the Criminal Code of 1961 shall provide all Internet protocol (IP) addresses in his or her residence, registered in his or her name, accessible at his or her place of employment, or otherwise under his or her control or custody. The out-of-state student or out-of-state employee shall register:

(1) with the chief of police in the municipality in which he or she attends school or is employed for a period of time of 5 or more days or for an aggregate period of time of more than 30 days during any calendar year, unless the municipality is the City of Chicago, in which case he or she shall register at the Chicago Police Department Headquarters; or

(2) with the sheriff in the county in which he or she attends school or is employed for a period of time of 5 or more days or for an aggregate period of time of more than 30 days during any calendar year in an unincorporated area or, if incorporated, no police chief exists.

The out-of-state student or out-of-state employee shall provide accurate information as required by the Department of State Police. That information shall include the out-of-state student's current place of school attendance or the out-of-state employee's current place of employment.

(a-10) Any law enforcement agency registering sex offenders or sexual predators in accordance with subsections (a) or (a-5) of this Section shall forward to the Attorney General a copy of sex offender registration forms from persons convicted under Section 11-6, 11-20.1, 11-20.3, or 11-21 of the Criminal Code of 1961, including periodic and annual registrations under Section 6 of this Act.

(b) Any sex offender, as defined in Section 2 of this Act, or sexual predator, regardless of any initial, prior, or other registration, shall, within 3 days of beginning school, or establishing a residence, place of employment, or temporary domicile in any county, register in person as set forth in subsection (a) or (a-5).

(c) The registration for any person required to register under this Article shall be as follows:

(1) Any person registered under the Habitual Child Sex

Offender Registration Act or the Child Sex Offender Registration Act prior to January 1, 1996, shall be deemed initially registered as of January 1, 1996; however, this shall not be construed to extend the duration of registration set forth in Section 7.

(2) Except as provided in subsection (c)(4), any person convicted or adjudicated prior to January 1, 1996, whose liability for registration under Section 7 has not expired, shall register in person prior to January 31, 1996.

(2.5) Except as provided in subsection (c)(4), any person who has not been notified of his or her responsibility to register shall be notified by a criminal justice entity of his or her responsibility to register. Upon notification the person must then register within 3 days of notification of his or her requirement to register. If notification is not made within the offender's 10 year registration requirement, and the Department of State Police determines no evidence exists or indicates the offender attempted to avoid registration, the offender will no longer be required to register under this Act.

(3) Except as provided in subsection (c)(4), any person convicted on or after January 1, 1996, shall register in person within 3 days after the entry of the sentencing order based upon his or her conviction.

(4) Any person unable to comply with the registration requirements of this Article because he or she is confined,

institutionalized, or imprisoned in Illinois on or after January 1, 1996, shall register in person within 3 days of discharge, parole or release.

(5) The person shall provide positive identification and documentation that substantiates proof of residence at the registering address.

(6) The person shall pay a \$20 initial registration fee and a \$10 annual renewal fee. The fees shall be used by the registering agency for official purposes. The agency shall establish procedures to document receipt and use of the funds. The law enforcement agency having jurisdiction may waive the registration fee if it determines that the person is indigent and unable to pay the registration fee. Ten dollars for the initial registration fee and \$5 of the annual renewal fee shall be used by the registering agency for official purposes. Ten dollars of the initial registration fee and \$5 of the annual fee shall be deposited into the Sex Offender Management Board Fund under Section 19 of the Sex Offender Management Board Act. Money deposited into the Sex Offender Management Board Fund shall be administered by the Sex Offender Management Board and shall be used to fund practices endorsed or required by the Sex Offender Management Board Act including but not limited to sex offenders evaluation, treatment, or monitoring programs that are or may be developed, as well as for administrative costs, including staff, incurred by the

Board.

(d) Within 3 days after obtaining or changing employment and, if employed on January 1, 2000, within 5 days after that date, a person required to register under this Section must report, in person to the law enforcement agency having jurisdiction, the business name and address where he or she is employed. If the person has multiple businesses or work locations, every business and work location must be reported to the law enforcement agency having jurisdiction.

(Source: P.A. 94-166, eff. 1-1-06; 94-168, eff. 1-1-06; 94-994, eff. 1-1-07; 95-229, eff. 8-16-07; 95-579, eff. 6-1-08; 95-640, eff. 6-1-08; 95-658, eff. 10-11-07; revised 11-19-07.)

(730 ILCS 150/6) (from Ch. 38, par. 226)

(Text of Section before amendment by P.A. 95-640)

Sec. 6. Duty to report; change of address, school, or employment; duty to inform. A person who has been adjudicated to be sexually dangerous or is a sexually violent person and is later released, or found to be no longer sexually dangerous or no longer a sexually violent person and discharged, or convicted of a violation of this Act after July 1, 2005, shall report in person to the law enforcement agency with whom he or she last registered no later than 90 days after the date of his or her last registration and every 90 days thereafter and at such other times at the request of the law enforcement agency not to exceed 4 times a year. Such sexually dangerous or

sexually violent person must report all new or changed e-mail addresses, all new or changed instant messaging identities, all new or changed chat room identities, and all other new or changed Internet communications identities that the sexually dangerous or sexually violent person uses or plans to use, all new or changed Uniform Resource Locators (URLs) registered or used by the sexually dangerous or sexually violent person, and all new or changed blogs and other Internet sites maintained by the sexually dangerous or sexually violent person or to which the sexually dangerous or sexually violent person has uploaded any content or posted any messages or information. Any person who lacks a fixed residence must report weekly, in person, to the appropriate law enforcement agency where the sex offender is located. Any other person who is required to register under this Article shall report in person to the appropriate law enforcement agency with whom he or she last registered within one year from the date of last registration and every year thereafter and at such other times at the request of the law enforcement agency not to exceed 4 times a year. If any person required to register under this Article lacks a fixed residence or temporary domicile, he or she must notify, in person, the agency of jurisdiction of his or her last known address within 5 days after ceasing to have a fixed residence and if the offender leaves the last jurisdiction of residence, he or she, must within 48 hours after leaving register in person with the new agency of jurisdiction. If any other person required to

register under this Article changes his or her residence address, place of employment, or school, he or she shall report in person to the law enforcement agency with whom he or she last registered of his or her new address, change in employment, or school, all new or changed e-mail addresses, all new or changed instant messaging identities, all new or changed chat room identities, and all other new or changed Internet communications identities that the sex offender uses or plans to use, all new or changed Uniform Resource Locators (URLs) registered or used by the sex offender, and all new or changed blogs and other Internet sites maintained by the sex offender or to which the sex offender has uploaded any content or posted any messages or information, and register, in person, with the appropriate law enforcement agency within the time period specified in Section 3. The law enforcement agency shall, within 3 days of the reporting in person by the person required to register under this Article, notify the Department of State Police of the new place of residence, change in employment, or school.

If any person required to register under this Article intends to establish a residence or employment outside of the State of Illinois, at least 10 days before establishing that residence or employment, he or she shall report in person to the law enforcement agency with which he or she last registered of his or her out-of-state intended residence or employment. The law enforcement agency with which such person last

registered shall, within 3 days after the reporting in person of the person required to register under this Article of an address or employment change, notify the Department of State Police. The Department of State Police shall forward such information to the out-of-state law enforcement agency having jurisdiction in the form and manner prescribed by the Department of State Police.

(Source: P.A. 94-166, eff. 1-1-06; 94-168, eff. 1-1-06; 95-229, eff. 8-16-07; 95-331, eff. 8-21-07.)

(Text of Section after amendment by P.A. 95-640)

Sec. 6. Duty to report; change of address, school, or employment; duty to inform. A person who has been adjudicated to be sexually dangerous or is a sexually violent person and is later released, or found to be no longer sexually dangerous or no longer a sexually violent person and discharged, or convicted of a violation of this Act after July 1, 2005, shall report in person to the law enforcement agency with whom he or she last registered no later than 90 days after the date of his or her last registration and every 90 days thereafter and at such other times at the request of the law enforcement agency not to exceed 4 times a year. Such sexually dangerous or sexually violent person must report all new or changed e-mail addresses, all new or changed instant messaging identities, all new or changed chat room identities, and all other new or changed Internet communications identities that the sexually

dangerous or sexually violent person uses or plans to use, all new or changed Uniform Resource Locators (URLs) registered or used by the sexually dangerous or sexually violent person, and all new or changed blogs and other Internet sites maintained by the sexually dangerous or sexually violent person or to which the sexually dangerous or sexually violent person has uploaded any content or posted any messages or information. Any person who lacks a fixed residence must report weekly, in person, to the appropriate law enforcement agency where the sex offender is located. Any other person who is required to register under this Article shall report in person to the appropriate law enforcement agency with whom he or she last registered within one year from the date of last registration and every year thereafter and at such other times at the request of the law enforcement agency not to exceed 4 times a year. If any person required to register under this Article lacks a fixed residence or temporary domicile, he or she must notify, in person, the agency of jurisdiction of his or her last known address within 3 days after ceasing to have a fixed residence and if the offender leaves the last jurisdiction of residence, he or she, must within 3 days after leaving register in person with the new agency of jurisdiction. If any other person required to register under this Article changes his or her residence address, place of employment, or school, he or she shall report in person to the law enforcement agency with whom he or she last registered of his or her new address, change in

employment, or school, all new or changed e-mail addresses, all new or changed instant messaging identities, all new or changed chat room identities, and all other new or changed Internet communications identities that the sex offender uses or plans to use, all new or changed Uniform Resource Locators (URLs) registered or used by the sex offender, and all new or changed blogs and other Internet sites maintained by the sex offender or to which the sex offender has uploaded any content or posted any messages or information, and register, in person, with the appropriate law enforcement agency within the time period specified in Section 3. The law enforcement agency shall, within 3 days of the reporting in person by the person required to register under this Article, notify the Department of State Police of the new place of residence, change in employment, or school.

If any person required to register under this Article intends to establish a residence or employment outside of the State of Illinois, at least 10 days before establishing that residence or employment, he or she shall report in person to the law enforcement agency with which he or she last registered of his or her out-of-state intended residence or employment. The law enforcement agency with which such person last registered shall, within 3 days after the reporting in person of the person required to register under this Article of an address or employment change, notify the Department of State Police. The Department of State Police shall forward such

information to the out-of-state law enforcement agency having jurisdiction in the form and manner prescribed by the Department of State Police.

(Source: P.A. 94-166, eff. 1-1-06; 94-168, eff. 1-1-06; 95-229, eff. 8-16-07; 95-331, eff. 8-21-07; 95-640, eff. 6-1-08; revised 11-19-07.)

(730 ILCS 150/7) (from Ch. 38, par. 227)

(Text of Section before amendment by P.A. 95-513 and 95-640)

Sec. 7. Duration of registration. A person who has been adjudicated to be sexually dangerous and is later released or found to be no longer sexually dangerous and discharged, shall register for the period of his or her natural life. A sexually violent person or sexual predator shall register for the period of his or her natural life after conviction or adjudication if not confined to a penal institution, hospital, or other institution or facility, and if confined, for the period of his or her natural life after parole, discharge, or release from any such facility. A person who becomes subject to registration under this Article who has previously been subject to registration under this Article or under the Child Murderer and Violent Offender Against Youth Registration Act or similar registration requirements of other jurisdictions shall register for the period of his or her natural life if not confined to a penal institution, hospital, or other institution

or facility, and if confined, for the period of his or her natural life after parole, discharge, or release from any such facility. Any other person who is required to register under this Article shall be required to register for a period of 10 years after conviction or adjudication if not confined to a penal institution, hospital or any other institution or facility, and if confined, for a period of 10 years after parole, discharge or release from any such facility. A sex offender who is allowed to leave a county, State, or federal facility for the purposes of work release, education, or overnight visitations shall be required to register within 5 days of beginning such a program. Liability for registration terminates at the expiration of 10 years from the date of conviction or adjudication if not confined to a penal institution, hospital or any other institution or facility and if confined, at the expiration of 10 years from the date of parole, discharge or release from any such facility, providing such person does not, during that period, again become liable to register under the provisions of this Article. Reconfinement due to a violation of parole or other circumstances that relates to the original conviction or adjudication shall extend the period of registration to 10 years after final parole, discharge, or release. The Director of State Police, consistent with administrative rules, shall extend for 10 years the registration period of any sex offender, as defined in Section 2 of this Act, who fails to comply with the provisions of this

Article. The registration period for any sex offender who fails to comply with any provision of the Act shall extend the period of registration by 10 years beginning from the first date of registration after the violation. If the registration period is extended, the Department of State Police shall send a registered letter to the law enforcement agency where the sex offender resides within 3 days after the extension of the registration period. The sex offender shall report to that law enforcement agency and sign for that letter. One copy of that letter shall be kept on file with the law enforcement agency of the jurisdiction where the sex offender resides and one copy shall be returned to the Department of State Police.

(Source: P.A. 94-166, eff. 1-1-06; 94-168, eff. 1-1-06; 95-169, eff. 8-14-07; 95-331, eff. 8-21-07.)

(Text of Section after amendment by P.A. 95-513 and 95-640)

Sec. 7. Duration of registration. A person who has been adjudicated to be sexually dangerous and is later released or found to be no longer sexually dangerous and discharged, shall register for the period of his or her natural life. A sexually violent person or sexual predator shall register for the period of his or her natural life after conviction or adjudication if not confined to a penal institution, hospital, or other institution or facility, and if confined, for the period of his or her natural life after parole, discharge, or release from any such facility. A person who becomes subject to registration

under this Article who has previously been subject to registration under this Article or under the Child Murderer and Violent Offender Against Youth Registration Act or similar registration requirements of other jurisdictions shall register for the period of his or her natural life if not confined to a penal institution, hospital, or other institution or facility, and if confined, for the period of his or her natural life after parole, discharge, or release from any such facility. Any other person who is required to register under this Article shall be required to register for a period of 10 years after conviction or adjudication if not confined to a penal institution, hospital or any other institution or facility, and if confined, for a period of 10 years after parole, discharge or release from any such facility. A sex offender who is allowed to leave a county, State, or federal facility for the purposes of work release, education, or overnight visitations shall be required to register within 3 days of beginning such a program. Liability for registration terminates at the expiration of 10 years from the date of conviction or adjudication if not confined to a penal institution, hospital or any other institution or facility and if confined, at the expiration of 10 years from the date of parole, discharge or release from any such facility, providing such person does not, during that period, again become liable to register under the provisions of this Article. Reconfinement due to a violation of parole or other circumstances that

relates to the original conviction or adjudication shall extend the period of registration to 10 years after final parole, discharge, or release. Reconfinement due to a violation of parole or other circumstances that do not relate to the original conviction or adjudication shall toll the running of the balance of the 10-year period of registration, which shall not commence running until after final parole, discharge, or release. The Director of State Police, consistent with administrative rules, shall extend for 10 years the registration period of any sex offender, as defined in Section 2 of this Act, who fails to comply with the provisions of this Article. The registration period for any sex offender who fails to comply with any provision of the Act shall extend the period of registration by 10 years beginning from the first date of registration after the violation. If the registration period is extended, the Department of State Police shall send a registered letter to the law enforcement agency where the sex offender resides within 3 days after the extension of the registration period. The sex offender shall report to that law enforcement agency and sign for that letter. One copy of that letter shall be kept on file with the law enforcement agency of the jurisdiction where the sex offender resides and one copy shall be returned to the Department of State Police.

(Source: P.A. 94-166, eff. 1-1-06; 94-168, eff. 1-1-06; 95-169, eff. 8-14-07; 95-331, eff. 8-21-07; 95-513, eff. 6-1-08; 95-640, eff. 6-1-08; revised 11-19-07.)

Section 365. The Sex Offender Community Notification Law is amended by changing Section 120 as follows:

(730 ILCS 152/120)

(Text of Section before amendment by P.A. 95-640)

Sec. 120. Community notification of sex offenders.

(a) The sheriff of the county, except Cook County, shall disclose to the following the name, address, date of birth, place of employment, school attended, e-mail addresses, instant messaging identities, chat room identities, other Internet communications identities, all Uniform Resource Locators (URLs) registered or used by the sex offender, all blogs and other Internet sites maintained by the sex offender or to which the sex offender has uploaded any content or posted any messages or information, and offense or adjudication of all sex offenders required to register under Section 3 of the Sex Offender Registration Act:

(1) The boards of institutions of higher education or other appropriate administrative offices of each non-public institution of higher education located in the county where the sex offender is required to register, resides, is employed, or is attending an institution of higher education; and

(2) School boards of public school districts and the principal or other appropriate administrative officer of

each nonpublic school located in the county where the sex offender is required to register or is employed; and

(3) Child care facilities located in the county where the sex offender is required to register or is employed; and

(4) Libraries located in the county where the sex offender is required to register or is employed.

(a-2) The sheriff of Cook County shall disclose to the following the name, address, date of birth, place of employment, school attended, e-mail addresses, instant messaging identities, chat room identities, other Internet communications identities, all Uniform Resource Locators (URLs) registered or used by the sex offender, all blogs and other Internet sites maintained by the sex offender or to which the sex offender has uploaded any content or posted any messages or information, and offense or adjudication of all sex offenders required to register under Section 3 of the Sex Offender Registration Act:

(1) School boards of public school districts and the principal or other appropriate administrative officer of each nonpublic school located within the region of Cook County, as those public school districts and nonpublic schools are identified in LEADS, other than the City of Chicago, where the sex offender is required to register or is employed; and

(2) Child care facilities located within the region of

Cook County, as those child care facilities are identified in LEADS, other than the City of Chicago, where the sex offender is required to register or is employed; and

(3) The boards of institutions of higher education or other appropriate administrative offices of each non-public institution of higher education located in the county, other than the City of Chicago, where the sex offender is required to register, resides, is employed, or attending an institution of higher education; and

(4) Libraries located in the county, other than the City of Chicago, where the sex offender is required to register, resides, is employed, or is attending an institution of higher education.

(a-3) The Chicago Police Department shall disclose to the following the name, address, date of birth, place of employment, school attended, e-mail addresses, instant messaging identities, chat room identities, other Internet communications identities, all Uniform Resource Locators (URLs) registered or used by the sex offender, all blogs and other Internet sites maintained by the sex offender or to which the sex offender has uploaded any content or posted any messages or information, and offense or adjudication of all sex offenders required to register under Section 3 of the Sex Offender Registration Act:

(1) School boards of public school districts and the principal or other appropriate administrative officer of

each nonpublic school located in the police district where the sex offender is required to register or is employed if the offender is required to register or is employed in the City of Chicago; and

(2) Child care facilities located in the police district where the sex offender is required to register or is employed if the offender is required to register or is employed in the City of Chicago; and

(3) The boards of institutions of higher education or other appropriate administrative offices of each non-public institution of higher education located in the police district where the sex offender is required to register, resides, is employed, or attending an institution of higher education in the City of Chicago; and

(4) Libraries located in the police district where the sex offender is required to register or is employed if the offender is required to register or is employed in the City of Chicago.

(a-4) The Department of State Police shall provide a list of sex offenders required to register to the Illinois Department of Children and Family Services.

(b) The Department of State Police and any law enforcement agency may disclose, in the Department's or agency's discretion, the following information to any person likely to encounter a sex offender, or sexual predator:

(1) The offender's name, address, date of birth, e-mail

addresses, instant messaging identities, chat room identities, and other Internet communications identities, all Uniform Resource Locators (URLs) registered or used by the sex offender, and all blogs and other Internet sites maintained by the sex offender or to which the sex offender has uploaded any content or posted any messages or information.

(2) The offense for which the offender was convicted.

(3) Adjudication as a sexually dangerous person.

(4) The offender's photograph or other such information that will help identify the sex offender.

(5) Offender employment information, to protect public safety.

(c) The name, address, date of birth, e-mail addresses, instant messaging identities, chat room identities, other Internet communications identities, all Uniform Resource Locators (URLs) registered or used by the sex offender, all blogs and other Internet sites maintained by the sex offender or to which the sex offender has uploaded any content or posted any messages or information, offense or adjudication, the county of conviction, license plate numbers for every vehicle registered in the name of the sex offender, the age of the sex offender at the time of the commission of the offense, the age of the victim at the time of the commission of the offense, and any distinguishing marks located on the body of the sex offender for sex offenders required to register under Section 3

of the Sex Offender Registration Act shall be open to inspection by the public as provided in this Section. Every municipal police department shall make available at its headquarters the information on all sex offenders who are required to register in the municipality under the Sex Offender Registration Act. The sheriff shall also make available at his or her headquarters the information on all sex offenders who are required to register under that Act and who live in unincorporated areas of the county. Sex offender information must be made available for public inspection to any person, no later than 72 hours or 3 business days from the date of the request. The request must be made in person, in writing, or by telephone. Availability must include giving the inquirer access to a facility where the information may be copied. A department or sheriff may charge a fee, but the fee may not exceed the actual costs of copying the information. An inquirer must be allowed to copy this information in his or her own handwriting. A department or sheriff must allow access to the information during normal public working hours. The sheriff or a municipal police department may publish the photographs of sex offenders where any victim was 13 years of age or younger and who are required to register in the municipality or county under the Sex Offender Registration Act in a newspaper or magazine of general circulation in the municipality or county or may disseminate the photographs of those sex offenders on the Internet or on television. The law enforcement agency may

make available the information on all sex offenders residing within any county.

(d) The Department of State Police and any law enforcement agency having jurisdiction may, in the Department's or agency's discretion, place the information specified in subsection (b) on the Internet or in other media.

(e) (Blank).

(f) The administrator of a transitional housing facility for sex offenders shall comply with the notification procedures established in paragraph (4) of subsection (b) of Section 3-17-5 of the Unified Code of Corrections.

(g) A principal or teacher of a public or private elementary or secondary school shall notify the parents of children attending the school during school registration or during parent-teacher conferences that information about sex offenders is available to the public as provided in this Act.

(Source: P.A. 94-161, eff. 7-11-05; 94-168, eff. 1-1-06; 94-994, eff. 1-1-07; 95-229, eff. 8-16-07; 95-278, eff. 8-17-07; revised 11-19-07.)

(Text of Section after amendment by P.A. 95-640)

Sec. 120. Community notification of sex offenders.

(a) The sheriff of the county, except Cook County, shall disclose to the following the name, address, date of birth, place of employment, school attended, e-mail addresses, instant messaging identities, chat room identities, other

Internet communications identities, all Uniform Resource Locators (URLs) registered or used by the sex offender, all blogs and other Internet sites maintained by the sex offender or to which the sex offender has uploaded any content or posted any messages or information, and offense or adjudication of all sex offenders required to register under Section 3 of the Sex Offender Registration Act:

(1) The boards of institutions of higher education or other appropriate administrative offices of each non-public institution of higher education located in the county where the sex offender is required to register, resides, is employed, or is attending an institution of higher education;

(2) School boards of public school districts and the principal or other appropriate administrative officer of each nonpublic school located in the county where the sex offender is required to register or is employed;

(3) Child care facilities located in the county where the sex offender is required to register or is employed;

~~and~~

(4) Libraries located in the county where the sex offender is required to register or is employed; ~~-~~

(5) ~~(4)~~ Public libraries located in the county where the sex offender is required to register or is employed;

(6) ~~(5)~~ Public housing agencies located in the county where the sex offender is required to register or is

employed;

(7) ~~(6)~~ The Illinois Department of Children and Family Services;

(8) ~~(7)~~ Social service agencies providing services to minors located in the county where the sex offender is required to register or is employed; and

(9) ~~(8)~~ Volunteer organizations providing services to minors located in the county where the sex offender is required to register or is employed.

(a-2) The sheriff of Cook County shall disclose to the following the name, address, date of birth, place of employment, school attended, e-mail addresses, instant messaging identities, chat room identities, other Internet communications identities, all Uniform Resource Locators (URLs) registered or used by the sex offender, all blogs and other Internet sites maintained by the sex offender or to which the sex offender has uploaded any content or posted any messages or information, and offense or adjudication of all sex offenders required to register under Section 3 of the Sex Offender Registration Act:

(1) School boards of public school districts and the principal or other appropriate administrative officer of each nonpublic school located within the region of Cook County, as those public school districts and nonpublic schools are identified in LEADS, other than the City of Chicago, where the sex offender is required to register or

is employed;

(2) Child care facilities located within the region of Cook County, as those child care facilities are identified in LEADS, other than the City of Chicago, where the sex offender is required to register or is employed;

(3) The boards of institutions of higher education or other appropriate administrative offices of each non-public institution of higher education located in the county, other than the City of Chicago, where the sex offender is required to register, resides, is employed, or attending an institution of higher education; ~~and~~

(4) Libraries located in the county, other than the City of Chicago, where the sex offender is required to register, resides, is employed, or is attending an institution of higher education;~~;~~

(5) ~~(4)~~ Public libraries located in the county, other than the City of Chicago, where the sex offender is required to register, resides, is employed, or attending an institution of higher education;

(6) ~~(5)~~ Public housing agencies located in the county, other than the City of Chicago, where the sex offender is required to register, resides, is employed, or attending an institution of higher education;

(7) ~~(6)~~ The Illinois Department of Children and Family Services;

(8) ~~(7)~~ Social service agencies providing services to

minors located in the county, other than the City of Chicago, where the sex offender is required to register, resides, is employed, or attending an institution of higher education; and

(9) ~~(8)~~ Volunteer organizations providing services to minors located in the county, other than the City of Chicago, where the sex offender is required to register, resides, is employed, or attending an institution of higher education.

(a-3) The Chicago Police Department shall disclose to the following the name, address, date of birth, place of employment, school attended, e-mail addresses, instant messaging identities, chat room identities, other Internet communications identities, all Uniform Resource Locators (URLs) registered or used by the sex offender, all blogs and other Internet sites maintained by the sex offender or to which the sex offender has uploaded any content or posted any messages or information, and offense or adjudication of all sex offenders required to register under Section 3 of the Sex Offender Registration Act:

(1) School boards of public school districts and the principal or other appropriate administrative officer of each nonpublic school located in the police district where the sex offender is required to register or is employed if the offender is required to register or is employed in the City of Chicago;

(2) Child care facilities located in the police district where the sex offender is required to register or is employed if the offender is required to register or is employed in the City of Chicago;

(3) The boards of institutions of higher education or other appropriate administrative offices of each non-public institution of higher education located in the police district where the sex offender is required to register, resides, is employed, or attending an institution of higher education in the City of Chicago; ~~and~~

(4) Libraries located in the police district where the sex offender is required to register or is employed if the offender is required to register or is employed in the City of Chicago;~~;~~

(5) ~~(4)~~ Public libraries located in the police district where the sex offender is required to register, resides, is employed, or attending an institution of higher education in the City of Chicago;

(6) ~~(5)~~ Public housing agencies located in the police district where the sex offender is required to register, resides, is employed, or attending an institution of higher education in the City of Chicago;

(7) ~~(6)~~ The Illinois Department of Children and Family Services;

(8) ~~(7)~~ Social service agencies providing services to minors located in the police district where the sex

offender is required to register, resides, is employed, or attending an institution of higher education in the City of Chicago; and

(9) ~~(8)~~ Volunteer organizations providing services to minors located in the police district where the sex offender is required to register, resides, is employed, or attending an institution of higher education in the City of Chicago.

(a-4) The Department of State Police shall provide a list of sex offenders required to register to the Illinois Department of Children and Family Services.

(b) The Department of State Police and any law enforcement agency may disclose, in the Department's or agency's discretion, the following information to any person likely to encounter a sex offender, or sexual predator:

(1) The offender's name, address, date of birth, e-mail addresses, instant messaging identities, chat room identities, and other Internet communications identities, all Uniform Resource Locators (URLs) registered or used by the sex offender, and all blogs and other Internet sites maintained by the sex offender or to which the sex offender has uploaded any content or posted any messages or information.

(2) The offense for which the offender was convicted.

(3) Adjudication as a sexually dangerous person.

(4) The offender's photograph or other such

information that will help identify the sex offender.

(5) Offender employment information, to protect public safety.

(c) The name, address, date of birth, e-mail addresses, instant messaging identities, chat room identities, other Internet communications identities, all Uniform Resource Locators (URLs) registered or used by the sex offender, all blogs and other Internet sites maintained by the sex offender or to which the sex offender has uploaded any content or posted any messages or information, offense or adjudication, the county of conviction, license plate numbers for every vehicle registered in the name of the sex offender, the age of the sex offender at the time of the commission of the offense, the age of the victim at the time of the commission of the offense, and any distinguishing marks located on the body of the sex offender for sex offenders required to register under Section 3 of the Sex Offender Registration Act shall be open to inspection by the public as provided in this Section. Every municipal police department shall make available at its headquarters the information on all sex offenders who are required to register in the municipality under the Sex Offender Registration Act. The sheriff shall also make available at his or her headquarters the information on all sex offenders who are required to register under that Act and who live in unincorporated areas of the county. Sex offender information must be made available for public inspection to any person, no

later than 72 hours or 3 business days from the date of the request. The request must be made in person, in writing, or by telephone. Availability must include giving the inquirer access to a facility where the information may be copied. A department or sheriff may charge a fee, but the fee may not exceed the actual costs of copying the information. An inquirer must be allowed to copy this information in his or her own handwriting. A department or sheriff must allow access to the information during normal public working hours. The sheriff or a municipal police department may publish the photographs of sex offenders where any victim was 13 years of age or younger and who are required to register in the municipality or county under the Sex Offender Registration Act in a newspaper or magazine of general circulation in the municipality or county or may disseminate the photographs of those sex offenders on the Internet or on television. The law enforcement agency may make available the information on all sex offenders residing within any county.

(d) The Department of State Police and any law enforcement agency having jurisdiction may, in the Department's or agency's discretion, place the information specified in subsection (b) on the Internet or in other media.

(e) (Blank).

(f) The administrator of a transitional housing facility for sex offenders shall comply with the notification procedures established in paragraph (4) of subsection (b) of Section

3-17-5 of the Unified Code of Corrections.

(g) A principal or teacher of a public or private elementary or secondary school shall notify the parents of children attending the school during school registration or during parent-teacher conferences that information about sex offenders is available to the public as provided in this Act.

(Source: P.A. 94-161, eff. 7-11-05; 94-168, eff. 1-1-06; 94-994, eff. 1-1-07; 95-229, eff. 8-16-07; 95-278, eff. 8-17-07; 95-640, eff. 6-1-08; revised 11-19-07.)

Section 370. The Eminent Domain Act is amended by renumbering Section 25-7-103.150 as follows:

(735 ILCS 30/25-5-10)

Sec. 25-5-10 ~~25-7-103.150~~. Quick-take; City of Champaign, Village of Savoy and County of Champaign. Quick-take proceedings under Article 20 may be used for a period of no more than one year after the effective date of this amendatory Act of the 95th General Assembly by the City of Champaign, the Village of Savoy, and the County of Champaign, for the acquisition of the following described properties for the purpose of road construction right-of-way, permanent easements, and temporary easements:

Alexander C. Lo, as Trustee - Parcel 040

Right-of-Way:

A part of the South Half of Section 26, and the North Half of Section 35, Township 19 North, Range 8 East of the Third Principal Meridian, Champaign County, Illinois with bearing datum based on Illinois State Plane Coordinate System, East Zone;

Beginning at the southwest corner of Section 26, Township 19 North, Range 8 East of the Third Principal Meridian; thence along the west line of said Section 26, North 00 degrees 50 minutes 27 seconds West 887.52 feet; thence North 89 degrees 09 minutes 33 seconds East 45.00 feet; thence South 00 degrees 50 minutes 27 seconds East 50.00 feet; thence South 03 degrees 42 minutes 12 seconds East 300.37 feet; thence along a line parallel to and 60.00 feet offset easterly from said west line of Section 26, South 00 degrees 50 minutes 27 seconds East 200.00 feet; thence South 06 degrees 25 minutes 24 seconds East 185.04 feet; thence along a line parallel to and 155.00 feet offset northerly from the south line of said Section 26, South 89 degrees 36 minutes 45 seconds East 349.35 feet; thence South 86 degrees 45 minutes 01 seconds East 100.12 feet; thence along a line parallel to and 150.00 feet offset northerly from said south line of Section 26, South 89 degrees 36 minutes 45 seconds East 850.00 feet; thence South 85 degrees 56 minutes 46 seconds East 703.70 feet; thence along a line parallel to and 105.00 feet offset northerly from said south line of Section

26, South 89 degrees 36 minutes 45 seconds East 322.03 feet; thence South 00 degrees 23 minutes 15 seconds West 22.00 feet; thence along a line parallel to and 83.00 feet offset northerly from said south line of Section 26, South 89 degrees 36 minutes 45 seconds East 237.29 feet; thence North 00 degrees 38 minutes 43 seconds West 30.00 feet; thence along a line parallel to and 113.00 feet offset northerly from said south line of Section 26, South 89 degrees 36 minutes 56 seconds East 88.24 feet; thence South 87 degrees 19 minutes 30 seconds East 300.24 feet; thence along a line parallel to and 101.00 feet offset northerly from said south line of Section 26, South 89 degrees 36 minutes 56 seconds East 700.00 feet; thence South 87 degrees 54 minutes 06 seconds East 228.20 feet, to the east line of the west half of the southeast Quarter of aforesaid Section 26; thence along said east line, South 00 degrees 39 minutes 19 seconds East 94.19 feet, to the south line of said Section 26; thence along said south line of Section 26, South 89 degrees 36 minutes 56 seconds East 1316.02 feet, to a point being the southeast corner of said Section 26, said point also being the northeast corner of Section 35, Township 19 North, Range 8 East of the Third Principal Meridian; thence along the east line of said Section 35, South 00 degrees 27 minutes 33 seconds East 920.45 feet; thence South 89 degrees 32 minutes 27 seconds West 275.00 feet; thence North 00 degrees 27 minutes 33 seconds West 600.00 feet; thence North 89 degrees 32 minutes 27 seconds East 235.00 feet; thence along a line parallel to and 40.00 feet

offset westerly from aforesaid east line of Section 35, North 00 degrees 27 minutes 33 seconds West 218.02 feet; thence along a line parallel to and 103.00 feet offset southerly from the north line of said Section 35, North 89 degrees 36 minutes 56 seconds West 158.05 feet; thence North 87 degrees 19 minutes 30 seconds West 150.12 feet; thence along a line parallel to and 97.00 feet offset southerly from said north line of Section 35, North 89 degrees 36 minutes 56 seconds West 401.25 feet; thence North 85 degrees 58 minutes 01 seconds West 502.84 feet; thence North 88 degrees 27 minutes 19 seconds West 296.29 feet; thence along a line parallel to and 59.00 feet offset southerly from said north line of Section 35, North 89 degrees 36 minutes 56 seconds West 700.00 feet; thence South 88 degrees 28 minutes 31 seconds West 300.17 feet; thence along a line parallel to and 69.00 feet offset southerly from said north line of Section 35, North 89 degrees 36 minutes 56 seconds West 85.23 feet, to the west line of the northeast Quarter of said Section 35; thence along a line parallel to and 69.00 feet offset southerly from said north line of Section 35, North 89 degrees 36 minutes 45 seconds West 114.77 feet; thence North 87 degrees 54 minutes 07 seconds West 804.04 feet; thence along a line parallel to and 45.00 feet offset southerly from said north line of Section 35, North 89 degrees 36 minutes 45 seconds West 397.76 feet; thence North 00 degrees 20 minutes 35 seconds West 45.00 feet, to the northerly line of said Section 35; thence along said northerly line of Section 35, North 89 degrees 36 minutes 45 seconds West

1315.81 feet, to the Point of Beginning, situated in Champaign County, Illinois and containing 22.351 acres, more or less (Part of PIN #03-20-26-300-020; Part of PIN #03-20-26-300-021; Part of PIN #03-20-26-400-001; Part of PIN #03-20-35-100-002 and Part of PIN #03-20-35-200-001)

Permanent Easement #1:

A part of the southeast quarter of the southwest quarter of Section 26, Township 19 North, Range 8 East of the Third Principal Meridian, Champaign County, Illinois with bearing datum based on Illinois State Plane Coordinate System, East Zone;

Commencing at the southeast corner or the southwest quarter of Section 16, Township 19 North, Range 8 East of the Third Principal Meridian; thence along the easterly line of said southwest quarter of Section 26, North 00 degrees 38 minutes 43 seconds West 83.01 feet, to the Point of Beginning; thence North 89 degrees 36 minutes 45 seconds West 237.29 feet; thence North 00 degrees 23 minutes 15 seconds East 15.00 feet; thence South 89 degrees 36 minutes 45 seconds East 237.02 feet; thence South 00 degrees 38 minutes 43 seconds East 15.00 feet, to the Point of Beginning, situated in Champaign County, Illinois and containing 0.082 of an acre, more or less (Part of PIN #03-20-26-300-021)

Permanent Easement #2:

A part of the west half of the southwest quarter of Section 26, and a part of the west half of the northwest quarter of Section 26, Township 19 North, Range 8 East of the Third Principal Meridian, Champaign County, Illinois with bearing datum based on Illinois State Plane Coordinate System, East Zone;

Commencing at the southwest corner of Section 26, Township 19 North, Range 8 East of the Third Principal Meridian; thence along the southerly line of said Section 26, South 89 degrees 36 minutes 45 seconds East 1166.28 feet; thence North 00 degrees 23 minutes 15 seconds East 150.00 feet, to the Point of Beginning; thence along a curve to the left having a radius of 300.00 feet, an arc length of 49.50 feet, a chord bearing of North 11 degrees 23 minutes 05 seconds West and a chord length of 49.45 feet; thence North 16 degrees 06 minutes 44 seconds West 1098.24 feet; thence along a curve to the right having a radius of 840.00 feet, an arc length of 285.88 feet, a chord bearing of North 06 degrees 21 minutes 44 seconds West and a chord length of 284.51 feet; thence North 03 degrees 23 minutes 16 seconds East 1031.54 feet; thence along a curve to the left having a radius of 760.00 feet, an arc length of 134.77 feet, a chord bearing of North 01 degrees 41 minutes 32 seconds West and a chord length of 134.59 feet; thence South 89 degrees 42 minutes 45 seconds East 80.55 feet; thence along a curve to the right having a radius of 840.00 feet, an arc length of 139.06

feet, a chord bearing of South 01 degrees 21 minutes 17 seconds East and a chord length of 138.90 feet; thence South 03 degrees 23 minutes 16 seconds West 1031.54 feet; thence along a curve to the left having a radius of 760.00 feet, an arc length of 258.66 feet, a chord bearing of South 06 degrees 21 minutes 44 seconds East and a chord length of 257.41 feet; thence South 16 degrees 06 minutes 44 seconds East 1098.24 feet; thence along a curve to the right having a radius of 380.00 feet, an arc length of 72.58 feet, a chord bearing of South 10 degrees 38 minutes 26 seconds East and a chord length of 72.47 feet; thence North 89 degrees 36 minutes 45 seconds West 80.48 feet, to the Point of Beginning, situated in Champaign County, Illinois and containing 4.775 acres or 208,000 square feet, more or less. (Part of PIN #03-20-26-300-019 and #03-20-26-300-020)

Temporary Easement #1:

A part of Section 26, Township 19 North, Range 8 East of the Third Principal Meridian, Champaign County, Illinois with bearing datum based on Illinois State Plane Coordinate System, East Zone;

Beginning at a point being 91.50 feet normally offset northerly from FAP Route 807 (Curtis Road) centerline station 112+31.76; thence North 89 degrees 36 minutes 56 seconds West 20.00 feet; thence South 00 degrees 38 minutes 43 seconds East 15.00 feet;

thence North 89 degrees 36 minutes 45 seconds West 137.02 feet;
thence North 00 degrees 31 minutes 33 seconds West 113.51 feet;
thence North 89 degrees 36 minutes 45 seconds West 80.00 feet;
thence South 00 degrees 23 minutes 15 seconds West 10.00 feet;
thence North 89 degrees 36 minutes 45 seconds West 50.00 feet;
thence North 00 degrees 23 minutes 15 seconds East 60.00 feet;
thence South 89 degrees 36 minutes 45 seconds East 50.00 feet;
thence South 00 degrees 23 minutes 15 seconds West 10.00 feet;
thence South 89 degrees 36 minutes 45 seconds East 236.07 feet;
thence South 00 degrees 38 minutes 43 seconds East 138.52 feet,
to the Point of Beginning, situated in Champaign County,
Illinois and containing 0.688 of an acre or 29,966 square feet,
more or less. (Part of PIN #03-20-26-300-021)

Temporary Easement #2:

A part of Section 26, Township 19 North, Range 8 East of the
Third Principal Meridian, Champaign County, Illinois with
bearing datum based on Illinois State Plane Coordinate System,
East Zone;

Beginning at a point being 102.49 feet normally offset
northerly from FAP Route 807 (Curtis Road) centerline station
87+50.00; thence North 00 degrees 23 minutes 16 seconds East
46.18 feet; thence South 89 degrees 09 minutes 33 seconds West
99.13 feet; thence North 06 degrees 25 minutes 24 seconds West
90.43 feet; thence North 89 degrees 09 minutes 33 seconds East

210.11 feet; thence South 00 degrees 34 minutes 28 seconds West 70.84 feet; thence South 89 degrees 36 minutes 44 seconds East 100.00 feet; thence South 00 degrees 23 minutes 16 seconds West 67.51 feet; thence North 89 degrees 36 minutes 45 seconds West 200.00 feet, to the Point of Beginning, situated in Champaign County, Illinois and containing 0.686 of an acre or 29,891 square feet more or less. (Part of PIN #03-20-26-300-020)

Temporary Easement #3:

A part of Section 26, Township 19 North, Range 8 East of the Third Principal Meridian, Champaign County, Illinois with bearing datum based on Illinois State Plane Coordinate System, East Zone;

Beginning at a point being 97.50 feet normally offset northerly from FAP Route 807 (Curtis Road) centerline station 97+00.00; thence North 35 degrees 20 minutes 49 seconds East 57.33 feet; thence North 16 degrees 06 minutes 44 seconds West 1098.24 feet; thence along a curve to the right having a radius of 845.00 feet, an arc length of 287.59 feet, a chord bearing of North 06 degrees 21 minutes 44 seconds West and a chord length of 286.20 feet; thence North 03 degrees 23 minutes 16 seconds East 1031.54 feet; thence along a curve to the left having a radius of 755.00 feet, an arc length of 134.50 feet, a chord bearing of North 01 degrees 42 minutes 57 seconds West and a chord length of 134.33 feet; thence South 89 degrees 42 minutes

45 seconds East 5.04 feet; thence along a curve to the right having a radius of 760.00 feet, an arc length of 134.77 feet, a chord bearing of South 01 degrees 41 minutes 32 seconds East and a chord length of 134.59 feet; thence South 03 degrees 23 minutes 16 seconds West 1031.54 feet; thence along a curve to the left having a radius of 840.00 feet, an arc length of 285.88 feet, a chord bearing of South 06 degrees 21 minutes 44 seconds East and a chord length of 284.51 feet; thence South 16 degrees 06 minutes 44 seconds East 1098.24 feet; thence along a curve to the right having a radius of 300.00 feet, an arc length of 49.50 feet, a chord bearing of South 11 degrees 23 minutes 05 seconds East and a chord length of 49.45 feet; thence North 89 degrees 36 minutes 45 seconds West 47.73 feet, to the Point of Beginning, situated in Champaign County, Illinois and containing 0.322 acres or 14,034 square feet, more or less. (Part of PIN 03-20-26-300-019 & 03-20-26-300-020)

Temporary Easement #4:

A part of Sections 26 and 35, Township 19 North, Range 8 East of the Third Principal Meridian, Champaign County, Illinois with bearing datum based on Illinois State Plane Coordinate System, East Zone

Beginning at a point being 97.50 feet normally offset northerly from FAP Route 807 (Curtis Road) centerline station 98+75.00; thence North 89 degrees 36 minutes 45 seconds West 46.79 feet;

thence along a curve to the left having a radius of 380.00 feet, an arc length of 72.58 feet, a chord bearing of North 10 degrees 38 minutes 26 seconds West and a chord length of 72.47 feet; thence North 16 degrees 06 minutes 44 seconds West 1098.24 feet; thence along a curve to the right having a radius of 760.00 feet, an arc length of 258.66 feet, a chord bearing of North 06 degrees 21 minutes 44 seconds West and a chord length of 257.41 feet; thence North 03 degrees 23 minutes 16 seconds East 1031.54 feet; thence along a curve to the left having a radius of 840.00 feet, an arc length of 139.06 feet, a chord bearing of North 01 degrees 21 minutes 17 seconds West and a chord length of 138.90 feet; thence South 89 degrees 42 minutes 45 seconds East 5.03 feet; thence along a curve to the right having a radius of 845.00 feet, an arc length of 139.33 feet, a chord bearing of South 01 degrees 20 minutes 08 seconds East and a chord length of 139.17 feet; thence South 03 degrees 23 minutes 16 seconds West 1031.54 feet; thence along a curve to the left having a radius of 755.00 feet, an arc length of 256.96 feet, a chord bearing of South 06 degrees 21 minutes 44 seconds East and a chord length of 255.72 feet; thence South 16 degrees 06 minutes 44 seconds East 1098.24 feet; thence South 37 degrees 12 minutes 15 seconds East 91.56 feet, to the Point of Beginning, situated in Champaign County, Illinois and containing 0.331 acres or 14,428 square feet, more or less. (Part of PIN 03-20-26-300-019 & 03-20-26-300-020)

Temporary Easement #5:

A part of Sections 26 and 35, Township 19 North, Range 8 East of the Third Principal Meridian, Champaign County, Illinois with bearing datum based on Illinois State Plane Coordinate System, East Zone;

Beginning at a point being 94.00 feet normally offset southerly from FAP Route 807 (Curtis Road) centerline station 137+93.04: thence South 00 degrees 27 minutes 33 seconds East 218.80 feet; thence North 89 degrees 32 minutes 27 seconds East 15.00 feet; thence North 00 degrees 27 minutes 33 seconds West 208.58 feet; thence North 45 degrees 02 minutes 15 seconds West 14.25 feet; thence North 89 degrees 36 minutes 56 seconds West 5.00 feet, to the Point of Beginning, situated in Champaign County, Illinois and containing 0.074 of an acre or 3230 square feet, more or less. (Part of PIN #03-20-35-200-001)

Adolf M. Lo - Parcel 041

Permanent Easement:

A part of Sections 26 and 35, Township 19 North, Range 8 East of the Third Principal Meridian, Champaign County, Illinois with bearing datum based on Illinois State Plane Coordinate System, East Zone;

Beginning at a point being 94.00 feet normally offset southerly

from FAP Route 807 (Curtis Road) centerline station 137+93.04:
thence South 00 degrees 27 minutes 33 seconds East 218.80 feet;
thence North 89 degrees 32 minutes 27 seconds East 15.00 feet;
thence North 00 degrees 27 minutes 33 seconds West 208.58 feet;
thence North 45 degrees 02 minutes 15 seconds West 14.25 feet;
thence North 89 degrees 36 minutes 56 seconds West 5.00 feet,
to the Point of Beginning, situated in Champaign County,
Illinois and containing 0.074 of an acre or 3230 square feet,
more or less. (Part of PIN #03-20-35-200-001)

Temporary Easement #1:

A part of Section 26, Township 19 North, Range 8 East of the
Third Principal Meridian, Champaign County, Illinois with
bearing datum based on Illinois State Plane Coordinate System,
East Zone;

Commencing at the southwest corner of the northwest quarter of
Section 26, Township 19 North, Range 8 East of the Third
Principal Meridian; thence along the west line of said
northwest quarter, North 00 degrees 32 minutes 29 seconds West
60.01 feet; thence along the north line of the south 60 feet of
the south half of the southwest quarter of the northwest
quarter of said Section 26, South 89 degrees 42 minutes 45
seconds East 917.47 feet, to the Point of Beginning; thence
along a curve to the left having a radius of 760.00 feet, an
arc length of 57.56 feet, a chord bearing of North 08 degrees

56 minutes 32 seconds West and a chord length of 57.55 feet; thence North 11 degrees 06 minutes 44 seconds West 466.55 feet; thence along a curve to the left having a radius of 760.00 feet, an arc length of 93.84 feet, a chord bearing of North 14 degrees 38 minutes 58 seconds West and a chord length of 93.78 feet, to the north line of the south half of the southwest quarter of the northwest quarter of aforesaid Section 26; thence along said north line, North 89 degrees 49 minutes 23 seconds West 5.27 feet; thence along a curve to the right having a radius of 755.00 feet, an arc length of 94.89 feet, a chord bearing of South 14 degrees 42 minutes 45 seconds East and a chord length of 94.83 feet; thence South 11 degrees 06 minutes 44 seconds East 466.55 feet; thence along a curve to the right having a radius of 755.00 feet, an arc length of 56.57 feet, a chord bearing of South 08 degrees 57 minutes 57 seconds East and a chord length of 56.55 feet; thence South 89 degrees 42 minutes 45 seconds East 5.04 feet, to the Point of Beginning, situated in Champaign County, Illinois and containing 0.071 of an acre or 3090 square feet, more or less. (Part of PIN 03-20-26-100-005)

Temporary Easement #2:

A part of Section 26, Township 19 North, Range 8 East of the Third Principal Meridian, Champaign County, Illinois with bearing datum based on Illinois State Plane Coordinate System, East Zone;

Commencing at the southwest corner of the northwest quarter of Section 26, Township 19 North, Range 8 East of the Third Principal Meridian; thence along the west line of said northwest quarter, North 00 degrees 32 minutes 29 seconds West 60.01 feet; thence along the north line of the south 60 feet of the south half of the southwest quarter of the northwest quarter of said Section 26, South 89 degrees 42 minutes 45 seconds East 917.47 feet; thence South 89 degrees 42 minutes 45 seconds East 80.55 feet, to the Point of Beginning; thence South 89 degrees 42 minutes 45 seconds East 5.03 feet; thence along a curve to the left having a radius of 845.00 feet, an arc length of 74.52 feet, a chord bearing of North 08 degrees 35 minutes 08 seconds West and a chord length of 74.50 feet; thence North 11 degrees 06 minutes 44 seconds West 466.55 feet; thence along a curve to the left having a radius of 845.00 feet, an arc length of 76.27 feet, a chord bearing of North 13 degrees 41 minutes 53 seconds West and a chord length of 76.25 feet, to the north line of the south half of the southwest quarter of the northwest quarter of aforesaid Section 26; thence along said north line, North 89 degrees 49 minutes 23 seconds West 5.22 feet; thence along a curve to the right having a radius of 840.00 feet, an arc length of 77.30 feet, a chord bearing of South 13 degrees 44 minutes 54 seconds East and a chord length of 77.27 feet; thence South 11 degrees 06 minutes 44 seconds East 466.55 feet; thence along a curve to

the right having a radius of 840.00 feet, an arc length of 73.52 feet, a chord bearing of South 08 degrees 36 minutes 17 seconds East and a chord length of 73.50 feet, to the Point of Beginning, situated in Champaign County, Illinois and containing 0.071 acres or 3087 square feet more or less. (Part of PIN 03-20-26-100-005)

Adolf M. & Renee C. Lo - Parcel 044

Right-of-Way:

A part of the southeast quarter of the southeast quarter of Section 26, Township 19 North, Range 8 East of the Third Principal Meridian, Champaign County, Illinois with bearing datum based on Illinois State Plane Coordinate System, East Zone;

Beginning at the southwest corner of W. W. Young's Fourth Subdivision as per plat recorded in Book "O" at Page 55, Champaign County, Illinois; thence along the south line of Section 26, Township 19 North, Range 8 East of the Third Principal Meridian, North 89 degrees 36 minutes 56 seconds West 1127.29 feet; thence North 00 degrees 39 minutes 19 seconds West 94.19 feet; thence South 87 degrees 54 minutes 06 seconds East 473.99 feet; thence along a line parallel to and offset 80.00 feet northerly from aforesaid southerly line of Section 26, South 89 degrees 36 minutes 56 seconds East 187.22 feet;

thence South 00 degrees 33 minutes 07 seconds East 40.51 feet;
thence along a line parallel to and 39.50 feet northerly offset
from said south line of Section 26, South 89 degrees 36 minutes
56 seconds East 466.69 feet, to the westerly line of aforesaid
W.W. Young's Fourth Subdivision; thence along said westerly
line, South 00 degrees 33 minutes 07 seconds East 39.51 feet,
to the Point of Beginning, situated in Champaign County,
Illinois and containing 1.714 acres, more or less. (Part of PIN
#03-20-26-476-002 and Part of PIN #03-20-26-476-003)

Temporary Easement:

A part of the southeast quarter of the southeast quarter of
Section 26, Township 19 North, Range 8 East of the Third
Principal Meridian, Champaign County, Illinois with bearing
datum based on Illinois State Plane Coordinate System, East
Zone;

Beginning at the southwest corner of Lot 16 of W. W. Young's
Fourth Subdivision as per plat recorded in Book "O" at Page 55,
Champaign County, Illinois; thence along the westerly line of
said Lot 16, North 00 degrees 33 minutes 07 seconds West 6.50
feet, to the Point of Beginning; thence North 89 degrees 36
minutes 56 seconds West 466.69 feet; thence North 00 degrees 33
minutes 07 seconds West 2.00 feet; thence South 89 degrees 55
minutes 43 seconds East 274.58 feet; thence North 00 degrees 23
minutes 04 seconds East 18.00 feet; thence South 89 degrees 36

minutes 56 seconds East 50.00 feet; thence South 00 degrees 23 minutes 04 seconds West 17.50 feet; thence South 89 degrees 49 minutes 02 seconds East 142.08 feet, to aforesaid westerly line of Lot 16; thence along said westerly line of Lot 16, South 00 degrees 33 minutes 07 seconds East 4.50 feet, to the Point of Beginning, situated in Champaign County, Illinois and containing 0.056 of an acre, more or less. (Part of PIN #03-20-26-476-002 and Part of PIN #03-20-26-476-003)

John R. Thompson - Parcel 034

Right of Way:

A part of the Northeast Quarter of Section 34, Township 19 North, Range 8 East of the Third Principal Meridian, Champaign County, Illinois with bearing datum based on Illinois State Plane Coordinate System, East Zone;

Beginning at the northeast corner of Section 34, Township 19 North, Range 8 East of the Third Principal Meridian; thence along the east line of said Section 34, South 00 degrees 18 minutes 04 seconds East 1812.48 feet; thence South 89 degrees 41 minutes 56 seconds West 45.00 feet; thence North 03 degrees 32 minutes 40 seconds West 300.48 feet; thence along a line being parallel to and 62.00 feet offset westerly from the aforesaid east line of Section 34, North 00 degrees 18 minutes 04 seconds West 200.00 feet, thence South 89 degrees 41 minutes

56 seconds West 8.00 feet; thence along a line parallel to and 70.00 feet offset westerly from said east line of Section 34, North 00 degrees 18 minutes 04 seconds West 300.00 feet; thence North 89 degrees 41 minutes 56 seconds East 8.00 feet; thence along a line being parallel to and offset 62.00 feet westerly from said east line of Section 34, North 00 degrees 18 minutes 04 seconds West 600.00 feet; thence North 01 degrees 49 minutes 43 seconds West 300.11 feet; thence North 14 degrees 05 minutes 31 seconds West 62.93 feet; thence North 89 degrees 11 minutes 38 seconds West 47.85 feet; thence North 86 degrees 08 minutes 27 seconds West 150.21 feet; thence along a line being parallel to and offset 45.00 feet southerly from the north line of aforesaid Section 34, North 89 degrees 11 minutes 38 seconds West 750.00 feet; thence North 82 degrees 21 minutes 04 seconds West 100.72 feet, to a point on the existing southerly Curtis Road right-of-way line; thence along said southerly right-of-way line, North 89 degrees 11 minutes 38 seconds West 647.89 feet; thence South 88 degrees 01 minutes 07 seconds West 246.74 feet; thence along a line parallel to and offset 45.00 feet southerly from aforesaid north line of Section 34, North 89 degrees 11 minutes 38 seconds West 412.04 feet; thence North 00 degrees 48 minutes 22 seconds East 45.00 feet, to said north line of Section 34; thence along said north line of Section 34, South 89 degrees 11 minutes 38 seconds East 2438.21 feet, to the Point of Beginning, situated in Champaign County, Illinois and containing 4.882 acres or 212,664 square feet, more or

less. (Part of PIN #03-20-34-200-001 and part of PIN #03-20-34-200-002).

Temporary Easement:

A part of the Northeast Quarter of Section 34, Township 19 North, Range 8 East of the Third Principal Meridian, Champaign County, Illinois with bearing datum based on Illinois State Plane Coordinate System, East Zone;

Beginning at a point being 47.00 feet normally distant southerly from centerline Station 61+40.88 of FAP Route 807 (Curtis Road); thence South 00 degrees 48 minutes 22 seconds West 12.00 feet; thence North 89 degrees 33 minutes 09 seconds West 91.29 feet; thence North 00 degrees 24 minutes 07 seconds West 10.00 feet, to a point on the southerly existing Curtis Road right-of-way line; thence along said southerly right-of-way line, being a curve to the left having a radius of 6507.00 feet, an arc length of 91.54 feet, a chord bearing of North 89 degrees 11 minutes 42 seconds East and a chord length of 91.54 feet, to the Point of Beginning, situated in Champaign County, Illinois and containing 0.023 acres or 996 square feet, more or less. (Part of PIN 03-20-34-200-001)

JOHN E. CROSS - PARCEL 52

Right of Way

Part of Lot 8 in Arbours Subdivision No. 10, as per plat recorded in book "Y" at page 253 in Champaign County, Illinois, with bearing datum based on Illinois State Plane Coordinate System, East Zone;

Beginning at the southeast corner of the above described Lot 8; thence along the southerly line of said Lot 8, North 89 degrees 27 minutes 54 seconds West 10.59 feet; thence North 24 degrees 20 minutes 36 seconds East 25.14 feet, to the easterly line of said Lot 8; thence along said easterly line, South 00 degrees 34 minutes 33 seconds East 23.00 feet, to the Point of Beginning, containing 0.003 acres or 122 square feet, more or less.

PROSPECT POINT PARTNERS - PARCEL 53

Right of Way

A part of Lot 401 of the Arbour Subdivision No. 4, as per plat recorded as Document Number 92R37248, Champaign County, Illinois, with bearing datum based on Illinois State Plane Coordinate System, East Zone;

Beginning at the northwest corner of the above described Lot 401 of Arbour Subdivision No. 4, thence along the northerly line of said Lot 401, South 89 degrees 27 minutes 54 seconds East 310.00 feet; thence North 00 degrees 32 minutes 06 seconds

East 10.00 feet; thence continuing along the northerly line of aforesaid Lot 401, South 89 degrees 27 minutes 54 seconds East 60.00 feet, to the northeast corner of said Lot 401; thence along the easterly line of said Lot 401, South 00 degrees 35 minutes 41 seconds West 11.00 feet; thence North 89 degrees 27 minutes 54 seconds West 282.46 feet; thence South 89 degrees 53 minutes 41 seconds West 89.50 feet, to the northwesterly line of aforesaid Lot 401; thence along said northwesterly line, North 45 degrees 02 minutes 16 seconds East 2.80 feet, to the Point of Beginning, containing 0.023 of an acre, more or less.

Temporary Easement

A part of Lot 401 of the Arbour Subdivision No. 4, as per plat recorded as Document Number 92R37248, Champaign County, Illinois, with bearing datum based on Illinois State Plane Coordinate System, East Zone;

Commencing at the northeast corner of the above described Lot 401 of Arbour Subdivision No. 4, thence along the easterly line of said Lot 401, South 00 degrees 35 minutes 41 seconds West 11.00 feet, to the Point of Beginning; thence North 89 degrees 27 minutes 54 seconds West 282.46 feet; thence South 89 degrees 53 minutes 41 seconds West 89.50 feet, to the westerly line of said Lot 401; thence along said westerly line, South 45 degrees 02 minutes 16 seconds West 11.22 feet; thence South 89 degrees 27 minutes 54 seconds East 277.36 feet; thence South 00 degrees

32 minutes 06 seconds West 10.00 feet; thence South 89 degrees 27 minutes 54 seconds East 102.44 feet, to aforesaid easterly line of Lot 401; thence along said easterly line, North 00 degrees 35 minutes 41 seconds East 19.00 feet, to the Point of Beginning, containing 0.100 acres or 4359 square feet, more or less.

PROSPECT POINT LLC - PARCEL 54

Right of Way

A part of Lot 402 of the Arbour Subdivision No. 4, as per plat recorded as Document Number 92R37248, Champaign County, Illinois, with bearing datum based on Illinois State Plane Coordinate System, East Zone;

Beginning at the northeast corner of the above described Lot 402 of Arbour Subdivision No. 4, thence along the easterly line of said Lot 402, South 00 degrees 31 minutes 44 seconds West 40.00 feet; thence North 23 degrees 44 minutes 15 seconds West 28.52 feet; thence North 83 degrees 07 minutes 30 seconds West 27.17 feet; thence along a line being parallel to and 11.00 feet offset southerly from the northerly line of said Lot 402, North 89 degrees 27 minutes 54 seconds West 242.54 feet, to the westerly line of said Lot 402; thence along said westerly line, North 00 degrees 35 minutes 41 seconds East 11.00 feet, to the northwest corner of said Lot 402; thence along the northerly

line of said Lot 402, South 89 degrees 27 minutes 54 seconds East 281.25 feet, to the Point of Beginning, containing 0.076 of an acre or 3322 square feet, more or less.

Temporary Easement

A part of Lot 402 of the Arbour Meadows Subdivision No. 4, as per plat recorded as Document Number 92R37248, Champaign County, Illinois, with bearing datum based on Illinois State Plane Coordinate System, East Zone:

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Beginning at the northeast corner of the above described Lot 402; thence along the easterly line of said Lot 402, South 00 degrees 35 minutes 44 seconds West 40.00 feet, to the Point of Beginning; thence North 23 degrees 44 minutes 15 seconds West 28.52 feet; thence North 83 degrees 07 minutes 30 seconds West 27.17 feet; thence North 89 degrees 27 minutes 54 seconds West 242.54 feet, to the westerly line of aforesaid Lot 402; thence along said westerly line, South 00 degrees 35 minutes 41 seconds West 19.00 feet; thence South 89 degrees 27 minutes 54 seconds East 17.56 feet; thence North 00 degrees 32 minutes 06 seconds East 10.00 feet; thence South 89 degrees 27 minutes 54 seconds East 250.00 feet; thence South 00 degrees 32 minutes 06 seconds West 24.00 feet; thence South 89 degrees 27 minutes 54 seconds East 13.72 feet, to the aforesaid easterly line of Lot 402; thence along said easterly line, North 00 degrees 31

minutes 44 seconds East 4.00 feet, to the Point of Beginning, containing 0.064 of an acre or 2808 square feet, more or less.

TE-2

Beginning at a point on the easterly line of the above described Lot 402, said point being offset 196.00 feet normally distant southerly from FAP Route 807 (Curtis Road) centerline; thence along said easterly line of Lot 402, South 00 degrees 31 minutes 44 seconds West 40.00 feet; thence North 89 degrees 28 minutes 16 seconds West 60.00 feet; thence North 00 degrees 31 minutes 44 seconds East 40.00 feet; thence South 89 degrees 28 minutes 16 seconds East 60.00 feet, to the Point of Beginning, containing 0.055 of an acre or 2400 square feet, more or less.

Tracts TE-1 and TE-2 totaling 0.119 of an acre or 5208 square feet, more or less.

MAIN STREET BANK, TRUSTEE - PARCEL 55

Right of Way

All of the Commons area of the Arbour Meadows Subdivision No. 4, as per plat recorded December 24, 1992 in Book "BB" at Page 213 as Document 92R 37248, in the Village of Savoy, Champaign County, Illinois, containing 0.529 of an acre, more or less.

PROSPECT POINT EAST, LLC - PARCEL 56

Temporary Easement

A part of Lot 201 of the Arbour Meadows Subdivision No. 2, as per plat recorded in Plat Book "AA" at Page 251, Champaign County, Illinois, with bearing datum based on Illinois State Plane Coordinate System, East Zone:

Beginning at the northwest corner of the above described Lot 201 of the Arbour Meadows Subdivision No. 2; thence along the northerly line of said Lot 201, South 89 degrees 27 minutes 54 seconds East 15.11 feet; thence South 45 degrees 44 minutes 50 seconds West 21.29 feet, to the westerly line of said Lot 201; thence along said westerly line, North 00 degrees 31 minutes 44 seconds East 15.00 feet, to the Point of Beginning, containing 0.003 of an acre or 113 square feet, more or less.

(Source: P.A. 95-611, eff. 9-11-07; revised 12-10-07.)

Section 375. The State Lawsuit Immunity Act is amended by changing Section 1 as follows:

(745 ILCS 5/1) (from Ch. 127, par. 801)

Sec. 1. Except as provided in the Illinois Public Labor Relations Act, the Court of Claims Act, the State Officials and Employees Ethics Act, ~~and~~ Section 1.5 of this Act, and, except as provided in and to the extent provided in the Clean Coal FutureGen for Illinois Act, the State of Illinois shall not be

made a defendant or party in any court.

(Source: P.A. 95-18, eff. 7-30-07; 95-331, eff. 8-21-07; revised 11-30-07.)

Section 380. The Condominium Property Act is amended by changing Section 30 as follows:

(765 ILCS 605/30) (from Ch. 30, par. 330)

Sec. 30. Conversion condominiums; notice; recording.

(a) (1) No real estate may be submitted to the provisions of the Act as a conversion condominium unless (i) a notice of intent to submit the real estate to this Act (notice of intent) has been given to all persons who were tenants of the building located on the real estate on the date the notice is given. Such notice shall be given at least 30 days, and not more than 1 year prior to the recording of the declaration which submits the real estate to this Act; and (ii) the developer executes and acknowledges a certificate which shall be attached to and made a part of the declaration and which provides that the developer, prior to the execution by him or his agent of any agreement for the sale of a unit, has given a copy of the notice of intent to all persons who were tenants of the building located on the real estate on the date the notice of intent was given.

(2) ~~(a) (2)~~ If the owner fails to provide a tenant with notice of the intent to convert as defined in this Section,

the tenant permanently vacates the premises as a direct result of non-renewal of his or her lease by the owner, and the tenant's unit is converted to a condominium by the filing of a declaration submitting a property to this Act without having provided the required notice, then the owner is liable to the tenant for the following:

(A) the tenant's actual moving expenses incurred when moving from the subject property, not to exceed \$1,500;

(B) three month's rent at the subject property; and

(C) reasonable attorney's fees and court costs.

(b) Any developer of a conversion condominium must, upon issuing the notice of intent, publish and deliver along with such notice of intent, a schedule of selling prices for all units subject to the condominium instruments and offer to sell such unit to the current tenants, except for units to be vacated for rehabilitation subsequent to such notice of intent. Such offer shall not expire earlier than 30 days after receipt of the offer by the current tenant, unless the tenant notifies the developer in writing of his election not to purchase the condominium unit.

(c) Any tenant who was a tenant as of the date of the notice of intent and whose tenancy expires (other than for cause) prior to the expiration of 120 days from the date on which a copy of the notice of intent was given to the tenant shall have the right to extend his tenancy on the same terms

and conditions and for the same rental until the expiration of such 120 day period by the giving of written notice thereof to the developer within 30 days of the date upon which a copy of the notice of intent was given to the tenant by the developer.

(d) Each lessee in a conversion condominium shall be informed by the developer at the time the notice of intent is given whether his tenancy will be renewed or terminated upon its expiration. If the tenancy is to be renewed, the tenant shall be informed of all charges, rental or otherwise, in connection with the new tenancy and the length of the term of occupancy proposed in conjunction therewith.

(e) For a period of 120 days following his receipt of the notice of intent, any tenant who was a tenant on the date the notice of intent was given shall be given the right to purchase his unit on substantially the same terms and conditions as set forth in a duly executed contract to purchase the unit, which contract shall conspicuously disclose the existence of, and shall be subject to, the right of first refusal. The tenant may exercise the right of first refusal by giving notice thereof to the developer prior to the expiration of 30 days from the giving of notice by the developer to the tenant of the execution of the contract to purchase the unit. The tenant may exercise such right of first refusal within 30 days from the giving of notice by the developer of the execution of a contract to purchase the unit, notwithstanding the expiration of the 120 day period following the tenant's receipt of the

notice of intent, if such contract was executed prior to the expiration of the 120 day period. The recording of the deed conveying the unit to the purchaser which contains a statement to the effect that the tenant of the unit either waived or failed to exercise the right of first refusal or option or had no right of first refusal or option with respect to the unit shall extinguish any legal or equitable right or interest to the possession or acquisition of the unit which the tenant may have or claim with respect to the unit arising out of the right of first refusal or option provided for in this Section. The foregoing provision shall not affect any claim which the tenant may have against the landlord for damages arising out of the right of first refusal provided for in this Section.

(f) During the 30 day period after the giving of notice of an executed contract in which the tenant may exercise the right of first refusal, the developer shall grant to such tenant access to any portion of the building to inspect any of its features or systems and access to any reports, warranties, or other documents in the possession of the developer which reasonably pertain to the condition of the building. Such access shall be subject to reasonable limitations, including as to hours. The refusal of the developer to grant such access is a business offense punishable by a fine of \$500. Each refusal to an individual lessee who is a potential purchaser is a separate violation.

(g) Any notice provided for in this Section shall be deemed

given when a written notice is delivered in person or mailed, certified or registered mail, return receipt requested to the party who is being given the notice.

(h) Prior to their initial sale, units offered for sale in a conversion condominium and occupied by a tenant at the time of the offer shall be shown to prospective purchasers only a reasonable number of times and at appropriate hours. Units may only be shown to prospective purchasers during the last 90 days of any expiring tenancy.

(i) Any provision in any lease or other rental agreement, or any termination of occupancy on account of condominium conversion, not authorized herein, or contrary to or waiving the foregoing provisions, shall be deemed to be void as against public policy.

(j) A tenant is entitled to injunctive relief to enforce the provisions of subsections (a) and (c) of this Section.

(k) A non-profit housing organization, suing on behalf of an aggrieved tenant under this Section, may also recover compensation for reasonable attorney's fees and court costs necessary for filing such action.

(l) Nothing in this Section shall affect any provision in any lease or rental agreement in effect before this Act becomes law.

(m) Nothing in this amendatory Act of 1978 shall be construed to imply that there was previously a requirement to record the notice provided for in this Section.

(Source: P.A. 95-221, eff. 1-1-08; revised 11-16-07.)

Section 385. The Illinois Human Rights Act is amended by changing Sections 1-103 and 2-102 as follows:

(775 ILCS 5/1-103) (from Ch. 68, par. 1-103)

Sec. 1-103. General Definitions. When used in this Act, unless the context requires otherwise, the term:

(A) Age. "Age" means the chronological age of a person who is at least 40 years old, except with regard to any practice described in Section 2-102, insofar as that practice concerns training or apprenticeship programs. In the case of training or apprenticeship programs, for the purposes of Section 2-102, "age" means the chronological age of a person who is 18 but not yet 40 years old.

(B) Aggrieved Party. "Aggrieved party" means a person who is alleged or proved to have been injured by a civil rights violation or believes he or she will be injured by a civil rights violation under Article 3 that is about to occur.

(C) Charge. "Charge" means an allegation filed with the Department by an aggrieved party or initiated by the Department under its authority.

(D) Civil Rights Violation. "Civil rights violation" includes and shall be limited to only those specific acts set forth in Sections 2-102, 2-103, 2-105, 3-102, 3-103, 3-104, 3-104.1, 3-105, 4-102, 4-103, 5-102, 5A-102, 6-101, and 6-102

of this Act.

(E) Commission. "Commission" means the Human Rights Commission created by this Act.

(F) Complaint. "Complaint" means the formal pleading filed by the Department with the Commission following an investigation and finding of substantial evidence of a civil rights violation.

(G) Complainant. "Complainant" means a person including the Department who files a charge of civil rights violation with the Department or the Commission.

(H) Department. "Department" means the Department of Human Rights created by this Act.

(I) Disability. "Disability" means a determinable physical or mental characteristic of a person, including, but not limited to, a determinable physical characteristic which necessitates the person's use of a guide, hearing or support dog, the history of such characteristic, or the perception of such characteristic by the person complained against, which may result from disease, injury, congenital condition of birth or functional disorder and which characteristic:

(1) For purposes of Article 2 is unrelated to the person's ability to perform the duties of a particular job or position and, pursuant to Section 2-104 of this Act, a person's illegal use of drugs or alcohol is not a disability;

(2) For purposes of Article 3, is unrelated to the

person's ability to acquire, rent or maintain a housing accommodation;

(3) For purposes of Article 4, is unrelated to a person's ability to repay;

(4) For purposes of Article 5, is unrelated to a person's ability to utilize and benefit from a place of public accommodation.

(J) Marital Status. "Marital status" means the legal status of being married, single, separated, divorced or widowed.

(J-1) Military Status. "Military status" means a person's status on active duty in or status as a veteran of the armed forces of the United States, status as a current member or veteran of any reserve component of the armed forces of the United States, including the United States Army Reserve, United States Marine Corps Reserve, United States Navy Reserve, United States Air Force Reserve, and United States Coast Guard Reserve, or status as a current member or veteran of the Illinois Army National Guard or Illinois Air National Guard.

(K) National Origin. "National origin" means the place in which a person or one of his or her ancestors was born.

(L) Person. "Person" includes one or more individuals, partnerships, associations or organizations, labor organizations, labor unions, joint apprenticeship committees, or union labor associations, corporations, the State of Illinois and its instrumentalities, political subdivisions, units of local government, legal representatives, trustees in

bankruptcy or receivers.

(M) Public Contract. "Public contract" includes every contract to which the State, any of its political subdivisions or any municipal corporation is a party.

(N) Religion. "Religion" includes all aspects of religious observance and practice, as well as belief, except that with respect to employers, for the purposes of Article 2, "religion" has the meaning ascribed to it in paragraph (F) of Section 2-101.

(O) Sex. "Sex" means the status of being male or female.

(O-1) Sexual orientation. "Sexual orientation" means actual or perceived heterosexuality, homosexuality, bisexuality, or gender-related identity, whether or not traditionally associated with the person's designated sex at birth. "Sexual orientation" does not include a physical or sexual attraction to a minor by an adult.

(P) Unfavorable Military Discharge. "Unfavorable military discharge" includes discharges from the Armed Forces of the United States, their Reserve components or any National Guard or Naval Militia which are classified as RE-3 or the equivalent thereof, but does not include those characterized as RE-4 or "Dishonorable".

(Q) Unlawful Discrimination. "Unlawful discrimination" means discrimination against a person because of his or her race, color, religion, national origin, ancestry, age, sex, marital status, disability, military status, sexual

orientation, or unfavorable discharge from military service as those terms are defined in this Section.

(Source: P.A. 94-803, eff. 5-26-06; 95-392, eff. 8-23-07; 95-668, eff. 10-10-07; revised 11-19-07.)

(775 ILCS 5/2-102) (from Ch. 68, par. 2-102)

Sec. 2-102. Civil Rights Violations - Employment. It is a civil rights violation:

(A) Employers. For any employer to refuse to hire, to segregate, or to act with respect to recruitment, hiring, promotion, renewal of employment, selection for training or apprenticeship, discharge, discipline, tenure or terms, privileges or conditions of employment on the basis of unlawful discrimination or citizenship status.

(A-5) Language. For an employer to impose a restriction that has the effect of prohibiting a language from being spoken by an employee in communications that are unrelated to the employee's duties.

For the purposes of this subdivision (A-5), "language" means a person's native tongue, such as Polish, Spanish, or Chinese. "Language" does not include such things as slang, jargon, profanity, or vulgarity.

(B) Employment Agency. For any employment agency to fail or refuse to classify properly, accept applications and register for employment referral or apprenticeship referral, refer for employment, or refer for apprenticeship on the basis of

unlawful discrimination or citizenship status or to accept from any person any job order, requisition or request for referral of applicants for employment or apprenticeship which makes or has the effect of making unlawful discrimination or discrimination on the basis of citizenship status a condition of referral.

(C) Labor Organization. For any labor organization to limit, segregate or classify its membership, or to limit employment opportunities, selection and training for apprenticeship in any trade or craft, or otherwise to take, or fail to take, any action which affects adversely any person's status as an employee or as an applicant for employment or as an apprentice, or as an applicant for apprenticeships, or wages, tenure, hours of employment or apprenticeship conditions on the basis of unlawful discrimination or citizenship status.

(D) Sexual Harassment. For any employer, employee, agent of any employer, employment agency or labor organization to engage in sexual harassment; provided, that an employer shall be responsible for sexual harassment of the employer's employees by nonemployees or nonmanagerial and nonsupervisory employees only if the employer becomes aware of the conduct and fails to take reasonable corrective measures.

(E) Public Employers. For any public employer to refuse to permit a public employee under its jurisdiction who takes time off from work in order to practice his or her religious beliefs

to engage in work, during hours other than such employee's regular working hours, consistent with the operational needs of the employer and in order to compensate for work time lost for such religious reasons. Any employee who elects such deferred work shall be compensated at the wage rate which he or she would have earned during the originally scheduled work period. The employer may require that an employee who plans to take time off from work in order to practice his or her religious beliefs provide the employer with a notice of his or her intention to be absent from work not exceeding 5 days prior to the date of absence.

(F) Training and Apprenticeship Programs. For any employer, employment agency or labor organization to discriminate against a person on the basis of age in the selection, referral for or conduct of apprenticeship or training programs.

(G) Immigration-Related Practices.

(1) for an employer to request for purposes of satisfying the requirements of Section 1324a(b) of Title 8 of the United States Code, as now or hereafter amended, more or different documents than are required under such Section or to refuse to honor documents tendered that on their face reasonably appear to be genuine; or

(2) for an employer participating in the Basic Pilot Program, as authorized by 8 U.S.C. 1324a, Notes, Pilot Programs for Employment Eligibility Confirmation (enacted

by PL 104-208, div. C title IV, subtitle A) to refuse to hire, to segregate, or to act with respect to recruitment, hiring, promotion, renewal of employment, selection for training or apprenticeship, discharge, discipline, tenure or terms, privileges or conditions of employment without following the procedures under the Basic Pilot Program.

(H) Pregnancy; peace officers and fire fighters. For a public employer to refuse to temporarily transfer a pregnant female peace officer or pregnant female fire fighter to a less strenuous or hazardous position for the duration of her pregnancy if she so requests, with the advice of her physician, where that transfer can be reasonably accommodated. For the purposes of this subdivision (H), "peace officer" and "fire fighter" have the meanings ascribed to those terms in Section 3 of the Illinois Public Labor Relations Act.

It is not a civil rights violation for an employer to take any action that is required by Section 1324a of Title 8 of the United States Code, as now or hereafter amended.

(Source: P.A. 95-25, eff. 1-1-08; 95-137, eff. 1-1-08; revised 11-19-07.)

Section 390. The Franchise Tax and License Fee Amnesty Act of 2007 is amended by renumbering Section 99 as follows:

(805 ILCS 8/99-99)

Sec. 99-99 ~~99~~. Effective date. This Act takes effect upon

becoming law.

(Source: P.A. 95-233, eff. 8-16-07; revised 12-10-07.)

Section 395. The Motor Fuel Sales Act is amended by changing Section 2 as follows:

(815 ILCS 365/2) (from Ch. 121 1/2, par. 1502)

Sec. 2. Assistance at stations with self-service and full-service islands.

(a) Any attendant on duty at a gasoline station or service station offering to the public retail sales of motor fuel at both self-service and full-service islands shall, upon request, dispense motor fuel for the driver of a car which is parked at a self-service island and displays: (1) registration plates issued to a physically disabled person pursuant to Section 3-616 of the Illinois Vehicle Code; ~~or~~ (2) registration plates issued to a disabled veteran pursuant to Section 3-609 or 3-609.01 of such Code; or (3) a special decal or device issued pursuant to Section 11-1301.2 of such Code; and shall only charge such driver prices as offered to the general public for motor fuel dispensed at the self-service island. However, such attendant shall not be required to perform other services which are offered at the full-service island.

(b) Gasoline stations and service stations in this State are subject to the federal Americans with Disabilities Act and must:

(1) provide refueling assistance upon the request of an individual with a disability~~+~~ (A gasoline station or service station is not required to provide such service at any time that it is operating on a remote control basis with a single employee, but is encouraged to do so, if feasible.);

(2) let patrons know, through appropriate signs, that customers with disabilities can obtain refueling assistance by either honking or otherwise signaling an employee; and

(3) provide the refueling assistance without any charge beyond the self-serve price.

(c) The signage required under paragraph (2) of subsection (b) shall be designated by the station owner and shall be posted in a prominently visible place. The sign shall be clearly visible to customers.

(d) The Secretary of State shall provide to persons with disabilities information regarding the availability of refueling assistance under this Section by the following methods:

(1) by posting information about that availability on the Secretary of State's Internet website, along with a link to the Department of Human Services website; and

(2) by publishing a brochure containing information about that availability, which shall be made available at all Secretary of State offices throughout the State.

(e) The Department of Human Services shall post on its Internet website information regarding the availability of refueling assistance for persons with disabilities and the addresses and telephone numbers of all gasoline and service stations in Illinois.

(f) A person commits a Class C misdemeanor if he or she telephones a gasoline station or service station to request refueling assistance and he or she:

(1) is not actually physically present at the gasoline or service station; or

(2) is physically present at the gasoline or service station but does not actually require refueling assistance.

(g) The Department of Transportation shall work in cooperation with appropriate representatives of gasoline and service station trade associations and the petroleum industry to increase the signage at gasoline and service stations on interstate highways in this State with regard to the availability of refueling assistance for persons with disabilities.

(Source: P.A. 95-167, eff. 1-1-08; 95-193, eff. 1-1-08; revised 11-19-07.)

Section 400. The Consumer Fraud and Deceptive Business Practices Act is amended by changing Section 2Z and by setting forth and renumbering multiple versions of Section 2ZZ as

follows:

(815 ILCS 505/2Z) (from Ch. 121 1/2, par. 262Z)

(Text of Section before amendment by P.A. 95-562)

Sec. 2Z. Violations of other Acts. Any person who knowingly violates the Automotive Repair Act, the Automotive Collision Repair Act, the Home Repair and Remodeling Act, the Dance Studio Act, the Physical Fitness Services Act, the Hearing Instrument Consumer Protection Act, the Illinois Union Label Act, the Job Referral and Job Listing Services Consumer Protection Act, the Travel Promotion Consumer Protection Act, the Credit Services Organizations Act, the Automatic Telephone Dialers Act, the Pay-Per-Call Services Consumer Protection Act, the Telephone Solicitations Act, the Illinois Funeral or Burial Funds Act, the Cemetery Care Act, the Safe and Hygienic Bed Act, the Pre-Need Cemetery Sales Act, the High Risk Home Loan Act, the Payday Loan Reform Act, the Mortgage Rescue Fraud Act, subsection (a) or (b) of Section 3-10 of the Cigarette Tax Act, the Payday Loan Reform Act, subsection (a) or (b) of Section 3-10 of the Cigarette Use Tax Act, the Electronic Mail Act, the Internet Caller Identification Act, paragraph (6) of subsection (k) of Section 6-305 of the Illinois Vehicle Code, Article 3 of the Residential Real Property Disclosure Act, the Automatic Contract Renewal Act, or the Personal Information Protection Act commits an unlawful practice within the meaning of this Act.

(Source: P.A. 94-13, eff. 12-6-05; 94-36, eff. 1-1-06; 94-280, eff. 1-1-06; 94-292, eff. 1-1-06; 94-822, eff. 1-1-07; 95-413, eff. 1-1-08.)

(Text of Section after amendment by P.A. 95-562)

Sec. 2Z. Violations of other Acts. Any person who knowingly violates the Automotive Repair Act, the Automotive Collision Repair Act, the Home Repair and Remodeling Act, the Dance Studio Act, the Physical Fitness Services Act, the Hearing Instrument Consumer Protection Act, the Illinois Union Label Act, the Job Referral and Job Listing Services Consumer Protection Act, the Travel Promotion Consumer Protection Act, the Credit Services Organizations Act, the Automatic Telephone Dialers Act, the Pay-Per-Call Services Consumer Protection Act, the Telephone Solicitations Act, the Illinois Funeral or Burial Funds Act, the Cemetery Care Act, the Safe and Hygienic Bed Act, the Pre-Need Cemetery Sales Act, the High Risk Home Loan Act, the Payday Loan Reform Act, the Mortgage Rescue Fraud Act, subsection (a) or (b) of Section 3-10 of the Cigarette Tax Act, the Payday Loan Reform Act, subsection (a) or (b) of Section 3-10 of the Cigarette Use Tax Act, the Electronic Mail Act, the Internet Caller Identification Act, paragraph (6) of subsection (k) of Section 6-305 of the Illinois Vehicle Code, Section 18d-115, 18d-120, 18d-125, 18d-135, or 18d-150 of the Illinois Vehicle Code, Article 3 of the Residential Real Property Disclosure Act, the Automatic Contract Renewal Act, or

the Personal Information Protection Act commits an unlawful practice within the meaning of this Act.

(Source: P.A. 94-13, eff. 12-6-05; 94-36, eff. 1-1-06; 94-280, eff. 1-1-06; 94-292, eff. 1-1-06; 94-822, eff. 1-1-07; 95-413, eff. 1-1-08; 95-562, eff. 7-1-08; revised 10-17-07.)

(815 ILCS 505/2ZZ)

Sec. 2ZZ. Payoff of liens on motor vehicles traded in to dealer.

(a) When a motor vehicle dealer, as defined by Sections 5-101 or 5-102 of the Illinois Vehicle Code, enters into a retail transaction where a consumer trades in or sells a vehicle that is subject to a lien, the dealer shall:

(1) within 21 calendar days of the date of sale remit payment to the lien holder to pay off the lien on the traded-in or sold motor vehicle, unless the underlying contract has been rescinded before expiration of 21 calendar days; and

(2) fully comply with Section 2C of this Act.

(b) A motor vehicle dealer who violates this Section commits an unlawful practice within the meaning of this Act.

(c) For the purposes of this Section, the term "date of sale" shall be the date the parties entered into the transaction as evidenced by the date written in the contract executed by the parties, or the date the motor vehicle dealership took possession of the traded-in or sold vehicle. In

the event the date of the contract differs from the date the motor vehicle dealership took possession of the traded-in vehicle, the "date of sale" shall be the date the motor vehicle dealership took possession of the traded-in vehicle.

(Source: P.A. 95-393, eff. 1-1-08.)

(815 ILCS 505/2AAA)

Sec. 2AAA ~~277~~. Mortgage marketing materials.

(a) No person may send marketing materials to a consumer indicating that the person is connected to the consumer's mortgage company, indicating that there is a problem with the consumer's mortgage, or stating that the marketing materials contain information concerning the consumer's mortgage, unless that person sending the marketing materials is actually employed by the consumer's mortgage company or an affiliate of the consumer's mortgage company.

(b) Any person who violates this Section commits an unlawful practice within the meaning of this Act.

(Source: P.A. 95-508, eff. 1-1-08; revised 12-10-07.)

Section 995. No acceleration or delay. Where this Act makes changes in a statute that is represented in this Act by text that is not yet or no longer in effect (for example, a Section represented by multiple versions), the use of that text does not accelerate or delay the taking effect of (i) the changes made by this Act or (ii) provisions derived from any other

Public Act 095-0876

SB2023 Enrolled

LRB095 15537 NHT 41531 b

Public Act.

Section 996. No revival or extension. This Act does not revive or extend any Section or Act otherwise repealed.

Section 999. Effective date. This Act takes effect upon becoming law.

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5 ILCS 80/4.26
5 ILCS 80/4.27
5 ILCS 80/4.28
5 ILCS 80/4.17 rep.
5 ILCS 375/6.11
10 ILCS 5/17-23 from Ch. 46, par. 17-23
15 ILCS 205/6.5
15 ILCS 505/16.5
20 ILCS 105/4.01 from Ch. 23, par. 6104.01
20 ILCS 105/4.02 from Ch. 23, par. 6104.02
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20 ILCS 505/5 from Ch. 23, par. 5005
20 ILCS 515/20
20 ILCS 515/40
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20 ILCS 1605/20 from Ch. 120, par. 1170
20 ILCS 1605/21.7
20 ILCS 1605/21.8
20 ILCS 1705/56 from Ch. 91 1/2, par. 100-56
20 ILCS 1710/1710-100 was 20 ILCS 1710/53d
20 ILCS 2310/2310-140 was 20 ILCS 2310/55.37a

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50 ILCS 751/17

50 ILCS 751/35

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60 ILCS 1/200-14a

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