AN ACT concerning health.

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

Section 1. Rule of construction. This Act shall be construed to make amendments to provisions of State law to substitute the term "intellectual disability" for "mental retardation", "intellectually disabled" for "mentally retarded", "ID/DD Community Care Act" for "MR/DD Community Care Act", "physically disabled" for "crippled", and "physical disability" or "physically disabling", as appropriate, for "crippling" without any intent to change the substantive rights, responsibilities, coverage, eligibility, or definitions referred to in the amended provisions represented in this Act.

Section 3. The Statute on Statutes is amended by adding Sections 1.37 and 1.38 as follows:

(5 ILCS 70/1.37 new)

Sec. 1.37. Intellectual disability. Except where the context indicates otherwise, in any rule, contract, or other document a reference to the term "mental retardation" shall be considered a reference to the term "intellectual disability" and a reference to the term "mentally retarded" shall be

considered a reference to the term "intellectually disabled". The use of either "mental retardation" or "intellectually disabled", or "mentally retarded" or "intellectually disabled" shall not invalidate any rule, contract, or other document.

(5 ILCS 70/1.38 new)

Sec. 1.38. Physical disability. Except where the context indicates otherwise, in any rule, contract, or other document a reference to the term "crippled" shall be considered a reference to the term "physically disabled" and a reference to the term "crippling" shall be considered a reference to the term "physical disability" or "physically disabling", as appropriate, when referring to a person. The use of either "crippled" or "physically disabled", or "crippling" or "physical disability" shall not invalidate any rule, contract, or other document.

Section 4. The Illinois Administrative Procedure Act is amended by adding Sections 5-146 and 5-147 as follows:

(5 ILCS 100/5-146 new)

Sec. 5-146. Rule change; intellectual disability. Any State agency with a rule that contains the term "mentally retarded" or "mental retardation" shall amend the text of the rule to substitute the term "intellectually disabled" for "mentally retarded" and "intellectual disability" for "mental

retardation", and shall make any other changes that may be necessary to conform to the changes made by this amendatory Act of the 97th General Assembly.

(5 ILCS 100/5-147 new)

Sec. 5-147. Rule change; physical disability. Any State agency with a rule that contains the term "crippled" or "crippling" to refer to a person with a physical disability shall amend the text of the rule to substitute the term "physically disabled" for "crippled" and "physical disability" or "physically disabling", as appropriate, for "crippling", and shall make any other changes that may be necessary to conform to the changes made by this amendatory Act of the 97th General Assembly.

Section 5. The Supported Employees Act is amended by changing Section 3 as follows:

(5 ILCS 390/3) (from Ch. 127, par. 3903)

Sec. 3. As used in this Act:

(a) "Agency" means those Departments, Boards, Commissions and Authorities that are under the jurisdiction and control of the Governor and are subject to the provisions and requirements of the Personnel Code, the State Universities Civil Service Act and the Secretary of State Merit Employment Code.

(b) "Department" means the Department of Central

Management Services.

(c) "Director" means the Director of the Department of Central Management Services.

(d) "Supported employee" means any individual who:

(1) has a severe physical or mental disability which seriously limits functional capacities including but not limited to mobility, communication, self-care, self-direction, work tolerance or work skills, in terms of employability as defined, determined and certified by the Department of Human Services; and

(2) has one or more physical or mental disabilities resulting from amputation; arthritis; blindness; cancer; cerebral palsy; cystic fibrosis; deafness; heart disease; hemiplegia; respiratory or pulmonary dysfunction; an intellectual disability ~~mental retardation~~; mental illness; multiple sclerosis; muscular dystrophy; musculoskeletal disorders; neurological disorders, including stroke and epilepsy; paraplegia; quadriplegia and other spinal cord conditions; sickle cell anemia; and end-stage renal disease; or another disability or combination of disabilities determined on the basis of an evaluation of rehabilitation potential to cause comparable substantial functional limitation.

(e) "Supported employment" means competitive work in integrated work settings:

(1) for individuals with severe handicaps for whom

competitive employment has not traditionally occurred, or

(2) for individuals for whom competitive employment has been interrupted or intermittent as a result of a severe disability, and who because of their handicap, need on-going support services to perform such work. The term includes transitional employment for individuals with chronic mental illness.

(f) "Participation in a supported employee program" means participation as a supported employee that is not based on the expectation that an individual will have the skills to perform all the duties in a job class, but on the assumption that with support and adaptation, or both, a job can be designed to take advantage of the supported employee's special strengths.

(g) "Funder" means any entity either State, local or federal, or private not-for-profit or for-profit that provides monies to programs that provide services related to supported employment.

(h) "Provider" means any entity either public or private that provides technical support and services to any department or agency subject to the control of the Governor, the Secretary of State or the University Civil Service System.

(Source: P.A. 89-507, eff. 7-1-97.)

Section 7. The Election Code is amended by changing Sections 3-3, 4-6.3, 4-10, 5-9, 5-16.3, 6-50.3, 6-56, 19-4, 19-12.1, and 19-12.2 as follows:

(10 ILCS 5/3-3) (from Ch. 46, par. 3-3)

Sec. 3-3. Every honorably discharged soldier or sailor who is an inmate of any soldiers' and sailors' home within the State of Illinois, any person who is a resident of a facility licensed or certified pursuant to the Nursing Home Care Act or the ID/DD ~~MR/DD~~ Community Care Act, or any person who is a resident of a community-integrated living arrangement, as defined in Section 3 of the Community-Integrated Living Arrangements Licensure and Certification Act, for 30 days or longer, and who is a citizen of the United States and has resided in this State and in the election district 30 days next preceding any election shall be entitled to vote in the election district in which any such home or community-integrated living arrangement in which he is an inmate or resident is located, for all officers that now are or hereafter may be elected by the people, and upon all questions that may be submitted to the vote of the people: Provided, that he shall declare upon oath, that it was his bona fide intention at the time he entered said home or community-integrated living arrangement to become a resident thereof.

(Source: P.A. 96-339, eff. 7-1-10; 96-563, eff. 1-1-10; 96-1000, eff. 7-2-10.)

(10 ILCS 5/4-6.3) (from Ch. 46, par. 4-6.3)

Sec. 4-6.3. The county clerk may establish a temporary

place of registration for such times and at such locations within the county as the county clerk may select. However, no temporary place of registration may be in operation during the 27 days preceding an election. Notice of the time and place of registration under this Section shall be published by the county clerk in a newspaper having a general circulation in the county not less than 3 nor more than 15 days before the holding of such registration.

Temporary places of registration shall be established so that the areas of concentration of population or use by the public are served, whether by facilities provided in places of private business or in public buildings or in mobile units. Areas which may be designated as temporary places of registration include, but are not limited to, facilities licensed or certified pursuant to the Nursing Home Care Act or the ID/DD ~~MR/DD~~ Community Care Act, Soldiers' and Sailors' Homes, shopping centers, business districts, public buildings and county fairs.

Temporary places of registration shall be available to the public not less than 2 hours per year for each 1,000 population or fraction thereof in the county.

All temporary places of registration shall be manned by deputy county clerks or deputy registrars appointed pursuant to Section 4-6.2.

(Source: P.A. 96-339, eff. 7-1-10.)

(10 ILCS 5/4-10) (from Ch. 46, par. 4-10)

Sec. 4-10. Except as herein provided, no person shall be registered, unless he applies in person to a registration officer, answers such relevant questions as may be asked of him by the registration officer, and executes the affidavit of registration. The registration officer shall require the applicant to furnish two forms of identification, and except in the case of a homeless individual, one of which must include his or her residence address. These forms of identification shall include, but not be limited to, any of the following: driver's license, social security card, public aid identification card, utility bill, employee or student identification card, lease or contract for a residence, credit card, or a civic, union or professional association membership card. The registration officer shall require a homeless individual to furnish evidence of his or her use of the mailing address stated. This use may be demonstrated by a piece of mail addressed to that individual and received at that address or by a statement from a person authorizing use of the mailing address. The registration officer shall require each applicant for registration to read or have read to him the affidavit of registration before permitting him to execute the affidavit.

One of the registration officers or a deputy registration officer, county clerk, or clerk in the office of the county clerk, shall administer to all persons who shall personally apply to register the following oath or affirmation:

"You do solemnly swear (or affirm) that you will fully and truly answer all such questions as shall be put to you touching your name, place of residence, place of birth, your qualifications as an elector and your right as such to register and vote under the laws of the State of Illinois."

The registration officer shall satisfy himself that each applicant for registration is qualified to register before registering him. If the registration officer has reason to believe that the applicant is a resident of a Soldiers' and Sailors' Home or any facility which is licensed or certified pursuant to the Nursing Home Care Act or the ID/DD ~~MR/DD~~ Community Care Act, the following question shall be put, "When you entered the home which is your present address, was it your bona fide intention to become a resident thereof?" Any voter of a township, city, village or incorporated town in which such applicant resides, shall be permitted to be present at the place of any precinct registration and shall have the right to challenge any applicant who applies to be registered.

In case the officer is not satisfied that the applicant is qualified he shall forthwith notify such applicant in writing to appear before the county clerk to complete his registration. Upon the card of such applicant shall be written the word "incomplete" and no such applicant shall be permitted to vote unless such registration is satisfactorily completed as hereinafter provided. No registration shall be taken and marked as incomplete if information to complete it can be furnished on

the date of the original application.

Any person claiming to be an elector in any election precinct and whose registration card is marked "Incomplete" may make and sign an application in writing, under oath, to the county clerk in substance in the following form:

"I do solemnly swear that I, ..., did on (insert date) make application to the board of registry of the .... precinct of the township of .... (or to the county clerk of .... county) and that said board or clerk refused to complete my registration as a qualified voter in said precinct. That I reside in said precinct, that I intend to reside in said precinct, and am a duly qualified voter of said precinct and am entitled to be registered to vote in said precinct at the next election.

(Signature of applicant) ....."

All such applications shall be presented to the county clerk or to his duly authorized representative by the applicant, in person between the hours of 9:00 a.m. and 5:00 p.m. on any day after the days on which the 1969 and 1970 precinct re-registrations are held but not on any day within 27 days preceding the ensuing general election and thereafter for the registration provided in Section 4-7 all such applications shall be presented to the county clerk or his duly authorized representative by the applicant in person between the hours of 9:00 a.m. and 5:00 p.m. on any day prior to 27 days preceding

the ensuing general election. Such application shall be heard by the county clerk or his duly authorized representative at the time the application is presented. If the applicant for registration has registered with the county clerk, such application may be presented to and heard by the county clerk or by his duly authorized representative upon the dates specified above or at any time prior thereto designated by the county clerk.

Any otherwise qualified person who is absent from his county of residence either due to business of the United States or because he is temporarily outside the territorial limits of the United States may become registered by mailing an application to the county clerk within the periods of registration provided for in this Article, or by simultaneous application for absentee registration and absentee ballot as provided in Article 20 of this Code.

Upon receipt of such application the county clerk shall immediately mail an affidavit of registration in duplicate, which affidavit shall contain the following and such other information as the State Board of Elections may think it proper to require for the identification of the applicant:

Name. The name of the applicant, giving surname and first or Christian name in full, and the middle name or the initial for such middle name, if any.

Sex.

Residence. The name and number of the street, avenue or

other location of the dwelling, and such additional clear and definite description as may be necessary to determine the exact location of the dwelling of the applicant. Where the location cannot be determined by street and number, then the Section, congressional township and range number may be used, or such other information as may be necessary, including post office mailing address.

Term of residence in the State of Illinois and the precinct.

Nativity. The State or country in which the applicant was born.

Citizenship. Whether the applicant is native born or naturalized. If naturalized, the court, place and date of naturalization.

Age. Date of birth, by month, day and year.

Out of State address of .....

AFFIDAVIT OF REGISTRATION

State of .....)

)ss

County of .....)

I hereby swear (or affirm) that I am a citizen of the United States; that on the day of the next election I shall have resided in the State of Illinois and in the election precinct 30 days; that I am fully qualified to vote, that I am not registered to vote anywhere else in the United States, that I intend to remain a resident of the State of Illinois and of

the election precinct, that I intend to return to the State of Illinois, and that the above statements are true.

.....

(His or her signature or mark)

Subscribed and sworn to before me, an officer qualified to administer oaths, on (insert date).

.....

Signature of officer administering oath.

Upon receipt of the executed duplicate affidavit of Registration, the county clerk shall transfer the information contained thereon to duplicate Registration Cards provided for in Section 4-8 of this Article and shall attach thereto a copy of each of the duplicate affidavit of registration and thereafter such registration card and affidavit shall constitute the registration of such person the same as if he had applied for registration in person.

(Source: P.A. 96-317, eff. 1-1-10; 96-339, eff. 7-1-10; 96-1000, eff. 7-2-10.)

(10 ILCS 5/5-9) (from Ch. 46, par. 5-9)

Sec. 5-9. Except as herein provided, no person shall be registered unless he applies in person to registration officer, answers such relevant questions as may be asked of him by the registration officer, and executes the affidavit of registration. The registration officer shall require the applicant to furnish two forms of identification, and except in

the case of a homeless individual, one of which must include his or her residence address. These forms of identification shall include, but not be limited to, any of the following: driver's license, social security card, public aid identification card, utility bill, employee or student identification card, lease or contract for a residence, credit card, or a civic, union or professional association membership card. The registration officer shall require a homeless individual to furnish evidence of his or her use of the mailing address stated. This use may be demonstrated by a piece of mail addressed to that individual and received at that address or by a statement from a person authorizing use of the mailing address. The registration officer shall require each applicant for registration to read or have read to him the affidavit of registration before permitting him to execute the affidavit.

One of the Deputy Registrars, the Judge of Registration, or an Officer of Registration, County Clerk, or clerk in the office of the County Clerk, shall administer to all persons who shall personally apply to register the following oath or affirmation:

"You do solemnly swear (or affirm) that you will fully and truly answer all such questions as shall be put to you touching your place of residence, name, place of birth, your qualifications as an elector and your right as such to register and vote under the laws of the State of Illinois."

The Registration Officer shall satisfy himself that each

applicant for registration is qualified to register before registering him. If the registration officer has reason to believe that the applicant is a resident of a Soldiers' and Sailors' Home or any facility which is licensed or certified pursuant to the Nursing Home Care Act or the ID/DD ~~MR/DD~~ Community Care Act, the following question shall be put, "When you entered the home which is your present address, was it your bona fide intention to become a resident thereof?" Any voter of a township, city, village or incorporated town in which such applicant resides, shall be permitted to be present at the place of precinct registration, and shall have the right to challenge any applicant who applies to be registered.

In case the officer is not satisfied that the applicant is qualified, he shall forthwith in writing notify such applicant to appear before the County Clerk to furnish further proof of his qualifications. Upon the card of such applicant shall be written the word "Incomplete" and no such applicant shall be permitted to vote unless such registration is satisfactorily completed as hereinafter provided. No registration shall be taken and marked as "incomplete" if information to complete it can be furnished on the date of the original application.

Any person claiming to be an elector in any election precinct in such township, city, village or incorporated town and whose registration is marked "Incomplete" may make and sign an application in writing, under oath, to the County Clerk in substance in the following form:

"I do solemnly swear that I, ..., did on (insert date) make application to the Board of Registry of the ..... precinct of ..... ward of the City of .... or of the ..... District ..... Town of ..... (or to the County Clerk of .....) and ..... County; that said Board or Clerk refused to complete my registration as a qualified voter in said precinct, that I reside in said precinct (or that I intend to reside in said precinct), am a duly qualified voter and entitled to vote in said precinct at the next election.

.....

(Signature of Applicant)"

All such applications shall be presented to the County Clerk by the applicant, in person between the hours of nine o'clock a.m. and five o'clock p.m., on Monday and Tuesday of the third week subsequent to the weeks in which the 1961 and 1962 precinct re-registrations are to be held, and thereafter for the registration provided in Section 5-17 of this Article, all such applications shall be presented to the County Clerk by the applicant in person between the hours of nine o'clock a.m. and nine o'clock p.m. on Monday and Tuesday of the third week prior to the date on which such election is to be held.

Any otherwise qualified person who is absent from his county of residence either due to business of the United States or because he is temporarily outside the territorial limits of the United States may become registered by mailing an

application to the county clerk within the periods of registration provided for in this Article or by simultaneous application for absentee registration and absentee ballot as provided in Article 20 of this Code.

Upon receipt of such application the county clerk shall immediately mail an affidavit of registration in duplicate, which affidavit shall contain the following and such other information as the State Board of Elections may think it proper to require for the identification of the applicant:

Name. The name of the applicant, giving surname and first or Christian name in full, and the middle name or the initial for such middle name, if any.

Sex.

Residence. The name and number of the street, avenue or other location of the dwelling, and such additional clear and definite description as may be necessary to determine the exact location of the dwelling of the applicant. Where the location cannot be determined by street and number, then the Section, congressional township and range number may be used, or such other information as may be necessary, including post office mailing address.

Term of residence in the State of Illinois and the precinct.

Nativity. The State or country in which the applicant was born.

Citizenship. Whether the applicant is native born or

naturalized. If naturalized, the court, place and date of naturalization.

Age. Date of birth, by month, day and year.

Out of State address of .....

AFFIDAVIT OF REGISTRATION

State of .....)

)ss

County of .....)

I hereby swear (or affirm) that I am a citizen of the United States; that on the day of the next election I shall have resided in the State of Illinois for 6 months and in the election precinct 30 days; that I am fully qualified to vote, that I am not registered to vote anywhere else in the United States, that I intend to remain a resident of the State of Illinois and of the election precinct, that I intend to return to the State of Illinois, and that the above statements are true.

.....

(His or her signature or mark)

Subscribed and sworn to before me, an officer qualified to administer oaths, on (insert date).

.....

Signature of officer administering oath.

Upon receipt of the executed duplicate affidavit of

Registration, the county clerk shall transfer the information contained thereon to duplicate Registration Cards provided for in Section 5-7 of this Article and shall attach thereto a copy of each of the duplicate affidavit of registration and thereafter such registration card and affidavit shall constitute the registration of such person the same as if he had applied for registration in person.

(Source: P.A. 96-317, eff. 1-1-10; 96-339, eff. 7-1-10; 96-1000, eff. 7-2-10.)

(10 ILCS 5/5-16.3) (from Ch. 46, par. 5-16.3)

Sec. 5-16.3. The county clerk may establish temporary places of registration for such times and at such locations within the county as the county clerk may select. However, no temporary place of registration may be in operation during the 27 days preceding an election. Notice of time and place of registration at any such temporary place of registration under this Section shall be published by the county clerk in a newspaper having a general circulation in the county not less than 3 nor more than 15 days before the holding of such registration.

Temporary places of registration shall be established so that the areas of concentration of population or use by the public are served, whether by facilities provided in places of private business or in public buildings or in mobile units. Areas which may be designated as temporary places of

registration include, but are not limited to, facilities licensed or certified pursuant to the Nursing Home Care Act or the ID/DD ~~MR/DD~~ Community Care Act, Soldiers' and Sailors' Homes, shopping centers, business districts, public buildings and county fairs.

Temporary places of registration shall be available to the public not less than 2 hours per year for each 1,000 population or fraction thereof in the county.

All temporary places of registration shall be manned by deputy county clerks or deputy registrars appointed pursuant to Section 5-16.2.

(Source: P.A. 96-339, eff. 7-1-10.)

(10 ILCS 5/6-50.3) (from Ch. 46, par. 6-50.3)

Sec. 6-50.3. The board of election commissioners may establish temporary places of registration for such times and at such locations as the board may select. However, no temporary place of registration may be in operation during the 27 days preceding an election. Notice of the time and place of registration at any such temporary place of registration under this Section shall be published by the board of election commissioners in a newspaper having a general circulation in the city, village or incorporated town not less than 3 nor more than 15 days before the holding of such registration.

Temporary places of registration shall be established so that the areas of concentration of population or use by the

public are served, whether by facilities provided in places of private business or in public buildings or in mobile units. Areas which may be designated as temporary places of registration include, but are not limited to facilities licensed or certified pursuant to the Nursing Home Care Act or the ID/DD ~~MR/DD~~ Community Care Act, Soldiers' and Sailors' Homes, shopping centers, business districts, public buildings and county fairs.

Temporary places of registration shall be available to the public not less than 2 hours per year for each 1,000 population or fraction thereof in the county.

All temporary places of registration shall be manned by employees of the board of election commissioners or deputy registrars appointed pursuant to Section 6-50.2.

(Source: P.A. 96-339, eff. 7-1-10.)

(10 ILCS 5/6-56) (from Ch. 46, par. 6-56)

Sec. 6-56. Not more than 30 nor less than 28 days before any election under this Article, all owners, managers, administrators or operators of hotels, lodging houses, rooming houses, furnished apartments or facilities licensed or certified under the Nursing Home Care Act, which house 4 or more persons, outside the members of the family of such owner, manager, administrator or operator, shall file with the board of election commissioners a report, under oath, together with one copy thereof, in such form as may be required by the board

of election commissioners, of the names and descriptions of all lodgers, guests or residents claiming a voting residence at the hotels, lodging houses, rooming houses, furnished apartments, or facility licensed or certified under the Nursing Home Care Act or the ID/DD ~~MR/DD~~ Community Care Act under their control. In counties having a population of 500,000 or more such report shall be made on forms mailed to them by the board of election commissioners. The board of election commissioners shall sort and assemble the sworn copies of the reports in numerical order according to ward and according to precincts within each ward and shall, not later than 5 days after the last day allowed by this Article for the filing of the reports, maintain one assembled set of sworn duplicate reports available for public inspection until 60 days after election days. Except as is otherwise expressly provided in this Article, the board shall not be required to perform any duties with respect to the sworn reports other than to mail, sort, assemble, post and file them as hereinabove provided.

Except in such cases where a precinct canvass is being conducted by the Board of Election Commissioners prior to a Primary or Election, the board of election commissioners shall compare the original copy of each such report with the list of registered voters from such addresses. Every person registered from such address and not listed in such report or whose name is different from any name so listed, shall immediately after the last day of registration be sent a notice through the

United States mail, at the address appearing upon his registration record card, requiring him to appear before the board of election commissioners on one of the days specified in Section 6-45 of this Article and show cause why his registration should not be cancelled. The provisions of Sections 6-45, 6-46 and 6-47 of this Article shall apply to such hearing and proceedings subsequent thereto.

Any owner, manager or operator of any such hotel, lodging house, rooming house or furnished apartment who shall fail or neglect to file such statement and copy thereof as in this Article provided, may, upon written information of the attorney for the election commissioners, be cited by the election commissioners or upon the complaint of any voter of such city, village or incorporated town, to appear before them and furnish such sworn statement and copy thereof and make such oral statements under oath regarding such hotel, lodging house, rooming house or furnished apartment, as the election commissioners may require. The election commissioners shall sit to hear such citations on the Friday of the fourth week preceding the week in which such election is to be held. Such citation shall be served not later than the day preceding the day on which it is returnable.

(Source: P.A. 96-339, eff. 7-1-10.)

(10 ILCS 5/19-4) (from Ch. 46, par. 19-4)

Sec. 19-4. Mailing or delivery of ballots - Time.)

Immediately upon the receipt of such application either by mail, not more than 40 days nor less than 5 days prior to such election, or by personal delivery not more than 40 days nor less than one day prior to such election, at the office of such election authority, it shall be the duty of such election authority to examine the records to ascertain whether or not such applicant is lawfully entitled to vote as requested, including a verification of the applicant's signature by comparison with the signature on the official registration record card, and if found so to be entitled to vote, to post within one business day thereafter the name, street address, ward and precinct number or township and district number, as the case may be, of such applicant given on a list, the pages of which are to be numbered consecutively to be kept by such election authority for such purpose in a conspicuous, open and public place accessible to the public at the entrance of the office of such election authority, and in such a manner that such list may be viewed without necessity of requesting permission therefor. Within one day after posting the name and other information of an applicant for an absentee ballot, the election authority shall transmit that name and other posted information to the State Board of Elections, which shall maintain those names and other information in an electronic format on its website, arranged by county and accessible to State and local political committees. Within 2 business days after posting a name and other information on the list within

its office, the election authority shall mail, postage prepaid, or deliver in person in such office an official ballot or ballots if more than one are to be voted at said election. Mail delivery of Temporarily Absent Student ballot applications pursuant to Section 19-12.3 shall be by nonforwardable mail. However, for the consolidated election, absentee ballots for certain precincts may be delivered to applicants not less than 25 days before the election if so much time is required to have prepared and printed the ballots containing the names of persons nominated for offices at the consolidated primary. The election authority shall enclose with each absentee ballot or application written instructions on how voting assistance shall be provided pursuant to Section 17-14 and a document, written and approved by the State Board of Elections, enumerating the circumstances under which a person is authorized to vote by absentee ballot pursuant to this Article; such document shall also include a statement informing the applicant that if he or she falsifies or is solicited by another to falsify his or her eligibility to cast an absentee ballot, such applicant or other is subject to penalties pursuant to Section 29-10 and Section 29-20 of the Election Code. Each election authority shall maintain a list of the name, street address, ward and precinct, or township and district number, as the case may be, of all applicants who have returned absentee ballots to such authority, and the name of such absent voter shall be added to such list within one

business day from receipt of such ballot. If the absentee ballot envelope indicates that the voter was assisted in casting the ballot, the name of the person so assisting shall be included on the list. The list, the pages of which are to be numbered consecutively, shall be kept by each election authority in a conspicuous, open, and public place accessible to the public at the entrance of the office of the election authority and in a manner that the list may be viewed without necessity of requesting permission for viewing.

Each election authority shall maintain a list for each election of the voters to whom it has issued absentee ballots. The list shall be maintained for each precinct within the jurisdiction of the election authority. Prior to the opening of the polls on election day, the election authority shall deliver to the judges of election in each precinct the list of registered voters in that precinct to whom absentee ballots have been issued by mail.

Each election authority shall maintain a list for each election of voters to whom it has issued temporarily absent student ballots. The list shall be maintained for each election jurisdiction within which such voters temporarily abide. Immediately after the close of the period during which application may be made by mail for absentee ballots, each election authority shall mail to each other election authority within the State a certified list of all such voters temporarily abiding within the jurisdiction of the other

election authority.

In the event that the return address of an application for ballot by a physically incapacitated elector is that of a facility licensed or certified under the Nursing Home Care Act or the ID/DD ~~MR/DD~~ Community Care Act, within the jurisdiction of the election authority, and the applicant is a registered voter in the precinct in which such facility is located, the ballots shall be prepared and transmitted to a responsible judge of election no later than 9 a.m. on the Saturday, Sunday or Monday immediately preceding the election as designated by the election authority under Section 19-12.2. Such judge shall deliver in person on the designated day the ballot to the applicant on the premises of the facility from which application was made. The election authority shall by mail notify the applicant in such facility that the ballot will be delivered by a judge of election on the designated day.

All applications for absentee ballots shall be available at the office of the election authority for public inspection upon request from the time of receipt thereof by the election authority until 30 days after the election, except during the time such applications are kept in the office of the election authority pursuant to Section 19-7, and except during the time such applications are in the possession of the judges of election.

(Source: P.A. 96-339, eff. 7-1-10.)

(10 ILCS 5/19-12.1) (from Ch. 46, par. 19-12.1)

Sec. 19-12.1. Any qualified elector who has secured an Illinois Disabled Person Identification Card in accordance with The Illinois Identification Card Act, indicating that the person named thereon has a Class 1A or Class 2 disability or any qualified voter who has a permanent physical incapacity of such a nature as to make it improbable that he will be able to be present at the polls at any future election, or any voter who is a resident of a facility licensed or certified pursuant to the Nursing Home Care Act or the ID/DD ~~MR/DD~~ Community Care Act and has a condition or disability of such a nature as to make it improbable that he will be able to be present at the polls at any future election, may secure a disabled voter's or nursing home resident's identification card, which will enable him to vote under this Article as a physically incapacitated or nursing home voter.

Application for a disabled voter's or nursing home resident's identification card shall be made either: (a) in writing, with voter's sworn affidavit, to the county clerk or board of election commissioners, as the case may be, and shall be accompanied by the affidavit of the attending physician specifically describing the nature of the physical incapacity or the fact that the voter is a nursing home resident and is physically unable to be present at the polls on election days; or (b) by presenting, in writing or otherwise, to the county clerk or board of election commissioners, as the case may be,

proof that the applicant has secured an Illinois Disabled Person Identification Card indicating that the person named thereon has a Class 1A or Class 2 disability. Upon the receipt of either the sworn-to application and the physician's affidavit or proof that the applicant has secured an Illinois Disabled Person Identification Card indicating that the person named thereon has a Class 1A or Class 2 disability, the county clerk or board of election commissioners shall issue a disabled voter's or nursing home resident's identification card. Such identification cards shall be issued for a period of 5 years, upon the expiration of which time the voter may secure a new card by making application in the same manner as is prescribed for the issuance of an original card, accompanied by a new affidavit of the attending physician. The date of expiration of such five-year period shall be made known to any interested person by the election authority upon the request of such person. Applications for the renewal of the identification cards shall be mailed to the voters holding such cards not less than 3 months prior to the date of expiration of the cards.

Each disabled voter's or nursing home resident's identification card shall bear an identification number, which shall be clearly noted on the voter's original and duplicate registration record cards. In the event the holder becomes physically capable of resuming normal voting, he must surrender his disabled voter's or nursing home resident's identification card to the county clerk or board of election commissioners

before the next election.

The holder of a disabled voter's or nursing home resident's identification card may make application by mail for an official ballot within the time prescribed by Section 19-2. Such application shall contain the same information as is included in the form of application for ballot by a physically incapacitated elector prescribed in Section 19-3 except that it shall also include the applicant's disabled voter's identification card number and except that it need not be sworn to. If an examination of the records discloses that the applicant is lawfully entitled to vote, he shall be mailed a ballot as provided in Section 19-4. The ballot envelope shall be the same as that prescribed in Section 19-5 for physically disabled voters, and the manner of voting and returning the ballot shall be the same as that provided in this Article for other absentee ballots, except that a statement to be subscribed to by the voter but which need not be sworn to shall be placed on the ballot envelope in lieu of the affidavit prescribed by Section 19-5.

Any person who knowingly subscribes to a false statement in connection with voting under this Section shall be guilty of a Class A misdemeanor.

For the purposes of this Section, "nursing home resident" includes a resident of a facility licensed under the MR/DD Community Care Act.

(Source: P.A. 96-339, eff. 7-1-10.)

(10 ILCS 5/19-12.2) (from Ch. 46, par. 19-12.2)

Sec. 19-12.2. Voting by physically incapacitated electors who have made proper application to the election authority not later than 5 days before the regular primary and general election of 1980 and before each election thereafter shall be conducted on the premises of facilities licensed or certified pursuant to the Nursing Home Care Act or the ID/DD ~~MR/DD~~ Community Care Act for the sole benefit of residents of such facilities. Such voting shall be conducted during any continuous period sufficient to allow all applicants to cast their ballots between the hours of 9 a.m. and 7 p.m. either on the Friday, Saturday, Sunday or Monday immediately preceding the regular election. This absentee voting on one of said days designated by the election authority shall be supervised by two election judges who must be selected by the election authority in the following order of priority: (1) from the panel of judges appointed for the precinct in which such facility is located, or from a panel of judges appointed for any other precinct within the jurisdiction of the election authority in the same ward or township, as the case may be, in which the facility is located or, only in the case where a judge or judges from the precinct, township or ward are unavailable to serve, (3) from a panel of judges appointed for any other precinct within the jurisdiction of the election authority. The two judges shall be from different political parties. Not less

than 30 days before each regular election, the election authority shall have arranged with the chief administrative officer of each facility in his or its election jurisdiction a mutually convenient time period on the Friday, Saturday, Sunday or Monday immediately preceding the election for such voting on the premises of the facility and shall post in a prominent place in his or its office a notice of the agreed day and time period for conducting such voting at each facility; provided that the election authority shall not later than noon on the Thursday before the election also post the names and addresses of those facilities from which no applications were received and in which no supervised absentee voting will be conducted. All provisions of this Code applicable to pollwatchers shall be applicable herein. To the maximum extent feasible, voting booths or screens shall be provided to insure the privacy of the voter. Voting procedures shall be as described in Article 17 of this Code, except that ballots shall be treated as absentee ballots and shall not be counted until the close of the polls on the following day. After the last voter has concluded voting, the judges shall seal the ballots in an envelope and affix their signatures across the flap of the envelope. Immediately thereafter, the judges shall bring the sealed envelope to the office of the election authority who shall deliver such ballots to the election authority's central ballot counting location prior to the closing of the polls on the day of election. The judges of election shall also report

to the election authority the name of any applicant in the facility who, due to unforeseen circumstance or condition or because of a religious holiday, was unable to vote. In this event, the election authority may appoint a qualified person from his or its staff to deliver the ballot to such applicant on the day of election. This staff person shall follow the same procedures prescribed for judges conducting absentee voting in such facilities and shall return the ballot to the central ballot counting location before the polls close. However, if the facility from which the application was made is also used as a regular precinct polling place for that voter, voting procedures heretofore prescribed may be implemented by 2 of the election judges of opposite party affiliation assigned to that polling place during the hours of voting on the day of the election. Judges of election shall be compensated not less than $25.00 for conducting absentee voting in such facilities.

Not less than 120 days before each regular election, the Department of Public Health shall certify to the State Board of Elections a list of the facilities licensed or certified pursuant to the Nursing Home Care Act or the ID/DD ~~MR/DD~~ Community Care Act, and shall indicate the approved bed capacity and the name of the chief administrative officer of each such facility, and the State Board of Elections shall certify the same to the appropriate election authority within 20 days thereafter.

(Source: P.A. 96-339, eff. 7-1-10.)

Section 10. The Secretary of State Merit Employment Code is amended by changing Section 18c as follows:

(15 ILCS 310/18c) (from Ch. 124, par. 118c)

Sec. 18c. Supported employees.

(a) The Director shall develop and implement a supported employment program. It shall be the goal of the program to appoint a minimum of 10 supported employees to Secretary of State positions before June 30, 1992.

(b) The Director shall designate a liaison to work with State agencies and departments under the jurisdiction of the Secretary of State and any funder or provider or both in the implementation of a supported employment program.

(c) As used in this Section:

(1) "Supported employee" means any individual who:

(A) has a severe physical or mental disability which seriously limits functional capacities including but not limited to mobility, communication, self-care, self-direction, work tolerance or work skills, in terms of employability as defined, determined and certified by the Department of Human Services; and

(B) has one or more physical or mental disabilities resulting from amputation; arthritis; blindness; cancer; cerebral palsy; cystic fibrosis; deafness; heart disease; hemiplegia; respiratory or pulmonary

dysfunction; an intellectual disability ~~mental retardation~~; mental illness; multiple sclerosis; muscular dystrophy; musculoskeletal disorders; neurological disorders, including stroke and epilepsy; paraplegia; quadriplegia and other spinal cord conditions; sickle cell anemia; and end-stage renal disease; or another disability or combination of disabilities determined on the basis of an evaluation of rehabilitation potential to cause comparable substantial functional limitation.

(2) "Supported employment" means competitive work in integrated work settings:

(A) for individuals with severe handicaps for whom competitive employment has not traditionally occurred, or

(B) for individuals for whom competitive employment has been interrupted or intermittent as a result of a severe disability, and who because of their handicap, need on-going support services to perform such work. The term includes transitional employment for individuals with chronic mental illness.

(3) "Participation in a supported employee program" means participation as a supported employee that is not based on the expectation that an individual will have the skills to perform all the duties in a job class, but on the assumption that with support and adaptation, or both, a job

can be designed to take advantage of the supported employee's special strengths.

(4) "Funder" means any entity either State, local or federal, or private not-for-profit or for-profit that provides monies to programs that provide services related to supported employment.

(5) "Provider" means any entity either public or private that provides technical support and services to any department or agency subject to the control of the Governor, the Secretary of State or the University Civil Service System.

(d) The Director shall establish job classifications for supported employees who may be appointed into the classifications without open competitive testing requirements. Supported employees shall serve in a trial employment capacity for not less than 3 or more than 12 months.

(e) The Director shall maintain a record of all individuals hired as supported employees. The record shall include:

(1) the number of supported employees initially appointed;

(2) the number of supported employees who successfully complete the trial employment periods; and

(3) the number of permanent targeted positions by titles.

(f) The Director shall submit an annual report to the General Assembly regarding the employment progress of

supported employees, with recommendations for legislative action.

(Source: P.A. 89-507, eff. 7-1-97.)

Section 15. The Illinois Identification Card Act is amended by changing Section 4A as follows:

(15 ILCS 335/4A) (from Ch. 124, par. 24A)

Sec. 4A. (a) "Disabled person" as used in this Act means any person who is, and who is expected to indefinitely continue to be, subject to any of the following five types of disabilities:

Type One: Physical disability. A physical disability is a physical impairment, disease, or loss, which is of a permanent nature, and which substantially impairs normal physical ability or motor skills. The Secretary of State shall establish standards not inconsistent with this provision necessary to determine the presence of a physical disability.

Type Two: Developmental disability. A developmental disability is a disability which originates before the age of 18 years, and results in or has resulted in impairment similar to that caused by an intellectual disability ~~mental retardation~~ and which requires services similar to those required by intellectually disabled ~~mentally retarded~~ persons and which is attributable to an intellectual disability ~~mental retardation~~, cerebral palsy, epilepsy, autism, or other conditions or

similar disorders. The Secretary of State shall establish standards not inconsistent with this provision necessary to determine the presence of a developmental disability.

Type Three: Visual disability. A visual disability is a disability resulting in complete absence of vision, or vision that with corrective glasses is so defective as to prevent performance of tasks or activities for which eyesight is essential. The Secretary of State shall establish standards not inconsistent with this Section necessary to determine the presence of a visual disability.

Type Four: Hearing disability. A hearing disability is a disability resulting in complete absence of hearing, or hearing that with sound enhancing or magnifying equipment is so impaired as to require the use of sensory input other than hearing as the principal means of receiving spoken language. The Secretary of State shall establish standards not inconsistent with this Section necessary to determine the presence of a hearing disability.

Type Five: Mental Disability. A mental disability is an emotional or psychological impairment or disease, which substantially impairs the ability to meet individual or societal needs. The Secretary of State shall establish standards not inconsistent with this provision necessary to determine the presence of a mental disability.

(b) For purposes of this Act, a disability shall be classified as follows: Class 1 disability: A Class 1 disability

is any type disability which does not render a person unable to engage in any substantial gainful activity or which does not impair his ability to live independently or to perform labor or services for which he is qualified. The Secretary of State shall establish standards not inconsistent with this Section necessary to determine the presence of a Class 1 disability. Class 1A disability: A Class 1A disability is a Class 1 disability which renders a person unable to walk 200 feet or more unassisted by another person or without the aid of a walker, crutches, braces, prosthetic device or a wheelchair or without great difficulty or discomfort due to the following impairments: neurologic, orthopedic, respiratory, cardiac, arthritic disorder, or the loss of function or absence of a limb or limbs. The Secretary of State shall establish standards not inconsistent with this Section necessary to determine the presence of a Class 1A disability. Class 2 disability: A Class 2 disability is any type disability which renders a person unable to engage in any substantial gainful activity, which substantially impairs his ability to live independently without supervision or in-home support services, or which substantially impairs his ability to perform labor or services for which he is qualified or significantly restricts the labor or services which he is able to perform. The Secretary of State shall establish standards not inconsistent with this Section necessary to determine the presence of a Class 2 disability. Class 2A disability: A Class 2A disability is a Class 2

disability which renders a person unable to walk 200 feet or more unassisted by another person or without the aid of a walker, crutches, braces, prosthetic device or a wheelchair or without great difficulty or discomfort due to the following impairments: neurologic, orthopedic, respiratory, cardiac, arthritic disorder, blindness, or the loss of function or absence of a limb or limbs. The Secretary of State shall establish standards not inconsistent with this Section necessary to determine the presence of a Class 2A disability.
(Source: P.A. 85-354.)

Section 17. The Illinois Act on the Aging is amended by changing Section 4.08 as follows:

(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 ID/DD

~~MR/DD~~ Community 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; 95-876, eff. 8-21-08; 96-339, eff. 7-1-10.)

Section 20. The Mental Health and Developmental Disabilities Administrative Act is amended by changing Sections 7, 15, 34, 43, 45, 46, and 57.6 as follows:

(20 ILCS 1705/7) (from Ch. 91 1/2, par. 100-7)

Sec. 7. To receive and provide the highest possible quality of humane and rehabilitative care and treatment to all persons admitted or committed or transferred in accordance with law to

the facilities, divisions, programs, and services under the jurisdiction of the Department. No resident of another state shall be received or retained to the exclusion of any resident of this State. No resident of another state shall be received or retained to the exclusion of any resident of this State. All recipients of 17 years of age and under in residence in a Department facility other than a facility for the care of the intellectually disabled ~~mentally retarded~~ shall be housed in quarters separated from older recipients except for: (a) recipients who are placed in medical-surgical units because of physical illness; and (b) recipients between 13 and 18 years of age who need temporary security measures.

All recipients in a Department facility shall be given a dental examination by a licensed dentist or registered dental hygienist at least once every 18 months and shall be assigned to a dentist for such dental care and treatment as is necessary.

All medications administered to recipients shall be administered only by those persons who are legally qualified to do so by the laws of the State of Illinois. Medication shall not be prescribed until a physical and mental examination of the recipient has been completed. If, in the clinical judgment of a physician, it is necessary to administer medication to a recipient before the completion of the physical and mental examination, he may prescribe such medication but he must file a report with the facility director setting forth the reasons

for prescribing such medication within 24 hours of the prescription. A copy of the report shall be part of the recipient's record.

No later than January 1, 2005, the Department shall adopt a model protocol and forms for recording all patient diagnosis, care, and treatment at each State-operated facility for the mentally ill and developmentally disabled under the jurisdiction of the Department. The model protocol and forms shall be used by each facility unless the Department determines that equivalent alternatives justify an exemption.

Every facility under the jurisdiction of the Department shall maintain a copy of each report of suspected abuse or neglect of the patient. Copies of those reports shall be made available to the State Auditor General in connection with his biennial program audit of the facility as required by Section 3-2 of the Illinois State Auditing Act.

No later than January 1 2004, the Department shall report to the Governor and the General Assembly whether each State-operated facility for the mentally ill and developmentally disabled under the jurisdiction of the Department and all services provided in those facilities comply with all of the applicable standards adopted by the Social Security Administration under Subchapter XVIII (Medicare) of the Social Security Act (42 U.S.C. 1395-1395ccc), if the facility and services may be eligible for federal financial participation under that federal law. For those facilities that

do comply, the report shall indicate what actions need to be taken to ensure continued compliance. For those facilities that do not comply, the report shall indicate what actions need to be taken to bring each facility into compliance.

(Source: P.A. 93-636, eff. 6-1-04.)

(20 ILCS 1705/15) (from Ch. 91 1/2, par. 100-15)

Sec. 15. Before any person is released from a facility operated by the State pursuant to an absolute discharge or a conditional discharge from hospitalization under this Act, the facility director of the facility in which such person is hospitalized shall determine that such person is not currently in need of hospitalization and:

(a) is able to live independently in the community; or

(b) requires further oversight and supervisory care for which arrangements have been made with responsible relatives or supervised residential program approved by the Department; or

(c) requires further personal care or general oversight as defined by the ID/DD ~~MR/DD~~ Community Care Act, for which placement arrangements have been made with a suitable family home or other licensed facility approved by the Department under this Section; or

(d) requires community mental health services for which arrangements have been made with a community mental health provider in accordance with criteria, standards,

and procedures promulgated by rule.

Such determination shall be made in writing and shall become a part of the facility record of such absolutely or conditionally discharged person. When the determination indicates that the condition of the person to be granted an absolute discharge or a conditional discharge is described under subparagraph (c) or (d) of this Section, the name and address of the continuing care facility or home to which such person is to be released shall be entered in the facility record. Where a discharge from a mental health facility is made under subparagraph (c), the Department shall assign the person so discharged to an existing community based not-for-profit agency for participation in day activities suitable to the person's needs, such as but not limited to social and vocational rehabilitation, and other recreational, educational and financial activities unless the community based not-for-profit agency is unqualified to accept such assignment. Where the clientele of any not-for-profit agency increases as a result of assignments under this amendatory Act of 1977 by more than 3% over the prior year, the Department shall fully reimburse such agency for the costs of providing services to such persons in excess of such 3% increase. The Department shall keep written records detailing how many persons have been assigned to a community based not-for-profit agency and how many persons were not so assigned because the community based agency was unable to accept the assignments, in

accordance with criteria, standards, and procedures promulgated by rule. Whenever a community based agency is found to be unable to accept the assignments, the name of the agency and the reason for the finding shall be included in the report.

Insofar as desirable in the interests of the former recipient, the facility, program or home in which the discharged person is to be placed shall be located in or near the community in which the person resided prior to hospitalization or in the community in which the person's family or nearest next of kin presently reside. Placement of the discharged person in facilities, programs or homes located outside of this State shall not be made by the Department unless there are no appropriate facilities, programs or homes available within this State. Out-of-state placements shall be subject to return of recipients so placed upon the availability of facilities, programs or homes within this State to accommodate these recipients, except where placement in a contiguous state results in locating a recipient in a facility or program closer to the recipient's home or family. If an appropriate facility or program becomes available equal to or closer to the recipient's home or family, the recipient shall be returned to and placed at the appropriate facility or program within this State.

To place any person who is under a program of the Department at board in a suitable family home or in such other facility or program as the Department may consider desirable.

The Department may place in licensed nursing homes, sheltered care homes, or homes for the aged those persons whose behavioral manifestations and medical and nursing care needs are such as to be substantially indistinguishable from persons already living in such facilities. Prior to any placement by the Department under this Section, a determination shall be made by the personnel of the Department, as to the capability and suitability of such facility to adequately meet the needs of the person to be discharged. When specialized programs are necessary in order to enable persons in need of supervised living to develop and improve in the community, the Department shall place such persons only in specialized residential care facilities which shall meet Department standards including restricted admission policy, special staffing and programming for social and vocational rehabilitation, in addition to the requirements of the appropriate State licensing agency. The Department shall not place any new person in a facility the license of which has been revoked or not renewed on grounds of inadequate programming, staffing, or medical or adjunctive services, regardless of the pendency of an action for administrative review regarding such revocation or failure to renew. Before the Department may transfer any person to a licensed nursing home, sheltered care home or home for the aged or place any person in a specialized residential care facility the Department shall notify the person to be transferred, or a responsible relative of such person, in writing, at least 30

days before the proposed transfer, with respect to all the relevant facts concerning such transfer, except in cases of emergency when such notice is not required. If either the person to be transferred or a responsible relative of such person objects to such transfer, in writing to the Department, at any time after receipt of notice and before the transfer, the facility director of the facility in which the person was a recipient shall immediately schedule a hearing at the facility with the presence of the facility director, the person who objected to such proposed transfer, and a psychiatrist who is familiar with the record of the person to be transferred. Such person to be transferred or a responsible relative may be represented by such counsel or interested party as he may appoint, who may present such testimony with respect to the proposed transfer. Testimony presented at such hearing shall become a part of the facility record of the person-to-be-transferred. The record of testimony shall be held in the person-to-be-transferred's record in the central files of the facility. If such hearing is held a transfer may only be implemented, if at all, in accordance with the results of such hearing. Within 15 days after such hearing the facility director shall deliver his findings based on the record of the case and the testimony presented at the hearing, by registered or certified mail, to the parties to such hearing. The findings of the facility director shall be deemed a final administrative decision of the Department. For purposes of this Section, "case

of emergency" means those instances in which the health of the person to be transferred is imperiled and the most appropriate mental health care or medical care is available at a licensed nursing home, sheltered care home or home for the aged or a specialized residential care facility.

Prior to placement of any person in a facility under this Section the Department shall ensure that an appropriate training plan for staff is provided by the facility. Said training may include instruction and demonstration by Department personnel qualified in the area of mental illness or intellectual disabilities ~~mental retardation~~, as applicable to the person to be placed. Training may be given both at the facility from which the recipient is transferred and at the facility receiving the recipient, and may be available on a continuing basis subsequent to placement. In a facility providing services to former Department recipients, training shall be available as necessary for facility staff. Such training will be on a continuing basis as the needs of the facility and recipients change and further training is required.

The Department shall not place any person in a facility which does not have appropriately trained staff in sufficient numbers to accommodate the recipient population already at the facility. As a condition of further or future placements of persons, the Department shall require the employment of additional trained staff members at the facility where said

persons are to be placed. The Secretary, or his or her designate, shall establish written guidelines for placement of persons in facilities under this Act. The Department shall keep written records detailing which facilities have been determined to have staff who have been appropriately trained by the Department and all training which it has provided or required under this Section.

Bills for the support for a person boarded out shall be payable monthly out of the proper maintenance funds and shall be audited as any other accounts of the Department. If a person is placed in a facility or program outside the Department, the Department may pay the actual costs of residence, treatment or maintenance in such facility and may collect such actual costs or a portion thereof from the recipient or the estate of a person placed in accordance with this Section.

Other than those placed in a family home the Department shall cause all persons who are placed in a facility, as defined by the ID/DD ~~MR/DD~~ Community Care Act, or in designated community living situations or programs, to be visited at least once during the first month following placement, and once every month thereafter for the first year following placement when indicated, but at least quarterly. After the first year, the Department shall determine at what point the appropriate licensing entity for the facility or designated community living situation or program will assume the responsibility of ensuring that appropriate services are being provided to the

resident. Once that responsibility is assumed, the Department may discontinue such visits. If a long term care facility has periodic care plan conferences, the visitor may participate in those conferences, if such participation is approved by the resident or the resident's guardian. Visits shall be made by qualified and trained Department personnel, or their designee, in the area of mental health or developmental disabilities applicable to the person visited, and shall be made on a more frequent basis when indicated. The Department may not use as designee any personnel connected with or responsible to the representatives of any facility in which persons who have been transferred under this Section are placed. In the course of such visit there shall be consideration of the following areas, but not limited thereto: effects of transfer on physical and mental health of the person, sufficiency of nursing care and medical coverage required by the person, sufficiency of staff personnel and ability to provide basic care for the person, social, recreational and programmatic activities available for the person, and other appropriate aspects of the person's environment.

A report containing the above observations shall be made to the Department, to the licensing agency, and to any other appropriate agency subsequent to each visitation. The report shall contain recommendations to improve the care and treatment of the resident, as necessary, which shall be reviewed by the facility's interdisciplinary team and the resident or the

resident's legal guardian.

Upon the complaint of any person placed in accordance with this Section or any responsible citizen or upon discovery that such person has been abused, neglected, or improperly cared for, or that the placement does not provide the type of care required by the recipient's current condition, the Department immediately shall investigate, and determine if the well-being, health, care, or safety of any person is affected by any of the above occurrences, and if any one of the above occurrences is verified, the Department shall remove such person at once to a facility of the Department or to another facility outside the Department, provided such person's needs can be met at said facility. The Department may also provide any person placed in accordance with this Section who is without available funds, and who is permitted to engage in employment outside the facility, such sums for the transportation, and other expenses as may be needed by him until he receives his wages for such employment.

The Department shall promulgate rules and regulations governing the purchase of care for persons who are wards of or who are receiving services from the Department. Such rules and regulations shall apply to all monies expended by any agency of the State of Illinois for services rendered by any person, corporate entity, agency, governmental agency or political subdivision whether public or private outside of the Department whether payment is made through a contractual, per-diem or

other arrangement. No funds shall be paid to any person, corporation, agency, governmental entity or political subdivision without compliance with such rules and regulations.

The rules and regulations governing purchase of care shall describe categories and types of service deemed appropriate for purchase by the Department.

Any provider of services under this Act may elect to receive payment for those services, and the Department is authorized to arrange for that payment, by means of direct deposit transmittals to the service provider's account maintained at a bank, savings and loan association, or other financial institution. The financial institution shall be approved by the Department, and the deposits shall be in accordance with rules and regulations adopted by the Department.

(Source: P.A. 96-339, eff. 7-1-10.)

(20 ILCS 1705/34) (from Ch. 91 1/2, par. 100-34)

Sec. 34. To make grants-in-aid to community clinics and agencies for psychiatric or clinical services, training, research and other mental health, intellectual disabilities ~~mental retardation~~ and other developmental disabilities programs, for persons of all ages including those aged 3 to 21.

In addition to other standards and procedures governing the disbursement of grants-in-aid implemented under this Section,

the Secretary shall require that each application for such aid submitted by public agencies or public clinics with respect to services to be provided by a municipality with a population of 500,000 or more shall include review and comment by a community mental health board that is organized under local authority and broadly representative of the geographic, social, cultural, and economic interests of the area to be served, and which includes persons who are professionals in the field of mental health, consumers of services or representative of the general public. Within planning and service areas designated by the Secretary where more than one clinic or agency applies under this paragraph, each application shall be reviewed by a single community mental health board that is representative of the areas to be served by each clinic or agency.

The Secretary may authorize advance disbursements to any clinic or agency that has been awarded a grant-in-aid, provided that the Secretary shall, within 30 days before the making of such disbursement, certify to the Comptroller that (a) the provider is eligible to receive that disbursement, and (b) the disbursement is made as compensation for services to be rendered within 60 days of that certification.

(Source: P.A. 89-507, eff. 7-1-97.)

(20 ILCS 1705/43) (from Ch. 91 1/2, par. 100-43)

Sec. 43. To provide habilitation and care for the intellectually disabled ~~mentally retarded~~ and persons with a

developmental disability and counseling for their families in accordance with programs established and conducted by the Department.

In assisting families to place such persons in need of care in licensed facilities for the intellectually disabled ~~mentally retarded~~ and persons with a developmental disability, the Department may supplement the amount a family is able to pay, as determined by the Department in accordance with Sections 5-105 through 5-116 of the "Mental Health and Developmental Disabilities Code" as amended, and the amount available from other sources. The Department shall have the authority to determine eligibility for placement of a person in a private facility.

Whenever an intellectually disabled ~~a mentally retarded~~ person or a client is placed in a private facility pursuant to this Section, such private facility must give the Department and the person's guardian or nearest relative, at least 30 days' notice in writing before such person may be discharged or transferred from the private facility, except in an emergency. (Source: P.A. 90-14, eff. 7-1-97.)

(20 ILCS 1705/45) (from Ch. 91 1/2, par. 100-45)

Sec. 45. The following Acts are repealed:

"An Act to provide for the establishment and maintenance of services and facilities for severely physically handicapped children", approved June 29, 1945.

"An Act in relation to the visitation, instruction, and rehabilitation of major visually handicapped persons and to repeal acts herein named", approved July 21, 1959.

"An Act in relation to the rehabilitation of physically handicapped persons", approved June 28, 1919.

"An Act for the treatment, care and maintenance of persons mentally ill or in need of mental treatment who are inmates of the Illinois Soldiers' and Sailors' Home", approved June 15, 1895, as amended.

"An Act to establish and maintain a home for the disabled mothers, wives, widows and daughters of disabled or deceased soldiers in the State of Illinois, and to provide for the purchase and maintenance thereof", approved June 13, 1895, as amended.

"An Act to establish and maintain a Soldiers' and Sailors' Home in the State of Illinois, and making an appropriation for the purchase of land and the construction of the necessary buildings", approved June 26, 1885, as amended.

"An Act in relation to the disposal of certain funds and property which now are or hereafter may be in the custody of the managing officer of the Illinois Soldiers' and Sailors' Home at Quincy", approved June 24, 1921.

"An Act in relation to the establishment in the Department of Public Welfare of a Division to be known as the Institute for Juvenile Research and to define its powers and duties", approved July 16, 1941.

"An Act to provide for the establishment, maintenance and operation of the Southern Illinois Children's Service Center", approved August 2, 1951.

"An Act to change the name of the Illinois Charitable Eye and Ear Infirmary", approved June 27, 1923.

"An Act to establish and provide for the conduct of an institution for the care and custody of persons of unsound or feeble mind, to be known as the Illinois Security Hospital, and to designate the classes of persons to be confined therein", approved June 30, 1933, as amended.

Sections one through 27 and Sections 29 through 34 of "An Act to revise the laws relating to charities", approved June 11, 1912, as amended.

"An Act creating a Division of Alcoholism in the Department of Public Welfare, defining its rights, powers and duties, and making an appropriation therefor", approved July 5, 1957.

"An Act to establish in the Department of Public Welfare a Psychiatric Training and Research Authority", approved July 14, 1955.

"An Act creating the Advisory Board on Intellectual Disabilities ~~Mental Retardation~~ in the Department of Public Welfare, defining its powers and duties and making an appropriation therefor", approved July 17, 1959.

"An Act to provide for the construction, equipment, and operation of a psychiatric institute state hospital to promote and advance knowledge, through research, in the causes and

treatment of mental illness; to train competent psychiatric personnel available for service in the state hospitals and elsewhere; and to contribute to meeting the need for treatment for mentally ill patients", approved June 30, 1953, as amended.

"An Act in relation to the disposal of certain funds and property paid to, or received by, the officials of the State institutions under the direction and supervision of the Department of Public Welfare", approved June 10, 1929.

"An Act to require professional persons having patients with major visual limitations to report information regarding such cases to the Department of Public Welfare and to authorize the Department to inform such patients of services and training available," approved July 5, 1957.

Sections 3, 4, 5, 5a, 6, 22, 24, 25, 26 of "An Act to regulate the state charitable institutions and the state reform school, and to improve their organization and increase their efficiency," approved April 15, 1875.

(Source: Laws 1961, p. 2666.)

(20 ILCS 1705/46) (from Ch. 91 1/2, par. 100-46)

Sec. 46. Separation between the sexes shall be maintained relative to sleeping quarters in each facility under the jurisdiction of the Department, except in relation to quarters for intellectually disabled ~~mentally retarded~~ children under age 6 and quarters for severely-profoundly intellectually disabled ~~mentally retarded~~ persons and nonambulatory

intellectually disabled ~~mentally retarded~~ persons, regardless of age.

(Source: P.A. 85-971.)

(20 ILCS 1705/57.6)

Sec. 57.6. Adult autism; funding for services. Subject to appropriations, the Department, or independent contractual consultants engaged by the Department, shall research possible funding streams for the development and implementation of services for adults with autism spectrum disorders without an intellectual disability ~~mental retardation~~. Independent consultants must have expertise in Medicaid services and alternative federal and State funding mechanisms. The research may include, but need not be limited to, research of a Medicaid state plan amendment, a Section 1915(c) home and community based waiver, a Section 1115 research and demonstration waiver, vocational rehabilitation funding, mental health block grants, and other appropriate funding sources. The Department shall report the results of the research and its recommendations to the Governor and the General Assembly by April 1, 2008.

(Source: P.A. 95-106, eff. 1-1-08.)

Section 22. The Civil Administrative Code of Illinois is amended by changing Sections 2310-550, 2310-560, 2310-565, and 2310-625 as follows:

(20 ILCS 2310/2310-550) (was 20 ILCS 2310/55.40)

Sec. 2310-550. Long-term care facilities. The Department may perform, in all long-term care facilities as defined in the Nursing Home Care Act and all facilities as defined in the ID/DD ~~MR/DD~~ Community Care Act, all inspection, evaluation, certification, and inspection of care duties that the federal government may require the State of Illinois to perform or have performed as a condition of participation in any programs under Title XVIII or Title XIX of the federal Social Security Act.
(Source: P.A. 96-339, eff. 7-1-10.)

(20 ILCS 2310/2310-560) (was 20 ILCS 2310/55.87)

Sec. 2310-560. Advisory committees concerning construction of facilities.

(a) The Director shall appoint an advisory committee. The committee shall be established by the Department by rule. The Director and the Department shall consult with the advisory committee concerning the application of building codes and Department rules related to those building codes to facilities under the Ambulatory Surgical Treatment Center Act, the Nursing Home Care Act, and the ID/DD ~~MR/DD~~ Community Care Act.

(b) The Director shall appoint an advisory committee to advise the Department and to conduct informal dispute resolution concerning the application of building codes for new and existing construction and related Department rules and standards under the Hospital Licensing Act, including without

limitation rules and standards for (i) design and construction, (ii) engineering and maintenance of the physical plant, site, equipment, and systems (heating, cooling, electrical, ventilation, plumbing, water, sewer, and solid waste disposal), and (iii) fire and safety. The advisory committee shall be composed of all of the following members:

(1) The chairperson or an elected representative from the Hospital Licensing Board under the Hospital Licensing Act.

(2) Two health care architects with a minimum of 10 years of experience in institutional design and building code analysis.

(3) Two engineering professionals (one mechanical and one electrical) with a minimum of 10 years of experience in institutional design and building code analysis.

(4) One commercial interior design professional with a minimum of 10 years of experience.

(5) Two representatives from provider associations.

(6) The Director or his or her designee, who shall serve as the committee moderator.

Appointments shall be made with the concurrence of the Hospital Licensing Board. The committee shall submit recommendations concerning the application of building codes and related Department rules and standards to the Hospital Licensing Board for review and comment prior to submission to the Department. The committee shall submit recommendations

concerning informal dispute resolution to the Director. The Department shall provide per diem and travel expenses to the committee members.

(Source: P.A. 96-339, eff. 7-1-10.)

(20 ILCS 2310/2310-565) (was 20 ILCS 2310/55.88)

Sec. 2310-565. Facility construction training program. The Department shall conduct, at least annually, a joint in-service training program for architects, engineers, interior designers, and other persons involved in the construction of a facility under the Ambulatory Surgical Treatment Center Act, the Nursing Home Care Act, the ID/DD ~~MR/DD~~ Community Care Act, or the Hospital Licensing Act on problems and issues relating to the construction of facilities under any of those Acts.

(Source: P.A. 96-339, eff. 7-1-10.)

(20 ILCS 2310/2310-625)

Sec. 2310-625. Emergency Powers.

(a) Upon proclamation of a disaster by the Governor, as provided for in the Illinois Emergency Management Agency Act, the Director of Public Health shall have the following powers, which shall be exercised only in coordination with the Illinois Emergency Management Agency and the Department of Financial and Professional Regulation:

(1) The power to suspend the requirements for temporary or permanent licensure or certification of persons who are

licensed or certified in another state and are working under the direction of the Illinois Emergency Management Agency and the Illinois Department of Public Health pursuant to the declared disaster.

(2) The power to modify the scope of practice restrictions under the Emergency Medical Services (EMS) Systems Act for any persons who are licensed under that Act for any person working under the direction of the Illinois Emergency Management Agency and the Illinois Department of Public Health pursuant to the declared disaster.

(3) The power to modify the scope of practice restrictions under the Nursing Home Care Act or the ID/DD ~~MR/DD~~ Community Care Act for Certified Nursing Assistants for any person working under the direction of the Illinois Emergency Management Agency and the Illinois Department of Public Health pursuant to the declared disaster.

(b) Persons exempt from licensure or certification under paragraph (1) of subsection (a) and persons operating under modified scope of practice provisions under paragraph (2) of subsection (a) and paragraph (3) of subsection (a) shall be exempt from licensure or certification or subject to modified scope of practice only until the declared disaster has ended as provided by law. For purposes of this Section, persons working under the direction of an emergency services and disaster agency accredited by the Illinois Emergency Management Agency and a local public health department, pursuant to a declared

disaster, shall be deemed to be working under the direction of the Illinois Emergency Management Agency and the Department of Public Health.

(c) The Director shall exercise these powers by way of proclamation.

(Source: P.A. 96-339, eff. 7-1-10.)

Section 25. The Disabilities Services Act of 2003 is amended by changing Sections 10 and 52 as follows:

(20 ILCS 2407/10)

Sec. 10. Application of Act; definitions.

(a) This Act applies to persons with disabilities. The disabilities included are defined for purposes of this Act as follows:

"Disability" means a disability as defined by the Americans with Disabilities Act of 1990 that is attributable to a developmental disability, a mental illness, or a physical disability, or combination of those.

"Developmental disability" means a disability that is attributable to an intellectual disability ~~mental retardation~~ or a related condition. A related condition must meet all of the following conditions:

(1) It must be attributable to cerebral palsy, epilepsy, or any other condition (other than mental illness) found to be closely related to an intellectual

disability ~~mental retardation~~ because that condition results in impairment of general intellectual functioning or adaptive behavior similar to that of individuals with an intellectual disability ~~mental retardation~~, and requires treatment or services similar to those required for those individuals. For purposes of this Section, autism is considered a related condition.

(2) It must be manifested before the individual reaches age 22.

(3) It must be likely to continue indefinitely.

(4) It must result in substantial functional limitations in 3 or more of the following areas of major life activity: self-care, language, learning, mobility, self-direction, and capacity for independent living.

"Mental Illness" means a mental or emotional disorder verified by a diagnosis contained in the Diagnostic and Statistical Manual of Mental Disorders-Fourth Edition, published by the American Psychiatric Association (DSM-IV), or its successor, or International Classification of Diseases, 9th Revision, Clinical Modification (ICD-9-CM), or its successor, that substantially impairs a person's cognitive, emotional, or behavioral functioning, or any combination of those, excluding (i) conditions that may be the focus of clinical attention but are not of sufficient duration or severity to be categorized as a mental illness, such as parent-child relational problems, partner-relational problems,

sexual abuse of a child, bereavement, academic problems, phase-of-life problems, and occupational problems (collectively, "V codes"), (ii) organic disorders such as substance intoxication dementia, substance withdrawal dementia, Alzheimer's disease, vascular dementia, dementia due to HIV infection, and dementia due to Creutzfeld-Jakob disease and disorders associated with known or unknown physical conditions such as hallucinosis, amnestic disorders and delirium, and psychoactive substance-induced organic disorders, and (iii) an intellectual disability ~~mental retardation~~ or psychoactive substance use disorders.

"Intellectual disability ~~Mental retardation~~" means significantly sub-average general intellectual functioning existing concurrently with deficits in adaptive behavior and manifested before the age of 22 years.

"Physical disability" means a disability as defined by the Americans with Disabilities Act of 1990 that meets the following criteria:

(1) It is attributable to a physical impairment.

(2) It results in a substantial functional limitation in any of the following areas of major life activity: (i) self-care, (ii) receptive and expressive language, (iii) learning, (iv) mobility, (v) self-direction, (vi) capacity for independent living, and (vii) economic sufficiency.

(3) It reflects the person's need for a combination and sequence of special, interdisciplinary, or general care,

treatment, or other services that are of lifelong or of extended duration and must be individually planned and coordinated.

(b) In this Act:

"Chronological age-appropriate services" means services, activities, and strategies for persons with disabilities that are representative of the lifestyle activities of nondisabled peers of similar age in the community.

"Comprehensive evaluation" means procedures used by qualified professionals selectively with an individual to determine whether a person has a disability and the nature and extent of the services that the person with a disability needs.

"Department" means the Department on Aging, the Department of Human Services, the Department of Public Health, the Department of Public Aid (now Department Healthcare and Family Services), the University of Illinois Division of Specialized Care for Children, the Department of Children and Family Services, and the Illinois State Board of Education, where appropriate, as designated in the implementation plan developed under Section 20.

"Family" means a natural, adoptive, or foster parent or parents or other person or persons responsible for the care of an individual with a disability in a family setting.

"Family or individual support" means those resources and services that are necessary to maintain an individual with a disability within the family home or his or her own home. These

services may include, but are not limited to, cash subsidy, respite care, and counseling services.

"Independent service coordination" means a social service that enables persons with developmental disabilities and their families to locate, use, and coordinate resources and opportunities in their communities on the basis of individual need. Independent service coordination is independent of providers of services and funding sources and is designed to ensure accessibility, continuity of care, and accountability and to maximize the potential of persons with developmental disabilities for independence, productivity, and integration into the community. Independent service coordination includes, at a minimum: (i) outreach to identify eligible individuals; (ii) assessment and periodic reassessment to determine each individual's strengths, functional limitations, and need for specific services; (iii) participation in the development of a comprehensive individual service or treatment plan; (iv) referral to and linkage with needed services and supports; (v) monitoring to ensure the delivery of appropriate services and to determine individual progress in meeting goals and objectives; and (vi) advocacy to assist the person in obtaining all services for which he or she is eligible or entitled.

"Individual service or treatment plan" means a recorded assessment of the needs of a person with a disability, a description of the services recommended, the goals of each type of element of service, an anticipated timetable for the

accomplishment of the goals, and a designation of the qualified professionals responsible for the implementation of the plan.

"Least restrictive environment" means an environment that represents the least departure from the normal patterns of living and that effectively meets the needs of the person receiving the service.

(Source: P.A. 95-331, eff. 8-21-07.)

(20 ILCS 2407/52)

Sec. 52. Applicability; definitions. In accordance with Section 6071 of the Deficit Reduction Act of 2005 (P.L. 109-171), as used in this Article:

"Departments". The term "Departments" means for the purposes of this Act, the Department of Human Services, the Department on Aging, Department of Healthcare and Family Services and Department of Public Health, unless otherwise noted.

"Home and community-based long-term care services". The term "home and community-based long-term care services" means, with respect to the State Medicaid program, a service aid, or benefit, home and community-based services, including but not limited to home health and personal care services, that are provided to a person with a disability, and are voluntarily accepted, as part of his or her long-term care that: (i) is provided under the State's qualified home and community-based program or that could be provided under such a program but is

otherwise provided under the Medicaid program; (ii) is delivered in a qualified residence; and (iii) is necessary for the person with a disability to live in the community.

"ID/DD~~MR/DD~~ community care facility". The term "ID/DD~~MR/DD~~ community care facility", for the purposes of this Article, means a skilled nursing or intermediate long-term care facility subject to licensure by the Department of Public Health under the ID/DD ~~MR/DD~~ Community Care Act, an intermediate care facility for the developmentally disabled (ICF-DDs), and a State-operated developmental center or mental health center, whether publicly or privately owned.

"Money Follows the Person" Demonstration. Enacted by the Deficit Reduction Act of 2005, the Money Follows the Person (MFP) Rebalancing Demonstration is part of a comprehensive, coordinated strategy to assist states, in collaboration with stakeholders, to make widespread changes to their long-term care support systems. This initiative will assist states in their efforts to reduce their reliance on institutional care while developing community-based long-term care opportunities, enabling the elderly and people with disabilities to fully participate in their communities.

"Public funds" mean any funds appropriated by the General Assembly to the Departments of Human Services, on Aging, of Healthcare and Family Services and of Public Health for settings and services as defined in this Article.

"Qualified residence". The term "qualified residence"

means, with respect to an eligible individual: (i) a home owned or leased by the individual or the individual's authorized representative (as defined by P.L. 109-171); (ii) an apartment with an individual lease, with lockable access and egress, and which includes living, sleeping, bathing, and cooking areas over which the individual or the individual's family has domain and control; or (iii) a residence, in a community-based residential setting, in which no more than 4 unrelated individuals reside. Where qualified residences are not sufficient to meet the demand of eligible individuals, time-limited exceptions to this definition may be developed through administrative rule.

"Self-directed services". The term "self-directed services" means, with respect to home and community-based long-term services for an eligible individual, those services for the individual that are planned and purchased under the direction and control of the individual or the individual's authorized representative, including the amount, duration, scope, provider, and location of such services, under the State Medicaid program consistent with the following requirements:

(a) Assessment: there is an assessment of the needs, capabilities, and preference of the individual with respect to such services.

(b) Individual service care or treatment plan: based on the assessment, there is development jointly with such individual or individual's authorized representative, a

plan for such services for the individual that (i) specifies those services, if any, that the individual or the individual's authorized representative would be responsible for directing; (ii) identifies the methods by which the individual or the individual's authorized representative or an agency designated by an individual or representative will select, manage, and dismiss providers of such services.

(Source: P.A. 95-438, eff. 1-1-08; 96-339, eff. 7-1-10.)

Section 26. The Abuse of Adults with Disabilities Intervention Act is amended by changing Section 15 as follows:

(20 ILCS 2435/15) (from Ch. 23, par. 3395-15)

Sec. 15. Definitions. As used in this Act:

"Abuse" means causing any physical, sexual, or mental injury to an adult with disabilities, including exploitation of the adult's financial resources. Nothing in this Act shall be construed to mean that an adult with disabilities is a victim of abuse or 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 adult with disabilities is a victim of abuse because of health care services provided or not provided by licensed health care

professionals.

"Adult with disabilities" means a person aged 18 through 59 who resides in a domestic living situation and whose physical or mental disability impairs his or her ability to seek or obtain protection from abuse, neglect, or exploitation.

"Department" means the Department of Human Services.

"Adults with Disabilities Abuse Project" or "project" means that program within the Office of Inspector General designated by the Department of Human Services to receive and assess reports of alleged or suspected abuse, neglect, or exploitation of adults with disabilities.

"Domestic living situation" means a residence where the adult with disabilities lives alone or with his or her family or household members, a care giver, or others or at 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 or Section 1-113 of the ID/DD ~~MR/DD~~ Community 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, a federal agency, or the State.

(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 and that 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-integrated living arrangement as defined in the Community-Integrated Living Arrangements Licensure and Certification Act or community residential alternative as licensed under that Act.

"Emergency" means a situation in which an adult with disabilities is in danger of death or great bodily harm.

"Exploitation" means the illegal, including tortious, use of the assets or resources of an adult with disabilities. Exploitation includes, but is not limited to, the misappropriation of assets or resources of an adult with disabilities by undue influence, by breach of a fiduciary relationship, by fraud, deception, or extortion, or by the use of the assets or resources in a manner contrary to law.

"Family or household members" means a person who as a family member, volunteer, or paid care provider has assumed responsibility for all or a portion of the care of an adult with disabilities who needs assistance with activities of daily living.

"Neglect" means the failure of another individual to provide an adult with disabilities with or the willful withholding from an adult with disabilities the necessities of

life, including, but not limited to, food, clothing, shelter, or medical care.

Nothing in the definition of "neglect" shall be construed to impose a requirement that assistance be provided to an adult with disabilities over his or her objection in the absence of a court order, nor to create any new affirmative duty to provide support, assistance, or intervention to an adult with disabilities. Nothing in this Act shall be construed to mean that an adult with disabilities is a victim of neglect because of health care services provided or not provided by licensed health care professionals.

"Physical abuse" includes sexual abuse and means any of the following:

(1) knowing or reckless use of physical force, confinement, or restraint;

(2) knowing, repeated, and unnecessary sleep deprivation; or

(3) knowing or reckless conduct which creates an immediate risk of physical harm.

"Secretary" means the Secretary of Human Services.

"Sexual abuse" means touching, fondling, sexual threats, sexually inappropriate remarks, or any other sexual activity with an adult with disabilities when the adult with disabilities is unable to understand, unwilling to consent, threatened, or physically forced to engage in sexual behavior.

"Substantiated case" means a reported case of alleged or

suspected abuse, neglect, or exploitation in which the Adults with Disabilities Abuse Project staff, after assessment, determines that there is reason to believe abuse, neglect, or exploitation has occurred.

(Source: P.A. 96-339, eff. 7-1-10.)

Section 27. The Illinois Finance Authority Act is amended by changing Section 801-10 as follows:

(20 ILCS 3501/801-10)

Sec. 801-10. Definitions. The following terms, whenever used or referred to in this Act, shall have the following meanings, except in such instances where the context may clearly indicate otherwise:

(a) The term "Authority" means the Illinois Finance Authority created by this Act.

(b) The term "project" means an industrial project, conservation project, housing project, public purpose project, higher education project, health facility project, cultural institution project, agricultural facility or agribusiness, and "project" may include any combination of one or more of the foregoing undertaken jointly by any person with one or more other persons.

(c) The term "public purpose project" means any project or facility including without limitation land, buildings, structures, machinery, equipment and all other real and

personal property, which is authorized or required by law to be acquired, constructed, improved, rehabilitated, reconstructed, replaced or maintained by any unit of government or any other lawful public purpose which is authorized or required by law to be undertaken by any unit of government.

(d) The term "industrial project" means the acquisition, construction, refurbishment, creation, development or redevelopment of any facility, equipment, machinery, real property or personal property for use by any instrumentality of the State or its political subdivisions, for use by any person or institution, public or private, for profit or not for profit, or for use in any trade or business including, but not limited to, any industrial, manufacturing or commercial enterprise and which is (1) a capital project including but not limited to: (i) land and any rights therein, one or more buildings, structures or other improvements, machinery and equipment, whether now existing or hereafter acquired, and whether or not located on the same site or sites; (ii) all appurtenances and facilities incidental to the foregoing, including, but not limited to utilities, access roads, railroad sidings, track, docking and similar facilities, parking facilities, dockage, wharfage, railroad roadbed, track, trestle, depot, terminal, switching and signaling or related equipment, site preparation and landscaping; and (iii) all non-capital costs and expenses relating thereto or (2) any addition to, renovation, rehabilitation or improvement of a

capital project or (3) any activity or undertaking which the Authority determines will aid, assist or encourage economic growth, development or redevelopment within the State or any area thereof, will promote the expansion, retention or diversification of employment opportunities within the State or any area thereof or will aid in stabilizing or developing any industry or economic sector of the State economy. The term "industrial project" also means the production of motion pictures.

(e) The term "bond" or "bonds" shall include bonds, notes (including bond, grant or revenue anticipation notes), certificates and/or other evidences of indebtedness representing an obligation to pay money, including refunding bonds.

(f) The terms "lease agreement" and "loan agreement" shall mean: (i) an agreement whereby a project acquired by the Authority by purchase, gift or lease is leased to any person, corporation or unit of local government which will use or cause the project to be used as a project as heretofore defined upon terms providing for lease rental payments at least sufficient to pay when due all principal of, interest and premium, if any, on any bonds of the Authority issued with respect to such project, providing for the maintenance, insuring and operation of the project on terms satisfactory to the Authority, providing for disposition of the project upon termination of the lease term, including purchase options or abandonment of

the premises, and such other terms as may be deemed desirable by the Authority, or (ii) any agreement pursuant to which the Authority agrees to loan the proceeds of its bonds issued with respect to a project or other funds of the Authority to any person which will use or cause the project to be used as a project as heretofore defined upon terms providing for loan repayment installments at least sufficient to pay when due all principal of, interest and premium, if any, on any bonds of the Authority, if any, issued with respect to the project, and providing for maintenance, insurance and other matters as may be deemed desirable by the Authority.

(g) The term "financial aid" means the expenditure of Authority funds or funds provided by the Authority through the issuance of its bonds, notes or other evidences of indebtedness or from other sources for the development, construction, acquisition or improvement of a project.

(h) The term "person" means an individual, corporation, unit of government, business trust, estate, trust, partnership or association, 2 or more persons having a joint or common interest, or any other legal entity.

(i) The term "unit of government" means the federal government, the State or unit of local government, a school district, or any agency or instrumentality, office, officer, department, division, bureau, commission, college or university thereof.

(j) The term "health facility" means: (a) any public or

private institution, place, building, or agency required to be licensed under the Hospital Licensing Act; (b) any public or private institution, place, building, or agency required to be licensed under the Nursing Home Care Act or the ID/DD ~~MR/DD~~ Community Care Act; (c) any public or licensed private hospital as defined in the Mental Health and Developmental Disabilities Code; (d) any such facility exempted from such licensure when the Director of Public Health attests that such exempted facility meets the statutory definition of a facility subject to licensure; (e) any other public or private health service institution, place, building, or agency which the Director of Public Health attests is subject to certification by the Secretary, U.S. Department of Health and Human Services under the Social Security Act, as now or hereafter amended, or which the Director of Public Health attests is subject to standard-setting by a recognized public or voluntary accrediting or standard-setting agency; (f) any public or private institution, place, building or agency engaged in providing one or more supporting services to a health facility; (g) any public or private institution, place, building or agency engaged in providing training in the healing arts, including but not limited to schools of medicine, dentistry, osteopathy, optometry, podiatry, pharmacy or nursing, schools for the training of x-ray, laboratory or other health care technicians and schools for the training of para-professionals in the health care field; (h) any public or private congregate,

life or extended care or elderly housing facility or any public or private home for the aged or infirm, including, without limitation, any Facility as defined in the Life Care Facilities Act; (i) any public or private mental, emotional or physical rehabilitation facility or any public or private educational, counseling, or rehabilitation facility or home, for those persons with a developmental disability, those who are physically ill or disabled, the emotionally disturbed, those persons with a mental illness or persons with learning or similar disabilities or problems; (j) any public or private alcohol, drug or substance abuse diagnosis, counseling treatment or rehabilitation facility, (k) any public or private institution, place, building or agency licensed by the Department of Children and Family Services or which is not so licensed but which the Director of Children and Family Services attests provides child care, child welfare or other services of the type provided by facilities subject to such licensure; (l) any public or private adoption agency or facility; and (m) any public or private blood bank or blood center. "Health facility" also means a public or private structure or structures suitable primarily for use as a laboratory, laundry, nurses or interns residence or other housing or hotel facility used in whole or in part for staff, employees or students and their families, patients or relatives of patients admitted for treatment or care in a health facility, or persons conducting business with a health facility, physician's facility, surgicenter,

administration building, research facility, maintenance, storage or utility facility and all structures or facilities related to any of the foregoing or required or useful for the operation of a health facility, including parking or other facilities or other supporting service structures required or useful for the orderly conduct of such health facility. "Health facility" also means, with respect to a project located outside the State, any public or private institution, place, building, or agency which provides services similar to those described above, provided that such project is owned, operated, leased or managed by a participating health institution located within the State, or a participating health institution affiliated with an entity located within the State.

(k) The term "participating health institution" means (i) a private corporation or association or (ii) a public entity of this State, in either case authorized by the laws of this State or the applicable state to provide or operate a health facility as defined in this Act and which, pursuant to the provisions of this Act, undertakes the financing, construction or acquisition of a project or undertakes the refunding or refinancing of obligations, loans, indebtedness or advances as provided in this Act.

(l) The term "health facility project", means a specific health facility work or improvement to be financed or refinanced (including without limitation through reimbursement of prior expenditures), acquired, constructed, enlarged,

remodeled, renovated, improved, furnished, or equipped, with funds provided in whole or in part hereunder, any accounts receivable, working capital, liability or insurance cost or operating expense financing or refinancing program of a health facility with or involving funds provided in whole or in part hereunder, or any combination thereof.

(m) The term "bond resolution" means the resolution or resolutions authorizing the issuance of, or providing terms and conditions related to, bonds issued under this Act and includes, where appropriate, any trust agreement, trust indenture, indenture of mortgage or deed of trust providing terms and conditions for such bonds.

(n) The term "property" means any real, personal or mixed property, whether tangible or intangible, or any interest therein, including, without limitation, any real estate, leasehold interests, appurtenances, buildings, easements, equipment, furnishings, furniture, improvements, machinery, rights of way, structures, accounts, contract rights or any interest therein.

(o) The term "revenues" means, with respect to any project, the rents, fees, charges, interest, principal repayments, collections and other income or profit derived therefrom.

(p) The term "higher education project" means, in the case of a private institution of higher education, an educational facility to be acquired, constructed, enlarged, remodeled, renovated, improved, furnished, or equipped, or any

combination thereof.

(q) The term "cultural institution project" means, in the case of a cultural institution, a cultural facility to be acquired, constructed, enlarged, remodeled, renovated, improved, furnished, or equipped, or any combination thereof.

(r) The term "educational facility" means any property located within the State, or any property located outside the State, provided that, if the property is located outside the State, it must be owned, operated, leased or managed by an entity located within the State or an entity affiliated with an entity located within the State, in each case constructed or acquired before or after the effective date of this Act, which is or will be, in whole or in part, suitable for the instruction, feeding, recreation or housing of students, the conducting of research or other work of a private institution of higher education, the use by a private institution of higher education in connection with any educational, research or related or incidental activities then being or to be conducted by it, or any combination of the foregoing, including, without limitation, any such property suitable for use as or in connection with any one or more of the following: an academic facility, administrative facility, agricultural facility, assembly hall, athletic facility, auditorium, boating facility, campus, communication facility, computer facility, continuing education facility, classroom, dining hall, dormitory, exhibition hall, fire fighting facility, fire

prevention facility, food service and preparation facility, gymnasium, greenhouse, health care facility, hospital, housing, instructional facility, laboratory, library, maintenance facility, medical facility, museum, offices, parking area, physical education facility, recreational facility, research facility, stadium, storage facility, student union, study facility, theatre or utility.

(s) The term "cultural facility" means any property located within the State, or any property located outside the State, provided that, if the property is located outside the State, it must be owned, operated, leased or managed by an entity located within the State or an entity affiliated with an entity located within the State, in each case constructed or acquired before or after the effective date of this Act, which is or will be, in whole or in part, suitable for the particular purposes or needs of a cultural institution, including, without limitation, any such property suitable for use as or in connection with any one or more of the following: an administrative facility, aquarium, assembly hall, auditorium, botanical garden, exhibition hall, gallery, greenhouse, library, museum, scientific laboratory, theater or zoological facility, and shall also include, without limitation, books, works of art or music, animal, plant or aquatic life or other items for display, exhibition or performance. The term "cultural facility" includes buildings on the National Register of Historic Places which are owned or operated by

nonprofit entities.

(t) "Private institution of higher education" means a not-for-profit educational institution which is not owned by the State or any political subdivision, agency, instrumentality, district or municipality thereof, which is authorized by law to provide a program of education beyond the high school level and which:

(1) Admits as regular students only individuals having a certificate of graduation from a high school, or the recognized equivalent of such a certificate;

(2) Provides an educational program for which it awards a bachelor's degree, or provides an educational program, admission into which is conditioned upon the prior attainment of a bachelor's degree or its equivalent, for which it awards a postgraduate degree, or provides not less than a 2-year program which is acceptable for full credit toward such a degree, or offers a 2-year program in engineering, mathematics, or the physical or biological sciences which is designed to prepare the student to work as a technician and at a semiprofessional level in engineering, scientific, or other technological fields which require the understanding and application of basic engineering, scientific, or mathematical principles or knowledge;

(3) Is accredited by a nationally recognized accrediting agency or association or, if not so accredited,

is an institution whose credits are accepted, on transfer, by not less than 3 institutions which are so accredited, for credit on the same basis as if transferred from an institution so accredited, and holds an unrevoked certificate of approval under the Private College Act from the Board of Higher Education, or is qualified as a "degree granting institution" under the Academic Degree Act; and

(4) Does not discriminate in the admission of students on the basis of race or color. "Private institution of higher education" also includes any "academic institution".

(u) The term "academic institution" means any not-for-profit institution which is not owned by the State or any political subdivision, agency, instrumentality, district or municipality thereof, which institution engages in, or facilitates academic, scientific, educational or professional research or learning in a field or fields of study taught at a private institution of higher education. Academic institutions include, without limitation, libraries, archives, academic, scientific, educational or professional societies, institutions, associations or foundations having such purposes.

(v) The term "cultural institution" means any not-for-profit institution which is not owned by the State or any political subdivision, agency, instrumentality, district or municipality thereof, which institution engages in the

cultural, intellectual, scientific, educational or artistic enrichment of the people of the State. Cultural institutions include, without limitation, aquaria, botanical societies, historical societies, libraries, museums, performing arts associations or societies, scientific societies and zoological societies.

(w) The term "affiliate" means, with respect to financing of an agricultural facility or an agribusiness, any lender, any person, firm or corporation controlled by, or under common control with, such lender, and any person, firm or corporation controlling such lender.

(x) The term "agricultural facility" means land, any building or other improvement thereon or thereto, and any personal properties deemed necessary or suitable for use, whether or not now in existence, in farming, ranching, the production of agricultural commodities (including, without limitation, the products of aquaculture, hydroponics and silviculture) or the treating, processing or storing of such agricultural commodities when such activities are customarily engaged in by farmers as a part of farming.

(y) The term "lender" with respect to financing of an agricultural facility or an agribusiness, means any federal or State chartered bank, Federal Land Bank, Production Credit Association, Bank for Cooperatives, federal or State chartered savings and loan association or building and loan association, Small Business Investment Company or any other institution

qualified within this State to originate and service loans, including, but without limitation to, insurance companies, credit unions and mortgage loan companies. "Lender" also means a wholly owned subsidiary of a manufacturer, seller or distributor of goods or services that makes loans to businesses or individuals, commonly known as a "captive finance company".

(z) The term "agribusiness" means any sole proprietorship, limited partnership, co-partnership, joint venture, corporation or cooperative which operates or will operate a facility located within the State of Illinois that is related to the processing of agricultural commodities (including, without limitation, the products of aquaculture, hydroponics and silviculture) or the manufacturing, production or construction of agricultural buildings, structures, equipment, implements, and supplies, or any other facilities or processes used in agricultural production. Agribusiness includes but is not limited to the following:

(1) grain handling and processing, including grain storage, drying, treatment, conditioning, mailing and packaging;

(2) seed and feed grain development and processing;

(3) fruit and vegetable processing, including preparation, canning and packaging;

(4) processing of livestock and livestock products, dairy products, poultry and poultry products, fish or apiarian products, including slaughter, shearing,

collecting, preparation, canning and packaging;

(5) fertilizer and agricultural chemical manufacturing, processing, application and supplying;

(6) farm machinery, equipment and implement manufacturing and supplying;

(7) manufacturing and supplying of agricultural commodity processing machinery and equipment, including machinery and equipment used in slaughter, treatment, handling, collecting, preparation, canning or packaging of agricultural commodities;

(8) farm building and farm structure manufacturing, construction and supplying;

(9) construction, manufacturing, implementation, supplying or servicing of irrigation, drainage and soil and water conservation devices or equipment;

(10) fuel processing and development facilities that produce fuel from agricultural commodities or byproducts;

(11) facilities and equipment for processing and packaging agricultural commodities specifically for export;

(12) facilities and equipment for forestry product processing and supplying, including sawmilling operations, wood chip operations, timber harvesting operations, and manufacturing of prefabricated buildings, paper, furniture or other goods from forestry products;

(13) facilities and equipment for research and

development of products, processes and equipment for the production, processing, preparation or packaging of agricultural commodities and byproducts.

(aa) The term "asset" with respect to financing of any agricultural facility or any agribusiness, means, but is not limited to the following: cash crops or feed on hand; livestock held for sale; breeding stock; marketable bonds and securities; securities not readily marketable; accounts receivable; notes receivable; cash invested in growing crops; net cash value of life insurance; machinery and equipment; cars and trucks; farm and other real estate including life estates and personal residence; value of beneficial interests in trusts; government payments or grants; and any other assets.

(bb) The term "liability" with respect to financing of any agricultural facility or any agribusiness shall include, but not be limited to the following: accounts payable; notes or other indebtedness owed to any source; taxes; rent; amounts owed on real estate contracts or real estate mortgages; judgments; accrued interest payable; and any other liability.

(cc) The term "Predecessor Authorities" means those authorities as described in Section 845-75.

(dd) The term "housing project" means a specific work or improvement undertaken to provide residential dwelling accommodations, including the acquisition, construction or rehabilitation of lands, buildings and community facilities and in connection therewith to provide nonhousing facilities

which are part of the housing project, including land, buildings, improvements, equipment and all ancillary facilities for use for offices, stores, retirement homes, hotels, financial institutions, service, health care, education, recreation or research establishments, or any other commercial purpose which are or are to be related to a housing development.

(ee) The term "conservation project" means any project including the acquisition, construction, rehabilitation, maintenance, operation, or upgrade that is intended to create or expand open space or to reduce energy usage through efficiency measures. For the purpose of this definition, "open space" has the definition set forth under Section 10 of the Illinois Open Land Trust Act.

(ff) The term "significant presence" means the existence within the State of the national or regional headquarters of an entity or group or such other facility of an entity or group of entities where a significant amount of the business functions are performed for such entity or group of entities.

(Source: P.A. 95-697, eff. 11-6-07; 96-339, eff. 7-1-10; 96-1021, eff. 7-12-10.)

Section 29. The Illinois Health Facilities Planning Act is amended by changing Sections 3, 12, 13, and 14.1 as follows:

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

(Section scheduled to be repealed on December 31, 2019)

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;

3.5. Skilled and intermediate care facilities licensed under the ID/DD ~~MR/DD~~ Community 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;

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;

7. An institution, place, building, or room used for provision of a health care category of service as defined

by the Board, including, but not limited to, cardiac catheterization and open heart surgery; and

8. An institution, place, building, or room used for provision of major medical equipment used in the direct clinical diagnosis or treatment of patients, and whose project cost is in excess of the capital expenditure minimum.

This Act shall not apply to the construction of any new facility or the renovation of any existing facility located on any campus facility as defined in Section 5-5.8b of the Illinois Public Aid Code, provided that the campus facility encompasses 30 or more contiguous acres and that the new or renovated facility is intended for use by a licensed residential 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.

No facility established and operating under the Alternative Health Care Delivery Act as a children's respite care center alternative health care model demonstration program or as an Alzheimer's Disease Management Center alternative health care model demonstration program 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 or the MR/DD Community 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 or the ID/DD ~~MR/DD~~ Community 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" or "Board" means the Health Facilities and Services Review 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 or the initiation of a category of service as defined by the Board.

"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. Unless otherwise interdependent, or submitted as one project by the applicant, components of construction or modification undertaken by means of a single construction contract or financed through the issuance of a single debt instrument shall not be grouped together as one project. 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 $11,500,000 for projects by hospital applicants, $6,500,000 for applicants for projects related to skilled and intermediate care long-term care facilities licensed under the Nursing Home Care Act, and $3,000,000 for projects by all other applicants, 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.

"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".

"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.

"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. 95-331, eff. 8-21-07; 95-543, eff. 8-28-07; 95-584, eff. 8-31-07; 95-727, eff. 6-30-08; 95-876, eff. 8-21-08; 96-31, eff. 6-30-09; 96-339, eff. 7-1-10; 96-1000, eff. 7-2-10.)

(20 ILCS 3960/12) (from Ch. 111 1/2, par. 1162)

(Section scheduled to be repealed on December 31, 2019)

Sec. 12. Powers and duties of State Board. For purposes of this Act, the State Board shall exercise the following powers and duties:

(1) Prescribe rules, regulations, standards, criteria, procedures or reviews which may vary according to the purpose for which a particular review is being conducted or the type of project reviewed and which are required to carry out the provisions and purposes of this Act. Policies and procedures of the State Board shall take into consideration the priorities and needs of medically underserved areas and other health care services identified through the comprehensive health planning process, giving special consideration to the impact of projects on access to safety net services.

(2) Adopt procedures for public notice and hearing on all

proposed rules, regulations, standards, criteria, and plans required to carry out the provisions of this Act.

(3) (Blank).

(4) Develop criteria and standards for health care facilities planning, conduct statewide inventories of health care facilities, maintain an updated inventory on the Board's web site reflecting the most recent bed and service changes and updated need determinations when new census data become available or new need formulae are adopted, and develop health care facility plans which shall be utilized in the review of applications for permit under this Act. Such health facility plans shall be coordinated by the Board with pertinent State Plans. Inventories pursuant to this Section of skilled or intermediate care facilities licensed under the Nursing Home Care Act, skilled or intermediate care facilities licensed under the ID/DD ~~MR/DD~~ Community Care Act, or nursing homes licensed under the Hospital Licensing Act shall be conducted on an annual basis no later than July 1 of each year and shall include among the information requested a list of all services provided by a facility to its residents and to the community at large and differentiate between active and inactive beds.

In developing health care facility plans, the State Board shall consider, but shall not be limited to, the following:

(a) The size, composition and growth of the population of the area to be served;

(b) The number of existing and planned facilities

offering similar programs;

(c) The extent of utilization of existing facilities;

(d) The availability of facilities which may serve as alternatives or substitutes;

(e) The availability of personnel necessary to the operation of the facility;

(f) Multi-institutional planning and the establishment of multi-institutional systems where feasible;

(g) The financial and economic feasibility of proposed construction or modification; and

(h) In the case of health care facilities established by a religious body or denomination, the needs of the members of such religious body or denomination may be considered to be public need.

The health care facility plans which are developed and adopted in accordance with this Section shall form the basis for the plan of the State to deal most effectively with statewide health needs in regard to health care facilities.

(5) Coordinate with the Center for Comprehensive Health Planning and other state agencies having responsibilities affecting health care facilities, including those of licensure and cost reporting.

(6) Solicit, accept, hold and administer on behalf of the State any grants or bequests of money, securities or property for use by the State Board or Center for Comprehensive Health Planning in the administration of this Act; and enter into

contracts consistent with the appropriations for purposes enumerated in this Act.

(7) The State Board shall prescribe procedures for review, standards, and criteria which shall be utilized to make periodic reviews and determinations of the appropriateness of any existing health services being rendered by health care facilities subject to the Act. The State Board shall consider recommendations of the Board in making its determinations.

(8) Prescribe, in consultation with the Center for Comprehensive Health Planning, rules, regulations, standards, and criteria for the conduct of an expeditious review of applications for permits for projects of construction or modification of a health care facility, which projects are classified as emergency, substantive, or non-substantive in nature.

Six months after June 30, 2009 (the effective date of Public Act 96-31), substantive projects shall include no more than the following:

(a) Projects to construct (1) a new or replacement facility located on a new site or (2) a replacement facility located on the same site as the original facility and the cost of the replacement facility exceeds the capital expenditure minimum;

(b) Projects proposing a (1) new service or (2) discontinuation of a service, which shall be reviewed by the Board within 60 days; or

(c) Projects proposing a change in the bed capacity of a health care facility by an increase in the total number of beds or by a redistribution of beds among various categories of service or by a relocation of beds from one physical facility or site to another by more than 20 beds or more than 10% of total bed capacity, as defined by the State Board, whichever is less, over a 2-year period.

The Chairman may approve applications for exemption that meet the criteria set forth in rules or refer them to the full Board. The Chairman may approve any unopposed application that meets all of the review criteria or refer them to the full Board.

Such rules shall not abridge the right of the Center for Comprehensive Health Planning to make recommendations on the classification and approval of projects, nor shall such rules prevent the conduct of a public hearing upon the timely request of an interested party. Such reviews shall not exceed 60 days from the date the application is declared to be complete.

(9) Prescribe rules, regulations, standards, and criteria pertaining to the granting of permits for construction and modifications which are emergent in nature and must be undertaken immediately to prevent or correct structural deficiencies or hazardous conditions that may harm or injure persons using the facility, as defined in the rules and regulations of the State Board. This procedure is exempt from public hearing requirements of this Act.

(10) Prescribe rules, regulations, standards and criteria for the conduct of an expeditious review, not exceeding 60 days, of applications for permits for projects to construct or modify health care facilities which are needed for the care and treatment of persons who have acquired immunodeficiency syndrome (AIDS) or related conditions.

(11) Issue written decisions upon request of the applicant or an adversely affected party to the Board within 30 days of the meeting in which a final decision has been made. A "final decision" for purposes of this Act is the decision to approve or deny an application, or take other actions permitted under this Act, at the time and date of the meeting that such action is scheduled by the Board. The staff of the State Board shall prepare a written copy of the final decision and the State Board shall approve a final copy for inclusion in the formal record.

(12) Require at least one of its members to participate in any public hearing, after the appointment of the 9 members to the Board.

(13) Provide a mechanism for the public to comment on, and request changes to, draft rules and standards.

(14) Implement public information campaigns to regularly inform the general public about the opportunity for public hearings and public hearing procedures.

(15) Establish a separate set of rules and guidelines for long-term care that recognizes that nursing homes are a

different business line and service model from other regulated facilities. An open and transparent process shall be developed that considers the following: how skilled nursing fits in the continuum of care with other care providers, modernization of nursing homes, establishment of more private rooms, development of alternative services, and current trends in long-term care services. The Chairman of the Board shall appoint a permanent Health Services Review Board Long-term Care Facility Advisory Subcommittee that shall develop and recommend to the Board the rules to be established by the Board under this paragraph (15). The Subcommittee shall also provide continuous review and commentary on policies and procedures relative to long-term care and the review of related projects. In consultation with other experts from the health field of long-term care, the Board and the Subcommittee shall study new approaches to the current bed need formula and Health Service Area boundaries to encourage flexibility and innovation in design models reflective of the changing long-term care marketplace and consumer preferences. The Board shall file the proposed related administrative rules for the separate rules and guidelines for long-term care required by this paragraph (15) by September 1, 2010. The Subcommittee shall be provided a reasonable and timely opportunity to review and comment on any review, revision, or updating of the criteria, standards, procedures, and rules used to evaluate project applications as provided under Section 12.3 of this Act prior to approval by

the Board and promulgation of related rules.
(Source: P.A. 96-31, eff. 6-30-09; 96-339, eff. 7-1-10; 96-1000, eff. 7-2-10.)

(20 ILCS 3960/13) (from Ch. 111 1/2, par. 1163)

(Section scheduled to be repealed on December 31, 2019)

Sec. 13. Investigation of applications for permits and certificates of recognition. The Agency or the State Board shall make or cause to be made such investigations as it or the State Board deems necessary in connection with an application for a permit or an application for a certificate of recognition, or in connection with a determination of whether or not construction or modification which has been commenced is in accord with the permit issued by the State Board or whether construction or modification has been commenced without a permit having been obtained. The State Board may issue subpoenas duces tecum requiring the production of records and may administer oaths to such witnesses.

Any circuit court of this State, upon the application of the State Board or upon the application of any party to such proceedings, may, in its discretion, compel the attendance of witnesses, the production of books, papers, records, or memoranda and the giving of testimony before the State Board, by a proceeding as for contempt, or otherwise, in the same manner as production of evidence may be compelled before the court.

The State Board shall require all health facilities operating in this State to provide such reasonable reports at such times and containing such information as is needed by it to carry out the purposes and provisions of this Act. Prior to collecting information from health facilities, the State Board shall make reasonable efforts through a public process to consult with health facilities and associations that represent them to determine whether data and information requests will result in useful information for health planning, whether sufficient information is available from other sources, and whether data requested is routinely collected by health facilities and is available without retrospective record review. Data and information requests shall not impose undue paperwork burdens on health care facilities and personnel. Health facilities not complying with this requirement shall be reported to licensing, accrediting, certifying, or payment agencies as being in violation of State law. Health care facilities and other parties at interest shall have reasonable access, under rules established by the State Board, to all planning information submitted in accord with this Act pertaining to their area.

Among the reports to be required by the State Board are facility questionnaires for health care facilities licensed under the Ambulatory Surgical Treatment Center Act, the Hospital Licensing Act, the Nursing Home Care Act, the ID/DD ~~MR/DD~~ Community Care Act, or the End Stage Renal Disease

Facility Act. These questionnaires shall be conducted on an annual basis and compiled by the Agency. For health care facilities licensed under the Nursing Home Care Act or the ID/DD ~~MR/DD~~ Community Care Act, these reports shall include, but not be limited to, the identification of specialty services provided by the facility to patients, residents, and the community at large. For health care facilities that contain long term care beds, the reports shall also include the number of staffed long term care beds, physical capacity for long term care beds at the facility, and long term care beds available for immediate occupancy. For purposes of this paragraph, "long term care beds" means beds (i) licensed under the Nursing Home Care Act, (ii) licensed under the ID/DD ~~MR/DD~~ Community Care Act, or (iii) licensed under the Hospital Licensing Act and certified as skilled nursing or nursing facility beds under Medicaid or Medicare.

(Source: P.A. 96-339, eff. 7-1-10.)

(20 ILCS 3960/14.1)

Sec. 14.1. Denial of permit; other sanctions.

(a) The State Board may deny an application for a permit or may revoke or take other action as permitted by this Act with regard to a permit as the State Board deems appropriate, including the imposition of fines as set forth in this Section, for any one or a combination of the following:

(1) The acquisition of major medical equipment without

a permit or in violation of the terms of a permit.

(2) The establishment, construction, or modification of a health care facility without a permit or in violation of the terms of a permit.

(3) The violation of any provision of this Act or any rule adopted under this Act.

(4) The failure, by any person subject to this Act, to provide information requested by the State Board or Agency within 30 days after a formal written request for the information.

(5) The failure to pay any fine imposed under this Section within 30 days of its imposition.

(a-5) For facilities licensed under the ID/DD ~~MR/DD~~ Community Care Act, no permit shall be denied on the basis of prior operator history, other than for actions specified under item (2), (4), or (5) of Section 3-117 of the ID/DD ~~MR/DD~~ Community Care Act. For facilities licensed under the Nursing Home Care Act, no permit shall be denied on the basis of prior operator history, other than for: (i) actions specified under item (2), (3), (4), (5), or (6) of Section 3-117 of the Nursing Home Care Act; (ii) actions specified under item (a)(6) of Section 3-119 of the Nursing Home Care Act; or (iii) actions within the preceding 5 years constituting a substantial and repeated failure to comply with the Nursing Home Care Act or the rules and regulations adopted by the Department under that Act. The State Board shall not deny a permit on account of any

action described in this subsection (a-5) without also considering all such actions in the light of all relevant information available to the State Board, including whether the permit is sought to substantially comply with a mandatory or voluntary plan of correction associated with any action described in this subsection (a-5).

(b) Persons shall be subject to fines as follows:

(1) A permit holder who fails to comply with the requirements of maintaining a valid permit shall be fined an amount not to exceed 1% of the approved permit amount plus an additional 1% of the approved permit amount for each 30-day period, or fraction thereof, that the violation continues.

(2) A permit holder who alters the scope of an approved project or whose project costs exceed the allowable permit amount without first obtaining approval from the State Board shall be fined an amount not to exceed the sum of (i) the lesser of $25,000 or 2% of the approved permit amount and (ii) in those cases where the approved permit amount is exceeded by more than $1,000,000, an additional $20,000 for each $1,000,000, or fraction thereof, in excess of the approved permit amount.

(3) A person who acquires major medical equipment or who establishes a category of service without first obtaining a permit or exemption, as the case may be, shall be fined an amount not to exceed $10,000 for each such

acquisition or category of service established plus an additional $10,000 for each 30-day period, or fraction thereof, that the violation continues.

(4) A person who constructs, modifies, or establishes a health care facility without first obtaining a permit shall be fined an amount not to exceed $25,000 plus an additional $25,000 for each 30-day period, or fraction thereof, that the violation continues.

(5) A person who discontinues a health care facility or a category of service without first obtaining a permit shall be fined an amount not to exceed $10,000 plus an additional $10,000 for each 30-day period, or fraction thereof, that the violation continues. For purposes of this subparagraph (5), facilities licensed under the Nursing Home Care Act or the ID/DD ~~MR/DD~~ Community Care Act, with the exceptions of facilities operated by a county or Illinois Veterans Homes, are exempt from this permit requirement. However, facilities licensed under the Nursing Home Care Act or the ID/DD ~~MR/DD~~ Community Care Act must comply with Section 3-423 of the Nursing Home Care Act or Section 3-423 of the ID/DD ~~MR/DD~~ Community Care Act and must provide the Board with 30-days' written notice of its intent to close.

(6) A person subject to this Act who fails to provide information requested by the State Board or Agency within 30 days of a formal written request shall be fined an

amount not to exceed $1,000 plus an additional $1,000 for each 30-day period, or fraction thereof, that the information is not received by the State Board or Agency.

(c) Before imposing any fine authorized under this Section, the State Board shall afford the person or permit holder, as the case may be, an appearance before the State Board and an opportunity for a hearing before a hearing officer appointed by the State Board. The hearing shall be conducted in accordance with Section 10.

(d) All fines collected under this Act shall be transmitted to the State Treasurer, who shall deposit them into the Illinois Health Facilities Planning Fund.

(Source: P.A. 95-543, eff. 8-28-07; 96-339, eff. 7-1-10; 96-1372, eff. 7-29-10.)

Section 30. The State Finance Act is amended by changing Section 8.8 as follows:

(30 ILCS 105/8.8) (from Ch. 127, par. 144.8)

Sec. 8.8. Appropriations for the improvement, development, addition or expansion of services for the care, treatment, and training of persons who are intellectually disabled ~~mentally retarded~~ or subject to involuntary admission under the Mental Health and Developmental Disabilities Code or for the financing of any program designed to provide such improvement, development, addition or expansion of services or for expenses

incurred in administering the provisions of Sections 5-105 to 5-115, inclusive, of the Mental Health and Developmental Disabilities Code, or other ordinary and contingent expenses of the Department of Human Services relating to mental health and developmental disabilities, are payable from the Mental Health Fund. However, no expenditures shall be made for the purchase, construction, lease, or rental of buildings for use as State-operated mental health or developmental disability facilities.

(Source: P.A. 96-959, eff. 7-1-10.)

Section 35. The Business Enterprise for Minorities, Females, and Persons with Disabilities Act is amended by changing Section 2 as follows:

(30 ILCS 575/2)

(Section scheduled to be repealed on June 30, 2012)

Sec. 2. Definitions.

(A) For the purpose of this Act, the following terms shall have the following definitions:

(1) "Minority person" shall mean a person who is a citizen or lawful permanent resident of the United States and who is:

(a) African American (a person having origins in any of the black racial groups in Africa);

(b) Hispanic (a person of Spanish or Portuguese culture with origins in Mexico, South or Central America, or the

Caribbean Islands, regardless of race);

(c) Asian American (a person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent or the Pacific Islands); or

(d) Native American or Alaskan Native (a person having origins in any of the original peoples of North America).

(2) "Female" shall mean a person who is a citizen or lawful permanent resident of the United States and who is of the female gender.

(2.05) "Person with a disability" means a person who is a citizen or lawful resident of the United States and is a person qualifying as being disabled under subdivision (2.1) of this subsection (A).

(2.1) "Disabled" means a severe physical or mental disability that:

(a) results from:

amputation,

arthritis,

autism,

blindness,

burn injury,

cancer,

cerebral palsy,

Crohn's disease,

cystic fibrosis,

deafness,

head injury,

heart disease,

hemiplegia,

hemophilia,

respiratory or pulmonary dysfunction,

an intellectual disability ~~mental retardation~~,

mental illness,

multiple sclerosis,

muscular dystrophy,

musculoskeletal disorders,

neurological disorders, including stroke and epilepsy,

paraplegia,

quadriplegia and other spinal cord conditions,

sickle cell anemia,

ulcerative colitis,

specific learning disabilities, or

end stage renal failure disease; and

(b) substantially limits one or more of the person's major life activities.

Another disability or combination of disabilities may also be considered as a severe disability for the purposes of item (a) of this subdivision (2.1) if it is determined by an evaluation of rehabilitation potential to cause a comparable degree of substantial functional limitation similar to the specific list of disabilities listed in item (a) of this subdivision (2.1).

(3) "Minority owned business" means a business concern which is at least 51% owned by one or more minority persons, or in the case of a corporation, at least 51% of the stock in which is owned by one or more minority persons; and the management and daily business operations of which are controlled by one or more of the minority individuals who own it.

(4) "Female owned business" means a business concern which is at least 51% owned by one or more females, or, in the case of a corporation, at least 51% of the stock in which is owned by one or more females; and the management and daily business operations of which are controlled by one or more of the females who own it.

(4.1) "Business owned by a person with a disability" means a business concern that is at least 51% owned by one or more persons with a disability and the management and daily business operations of which are controlled by one or more of the persons with disabilities who own it. A not-for-profit agency for persons with disabilities that is exempt from taxation under Section 501 of the Internal Revenue Code of 1986 is also considered a "business owned by a person with a disability".

(4.2) "Council" means the Business Enterprise Council for Minorities, Females, and Persons with Disabilities created under Section 5 of this Act.

(5) "State contracts" shall mean all State contracts, funded exclusively with State funds which are not subject to

federal reimbursement, whether competitively bid or negotiated as defined by the Secretary of the Council and approved by the Council.

"State construction contracts" means all State contracts entered into by a State agency or State university for the repair, remodeling, renovation or construction of a building or structure, or for the construction or maintenance of a highway defined in Article 2 of the Illinois Highway Code.

(6) "State agencies" shall mean all departments, officers, boards, commissions, institutions and bodies politic and corporate of the State, but does not include 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, municipalities or other local governmental units, or other State constitutional officers.

(7) "State universities" shall mean 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, and the Board of Trustees of Western Illinois University.

(8) "Certification" means a determination made by the Council or by one delegated authority from the Council to make certifications, or by a State agency with statutory authority to make such a certification, that a business entity is a business owned by a minority, female, or person with a disability for whatever purpose. A business owned and controlled by females shall select and designate whether such business is to be certified as a "Female-owned business" or "Minority-owned business" if the females are also minorities.

(9) "Control" means the exclusive or ultimate and sole control of the business including, but not limited to, capital investment and all other financial matters, property, acquisitions, contract negotiations, legal matters, officer-director-employee selection and comprehensive hiring, operating responsibilities, cost-control matters, income and dividend matters, financial transactions and rights of other shareholders or joint partners. Control shall be real, substantial and continuing, not pro forma. Control shall include the power to direct or cause the direction of the management and policies of the business and to make the day-to-day as well as major decisions in matters of policy, management and operations. Control shall be exemplified by

possessing the requisite knowledge and expertise to run the particular business and control shall not include simple majority or absentee ownership.

(10) "Business concern or business" means a business that has annual gross sales of less than $75,000,000 as evidenced by the federal income tax return of the business. A firm with gross sales in excess of this cap may apply to the Council for certification for a particular contract if the firm can demonstrate that the contract would have significant impact on businesses owned by minorities, females, or persons with disabilities as suppliers or subcontractors or in employment of minorities, females, or persons with disabilities.

(B) When a business concern is owned at least 51% by any combination of minority persons, females, or persons with disabilities, even though none of the 3 classes alone holds at least a 51% interest, the ownership requirement for purposes of this Act is considered to be met. The certification category for the business is that of the class holding the largest ownership interest in the business. If 2 or more classes have equal ownership interests, the certification category shall be determined by the business concern.

(Source: P.A. 95-344, eff. 8-21-07; 96-453, eff. 8-14-09; 96-795, eff. 7-1-10 (see Section 5 of P.A. 96-793 for effective date of changes made by P.A. 96-795); 96-1000, eff. 7-2-10.)

Section 36. The Illinois Income Tax Act is amended by

changing Section 806 as follows:

(35 ILCS 5/806)

Sec. 806. Exemption from penalty. An individual taxpayer shall not be subject to a penalty for failing to pay estimated tax as required by Section 803 if the taxpayer is 65 years of age or older and is a permanent resident of a nursing home. For purposes of this Section, "nursing home" means a skilled nursing or intermediate long term care facility that is subject to licensure by the Illinois Department of Public Health under the Nursing Home Care Act or the ID/DD ~~MR/DD~~ Community Care Act.

(Source: P.A. 96-339, eff. 7-1-10.)

Section 37. The Use Tax Act is amended by changing Section 3-5 as follows:

(35 ILCS 105/3-5)

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 through August 30, 2014, 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 for such taxes paid during the period beginning May 30, 2000 and ending on January 1, 2008.

(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 V of the Illinois Public Aid Code who resides in a licensed long-term care facility, as defined in the Nursing Home Care Act, or in a licensed facility as defined in the ID/DD ~~MR/DD~~ Community 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.

(35) Beginning January 1, 2010, materials, parts, equipment, components, and furnishings incorporated into or upon an aircraft as part of the modification, refurbishment, completion, replacement, repair, or maintenance of the aircraft. This exemption includes consumable supplies used in the modification, refurbishment, completion, replacement, repair, and maintenance of aircraft, but excludes any materials, parts, equipment, components, and consumable supplies used in the modification, replacement, repair, and maintenance of aircraft engines or power plants, whether such engines or power plants are installed or uninstalled upon any such aircraft. "Consumable supplies" include, but are not limited to, adhesive, tape, sandpaper, general purpose lubricants, cleaning solution, latex gloves, and protective films. This exemption applies only to those organizations that (i) hold an Air Agency Certificate and are empowered to operate an approved repair station by the Federal Aviation Administration, (ii) have a Class IV Rating, and (iii) conduct operations in accordance with Part 145 of the Federal Aviation Regulations. The exemption does not include aircraft operated by a commercial air carrier providing scheduled passenger air

service pursuant to authority issued under Part 121 or Part 129 of the Federal Aviation Regulations.

(36) Tangible personal property purchased by a public-facilities corporation, as described in Section 11-65-10 of the Illinois Municipal Code, for purposes of constructing or furnishing a municipal convention hall, but only if the legal title to the municipal convention hall is transferred to the municipality without any further consideration by or on behalf of the municipality at the time of the completion of the municipal convention hall or upon the retirement or redemption of any bonds or other debt instruments issued by the public-facilities corporation in connection with the development of the municipal convention hall. This exemption includes existing public-facilities corporations as provided in Section 11-65-25 of the Illinois Municipal Code. This paragraph is exempt from the provisions of Section 3-90.

(Source: P.A. 95-88, eff. 1-1-08; 95-538, eff. 1-1-08; 95-876, eff. 8-21-08; 96-116, eff. 7-31-09; 96-339, eff. 7-1-10; 96-532, eff. 8-14-09; 96-759, eff. 1-1-10; 96-1000, eff. 7-2-10.)

Section 38. The Service Use Tax Act is amended by changing Sections 3-5 and 3-10 as follows:

(35 ILCS 110/3-5)

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 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 through August 30, 2014, 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 V of the Illinois Public Aid Code who resides in a licensed long-term care facility, as defined in the Nursing Home Care Act, or in a licensed facility as defined in the ID/DD ~~MR/DD~~ Community 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.

(27) Beginning January 1, 2010, materials, parts, equipment, components, and furnishings incorporated into or upon an aircraft as part of the modification, refurbishment, completion, replacement, repair, or maintenance of the aircraft. This exemption includes consumable supplies used in the modification, refurbishment, completion, replacement,

repair, and maintenance of aircraft, but excludes any materials, parts, equipment, components, and consumable supplies used in the modification, replacement, repair, and maintenance of aircraft engines or power plants, whether such engines or power plants are installed or uninstalled upon any such aircraft. "Consumable supplies" include, but are not limited to, adhesive, tape, sandpaper, general purpose lubricants, cleaning solution, latex gloves, and protective films. This exemption applies only to those organizations that (i) hold an Air Agency Certificate and are empowered to operate an approved repair station by the Federal Aviation Administration, (ii) have a Class IV Rating, and (iii) conduct operations in accordance with Part 145 of the Federal Aviation Regulations. The exemption does not include aircraft operated by a commercial air carrier providing scheduled passenger air service pursuant to authority issued under Part 121 or Part 129 of the Federal Aviation Regulations.

(28) Tangible personal property purchased by a public-facilities corporation, as described in Section 11-65-10 of the Illinois Municipal Code, for purposes of constructing or furnishing a municipal convention hall, but only if the legal title to the municipal convention hall is transferred to the municipality without any further consideration by or on behalf of the municipality at the time of the completion of the municipal convention hall or upon the retirement or redemption of any bonds or other debt instruments

issued by the public-facilities corporation in connection with the development of the municipal convention hall. This exemption includes existing public-facilities corporations as provided in Section 11-65-25 of the Illinois Municipal Code. This paragraph is exempt from the provisions of Section 3-75. (Source: P.A. 95-88, eff. 1-1-08; 95-538, eff. 1-1-08; 95-876, eff. 8-21-08; 96-116, eff. 7-31-09; 96-339, eff. 7-1-10; 96-532, eff. 8-14-09; 96-759, eff. 1-1-10; 96-1000, eff. 7-2-10.)

(35 ILCS 110/3-10) (from Ch. 120, par. 439.33-10)

Sec. 3-10. Rate of tax. Unless otherwise provided in this Section, the tax imposed by this Act is at the rate of 6.25% of the selling price of tangible personal property transferred as an incident to the sale of service, but, for the purpose of computing this tax, in no event shall the selling price be less than the cost price of the property to the serviceman.

Beginning on July 1, 2000 and through December 31, 2000, with respect to motor fuel, as defined in Section 1.1 of the Motor Fuel Tax Law, and gasohol, as defined in Section 3-40 of the Use Tax Act, the tax is imposed at the rate of 1.25%.

With respect to gasohol, as defined in the Use Tax Act, the tax imposed by this Act applies to (i) 70% of the selling price of property transferred as an incident to the sale of service on or after January 1, 1990, and before July 1, 2003, (ii) 80% of the selling price of property transferred as an incident to

the sale of service on or after July 1, 2003 and on or before December 31, 2013, and (iii) 100% of the selling price thereafter. If, at any time, however, the tax under this Act on sales of gasohol, as defined in the Use Tax Act, is imposed at the rate of 1.25%, then the tax imposed by this Act applies to 100% of the proceeds of sales of gasohol made during that time.

With respect to majority blended ethanol fuel, as defined in the Use Tax Act, the tax imposed by this Act does not apply to the selling price of property transferred as an incident to the sale of service on or after July 1, 2003 and on or before December 31, 2013 but applies to 100% of the selling price thereafter.

With respect to biodiesel blends, as defined in the Use Tax Act, with no less than 1% and no more than 10% biodiesel, the tax imposed by this Act applies to (i) 80% of the selling price of property transferred as an incident to the sale of service on or after July 1, 2003 and on or before December 31, 2013 and (ii) 100% of the proceeds of the selling price thereafter. If, at any time, however, the tax under this Act on sales of biodiesel blends, as defined in the Use Tax Act, with no less than 1% and no more than 10% biodiesel is imposed at the rate of 1.25%, then the tax imposed by this Act applies to 100% of the proceeds of sales of biodiesel blends with no less than 1% and no more than 10% biodiesel made during that time.

With respect to 100% biodiesel, as defined in the Use Tax Act, and biodiesel blends, as defined in the Use Tax Act, with

more than 10% but no more than 99% biodiesel, the tax imposed by this Act does not apply to the proceeds of the selling price of property transferred as an incident to the sale of service on or after July 1, 2003 and on or before December 31, 2013 but applies to 100% of the selling price thereafter.

At the election of any registered serviceman made for each fiscal year, sales of service in which the aggregate annual cost price of tangible personal property transferred as an incident to the sales of service is less than 35%, or 75% in the case of servicemen transferring prescription drugs or servicemen engaged in graphic arts production, of the aggregate annual total gross receipts from all sales of service, the tax imposed by this Act shall be based on the serviceman's cost price of the tangible personal property transferred as an incident to the sale of those services.

The tax shall be imposed at the rate of 1% on food prepared for immediate consumption and transferred incident to a sale of service subject to this Act or the Service Occupation Tax Act by an entity licensed under the Hospital Licensing Act, the Nursing Home Care Act, the ID/DD ~~MR/DD~~ Community Care Act, or the Child Care Act of 1969. The tax shall also be imposed at the rate of 1% on 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 is not otherwise included in this paragraph) and prescription and

nonprescription medicines, drugs, medical appliances, modifications to a motor vehicle for the purpose of rendering it usable by a disabled person, and insulin, urine testing materials, syringes, and needles used by diabetics, for human use. For the purposes of this Section, until September 1, 2009: the term "soft drinks" means any complete, finished, ready-to-use, non-alcoholic drink, whether carbonated or not, including but not limited to soda water, cola, fruit juice, vegetable juice, carbonated water, and all other preparations commonly known as soft drinks of whatever kind or description that are contained in any closed or sealed bottle, can, carton, or container, regardless of size; but "soft drinks" does not include coffee, tea, non-carbonated water, infant formula, milk or milk products as defined in the Grade A Pasteurized Milk and Milk Products Act, or drinks containing 50% or more natural fruit or vegetable juice.

Notwithstanding any other provisions of this Act, beginning September 1, 2009, "soft drinks" means non-alcoholic beverages that contain natural or artificial sweeteners. "Soft drinks" do not include beverages that contain milk or milk products, soy, rice or similar milk substitutes, or greater than 50% of vegetable or fruit juice by volume.

Until August 1, 2009, and notwithstanding any other provisions of this Act, "food for human consumption that is to be consumed off the premises where it is sold" includes all food sold through a vending machine, except soft drinks and

food products that are dispensed hot from a vending machine, regardless of the location of the vending machine. Beginning August 1, 2009, and notwithstanding any other provisions of this Act, "food for human consumption that is to be consumed off the premises where it is sold" includes all food sold through a vending machine, except soft drinks, candy, and food products that are dispensed hot from a vending machine, regardless of the location of the vending machine.

Notwithstanding any other provisions of this Act, beginning September 1, 2009, "food for human consumption that is to be consumed off the premises where it is sold" does not include candy. For purposes of this Section, "candy" means a preparation of sugar, honey, or other natural or artificial sweeteners in combination with chocolate, fruits, nuts or other ingredients or flavorings in the form of bars, drops, or pieces. "Candy" does not include any preparation that contains flour or requires refrigeration.

Notwithstanding any other provisions of this Act, beginning September 1, 2009, "nonprescription medicines and drugs" does not include grooming and hygiene products. For purposes of this Section, "grooming and hygiene products" includes, but is not limited to, soaps and cleaning solutions, shampoo, toothpaste, mouthwash, antiperspirants, and sun tan lotions and screens, unless those products are available by prescription only, regardless of whether the products meet the definition of "over-the-counter-drugs". For the purposes of

this paragraph, "over-the-counter-drug" means a drug for human use that contains a label that identifies the product as a drug as required by 21 C.F.R. § 201.66. The "over-the-counter-drug" label includes:

(A) A "Drug Facts" panel; or

(B) A statement of the "active ingredient(s)" with a list of those ingredients contained in the compound, substance or preparation.

If the property that is acquired from a serviceman is acquired outside Illinois and used outside Illinois before being brought to Illinois for use here and is taxable under this Act, the "selling price" on which the tax is computed shall be reduced by an amount that represents a reasonable allowance for depreciation for the period of prior out-of-state use.

(Source: P.A. 96-34, eff. 7-13-09; 96-37, eff. 7-13-09; 96-38, eff. 7-13-09; 96-339, eff. 7-1-10; 96-1000, eff. 7-2-10.)

Section 39. The Service Occupation Tax Act is amended by changing Sections 3-5 and 3-10 as follows:

(35 ILCS 115/3-5)

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 through August 30, 2014, 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 V of the Illinois Public Aid Code who resides in a licensed long-term care facility, as defined in the Nursing Home Care Act, or in a licensed facility as defined in the ID/DD ~~MR/DD~~ Community 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) 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).

(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.

(28) Tangible personal property sold to a public-facilities corporation, as described in Section 11-65-10 of the Illinois Municipal Code, for purposes of constructing or furnishing a municipal convention hall, but only if the legal title to the municipal convention hall is transferred to the municipality without any further consideration by or on behalf of the municipality at the time of the completion of the municipal convention hall or upon the retirement or redemption of any bonds or other debt instruments issued by the public-facilities corporation in connection with the development of the municipal convention hall. This exemption includes existing public-facilities corporations as provided in Section 11-65-25 of the Illinois Municipal Code. This paragraph is exempt from the provisions of Section 3-55.

(29) Beginning January 1, 2010, materials, parts, equipment, components, and furnishings incorporated into or upon an aircraft as part of the modification, refurbishment, completion, replacement, repair, or maintenance of the aircraft. This exemption includes consumable supplies used in

the modification, refurbishment, completion, replacement, repair, and maintenance of aircraft, but excludes any materials, parts, equipment, components, and consumable supplies used in the modification, replacement, repair, and maintenance of aircraft engines or power plants, whether such engines or power plants are installed or uninstalled upon any such aircraft. "Consumable supplies" include, but are not limited to, adhesive, tape, sandpaper, general purpose lubricants, cleaning solution, latex gloves, and protective films. This exemption applies only to those organizations that (i) hold an Air Agency Certificate and are empowered to operate an approved repair station by the Federal Aviation Administration, (ii) have a Class IV Rating, and (iii) conduct operations in accordance with Part 145 of the Federal Aviation Regulations. The exemption does not include aircraft operated by a commercial air carrier providing scheduled passenger air service pursuant to authority issued under Part 121 or Part 129 of the Federal Aviation Regulations.

(Source: P.A. 95-88, eff. 1-1-08; 95-538, eff. 1-1-08; 95-876, eff. 8-21-08; 96-116, eff. 7-31-09; 96-339, eff. 7-1-10; 96-532, eff. 8-14-09; 96-759, eff. 1-1-10; 96-1000, eff. 7-2-10.)

(35 ILCS 115/3-10) (from Ch. 120, par. 439.103-10)

Sec. 3-10. Rate of tax. Unless otherwise provided in this Section, the tax imposed by this Act is at the rate of 6.25% of

the "selling price", as defined in Section 2 of the Service Use Tax Act, of the tangible personal property. For the purpose of computing this tax, in no event shall the "selling price" be less than the cost price to the serviceman of the tangible personal property transferred. The selling price of each item of tangible personal property transferred as an incident of a sale of service may be shown as a distinct and separate item on the serviceman's billing to the service customer. If the selling price is not so shown, the selling price of the tangible personal property is deemed to be 50% of the serviceman's entire billing to the service customer. When, however, a serviceman contracts to design, develop, and produce special order machinery or equipment, the tax imposed by this Act shall be based on the serviceman's cost price of the tangible personal property transferred incident to the completion of the contract.

Beginning on July 1, 2000 and through December 31, 2000, with respect to motor fuel, as defined in Section 1.1 of the Motor Fuel Tax Law, and gasohol, as defined in Section 3-40 of the Use Tax Act, the tax is imposed at the rate of 1.25%.

With respect to gasohol, as defined in the Use Tax Act, the tax imposed by this Act shall apply to (i) 70% of the cost price of property transferred as an incident to the sale of service on or after January 1, 1990, and before July 1, 2003, (ii) 80% of the selling price of property transferred as an incident to the sale of service on or after July 1, 2003 and on

or before December 31, 2013, and (iii) 100% of the cost price thereafter. If, at any time, however, the tax under this Act on sales of gasohol, as defined in the Use Tax Act, is imposed at the rate of 1.25%, then the tax imposed by this Act applies to 100% of the proceeds of sales of gasohol made during that time.

With respect to majority blended ethanol fuel, as defined in the Use Tax Act, the tax imposed by this Act does not apply to the selling price of property transferred as an incident to the sale of service on or after July 1, 2003 and on or before December 31, 2013 but applies to 100% of the selling price thereafter.

With respect to biodiesel blends, as defined in the Use Tax Act, with no less than 1% and no more than 10% biodiesel, the tax imposed by this Act applies to (i) 80% of the selling price of property transferred as an incident to the sale of service on or after July 1, 2003 and on or before December 31, 2013 and (ii) 100% of the proceeds of the selling price thereafter. If, at any time, however, the tax under this Act on sales of biodiesel blends, as defined in the Use Tax Act, with no less than 1% and no more than 10% biodiesel is imposed at the rate of 1.25%, then the tax imposed by this Act applies to 100% of the proceeds of sales of biodiesel blends with no less than 1% and no more than 10% biodiesel made during that time.

With respect to 100% biodiesel, as defined in the Use Tax Act, and biodiesel blends, as defined in the Use Tax Act, with more than 10% but no more than 99% biodiesel material, the tax

imposed by this Act does not apply to the proceeds of the selling price of property transferred as an incident to the sale of service on or after July 1, 2003 and on or before December 31, 2013 but applies to 100% of the selling price thereafter.

At the election of any registered serviceman made for each fiscal year, sales of service in which the aggregate annual cost price of tangible personal property transferred as an incident to the sales of service is less than 35%, or 75% in the case of servicemen transferring prescription drugs or servicemen engaged in graphic arts production, of the aggregate annual total gross receipts from all sales of service, the tax imposed by this Act shall be based on the serviceman's cost price of the tangible personal property transferred incident to the sale of those services.

The tax shall be imposed at the rate of 1% on food prepared for immediate consumption and transferred incident to a sale of service subject to this Act or the Service Occupation Tax Act by an entity licensed under the Hospital Licensing Act, the Nursing Home Care Act, the ID/DD ~~MR/DD~~ Community Care Act, or the Child Care Act of 1969. The tax shall also be imposed at the rate of 1% on 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 is not otherwise included in this paragraph) and prescription and

nonprescription medicines, drugs, medical appliances, modifications to a motor vehicle for the purpose of rendering it usable by a disabled person, and insulin, urine testing materials, syringes, and needles used by diabetics, for human use. For the purposes of this Section, until September 1, 2009: the term "soft drinks" means any complete, finished, ready-to-use, non-alcoholic drink, whether carbonated or not, including but not limited to soda water, cola, fruit juice, vegetable juice, carbonated water, and all other preparations commonly known as soft drinks of whatever kind or description that are contained in any closed or sealed can, carton, or container, regardless of size; but "soft drinks" does not include coffee, tea, non-carbonated water, infant formula, milk or milk products as defined in the Grade A Pasteurized Milk and Milk Products Act, or drinks containing 50% or more natural fruit or vegetable juice.

Notwithstanding any other provisions of this Act, beginning September 1, 2009, "soft drinks" means non-alcoholic beverages that contain natural or artificial sweeteners. "Soft drinks" do not include beverages that contain milk or milk products, soy, rice or similar milk substitutes, or greater than 50% of vegetable or fruit juice by volume.

Until August 1, 2009, and notwithstanding any other provisions of this Act, "food for human consumption that is to be consumed off the premises where it is sold" includes all food sold through a vending machine, except soft drinks and

food products that are dispensed hot from a vending machine, regardless of the location of the vending machine. Beginning August 1, 2009, and notwithstanding any other provisions of this Act, "food for human consumption that is to be consumed off the premises where it is sold" includes all food sold through a vending machine, except soft drinks, candy, and food products that are dispensed hot from a vending machine, regardless of the location of the vending machine.

Notwithstanding any other provisions of this Act, beginning September 1, 2009, "food for human consumption that is to be consumed off the premises where it is sold" does not include candy. For purposes of this Section, "candy" means a preparation of sugar, honey, or other natural or artificial sweeteners in combination with chocolate, fruits, nuts or other ingredients or flavorings in the form of bars, drops, or pieces. "Candy" does not include any preparation that contains flour or requires refrigeration.

Notwithstanding any other provisions of this Act, beginning September 1, 2009, "nonprescription medicines and drugs" does not include grooming and hygiene products. For purposes of this Section, "grooming and hygiene products" includes, but is not limited to, soaps and cleaning solutions, shampoo, toothpaste, mouthwash, antiperspirants, and sun tan lotions and screens, unless those products are available by prescription only, regardless of whether the products meet the definition of "over-the-counter-drugs". For the purposes of

this paragraph, "over-the-counter-drug" means a drug for human use that contains a label that identifies the product as a drug as required by 21 C.F.R. § 201.66. The "over-the-counter-drug" label includes:

(A) A "Drug Facts" panel; or

(B) A statement of the "active ingredient(s)" with a list of those ingredients contained in the compound, substance or preparation.

(Source: P.A. 96-34, eff. 7-13-09; 96-37, eff. 7-13-09; 96-38, eff. 7-13-09; 96-339, eff. 7-1-10; 96-1000, eff. 7-2-10.)

Section 40. The Retailers' Occupation Tax Act is amended by changing Section 2-5 as follows:

(35 ILCS 120/2-5)

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 through August 30, 2014, 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) 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 access 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. This paragraph is exempt from the provisions of Section 2-70.

(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) 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).

(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 V of the Illinois Public Aid Code who resides in a licensed long-term care facility, as defined in the Nursing Home Care Act, or a licensed facility as defined in the ID/DD ~~MR/DD~~ Community 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.

(40) Beginning January 1, 2010, materials, parts, equipment, components, and furnishings incorporated into or upon an aircraft as part of the modification, refurbishment, completion, replacement, repair, or maintenance of the aircraft. This exemption includes consumable supplies used in the modification, refurbishment, completion, replacement, repair, and maintenance of aircraft, but excludes any materials, parts, equipment, components, and consumable supplies used in the modification, replacement, repair, and maintenance of aircraft engines or power plants, whether such

engines or power plants are installed or uninstalled upon any such aircraft. "Consumable supplies" include, but are not limited to, adhesive, tape, sandpaper, general purpose lubricants, cleaning solution, latex gloves, and protective films. This exemption applies only to those organizations that (i) hold an Air Agency Certificate and are empowered to operate an approved repair station by the Federal Aviation Administration, (ii) have a Class IV Rating, and (iii) conduct operations in accordance with Part 145 of the Federal Aviation Regulations. The exemption does not include aircraft operated by a commercial air carrier providing scheduled passenger air service pursuant to authority issued under Part 121 or Part 129 of the Federal Aviation Regulations.

(41) Tangible personal property sold to a public-facilities corporation, as described in Section 11-65-10 of the Illinois Municipal Code, for purposes of constructing or furnishing a municipal convention hall, but only if the legal title to the municipal convention hall is transferred to the municipality without any further consideration by or on behalf of the municipality at the time of the completion of the municipal convention hall or upon the retirement or redemption of any bonds or other debt instruments issued by the public-facilities corporation in connection with the development of the municipal convention hall. This exemption includes existing public-facilities corporations as provided in Section 11-65-25 of the Illinois Municipal Code.

This paragraph is exempt from the provisions of Section 2-70. (Source: P.A. 95-88, eff. 1-1-08; 95-233, eff. 8-16-07; 95-304, eff. 8-20-07; 95-538, eff. 1-1-08; 95-707, eff. 1-11-08; 95-876, eff. 8-21-08; 96-116, eff. 7-31-09; 96-339, eff. 7-1-10; 96-532, eff. 8-14-09; 96-759, eff. 1-1-10; 96-1000, eff. 7-2-10.)

Section 41. The Property Tax Code is amended by changing Sections 15-168, 15-170, and 15-172 as follows:

(35 ILCS 200/15-168)

Sec. 15-168. Disabled persons' homestead exemption.

(a) Beginning with taxable year 2007, an annual homestead exemption is granted to disabled persons in the amount of $2,000, except as provided in subsection (c), to be deducted from the property's value as equalized or assessed by the Department of Revenue. The disabled person shall receive the homestead exemption upon meeting the following requirements:

(1) The property must be occupied as the primary residence by the disabled person.

(2) The disabled person must be liable for paying the real estate taxes on the property.

(3) The disabled person must be an owner of record of the property or have a legal or equitable interest in the property as evidenced by a written instrument. In the case of a leasehold interest in property, the lease must be for

a single family residence.

A person who is disabled during the taxable year is eligible to apply for this homestead exemption during that taxable year. Application must be made during the application period in effect for the county of residence. If a homestead exemption has been granted under this Section and the person awarded the exemption subsequently becomes a resident of a facility licensed under the Nursing Home Care Act or the ID/DD ~~MR/DD~~ Community Care Act, then the exemption shall continue (i) so long as the residence continues to be occupied by the qualifying person's spouse or (ii) if the residence remains unoccupied but is still owned by the person qualified for the homestead exemption.

(b) For the purposes of this Section, "disabled person" means a person unable to engage in any substantial gainful activity by reason of a medically determinable physical or mental impairment which can be expected to result in death or has lasted or can be expected to last for a continuous period of not less than 12 months. Disabled persons filing claims under this Act shall submit proof of disability in such form and manner as the Department shall by rule and regulation prescribe. Proof that a claimant is eligible to receive disability benefits under the Federal Social Security Act shall constitute proof of disability for purposes of this Act. Issuance of an Illinois Disabled Person Identification Card stating that the claimant is under a Class 2 disability, as

defined in Section 4A of The Illinois Identification Card Act, shall constitute proof that the person named thereon is a disabled person for purposes of this Act. A disabled person not covered under the Federal Social Security Act and not presenting a Disabled Person Identification Card stating that the claimant is under a Class 2 disability shall be examined by a physician designated by the Department, and his status as a disabled person determined using the same standards as used by the Social Security Administration. The costs of any required examination shall be borne by the claimant.

(c) For land improved with (i) an apartment building owned and operated as a cooperative or (ii) a life care facility as defined under Section 2 of the Life Care Facilities Act that is considered to be a cooperative, the maximum reduction from the value of the property, as equalized or assessed by the Department, shall be multiplied by the number of apartments or units occupied by a disabled person. The disabled person shall receive the homestead exemption upon meeting the following requirements:

(1) The property must be occupied as the primary residence by the disabled person.

(2) The disabled person must be liable by contract with the owner or owners of record for paying the apportioned property taxes on the property of the cooperative or life care facility. In the case of a life care facility, the disabled person must be liable for paying the apportioned

property taxes under a life care contract as defined in Section 2 of the Life Care Facilities Act.

(3) The disabled person must be an owner of record of a legal or equitable interest in the cooperative apartment building. A leasehold interest does not meet this requirement.

If a homestead exemption is granted under this subsection, the cooperative association or management firm shall credit the savings resulting from the exemption to the apportioned tax liability of the qualifying disabled person. The chief county assessment officer may request reasonable proof that the association or firm has properly credited the exemption. A person who willfully refuses to credit an exemption to the qualified disabled person is guilty of a Class B misdemeanor.

(d) The chief county assessment officer shall determine the eligibility of property to receive the homestead exemption according to guidelines established by the Department. After a person has received an exemption under this Section, an annual verification of eligibility for the exemption shall be mailed to the taxpayer.

In counties with fewer than 3,000,000 inhabitants, the chief county assessment officer shall provide to each person granted 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 person's qualifying property. 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 an administrative fee of $5 to the chief county assessment officer. The assessment officer shall then file the executed designation with the county collector, who shall issue the duplicate notices as indicated by the designation. A designation may be rescinded by the disabled person in the manner required by the chief county assessment officer.

(e) A taxpayer who claims an exemption under Section 15-165 or 15-169 may not claim an exemption under this Section.

(Source: P.A. 95-644, eff. 10-12-07; 96-339, eff. 7-1-10.)

(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 Assisted Living and Shared Housing Act, the Nursing Home Care Act, or the ID/DD ~~MR/DD~~ Community 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 3,000,000 or more inhabitants, beginning in taxable year 2010, each taxpayer who has been granted an exemption under this Section must reapply on an annual basis. The chief county assessment officer shall mail the application to the taxpayer. 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. 95-644, eff. 10-12-07; 95-876, eff. 8-21-08; 96-339, eff. 7-1-10; 96-355, eff. 1-1-10; 96-1000, eff. 7-2-10; 96-1418, eff. 8-2-10.)

(35 ILCS 200/15-172)

Sec. 15-172. Senior Citizens Assessment Freeze Homestead Exemption.

(a) This Section may be cited as the Senior Citizens Assessment Freeze Homestead Exemption.

(b) As used in this Section:

"Applicant" means an individual who has filed an application under this Section.

"Base amount" means the base year equalized assessed value of the residence plus the first year's equalized assessed value of any added improvements which increased the assessed value of the residence after the base year.

"Base year" means the taxable year prior to the taxable year for which the applicant first qualifies and applies for the exemption provided that in the prior taxable year the property was improved with a permanent structure that was occupied as a residence by the applicant who was liable for paying real property taxes on the property and who was either (i) an owner of record of the property or had legal or equitable interest in the property as evidenced by a written instrument or (ii) had a legal or equitable interest as a lessee in the parcel of property that was single family residence. If in any subsequent taxable year for which the applicant applies and qualifies for the exemption the equalized assessed value of the residence is less than the equalized assessed value in the existing base year (provided that such equalized assessed value is not based on an assessed value that results from a temporary irregularity in the property that reduces the assessed value for one or more taxable years), then

that subsequent taxable year shall become the base year until a new base year is established under the terms of this paragraph. For taxable year 1999 only, the Chief County Assessment Officer shall review (i) all taxable years for which the applicant applied and qualified for the exemption and (ii) the existing base year. The assessment officer shall select as the new base year the year with the lowest equalized assessed value. An equalized assessed value that is based on an assessed value that results from a temporary irregularity in the property that reduces the assessed value for one or more taxable years shall not be considered the lowest equalized assessed value. The selected year shall be the base year for taxable year 1999 and thereafter until a new base year is established under the terms of this paragraph.

"Chief County Assessment Officer" means the County Assessor or Supervisor of Assessments of the county in which the property is located.

"Equalized assessed value" means the assessed value as equalized by the Illinois Department of Revenue.

"Household" means the applicant, the spouse of the applicant, and all persons using the residence of the applicant as their principal place of residence.

"Household income" means the combined income of the members of a household for the calendar year preceding the taxable year.

"Income" has the same meaning as provided in Section 3.07

of the Senior Citizens and Disabled Persons Property Tax Relief and Pharmaceutical Assistance Act, except that, beginning in assessment year 2001, "income" does not include veteran's benefits.

"Internal Revenue Code of 1986" means the United States Internal Revenue Code of 1986 or any successor law or laws relating to federal income taxes in effect for the year preceding the taxable year.

"Life care facility that qualifies as a cooperative" means a facility as defined in Section 2 of the Life Care Facilities Act.

"Maximum income limitation" means:

(1) $35,000 prior to taxable year 1999;

(2) $40,000 in taxable years 1999 through 2003;

(3) $45,000 in taxable years 2004 through 2005;

(4) $50,000 in taxable years 2006 and 2007; and

(5) $55,000 in taxable year 2008 and thereafter.

"Residence" means the principal dwelling place and appurtenant structures used for residential purposes in this State occupied on January 1 of the taxable year by a household and so much of the surrounding land, constituting the parcel upon which the dwelling place is situated, as is used for residential purposes. If the Chief County Assessment Officer has established a specific legal description for a portion of property constituting the residence, then that portion of property shall be deemed the residence for the purposes of this

Section.

"Taxable year" means the calendar year during which ad valorem property taxes payable in the next succeeding year are levied.

(c) Beginning in taxable year 1994, a senior citizens assessment freeze homestead exemption is granted for real property that is improved with a permanent structure that is occupied as a residence by an applicant who (i) is 65 years of age or older during the taxable year, (ii) has a household income that does not exceed the maximum income limitation, (iii) is liable for paying real property taxes on the property, and (iv) is an owner of record of the property or has a legal or equitable interest in the property as evidenced by a written instrument. This homestead exemption shall also apply to a leasehold interest in a parcel of property improved with a permanent structure that is a single family residence that is occupied as a residence by a person who (i) is 65 years of age or older during the taxable year, (ii) has a household income that does not exceed the maximum income limitation, (iii) has a legal or equitable ownership interest in the property as lessee, and (iv) is liable for the payment of real property taxes on that property.

In counties of 3,000,000 or more inhabitants, the amount of the exemption for all taxable years is the equalized assessed value of the residence in the taxable year for which application is made minus the base amount. In all other

counties, the amount of the exemption is as follows: (i) through taxable year 2005 and for taxable year 2007 and thereafter, the amount of this exemption shall be the equalized assessed value of the residence in the taxable year for which application is made minus the base amount; and (ii) for taxable year 2006, the amount of the exemption is as follows:

(1) For an applicant who has a household income of $45,000 or less, the amount of the exemption is the equalized assessed value of the residence in the taxable year for which application is made minus the base amount.

(2) For an applicant who has a household income exceeding $45,000 but not exceeding $46,250, the amount of the exemption is (i) the equalized assessed value of the residence in the taxable year for which application is made minus the base amount (ii) multiplied by 0.8.

(3) For an applicant who has a household income exceeding $46,250 but not exceeding $47,500, the amount of the exemption is (i) the equalized assessed value of the residence in the taxable year for which application is made minus the base amount (ii) multiplied by 0.6.

(4) For an applicant who has a household income exceeding $47,500 but not exceeding $48,750, the amount of the exemption is (i) the equalized assessed value of the residence in the taxable year for which application is made minus the base amount (ii) multiplied by 0.4.

(5) For an applicant who has a household income

exceeding $48,750 but not exceeding $50,000, the amount of the exemption is (i) the equalized assessed value of the residence in the taxable year for which application is made minus the base amount (ii) multiplied by 0.2.

When the applicant is a surviving spouse of an applicant for a prior year for the same residence for which an exemption under this Section has been granted, the base year and base amount for that residence are the same as for the applicant for the prior year.

Each year at the time the assessment books are certified to the County Clerk, the Board of Review or Board of Appeals shall give to the County Clerk a list of the assessed values of improvements on each parcel qualifying for this exemption that were added after the base year for this parcel and that increased the assessed value of the property.

In the case of land improved with an apartment building owned and operated as a cooperative or a building that is a life care facility that qualifies as a cooperative, the maximum reduction from the equalized assessed value of the property is limited to the sum of the reductions calculated for each unit occupied as a residence by a person or persons (i) 65 years of age or older, (ii) with a household income that does not exceed the maximum income limitation, (iii) who is liable, by contract with the owner or owners of record, for paying real property taxes on the property, and (iv) who is an owner of record of a legal or equitable interest in the cooperative apartment

building, other than a leasehold interest. In the instance of a cooperative where a homestead exemption has been granted under this Section, the cooperative association or its management firm shall credit the savings resulting from that exemption only to the apportioned tax liability of the owner who qualified for the exemption. Any person who willfully refuses to credit that savings to an owner who qualifies for the exemption is guilty of a Class B misdemeanor.

When a homestead exemption has been granted under this Section and an applicant then becomes a resident of a facility licensed under the Assisted Living and Shared Housing Act, the Nursing Home Care Act, or the ID/DD ~~MR/DD~~ Community Care Act, the exemption shall be granted in subsequent years so long as the residence (i) continues to be occupied by the qualified applicant's spouse or (ii) if remaining unoccupied, is still owned by the qualified applicant for the homestead exemption.

Beginning January 1, 1997, when an individual dies who would have qualified for an exemption under this Section, and the surviving spouse does not independently qualify for this exemption because of age, the exemption under this Section shall be granted to the surviving spouse for the taxable year preceding and the taxable year of the death, provided that, except for age, the surviving spouse meets all other qualifications for the granting of this exemption for those years.

When married persons maintain separate residences, the

exemption provided for in this Section may be claimed by only one of such persons and for only one residence.

For taxable year 1994 only, in counties having less than 3,000,000 inhabitants, to receive the exemption, a person shall submit an application by February 15, 1995 to the Chief County Assessment Officer of the county in which the property is located. In counties having 3,000,000 or more inhabitants, for taxable year 1994 and all subsequent taxable years, to receive the exemption, a person may submit an application to the Chief County Assessment Officer of the county in which the property is located during such period as may be specified by the Chief County Assessment Officer. The Chief County Assessment Officer in counties of 3,000,000 or more inhabitants shall annually give notice of the application period by mail or by publication. In counties having less than 3,000,000 inhabitants, beginning with taxable year 1995 and thereafter, to receive the exemption, a person shall submit an application by July 1 of each taxable year to the Chief County Assessment Officer of the county in which the property is located. A county may, by ordinance, establish a date for submission of applications that is different than July 1. The applicant shall submit with the application an affidavit of the applicant's total household income, age, marital status (and if married the name and address of the applicant's spouse, if known), and principal dwelling place of members of the household on January 1 of the taxable year. The Department shall establish, by rule,

a method for verifying the accuracy of affidavits filed by applicants under this Section, and the Chief County Assessment Officer may conduct audits of any taxpayer claiming an exemption under this Section to verify that the taxpayer is eligible to receive the exemption. Each application shall contain or be verified by a written declaration that it is made under the penalties of perjury. A taxpayer's signing a fraudulent application under this Act is perjury, as defined in Section 32-2 of the Criminal Code of 1961. The applications shall be clearly marked as applications for the Senior Citizens Assessment Freeze Homestead Exemption and must contain a notice that any taxpayer who receives the exemption is subject to an audit by the Chief County Assessment Officer.

Notwithstanding any other provision to the contrary, in counties having fewer than 3,000,000 inhabitants, if an applicant fails to file the application required by this Section in a timely manner and this failure to file is due to a mental or physical condition sufficiently severe so as to render the applicant incapable of filing the application in a timely manner, the Chief County Assessment Officer may extend the filing deadline for a period of 30 days after the applicant regains the capability to file the application, but in no case may the filing deadline be extended beyond 3 months of the original filing deadline. In order to receive the extension provided in this paragraph, the applicant shall provide the Chief County Assessment Officer with a signed statement from

the applicant's physician stating the nature and extent of the condition, that, in the physician's opinion, the condition was so severe that it rendered the applicant incapable of filing the application in a timely manner, and the date on which the applicant regained the capability to file the application.

Beginning January 1, 1998, notwithstanding any other provision to the contrary, in counties having fewer than 3,000,000 inhabitants, if an applicant fails to file the application required by this Section in a timely manner and this failure to file is due to a mental or physical condition sufficiently severe so as to render the applicant incapable of filing the application in a timely manner, the Chief County Assessment Officer may extend the filing deadline for a period of 3 months. In order to receive the extension provided in this paragraph, the applicant shall provide the Chief County Assessment Officer with a signed statement from the applicant's physician stating the nature and extent of the condition, and that, in the physician's opinion, the condition was so severe that it rendered the applicant incapable of filing the application in a timely manner.

In counties having less than 3,000,000 inhabitants, if an applicant was denied an exemption in taxable year 1994 and the denial occurred due to an error on the part of an assessment official, or his or her agent or employee, then beginning in taxable year 1997 the applicant's base year, for purposes of determining the amount of the exemption, shall be 1993 rather

than 1994. In addition, in taxable year 1997, the applicant's exemption shall also include an amount equal to (i) the amount of any exemption denied to the applicant in taxable year 1995 as a result of using 1994, rather than 1993, as the base year, (ii) the amount of any exemption denied to the applicant in taxable year 1996 as a result of using 1994, rather than 1993, as the base year, and (iii) the amount of the exemption erroneously denied for taxable year 1994.

For purposes of this Section, a person who will be 65 years of age during the current taxable year shall be eligible to apply for the homestead exemption during that taxable year. Application shall be made during the application period in effect for the county of his or her residence.

The Chief County Assessment Officer may determine the eligibility of a life care facility that qualifies as a cooperative to receive the benefits provided by this Section by use of an affidavit, application, visual inspection, questionnaire, or other reasonable method 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 Chief County Assessment Officer may request reasonable proof that the management firm has so credited that exemption.

Except as provided in this Section, all information received by the chief county assessment officer or the Department from applications filed under this Section, or from

any investigation conducted under the provisions of this Section, shall be confidential, except for official purposes or pursuant to official procedures for collection of any State or local tax or enforcement of any civil or criminal penalty or sanction imposed by this Act or by any statute or ordinance imposing a State or local tax. Any person who divulges any such information in any manner, except in accordance with a proper judicial order, is guilty of a Class A misdemeanor.

Nothing contained in this Section shall prevent the Director or chief county assessment officer from publishing or making available reasonable statistics concerning the operation of the exemption contained in this Section in which the contents of claims are grouped into aggregates in such a way that information contained in any individual claim shall not be disclosed.

(d) Each Chief County Assessment Officer shall annually publish a notice of availability of the exemption provided under this Section. The notice shall be published at least 60 days but no more than 75 days prior to the date on which the application must be submitted to the Chief County Assessment Officer of the county in which the property is located. The notice shall appear in a newspaper of general circulation in the county.

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. 95-644, eff. 10-12-07; 96-339, eff. 7-1-10; 96-355, eff. 1-1-10; 96-1000, eff. 7-2-10.)

Section 42. The Counties Code is amended by changing Section 5-25013 as follows:

(55 ILCS 5/5-25013) (from Ch. 34, par. 5-25013)

Sec. 5-25013. Organization of board; powers and duties.

(A) The board of health of each county or multiple-county health department shall, immediately after appointment, meet and organize, by the election of one of its number as president and one as secretary, and either from its number or otherwise, a treasurer and such other officers as it may deem necessary. A board of health may make and adopt such rules for its own guidance and for the government of the health department as may be deemed necessary to protect and improve public health not inconsistent with this Division. It shall:

1. Hold a meeting prior to the end of each operating fiscal year, at which meeting officers shall be elected for the ensuing operating fiscal year;

2. Hold meetings at least quarterly;

3. Hold special meetings upon a written request signed by two members and filed with the Secretary or on request of the medical health officer or public health administrator;

4. Provide, equip and maintain suitable offices,

facilities and appliances for the health department;

5. Publish annually, within 90 days after the end of the county's operating fiscal year, in pamphlet form, for free distribution, an annual report showing the condition of its trust on the last day of the most recently completed operating fiscal year, the sums of money received from all sources, giving the name of any donor, how all moneys have been expended and for what purpose, and such other statistics and information in regard to the work of the health department as it may deem of general interest;

6. Within its jurisdiction, and professional and technical competence, enforce and observe all State laws pertaining to the preservation of health, and all county and municipal ordinances except as otherwise provided in this Division;

7. Within its jurisdiction, and professional and technical competence, investigate the existence of any contagious or infectious disease and adopt measures, not inconsistent with the regulations of the State Department of Public Health, to arrest the progress of the same;

8. Within its jurisdiction, and professional and technical competence, make all necessary sanitary and health investigations and inspections;

9. Upon request, give professional advice and information to all city, village, incorporated town and school authorities, within its jurisdiction, in all

matters pertaining to sanitation and public health;

10. Appoint a medical health officer as the executive officer for the department, who shall be a citizen of the United States and shall possess such qualifications as may be prescribed by the State Department of Public Health; or appoint a public health administrator who shall possess such qualifications as may be prescribed by the State Department of Public Health as the executive officer for the department, provided that the board of health shall make available medical supervision which is considered adequate by the Director of Public Health;

10 1/2. Appoint such professional employees as may be approved by the executive officer who meet the qualification requirements of the State Department of Public Health for their respective positions provided, that in those health departments temporarily without a medical health officer or public health administrator approval by the State Department of Public Health shall suffice;

11. Appoint such other officers and employees as may be necessary;

12. Prescribe the powers and duties of all officers and employees, fix their compensation, and authorize payment of the same and all other department expenses from the County Health Fund of the county or counties concerned;

13. Submit an annual budget to the county board or

boards;

14. Submit an annual report to the county board or boards, explaining all of its activities and expenditures;

15. Establish and carry out programs and services in mental health, including intellectual disabilities ~~mental retardation~~ and alcoholism and substance abuse, not inconsistent with the regulations of the Department of Human Services;

16. Consult with all other private and public health agencies in the county in the development of local plans for the most efficient delivery of health services.

(B) The board of health of each county or multiple-county health department may:

1. Initiate and carry out programs and activities of all kinds, not inconsistent with law, that may be deemed necessary or desirable in the promotion and protection of health and in the control of disease including tuberculosis;

2. Receive contributions of real and personal property;

3. Recommend to the county board or boards the adoption of such ordinances and of such rules and regulations as may be deemed necessary or desirable for the promotion and protection of health and control of disease;

4. Appoint a medical and dental advisory committee and a non-medical advisory committee to the health department;

5. Enter into contracts with the State, municipalities, other political subdivisions and non-official agencies for the purchase, sale or exchange of health services;

6. Set fees it deems reasonable and necessary (i) to provide services or perform regulatory activities, (ii) when required by State or federal grant award conditions, (iii) to support activities delegated to the board of health by the Illinois Department of Public Health, or (iv) when required by an agreement between the board of health and other private or governmental organizations, unless the fee has been established as a part of a regulatory ordinance adopted by the county board, in which case the board of health shall make recommendations to the county board concerning those fees. Revenue generated under this Section shall be deposited into the County Health Fund or to the account of the multiple-county health department.

7. Enter into multiple year employment contracts with the medical health officer or public health administrator as may be necessary for the recruitment and retention of personnel and the proper functioning of the health department.

(C) The board of health of a multiple-county health department may hire attorneys to represent and advise the department concerning matters that are not within the exclusive jurisdiction of the State's Attorney of one of the counties

that created the department.

(Source: P.A. 89-272, eff. 8-10-95; 89-507, eff. 7-1-97.)

Section 45. The County Care for Persons with Developmental Disabilities Act is amended by changing the title of the Act and by changing Sections 1, 1.1, and 1.2 as follows:

(55 ILCS 105/Act title)

An Act concerning the care and treatment of persons who are intellectually disabled ~~mentally retarded~~ or under developmental disability.

(55 ILCS 105/1) (from Ch. 91 1/2, par. 201)

Sec. 1. Facilities or services; tax levy. Any county may provide facilities or services for the benefit of its residents who are intellectually disabled ~~mentally retarded~~ or under a developmental disability and who are not eligible to participate in any such program conducted under Article 14 of the School Code, or may contract therefor with any privately or publicly operated entity which provides facilities or services either in or out of such county.

For such purpose, the county board may levy an annual tax of not to exceed .1% upon all of the taxable property in the county at the value thereof, as equalized or assessed by the Department of Revenue. Taxes first levied under this Section on or after the effective date of this amendatory Act of the 96th

General Assembly are subject to referendum approval under Section 1.1 or 1.2 of this Act. Such tax shall be levied and collected in the same manner as other county taxes, but shall not be included in any limitation otherwise prescribed as to the rate or amount of county taxes but shall be in addition thereto and in excess thereof. When collected, such tax shall be paid into a special fund in the county treasury, to be designated as the "Fund for Persons With a Developmental Disability", and shall be used only for the purpose specified in this Section. The levying of this annual tax shall not preclude the county from the use of other federal, State, or local funds for the purpose of providing facilities or services for the care and treatment of its residents who are mentally retarded or under a developmental disability.

(Source: P.A. 96-1350, eff. 7-28-10.)

(55 ILCS 105/1.1)

Sec. 1.1. Petition for submission to referendum by county.

(a) If, on and after the effective date of this amendatory Act of the 96th General Assembly, the county board passes an ordinance or resolution as provided in Section 1 of this Act asking that an annual tax may be levied for the purpose of providing facilities or services set forth in that Section and so instructs the county clerk, the clerk shall certify the proposition to the proper election officials for submission at the next general county election. The proposition shall be in

substantially the following form:

Shall ..... County levy an annual tax not to exceed 0.1% upon the equalized assessed value of all taxable property in the county for the purposes of providing facilities or services for the benefit of its residents who are intellectually disabled ~~mentally retarded~~ or under a developmental disability and who are not eligible to participate in any program provided under Article 14 of the School Code, 105 ILCS 5/14.1-1.01 et seq., including contracting for those facilities or services with any privately or publicly operated entity that provides those facilities or services either in or out of the county?

(b) If a majority of the votes cast upon the proposition are in favor thereof, such tax levy shall be authorized and the county shall levy a tax not to exceed the rate set forth in Section 1 of this Act.

(Source: P.A. 96-1350, eff. 7-28-10.)

(55 ILCS 105/1.2)

Sec. 1.2. Petition for submission to referendum by electors.

(a) Whenever a petition for submission to referendum by the electors which requests the establishment and maintenance of facilities or services for the benefit of its residents with a developmental disability and the levy of an annual tax not to exceed 0.1% upon all the taxable property in the county at the

value thereof, as equalized or assessed by the Department of Revenue, is signed by electors of the county equal in number to at least 10% of the total votes cast for the office that received the greatest total number of votes at the last preceding general county election and is presented to the county clerk, the clerk shall certify the proposition to the proper election authorities for submission at the next general county election. The proposition shall be in substantially the following form:

Shall ..... County levy an annual tax not to exceed 0.1% upon the equalized assessed value of all taxable property in the county for the purposes of establishing and maintaining facilities or services for the benefit of its residents who are intellectually disabled ~~mentally retarded~~ or under a developmental disability and who are not eligible to participate in any program provided under Article 14 of the School Code, 105 ILCS 5/14.1-1.01 et seq., including contracting for those facilities or services with any privately or publicly operated entity that provides those facilities or services either in or out of the county?

(b) If a majority of the votes cast upon the proposition are in favor thereof, such tax levy shall be authorized and the county shall levy a tax not to exceed the rate set forth in Section 1 of this Act.

(Source: P.A. 96-1350, eff. 7-28-10.)

Section 50. The Township Code is amended by changing Sections 30-145, 190-10, and 260-5 as follows:

(60 ILCS 1/30-145)

Sec. 30-145. Mental health services. If a township is not included in a mental health district organized under the Community Mental Health Act, the electors may authorize the board of trustees to provide mental health services, including services for the alcoholic, the drug addicted, and the intellectually disabled ~~mentally retarded~~, for residents of the township by disbursing existing funds if available by contracting with mental health agencies approved by the Department of Human Services, alcoholism treatment programs licensed by the Department of Public Health, and drug abuse facilities and other alcohol and drug abuse services approved by the Department of Human Services. To be eligible to receive township funds, an agency, program, facility, or other service provider must have been in existence for more than one year and must serve the township area.

(Source: P.A. 89-507, eff. 7-1-97; 90-210, eff. 7-25-97.)

(60 ILCS 1/190-10)

Sec. 190-10. Mental health services. If a township is not included in a mental health district organized under the Community Mental Health Act, the township board may provide

mental health services (including services for the alcoholic, the drug addicted, and the intellectually disabled ~~mentally retarded~~) for residents of the township by disbursing funds, pursuant to an appropriation, to mental health agencies approved by the Department of Human Services, alcoholism treatment programs licensed by the Department of Public Health, drug abuse facilities approved by the Department of Human Services, and other alcoholism and drug abuse services approved by the Department of Human Services. To be eligible for township funds disbursed under this Section, an agency, program, facility, or other service provider must have been in existence for more than one year and serve the township area.
(Source: P.A. 88-62; 89-507, eff. 7-1-97.)

(60 ILCS 1/260-5)

Sec. 260-5. Distributions from general fund, generally. To the extent that moneys in the township general fund have not been appropriated for other purposes, the township board may direct that distributions be made from that fund as follows:

(1) To (i) school districts maintaining grades 1 through 8 that are wholly or partly located within the township or (ii) governmental units as defined in Section 1 of the Community Mental Health Act that provide mental health facilities and services (including facilities and services for the intellectually disabled ~~mentally retarded~~) under that Act within the township, or (iii)

both.

(2) To community action agencies that serve township residents. "Community action agencies" are defined as in Part A of Title II of the federal Economic Opportunity Act of 1964.

(Source: P.A. 82-783; 88-62.)

Section 55. The Public Health District Act is amended by changing Section 17 as follows:

(70 ILCS 905/17) (from Ch. 111 1/2, par. 17)

Sec. 17. The medical health officer or administrator shall have power, and it shall be his or her duty:

(1) To be the executive officer of the board of health.

(2) To enforce and observe the rules, regulations and orders of the State Department of Public Health and all State laws pertaining to the preservation of the health of the people within the public health district, including regulations in which the State Department of Public Health shall require provision of home visitation and other services for pregnant women, new mothers and infants who are at risk as defined by that Department that encompass but are not limited to consultation for parental and child development, comprehensive health education, nutritional assessment, dental health, and periodic health screening, referral and follow-up; the services shall be provided

through programs funded by grants from the Department of Public Health from appropriations to the Department for that purpose.

(3) To exercise the rights, powers and duties of all township boards of health and county boards of health within the public health district.

(4) To execute and enforce, within the public health district, all city, village and incorporated town ordinances relating to public health and sanitation.

(5) To investigate the existence of any contagious or infectious disease within the public health district and to adopt measures, with the approval of the State Department of Public Health, to arrest the progress of the same.

(6) To make all necessary sanitary and health investigations and inspections within the public health district.

(7) To establish a dental clinic for the benefit of the school children of the district.

(8) To give professional advice and information to all city, village, incorporated town and school authorities within the public health district in all matters pertaining to sanitation and public health.

(9) To devote his or her entire time to his or her official duties.

(10) To establish and execute programs and services in the field of mental health, including <u>intellectual</u>

disabilities ~~mental retardation~~, not inconsistent with the regulations of the Department of Human Services.

(11) If approved by the board of health, to enter into contracts with municipalities, other political subdivisions and private agencies for the purchase, sale, delivery or exchange of health services.

(Source: P.A. 89-507, eff. 7-1-97.)

Section 56. The Regional Transportation Authority Act is amended by changing Section 4.03 as follows:

(70 ILCS 3615/4.03) (from Ch. 111 2/3, par. 704.03)

Sec. 4.03. Taxes.

(a) In order to carry out any of the powers or purposes of the Authority, the Board may by ordinance adopted with the concurrence of 12 of the then Directors, impose throughout the metropolitan region any or all of the taxes provided in this Section. Except as otherwise provided in this Act, taxes imposed under this Section and civil penalties imposed incident thereto shall be collected and enforced by the State Department of Revenue. The Department shall have the power to administer and enforce the taxes and to determine all rights for refunds for erroneous payments of the taxes. Nothing in this amendatory Act of the 95th General Assembly is intended to invalidate any taxes currently imposed by the Authority. The increased vote requirements to impose a tax shall only apply to actions taken

after the effective date of this amendatory Act of the 95th General Assembly.

(b) The Board may impose a public transportation tax upon all persons engaged in the metropolitan region in the business of selling at retail motor fuel for operation of motor vehicles upon public highways. The tax shall be at a rate not to exceed 5% of the gross receipts from the sales of motor fuel in the course of the business. As used in this Act, the term "motor fuel" shall have the same meaning as in the Motor Fuel Tax Law. The Board may provide for details of the tax. The provisions of any tax shall conform, as closely as may be practicable, to the provisions of the Municipal Retailers Occupation Tax Act, including without limitation, conformity to penalties with respect to the tax imposed and as to the powers of the State Department of Revenue to promulgate and enforce rules and regulations relating to the administration and enforcement of the provisions of the tax imposed, except that reference in the Act to any municipality shall refer to the Authority and the tax shall be imposed only with regard to receipts from sales of motor fuel in the metropolitan region, at rates as limited by this Section.

(c) In connection with the tax imposed under paragraph (b) of this Section the Board may impose a tax upon the privilege of using in the metropolitan region motor fuel for the operation of a motor vehicle upon public highways, the tax to be at a rate not in excess of the rate of tax imposed under

paragraph (b) of this Section. The Board may provide for details of the tax.

(d) The Board may impose a motor vehicle parking tax upon the privilege of parking motor vehicles at off-street parking facilities in the metropolitan region at which a fee is charged, and may provide for reasonable classifications in and exemptions to the tax, for administration and enforcement thereof and for civil penalties and refunds thereunder and may provide criminal penalties thereunder, the maximum penalties not to exceed the maximum criminal penalties provided in the Retailers' Occupation Tax Act. The Authority may collect and enforce the tax itself or by contract with any unit of local government. The State Department of Revenue shall have no responsibility for the collection and enforcement unless the Department agrees with the Authority to undertake the collection and enforcement. As used in this paragraph, the term "parking facility" means a parking area or structure having parking spaces for more than 2 vehicles at which motor vehicles are permitted to park in return for an hourly, daily, or other periodic fee, whether publicly or privately owned, but does not include parking spaces on a public street, the use of which is regulated by parking meters.

(e) The Board may impose a Regional Transportation Authority Retailers' Occupation Tax upon all persons engaged in the business of selling tangible personal property at retail in the metropolitan region. In Cook County the tax rate shall be

1.25% of the gross receipts from sales of 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, and 1% of the gross receipts from other taxable sales made in the course of that business. In DuPage, Kane, Lake, McHenry, and Will Counties, the tax rate shall be 0.75% of the gross receipts from all taxable sales made in the course of that business. The tax imposed under this Section and all civil penalties that may be assessed as an incident thereof shall be collected and enforced by the State Department of Revenue. The Department shall have full power to administer and enforce this Section; to collect all taxes and penalties so collected in the manner hereinafter provided; and to determine all rights to credit memoranda arising on account of the erroneous payment of tax or penalty hereunder. In the administration of, and compliance with this Section, the Department and persons who are subject to this Section shall have the same rights, remedies, privileges, immunities, powers and duties, and be subject to the same conditions, restrictions, limitations, penalties, exclusions, exemptions and definitions of terms, and employ the same modes of procedure, as are prescribed in Sections 1, 1a, 1a-1, 1c, 1d, 1e, 1f, 1i, 1j, 2 through 2-65 (in respect to all provisions

therein other than the State rate of tax), 2c, 3 (except as to the disposition of taxes and penalties collected), 4, 5, 5a, 5b, 5c, 5d, 5e, 5f, 5g, 5h, 5i, 5j, 5k, 5l, 6, 6a, 6b, 6c, 7, 8, 9, 10, 11, 12 and 13 of the Retailers' Occupation Tax Act and Section 3-7 of the Uniform Penalty and Interest Act, as fully as if those provisions were set forth herein.

Persons subject to any tax imposed under the authority granted in this Section may reimburse themselves for their seller's tax liability hereunder by separately stating the tax as an additional charge, which charge may be stated in combination in a single amount with State taxes that sellers are required to collect under the Use Tax Act, under any bracket schedules the Department may prescribe.

Whenever the Department determines that a refund should be made under this Section to a claimant instead of issuing a credit memorandum, the Department shall notify the State Comptroller, who shall cause the warrant to be drawn for the amount specified, and to the person named, in the notification from the Department. The refund shall be paid by the State Treasurer out of the Regional Transportation Authority tax fund established under paragraph (n) of this Section.

If a tax is imposed under this subsection (e), a tax shall also be imposed under subsections (f) and (g) of this Section.

For the purpose of determining whether a tax authorized under this Section is applicable, a retail sale by a producer of coal or other mineral mined in Illinois, is a sale at retail

at the place where the coal or other mineral mined in Illinois is extracted from the earth. This paragraph does not apply to coal or other mineral when it is delivered or shipped by the seller to the purchaser at a point outside Illinois so that the sale is exempt under the Federal Constitution as a sale in interstate or foreign commerce.

No tax shall be imposed or collected under this subsection on the sale of a motor vehicle in this State to a resident of another state if that motor vehicle will not be titled in this State.

Nothing in this Section shall be construed to authorize the Regional Transportation Authority to impose a tax upon the privilege of engaging in any business that under the Constitution of the United States may not be made the subject of taxation by this State.

(f) If a tax has been imposed under paragraph (e), a Regional Transportation Authority Service Occupation Tax shall also be imposed upon all persons engaged, in the metropolitan region in the business of making sales of service, who as an incident to making the sales of service, transfer tangible personal property within the metropolitan region, either in the form of tangible personal property or in the form of real estate as an incident to a sale of service. In Cook County, the tax rate shall be: (1) 1.25% of the serviceman's cost price of food prepared for immediate consumption and transferred incident to a sale of service subject to the service occupation

tax by an entity licensed under the Hospital Licensing Act, the Nursing Home Care Act, or the ID/DD ~~MR/DD~~ Community Care Act that is located in the metropolitan region; (2) 1.25% of the selling price of 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; and (3) 1% of the selling price from other taxable sales of tangible personal property transferred. In DuPage, Kane, Lake, McHenry and Will Counties the rate shall be 0.75% of the selling price of all tangible personal property transferred.

The tax imposed under this paragraph and all civil penalties that may be assessed as an incident thereof shall be collected and enforced by the State Department of Revenue. The Department shall have full power to administer and enforce this paragraph; to collect all taxes and penalties due hereunder; to dispose of taxes and penalties collected in the manner hereinafter provided; and to determine all rights to credit memoranda arising on account of the erroneous payment of tax or penalty hereunder. In the administration of and compliance with this paragraph, the Department and persons who are subject to this paragraph shall have the same rights, remedies, privileges, immunities, powers and duties, and be subject to

the same conditions, restrictions, limitations, penalties, exclusions, exemptions and definitions of terms, and employ the same modes of procedure, as are prescribed in Sections 1a-1, 2, 2a, 3 through 3-50 (in respect to all provisions therein other than the State rate of tax), 4 (except that the reference to the State shall be to the Authority), 5, 7, 8 (except that the jurisdiction to which the tax shall be a debt to the extent indicated in that Section 8 shall be the Authority), 9 (except as to the disposition of taxes and penalties collected, and except that the returned merchandise credit for this tax may not be taken against any State tax), 10, 11, 12 (except the reference therein to Section 2b of the Retailers' Occupation Tax Act), 13 (except that any reference to the State shall mean the Authority), the first paragraph of Section 15, 16, 17, 18, 19 and 20 of the Service Occupation Tax Act and Section 3-7 of the Uniform Penalty and Interest Act, as fully as if those provisions were set forth herein.

Persons subject to any tax imposed under the authority granted in this paragraph may reimburse themselves for their serviceman's tax liability hereunder by separately stating the tax as an additional charge, that charge may be stated in combination in a single amount with State tax that servicemen are authorized to collect under the Service Use Tax Act, under any bracket schedules the Department may prescribe.

Whenever the Department determines that a refund should be made under this paragraph to a claimant instead of issuing a

credit memorandum, the Department shall notify the State Comptroller, who shall cause the warrant to be drawn for the amount specified, and to the person named in the notification from the Department. The refund shall be paid by the State Treasurer out of the Regional Transportation Authority tax fund established under paragraph (n) of this Section.

Nothing in this paragraph shall be construed to authorize the Authority to impose a tax upon the privilege of engaging in any business that under the Constitution of the United States may not be made the subject of taxation by the State.

(g) If a tax has been imposed under paragraph (e), a tax shall also be imposed upon the privilege of using in the metropolitan region, any item of tangible personal property that is purchased outside the metropolitan region at retail from a retailer, and that is titled or registered with an agency of this State's government. In Cook County the tax rate shall be 1% of the selling price of the tangible personal property, as "selling price" is defined in the Use Tax Act. In DuPage, Kane, Lake, McHenry and Will counties the tax rate shall be 0.75% of the selling price of the tangible personal property, as "selling price" is defined in the Use Tax Act. The tax shall be collected from persons whose Illinois address for titling or registration purposes is given as being in the metropolitan region. The tax shall be collected by the Department of Revenue for the Regional Transportation Authority. The tax must be paid to the State, or an exemption

determination must be obtained from the Department of Revenue, before the title or certificate of registration for the property may be issued. The tax or proof of exemption may be transmitted to the Department by way of the State agency with which, or the State officer with whom, the tangible personal property must be titled or registered if the Department and the State agency or State officer determine that this procedure will expedite the processing of applications for title or registration.

The Department shall have full power to administer and enforce this paragraph; to collect all taxes, penalties and interest due hereunder; to dispose of taxes, penalties and interest collected in the manner hereinafter provided; and to determine all rights to credit memoranda or refunds arising on account of the erroneous payment of tax, penalty or interest hereunder. In the administration of and compliance with this paragraph, the Department and persons who are subject to this paragraph shall have the same rights, remedies, privileges, immunities, powers and duties, and be subject to the same conditions, restrictions, limitations, penalties, exclusions, exemptions and definitions of terms and employ the same modes of procedure, as are prescribed in Sections 2 (except the definition of "retailer maintaining a place of business in this State"), 3 through 3-80 (except provisions pertaining to the State rate of tax, and except provisions concerning collection or refunding of the tax by retailers), 4, 11, 12, 12a, 14, 15,

19 (except the portions pertaining to claims by retailers and except the last paragraph concerning refunds), 20, 21 and 22 of the Use Tax Act, and are not inconsistent with this paragraph, as fully as if those provisions were set forth herein.

Whenever the Department determines that a refund should be made under this paragraph to a claimant instead of issuing a credit memorandum, the Department shall notify the State Comptroller, who shall cause the order to be drawn for the amount specified, and to the person named in the notification from the Department. The refund shall be paid by the State Treasurer out of the Regional Transportation Authority tax fund established under paragraph (n) of this Section.

(h) The Authority may impose a replacement vehicle tax of $50 on any passenger car as defined in Section 1-157 of the Illinois Vehicle Code purchased within the metropolitan region by or on behalf of an insurance company to replace a passenger car of an insured person in settlement of a total loss claim. The tax imposed may not become effective before the first day of the month following the passage of the ordinance imposing the tax and receipt of a certified copy of the ordinance by the Department of Revenue. The Department of Revenue shall collect the tax for the Authority in accordance with Sections 3-2002 and 3-2003 of the Illinois Vehicle Code.

The Department shall immediately pay over to the State Treasurer, ex officio, as trustee, all taxes collected hereunder.

As soon as possible after the first day of each month, beginning January 1, 2011, upon certification of the Department of Revenue, the Comptroller shall order transferred, and the Treasurer shall transfer, to the STAR Bonds Revenue Fund the local sales tax increment, as defined in the Innovation Development and Economy Act, collected under this Section during the second preceding calendar month for sales within a STAR bond district.

After the monthly transfer to the STAR Bonds Revenue Fund, on or before the 25th day of each calendar month, the Department shall prepare and certify to the Comptroller the disbursement of stated sums of money to the Authority. The amount to be paid to the Authority shall be the amount collected hereunder during the second preceding calendar month by the Department, less any amount determined by the Department to be necessary for the payment of refunds, and less any amounts that are transferred to the STAR Bonds Revenue Fund. Within 10 days after receipt by the Comptroller of the disbursement certification to the Authority provided for in this Section to be given to the Comptroller by the Department, the Comptroller shall cause the orders to be drawn for that amount in accordance with the directions contained in the certification.

(i) The Board may not impose any other taxes except as it may from time to time be authorized by law to impose.

(j) A certificate of registration issued by the State

Department of Revenue to a retailer under the Retailers' Occupation Tax Act or under the Service Occupation Tax Act shall permit the registrant to engage in a business that is taxed under the tax imposed under paragraphs (b), (e), (f) or (g) of this Section and no additional registration shall be required under the tax. A certificate issued under the Use Tax Act or the Service Use Tax Act shall be applicable with regard to any tax imposed under paragraph (c) of this Section.

(k) The provisions of any tax imposed under paragraph (c) of this Section shall conform as closely as may be practicable to the provisions of the Use Tax Act, including without limitation conformity as to penalties with respect to the tax imposed and as to the powers of the State Department of Revenue to promulgate and enforce rules and regulations relating to the administration and enforcement of the provisions of the tax imposed. The taxes shall be imposed only on use within the metropolitan region and at rates as provided in the paragraph.

(l) The Board in imposing any tax as provided in paragraphs (b) and (c) of this Section, shall, after seeking the advice of the State Department of Revenue, provide means for retailers, users or purchasers of motor fuel for purposes other than those with regard to which the taxes may be imposed as provided in those paragraphs to receive refunds of taxes improperly paid, which provisions may be at variance with the refund provisions as applicable under the Municipal Retailers Occupation Tax Act. The State Department of Revenue may provide for certificates of

registration for users or purchasers of motor fuel for purposes other than those with regard to which taxes may be imposed as provided in paragraphs (b) and (c) of this Section to facilitate the reporting and nontaxability of the exempt sales or uses.

(m) Any ordinance imposing or discontinuing any tax under this Section shall be adopted and a certified copy thereof filed with the Department on or before June 1, whereupon the Department of Revenue shall proceed to administer and enforce this Section on behalf of the Regional Transportation Authority as of September 1 next following such adoption and filing. Beginning January 1, 1992, an ordinance or resolution imposing or discontinuing the tax hereunder shall be adopted and a certified copy thereof filed with the Department on or before the first day of July, whereupon the Department shall proceed to administer and enforce this Section as of the first day of October next following such adoption and filing. Beginning January 1, 1993, an ordinance or resolution imposing, increasing, decreasing, or discontinuing the tax hereunder shall be adopted and a certified copy thereof filed with the Department, whereupon the Department shall proceed to administer and enforce this Section as of the first day of the first month to occur not less than 60 days following such adoption and filing. Any ordinance or resolution of the Authority imposing a tax under this Section and in effect on August 1, 2007 shall remain in full force and effect and shall

be administered by the Department of Revenue under the terms and conditions and rates of tax established by such ordinance or resolution until the Department begins administering and enforcing an increased tax under this Section as authorized by this amendatory Act of the 95th General Assembly. The tax rates authorized by this amendatory Act of the 95th General Assembly are effective only if imposed by ordinance of the Authority.

(n) The State Department of Revenue shall, upon collecting any taxes as provided in this Section, pay the taxes over to the State Treasurer as trustee for the Authority. The taxes shall be held in a trust fund outside the State Treasury. On or before the 25th day of each calendar month, the State Department of Revenue shall prepare and certify to the Comptroller of the State of Illinois and to the Authority (i) the amount of taxes collected in each County other than Cook County in the metropolitan region, (ii) the amount of taxes collected within the City of Chicago, and (iii) the amount collected in that portion of Cook County outside of Chicago, each amount less the amount necessary for the payment of refunds to taxpayers located in those areas described in items (i), (ii), and (iii). Within 10 days after receipt by the Comptroller of the certification of the amounts, the Comptroller shall cause an order to be drawn for the payment of two-thirds of the amounts certified in item (i) of this subsection to the Authority and one-third of the amounts certified in item (i) of this subsection to the respective

counties other than Cook County and the amount certified in items (ii) and (iii) of this subsection to the Authority.

In addition to the disbursement required by the preceding paragraph, an allocation shall be made in July 1991 and each year thereafter to the Regional Transportation Authority. The allocation shall be made in an amount equal to the average monthly distribution during the preceding calendar year (excluding the 2 months of lowest receipts) and the allocation shall include the amount of average monthly distribution from the Regional Transportation Authority Occupation and Use Tax Replacement Fund. The distribution made in July 1992 and each year thereafter under this paragraph and the preceding paragraph shall be reduced by the amount allocated and disbursed under this paragraph in the preceding calendar year. The Department of Revenue shall prepare and certify to the Comptroller for disbursement the allocations made in accordance with this paragraph.

(o) Failure to adopt a budget ordinance or otherwise to comply with Section 4.01 of this Act or to adopt a Five-year Capital Program or otherwise to comply with paragraph (b) of Section 2.01 of this Act shall not affect the validity of any tax imposed by the Authority otherwise in conformity with law.

(p) At no time shall a public transportation tax or motor vehicle parking tax authorized under paragraphs (b), (c) and (d) of this Section be in effect at the same time as any retailers' occupation, use or service occupation tax

authorized under paragraphs (e), (f) and (g) of this Section is in effect.

Any taxes imposed under the authority provided in paragraphs (b), (c) and (d) shall remain in effect only until the time as any tax authorized by paragraphs (e), (f) or (g) of this Section are imposed and becomes effective. Once any tax authorized by paragraphs (e), (f) or (g) is imposed the Board may not reimpose taxes as authorized in paragraphs (b), (c) and (d) of the Section unless any tax authorized by paragraphs (e), (f) or (g) of this Section becomes ineffective by means other than an ordinance of the Board.

(q) Any existing rights, remedies and obligations (including enforcement by the Regional Transportation Authority) arising under any tax imposed under paragraphs (b), (c) or (d) of this Section shall not be affected by the imposition of a tax under paragraphs (e), (f) or (g) of this Section.

(Source: P.A. 95-708, eff. 1-18-08; 96-339, eff. 7-1-10; 96-939, eff. 6-24-10.)

Section 60. The School Code is amended by changing Sections 2-3.83, 14-1.03a, 21-28, and 34-18 as follows:

(105 ILCS 5/2-3.83) (from Ch. 122, par. 2-3.83)

Sec. 2-3.83. Individual transition plan model pilot program.

(a) The General Assembly finds that transition services for special education students in secondary schools are needed for the increasing numbers of students exiting school programs. Therefore, to ensure coordinated and timely delivery of services, the State shall establish a model pilot program to provide such services. Local school districts, using joint agreements and regional service delivery systems for special and vocational education selected by the Governor's Planning Council on Developmental Disabilities, shall have the primary responsibility to convene transition planning meetings for these students who will require post-school adult services.

(b) For purposes of this Section:

(1) "Post-secondary Service Provider" means a provider of services for adults who have any developmental disability as defined in Section 1-106 of the Mental Health and Developmental Disabilities Code or who are disabled as defined in the Disabled Persons Rehabilitation Act.

(2) "Individual Education Plan" means a written statement for an exceptional child that provides at least a statement of: the child's present levels of educational performance, annual goals and short-term instructional objectives; specific special education and related services; the extent of participation in the regular education program; the projected dates for initiation of services; anticipated duration of services; appropriate objective criteria and evaluation procedures; and a

schedule for annual determination of short-term objectives.

(3) "Individual Transition Plan" (ITP) means a multi-agency informal assessment of a student's needs for post-secondary adult services including but not limited to employment, post-secondary education or training and residential independent living.

(4) "Developmental Disability" means a disability which is attributable to: (a) an intellectual disability ~~mental retardation~~, cerebral palsy, epilepsy or autism; or to (b) any other condition which results in impairment similar to that caused by an intellectual disability ~~mental retardation~~ and which requires services similar to those required by intellectually disabled ~~mentally retarded~~ persons. Such disability must originate before the age of 18 years, be expected to continue indefinitely, and constitute a substantial handicap.

(5) "Exceptional Characteristic" means any disabling or exceptional characteristic which interferes with a student's education including, but not limited to, a determination that the student is severely or profoundly mentally disabled, trainably mentally disabled, deaf-blind, or has some other health impairment.

(c) The model pilot program required by this Section shall be established and administered by the Governor's Planning Council on Developmental Disabilities in conjunction with the

case coordination pilot projects established by the Department of Human Services pursuant to Section 4.1 of the Community Services Act, as amended.

(d) The model pilot program shall include the following features:

(1) Written notice shall be sent to the student and, when appropriate, his or her parent or guardian giving the opportunity to consent to having the student's name and relevant information shared with the local case coordination unit and other appropriate State or local agencies for purposes of inviting participants to the individual transition plan meeting.

(2) Meetings to develop and modify, as needed, an Individual Transition Plan shall be conducted annually for all students with a developmental disability in the pilot program area who are age 16 or older and who are receiving special education services for 50% or more of their public school program. These meetings shall be convened by the local school district and conducted in conjunction with any other regularly scheduled meetings such as the student's annual individual educational plan meeting. The Governor's Planning Council on Developmental Disabilities shall cooperate with and may enter into any necessary written agreements with the Department of Human Services and the State Board of Education to identify the target group of students for transition planning and the appropriate case

coordination unit to serve these individuals.

(3) The ITP meetings shall be co-chaired by the individual education plan coordinator and the case coordinator. The ITP meeting shall include but not be limited to discussion of the following: the student's projected date of exit from the public schools; his projected post-school goals in the areas of employment, residential living arrangement and post-secondary education or training; specific school or post-school services needed during the following year to achieve the student's goals, including but not limited to vocational evaluation, vocational education, work experience or vocational training, placement assistance, independent living skills training, recreational or leisure training, income support, medical needs and transportation; and referrals and linkage to needed services, including a proposed time frame for services and the responsible agency or provider. The individual transition plan shall be signed by participants in the ITP discussion, including but not limited to the student's parents or guardian, the student (where appropriate), multi-disciplinary team representatives from the public schools, the case coordinator and any other individuals who have participated in the ITP meeting at the discretion of the individual education plan coordinator, the developmental disability case coordinator or the parents or guardian.

(4) At least 10 days prior to the ITP meeting, the parents or guardian of the student shall be notified in writing of the time and place of the meeting by the local school district. The ITP discussion shall be documented by the assigned case coordinator, and an individual student file shall be maintained by each case coordination unit. One year following a student's exit from public school the case coordinator shall conduct a follow up interview with the student.

(5) Determinations with respect to individual transition plans made under this Section shall not be subject to any due process requirements prescribed in Section 14-8.02 of this Code.

(e) (Blank).

(Source: P.A. 91-96; eff. 7-9-99.)

(105 ILCS 5/14-1.03a) (from Ch. 122, par. 14-1.03a)

Sec. 14-1.03a. Children with Specific Learning Disabilities.

"Children with Specific Learning Disabilities" means children between the ages of 3 and 21 years who have a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, which disorder may manifest itself in imperfect ability to listen, think, speak, read, write, spell or do mathematical calculations. Such disorders include such conditions as

perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia. Such term does not include children who have learning problems which are primarily the result of visual, hearing or motor disabilities, of an intellectual disability ~~mental retardation~~, emotional disturbance or environmental disadvantage.

(Source: P.A. 89-397, eff. 8-20-95.)

(105 ILCS 5/21-28)

Sec. 21-28. Special education teachers; categorical certification. The State Teacher Certification Board shall categorically certify a special education teacher in one or more of the following specialized categories of disability if the special education teacher applies and qualifies for such certification:

(1) Serious emotional disturbance.

(2) Learning disabilities.

(3) Autism.

(4) Intellectual disabilities ~~Mental retardation~~.

(5) Orthopedic (physical) impairment.

(6) Traumatic brain injury.

(7) Other health impairment.

(Source: P.A. 92-709, eff. 7-19-02.)

(105 ILCS 5/34-18) (from Ch. 122, par. 34-18)

Sec. 34-18. Powers of the board. The board shall exercise

general supervision and jurisdiction over the public education and the public school system of the city, and, except as otherwise provided by this Article, shall have power:

1. To make suitable provision for the establishment and maintenance throughout the year or for such portion thereof as it may direct, not less than 9 months, of schools of all grades and kinds, including normal schools, high schools, night schools, schools for defectives and delinquents, parental and truant schools, schools for the blind, the deaf and the physically disabled ~~crippled~~, schools or classes in manual training, constructural and vocational teaching, domestic arts and physical culture, vocation and extension schools and lecture courses, and all other educational courses and facilities, including establishing, equipping, maintaining and operating playgrounds and recreational programs, when such programs are conducted in, adjacent to, or connected with any public school under the general supervision and jurisdiction of the board; provided that the calendar for the school term and any changes must be submitted to and approved by the State Board of Education before the calendar or changes may take effect, and provided that in allocating funds from year to year for the operation of all attendance centers within the district, the board shall ensure that supplemental general State aid funds are allocated and applied in accordance with Section 18-8 or 18-8.05. To

admit to such schools without charge foreign exchange students who are participants in an organized exchange student program which is authorized by the board. The board shall permit all students to enroll in apprenticeship programs in trade schools operated by the board, whether those programs are union-sponsored or not. No student shall be refused admission into or be excluded from any course of instruction offered in the common schools by reason of that student's sex. No student shall be denied equal access to physical education and interscholastic athletic programs supported from school district funds or denied participation in comparable physical education and athletic programs solely by reason of the student's sex. Equal access to programs supported from school district funds and comparable programs will be defined in rules promulgated by the State Board of Education in consultation with the Illinois High School Association. Notwithstanding any other provision of this Article, neither the board of education nor any local school council or other school official shall recommend that children with disabilities be placed into regular education classrooms unless those children with disabilities are provided with supplementary services to assist them so that they benefit from the regular classroom instruction and are included on the teacher's regular education class register;

2. To furnish lunches to pupils, to make a reasonable

charge therefor, and to use school funds for the payment of such expenses as the board may determine are necessary in conducting the school lunch program;

3. To co-operate with the circuit court;

4. To make arrangements with the public or quasi-public libraries and museums for the use of their facilities by teachers and pupils of the public schools;

5. To employ dentists and prescribe their duties for the purpose of treating the pupils in the schools, but accepting such treatment shall be optional with parents or guardians;

6. To grant the use of assembly halls and classrooms when not otherwise needed, including light, heat, and attendants, for free public lectures, concerts, and other educational and social interests, free of charge, under such provisions and control as the principal of the affected attendance center may prescribe;

7. To apportion the pupils to the several schools; provided that no pupil shall be excluded from or segregated in any such school on account of his color, race, sex, or nationality. The board shall take into consideration the prevention of segregation and the elimination of separation of children in public schools because of color, race, sex, or nationality. Except that children may be committed to or attend parental and social adjustment schools established and maintained either for boys or girls

only. All records pertaining to the creation, alteration or revision of attendance areas shall be open to the public. Nothing herein shall limit the board's authority to establish multi-area attendance centers or other student assignment systems for desegregation purposes or otherwise, and to apportion the pupils to the several schools. Furthermore, beginning in school year 1994-95, pursuant to a board plan adopted by October 1, 1993, the board shall offer, commencing on a phased-in basis, the opportunity for families within the school district to apply for enrollment of their children in any attendance center within the school district which does not have selective admission requirements approved by the board. The appropriate geographical area in which such open enrollment may be exercised shall be determined by the board of education. Such children may be admitted to any such attendance center on a space available basis after all children residing within such attendance center's area have been accommodated. If the number of applicants from outside the attendance area exceed the space available, then successful applicants shall be selected by lottery. The board of education's open enrollment plan must include provisions that allow low income students to have access to transportation needed to exercise school choice. Open enrollment shall be in compliance with the provisions of the Consent Decree and Desegregation Plan cited in Section

34-1.01;

8. To approve programs and policies for providing transportation services to students. Nothing herein shall be construed to permit or empower the State Board of Education to order, mandate, or require busing or other transportation of pupils for the purpose of achieving racial balance in any school;

9. Subject to the limitations in this Article, to establish and approve system-wide curriculum objectives and standards, including graduation standards, which reflect the multi-cultural diversity in the city and are consistent with State law, provided that for all purposes of this Article courses or proficiency in American Sign Language shall be deemed to constitute courses or proficiency in a foreign language; and to employ principals and teachers, appointed as provided in this Article, and fix their compensation. The board shall prepare such reports related to minimal competency testing as may be requested by the State Board of Education, and in addition shall monitor and approve special education and bilingual education programs and policies within the district to assure that appropriate services are provided in accordance with applicable State and federal laws to children requiring services and education in those areas;

10. To employ non-teaching personnel or utilize volunteer personnel for: (i) non-teaching duties not

requiring instructional judgment or evaluation of pupils, including library duties; and (ii) supervising study halls, long distance teaching reception areas used incident to instructional programs transmitted by electronic media such as computers, video, and audio, detention and discipline areas, and school-sponsored extracurricular activities. The board may further utilize volunteer non-certificated personnel or employ non-certificated personnel to assist in the instruction of pupils under the immediate supervision of a teacher holding a valid certificate, directly engaged in teaching subject matter or conducting activities; provided that the teacher shall be continuously aware of the non-certificated persons' activities and shall be able to control or modify them. The general superintendent shall determine qualifications of such personnel and shall prescribe rules for determining the duties and activities to be assigned to such personnel;

10.5. To utilize volunteer personnel from a regional School Crisis Assistance Team (S.C.A.T.), created as part of the Safe to Learn Program established pursuant to Section 25 of the Illinois Violence Prevention Act of 1995, to provide assistance to schools in times of violence or other traumatic incidents within a school community by providing crisis intervention services to lessen the effects of emotional trauma on individuals and the

community; the School Crisis Assistance Team Steering Committee shall determine the qualifications for volunteers;

11. To provide television studio facilities in not to exceed one school building and to provide programs for educational purposes, provided, however, that the board shall not construct, acquire, operate, or maintain a television transmitter; to grant the use of its studio facilities to a licensed television station located in the school district; and to maintain and operate not to exceed one school radio transmitting station and provide programs for educational purposes;

12. To offer, if deemed appropriate, outdoor education courses, including field trips within the State of Illinois, or adjacent states, and to use school educational funds for the expense of the said outdoor educational programs, whether within the school district or not;

13. During that period of the calendar year not embraced within the regular school term, to provide and conduct courses in subject matters normally embraced in the program of the schools during the regular school term and to give regular school credit for satisfactory completion by the student of such courses as may be approved for credit by the State Board of Education;

14. To insure against any loss or liability of the board, the former School Board Nominating Commission,

Local School Councils, the Chicago Schools Academic Accountability Council, or the former Subdistrict Councils or of any member, officer, agent or employee thereof, resulting from alleged violations of civil rights arising from incidents occurring on or after September 5, 1967 or from the wrongful or negligent act or omission of any such person whether occurring within or without the school premises, provided the officer, agent or employee was, at the time of the alleged violation of civil rights or wrongful act or omission, acting within the scope of his employment or under direction of the board, the former School Board Nominating Commission, the Chicago Schools Academic Accountability Council, Local School Councils, or the former Subdistrict Councils; and to provide for or participate in insurance plans for its officers and employees, including but not limited to retirement annuities, medical, surgical and hospitalization benefits in such types and amounts as may be determined by the board; provided, however, that the board shall contract for such insurance only with an insurance company authorized to do business in this State. Such insurance may include provision for employees who rely on treatment by prayer or spiritual means alone for healing, in accordance with the tenets and practice of a recognized religious denomination;

15. To contract with the corporate authorities of any

municipality or the county board of any county, as the case may be, to provide for the regulation of traffic in parking areas of property used for school purposes, in such manner as is provided by Section 11-209 of The Illinois Vehicle Code, approved September 29, 1969, as amended;

16. (a) To provide, on an equal basis, access to a high school campus and student directory information to the official recruiting representatives of the armed forces of Illinois and the United States for the purposes of informing students of the educational and career opportunities available in the military if the board has provided such access to persons or groups whose purpose is to acquaint students with educational or occupational opportunities available to them. The board is not required to give greater notice regarding the right of access to recruiting representatives than is given to other persons and groups. In this paragraph 16, "directory information" means a high school student's name, address, and telephone number.

(b) If a student or his or her parent or guardian submits a signed, written request to the high school before the end of the student's sophomore year (or if the student is a transfer student, by another time set by the high school) that indicates that the student or his or her parent or guardian does not want the student's directory information to be provided to official recruiting

representatives under subsection (a) of this Section, the high school may not provide access to the student's directory information to these recruiting representatives. The high school shall notify its students and their parents or guardians of the provisions of this subsection (b).

(c) A high school may require official recruiting representatives of the armed forces of Illinois and the United States to pay a fee for copying and mailing a student's directory information in an amount that is not more than the actual costs incurred by the high school.

(d) Information received by an official recruiting representative under this Section may be used only to provide information to students concerning educational and career opportunities available in the military and may not be released to a person who is not involved in recruiting students for the armed forces of Illinois or the United States;

17. (a) To sell or market any computer program developed by an employee of the school district, provided that such employee developed the computer program as a direct result of his or her duties with the school district or through the utilization of the school district resources or facilities. The employee who developed the computer program shall be entitled to share in the proceeds of such sale or marketing of the computer program. The distribution of such proceeds between the employee and the school

district shall be as agreed upon by the employee and the school district, except that neither the employee nor the school district may receive more than 90% of such proceeds. The negotiation for an employee who is represented by an exclusive bargaining representative may be conducted by such bargaining representative at the employee's request.

(b) For the purpose of this paragraph 17:

(1) "Computer" means an internally programmed, general purpose digital device capable of automatically accepting data, processing data and supplying the results of the operation.

(2) "Computer program" means a series of coded instructions or statements in a form acceptable to a computer, which causes the computer to process data in order to achieve a certain result.

(3) "Proceeds" means profits derived from marketing or sale of a product after deducting the expenses of developing and marketing such product;

18. To delegate to the general superintendent of schools, by resolution, the authority to approve contracts and expenditures in amounts of $10,000 or less;

19. Upon the written request of an employee, to 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;

19a. Upon receipt of notice from the comptroller of a municipality with a population of 500,000 or more, a county with a population of 3,000,000 or more, the Cook County Forest Preserve District, the Chicago Park District, the Metropolitan Water Reclamation District, the Chicago Transit Authority, or a housing authority of a municipality with a population of 500,000 or more that a debt is due and owing the municipality, the county, the Cook County Forest Preserve District, the Chicago Park District, the Metropolitan Water Reclamation District, the Chicago Transit Authority, or the housing authority by an employee of the Chicago Board of Education, to withhold, from the compensation of that employee, the amount of the debt that is due and owing and pay the amount withheld to the municipality, the county, the Cook County Forest Preserve District, the Chicago Park District, the Metropolitan Water Reclamation District, the Chicago Transit Authority, or the housing authority; provided, however, that the amount deducted from any one salary or wage payment shall not exceed 25% of the net amount of the payment. Before the Board deducts any amount from any salary or wage of an

employee under this paragraph, the municipality, the county, the Cook County Forest Preserve District, the Chicago Park District, the Metropolitan Water Reclamation District, the Chicago Transit Authority, or the housing authority shall certify that (i) the employee has been afforded an opportunity for a hearing to dispute the debt that is due and owing the municipality, the county, the Cook County Forest Preserve District, the Chicago Park District, the Metropolitan Water Reclamation District, the Chicago Transit Authority, or the housing authority and (ii) the employee has received notice of a wage deduction order and has been afforded an opportunity for a hearing to object to the order. For purposes of this paragraph, "net amount" means that part of the salary or wage payment remaining after the deduction of any amounts required by law to be deducted and "debt due and owing" means (i) a specified sum of money owed to the municipality, the county, the Cook County Forest Preserve District, the Chicago Park District, the Metropolitan Water Reclamation District, the Chicago Transit Authority, or the housing authority for services, work, or goods, after the period granted for payment has expired, or (ii) a specified sum of money owed to the municipality, the county, the Cook County Forest Preserve District, the Chicago Park District, the Metropolitan Water Reclamation District, the Chicago Transit Authority, or the housing authority pursuant to a

court order or order of an administrative hearing officer after the exhaustion of, or the failure to exhaust, judicial review;

20. The board is encouraged to employ a sufficient number of certified school counselors to maintain a student/counselor ratio of 250 to 1 by July 1, 1990. Each counselor shall spend at least 75% of his work time in direct contact with students and shall maintain a record of such time;

21. To make available to students vocational and career counseling and to establish 5 special career counseling days for students and parents. On these days representatives of local businesses and industries shall be invited to the school campus and shall inform students of career opportunities available to them in the various businesses and industries. Special consideration shall be given to counseling minority students as to career opportunities available to them in various fields. For the purposes of this paragraph, minority student means a person who is:

(a) Black (a person having origins in any of the black racial groups in Africa);

(b) Hispanic (a person of Spanish or Portuguese culture with origins in Mexico, South or Central America, or the Caribbean islands, regardless of race);

(c) Asian American (a person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent or the Pacific Islands); or

(d) American Indian or Alaskan Native (a person having origins in any of the original peoples of North America).

Counseling days shall not be in lieu of regular school days;

22. To report to the State Board of Education the annual student dropout rate and number of students who graduate from, transfer from or otherwise leave bilingual programs;

23. Except as otherwise provided in the Abused and Neglected Child Reporting Act or other applicable State or federal law, to permit school officials to withhold, from any person, information on the whereabouts of any child removed from school premises when the child has been taken into protective custody as a victim of suspected child abuse. School officials shall direct such person to the Department of Children and Family Services, or to the local law enforcement agency if appropriate;

24. To develop a policy, based on the current state of existing school facilities, projected enrollment and efficient utilization of available resources, for capital improvement of schools and school buildings within the

district, addressing in that policy both the relative priority for major repairs, renovations and additions to school facilities, and the advisability or necessity of building new school facilities or closing existing schools to meet current or projected demographic patterns within the district;

25. To make available to the students in every high school attendance center the ability to take all courses necessary to comply with the Board of Higher Education's college entrance criteria effective in 1993;

26. To encourage mid-career changes into the teaching profession, whereby qualified professionals become certified teachers, by allowing credit for professional employment in related fields when determining point of entry on teacher pay scale;

27. To provide or contract out training programs for administrative personnel and principals with revised or expanded duties pursuant to this Act in order to assure they have the knowledge and skills to perform their duties;

28. To establish a fund for the prioritized special needs programs, and to allocate such funds and other lump sum amounts to each attendance center in a manner consistent with the provisions of part 4 of Section 34-2.3. Nothing in this paragraph shall be construed to require any additional appropriations of State funds for this purpose;

29. (Blank);

30. Notwithstanding any other provision of this Act or any other law to the contrary, to contract with third parties for services otherwise performed by employees, including those in a bargaining unit, and to layoff those employees upon 14 days written notice to the affected employees. Those contracts may be for a period not to exceed 5 years and may be awarded on a system-wide basis. The board may not operate more than 30 contract schools, provided that the board may operate an additional 5 contract turnaround schools pursuant to item (5.5) of subsection (d) of Section 34-8.3 of this Code;

31. To promulgate rules establishing procedures governing the layoff or reduction in force of employees and the recall of such employees, including, but not limited to, criteria for such layoffs, reductions in force or recall rights of such employees and the weight to be given to any particular criterion. Such criteria shall take into account factors including, but not be limited to, qualifications, certifications, experience, performance ratings or evaluations, and any other factors relating to an employee's job performance;

32. To develop a policy to prevent nepotism in the hiring of personnel or the selection of contractors;

33. To enter into a partnership agreement, as required by Section 34-3.5 of this Code, and, notwithstanding any other provision of law to the contrary, to promulgate

policies, enter into contracts, and take any other action necessary to accomplish the objectives and implement the requirements of that agreement; and

34. To establish a Labor Management Council to the board comprised of representatives of the board, the chief executive officer, and those labor organizations that are the exclusive representatives of employees of the board and to promulgate policies and procedures for the operation of the Council.

The specifications of the powers herein granted are not to be construed as exclusive but the board shall also exercise all other powers that they may be requisite or proper for the maintenance and the development of a public school system, not inconsistent with the other provisions of this Article or provisions of this Code which apply to all school districts.

In addition to the powers herein granted and authorized to be exercised by the board, it shall be the duty of the board to review or to direct independent reviews of special education expenditures and services. The board shall file a report of such review with the General Assembly on or before May 1, 1990. (Source: P.A. 96-105, eff. 7-30-09.)

Section 65. The State Universities Civil Service Act is amended by changing Section 36s as follows:

(110 ILCS 70/36s) (from Ch. 24 1/2, par. 38b18)

Sec. 36s. Supported employees.

(a) The Merit Board shall develop and implement a supported employment program. It shall be the goal of the program to appoint a minimum of 10 supported employees to State University civil service positions before June 30, 1992.

(b) The Merit Board shall designate a liaison to work with State agencies and departments, any funder or provider or both, and State universities in the implementation of a supported employment program.

(c) As used in this Section:

(1) "Supported employee" means any individual who:

(A) has a severe physical or mental disability which seriously limits functional capacities, including but not limited to, mobility, communication, self-care, self-direction, work tolerance or work skills, in terms of employability as defined, determined and certified by the Department of Human Services; and

(B) has one or more physical or mental disabilities resulting from amputation; arthritis; blindness; cancer; cerebral palsy; cystic fibrosis; deafness; heart disease; hemiplegia; respiratory or pulmonary dysfunction; an intellectual disability ~~mental retardation~~; mental illness; multiple sclerosis; muscular dystrophy; musculoskeletal disorders; neurological disorders, including stroke and epilepsy;

paraplegia; quadriplegia and other spinal cord conditions; sickle cell anemia; and end-stage renal disease; or another disability or combination of disabilities determined on the basis of an evaluation of rehabilitation potential to cause comparable substantial functional limitation.

(2) "Supported employment" means competitive work in integrated work settings:

(A) for individuals with severe handicaps for whom competitive employment has not traditionally occurred, or

(B) for individuals for whom competitive employment has been interrupted or intermittent as a result of a severe disability, and who because of their handicap, need on-going support services to perform such work. The term includes transitional employment for individuals with chronic mental illness.

(3) "Participation in a supported employee program" means participation as a supported employee that is not based on the expectation that an individual will have the skills to perform all the duties in a job class, but on the assumption that with support and adaptation, or both, a job can be designed to take advantage of the supported employee's special strengths.

(4) "Funder" means any entity either State, local or federal, or private not-for-profit or for-profit that

provides monies to programs that provide services related to supported employment.

(5) "Provider" means any entity either public or private that provides technical support and services to any department or agency subject to the control of the Governor, the Secretary of State or the University Civil Service System.

(d) The Merit Board shall establish job classifications for supported employees who may be appointed into the classifications without open competitive testing requirements. Supported employees shall serve in a trial employment capacity for not less than 3 or more than 12 months.

(e) The Merit Board shall maintain a record of all individuals hired as supported employees. The record shall include:

(1) the number of supported employees initially appointed;

(2) the number of supported employees who successfully complete the trial employment periods; and

(3) the number of permanent targeted positions by titles.

(f) The Merit Board shall submit an annual report to the General Assembly regarding the employment progress of supported employees, with recommendations for legislative action.

(Source: P.A. 89-507, eff. 7-1-97.)

Section 66. The Specialized Care for Children Act is amended by changing Section 1 as follows:

(110 ILCS 345/1) (from Ch. 144, par. 67.1)

Sec. 1. The University of Illinois is hereby designated as the agency to receive, administer, and to hold in its own treasury federal funds and aid in relation to the administration of its Division of Specialized Care for Children. The Board of Trustees of the University of Illinois shall have a charge upon all claims, demands and causes of action for injuries to an applicant for or recipient of financial aid for the total amount of medical assistance provided the recipient by the Division from the time of injury to the date of recovery upon such claim, demand or cause of action. The Board of Trustees of the University of Illinois may cooperate with the United States Children's Bureau of the Department of Health, Education and Welfare, or with any successor or other federal agency, in the administration of the Division of Specialized Care for Children, and shall have full responsibility for the expenditure of federal and state funds, or monies recovered as the result of a judgment or settlement of a lawsuit or from an insurance or personal settlement arising from a claim relating to a recipient child's medical condition, as well as any aid which may be made available to the Board of Trustees for administering, through the Division

of Specialized Care for Children, a program of services for children who are physically disabled ~~crippled~~ or suffering from conditions which may lead to a physical disability ~~crippling~~, including medical, surgical, corrective and other services and care, and facilities for diagnosis, hospitalization and aftercare of such children.

(Source: P.A. 87-203.)

Section 67. The Alternative Health Care Delivery Act is amended by changing Section 15 as follows:

(210 ILCS 3/15)

Sec. 15. License required. No health care facility or program that meets the definition and scope of an alternative health care model shall operate as such unless it is a participant in a demonstration program under this Act and licensed by the Department as an alternative health care model. The provisions of this Section as they relate to subacute care hospitals shall not apply to hospitals licensed under the Illinois Hospital Licensing Act or skilled nursing facilities licensed under the Illinois Nursing Home Care Act or the ID/DD ~~MR/DD~~ Community Care Act; provided, however, that the facilities shall not hold themselves out to the public as subacute care hospitals. The provisions of this Act concerning children's respite care centers shall not apply to any facility licensed under the Hospital Licensing Act, the Nursing Home

Care Act, the ID/DD ~~MR/DD~~ Community Care Act, or the University of Illinois Hospital Act that provides respite care services to children.

(Source: P.A. 95-331, eff. 8-21-07; 96-339, eff. 7-1-10.)

Section 68. The Ambulatory Surgical Treatment Center Act is amended by changing Section 3 as follows:

(210 ILCS 5/3) (from Ch. 111 1/2, par. 157-8.3)

Sec. 3. As used in this Act, unless the context otherwise requires, the following words and phrases shall have the meanings ascribed to them:

(A) "Ambulatory surgical treatment center" means any institution, place or building devoted primarily to the maintenance and operation of facilities for the performance of surgical procedures or any facility in which a medical or surgical procedure is utilized to terminate a pregnancy, irrespective of whether the facility is devoted primarily to this purpose. Such facility shall not provide beds or other accommodations for the overnight stay of patients; however, facilities devoted exclusively to the treatment of children may provide accommodations and beds for their patients for up to 23 hours following admission. Individual patients shall be discharged in an ambulatory condition without danger to the continued well being of the patients or shall be transferred to a hospital.

The term "ambulatory surgical treatment center" does not include any of the following:

(1) Any institution, place, building or agency required to be licensed pursuant to the "Hospital Licensing Act", approved July 1, 1953, as amended.

(2) Any person or institution required to be licensed pursuant to the Nursing Home Care Act or the ID/DD ~~MR/DD~~ Community Care Act.

(3) Hospitals or ambulatory surgical treatment centers maintained by the State or any department or agency thereof, where such department or agency has authority under law to establish and enforce standards for the hospitals or ambulatory surgical treatment centers under its management and control.

(4) Hospitals or ambulatory surgical treatment centers maintained by the Federal Government or agencies thereof.

(5) Any place, agency, clinic, or practice, public or private, whether organized for profit or not, devoted exclusively to the performance of dental or oral surgical procedures.

(B) "Person" means any individual, firm, partnership, corporation, company, association, or joint stock association, or the legal successor thereof.

(C) "Department" means the Department of Public Health of the State of Illinois.

(D) "Director" means the Director of the Department of

Public Health of the State of Illinois.

(E) "Physician" means a person licensed to practice medicine in all of its branches in the State of Illinois.

(F) "Dentist" means a person licensed to practice dentistry under the Illinois Dental Practice Act.

(G) "Podiatrist" means a person licensed to practice podiatry under the Podiatric Medical Practice Act of 1987.
(Source: P.A. 96-339, eff. 7-1-10.)

Section 69. The Assisted Living and Shared Housing Act is amended by changing Sections 10, 35, 55, and 145 as follows:

(210 ILCS 9/10)

Sec. 10. Definitions. For purposes of this Act:

"Activities of daily living" means eating, dressing, bathing, toileting, transferring, or personal hygiene.

"Assisted living establishment" or "establishment" means a home, building, residence, or any other place where sleeping accommodations are provided for at least 3 unrelated adults, at least 80% of whom are 55 years of age or older and where the following are provided consistent with the purposes of this Act:

(1) services consistent with a social model that is based on the premise that the resident's unit in assisted living and shared housing is his or her own home;

(2) community-based residential care for persons who

need assistance with activities of daily living, including personal, supportive, and intermittent health-related services available 24 hours per day, if needed, to meet the scheduled and unscheduled needs of a resident;

(3) mandatory services, whether provided directly by the establishment or by another entity arranged for by the establishment, with the consent of the resident or resident's representative; and

(4) a physical environment that is a homelike setting that includes the following and such other elements as established by the Department: individual living units each of which shall accommodate small kitchen appliances and contain private bathing, washing, and toilet facilities, or private washing and toilet facilities with a common bathing room readily accessible to each resident. Units shall be maintained for single occupancy except in cases in which 2 residents choose to share a unit. Sufficient common space shall exist to permit individual and group activities.

"Assisted living establishment" or "establishment" does not mean any of the following:

(1) A home, institution, or similar place operated by the federal government or the State of Illinois.

(2) A long term care facility licensed under the Nursing Home Care Act or a facility licensed under the ID/DD ~~MR/DD~~ Community Care Act. However, a facility

licensed under either of those Acts may convert distinct parts of the facility to assisted living. If the facility elects to do so, the facility shall retain the Certificate of Need for its nursing and sheltered care beds that were converted.

(3) A hospital, sanitarium, or other institution, the principal activity or business of which is the diagnosis, care, and treatment of human illness and that is required to be licensed under the Hospital Licensing Act.

(4) A facility for child care as defined in the Child Care Act of 1969.

(5) A community living facility as defined in the Community Living Facilities Licensing Act.

(6) A nursing home or sanitarium operated solely by and for persons who rely exclusively upon treatment by spiritual means through prayer in accordance with the creed or tenants of a well-recognized church or religious denomination.

(7) A facility licensed by the Department of Human Services as a community-integrated living arrangement as defined in the Community-Integrated Living Arrangements Licensure and Certification Act.

(8) A supportive residence licensed under the Supportive Residences Licensing Act.

(9) The portion of a life care facility as defined in the Life Care Facilities Act not licensed as an assisted

living establishment under this Act; a life care facility may apply under this Act to convert sections of the community to assisted living.

(10) A free-standing hospice facility licensed under the Hospice Program Licensing Act.

(11) A shared housing establishment.

(12) A supportive living facility as described in Section 5-5.01a of the Illinois Public Aid Code.

"Department" means the Department of Public Health.

"Director" means the Director of Public Health.

"Emergency situation" means imminent danger of death or serious physical harm to a resident of an establishment.

"License" means any of the following types of licenses issued to an applicant or licensee by the Department:

(1) "Probationary license" means a license issued to an applicant or licensee that has not held a license under this Act prior to its application or pursuant to a license transfer in accordance with Section 50 of this Act.

(2) "Regular license" means a license issued by the Department to an applicant or licensee that is in substantial compliance with this Act and any rules promulgated under this Act.

"Licensee" means a person, agency, association, corporation, partnership, or organization that has been issued a license to operate an assisted living or shared housing establishment.

"Licensed health care professional" means a registered professional nurse, an advanced practice nurse, a physician assistant, and a licensed practical nurse.

"Mandatory services" include the following:

(1) 3 meals per day available to the residents prepared by the establishment or an outside contractor;

(2) housekeeping services including, but not limited to, vacuuming, dusting, and cleaning the resident's unit;

(3) personal laundry and linen services available to the residents provided or arranged for by the establishment;

(4) security provided 24 hours each day including, but not limited to, locked entrances or building or contract security personnel;

(5) an emergency communication response system, which is a procedure in place 24 hours each day by which a resident can notify building management, an emergency response vendor, or others able to respond to his or her need for assistance; and

(6) assistance with activities of daily living as required by each resident.

"Negotiated risk" is the process by which a resident, or his or her representative, may formally negotiate with providers what risks each are willing and unwilling to assume in service provision and the resident's living environment. The provider assures that the resident and the resident's

representative, if any, are informed of the risks of these decisions and of the potential consequences of assuming these risks.

"Owner" means the individual, partnership, corporation, association, or other person who owns an assisted living or shared housing establishment. In the event an assisted living or shared housing establishment is operated by a person who leases or manages the physical plant, which is owned by another person, "owner" means the person who operates the assisted living or shared housing establishment, except that if the person who owns the physical plant is an affiliate of the person who operates the assisted living or shared housing establishment and has significant control over the day to day operations of the assisted living or shared housing establishment, the person who owns the physical plant shall incur jointly and severally with the owner all liabilities imposed on an owner under this Act.

"Physician" means a person licensed under the Medical Practice Act of 1987 to practice medicine in all of its branches.

"Resident" means a person residing in an assisted living or shared housing establishment.

"Resident's representative" means a person, other than the owner, agent, or employee of an establishment or of the health care provider unless related to the resident, designated in writing by a resident to be his or her representative. This

designation may be accomplished through the Illinois Power of Attorney Act, pursuant to the guardianship process under the Probate Act of 1975, or pursuant to an executed designation of representative form specified by the Department.

"Self" means the individual or the individual's designated representative.

"Shared housing establishment" or "establishment" means a publicly or privately operated free-standing residence for 16 or fewer persons, at least 80% of whom are 55 years of age or older and who are unrelated to the owners and one manager of the residence, where the following are provided:

(1) services consistent with a social model that is based on the premise that the resident's unit is his or her own home;

(2) community-based residential care for persons who need assistance with activities of daily living, including housing and personal, supportive, and intermittent health-related services available 24 hours per day, if needed, to meet the scheduled and unscheduled needs of a resident; and

(3) mandatory services, whether provided directly by the establishment or by another entity arranged for by the establishment, with the consent of the resident or the resident's representative.

"Shared housing establishment" or "establishment" does not mean any of the following:

(1) A home, institution, or similar place operated by the federal government or the State of Illinois.

(2) A long term care facility licensed under the Nursing Home Care Act or a facility licensed under the ID/DD ~~MR/DD~~ Community Care Act. A facility licensed under either of those Acts may, however, convert sections of the facility to assisted living. If the facility elects to do so, the facility shall retain the Certificate of Need for its nursing beds that were converted.

(3) A hospital, sanitarium, or other institution, the principal activity or business of which is the diagnosis, care, and treatment of human illness and that is required to be licensed under the Hospital Licensing Act.

(4) A facility for child care as defined in the Child Care Act of 1969.

(5) A community living facility as defined in the Community Living Facilities Licensing Act.

(6) A nursing home or sanitarium operated solely by and for persons who rely exclusively upon treatment by spiritual means through prayer in accordance with the creed or tenants of a well-recognized church or religious denomination.

(7) A facility licensed by the Department of Human Services as a community-integrated living arrangement as defined in the Community-Integrated Living Arrangements Licensure and Certification Act.

(8) A supportive residence licensed under the Supportive Residences Licensing Act.

(9) A life care facility as defined in the Life Care Facilities Act; a life care facility may apply under this Act to convert sections of the community to assisted living.

(10) A free-standing hospice facility licensed under the Hospice Program Licensing Act.

(11) An assisted living establishment.

(12) A supportive living facility as described in Section 5-5.01a of the Illinois Public Aid Code.

"Total assistance" means that staff or another individual performs the entire activity of daily living without participation by the resident.

(Source: P.A. 95-216, eff. 8-16-07; 96-339, eff. 7-1-10; 96-975, eff. 7-2-10.)

(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, the Nursing Home Care Act, or the ID/DD ~~MR/DD~~ Community 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 Disease and Related Dementias 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 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; 95-876, eff. 8-21-08; 96-339, eff. 7-1-10; 96-990, eff. 7-2-10.)

(210 ILCS 9/55)

Sec. 55. Grounds for denial of a license. An application

for a license may be denied for any of the following reasons:

(1) failure to meet any of the standards set forth in this Act or by rules adopted by the Department under this Act;

(2) conviction of the applicant, or if the applicant is a firm, partnership, or association, of any of its members, or if a corporation, the conviction of the corporation or any of its officers or stockholders, or of the person designated to manage or supervise the establishment, of a felony or of 2 or more misdemeanors involving moral turpitude during the previous 5 years as shown by a certified copy of the record of the court of conviction;

(3) personnel insufficient in number or unqualified by training or experience to properly care for the residents;

(4) insufficient financial or other resources to operate and conduct the establishment in accordance with standards adopted by the Department under this Act;

(5) revocation of a license during the previous 5 years, if such prior license was issued to the individual applicant, a controlling owner or controlling combination of owners of the applicant; or any affiliate of the individual applicant or controlling owner of the applicant and such individual applicant, controlling owner of the applicant or affiliate of the applicant was a controlling owner of the prior license; provided, however, that the denial of an application for a license pursuant to this

Section must be supported by evidence that the prior revocation renders the applicant unqualified or incapable of meeting or maintaining an establishment in accordance with the standards and rules adopted by the Department under this Act; or

(6) the establishment is not under the direct supervision of a full-time director, as defined by rule.

The Department shall deny an application for a license if 6 months after submitting its initial application the applicant has not provided the Department with all of the information required for review and approval or the applicant is not actively pursuing the processing of its application. In addition, the Department shall determine whether the applicant has violated any provision of the Nursing Home Care Act or the ID/DD ~~MR/DD~~ Community Care Act.

(Source: P.A. 96-339, eff. 7-1-10.)

(210 ILCS 9/145)

Sec. 145. Conversion of facilities. Entities licensed as facilities under the Nursing Home Care Act or the ID/DD ~~MR/DD~~ Community Care Act may elect to convert to a license under this Act. Any facility that chooses to convert, in whole or in part, shall follow the requirements in the Nursing Home Care Act or the ID/DD ~~MR/DD~~ Community Care Act, as applicable, and rules promulgated under those Acts regarding voluntary closure and notice to residents. Any conversion of existing beds licensed

under the Nursing Home Care Act or the ID/DD ~~MR/DD~~ Community Care Act to licensure under this Act is exempt from review by the Health Facilities and Services Review Board.

(Source: P.A. 96-31, eff. 6-30-09; 96-339, eff. 7-1-10; 96-1000, eff. 7-2-10.)

Section 70. The Abuse Prevention Review Team Act is amended by changing Sections 10 and 50 as follows:

(210 ILCS 28/10)

Sec. 10. Definitions. As used in this Act, unless the context requires otherwise:

"Department" means the Department of Public Health.

"Director" means the Director of Public Health.

"Executive Council" means the Illinois Residential Health Care Facility Resident Sexual Assault and Death Review Teams Executive Council.

"Resident" means a person residing in and receiving personal care from a facility licensed under the Nursing Home Care Act or the ID/DD ~~MR/DD~~ Community Care Act.

"Review team" means a residential health care facility resident sexual assault and death review team appointed under this Act.

(Source: P.A. 96-339, eff. 7-1-10.)

(210 ILCS 28/50)

Sec. 50. Funding. Notwithstanding any other provision of law, to the extent permitted by federal law, the Department shall use moneys from fines paid by facilities licensed under the Nursing Home Care Act or the ID/DD ~~MR/DD~~ Community Care Act for violating requirements for certification under Titles XVIII and XIX of the Social Security Act to implement the provisions of this Act. The Department shall use moneys deposited in the Long Term Care Monitor/Receiver Fund to pay the costs of implementing this Act that cannot be met by the use of federal civil monetary penalties.

(Source: P.A. 96-339, eff. 7-1-10.)

Section 71. The Abused and Neglected Long Term Care Facility Residents Reporting Act is amended by changing Sections 3, 4, and 6 as follows:

(210 ILCS 30/3) (from Ch. 111 1/2, par. 4163)

Sec. 3. As used in this Act unless the context otherwise requires:

a. "Department" means the Department of Public Health of the State of Illinois.

b. "Resident" means a person residing in and receiving personal care from a long term care facility, or residing in a mental health facility or developmental disability facility as defined in the Mental Health and Developmental Disabilities Code.

c. "Long term care facility" has the same meaning ascribed to such term in the Nursing Home Care Act, except that the term as used in this Act shall include any mental health facility or developmental disability facility as defined in the Mental Health and Developmental Disabilities Code. The term also includes any facility licensed under the ID/DD ~~MR/DD~~ Community Care Act.

d. "Abuse" means any physical injury, sexual abuse or mental injury inflicted on a resident other than by accidental means.

e. "Neglect" means a failure in a long term care facility to provide adequate medical or personal care or maintenance, which failure results in physical or mental injury to a resident or in the deterioration of a resident's physical or mental condition.

f. "Protective services" means services provided to a resident who has been abused or neglected, which may include, but are not limited to alternative temporary institutional placement, nursing care, counseling, other social services provided at the nursing home where the resident resides or at some other facility, personal care and such protective services of voluntary agencies as are available.

g. Unless the context otherwise requires, direct or indirect references in this Act to the programs, personnel, facilities, services, service providers, or service recipients of the Department of Human Services shall be construed to refer

only to those programs, personnel, facilities, services, service providers, or service recipients that pertain to the Department of Human Services' mental health and developmental disabilities functions.

(Source: P.A. 96-339, eff. 7-1-10.)

(210 ILCS 30/4) (from Ch. 111 1/2, par. 4164)

Sec. 4. Any long term care facility administrator, agent or employee or any physician, hospital, surgeon, dentist, osteopath, chiropractor, podiatrist, accredited religious practitioner who provides treatment by spiritual means alone through prayer in accordance with the tenets and practices of the accrediting church, coroner, social worker, social services administrator, registered nurse, law enforcement officer, field personnel of the Department of Healthcare and Family Services, field personnel of the Illinois Department of Public Health and County or Municipal Health Departments, personnel of the Department of Human Services (acting as the successor to the Department of Mental Health and Developmental Disabilities or the Department of Public Aid), personnel of the Guardianship and Advocacy Commission, personnel of the State Fire Marshal, local fire department inspectors or other personnel, or personnel of the Illinois Department on Aging, or its subsidiary Agencies on Aging, or employee of a facility licensed under the Assisted Living and Shared Housing Act, having reasonable cause to believe any resident with whom they

have direct contact has been subjected to abuse or neglect shall immediately report or cause a report to be made to the Department. Persons required to make reports or cause reports to be made under this Section include all employees of the State of Illinois who are involved in providing services to residents, including professionals providing medical or rehabilitation services and all other persons having direct contact with residents; and further include all employees of community service agencies who provide services to a resident of a public or private long term care facility outside of that facility. Any long term care surveyor of the Illinois Department of Public Health who has reasonable cause to believe in the course of a survey that a resident has been abused or neglected and initiates an investigation while on site at the facility shall be exempt from making a report under this Section but the results of any such investigation shall be forwarded to the central register in a manner and form described by the Department.

The requirement of this Act shall not relieve any long term care facility administrator, agent or employee of responsibility to report the abuse or neglect of a resident under Section 3-610 of the Nursing Home Care Act or under Section 3-610 of the ID/DD ~~MR/DD~~ Community Care Act.

In addition to the above persons required to report suspected resident abuse and neglect, any other person may make a report to the Department, or to any law enforcement officer,

if such person has reasonable cause to suspect a resident has been abused or neglected.

This Section also applies to residents whose death occurs from suspected abuse or neglect before being found or brought to a hospital.

A person required to make reports or cause reports to be made under this Section who fails to comply with the requirements of this Section is guilty of a Class A misdemeanor.

(Source: P.A. 96-339, eff. 7-1-10.)

(210 ILCS 30/6) (from Ch. 111 1/2, par. 4166)

Sec. 6. All reports of suspected abuse or neglect made under this Act shall be made immediately by telephone to the Department's central register established under Section 14 on the single, State-wide, toll-free telephone number established under Section 13, or in person or by telephone through the nearest Department office. No long term care facility administrator, agent or employee, or any other person, shall screen reports or otherwise withhold any reports from the Department, and no long term care facility, department of State government, or other agency shall establish any rules, criteria, standards or guidelines to the contrary. Every long term care facility, department of State government and other agency whose employees are required to make or cause to be made reports under Section 4 shall notify its employees of the

provisions of that Section and of this Section, and provide to the Department documentation that such notification has been given. The Department of Human Services shall train all of its mental health and developmental disabilities employees in the detection and reporting of suspected abuse and neglect of residents. Reports made to the central register through the State-wide, toll-free telephone number shall be transmitted to appropriate Department offices and municipal health departments that have responsibility for licensing long term care facilities under the Nursing Home Care Act or the ID/DD ~~MR/DD~~ Community Care Act. All reports received through offices of the Department shall be forwarded to the central register, in a manner and form described by the Department. The Department shall be capable of receiving reports of suspected abuse and neglect 24 hours a day, 7 days a week. Reports shall also be made in writing deposited in the U.S. mail, postage prepaid, within 24 hours after having reasonable cause to believe that the condition of the resident resulted from abuse or neglect. Such reports may in addition be made to the local law enforcement agency in the same manner. However, in the event a report is made to the local law enforcement agency, the reporter also shall immediately so inform the Department. The Department shall initiate an investigation of each report of resident abuse and neglect under this Act, whether oral or written, as provided for in Section 3-702 of the Nursing Home Care Act or Section 3-702 of the ID/DD ~~MR/DD~~ Community Care

Act, except that reports of abuse which indicate that a resident's life or safety is in imminent danger shall be investigated within 24 hours of such report. The Department may delegate to law enforcement officials or other public agencies the duty to perform such investigation.

With respect to investigations of reports of suspected abuse or neglect of residents of mental health and developmental disabilities institutions under the jurisdiction of the Department of Human Services, the Department shall transmit copies of such reports to the Department of State Police, the Department of Human Services, and the Inspector General appointed under Section 1-17 of the Department of Human Services Act. If the Department receives a report of suspected abuse or neglect of a recipient of services as defined in Section 1-123 of the Mental Health and Developmental Disabilities Code, the Department shall transmit copies of such report to the Inspector General and the Directors of the Guardianship and Advocacy Commission and the agency designated by the Governor pursuant to the Protection and Advocacy for Developmentally Disabled Persons Act. When requested by the Director of the Guardianship and Advocacy Commission, the agency designated by the Governor pursuant to the Protection and Advocacy for Developmentally Disabled Persons Act, or the Department of Financial and Professional Regulation, the Department, the Department of Human Services and the Department of State Police shall make available a copy of the final

investigative report regarding investigations conducted by their respective agencies on incidents of suspected abuse or neglect of residents of mental health and developmental disabilities institutions or individuals receiving services at community agencies under the jurisdiction of the Department of Human Services. Such final investigative report shall not contain witness statements, investigation notes, draft summaries, results of lie detector tests, investigative files or other raw data which was used to compile the final investigative report. Specifically, the final investigative report of the Department of State Police shall mean the Director's final transmittal letter. The Department of Human Services shall also make available a copy of the results of disciplinary proceedings of employees involved in incidents of abuse or neglect to the Directors. All identifiable information in reports provided shall not be further disclosed except as provided by the Mental Health and Developmental Disabilities Confidentiality Act. Nothing in this Section is intended to limit or construe the power or authority granted to the agency designated by the Governor pursuant to the Protection and Advocacy for Developmentally Disabled Persons Act, pursuant to any other State or federal statute.

With respect to investigations of reported resident abuse or neglect, the Department shall effect with appropriate law enforcement agencies formal agreements concerning methods and procedures for the conduct of investigations into the criminal

histories of any administrator, staff assistant or employee of the nursing home or other person responsible for the residents care, as well as for other residents in the nursing home who may be in a position to abuse, neglect or exploit the patient. Pursuant to the formal agreements entered into with appropriate law enforcement agencies, the Department may request information with respect to whether the person or persons set forth in this paragraph have ever been charged with a crime and if so, the disposition of those charges. Unless the criminal histories of the subjects involved crimes of violence or resident abuse or neglect, the Department shall be entitled only to information limited in scope to charges and their dispositions. In cases where prior crimes of violence or resident abuse or neglect are involved, a more detailed report can be made available to authorized representatives of the Department, pursuant to the agreements entered into with appropriate law enforcement agencies. Any criminal charges and their disposition information obtained by the Department shall be confidential and may not be transmitted outside the Department, except as required herein, to authorized representatives or delegates of the Department, and may not be transmitted to anyone within the Department who is not duly authorized to handle resident abuse or neglect investigations.

The Department shall effect formal agreements with appropriate law enforcement agencies in the various counties and communities to encourage cooperation and coordination in

the handling of resident abuse or neglect cases pursuant to this Act. The Department shall adopt and implement methods and procedures to promote statewide uniformity in the handling of reports of abuse and neglect under this Act, and those methods and procedures shall be adhered to by personnel of the Department involved in such investigations and reporting. The Department shall also make information required by this Act available to authorized personnel within the Department, as well as its authorized representatives.

The Department shall keep a continuing record of all reports made pursuant to this Act, including indications of the final determination of any investigation and the final disposition of all reports.

The Department shall report annually to the General Assembly on the incidence of abuse and neglect of long term care facility residents, with special attention to residents who are mentally disabled. The report shall include but not be limited to data on the number and source of reports of suspected abuse or neglect filed under this Act, the nature of any injuries to residents, the final determination of investigations, the type and number of cases where abuse or neglect is determined to exist, and the final disposition of cases.

(Source: P.A. 95-545, eff. 8-28-07; 96-339, eff. 7-1-10.)

Section 72. The Nursing Home Care Act is amended by

changing Sections 1-113 and 3-202.5 as follows:

(210 ILCS 45/1-113) (from Ch. 111 1/2, par. 4151-113)

Sec. 1-113. "Facility" or "long-term care facility" means a private home, institution, building, residence, or any other place, whether operated for profit or not, or a county home for the infirm and chronically ill operated pursuant to Division 5-21 or 5-22 of the Counties Code, or any similar institution operated by a political subdivision of the State of Illinois, which provides, through its ownership or management, personal care, sheltered care or nursing for 3 or more persons, not related to the applicant or owner by blood or marriage. It includes skilled nursing facilities and intermediate care facilities as those terms are defined in Title XVIII and Title XIX of the Federal Social Security Act. It also includes homes, institutions, or other places operated by or under the authority of the Illinois Department of Veterans' Affairs.

"Facility" does not include the following:

(1) A home, institution, or other place operated by the federal government or agency thereof, or by the State of Illinois, other than homes, institutions, or other places operated by or under the authority of the Illinois Department of Veterans' Affairs;

(2) A hospital, sanitarium, or other institution whose principal activity or business is the diagnosis, care, and treatment of human illness through the maintenance and

operation as organized facilities therefor, which is required to be licensed under the Hospital Licensing Act;

(3) Any "facility for child care" as defined in the Child Care Act of 1969;

(4) Any "Community Living Facility" as defined in the Community Living Facilities Licensing Act;

(5) Any "community residential alternative" as defined in the Community Residential Alternatives Licensing Act;

(6) Any nursing home or sanatorium operated solely by and for persons who rely exclusively upon treatment by spiritual means through prayer, in accordance with the creed or tenets of any well-recognized church or religious denomination. However, such nursing home or sanatorium shall comply with all local laws and rules relating to sanitation and safety;

(7) Any facility licensed by the Department of Human Services as a community-integrated living arrangement as defined in the Community-Integrated Living Arrangements Licensure and Certification Act;

(8) Any "Supportive Residence" licensed under the Supportive Residences Licensing Act;

(9) Any "supportive living facility" in good standing with the program established under Section 5-5.01a of the Illinois Public Aid Code, except only for purposes of the employment of persons in accordance with Section 3-206.01;

(10) Any assisted living or shared housing

establishment licensed under the Assisted Living and Shared Housing Act, except only for purposes of the employment of persons in accordance with Section 3-206.01;

(11) An Alzheimer's disease management center alternative health care model licensed under the Alternative Health Care Delivery Act; or

(12) A facility licensed under the ID/DD ~~MR/DD~~ Community Care Act.

(Source: P.A. 95-380, eff. 8-23-07; 96-339, eff. 7-1-10.)

(210 ILCS 45/3-202.5)

Sec. 3-202.5. Facility plan review; fees.

(a) Before commencing construction of a new facility or specified types of alteration or additions to an existing long term care facility involving major construction, as defined by rule by the Department, with an estimated cost greater than $100,000, architectural drawings and specifications for the facility shall be submitted to the Department for review and approval. A facility may submit architectural drawings and specifications for other construction projects for Department review according to subsection (b) that shall not be subject to fees under subsection (d). Review of drawings and specifications shall be conducted by an employee of the Department meeting the qualifications established by the Department of Central Management Services class specifications for such an individual's position or by a person contracting

with the Department who meets those class specifications. Final approval of the drawings and specifications for compliance with design and construction standards shall be obtained from the Department before the alteration, addition, or new construction is begun.

(b) The Department shall inform an applicant in writing within 10 working days after receiving drawings and specifications and the required fee, if any, from the applicant whether the applicant's submission is complete or incomplete. Failure to provide the applicant with this notice within 10 working days shall result in the submission being deemed complete for purposes of initiating the 60-day review period under this Section. If the submission is incomplete, the Department shall inform the applicant of the deficiencies with the submission in writing. If the submission is complete the required fee, if any, has been paid, the Department shall approve or disapprove drawings and specifications submitted to the Department no later than 60 days following receipt by the Department. The drawings and specifications shall be of sufficient detail, as provided by Department rule, to enable the Department to render a determination of compliance with design and construction standards under this Act. If the Department finds that the drawings are not of sufficient detail for it to render a determination of compliance, the plans shall be determined to be incomplete and shall not be considered for purposes of initiating the 60 day review period. If a

submission of drawings and specifications is incomplete, the applicant may submit additional information. The 60-day review period shall not commence until the Department determines that a submission of drawings and specifications is complete or the submission is deemed complete. If the Department has not approved or disapproved the drawings and specifications within 60 days, the construction, major alteration, or addition shall be deemed approved. If the drawings and specifications are disapproved, the Department shall state in writing, with specificity, the reasons for the disapproval. The entity submitting the drawings and specifications may submit additional information in response to the written comments from the Department or request a reconsideration of the disapproval. A final decision of approval or disapproval shall be made within 45 days of the receipt of the additional information or reconsideration request. If denied, the Department shall state the specific reasons for the denial.

(c) The Department shall provide written approval for occupancy pursuant to subsection (g) and shall not issue a violation to a facility as a result of a licensure or complaint survey based upon the facility's physical structure if:

(1) the Department reviewed and approved or deemed approved the drawings and specifications for compliance with design and construction standards;

(2) the construction, major alteration, or addition was built as submitted;

(3) the law or rules have not been amended since the original approval; and

(4) the conditions at the facility indicate that there is a reasonable degree of safety provided for the residents.

(d) The Department shall charge the following fees in connection with its reviews conducted before June 30, 2004 under this Section:

(1) (Blank).

(2) (Blank).

(3) If the estimated dollar value of the alteration, addition, or new construction is $100,000 or more but less than $500,000, the fee shall be the greater of $2,400 or 1.2% of that value.

(4) If the estimated dollar value of the alteration, addition, or new construction is $500,000 or more but less than $1,000,000, the fee shall be the greater of $6,000 or 0.96% of that value.

(5) If the estimated dollar value of the alteration, addition, or new construction is $1,000,000 or more but less than $5,000,000, the fee shall be the greater of $9,600 or 0.22% of that value.

(6) If the estimated dollar value of the alteration, addition, or new construction is $5,000,000 or more, the fee shall be the greater of $11,000 or 0.11% of that value, but shall not exceed $40,000.

The fees provided in this subsection (d) shall not apply to major construction projects involving facility changes that are required by Department rule amendments.

The fees provided in this subsection (d) shall also not apply to major construction projects if 51% or more of the estimated cost of the project is attributed to capital equipment. For major construction projects where 51% or more of the estimated cost of the project is attributed to capital equipment, the Department shall by rule establish a fee that is reasonably related to the cost of reviewing the project.

The Department shall not commence the facility plan review process under this Section until the applicable fee has been paid.

(e) All fees received by the Department under this Section shall be deposited into the Health Facility Plan Review Fund, a special fund created in the State Treasury. All fees paid by long-term care facilities under subsection (d) shall be used only to cover the costs relating to the Department's review of long-term care facility projects under this Section. Moneys shall be appropriated from that Fund to the Department only to pay the costs of conducting reviews under this Section or under Section 3-202.5 of the ID/DD ~~MR/DD~~ Community Care Act. None of the moneys in the Health Facility Plan Review Fund shall be used to reduce the amount of General Revenue Fund moneys appropriated to the Department for facility plan reviews conducted pursuant to this Section.

(f) (1) The provisions of this amendatory Act of 1997 concerning drawings and specifications shall apply only to drawings and specifications submitted to the Department on or after October 1, 1997.

(2) On and after the effective date of this amendatory Act of 1997 and before October 1, 1997, an applicant may submit or resubmit drawings and specifications to the Department and pay the fees provided in subsection (d). If an applicant pays the fees provided in subsection (d) under this paragraph (2), the provisions of subsection (b) shall apply with regard to those drawings and specifications.

(g) The Department shall conduct an on-site inspection of the completed project no later than 30 days after notification from the applicant that the project has been completed and all certifications required by the Department have been received and accepted by the Department. The Department shall provide written approval for occupancy to the applicant within 5 working days of the Department's final inspection, provided the applicant has demonstrated substantial compliance as defined by Department rule. Occupancy of new major construction is prohibited until Department approval is received, unless the Department has not acted within the time frames provided in this subsection (g), in which case the construction shall be deemed approved. Occupancy shall be authorized after any required health inspection by the Department has been conducted.

(h) The Department shall establish, by rule, a procedure to conduct interim on-site review of large or complex construction projects.

(i) The Department shall establish, by rule, an expedited process for emergency repairs or replacement of like equipment.

(j) Nothing in this Section shall be construed to apply to maintenance, upkeep, or renovation that does not affect the structural integrity of the building, does not add beds or services over the number for which the long-term care facility is licensed, and provides a reasonable degree of safety for the residents.

(Source: P.A. 96-339, eff. 7-1-10.)

Section 73. The MR/DD Community Care Act is amended by changing Sections 1-101 and 1-113 as follows:

(210 ILCS 47/1-101)

Sec. 1-101. Short title. This Act may be cited as the ID/DD ~~MR/DD~~ Community Care Act.

(Source: P.A. 96-339, eff. 7-1-10.)

(210 ILCS 47/1-113)

Sec. 1-113. Facility. "ID/DD~~MR/DD~~ facility" or "facility" means an intermediate care facility for the developmentally disabled or a long-term care for under age 22 facility, whether operated for profit or not, which provides, through its

ownership or management, personal care or nursing for 3 or more persons not related to the applicant or owner by blood or marriage. It includes intermediate care facilities for the intellectually disabled ~~mentally retarded~~ as the term is defined in Title XVIII and Title XIX of the federal Social Security Act.

"Facility" does not include the following:

(1) A home, institution, or other place operated by the federal government or agency thereof, or by the State of Illinois, other than homes, institutions, or other places operated by or under the authority of the Illinois Department of Veterans' Affairs;

(2) A hospital, sanitarium, or other institution whose principal activity or business is the diagnosis, care, and treatment of human illness through the maintenance and operation as organized facilities therefore, which is required to be licensed under the Hospital Licensing Act;

(3) Any "facility for child care" as defined in the Child Care Act of 1969;

(4) Any "community living facility" as defined in the Community Living Facilities Licensing Act;

(5) Any "community residential alternative" as defined in the Community Residential Alternatives Licensing Act;

(6) Any nursing home or sanatorium operated solely by and for persons who rely exclusively upon treatment by spiritual means through prayer, in accordance with the

creed or tenets of any well recognized church or religious denomination. However, such nursing home or sanatorium shall comply with all local laws and rules relating to sanitation and safety;

(7) Any facility licensed by the Department of Human Services as a community-integrated living arrangement as defined in the Community-Integrated Living Arrangements Licensure and Certification Act;

(8) Any "supportive residence" licensed under the Supportive Residences Licensing Act;

(9) Any "supportive living facility" in good standing with the program established under Section 5-5.01a of the Illinois Public Aid Code, except only for purposes of the employment of persons in accordance with Section 3-206.01;

(10) Any assisted living or shared housing establishment licensed under the Assisted Living and Shared Housing Act, except only for purposes of the employment of persons in accordance with Section 3-206.01;

(11) An Alzheimer's disease management center alternative health care model licensed under the Alternative Health Care Delivery Act; or

(12) A home, institution, or other place operated by or under the authority of the Illinois Department of Veterans' Affairs.

(Source: P.A. 96-339, eff. 7-1-10; 96-1000, eff. 7-2-10.)

Section 74. The Home Health, Home Services, and Home Nursing Agency Licensing Act is amended by changing Section 2.08 as follows:

(210 ILCS 55/2.08)

Sec. 2.08. "Home services agency" means an agency that provides services directly, or acts as a placement agency, for the purpose of placing individuals as workers providing home services for consumers in their personal residences. "Home services agency" does not include agencies licensed under the Nurse Agency Licensing Act, the Hospital Licensing Act, the Nursing Home Care Act, the ID/DD ~~MR/DD~~ Community Care Act, or the Assisted Living and Shared Housing Act and does not include an agency that limits its business exclusively to providing housecleaning services. Programs providing services exclusively through the Community Care Program of the Illinois Department on Aging, the Department of Human Services Office of Rehabilitation Services, or the United States Department of Veterans Affairs are not considered to be a home services agency under this Act.

(Source: P.A. 96-339, eff. 7-1-10; 96-577, eff. 8-18-09; 96-1000, eff. 7-2-10.)

Section 75. The Hospice Program Licensing Act is amended by changing Sections 3 and 4 as follows:

(210 ILCS 60/3) (from Ch. 111 1/2, par. 6103)

Sec. 3. Definitions. As used in this Act, unless the context otherwise requires:

(a) "Bereavement" means the period of time during which the hospice patient's family experiences and adjusts to the death of the hospice patient.

(a-5) "Bereavement services" means counseling services provided to an individual's family after the individual's death.

(a-10) "Attending physician" means a physician who:

(1) is a doctor of medicine or osteopathy; and

(2) is identified by an individual, at the time the individual elects to receive hospice care, as having the most significant role in the determination and delivery of the individual's medical care.

(b) "Department" means the Illinois Department of Public Health.

(c) "Director" means the Director of the Illinois Department of Public Health.

(d) "Hospice care" means a program of palliative care that provides for the physical, emotional, and spiritual care needs of a terminally ill patient and his or her family. The goal of such care is to achieve the highest quality of life as defined by the patient and his or her family through the relief of suffering and control of symptoms.

(e) "Hospice care team" means an interdisciplinary group or

groups composed of individuals who provide or supervise the care and services offered by the hospice.

(f) "Hospice patient" means a terminally ill person receiving hospice services.

(g) "Hospice patient's family" means a hospice patient's immediate family consisting of a spouse, sibling, child, parent and those individuals designated as such by the patient for the purposes of this Act.

(g-1) "Hospice residence" means a separately licensed home, apartment building, or similar building providing living quarters:

(1) that is owned or operated by a person licensed to operate as a comprehensive hospice; and

(2) at which hospice services are provided to facility residents.

A building that is licensed under the Hospital Licensing Act, the Nursing Home Care Act, or the ID/DD ~~MR/DD~~ Community Care Act is not a hospice residence.

(h) "Hospice services" means a range of professional and other supportive services provided to a hospice patient and his or her family. These services may include, but are not limited to, physician services, nursing services, medical social work services, spiritual counseling services, bereavement services, and volunteer services.

(h-5) "Hospice program" means a licensed public agency or private organization, or a subdivision of either of those, that

is primarily engaged in providing care to terminally ill individuals through a program of home care or inpatient care, or both home care and inpatient care, utilizing a medically directed interdisciplinary hospice care team of professionals or volunteers, or both professionals and volunteers. A hospice program may be licensed as a comprehensive hospice program or a volunteer hospice program.

(h-10) "Comprehensive hospice" means a program that provides hospice services and meets the minimum standards for certification under the Medicare program set forth in the Conditions of Participation in 42 CFR Part 418 but is not required to be Medicare-certified.

(i) "Palliative care" means the management of pain and other distressing symptoms that incorporates medical, nursing, psychosocial, and spiritual care according to the needs, values, beliefs, and culture or cultures of the patient and his or her family. The evaluation and treatment is patient-centered, with a focus on the central role of the family unit in decision-making.

(j) "Hospice service plan" means a plan detailing the specific hospice services offered by a comprehensive or volunteer hospice program, and the administrative and direct care personnel responsible for those services. The plan shall include but not be limited to:

(1) Identification of the person or persons administratively responsible for the program.

(2) The estimated average monthly patient census.

(3) The proposed geographic area the hospice will serve.

(4) A listing of those hospice services provided directly by the hospice, and those hospice services provided indirectly through a contractual agreement.

(5) The name and qualifications of those persons or entities under contract to provide indirect hospice services.

(6) The name and qualifications of those persons providing direct hospice services, with the exception of volunteers.

(7) A description of how the hospice plans to utilize volunteers in the provision of hospice services.

(8) A description of the program's record keeping system.

(k) "Terminally ill" means a medical prognosis by a physician licensed to practice medicine in all of its branches that a patient has an anticipated life expectancy of one year or less.

(l) "Volunteer" means a person who offers his or her services to a hospice without compensation. Reimbursement for a volunteer's expenses in providing hospice service shall not be considered compensation.

(l-5) "Employee" means a paid or unpaid member of the staff of a hospice program, or, if the hospice program is a

subdivision of an agency or organization, of the agency or organization, who is appropriately trained and assigned to the hospice program. "Employee" also means a volunteer whose duties are prescribed by the hospice program and whose performance of those duties is supervised by the hospice program.

(l-10) "Representative" means an individual who has been authorized under State law to terminate an individual's medical care or to elect or revoke the election of hospice care on behalf of a terminally ill individual who is mentally or physically incapacitated.

(m) "Volunteer hospice" means a program which provides hospice services to patients regardless of their ability to pay, with emphasis on the utilization of volunteers to provide services, under the administration of a not-for-profit agency. This definition does not prohibit the employment of staff.
(Source: P.A. 96-339, eff. 7-1-10.)

(210 ILCS 60/4) (from Ch. 111 1/2, par. 6104)

Sec. 4. License.

(a) No person shall establish, conduct or maintain a comprehensive or volunteer hospice program without first obtaining a license from the Department. A hospice residence may be operated only at the locations listed on the license. A comprehensive hospice program owning or operating a hospice residence is not subject to the provisions of the Nursing Home Care Act or the ID/DD ~~MR/DD~~ Community Care Act in owning or

operating a hospice residence.

(b) No public or private agency shall advertise or present itself to the public as a comprehensive or volunteer hospice program which provides hospice services without meeting the provisions of subsection (a).

(c) The license shall be valid only in the possession of the hospice to which it was originally issued and shall not be transferred or assigned to any other person, agency, or corporation.

(d) The license shall be renewed annually.

(e) The license shall be displayed in a conspicuous place inside the hospice program office.

(Source: P.A. 96-339, eff. 7-1-10.)

Section 76. The Hospital Licensing Act is amended by changing Sections 3, 6.09, and 6.11 as follows:

(210 ILCS 85/3)

Sec. 3. As used in this Act:

(A) "Hospital" means any institution, place, building, buildings on a campus, or agency, public or private, whether organized for profit or not, devoted primarily to the maintenance and operation of facilities for the diagnosis and treatment or care of 2 or more unrelated persons admitted for overnight stay or longer in order to obtain medical, including obstetric, psychiatric and nursing, care of illness, disease,

injury, infirmity, or deformity.

The term "hospital", without regard to length of stay, shall also include:

(a) any facility which is devoted primarily to providing psychiatric and related services and programs for the diagnosis and treatment or care of 2 or more unrelated persons suffering from emotional or nervous diseases;

(b) all places where pregnant females are received, cared for, or treated during delivery irrespective of the number of patients received.

The term "hospital" includes general and specialized hospitals, tuberculosis sanitaria, mental or psychiatric hospitals and sanitaria, and includes maternity homes, lying-in homes, and homes for unwed mothers in which care is given during delivery.

The term "hospital" does not include:

(1) any person or institution required to be licensed pursuant to the Nursing Home Care Act or the ID/DD ~~MR/DD~~ Community Care Act;

(2) hospitalization or care facilities maintained by the State or any department or agency thereof, where such department or agency has authority under law to establish and enforce standards for the hospitalization or care facilities under its management and control;

(3) hospitalization or care facilities maintained by

the federal government or agencies thereof;

(4) hospitalization or care facilities maintained by any university or college established under the laws of this State and supported principally by public funds raised by taxation;

(5) any person or facility required to be licensed pursuant to the Alcoholism and Other Drug Abuse and Dependency Act;

(6) any facility operated solely by and for persons who rely exclusively upon treatment by spiritual means through prayer, in accordance with the creed or tenets of any well-recognized church or religious denomination;

(7) an Alzheimer's disease management center alternative health care model licensed under the Alternative Health Care Delivery Act; or

(8) any veterinary hospital or clinic operated by a veterinarian or veterinarians licensed under the Veterinary Medicine and Surgery Practice Act of 2004 or maintained by a State-supported or publicly funded university or college.

(B) "Person" means the State, and any political subdivision or municipal corporation, individual, firm, partnership, corporation, company, association, or joint stock association, or the legal successor thereof.

(C) "Department" means the Department of Public Health of the State of Illinois.

(D) "Director" means the Director of Public Health of the State of Illinois.

(E) "Perinatal" means the period of time between the conception of an infant and the end of the first month after birth.

(F) "Federally designated organ procurement agency" means the organ procurement agency designated by the Secretary of the U.S. Department of Health and Human Services for the service area in which a hospital is located; except that in the case of a hospital located in a county adjacent to Wisconsin which currently contracts with an organ procurement agency located in Wisconsin that is not the organ procurement agency designated by the U.S. Secretary of Health and Human Services for the service area in which the hospital is located, if the hospital applies for a waiver pursuant to 42 USC 1320b-8(a), it may designate an organ procurement agency located in Wisconsin to be thereafter deemed its federally designated organ procurement agency for the purposes of this Act.

(G) "Tissue bank" means any facility or program operating in Illinois that is certified by the American Association of Tissue Banks or the Eye Bank Association of America and is involved in procuring, furnishing, donating, or distributing corneas, bones, or other human tissue for the purpose of injecting, transfusing, or transplanting any of them into the human body. "Tissue bank" does not include a licensed blood bank. For the purposes of this Act, "tissue" does not include

organs.

(H) "Campus", as this terms applies to operations, has the same meaning as the term "campus" as set forth in federal Medicare regulations, 42 CFR 413.65.

(Source: P.A. 96-219, eff. 8-10-09; 96-339, eff. 7-1-10; 96-1000, eff. 7-2-10; 96-1515, eff. 2-4-11.)

(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 or the ID/DD ~~MR/DD~~ Community 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, facilities licensed under the ID/DD ~~MR/DD~~ Community Care Act, 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.

(d) Before transfer of a patient to a long term care facility licensed under the Nursing Home Care Act where elderly persons reside, a hospital shall as soon as practicable initiate a name-based criminal history background check by electronic submission to the Department of State Police for all persons between the ages of 18 and 70 years; provided, however, that a hospital shall be required to initiate such a background check only with respect to patients who:

(1) are transferring to a long term care facility for the first time;

(2) have been in the hospital more than 5 days;

(3) are reasonably expected to remain at the long term care facility for more than 30 days;

(4) have a known history of serious mental illness or substance abuse; and

(5) are independently ambulatory or mobile for more than a temporary period of time.

A hospital may also request a criminal history background check for a patient who does not meet any of the criteria set forth in items (1) through (5).

A hospital shall notify a long term care facility if the hospital has initiated a criminal history background check on a patient being discharged to that facility. In all circumstances

in which the hospital is required by this subsection to initiate the criminal history background check, the transfer to the long term care facility may proceed regardless of the availability of criminal history results. Upon receipt of the results, the hospital shall promptly forward the results to the appropriate long term care facility. If the results of the background check are inconclusive, the hospital shall have no additional duty or obligation to seek additional information from, or about, the patient.

(Source: P.A. 95-80, eff. 8-13-07; 95-651, eff. 10-11-07; 95-876, eff. 8-21-08; 96-339, eff. 7-1-10; 96-1372, eff. 7-29-10.)

(210 ILCS 85/6.11) (from Ch. 111 1/2, par. 147.11)

Sec. 6.11. In licensing any hospital which provides for the diagnosis, care or treatment for persons suffering from mental or emotional disorders or for intellectually disabled ~~mentally retarded~~ persons, the Department shall consult with the Department of Human Services in developing standards for and evaluating the psychiatric programs of such hospitals.

(Source: P.A. 89-507, eff. 7-1-97.)

Section 77. The Language Assistance Services Act is amended by changing Section 10 as follows:

(210 ILCS 87/10)

Sec. 10. Definitions. As used in this Act:

"Department" means the Department of Public Health.

"Interpreter" means a person fluent in English and in the necessary language of the patient who can accurately speak, read, and readily interpret the necessary second language, or a person who can accurately sign and read sign language. Interpreters shall have the ability to translate the names of body parts and to describe completely symptoms and injuries in both languages. Interpreters may include members of the medical or professional staff.

"Language or communication barriers" means either of the following:

(1) With respect to spoken language, barriers that are experienced by limited-English-speaking or non-English-speaking individuals who speak the same primary language, if those individuals constitute at least 5% of the patients served by the health facility annually.

(2) With respect to sign language, barriers that are experienced by individuals who are deaf and whose primary language is sign language.

"Health facility" means a hospital licensed under the Hospital Licensing Act, a long-term care facility licensed under the Nursing Home Care Act, or a facility licensed under the ID/DD ~~MR/DD~~ Community Care Act.

(Source: P.A. 96-339, eff. 7-1-10.)

Section 78. Community-Integrated Living Arrangements Licensure and Certification Act is amended by changing Section 4 as follows:

(210 ILCS 135/4) (from Ch. 91 1/2, par. 1704)

Sec. 4. (a) Any community mental health or developmental services agency who wishes to develop and support a variety of community-integrated living arrangements may do so pursuant to a license issued by the Department under this Act. However, programs established under or otherwise subject to the Child Care Act of 1969, the Nursing Home Care Act, or the ID/DD ~~MR/DD~~ Community Care Act, as now or hereafter amended, shall remain subject thereto, and this Act shall not be construed to limit the application of those Acts.

(b) The system of licensure established under this Act shall be for the purposes of:

(1) Insuring that all recipients residing in community-integrated living arrangements are receiving appropriate community-based services, including treatment, training and habilitation or rehabilitation;

(2) Insuring that recipients' rights are protected and that all programs provided to and placements arranged for recipients comply with this Act, the Mental Health and Developmental Disabilities Code, and applicable Department rules and regulations;

(3) Maintaining the integrity of communities by

requiring regular monitoring and inspection of placements and other services provided in community-integrated living arrangements.

The licensure system shall be administered by a quality assurance unit within the Department which shall be administratively independent of units responsible for funding of agencies or community services.

(c) As a condition of being licensed by the Department as a community mental health or developmental services agency under this Act, the agency shall certify to the Department that:

(1) All recipients residing in community-integrated living arrangements are receiving appropriate community-based services, including treatment, training and habilitation or rehabilitation;

(2) All programs provided to and placements arranged for recipients are supervised by the agency; and

(3) All programs provided to and placements arranged for recipients comply with this Act, the Mental Health and Developmental Disabilities Code, and applicable Department rules and regulations.

(d) An applicant for licensure as a community mental health or developmental services agency under this Act shall submit an application pursuant to the application process established by the Department by rule and shall pay an application fee in an amount established by the Department, which amount shall not be more than $200.

(e) If an applicant meets the requirements established by the Department to be licensed as a community mental health or developmental services agency under this Act, after payment of the licensing fee, the Department shall issue a license valid for 3 years from the date thereof unless suspended or revoked by the Department or voluntarily surrendered by the agency.

(f) Upon application to the Department, the Department may issue a temporary permit to an applicant for a 6-month period to allow the holder of such permit reasonable time to become eligible for a license under this Act.

(g)(1) The Department may conduct site visits to an agency licensed under this Act, or to any program or placement certified by the agency, and inspect the records or premises, or both, of such agency, program or placement as it deems appropriate, for the purpose of determining compliance with this Act, the Mental Health and Developmental Disabilities Code, and applicable Department rules and regulations.

(2) If the Department determines that an agency licensed under this Act is not in compliance with this Act or the rules and regulations promulgated under this Act, the Department shall serve a notice of violation upon the licensee. Each notice of violation shall be prepared in writing and shall specify the nature of the violation, the statutory provision or rule alleged to have been violated, and that the licensee submit a plan of correction to the Department if required. The notice shall also inform the licensee of any other action which

the Department might take pursuant to this Act and of the right to a hearing.

(h) Upon the expiration of any license issued under this Act, a license renewal application shall be required of and a license renewal fee in an amount established by the Department shall be charged to a community mental health or developmental services agency, provided that such fee shall not be more than $200.

(Source: P.A. 96-339, eff. 7-1-10.)

Section 79. The Child Care Act of 1969 is amended by changing Sections 2.06 and 7 as follows:

(225 ILCS 10/2.06) (from Ch. 23, par. 2212.06)

Sec. 2.06. "Child care institution" means a child care facility where more than 7 children are received and maintained for the purpose of providing them with care or training or both. The term "child care institution" includes residential schools, primarily serving ambulatory handicapped children, and those operating a full calendar year, but does not include:

(a) Any State-operated institution for child care established by legislative action;

(b) Any juvenile detention or shelter care home established and operated by any county or child protection district established under the "Child Protection Act";

(c) Any institution, home, place or facility operating

under a license pursuant to the Nursing Home Care Act or the ID/DD ~~MR/DD~~ Community Care Act;

(d) Any bona fide boarding school in which children are primarily taught branches of education corresponding to those taught in public schools, grades one through 12, or taught in public elementary schools, high schools, or both elementary and high schools, and which operates on a regular academic school year basis; or

(e) Any facility licensed as a "group home" as defined in this Act.

(Source: P.A. 96-339, eff. 7-1-10.)

(225 ILCS 10/7) (from Ch. 23, par. 2217)

Sec. 7. (a) The Department must prescribe and publish minimum standards for licensing that apply to the various types of facilities for child care defined in this Act and that are equally applicable to like institutions under the control of the Department and to foster family homes used by and under the direct supervision of the Department. The Department shall seek the advice and assistance of persons representative of the various types of child care facilities in establishing such standards. The standards prescribed and published under this Act take effect as provided in the Illinois Administrative Procedure Act, and are restricted to regulations pertaining to the following matters and to any rules and regulations required or permitted by any other Section of this Act:

(1) The operation and conduct of the facility and responsibility it assumes for child care;

(2) The character, suitability and qualifications of the applicant and other persons directly responsible for the care and welfare of children served. All child day care center licensees and employees who are required to report child abuse or neglect under the Abused and Neglected Child Reporting Act shall be required to attend training on recognizing child abuse and neglect, as prescribed by Department rules;

(3) The general financial ability and competence of the applicant to provide necessary care for children and to maintain prescribed standards;

(4) The number of individuals or staff required to insure adequate supervision and care of the children received. The standards shall provide that each child care institution, maternity center, day care center, group home, day care home, and group day care home shall have on its premises during its hours of operation at least one staff member certified in first aid, in the Heimlich maneuver and in cardiopulmonary resuscitation by the American Red Cross or other organization approved by rule of the Department. Child welfare agencies shall not be subject to such a staffing requirement. The Department may offer, or arrange for the offering, on a periodic basis in each community in this State in cooperation with the

American Red Cross, the American Heart Association or other appropriate organization, voluntary programs to train operators of foster family homes and day care homes in first aid and cardiopulmonary resuscitation;

(5) The appropriateness, safety, cleanliness and general adequacy of the premises, including maintenance of adequate fire prevention and health standards conforming to State laws and municipal codes to provide for the physical comfort, care and well-being of children received;

(6) Provisions for food, clothing, educational opportunities, program, equipment and individual supplies to assure the healthy physical, mental and spiritual development of children served;

(7) Provisions to safeguard the legal rights of children served;

(8) Maintenance of records pertaining to the admission, progress, health and discharge of children, including, for day care centers and day care homes, records indicating each child has been immunized as required by State regulations. The Department shall require proof that children enrolled in a facility have been immunized against Haemophilus Influenzae B (HIB);

(9) Filing of reports with the Department;

(10) Discipline of children;

(11) Protection and fostering of the particular

religious faith of the children served;

(12) Provisions prohibiting firearms on day care center premises except in the possession of peace officers;

(13) Provisions prohibiting handguns on day care home premises except in the possession of peace officers or other adults who must possess a handgun as a condition of employment and who reside on the premises of a day care home;

(14) Provisions requiring that any firearm permitted on day care home premises, except handguns in the possession of peace officers, shall be kept in a disassembled state, without ammunition, in locked storage, inaccessible to children and that ammunition permitted on day care home premises shall be kept in locked storage separate from that of disassembled firearms, inaccessible to children;

(15) Provisions requiring notification of parents or guardians enrolling children at a day care home of the presence in the day care home of any firearms and ammunition and of the arrangements for the separate, locked storage of such firearms and ammunition.

(b) If, in a facility for general child care, there are children diagnosed as mentally ill, intellectually disabled ~~mentally retarded~~ or physically handicapped, who are determined to be in need of special mental treatment or of nursing care, or both mental treatment and nursing care, the

Department shall seek the advice and recommendation of the Department of Human Services, the Department of Public Health, or both Departments regarding the residential treatment and nursing care provided by the institution.

(c) The Department shall investigate any person applying to be licensed as a foster parent to determine whether there is any evidence of current drug or alcohol abuse in the prospective foster family. The Department shall not license a person as a foster parent if drug or alcohol abuse has been identified in the foster family or if a reasonable suspicion of such abuse exists, except that the Department may grant a foster parent license to an applicant identified with an alcohol or drug problem if the applicant has successfully participated in an alcohol or drug treatment program, self-help group, or other suitable activities.

(d) The Department, in applying standards prescribed and published, as herein provided, shall offer consultation through employed staff or other qualified persons to assist applicants and licensees in meeting and maintaining minimum requirements for a license and to help them otherwise to achieve programs of excellence related to the care of children served. Such consultation shall include providing information concerning education and training in early childhood development to providers of day care home services. The Department may provide or arrange for such education and training for those providers who request such assistance.

(e) The Department shall distribute copies of licensing standards to all licensees and applicants for a license. Each licensee or holder of a permit shall distribute copies of the appropriate licensing standards and any other information required by the Department to child care facilities under its supervision. Each licensee or holder of a permit shall maintain appropriate documentation of the distribution of the standards. Such documentation shall be part of the records of the facility and subject to inspection by authorized representatives of the Department.

(f) The Department shall prepare summaries of day care licensing standards. Each licensee or holder of a permit for a day care facility shall distribute a copy of the appropriate summary and any other information required by the Department, to the legal guardian of each child cared for in that facility at the time when the child is enrolled or initially placed in the facility. The licensee or holder of a permit for a day care facility shall secure appropriate documentation of the distribution of the summary and brochure. Such documentation shall be a part of the records of the facility and subject to inspection by an authorized representative of the Department.

(g) The Department shall distribute to each licensee and holder of a permit copies of the licensing or permit standards applicable to such person's facility. Each licensee or holder of a permit shall make available by posting at all times in a common or otherwise accessible area a complete and current set

of licensing standards in order that all employees of the facility may have unrestricted access to such standards. All employees of the facility shall have reviewed the standards and any subsequent changes. Each licensee or holder of a permit shall maintain appropriate documentation of the current review of licensing standards by all employees. Such records shall be part of the records of the facility and subject to inspection by authorized representatives of the Department.

(h) Any standards involving physical examinations, immunization, or medical treatment shall include appropriate exemptions for children whose parents object thereto on the grounds that they conflict with the tenets and practices of a recognized church or religious organization, of which the parent is an adherent or member, and for children who should not be subjected to immunization for clinical reasons.

(i) The Department, in cooperation with the Department of Public Health, shall work to increase immunization awareness and participation among parents of children enrolled in day care centers and day care homes by publishing on the Department's website information about the benefits of annual immunization against influenza for children 6 months of age to 5 years of age. The Department shall work with day care centers and day care homes licensed under this Act to ensure that the information is annually distributed to parents in August or September.

(Source: P.A. 96-391, eff. 8-13-09.)

Section 80. The Health Care Worker Background Check Act is amended by changing Section 15 as follows:

(225 ILCS 46/15)

Sec. 15. Definitions. In this Act:

"Applicant" means an individual seeking employment with a health care employer who has received a bona fide conditional offer of employment.

"Conditional offer of employment" means a bona fide offer of employment by a health care employer to an applicant, which is contingent upon the receipt of a report from the Department of Public Health indicating that the applicant does not have a record of conviction of any of the criminal offenses enumerated in Section 25.

"Direct care" means the provision of nursing care or assistance with feeding, dressing, movement, bathing, toileting, or other personal needs, including home services as defined in the Home Health, Home Services, and Home Nursing Agency Licensing Act. The entity responsible for inspecting and licensing, certifying, or registering the health care employer may, by administrative rule, prescribe guidelines for interpreting this definition with regard to the health care employers that it licenses.

"Disqualifying offenses" means those offenses set forth in Section 25 of this Act.

"Employee" means any individual hired, employed, or retained to which this Act applies.

"Fingerprint-based criminal history records check" means a livescan fingerprint-based criminal history records check submitted as a fee applicant inquiry in the form and manner prescribed by the Department of State Police.

"Health care employer" means:

(1) the owner or licensee of any of the following:

(i) a community living facility, as defined in the Community Living Facilities Act;

(ii) a life care facility, as defined in the Life Care Facilities Act;

(iii) a long-term care facility;

(iv) a home health agency, home services agency, or home nursing agency as defined in the Home Health, Home Services, and Home Nursing Agency Licensing Act;

(v) a hospice care program or volunteer hospice program, as defined in the Hospice Program Licensing Act;

(vi) a hospital, as defined in the Hospital Licensing Act;

(vii) (blank);

(viii) a nurse agency, as defined in the Nurse Agency Licensing Act;

(ix) a respite care provider, as defined in the Respite Program Act;

(ix-a) an establishment licensed under the Assisted Living and Shared Housing Act;

(x) a supportive living program, as defined in the Illinois Public Aid Code;

(xi) early childhood intervention programs as described in 59 Ill. Adm. Code 121;

(xii) the University of Illinois Hospital, Chicago;

(xiii) programs funded by the Department on Aging through the Community Care Program;

(xiv) programs certified to participate in the Supportive Living Program authorized pursuant to Section 5-5.01a of the Illinois Public Aid Code;

(xv) programs listed by the Emergency Medical Services (EMS) Systems Act as Freestanding Emergency Centers;

(xvi) locations licensed under the Alternative Health Care Delivery Act;

(2) a day training program certified by the Department of Human Services;

(3) a community integrated living arrangement operated by a community mental health and developmental service agency, as defined in the Community-Integrated Living Arrangements Licensing and Certification Act; or

(4) the State Long Term Care Ombudsman Program, including any regional long term care ombudsman programs

under Section 4.04 of the Illinois Act on the Aging, only for the purpose of securing background checks.

"Initiate" means obtaining from a student, applicant, or employee his or her social security number, demographics, a disclosure statement, and an authorization for the Department of Public Health or its designee to request a fingerprint-based criminal history records check; transmitting this information electronically to the Department of Public Health; conducting Internet searches on certain web sites, including without limitation the Illinois Sex Offender Registry, the Department of Corrections' Sex Offender Search Engine, the Department of Corrections' Inmate Search Engine, the Department of Corrections Wanted Fugitives Search Engine, the National Sex Offender Public Registry, and the website of the Health and Human Services Office of Inspector General to determine if the applicant has been adjudicated a sex offender, has been a prison inmate, or has committed Medicare or Medicaid fraud, or conducting similar searches as defined by rule; and having the student, applicant, or employee's fingerprints collected and transmitted electronically to the Department of State Police.

"Livescan vendor" means an entity whose equipment has been certified by the Department of State Police to collect an individual's demographics and inkless fingerprints and, in a manner prescribed by the Department of State Police and the Department of Public Health, electronically transmit the fingerprints and required data to the Department of State

Police and a daily file of required data to the Department of Public Health. The Department of Public Health shall negotiate a contract with one or more vendors that effectively demonstrate that the vendor has 2 or more years of experience transmitting fingerprints electronically to the Department of State Police and that the vendor can successfully transmit the required data in a manner prescribed by the Department of Public Health. Vendor authorization may be further defined by administrative rule.

"Long-term care facility" means a facility licensed by the State or certified under federal law as a long-term care facility, including without limitation facilities licensed under the Nursing Home Care Act or the ID/DD ~~MR/DD~~ Community Care Act, a supportive living facility, an assisted living establishment, or a shared housing establishment or registered as a board and care home.

(Source: P.A. 95-120, eff. 8-13-07; 95-331, eff. 8-21-07; 96-339, eff. 7-1-10.)

Section 81. The Nursing Home Administrators Licensing and Disciplinary Act is amended by changing Sections 4 and 17 as follows:

(225 ILCS 70/4) (from Ch. 111, par. 3654)

(Section scheduled to be repealed on January 1, 2018)

Sec. 4. Definitions. For purposes of this Act, the

following definitions shall have the following meanings, except where the context requires otherwise:

(1) "Act" means the Nursing Home Administrators Licensing and Disciplinary Act.

(2) "Department" means the Department of Financial and Professional Regulation.

(3) "Secretary" means the Secretary of Financial and Professional Regulation.

(4) "Board" means the Nursing Home Administrators Licensing and Disciplinary Board appointed by the Governor.

(5) "Nursing home administrator" means the individual licensed under this Act and directly responsible for planning, organizing, directing and supervising the operation of a nursing home, or who in fact performs such functions, whether or not such functions are delegated to one or more other persons.

(6) "Nursing home" or "facility" means any entity that is required to be licensed by the Department of Public Health under the Nursing Home Care Act, as amended, other than a sheltered care home as defined thereunder, and includes private homes, institutions, buildings, residences, or other places, whether operated for profit or not, irrespective of the names attributed to them, county homes for the infirm and chronically ill operated pursuant to the County Nursing Home Act, as amended, and any similar

institutions operated by a political subdivision of the State of Illinois that provide, though their ownership or management, maintenance, personal care, and nursing for 3 or more persons, not related to the owner by blood or marriage, or any similar facilities in which maintenance is provided to 3 or more persons who by reason of illness of physical infirmity require personal care and nursing. The term also means any facility licensed under the ID/DD ~~MR/DD~~ Community Care Act.

(7) "Maintenance" means food, shelter and laundry.

(8) "Personal care" means assistance with meals, dressing, movement, bathing, or other personal needs, or general supervision of the physical and mental well-being of an individual who because of age, physical, or mental disability, emotion or behavior disorder, or an intellectual disability ~~mental retardation~~ is incapable of managing his or her person, whether or not a guardian has been appointed for such individual. For the purposes of this Act, this definition does not include the professional services of a nurse.

(9) "Nursing" means professional nursing or practical nursing, as those terms are defined in the Nurse Practice Act, for sick or infirm persons who are under the care and supervision of licensed physicians or dentists.

(10) "Disciplinary action" means revocation, suspension, probation, supervision, reprimand, required

education, fines or any other action taken by the Department against a person holding a license.

(11) "Impaired" means the inability to practice with reasonable skill and safety due to physical or mental disabilities as evidenced by a written determination or written consent based on clinical evidence including deterioration through the aging process or loss of motor skill, or abuse of drugs or alcohol, of sufficient degree to diminish a person's ability to administer a nursing home.

(12) "Address of record" means the designated address recorded by the Department in the applicant's or licensee's application file or license file maintained by the Department's licensure maintenance unit. It is the duty of the applicant or licensee to inform the Department of any change of address, and such changes must be made either through the Department's website or by contacting the Department's licensure maintenance unit.

(Source: P.A. 95-639, eff. 10-5-07; 95-703, eff. 12-31-07; 96-328, eff. 8-11-09; 96-339, eff. 7-1-10.)

(225 ILCS 70/17) (from Ch. 111, par. 3667)

(Section scheduled to be repealed on January 1, 2018)

Sec. 17. Grounds for disciplinary action.

(a) The Department may impose fines not to exceed $10,000 or may refuse to issue or to renew, or may revoke, suspend,

place on probation, censure, reprimand or take other disciplinary or non-disciplinary action with regard to the license of any person, for any one or combination of the following causes:

(1) Intentional material misstatement in furnishing information to the Department.

(2) Conviction of or entry of a plea of guilty or nolo contendere to any crime that is a felony under the laws of the United States or any state or territory thereof or a misdemeanor of which an essential element is dishonesty or that is directly related to the practice of the profession of nursing home administration.

(3) Making any misrepresentation for the purpose of obtaining a license, or violating any provision of this Act.

(4) Immoral conduct in the commission of any act, such as sexual abuse or sexual misconduct, related to the licensee's practice.

(5) Failing to respond within 30 days, to a written request made by the Department for information.

(6) Engaging in dishonorable, unethical or unprofessional conduct of a character likely to deceive, defraud or harm the public.

(7) Habitual use or addiction to alcohol, narcotics, stimulants, or any other chemical agent or drug which results in the inability to practice with reasonable

judgment, skill or safety.

(8) Discipline by another U.S. jurisdiction if at least one of the grounds for the discipline is the same or substantially equivalent to those set forth herein.

(9) A finding by the Department that the licensee, after having his or her license placed on probationary status has violated the terms of probation.

(10) Willfully making or filing false records or reports in his or her practice, including but not limited to false records filed with State agencies or departments.

(11) Physical illness, mental illness, or other impairment or disability, including, but not limited to, deterioration through the aging process, or loss of motor skill that results in the inability to practice the profession with reasonable judgment, skill or safety.

(12) Disregard or violation of this Act or of any rule issued pursuant to this Act.

(13) Aiding or abetting another in the violation of this Act or any rule or regulation issued pursuant to this Act.

(14) Allowing one's license to be used by an unlicensed person.

(15) (Blank).

(16) Professional incompetence in the practice of nursing home administration.

(17) Conviction of a violation of Section 12-19 of the

Criminal Code of 1961 for the abuse and gross neglect of a long term care facility resident.

(18) Violation of the Nursing Home Care Act or the ID/DD ~~MR/DD~~ Community Care Act or of any rule issued under the Nursing Home Care Act or the ID/DD ~~MR/DD~~ Community Care Act. A final adjudication of a Type "AA" violation of the Nursing Home Care Act made by the Illinois Department of Public Health, as identified by rule, relating to the hiring, training, planning, organizing, directing, or supervising the operation of a nursing home and a licensee's failure to comply with this Act or the rules adopted under this Act, shall create a rebuttable presumption of a violation of this subsection.

(19) Failure to report to the Department any adverse final action taken against the licensee by a licensing authority of another state, territory of the United States, or foreign country; or by any governmental or law enforcement agency; or by any court for acts or conduct similar to acts or conduct that would constitute grounds for disciplinary action under this Section.

(20) Failure to report to the Department the surrender of a license or authorization to practice as a nursing home administrator in another state or jurisdiction for acts or conduct similar to acts or conduct that would constitute grounds for disciplinary action under this Section.

(21) Failure to report to the Department any adverse

judgment, settlement, or award arising from a liability claim related to acts or conduct similar to acts or conduct that would constitute grounds for disciplinary action under this Section.

All proceedings to suspend, revoke, place on probationary status, or take any other disciplinary action as the Department may deem proper, with regard to a license on any of the foregoing grounds, must be commenced within 5 years next after receipt by the Department of (i) a complaint alleging the commission of or notice of the conviction order for any of the acts described herein or (ii) a referral for investigation under Section 3-108 of the Nursing Home Care Act.

The entry of an order or judgment by any circuit court establishing that any person holding a license under this Act is a person in need of mental treatment operates as a suspension of that license. That person may resume their practice only upon the entry of a Department order based upon a finding by the Board that they have been determined to be recovered from mental illness by the court and upon the Board's recommendation that they be permitted to resume their practice.

The Department, upon the recommendation of the Board, may adopt rules which set forth standards to be used in determining what constitutes:

(i) when a person will be deemed sufficiently rehabilitated to warrant the public trust;

(ii) dishonorable, unethical or unprofessional conduct

of a character likely to deceive, defraud, or harm the public;

(iii) immoral conduct in the commission of any act related to the licensee's practice; and

(iv) professional incompetence in the practice of nursing home administration.

However, no such rule shall be admissible into evidence in any civil action except for review of a licensing or other disciplinary action under this Act.

In enforcing this Section, the Department or Board, upon a showing of a possible violation, may compel any individual licensed to practice under this Act, or who has applied for licensure pursuant to this Act, to submit to a mental or physical examination, or both, as required by and at the expense of the Department. The examining physician or physicians shall be those specifically designated by the Department or Board. The Department or Board may order the examining physician to present testimony concerning this mental or physical examination of the licensee or applicant. No information shall be excluded by reason of any common law or statutory privilege relating to communications between the licensee or applicant and the examining physician. The individual to be examined may have, at his or her own expense, another physician of his or her choice present during all aspects of the examination. Failure of any individual to submit to mental or physical examination, when directed, shall be

grounds for suspension of his or her license until such time as the individual submits to the examination if the Department finds, after notice and hearing, that the refusal to submit to the examination was without reasonable cause.

If the Department or Board finds an individual unable to practice because of the reasons set forth in this Section, the Department or Board shall require such individual to submit to care, counseling, or treatment by physicians approved or designated by the Department or Board, as a condition, term, or restriction for continued, reinstated, or renewed licensure to practice; or in lieu of care, counseling, or treatment, the Department may file, or the Board may recommend to the Department to file, a complaint to immediately suspend, revoke, or otherwise discipline the license of the individual. Any individual whose license was granted pursuant to this Act or continued, reinstated, renewed, disciplined or supervised, subject to such terms, conditions or restrictions who shall fail to comply with such terms, conditions or restrictions shall be referred to the Secretary for a determination as to whether the licensee shall have his or her license suspended immediately, pending a hearing by the Department. In instances in which the Secretary immediately suspends a license under this Section, a hearing upon such person's license must be convened by the Board within 30 days after such suspension and completed without appreciable delay. The Department and Board shall have the authority to review the subject administrator's

record of treatment and counseling regarding the impairment, to the extent permitted by applicable federal statutes and regulations safeguarding the confidentiality of medical records.

An individual licensed under this Act, affected under this Section, shall be afforded an opportunity to demonstrate to the Department or Board that he or she can resume practice in compliance with acceptable and prevailing standards under the provisions of his or her license.

(b) Any individual or organization acting in good faith, and not in a wilful and wanton manner, in complying with this Act by providing any report or other information to the Department, or assisting in the investigation or preparation of such information, or by participating in proceedings of the Department, or by serving as a member of the Board, shall not, as a result of such actions, be subject to criminal prosecution or civil damages.

(c) Members of the Board, and persons retained under contract to assist and advise in an investigation, shall be indemnified by the State for any actions occurring within the scope of services on or for the Board, done in good faith and not wilful and wanton in nature. The Attorney General shall defend all such actions unless he or she determines either that there would be a conflict of interest in such representation or that the actions complained of were not in good faith or were wilful and wanton.

Should the Attorney General decline representation, a person entitled to indemnification under this Section shall have the right to employ counsel of his or her choice, whose fees shall be provided by the State, after approval by the Attorney General, unless there is a determination by a court that the member's actions were not in good faith or were wilful and wanton.

A person entitled to indemnification under this Section must notify the Attorney General within 7 days of receipt of notice of the initiation of any action involving services of the Board. Failure to so notify the Attorney General shall constitute an absolute waiver of the right to a defense and indemnification.

The Attorney General shall determine within 7 days after receiving such notice, whether he or she will undertake to represent a person entitled to indemnification under this Section.

(d) The determination by a circuit court that a licensee is subject to involuntary admission or judicial admission as provided in the Mental Health and Developmental Disabilities Code, as amended, operates as an automatic suspension. Such suspension will end only upon a finding by a court that the patient is no longer subject to involuntary admission or judicial admission and issues an order so finding and discharging the patient; and upon the recommendation of the Board to the Secretary that the licensee be allowed to resume

his or her practice.

(e) The Department may refuse to issue or may suspend the license of any person who fails to file a return, or to pay the tax, penalty or interest shown in a filed return, or to pay any final assessment of tax, penalty or interest, as required by any tax Act administered by the Department of Revenue, until such time as the requirements of any such tax Act are satisfied.

(f) The Department of Public Health shall transmit to the Department a list of those facilities which receive an "A" violation as defined in Section 1-129 of the Nursing Home Care Act.

(Source: P.A. 95-703, eff. 12-31-07; 96-339, eff. 7-1-10; 96-1372, eff. 7-29-10.)

Section 82. The Pharmacy Practice Act is amended by changing Section 3 as follows:

(225 ILCS 85/3)

(Section scheduled to be repealed on January 1, 2018)

Sec. 3. Definitions. For the purpose of this Act, except where otherwise limited therein:

(a) "Pharmacy" or "drugstore" means and includes every store, shop, pharmacy department, or other place where pharmacist care is provided by a pharmacist (1) where drugs, medicines, or poisons are dispensed, sold or offered for sale

at retail, or displayed for sale at retail; or (2) where prescriptions of physicians, dentists, advanced practice nurses, physician assistants, veterinarians, podiatrists, or optometrists, within the limits of their licenses, are compounded, filled, or dispensed; or (3) which has upon it or displayed within it, or affixed to or used in connection with it, a sign bearing the word or words "Pharmacist", "Druggist", "Pharmacy", "Pharmaceutical Care", "Apothecary", "Drugstore", "Medicine Store", "Prescriptions", "Drugs", "Dispensary", "Medicines", or any word or words of similar or like import, either in the English language or any other language; or (4) where the characteristic prescription sign (Rx) or similar design is exhibited; or (5) any store, or shop, or other place with respect to which any of the above words, objects, signs or designs are used in any advertisement.

(b) "Drugs" means and includes (l) articles recognized in the official United States Pharmacopoeia/National Formulary (USP/NF), or any supplement thereto and being intended for and having for their main use the diagnosis, cure, mitigation, treatment or prevention of disease in man or other animals, as approved by the United States Food and Drug Administration, but does not include devices or their components, parts, or accessories; and (2) all other articles intended for and having for their main use the diagnosis, cure, mitigation, treatment or prevention of disease in man or other animals, as approved by the United States Food and Drug Administration, but does not

include devices or their components, parts, or accessories; and (3) articles (other than food) having for their main use and intended to affect the structure or any function of the body of man or other animals; and (4) articles having for their main use and intended for use as a component or any articles specified in clause (l), (2) or (3); but does not include devices or their components, parts or accessories.

(c) "Medicines" means and includes all drugs intended for human or veterinary use approved by the United States Food and Drug Administration.

(d) "Practice of pharmacy" means (1) the interpretation and the provision of assistance in the monitoring, evaluation, and implementation of prescription drug orders; (2) the dispensing of prescription drug orders; (3) participation in drug and device selection; (4) drug administration limited to the administration of oral, topical, injectable, and inhalation as follows: in the context of patient education on the proper use or delivery of medications; vaccination of patients 14 years of age and older pursuant to a valid prescription or standing order, by a physician licensed to practice medicine in all its branches, upon completion of appropriate training, including how to address contraindications and adverse reactions set forth by rule, with notification to the patient's physician and appropriate record retention, or pursuant to hospital pharmacy and therapeutics committee policies and procedures; (5) drug regimen review; (6) drug or drug-related research; (7) the

provision of patient counseling; (8) the practice of telepharmacy; (9) the provision of those acts or services necessary to provide pharmacist care; (10) medication therapy management; and (11) the responsibility for compounding and labeling of drugs and devices (except labeling by a manufacturer, repackager, or distributor of non-prescription drugs and commercially packaged legend drugs and devices), proper and safe storage of drugs and devices, and maintenance of required records. A pharmacist who performs any of the acts defined as the practice of pharmacy in this State must be actively licensed as a pharmacist under this Act.

(e) "Prescription" means and includes any written, oral, facsimile, or electronically transmitted order for drugs or medical devices, issued by a physician licensed to practice medicine in all its branches, dentist, veterinarian, or podiatrist, or optometrist, within the limits of their licenses, by a physician assistant in accordance with subsection (f) of Section 4, or by an advanced practice nurse in accordance with subsection (g) of Section 4, containing the following: (l) name of the patient; (2) date when prescription was issued; (3) name and strength of drug or description of the medical device prescribed; and (4) quantity; (5) directions for use; (6) prescriber's name, address, and signature; and (7) DEA number where required, for controlled substances. The prescription may, but is not required to, list the illness, disease, or condition for which the drug or device is being

prescribed. DEA numbers shall not be required on inpatient drug orders.

(f) "Person" means and includes a natural person, copartnership, association, corporation, government entity, or any other legal entity.

(g) "Department" means the Department of Financial and Professional Regulation.

(h) "Board of Pharmacy" or "Board" means the State Board of Pharmacy of the Department of Financial and Professional Regulation.

(i) "Secretary" means the Secretary of Financial and Professional Regulation.

(j) "Drug product selection" means the interchange for a prescribed pharmaceutical product in accordance with Section 25 of this Act and Section 3.14 of the Illinois Food, Drug and Cosmetic Act.

(k) "Inpatient drug order" means an order issued by an authorized prescriber for a resident or patient of a facility licensed under the Nursing Home Care Act, the ID/DD ~~MR/DD~~ Community Care Act, or the Hospital Licensing Act, or "An Act in relation to the founding and operation of the University of Illinois Hospital and the conduct of University of Illinois health care programs", approved July 3, 1931, as amended, or a facility which is operated by the Department of Human Services (as successor to the Department of Mental Health and Developmental Disabilities) or the Department of Corrections.

(k-5) "Pharmacist" means an individual health care professional and provider currently licensed by this State to engage in the practice of pharmacy.

(l) "Pharmacist in charge" means the licensed pharmacist whose name appears on a pharmacy license and who is responsible for all aspects of the operation related to the practice of pharmacy.

(m) "Dispense" or "dispensing" means the interpretation, evaluation, and implementation of a prescription drug order, including the preparation and delivery of a drug or device to a patient or patient's agent in a suitable container appropriately labeled for subsequent administration to or use by a patient in accordance with applicable State and federal laws and regulations. "Dispense" or "dispensing" does not mean the physical delivery to a patient or a patient's representative in a home or institution by a designee of a pharmacist or by common carrier. "Dispense" or "dispensing" also does not mean the physical delivery of a drug or medical device to a patient or patient's representative by a pharmacist's designee within a pharmacy or drugstore while the pharmacist is on duty and the pharmacy is open.

(n) "Nonresident pharmacy" means a pharmacy that is located in a state, commonwealth, or territory of the United States, other than Illinois, that delivers, dispenses, or distributes, through the United States Postal Service, commercially acceptable parcel delivery service, or other common carrier, to

Illinois residents, any substance which requires a prescription.

(o) "Compounding" means the preparation and mixing of components, excluding flavorings, (1) as the result of a prescriber's prescription drug order or initiative based on the prescriber-patient-pharmacist relationship in the course of professional practice or (2) for the purpose of, or incident to, research, teaching, or chemical analysis and not for sale or dispensing. "Compounding" includes the preparation of drugs or devices in anticipation of receiving prescription drug orders based on routine, regularly observed dispensing patterns. Commercially available products may be compounded for dispensing to individual patients only if all of the following conditions are met: (i) the commercial product is not reasonably available from normal distribution channels in a timely manner to meet the patient's needs and (ii) the prescribing practitioner has requested that the drug be compounded.

(p) (Blank).

(q) (Blank).

(r) "Patient counseling" means the communication between a pharmacist or a student pharmacist under the supervision of a pharmacist and a patient or the patient's representative about the patient's medication or device for the purpose of optimizing proper use of prescription medications or devices. "Patient counseling" may include without limitation (1)

obtaining a medication history; (2) acquiring a patient's allergies and health conditions; (3) facilitation of the patient's understanding of the intended use of the medication; (4) proper directions for use; (5) significant potential adverse events; (6) potential food-drug interactions; and (7) the need to be compliant with the medication therapy. A pharmacy technician may only participate in the following aspects of patient counseling under the supervision of a pharmacist: (1) obtaining medication history; (2) providing the offer for counseling by a pharmacist or student pharmacist; and (3) acquiring a patient's allergies and health conditions.

(s) "Patient profiles" or "patient drug therapy record" means the obtaining, recording, and maintenance of patient prescription information, including prescriptions for controlled substances, and personal information.

(t) (Blank).

(u) "Medical device" means an instrument, apparatus, implement, machine, contrivance, implant, in vitro reagent, or other similar or related article, including any component part or accessory, required under federal law to bear the label "Caution: Federal law requires dispensing by or on the order of a physician". A seller of goods and services who, only for the purpose of retail sales, compounds, sells, rents, or leases medical devices shall not, by reasons thereof, be required to be a licensed pharmacy.

(v) "Unique identifier" means an electronic signature,

handwritten signature or initials, thumb print, or other acceptable biometric or electronic identification process as approved by the Department.

(w) "Current usual and customary retail price" means the price that a pharmacy charges to a non-third-party payor.

(x) "Automated pharmacy system" means a mechanical system located within the confines of the pharmacy or remote location that performs operations or activities, other than compounding or administration, relative to storage, packaging, dispensing, or distribution of medication, and which collects, controls, and maintains all transaction information.

(y) "Drug regimen review" means and includes the evaluation of prescription drug orders and patient records for (1) known allergies; (2) drug or potential therapy contraindications; (3) reasonable dose, duration of use, and route of administration, taking into consideration factors such as age, gender, and contraindications; (4) reasonable directions for use; (5) potential or actual adverse drug reactions; (6) drug-drug interactions; (7) drug-food interactions; (8) drug-disease contraindications; (9) therapeutic duplication; (10) patient laboratory values when authorized and available; (11) proper utilization (including over or under utilization) and optimum therapeutic outcomes; and (12) abuse and misuse.

(z) "Electronic transmission prescription" means any prescription order for which a facsimile or electronic image of the order is electronically transmitted from a licensed

prescriber to a pharmacy. "Electronic transmission prescription" includes both data and image prescriptions.

(aa) "Medication therapy management services" means a distinct service or group of services offered by licensed pharmacists, physicians licensed to practice medicine in all its branches, advanced practice nurses authorized in a written agreement with a physician licensed to practice medicine in all its branches, or physician assistants authorized in guidelines by a supervising physician that optimize therapeutic outcomes for individual patients through improved medication use. In a retail or other non-hospital pharmacy, medication therapy management services shall consist of the evaluation of prescription drug orders and patient medication records to resolve conflicts with the following:

(1) known allergies;

(2) drug or potential therapy contraindications;

(3) reasonable dose, duration of use, and route of administration, taking into consideration factors such as age, gender, and contraindications;

(4) reasonable directions for use;

(5) potential or actual adverse drug reactions;

(6) drug-drug interactions;

(7) drug-food interactions;

(8) drug-disease contraindications;

(9) identification of therapeutic duplication;

(10) patient laboratory values when authorized and

available;

(11) proper utilization (including over or under utilization) and optimum therapeutic outcomes; and

(12) drug abuse and misuse.

"Medication therapy management services" includes the following:

(1) documenting the services delivered and communicating the information provided to patients' prescribers within an appropriate time frame, not to exceed 48 hours;

(2) providing patient counseling designed to enhance a patient's understanding and the appropriate use of his or her medications; and

(3) providing information, support services, and resources designed to enhance a patient's adherence with his or her prescribed therapeutic regimens.

"Medication therapy management services" may also include patient care functions authorized by a physician licensed to practice medicine in all its branches for his or her identified patient or groups of patients under specified conditions or limitations in a standing order from the physician.

"Medication therapy management services" in a licensed hospital may also include the following:

(1) reviewing assessments of the patient's health status; and

(2) following protocols of a hospital pharmacy and

therapeutics committee with respect to the fulfillment of medication orders.

(bb) "Pharmacist care" means the provision by a pharmacist of medication therapy management services, with or without the dispensing of drugs or devices, intended to achieve outcomes that improve patient health, quality of life, and comfort and enhance patient safety.

(cc) "Protected health information" means individually identifiable health information that, except as otherwise provided, is:

(1) transmitted by electronic media;

(2) maintained in any medium set forth in the definition of "electronic media" in the federal Health Insurance Portability and Accountability Act; or

(3) transmitted or maintained in any other form or medium.

"Protected health information" does not include individually identifiable health information found in:

(1) education records covered by the federal Family Educational Right and Privacy Act; or

(2) employment records held by a licensee in its role as an employer.

(dd) "Standing order" means a specific order for a patient or group of patients issued by a physician licensed to practice medicine in all its branches in Illinois.

(ee) "Address of record" means the address recorded by the

Department in the applicant's or licensee's application file or license file, as maintained by the Department's licensure maintenance unit.

(ff) "Home pharmacy" means the location of a pharmacy's primary operations.

(Source: P.A. 95-689, eff. 10-29-07; 96-339, eff. 7-1-10; 96-673, eff. 1-1-10; 96-1000, eff. 7-2-10; 96-1353, eff. 7-28-10.)

Section 83. The Nurse Agency Licensing Act is amended by changing Section 3 as follows:

(225 ILCS 510/3) (from Ch. 111, par. 953)

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

(a) "Certified nurse aide" means an individual certified as defined in Section 3-206 of the Nursing Home Care Act or Section 3-206 of the ID/DD ~~MR/DD~~ Community Care Act, as now or hereafter amended.

(b) "Department" means the Department of Labor.

(c) "Director" means the Director of Labor.

(d) "Health care facility" is defined as in Section 3 of the Illinois Health Facilities Planning Act, as now or hereafter amended.

(e) "Licensee" means any nursing agency which is properly licensed under this Act.

(f) "Nurse" means a registered nurse or a licensed

practical nurse as defined in the Nurse Practice Act.

(g) "Nurse agency" means any individual, firm, corporation, partnership or other legal entity that employs, assigns or refers nurses or certified nurse aides to a health care facility for a fee. The term "nurse agency" includes nurses registries. The term "nurse agency" does not include services provided by home health agencies licensed and operated under the Home Health, Home Services, and Home Nursing Agency Licensing Act or a licensed or certified individual who provides his or her own services as a regular employee of a health care facility, nor does it apply to a health care facility's organizing nonsalaried employees to provide services only in that facility.

(Source: P.A. 95-639, eff. 10-5-07; 96-339, eff. 7-1-10.)

Section 85. The Illinois Public Aid Code is amended by changing Sections 5-1.1, 5-5.4, 5-5.7, 5-5.17, 5-6, 5-13, 5B-1, 5C-1, 5E-5, 8A-11, and 11-4.1 and by changing and renumbering Section 12-4.40 as added by Public Act 96-1405 as follows:

(305 ILCS 5/5-1.1) (from Ch. 23, par. 5-1.1)

Sec. 5-1.1. Definitions. The terms defined in this Section shall have the meanings ascribed to them, except when the context otherwise requires.

(a) "Nursing facility" means a facility, licensed by the Department of Public Health under the Nursing Home Care Act,

that provides nursing facility services within the meaning of Title XIX of the federal Social Security Act.

(b) "Intermediate care facility for the developmentally disabled" or "ICF/DD" means a facility, licensed by the Department of Public Health under the ID/DD ~~MR/DD~~ Community Care Act, that is an intermediate care facility for the mentally retarded within the meaning of Title XIX of the federal Social Security Act.

(c) "Standard services" means those services required for the care of all patients in the facility and shall, as a minimum, include the following: (1) administration; (2) dietary (standard); (3) housekeeping; (4) laundry and linen; (5) maintenance of property and equipment, including utilities; (6) medical records; (7) training of employees; (8) utilization review; (9) activities services; (10) social services; (11) disability services; and all other similar services required by either the laws of the State of Illinois or one of its political subdivisions or municipalities or by Title XIX of the Social Security Act.

(d) "Patient services" means those which vary with the number of personnel; professional and para-professional skills of the personnel; specialized equipment, and reflect the intensity of the medical and psycho-social needs of the patients. Patient services shall as a minimum include: (1) physical services; (2) nursing services, including restorative nursing; (3) medical direction and patient care planning; (4)

health related supportive and habilitative services and all similar services required by either the laws of the State of Illinois or one of its political subdivisions or municipalities or by Title XIX of the Social Security Act.

(e) "Ancillary services" means those services which require a specific physician's order and defined as under the medical assistance program as not being routine in nature for skilled nursing facilities and ICF/DDs. Such services generally must be authorized prior to delivery and payment as provided for under the rules of the Department of Healthcare and Family Services.

(f) "Capital" means the investment in a facility's assets for both debt and non-debt funds. Non-debt capital is the difference between an adjusted replacement value of the assets and the actual amount of debt capital.

(g) "Profit" means the amount which shall accrue to a facility as a result of its revenues exceeding its expenses as determined in accordance with generally accepted accounting principles.

(h) "Non-institutional services" means those services provided under paragraph (f) of Section 3 of the Disabled Persons Rehabilitation Act and those services provided under Section 4.02 of the Illinois Act on the Aging.

(i) "Exceptional medical care" means the level of medical care required by persons who are medically stable for discharge from a hospital but who require acute intensity hospital level

care for physician, nurse and ancillary specialist services, including persons with acquired immunodeficiency syndrome (AIDS) or a related condition. Such care shall consist of those services which the Department shall determine by rule.

(j) "Institutionalized person" means an individual who is an inpatient in an ICF/DD or nursing facility, or who is an inpatient in a medical institution receiving a level of care equivalent to that of an ICF/DD or nursing facility, or who is receiving services under Section 1915(c) of the Social Security Act.

(k) "Institutionalized spouse" means an institutionalized person who is expected to receive services at the same level of care for at least 30 days and is married to a spouse who is not an institutionalized person.

(l) "Community spouse" is the spouse of an institutionalized spouse.

(Source: P.A. 95-331, eff. 8-21-07; 96-1530, eff. 2-16-11.)

(305 ILCS 5/5-5.4) (from Ch. 23, par. 5-5.4)

Sec. 5-5.4. Standards of Payment - Department of Healthcare and Family Services. The Department of Healthcare and Family Services shall develop standards of payment of nursing facility and ICF/DD services in facilities providing such services under this Article which:

(1) Provide for the determination of a facility's payment for nursing facility or ICF/DD services on a prospective basis.

The amount of the payment rate for all nursing facilities certified by the Department of Public Health under the ID/DD ~~MR/DD~~ Community Care Act or the Nursing Home Care Act as Intermediate Care for the Developmentally Disabled facilities, Long Term Care for Under Age 22 facilities, Skilled Nursing facilities, or Intermediate Care facilities under the medical assistance program shall be prospectively established annually on the basis of historical, financial, and statistical data reflecting actual costs from prior years, which shall be applied to the current rate year and updated for inflation, except that the capital cost element for newly constructed facilities shall be based upon projected budgets. The annually established payment rate shall take effect on July 1 in 1984 and subsequent years. No rate increase and no update for inflation shall be provided on or after July 1, 1994 and before July 1, 2012, unless specifically provided for in this Section. The changes made by Public Act 93-841 extending the duration of the prohibition against a rate increase or update for inflation are effective retroactive to July 1, 2004.

For facilities licensed by the Department of Public Health under the Nursing Home Care Act as Intermediate Care for the Developmentally Disabled facilities or Long Term Care for Under Age 22 facilities, the rates taking effect on July 1, 1998 shall include an increase of 3%. For facilities licensed by the Department of Public Health under the Nursing Home Care Act as Skilled Nursing facilities or Intermediate Care facilities,

the rates taking effect on July 1, 1998 shall include an increase of 3% plus $1.10 per resident-day, as defined by the Department. For facilities licensed by the Department of Public Health under the Nursing Home Care Act as Intermediate Care Facilities for the Developmentally Disabled or Long Term Care for Under Age 22 facilities, the rates taking effect on January 1, 2006 shall include an increase of 3%. For facilities licensed by the Department of Public Health under the Nursing Home Care Act as Intermediate Care Facilities for the Developmentally Disabled or Long Term Care for Under Age 22 facilities, the rates taking effect on January 1, 2009 shall include an increase sufficient to provide a $0.50 per hour wage increase for non-executive staff.

For facilities licensed by the Department of Public Health under the Nursing Home Care Act as Intermediate Care for the Developmentally Disabled facilities or Long Term Care for Under Age 22 facilities, the rates taking effect on July 1, 1999 shall include an increase of 1.6% plus $3.00 per resident-day, as defined by the Department. For facilities licensed by the Department of Public Health under the Nursing Home Care Act as Skilled Nursing facilities or Intermediate Care facilities, the rates taking effect on July 1, 1999 shall include an increase of 1.6% and, for services provided on or after October 1, 1999, shall be increased by $4.00 per resident-day, as defined by the Department.

For facilities licensed by the Department of Public Health

under the Nursing Home Care Act as Intermediate Care for the Developmentally Disabled facilities or Long Term Care for Under Age 22 facilities, the rates taking effect on July 1, 2000 shall include an increase of 2.5% per resident-day, as defined by the Department. For facilities licensed by the Department of Public Health under the Nursing Home Care Act as Skilled Nursing facilities or Intermediate Care facilities, the rates taking effect on July 1, 2000 shall include an increase of 2.5% per resident-day, as defined by the Department.

For facilities licensed by the Department of Public Health under the Nursing Home Care Act as skilled nursing facilities or intermediate care facilities, a new payment methodology must be implemented for the nursing component of the rate effective July 1, 2003. The Department of Public Aid (now Healthcare and Family Services) shall develop the new payment methodology using the Minimum Data Set (MDS) as the instrument to collect information concerning nursing home resident condition necessary to compute the rate. The Department shall develop the new payment methodology to meet the unique needs of Illinois nursing home residents while remaining subject to the appropriations provided by the General Assembly. A transition period from the payment methodology in effect on June 30, 2003 to the payment methodology in effect on July 1, 2003 shall be provided for a period not exceeding 3 years and 184 days after implementation of the new payment methodology as follows:

(A) For a facility that would receive a lower nursing

component rate per patient day under the new system than the facility received effective on the date immediately preceding the date that the Department implements the new payment methodology, the nursing component rate per patient day for the facility shall be held at the level in effect on the date immediately preceding the date that the Department implements the new payment methodology until a higher nursing component rate of reimbursement is achieved by that facility.

(B) For a facility that would receive a higher nursing component rate per patient day under the payment methodology in effect on July 1, 2003 than the facility received effective on the date immediately preceding the date that the Department implements the new payment methodology, the nursing component rate per patient day for the facility shall be adjusted.

(C) Notwithstanding paragraphs (A) and (B), the nursing component rate per patient day for the facility shall be adjusted subject to appropriations provided by the General Assembly.

For facilities licensed by the Department of Public Health under the Nursing Home Care Act as Intermediate Care for the Developmentally Disabled facilities or Long Term Care for Under Age 22 facilities, the rates taking effect on March 1, 2001 shall include a statewide increase of 7.85%, as defined by the Department.

Notwithstanding any other provision of this Section, for facilities licensed by the Department of Public Health under the Nursing Home Care Act as skilled nursing facilities or intermediate care facilities, except facilities participating in the Department's demonstration program pursuant to the provisions of Title 77, Part 300, Subpart T of the Illinois Administrative Code, the numerator of the ratio used by the Department of Healthcare and Family Services to compute the rate payable under this Section using the Minimum Data Set (MDS) methodology shall incorporate the following annual amounts as the additional funds appropriated to the Department specifically to pay for rates based on the MDS nursing component methodology in excess of the funding in effect on December 31, 2006:

(i) For rates taking effect January 1, 2007, $60,000,000.

(ii) For rates taking effect January 1, 2008, $110,000,000.

(iii) For rates taking effect January 1, 2009, $194,000,000.

(iv) For rates taking effect April 1, 2011, or the first day of the month that begins at least 45 days after the effective date of this amendatory Act of the 96th General Assembly, $416,500,000 or an amount as may be necessary to complete the transition to the MDS methodology for the nursing component of the rate.

Notwithstanding any other provision of this Section, for facilities licensed by the Department of Public Health under the Nursing Home Care Act as skilled nursing facilities or intermediate care facilities, the support component of the rates taking effect on January 1, 2008 shall be computed using the most recent cost reports on file with the Department of Healthcare and Family Services no later than April 1, 2005, updated for inflation to January 1, 2006.

For facilities licensed by the Department of Public Health under the Nursing Home Care Act as Intermediate Care for the Developmentally Disabled facilities or Long Term Care for Under Age 22 facilities, the rates taking effect on April 1, 2002 shall include a statewide increase of 2.0%, as defined by the Department. This increase terminates on July 1, 2002; beginning July 1, 2002 these rates are reduced to the level of the rates in effect on March 31, 2002, as defined by the Department.

For facilities licensed by the Department of Public Health under the Nursing Home Care Act as skilled nursing facilities or intermediate care facilities, the rates taking effect on July 1, 2001 shall be computed using the most recent cost reports on file with the Department of Public Aid no later than April 1, 2000, updated for inflation to January 1, 2001. For rates effective July 1, 2001 only, rates shall be the greater of the rate computed for July 1, 2001 or the rate effective on June 30, 2001.

Notwithstanding any other provision of this Section, for

facilities licensed by the Department of Public Health under the Nursing Home Care Act as skilled nursing facilities or intermediate care facilities, the Illinois Department shall determine by rule the rates taking effect on July 1, 2002, which shall be 5.9% less than the rates in effect on June 30, 2002.

Notwithstanding any other provision of this Section, for facilities licensed by the Department of Public Health under the Nursing Home Care Act as skilled nursing facilities or intermediate care facilities, if the payment methodologies required under Section 5A-12 and the waiver granted under 42 CFR 433.68 are approved by the United States Centers for Medicare and Medicaid Services, the rates taking effect on July 1, 2004 shall be 3.0% greater than the rates in effect on June 30, 2004. These rates shall take effect only upon approval and implementation of the payment methodologies required under Section 5A-12.

Notwithstanding any other provisions of this Section, for facilities licensed by the Department of Public Health under the Nursing Home Care Act as skilled nursing facilities or intermediate care facilities, the rates taking effect on January 1, 2005 shall be 3% more than the rates in effect on December 31, 2004.

Notwithstanding any other provision of this Section, for facilities licensed by the Department of Public Health under the Nursing Home Care Act as skilled nursing facilities or

intermediate care facilities, effective January 1, 2009, the per diem support component of the rates effective on January 1, 2008, computed using the most recent cost reports on file with the Department of Healthcare and Family Services no later than April 1, 2005, updated for inflation to January 1, 2006, shall be increased to the amount that would have been derived using standard Department of Healthcare and Family Services methods, procedures, and inflators.

Notwithstanding any other provisions of this Section, for facilities licensed by the Department of Public Health under the Nursing Home Care Act as intermediate care facilities that are federally defined as Institutions for Mental Disease, a socio-development component rate equal to 6.6% of the facility's nursing component rate as of January 1, 2006 shall be established and paid effective July 1, 2006. The socio-development component of the rate shall be increased by a factor of 2.53 on the first day of the month that begins at least 45 days after January 11, 2008 (the effective date of Public Act 95-707). As of August 1, 2008, the socio-development component rate shall be equal to 6.6% of the facility's nursing component rate as of January 1, 2006, multiplied by a factor of 3.53. For services provided on or after April 1, 2011, or the first day of the month that begins at least 45 days after the effective date of this amendatory Act of the 96th General Assembly, whichever is later, the Illinois Department may by rule adjust these socio-development component rates, and may

use different adjustment methodologies for those facilities participating, and those not participating, in the Illinois Department's demonstration program pursuant to the provisions of Title 77, Part 300, Subpart T of the Illinois Administrative Code, but in no case may such rates be diminished below those in effect on August 1, 2008.

For facilities licensed by the Department of Public Health under the Nursing Home Care Act as Intermediate Care for the Developmentally Disabled facilities or as long-term care facilities for residents under 22 years of age, the rates taking effect on July 1, 2003 shall include a statewide increase of 4%, as defined by the Department.

For facilities licensed by the Department of Public Health under the Nursing Home Care Act as Intermediate Care for the Developmentally Disabled facilities or Long Term Care for Under Age 22 facilities, the rates taking effect on the first day of the month that begins at least 45 days after the effective date of this amendatory Act of the 95th General Assembly shall include a statewide increase of 2.5%, as defined by the Department.

Notwithstanding any other provision of this Section, for facilities licensed by the Department of Public Health under the Nursing Home Care Act as skilled nursing facilities or intermediate care facilities, effective January 1, 2005, facility rates shall be increased by the difference between (i) a facility's per diem property, liability, and malpractice

insurance costs as reported in the cost report filed with the Department of Public Aid and used to establish rates effective July 1, 2001 and (ii) those same costs as reported in the facility's 2002 cost report. These costs shall be passed through to the facility without caps or limitations, except for adjustments required under normal auditing procedures.

Rates established effective each July 1 shall govern payment for services rendered throughout that fiscal year, except that rates established on July 1, 1996 shall be increased by 6.8% for services provided on or after January 1, 1997. Such rates will be based upon the rates calculated for the year beginning July 1, 1990, and for subsequent years thereafter until June 30, 2001 shall be based on the facility cost reports for the facility fiscal year ending at any point in time during the previous calendar year, updated to the midpoint of the rate year. The cost report shall be on file with the Department no later than April 1 of the current rate year. Should the cost report not be on file by April 1, the Department shall base the rate on the latest cost report filed by each skilled care facility and intermediate care facility, updated to the midpoint of the current rate year. In determining rates for services rendered on and after July 1, 1985, fixed time shall not be computed at less than zero. The Department shall not make any alterations of regulations which would reduce any component of the Medicaid rate to a level below what that component would have been utilizing in the rate

effective on July 1, 1984.

(2) Shall take into account the actual costs incurred by facilities in providing services for recipients of skilled nursing and intermediate care services under the medical assistance program.

(3) Shall take into account the medical and psycho-social characteristics and needs of the patients.

(4) Shall take into account the actual costs incurred by facilities in meeting licensing and certification standards imposed and prescribed by the State of Illinois, any of its political subdivisions or municipalities and by the U.S. Department of Health and Human Services pursuant to Title XIX of the Social Security Act.

The Department of Healthcare and Family Services shall develop precise standards for payments to reimburse nursing facilities for any utilization of appropriate rehabilitative personnel for the provision of rehabilitative services which is authorized by federal regulations, including reimbursement for services provided by qualified therapists or qualified assistants, and which is in accordance with accepted professional practices. Reimbursement also may be made for utilization of other supportive personnel under appropriate supervision.

The Department shall develop enhanced payments to offset the additional costs incurred by a facility serving exceptional need residents and shall allocate at least $8,000,000 of the

funds collected from the assessment established by Section 5B-2 of this Code for such payments. For the purpose of this Section, "exceptional needs" means, but need not be limited to, ventilator care, tracheotomy care, bariatric care, complex wound care, and traumatic brain injury care.

(5) Beginning July 1, 2012 the methodologies for reimbursement of nursing facility services as provided under this Section 5-5.4 shall no longer be applicable for bills payable for State fiscal years 2012 and thereafter.

(Source: P.A. 95-12, eff. 7-2-07; 95-331, eff. 8-21-07; 95-707, eff. 1-11-08; 95-744, eff. 7-18-08; 96-45, eff. 7-15-09; 96-339, eff. 7-1-10; 96-959, eff. 7-1-10; 96-1000, eff. 7-2-10; 96-1530, eff. 2-16-11.)

(305 ILCS 5/5-5.7) (from Ch. 23, par. 5-5.7)

Sec. 5-5.7. Cost Reports - Audits. The Department of Healthcare and Family Services shall work with the Department of Public Health to use cost report information currently being collected under provisions of the Nursing Home Care Act and the ID/DD ~~MR/DD~~ Community Care Act. The Department of Healthcare and Family Services may, in conjunction with the Department of Public Health, develop in accordance with generally accepted accounting principles a uniform chart of accounts which each facility providing services under the medical assistance program shall adopt, after a reasonable period.

Nursing homes licensed under the Nursing Home Care Act or

the ID/DD ~~MR/DD~~ Community Care Act and providers of adult developmental training services certified by the Department of Human Services pursuant to Section 15.2 of the Mental Health and Developmental Disabilities Administrative Act which provide services to clients eligible for medical assistance under this Article are responsible for submitting the required annual cost report to the Department of Healthcare and Family Services.

The Department of Healthcare and Family Services shall audit the financial and statistical records of each provider participating in the medical assistance program as a nursing facility or ICF/DD over a 3 year period, beginning with the close of the first cost reporting year. Following the end of this 3-year term, audits of the financial and statistical records will be performed each year in at least 20% of the facilities participating in the medical assistance program with at least 10% being selected on a random sample basis, and the remainder selected on the basis of exceptional profiles. All audits shall be conducted in accordance with generally accepted auditing standards.

The Department of Healthcare and Family Services shall establish prospective payment rates for categories of service needed within the nursing facility or ICF/DD levels of services, in order to more appropriately recognize the individual needs of patients in nursing facilities.

The Department of Healthcare and Family Services shall

provide, during the process of establishing the payment rate for nursing facility or ICF/DD services, or when a substantial change in rates is proposed, an opportunity for public review and comment on the proposed rates prior to their becoming effective.

(Source: P.A. 95-331, eff. 8-21-07; 96-339, eff. 7-1-10; 96-1530, eff. 2-16-11.)

(305 ILCS 5/5-5.17) (from Ch. 23, par. 5-5.17)

Sec. 5-5.17. Separate reimbursement rate. The Illinois Department may by rule establish a separate reimbursement rate to be paid to long term care facilities for adult developmental training services as defined in Section 15.2 of the Mental Health and Developmental Disabilities Administrative Act which are provided to intellectually disabled ~~mentally retarded~~ residents of such facilities who receive aid under this Article. Any such reimbursement shall be based upon cost reports submitted by the providers of such services and shall be paid by the long term care facility to the provider within such time as the Illinois Department shall prescribe by rule, but in no case less than 3 business days after receipt of the reimbursement by such facility from the Illinois Department. The Illinois Department may impose a penalty upon a facility which does not make payment to the provider of adult developmental training services within the time so prescribed, up to the amount of payment not made to the provider.

(Source: P.A. 89-507, eff. 7-1-97.)

(305 ILCS 5/5-6) (from Ch. 23, par. 5-6)

Sec. 5-6. Obligations incurred prior to death of a recipient. Obligations incurred but not paid for at the time of a recipient's death for services authorized under Section 5-5, including medical and other care in group care facilities as defined in the Nursing Home Care Act or the ID/DD ~~MR/DD~~ Community Care Act, or in like facilities not required to be licensed under that Act, may be paid, subject to the rules and regulations of the Illinois Department, after the death of the recipient.

(Source: P.A. 96-339, eff. 7-1-10.)

(305 ILCS 5/5-13) (from Ch. 23, par. 5-13)

Sec. 5-13. Claim against estate of recipients. To the extent permitted under the federal Social Security Act, the amount expended under this Article (1) for a person of any age who is an inpatient in a nursing facility, an intermediate care facility for the intellectually disabled ~~mentally retarded~~, or other medical institution, or (2) for a person aged 55 or more, shall be a claim against the person's estate or a claim against the estate of the person's spouse, regardless of the order of death, but no recovery may be had thereon 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, or blind,

or permanently and totally disabled. This Section, however, shall not bar recovery at the death of the person of amounts of medical assistance paid to or in his behalf to which he 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. The term "estate", as used in this Section, with respect to a deceased person, means all real and personal property and other assets included within the person's estate, as that term is used in the Probate Act of 1975; however, in the case of a deceased person who has received (or is entitled to receive) benefits under a long-term care insurance policy in connection with which assets or resources are disregarded to the extent that payments are made or because the deceased person received (or was entitled to receive) benefits under a long-term care insurance policy, "estate" also includes any other real and personal property and other assets in which the deceased person had any legal title or interest at the time of his or her death (to the extent of that interest), including assets conveyed to a survivor, heir, or assignee of the deceased person through joint tenancy, tenancy in common, survivorship, life estate, living trust, or other arrangement. The term "homestead", as used in this

Section, means the dwelling house and contiguous real estate occupied by a surviving spouse or relative, as defined by the rules and regulations of the Illinois Department, regardless of the value of the property.

A claim arising under this Section against assets conveyed to a survivor, heir, or assignee of the deceased person through joint tenancy, tenancy in common, survivorship, life estate, living trust, or other arrangement is not effective until the claim is recorded or filed in the manner provided for a notice of lien in Section 3-10.2. The claim is subject to the same requirements and conditions to which liens on real property interests are subject under Sections 3-10.1 through 3-10.10. A claim arising under this Section attaches to interests owned or subsequently acquired by the estate of a recipient or the estate of a recipient's surviving spouse. The transfer or conveyance of any real or personal property of the estate as defined in this Section shall be subject to the fraudulent transfer conditions that apply to real property in Section 3-11 of this Code.

The provisions of this Section shall not affect the validity of claims against estates for medical assistance provided prior to January 1, 1966 to aged, blind, or disabled persons receiving aid under Articles V, VII and VII-A of the 1949 Code.

(Source: P.A. 88-85; 88-554, eff. 7-26-94; 89-21, eff. 7-1-95; 89-437, eff. 12-15-95; 89-686, eff. 12-31-96.)

(305 ILCS 5/5B-1) (from Ch. 23, par. 5B-1)

Sec. 5B-1. Definitions. As used in this Article, unless the context requires otherwise:

"Fund" means the Long-Term Care Provider Fund.

"Long-term care facility" means (i) a nursing facility, whether public or private and whether organized for profit or not-for-profit, that is subject to licensure by the Illinois Department of Public Health under the Nursing Home Care Act or the ID/DD ~~MR/DD~~ Community Care Act, including a county nursing home directed and maintained under Section 5-1005 of the Counties Code, and (ii) a part of a hospital in which skilled or intermediate long-term care services within the meaning of Title XVIII or XIX of the Social Security Act are provided; except that the term "long-term care facility" does not include a facility operated by a State agency, a facility participating in the Illinois Department's demonstration program pursuant to the provisions of Title 77, Part 300, Subpart T of the Illinois Administrative Code, or operated solely as an intermediate care facility for the mentally retarded within the meaning of Title XIX of the Social Security Act.

"Long-term care provider" means (i) a person licensed by the Department of Public Health to operate and maintain a skilled nursing or intermediate long-term care facility or (ii) a hospital provider that provides skilled or intermediate long-term care services within the meaning of Title XVIII or

XIX of the Social Security Act. For purposes of this paragraph, "person" means any political subdivision of the State, municipal corporation, individual, firm, partnership, corporation, company, limited liability company, association, joint stock association, or trust, or a receiver, executor, trustee, guardian, or other representative appointed by order of any court. "Hospital provider" means a person licensed by the Department of Public Health to conduct, operate, or maintain a hospital.

"Occupied bed days" shall be computed separately for each long-term care facility operated or maintained by a long-term care provider, and means the sum for all beds of the number of days during the month on which each bed was occupied by a resident, other than a resident for whom Medicare Part A is the primary payer.

(Source: P.A. 96-339, eff. 7-1-10; 96-1530, eff. 2-16-11.)

(305 ILCS 5/5C-1) (from Ch. 23, par. 5C-1)

Sec. 5C-1. Definitions. As used in this Article, unless the context requires otherwise:

"Fund" means the Developmentally Disabled Care Provider Fund.

"Developmentally disabled care facility" means an intermediate care facility for the <u>intellectually disabled</u> ~~mentally retarded~~ within the meaning of Title XIX of the Social Security Act, whether public or private and whether organized

for profit or not-for-profit, but shall not include any facility operated by the State.

"Developmentally disabled care provider" means a person conducting, operating, or maintaining a developmentally disabled care facility. For this purpose, "person" means any political subdivision of the State, municipal corporation, individual, firm, partnership, corporation, company, limited liability company, association, joint stock association, or trust, or a receiver, executor, trustee, guardian or other representative appointed by order of any court.

"Adjusted gross developmentally disabled care revenue" shall be computed separately for each developmentally disabled care facility conducted, operated, or maintained by a developmentally disabled care provider, and means the developmentally disabled care provider's total revenue for inpatient residential services less contractual allowances and discounts on patients' accounts, but does not include non-patient revenue from sources such as contributions, donations or bequests, investments, day training services, television and telephone service, and rental of facility space. (Source: P.A. 87-861.)

(305 ILCS 5/5E-5)

Sec. 5E-5. Definitions. As used in this Article, unless the context requires otherwise:

"Nursing home" means (i) a skilled nursing or intermediate

long-term care facility, whether public or private and whether organized for profit or not-for-profit, that is subject to licensure by the Illinois Department of Public Health under the Nursing Home Care Act or the ID/DD ~~MR/DD~~ Community Care Act, including a county nursing home directed and maintained under Section 5-1005 of the Counties Code, and (ii) a part of a hospital in which skilled or intermediate long-term care services within the meaning of Title XVIII or XIX of the Social Security Act are provided; except that the term "nursing home" does not include a facility operated solely as an intermediate care facility for the intellectually disabled ~~mentally retarded~~ within the meaning of Title XIX of the Social Security Act.

"Nursing home provider" means (i) a person licensed by the Department of Public Health to operate and maintain a skilled nursing or intermediate long-term care facility which charges its residents, a third party payor, Medicaid, or Medicare for skilled nursing or intermediate long-term care services, or (ii) a hospital provider that provides skilled or intermediate long-term care services within the meaning of Title XVIII or XIX of the Social Security Act. For purposes of this paragraph, "person" means any political subdivision of the State, municipal corporation, individual, firm, partnership, corporation, company, limited liability company, association, joint stock association, or trust, or a receiver, executor, trustee, guardian, or other representative appointed by order

of any court. "Hospital provider" means a person licensed by the Department of Public Health to conduct, operate, or maintain a hospital.

"Licensed bed days" shall be computed separately for each nursing home operated or maintained by a nursing home provider and means, with respect to a nursing home provider, the sum for all nursing home beds of the number of days during a calendar quarter on which each bed is covered by a license issued to that provider under the Nursing Home Care Act or the Hospital Licensing Act.

(Source: P.A. 96-339, eff. 7-1-10.)

(305 ILCS 5/8A-11) (from Ch. 23, par. 8A-11)

Sec. 8A-11. (a) No person shall:

(1) Knowingly charge a resident of a nursing home for any services provided pursuant to Article V of the Illinois Public Aid Code, money or other consideration at a rate in excess of the rates established for covered services by the Illinois Department pursuant to Article V of The Illinois Public Aid Code; or

(2) Knowingly charge, solicit, accept or receive, in addition to any amount otherwise authorized or required to be paid pursuant to Article V of The Illinois Public Aid Code, any gift, money, donation or other consideration:

(i) As a precondition to admitting or expediting the admission of a recipient or applicant, pursuant to

Article V of The Illinois Public Aid Code, to a long-term care facility as defined in Section 1-113 of the Nursing Home Care Act or a facility as defined in Section 1-113 of the ID/DD ~~MR/DD~~ Community Care Act; and

(ii) As a requirement for the recipient's or applicant's continued stay in such facility when the cost of the services provided therein to the recipient is paid for, in whole or in part, pursuant to Article V of The Illinois Public Aid Code.

(b) Nothing herein shall prohibit a person from making a voluntary contribution, gift or donation to a long-term care facility.

(c) This paragraph shall not apply to agreements to provide continuing care or life care between a life care facility as defined by the Life Care Facilities Act, and a person financially eligible for benefits pursuant to Article V of The Illinois Public Aid Code.

(d) Any person who violates this Section shall be guilty of a business offense and fined not less than $5,000 nor more than $25,000.

(e) "Person", as used in this Section, means an individual, corporation, partnership, or unincorporated association.

(f) The State's Attorney of the county in which the facility is located and the Attorney General shall be notified by the Illinois Department of any alleged violations of this

Section known to the Department.

(g) The Illinois Department shall adopt rules and regulations to carry out the provisions of this Section.

(Source: P.A. 96-339, eff. 7-1-10.)

(305 ILCS 5/11-4.1)

Sec. 11-4.1. Medical providers assisting with applications for medical assistance. A provider enrolled to provide medical assistance services may, upon the request of an individual, accompany, represent, and assist the individual in applying for medical assistance under Article V of this Code. If an individual is unable to request such assistance due to incapacity or mental incompetence and has no other representative willing or able to assist in the application process, a facility licensed under the Nursing Home Care Act or the ID/DD ~~MR/DD~~ Community Care Act or certified under this Code is authorized to assist the individual in applying for long-term care services. Subject to the provisions of the Free Healthcare Benefits Application Assistance Act, nothing in this Section shall be construed as prohibiting any individual or entity from assisting another individual in applying for medical assistance under Article V of this Code.

(Source: P.A. 96-1439, eff. 8-20-10.)

(305 ILCS 5/12-4.42)

Sec. 12-4.42 ~~12-4.40~~. Medicaid Revenue Maximization.

(a) Purpose. The General Assembly finds that there is a need to make changes to the administration of services provided by State and local governments in order to maximize federal financial participation.

(b) Definitions. As used in this Section:

"Community Medicaid mental health services" means all mental health services outlined in Section 132 of Title 59 of the Illinois Administrative Code that are funded through DHS, eligible for federal financial participation, and provided by a community-based provider.

"Community-based provider" means an entity enrolled as a provider pursuant to Sections 140.11 and 140.12 of Title 89 of the Illinois Administrative Code and certified to provide community Medicaid mental health services in accordance with Section 132 of Title 59 of the Illinois Administrative Code.

"DCFS" means the Department of Children and Family Services.

"Department" means the Illinois Department of Healthcare and Family Services.

"Developmentally disabled care facility" means an intermediate care facility for the intellectually disabled ~~mentally retarded~~ within the meaning of Title XIX of the Social Security Act, whether public or private and whether organized for profit or not-for-profit, but shall not include any facility operated by the State.

"Developmentally disabled care provider" means a person

conducting, operating, or maintaining a developmentally disabled care facility. For purposes of this definition, "person" means any political subdivision of the State, municipal corporation, individual, firm, partnership, corporation, company, limited liability company, association, joint stock association, or trust, or a receiver, executor, trustee, guardian, or other representative appointed by order of any court.

"DHS" means the Illinois Department of Human Services.

"Hospital" means an institution, place, building, or agency located in this State that is licensed as a general acute hospital by the Illinois Department of Public Health under the Hospital Licensing Act, whether public or private and whether organized for profit or not-for-profit.

"Long term care facility" means (i) a skilled nursing or intermediate long term care facility, whether public or private and whether organized for profit or not-for-profit, that is subject to licensure by the Illinois Department of Public Health under the Nursing Home Care Act, including a county nursing home directed and maintained under Section 5-1005 of the Counties Code, and (ii) a part of a hospital in which skilled or intermediate long term care services within the meaning of Title XVIII or XIX of the Social Security Act are provided; except that the term "long term care facility" does not include a facility operated solely as an intermediate care facility for the intellectually disabled ~~mentally retarded~~

within the meaning of Title XIX of the Social Security Act.

"Long term care provider" means (i) a person licensed by the Department of Public Health to operate and maintain a skilled nursing or intermediate long term care facility or (ii) a hospital provider that provides skilled or intermediate long term care services within the meaning of Title XVIII or XIX of the Social Security Act. For purposes of this definition, "person" means any political subdivision of the State, municipal corporation, individual, firm, partnership, corporation, company, limited liability company, association, joint stock association, or trust, or a receiver, executor, trustee, guardian, or other representative appointed by order of any court.

"State-operated developmentally disabled care facility" means an intermediate care facility for the intellectually disabled ~~mentally retarded~~ within the meaning of Title XIX of the Social Security Act operated by the State.

(c) Administration and deposit of Revenues. The Department shall coordinate the implementation of changes required by this amendatory Act of the 96th General Assembly amongst the various State and local government bodies that administer programs referred to in this Section.

Revenues generated by program changes mandated by any provision in this Section, less reasonable administrative costs associated with the implementation of these program changes, shall be deposited into the Healthcare Provider Relief

Fund.

The Department shall issue a report to the General Assembly detailing the implementation progress of this amendatory Act of the 96th General Assembly as a part of the Department's Medical Programs annual report for fiscal years 2010 and 2011.

(d) Acceleration of payment vouchers. To the extent practicable and permissible under federal law, the Department shall create all vouchers for long term care facilities and developmentally disabled care facilities for dates of service in the month in which the enhanced federal medical assistance percentage (FMAP) originally set forth in the American Recovery and Reinvestment Act (ARRA) expires and for dates of service in the month prior to that month and shall, no later than the 15th of the month in which the enhanced FMAP expires, submit these vouchers to the Comptroller for payment.

The Department of Human Services shall create the necessary documentation for State-operated developmentally disabled care facilities so that the necessary data for all dates of service before the expiration of the enhanced FMAP originally set forth in the ARRA can be adjudicated by the Department no later than the 15th of the month in which the enhanced FMAP expires.

(e) Billing of DHS community Medicaid mental health services. No later than July 1, 2011, community Medicaid mental health services provided by a community-based provider must be billed directly to the Department.

(f) DCFS Medicaid services. The Department shall work with

DCFS to identify existing programs, pending qualifying services, that can be converted in an economically feasible manner to Medicaid in order to secure federal financial revenue.

(g) Third Party Liability recoveries. The Department shall contract with a vendor to support the Department in coordinating benefits for Medicaid enrollees. The scope of work shall include, at a minimum, the identification of other insurance for Medicaid enrollees and the recovery of funds paid by the Department when another payer was liable. The vendor may be paid a percentage of actual cash recovered when practical and subject to federal law.

(h) Public health departments. The Department shall identify unreimbursed costs for persons covered by Medicaid who are served by the Chicago Department of Public Health.

The Department shall assist the Chicago Department of Public Health in determining total unreimbursed costs associated with the provision of healthcare services to Medicaid enrollees.

The Department shall determine and draw the maximum allowable federal matching dollars associated with the cost of Chicago Department of Public Health services provided to Medicaid enrollees.

(i) Acceleration of hospital-based payments. The Department shall, by the 10th day of the month in which the enhanced FMAP originally set forth in the ARRA expires, create

vouchers for all State fiscal year 2011 hospital payments exempt from the prompt payment requirements of the ARRA. The Department shall submit these vouchers to the Comptroller for payment.

(Source: P.A. 96-1405, eff. 7-29-10; revised 9-9-10.)

Section 90. The Medicaid Revenue Act is amended by changing Section 1-2 as follows:

(305 ILCS 35/1-2) (from Ch. 23, par. 7051-2)

Sec. 1-2. Legislative finding and declaration. The General Assembly hereby finds, determines, and declares:

(1) It is in the public interest and it is the public policy of this State to provide for and improve the basic medical care and long-term health care services of its indigent, most vulnerable citizens.

(2) Preservation of health, alleviation of sickness, and correction of handicapping conditions for persons requiring maintenance support are essential if those persons are to have an opportunity to become self-supporting or to attain a greater capacity for self-care.

(3) For persons who are medically indigent but otherwise able to provide themselves a livelihood, it is of special importance to maintain their incentives for continued independence and preserve their limited

resources for ordinary maintenance needed to prevent their total or substantial dependence on public support.

(4) The State has historically provided for care and services, in conjunction with the federal government, through the establishment and funding of a medical assistance program administered by the Department of Healthcare and Family Services (formerly Department of Public Aid) and approved by the Secretary of Health and Human Services under Title XIX of the federal Social Security Act, that program being commonly referred to as "Medicaid".

(5) The Medicaid program is a funding partnership between the State of Illinois and the federal government, with the Department of Healthcare and Family Services being designated as the single State agency responsible for the administration of the program, but with the State historically receiving 50% of the amounts expended as medical assistance under the Medicaid program from the federal government.

(6) To raise a portion of Illinois' share of the Medicaid funds after July 1, 1991, the General Assembly enacted Public Act 87-13 to provide for the collection of provider participation fees from designated health care providers receiving Medicaid payments.

(7) On September 12, 1991, the Secretary of Health and Human Services proposed regulations that could have

reduced the federal matching of Medicaid expenditures incurred on or after January 1, 1992 by the portion of the expenditures paid from funds raised through the provider participation fees.

(8) To prevent the Secretary from enacting those regulations but at the same time to impose certain statutory limitations on the means by which states may raise Medicaid funds eligible for federal matching, Congress enacted the Medicaid Voluntary Contribution and Provider-Specific Tax Amendments of 1991, Public Law 102-234.

(9) Public Law 102-234 provides for a state's share of Medicaid funding eligible for federal matching to be raised through "broad-based health care related taxes", meaning, generally, a tax imposed with respect to a class of health care items or services (or providers thereof) specified therein, which (i) is imposed on all items or services or providers in the class in the state, except federal or public providers, and (ii) is imposed uniformly on all providers in the class at the same rate with respect to the same base.

(10) The separate classes of health care items and services established by P.L. 102-234 include inpatient and outpatient hospital services, nursing facility services, and services of intermediate care facilities for the intellectually disabled ~~mentally retarded~~.

(11) The provider participation fees imposed under P.A. 87-13 may not meet the standards under P.L. 102-234.

(12) The resulting hospital Medicaid reimbursement reductions may force the closure of some hospitals now serving a disproportionately high number of the needy, who would then have to be cared for by remaining hospitals at substantial cost to those remaining hospitals.

(13) The hospitals in the State are all part of and benefit from a hospital system linked together in a number of ways, including common licensing and regulation, health care standards, education, research and disease control reporting, patient transfers for specialist care, and organ donor networks.

(14) Each hospital's patient population demographics, including the proportion of patients whose care is paid by Medicaid, is subject to change over time.

(15) Hospitals in the State have a special interest in the payment of adequate reimbursement levels for hospital care by Medicaid.

(16) Most hospitals are exempt from payment of most federal, State, and local income, sales, property, and other taxes.

(17) The hospital assessment enacted by this Act under the guidelines of P.L. 102-234 is the most efficient means of raising the federally matchable funds needed for hospital care reimbursement.

(18) Cook County Hospital and Oak Forest Hospital are public hospitals owned and operated by Cook County with unique fiscal problems, including a patient population that is primarily Medicaid or altogether nonpaying, that make an intergovernmental transfer payment arrangement a more appropriate means of financing than the regular hospital assessment and reimbursement provisions.

(19) Sole community hospitals provide access to essential care that would otherwise not be reasonably available in the community they serve, such that imposition of assessments on them in their precarious financial circumstances may force their closure and have the effect of reducing access to health care.

(20) Each nursing home's resident population demographics, including the proportion of residents whose care is paid by Medicaid, is subject to change over time in that, among other things, residents currently able to pay the cost of nursing home care may become dependent on Medicaid support for continued care and services as resources are depleted.

(21) As the citizens of the State age, increased pressures will be placed on limited facilities to provide reasonable levels of care for a greater number of geriatric residents, and all involved in the nursing home industry, providers and residents, have a special interest in the maintenance of adequate Medicaid support for all nursing

facilities.

(22) The assessments on nursing homes enacted by this Act under the guidelines of P.L. 102-234 are the most efficient means of raising the federally matchable funds needed for nursing home care reimbursement.

(23) All intermediate care facilities for persons with developmental disabilities receive a high degree of Medicaid support and benefits and therefore have a special interest in the maintenance of adequate Medicaid support.

(24) The assessments on intermediate care facilities for persons with developmental disabilities enacted by this Act under the guidelines of P.L. 102-234 are the most efficient means of raising the federally matchable funds needed for reimbursement of providers of intermediate care for persons with developmental disabilities.

(Source: P.A. 95-331, eff. 8-21-07.)

Section 91. The Nursing Home Grant Assistance Act is amended by changing Section 5 as follows:

(305 ILCS 40/5) (from Ch. 23, par. 7100-5)

Sec. 5. Definitions. As used in this Act, unless the context requires otherwise:

"Applicant" means an eligible individual who makes a payment of at least $1 in a quarter to a nursing home.

"Application" means the receipt by a nursing home of at

least $1 from an eligible individual that is a resident of the home.

"Department" means the Department of Revenue.

"Director" means the Director of the Department of Revenue.

"Distribution agent" means a nursing home that is residence to one or more eligible individuals, which receives an application from one or more applicants for participation in the Nursing Home Grant Assistance Program provided for by this Act, and is thereby designated as distributing agent by such applicant or applicants, and which is thereby authorized by virtue of its license to receive from the Department and distribute to eligible individuals residing in the nursing home Nursing Home Grant Assistance payments under this Act.

"Qualified distribution agent" means a distribution agent that the Department of Public Health has certified to the Department of Revenue to be a licensed nursing home in good standing.

"Eligible individual" means an individual eligible for a nursing home grant assistance payment because he or she meets each of the following requirements:

(1) The individual resides, after June 30, 1992, in a nursing home as defined in this Act.

(2) For each day for which nursing home grant assistance is sought, the individual's nursing home care was not paid for, in whole or in part, by a federal, State, or combined federal-State medical care program; the

receipt of Medicare Part B benefits does not make a person ineligible for nursing home grant assistance.

(3) The individual's annual adjusted gross income, after payment of any expenses for nursing home care, does not exceed 250% of the federal poverty guidelines for an individual as published annually by the U.S. Department of Health and Human Services for purposes of determining Medicaid eligibility.

"Fund" means the Nursing Home Grant Assistance Fund.

"Nursing home" means a skilled nursing or intermediate long term care facility that is subject to licensure by the Illinois Department of Public Health under the Nursing Home Care Act or the ID/DD ~~MR/DD~~ Community Care Act.

"Occupied bed days" means the sum for all beds of the number of days during a quarter for which grant assistance is sought under this Act on which a bed is occupied by an individual.

(Source: P.A. 96-339, eff. 7-1-10.)

Section 92. 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;

(1.5) A facility licensed under the ID/DD ~~MR/DD~~ Community 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) (Blank);

(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. The term includes compulsive hoarding, which is characterized by the acquisition and retention of large quantities of items and materials that produce an extensively cluttered living space, which significantly impairs the performance of essential self-care tasks or otherwise substantially threatens life or 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. 95-639, eff. 10-5-07; 95-689, eff. 10-29-07;

95-876, eff. 8-21-08; 96-339, eff. 7-1-10; 96-526, eff. 1-1-10; 96-572, eff. 1-1-10; 96-1000, eff. 7-2-10.)

Section 93. The Older Adult Services Act is amended by changing Section 10 as follows:

(320 ILCS 42/10)

Sec. 10. Definitions. In this Act:

"Advisory Committee" means the Older Adult Services Advisory Committee.

"Certified nursing home" means any nursing home licensed under the Nursing Home Care Act or the ID/DD ~~MR/DD~~ Community Care Act and certified under Title XIX of the Social Security Act to participate as a vendor in the medical assistance program under Article V of the Illinois Public Aid Code.

"Comprehensive case management" means the assessment of needs and preferences of an older adult at the direction of the older adult or the older adult's designated representative and the arrangement, coordination, and monitoring of an optimum package of services to meet the needs of the older adult.

"Consumer-directed" means decisions made by an informed older adult from available services and care options, which may range from independently making all decisions and managing services directly to limited participation in decision-making, based upon the functional and cognitive level of the older adult.

"Coordinated point of entry" means an integrated access point where consumers receive information and assistance, assessment of needs, care planning, referral, assistance in completing applications, authorization of services where permitted, and follow-up to ensure that referrals and services are accessed.

"Department" means the Department on Aging, in collaboration with the departments of Public Health and Healthcare and Family Services and other relevant agencies and in consultation with the Advisory Committee, except as otherwise provided.

"Departments" means the Department on Aging, the departments of Public Health and Healthcare and Family Services, and other relevant agencies in collaboration with each other and in consultation with the Advisory Committee, except as otherwise provided.

"Family caregiver" means an adult family member or another individual who is an uncompensated provider of home-based or community-based care to an older adult.

"Health services" means activities that promote, maintain, improve, or restore mental or physical health or that are palliative in nature.

"Older adult" means a person age 60 or older and, if appropriate, the person's family caregiver.

"Person-centered" means a process that builds upon an older adult's strengths and capacities to engage in activities that

promote community life and that reflect the older adult's preferences, choices, and abilities, to the extent practicable.

"Priority service area" means an area identified by the Departments as being less-served with respect to the availability of and access to older adult services in Illinois. The Departments shall determine by rule the criteria and standards used to designate such areas.

"Priority service plan" means the plan developed pursuant to Section 25 of this Act.

"Provider" means any supplier of services under this Act.

"Residential setting" means the place where an older adult lives.

"Restructuring" means the transformation of Illinois' comprehensive system of older adult services from funding primarily a facility-based service delivery system to primarily a home-based and community-based system, taking into account the continuing need for 24-hour skilled nursing care and congregate housing with services.

"Services" means the range of housing, health, financial, and supportive services, other than acute health care services, that are delivered to an older adult with functional or cognitive limitations, or socialization needs, who requires assistance to perform activities of daily living, regardless of the residential setting in which the services are delivered.

"Supportive services" means non-medical assistance given

over a period of time to an older adult that is needed to compensate for the older adult's functional or cognitive limitations, or socialization needs, or those services designed to restore, improve, or maintain the older adult's functional or cognitive abilities.

(Source: P.A. 95-331, eff. 8-21-07; 96-339, eff. 7-1-10.)

Section 94. The Mental Health and Developmental Disabilities Code is amended by changing Sections 1-106, 1-116, 1-122.4, 2-107, 3-200, 4-201, 4-201.1, 4-203, 4-209, 4-400, 4-500, and 4-701 and by changing the headings of Article IV of Chapter IV and Article IV of Chapter V as follows:

(405 ILCS 5/1-106) (from Ch. 91 1/2, par. 1-106)

Sec. 1-106. "Developmental disability" means a disability which is attributable to: (a) an intellectual disability ~~mental retardation~~, cerebral palsy, epilepsy or autism; or to (b) any other condition which results in impairment similar to that caused by an intellectual disability ~~mental retardation~~ and which requires services similar to those required by intellectually disabled ~~mentally retarded~~ persons. Such disability must originate before the age of 18 years, be expected to continue indefinitely, and constitute a substantial handicap.

(Source: P.A. 80-1414.)

(405 ILCS 5/1-116) (from Ch. 91 1/2, par. 1-116)

Sec. 1-116. "Intellectual disability" ~~"Mental retardation"~~ means significantly subaverage general intellectual functioning which exists concurrently with impairment in adaptive behavior and which originates before the age of 18 years.

(Source: P.A. 80-1414.)

(405 ILCS 5/1-122.4) (from Ch. 91 1/2, par. 1-122.4)

Sec. 1-122.4. "Qualified intellectual disabilities ~~mental retardation~~ professional" as used in this Act means those persons who meet this definition under Section 483.430 of Chapter 42 of the Code of Federal Regulations, subpart G.

(Source: P.A. 86-1416.)

(405 ILCS 5/2-107) (from Ch. 91 1/2, par. 2-107)

Sec. 2-107. Refusal of services; informing of risks.

(a) An adult recipient of services or the recipient's guardian, if the recipient is under guardianship, and the recipient's substitute decision maker, if any, must be informed of the recipient's right to refuse medication or electroconvulsive therapy. The recipient and the recipient's guardian or substitute decision maker shall be given the opportunity to refuse generally accepted mental health or developmental disability services, including but not limited to medication or electroconvulsive therapy. If such services

are refused, they shall not be given unless such services are necessary to prevent the recipient from causing serious and imminent physical harm to the recipient or others and no less restrictive alternative is available. The facility director shall inform a recipient, guardian, or substitute decision maker, if any, who refuses such services of alternate services available and the risks of such alternate services, as well as the possible consequences to the recipient of refusal of such services.

(b) Psychotropic medication or electroconvulsive therapy may be administered under this Section for up to 24 hours only if the circumstances leading up to the need for emergency treatment are set forth in writing in the recipient's record.

(c) Administration of medication or electroconvulsive therapy may not be continued unless the need for such treatment is redetermined at least every 24 hours based upon a personal examination of the recipient by a physician or a nurse under the supervision of a physician and the circumstances demonstrating that need are set forth in writing in the recipient's record.

(d) Neither psychotropic medication nor electroconvulsive therapy may be administered under this Section for a period in excess of 72 hours, excluding Saturdays, Sundays, and holidays, unless a petition is filed under Section 2-107.1 and the treatment continues to be necessary under subsection (a) of this Section. Once the petition has been filed, treatment may

continue in compliance with subsections (a), (b), and (c) of this Section until the final outcome of the hearing on the petition.

(e) The Department shall issue rules designed to insure that in State-operated mental health facilities psychotropic medication and electroconvulsive therapy are administered in accordance with this Section and only when appropriately authorized and monitored by a physician or a nurse under the supervision of a physician in accordance with accepted medical practice. The facility director of each mental health facility not operated by the State shall issue rules designed to insure that in that facility psychotropic medication and electroconvulsive therapy are administered in accordance with this Section and only when appropriately authorized and monitored by a physician or a nurse under the supervision of a physician in accordance with accepted medical practice. Such rules shall be available for public inspection and copying during normal business hours.

(f) The provisions of this Section with respect to the emergency administration of psychotropic medication and electroconvulsive therapy do not apply to facilities licensed under the Nursing Home Care Act or the ID/DD ~~MR/DD~~ Community Care Act.

(g) Under no circumstances may long-acting psychotropic medications be administered under this Section.

(h) Whenever psychotropic medication or electroconvulsive

therapy is refused pursuant to subsection (a) of this Section at least once that day, the physician shall determine and state in writing the reasons why the recipient did not meet the criteria for administration of medication or electroconvulsive therapy under subsection (a) and whether the recipient meets the standard for administration of psychotropic medication or electroconvulsive therapy under Section 2-107.1 of this Code. If the physician determines that the recipient meets the standard for administration of psychotropic medication or electroconvulsive therapy under Section 2-107.1, the facility director or his or her designee shall petition the court for administration of psychotropic medication or electroconvulsive therapy pursuant to that Section unless the facility director or his or her designee states in writing in the recipient's record why the filing of such a petition is not warranted. This subsection (h) applies only to State-operated mental health facilities.

(i) The Department shall conduct annual trainings for all physicians and registered nurses working in State-operated mental health facilities on the appropriate use of emergency administration of psychotropic medication and electroconvulsive therapy, standards for their use, and the methods of authorization under this Section.

(Source: P.A. 95-172, eff. 8-14-07; 96-339, eff. 7-1-10.)

(405 ILCS 5/3-200) (from Ch. 91 1/2, par. 3-200)

Sec. 3-200. (a) A person may be admitted as an inpatient to a mental health facility for treatment of mental illness only as provided in this Chapter, except that a person may be transferred by the Department of Corrections pursuant to the Unified Code of Corrections. A person transferred by the Department of Corrections in this manner may be released only as provided in the Unified Code of Corrections.

(b) No person who is diagnosed as intellectually disabled ~~mentally retarded~~ or a person with a developmental disability may be admitted or transferred to a Department mental health facility or, any portion thereof, except as provided in this Chapter. However, the evaluation and placement of such persons shall be governed by Article II of Chapter 4 of this Code.
(Source: P.A. 88-380.)

(405 ILCS 5/4-201) (from Ch. 91 1/2, par. 4-201)

Sec. 4-201. (a) An intellectually disabled ~~A mentally retarded~~ person shall not reside in a Department mental health facility unless the person is evaluated and is determined to be a person with mental illness and the facility director determines that appropriate treatment and habilitation are available and will be provided to such person on the unit. In all such cases the Department mental health facility director shall certify in writing within 30 days of the completion of the evaluation and every 30 days thereafter, that the person has been appropriately evaluated, that services specified in

the treatment and habilitation plan are being provided, that the setting in which services are being provided is appropriate to the person's needs, and that provision of such services fully complies with all applicable federal statutes and regulations concerning the provision of services to persons with a developmental disability. Those regulations shall include, but not be limited to the regulations which govern the provision of services to persons with a developmental disability in facilities certified under the Social Security Act for federal financial participation, whether or not the facility or portion thereof in which the recipient has been placed is presently certified under the Social Security Act or would be eligible for such certification under applicable federal regulations. The certifications shall be filed in the recipient's record and with the office of the Secretary of the Department. A copy of the certification shall be given to the person, an attorney or advocate who is representing the person and the person's guardian.

(b) Any person admitted to a Department mental health facility who is reasonably suspected of being mildly or moderately intellectually disabled ~~mentally retarded~~, including those who also have a mental illness, shall be evaluated by a multidisciplinary team which includes a qualified intellectual disabilities ~~mental retardation~~ professional designated by the Department facility director. The evaluation shall be consistent with Section 4-300 of

Article III in this Chapter, and shall include: (1) a written assessment of whether the person needs a habilitation plan and, if so, (2) a written habilitation plan consistent with Section 4-309, and (3) a written determination whether the admitting facility is capable of providing the specified habilitation services. This evaluation shall occur within a reasonable period of time, but in no case shall that period exceed 14 days after admission. In all events, a treatment plan shall be prepared for the person within 3 days of admission, and reviewed and updated every 30 days, consistent with Section 3-209 of this Code.

(c) Any person admitted to a Department mental health facility with an admitting diagnosis of a severe or profound intellectual disability ~~mental retardation~~ shall be transferred to an appropriate facility or unit for persons with a developmental disability within 72 hours of admission unless transfer is contraindicated by the person's medical condition documented by appropriate medical personnel. Any person diagnosed as severely or profoundly intellectually disabled ~~mentally retarded~~ while in a Department mental health facility shall be transferred to an appropriate facility or unit for persons with a developmental disability within 72 hours of such diagnosis unless transfer is contraindicated by the person's medical condition documented by appropriate medical personnel.

(d) The Secretary of the Department shall designate a qualified intellectual disabilities ~~mental retardation~~

professional in each of its mental health facilities who has responsibility for insuring compliance with the provisions of Sections 4-201 and 4-201.1.

(Source: P.A. 88-380; 89-439, eff. 6-1-96; 89-507, eff. 7-1-97.)

(405 ILCS 5/4-201.1) (from Ch. 91 1/2, par. 4-201.1)

Sec. 4-201.1. (a) A person residing in a Department mental health facility who is evaluated as being mildly or moderately intellectually disabled ~~mentally retarded~~, an attorney or advocate representing the person, or a guardian of such person may object to the Department facility director's certification required in Section 4-201, the treatment and habilitation plan, or appropriateness of setting, and obtain an administrative decision requiring revision of a treatment or habilitation plan or change of setting, by utilization review as provided in Sections 3-207 and 4-209 of this Code. As part of this utilization review, the Committee shall include as one of its members a qualified intellectual disabilities ~~mental retardation~~ professional.

(b) The mental health facility director shall give written notice to each person evaluated as being mildly or moderately intellectually disabled ~~mentally retarded~~, the person's attorney and guardian, if any, or in the case of a minor, to his or her attorney, to the parent, guardian or person in loco parentis and to the minor if 12 years of age or older, of the

person's right to request a review of the facility director's initial or subsequent determination that such person is appropriately placed or is receiving appropriate services. The notice shall also provide the address and phone number of the Legal Advocacy Service of the Guardianship and Advocacy Commission, which the person or guardian can contact for legal assistance. If requested, the facility director shall assist the person or guardian in contacting the Legal Advocacy Service. This notice shall be given within 24 hours of Department's evaluation that the person is mildly or moderately intellectually disabled ~~mentally retarded~~.

(c) Any recipient of services who successfully challenges a final decision of the Secretary of the Department (or his or her designee) reviewing an objection to the certification required under Section 4-201, the treatment and habilitation plan, or the appropriateness of the setting shall be entitled to recover reasonable attorney's fees incurred in that challenge, unless the Department's position was substantially justified.

(Source: P.A. 89-507, eff. 7-1-97.)

(405 ILCS 5/4-203) (from Ch. 91 1/2, par. 4-203)

Sec. 4-203. (a) Every developmental disabilities facility shall maintain adequate records which shall include the Section of this Act under which the client was admitted, any subsequent change in the client's status, and requisite documentation for

such admission and status.

(b) The Department shall ensure that a monthly report is maintained for each Department mental health facility, and each unit of a Department developmental disability facility for dually diagnosed persons, which lists (1) initials of persons admitted to, residing at, or discharged from a Department mental health facility or unit for dually diagnosed persons of Department developmental disability facility during that month with a primary or secondary diagnosis of intellectual disability ~~mental retardation~~, (2) the date and facility and unit of admission or continuing, care, (3) the legal admission status, (4) the recipient's diagnosis, (5) the date and facility and unit of transfer or discharge, (6) whether or not there is a public or private guardian, (7) whether the facility director has certified that appropriate treatment and habilitation are available for and being provided to such person pursuant to Section 4-203 of this Chapter, and (8) whether the person or a guardian has requested review as provided in Section 4-209 of this Chapter and, if so, the outcome of the review. The Secretary of the Department shall furnish a copy of each monthly report upon request to the Guardianship and Advocacy Commission and the agency designated by the Governor under Section 1 of "An Act in relation to the protection and advocacy of the rights of persons with developmental disabilities, and amending certain Acts therein named", approved September 20, 1985, and under Section 1 of "An

Act for the protection and advocacy of mentally ill persons", approved September 20, 1987.

(c) Nothing contained in this Chapter shall be construed to limit or otherwise affect the power of any developmental disabilities facility to determine the qualifications of persons permitted to admit clients to such facility. This subsection shall not affect or limit the powers of any court to order admission to a developmental disabilities facility as set forth in this Chapter.

(Source: P.A. 89-507, eff. 7-1-97.)

(405 ILCS 5/4-209) (from Ch. 91 1/2, par. 4-209)

Sec. 4-209. (a) Hearings under Sections 4-201.1, 4-312, 4-704 and 4-709 of this Chapter shall be conducted by a utilization review committee. The Secretary shall appoint a utilization review committee at each Department facility. Each such committee shall consist of multi-disciplinary professional staff members who are trained and equipped to deal with the habilitation needs of clients. At least one member of the committee shall be a qualified intellectual disabilities ~~mental retardation~~ professional. The client and the objector may be represented by persons of their choice.

(b) The utilization review committee shall not be bound by rules of evidence or procedure but shall conduct the proceedings in a manner intended to ensure a fair hearing. The committee may make such investigation as it deems necessary. It

may administer oaths and compel by subpoena testimony and the production of records. A stenographic or audio recording of the proceedings shall be made and shall be kept in the client's record. Within 3 days of conclusion of the hearing, the committee shall submit to the facility director its written recommendations which include its factual findings and conclusions. A copy of the recommendations shall be given to the client and the objector.

(c) Within 7 days of receipt of the recommendations, the facility director shall give written notice to the client and objector of his acceptance or rejection of the recommendations and his reason therefor. If the facility director rejects the recommendations or if the client or objector requests review of the facility director's decision, the facility director shall promptly forward a copy of his decision, the recommendations, and the record of the hearing to the Secretary of the Department for final review. The review of the facility director's decision shall be decided by the Secretary or his or her designee within 30 days of the receipt of a request for final review. The decision of the facility director, or the decision of the Secretary (or his or her designee) if review was requested, shall be considered a final administrative decision, and shall be subject to review under and in accordance with Article III of the Code of Civil Procedure. The decision of the facility director, or the decision of the Secretary (or his or her designee) if review was requested,

shall be considered a final administrative decision.

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

(405 ILCS 5/Ch. IV Art. IV heading)

ARTICLE IV. EMERGENCY ADMISSION

OF THE INTELLECTUALLY DISABLED ~~MENTALLY RETARDED~~

(405 ILCS 5/4-400) (from Ch. 91 1/2, par. 4-400)

Sec. 4-400. (a) A person 18 years of age or older may be admitted on an emergency basis to a facility under this Article if the facility director of the facility determines: (1) that he is intellectually disabled ~~mentally retarded~~; (2) that he is reasonably expected to inflict serious physical harm upon himself or another in the near future; and (3) that immediate admission is necessary to prevent such harm.

(b) Persons with a developmental disability under 18 years of age and persons with a developmental disability 18 years of age or over who are under guardianship or who are seeking admission on their own behalf may be admitted for emergency care under Section 4-311.

(Source: P.A. 88-380.)

(405 ILCS 5/Ch. IV Art. V heading)

ARTICLE V. JUDICIAL ADMISSION FOR THE INTELLECTUALLY DISABLED

~~MENTALLY RETARDED~~

(405 ILCS 5/4-500) (from Ch. 91 1/2, par. 4-500)

Sec. 4-500. A person 18 years of age or older may be admitted to a facility upon court order under this Article if the court determines: (1) that he is intellectually disabled ~~mentally retarded~~; and (2) that he is reasonably expected to inflict serious physical harm upon himself or another in the near future.

(Source: P.A. 80-1414.)

(405 ILCS 5/4-701) (from Ch. 91 1/2, par. 4-701)

Sec. 4-701. (a) Any client admitted to a developmental disabilities facility under this Chapter may be discharged whenever the facility director determines that he is suitable for discharge.

(b) Any client admitted to a facility or program of nonresidential services upon court order under Article V of this Chapter or admitted upon court order as intellectually disabled ~~mentally retarded~~ or mentally deficient under any prior statute shall be discharged whenever the facility director determines that he no longer meets the standard for judicial admission. When the facility director believes that continued residence is advisable for such a client, he shall inform the client and his guardian, if any, that the client may remain at the facility on administrative admission status. When a facility director discharges or changes the status of such client, he shall promptly notify the clerk of the court who

shall note the action in the court record.

(c) When the facility director discharges a client pursuant to subsection (b) of this Section, he shall promptly notify the State's Attorney of the county in which the client resided immediately prior to his admission to a development disabilities facility. Upon receipt of such notice, the State's Attorney may notify such peace officers that he deems appropriate.

(d) The facility director may grant a temporary release to any client when such release is appropriate and consistent with the habilitation needs of the client.

(Source: P.A. 80-1414.)

Section 95. The Community Mental Health Act is amended by changing Section 3e as follows:

(405 ILCS 20/3e) (from Ch. 91 1/2, par. 303e)

Sec. 3e. Board's powers and duties.

(1) Every community mental health board shall, immediately after appointment, meet and organize, by the election of one of its number as president and one as secretary and such other officers as it may deem necessary. It shall make rules and regulations concerning the rendition or operation of services and facilities which it directs, supervises or funds, not inconsistent with the provisions of this Act. It shall:

(a) Hold a meeting prior to July 1 of each year at

which officers shall be elected for the ensuing year beginning July 1;

(b) Hold meetings at least quarterly;

(c) Hold special meetings upon a written request signed by at least 2 members and filed with the secretary;

(d) Review and evaluate community mental health services and facilities, including services and facilities for the treatment of alcoholism, drug addiction, developmental disabilities, and intellectual disabilities ~~mental retardation~~;

(e) Authorize the disbursement of money from the community mental health fund for payment for the ordinary and contingent expenses of the board;

(f) Submit to the appointing officer and the members of the governing body a written plan for a program of community mental health services and facilities for persons with a mental illness, a developmental disability, or a substance use disorder. Such plan shall be for the ensuing 12 month period. In addition, a plan shall be developed for the ensuing 3 year period and such plan shall be reviewed at the end of every 12 month period and shall be modified as deemed advisable.

(g) Within amounts appropriated therefor, execute such programs and maintain such services and facilities as may be authorized under such appropriations, including amounts appropriated under bond issues, if any;

(h) Publish the annual budget and report within 120 days after the end of the fiscal year in a newspaper distributed within the jurisdiction of the board, or, if no newspaper is published within the jurisdiction of the board, then one published in the county, or, if no newspaper is published in the county, then in a newspaper having general circulation within the jurisdiction of the board. The report shall show the condition of its trust of that year, the sums of money received from all sources, giving the name of any donor, how all monies have been expended and for what purpose, and such other statistics and program information in regard to the work of the board as it may deem of general interest. A copy of the budget and the annual report shall be made available to the Department of Human Services and to members of the General Assembly whose districts include any part of the jurisdiction of such board. The names of all employees, consultants, and other personnel shall be set forth along with the amounts of money received;

(i) Consult with other appropriate private and public agencies in the development of local plans for the most efficient delivery of mental health, developmental disabilities, and substance use disorder services. The Board is authorized to join and to participate in the activities of associations organized for the purpose of promoting more efficient and effective services and

programs;

(j) Have the authority to review and comment on all applications for grants by any person, corporation, or governmental unit providing services within the geographical area of the board which provides mental health facilities and services, including services for the person with a mental illness, a developmental disability, or a substance use disorder. The board may require funding applicants to send a copy of their funding application to the board at the time such application is submitted to the Department of Human Services or to any other local, State or federal funding source or governmental agency. Within 60 days of the receipt of any application, the board shall submit its review and comments to the Department of Human Services or to any other appropriate local, State or federal funding source or governmental agency. A copy of the review and comments shall be submitted to the funding applicant. Within 60 days thereafter, the Department of Human Services or any other appropriate local or State governmental agency shall issue a written response to the board and the funding applicant. The Department of Human Services shall supply any community mental health board such information about purchase-of-care funds, State facility utilization, and costs in its geographical area as the board may request provided that the information requested is for the purpose of the Community Mental Health

Board complying with the requirements of Section 3f, subsection (f) of this Act;

(k) Perform such other acts as may be necessary or proper to carry out the purposes of this Act.

(2) The community mental health board has the following powers:

(a) The board may enter into multiple-year contracts for rendition or operation of services, facilities and educational programs.

(b) The board may arrange through intergovernmental agreements or intragovernmental agreements or both for the rendition of services and operation of facilities by other agencies or departments of the governmental unit or county in which the governmental unit is located with the approval of the governing body.

(c) To employ, establish compensation for, and set policies for its personnel, including legal counsel, as may be necessary to carry out the purposes of this Act and prescribe the duties thereof. The board may enter into multiple-year employment contracts as may be necessary for the recruitment and retention of personnel and the proper functioning of the board.

(d) The board may enter into multiple-year joint agreements, which shall be written, with other mental health boards and boards of health to provide jointly agreed upon community mental health facilities and

services and to pool such funds as may be deemed necessary and available for this purpose.

(e) The board may organize a not-for-profit corporation for the purpose of providing direct recipient services. Such corporations shall have, in addition to all other lawful powers, the power to contract with persons to furnish services for recipients of the corporation's facilities, including psychiatrists and other physicians licensed in this State to practice medicine in all of its branches. Such physicians shall be considered independent contractors, and liability for any malpractice shall not extend to such corporation, nor to the community mental health board, except for gross negligence in entering into such a contract.

(f) The board shall not operate any direct recipient services for more than a 2-year period when such services are being provided in the governmental unit, but shall encourage, by financial support, the development of private agencies to deliver such needed services, pursuant to regulations of the board.

(g) Where there are multiple boards within the same planning area, as established by the Department of Human Services, services may be purchased through a single delivery system. In such areas, a coordinating body with representation from each board shall be established to carry out the service functions of this Act. In the event

any such coordinating body purchases or improves real property, such body shall first obtain the approval of the governing bodies of the governmental units in which the coordinating body is located.

(h) The board may enter into multiple-year joint agreements with other governmental units located within the geographical area of the board. Such agreements shall be written and shall provide for the rendition of services by the board to the residents of such governmental units.

(i) The board may enter into multiple-year joint agreements with federal, State, and local governments, including the Department of Human Services, whereby the board will provide certain services. All such joint agreements must provide for the exchange of relevant data. However, nothing in this Act shall be construed to permit the abridgement of the confidentiality of patient records.

(j) The board may receive gifts from private sources for purposes not inconsistent with the provisions of this Act.

(k) The board may receive Federal, State and local funds for purposes not inconsistent with the provisions of this Act.

(l) The board may establish scholarship programs. Such programs shall require equivalent service or reimbursement pursuant to regulations of the board.

(m) The board may sell, rent, or lease real property

for purposes consistent with this Act.

(n) The board may: (i) own real property, lease real property as lessee, or acquire real property by purchase, construction, lease-purchase agreement, or otherwise; (ii) take title to the property in the board's name; (iii) borrow money and issue debt instruments, mortgages, purchase-money mortgages, and other security instruments with respect to the property; and (iv) maintain, repair, remodel, or improve the property. All of these activities must be for purposes consistent with this Act as may be reasonably necessary for the housing and proper functioning of the board. The board may use moneys in the Community Mental Health Fund for these purposes.

(o) The board may organize a not-for-profit corporation (i) for the purpose of raising money to be distributed by the board for providing community mental health services and facilities for the treatment of alcoholism, drug addiction, developmental disabilities, and intellectual disabilities ~~mental retardation~~ or (ii) for other purposes not inconsistent with this Act.

(Source: P.A. 95-336, eff. 8-21-07.)

Section 100. The Specialized Living Centers Act is amended by changing Section 2.03 as follows:

(405 ILCS 25/2.03) (from Ch. 91 1/2, par. 602.03)

Sec. 2.03. "Person with a developmental disability" means individuals whose disability is attributable to an intellectual disability ~~mental retardation~~, cerebral palsy, epilepsy or other neurological condition which generally originates before such individuals attain age 18 which had continued or can be expected to continue indefinitely and which constitutes a substantial handicap to such individuals.
(Source: P.A. 88-380.)

Section 101. The Protection and Advocacy for Developmentally Disabled Persons Act is amended by changing Section 1 as follows:

(405 ILCS 40/1) (from Ch. 91 1/2, par. 1151)

Sec. 1. The Governor may designate a private not-for-profit corporation as the agency to administer a State plan to protect and advocate the rights of persons with developmental disabilities pursuant to the requirements of the federal Developmental Disabilities Assistance and Bill of Rights Act, 42 U.S.C. 6001 to 6081, as now or hereafter amended. The designated agency may pursue legal, administrative, and other appropriate remedies to ensure the protection of the rights of such persons who are receiving treatment, services or habilitation within this State. The agency designated by the Governor shall be independent of any agency which provides treatment, services, guardianship, or habilitation to persons

with developmental disabilities, and such agency shall not be administered by the Governor's Planning Council on Developmental Disabilities or any successor State Planning Council organized pursuant to federal law.

The designated agency may receive and expend funds to protect and advocate the rights of persons with developmental disabilities. In order to properly exercise its powers and duties, such agency shall have access to developmental disability facilities and mental health facilities, as defined under Sections 1-107 and 1-114 of the Mental Health and Developmental Disabilities Code, and facilities as defined in Section 1-113 of the Nursing Home Care Act or Section 1-113 of the ID/DD ~~MR/DD~~ Community Care Act. Such access shall be granted for the purposes of meeting with residents and staff, informing them of services available from the agency, distributing written information about the agency and the rights of persons with developmental disabilities, conducting scheduled and unscheduled visits, and performing other activities designed to protect the rights of persons with developmental disabilities. The agency also shall have access, for the purpose of inspection and copying, to the records of a person with developmental disabilities who resides in any such facility subject to the limitations of this Act, the Mental Health and Developmental Disabilities Confidentiality Act, the Nursing Home Care Act, and the ID/DD ~~MR/DD~~ Community Care Act. The agency also shall have access, for the purpose of

inspection and copying, to the records of a person with developmental disabilities who resides in any such facility if (1) a complaint is received by the agency from or on behalf of the person with a developmental disability, and (2) such person does not have a legal guardian or the State or the designee of the State is the legal guardian of such person. The designated agency shall provide written notice to the person with developmental disabilities and the State guardian of the nature of the complaint based upon which the designated agency has gained access to the records. No record or the contents of any record shall be redisclosed by the designated agency unless the person with developmental disabilities and the State guardian are provided 7 days advance written notice, except in emergency situations, of the designated agency's intent to redisclose such record, during which time the person with developmental disabilities or the State guardian may seek to judicially enjoin the designated agency's redisclosure of such record on the grounds that such redisclosure is contrary to the interests of the person with developmental disabilities. Any person who in good faith complains to the designated agency on behalf of a person with developmental disabilities, or provides information or participates in the investigation of any such complaint shall have immunity from any liability, civil, criminal or otherwise, and shall not be subject to any penalties, sanctions, restrictions or retaliation as a consequence of making such complaint, providing such

information or participating in such investigation.

Upon request, the designated agency shall be entitled to inspect and copy any records or other materials which may further the agency's investigation of problems affecting numbers of persons with developmental disabilities. When required by law any personally identifiable information of persons with developmental disabilities shall be removed from the records. However, the designated agency may not inspect or copy any records or other materials when the removal of personally identifiable information imposes an unreasonable burden on mental health and developmental disabilities facilities pursuant to the Mental Health and Developmental Disabilities Code or facilities as defined in the Nursing Home Care Act or the ID/DD ~~MR/DD~~ Community Care Act.

The Governor shall not redesignate the agency to administer the State plan to protect and advocate the rights of persons with developmental disabilities unless there is good cause for the redesignation and unless notice of the intent to make such redesignation is given to persons with developmental disabilities or their representatives, the federal Secretary of Health and Human Services, and the General Assembly at least 60 days prior thereto.

As used in this Act, the term "developmental disability" means a severe, chronic disability of a person which:

(A) is attributable to a mental or physical impairment or combination of mental and physical impairments;

(B) is manifested before the person attains age 22;

(C) is likely to continue indefinitely;

(D) results in substantial functional limitations in 3 or more of the following areas of major life activity: (i) self-care, (ii) receptive and expressive language, (iii) learning, (iv) mobility, (v) self-direction, (vi) capacity for independent living, and (vii) economic self-sufficiency; and

(E) reflects the person's need for combination and sequence of special, interdisciplinary or generic care, treatment or other services which are of lifelong or extended duration and are individually planned and coordinated.

(Source: P.A. 96-339, eff. 7-1-10.)

Section 102. The Protection and Advocacy for Mentally Ill Persons Act is amended by changing Section 3 as follows:

(405 ILCS 45/3) (from Ch. 91 1/2, par. 1353)

Sec. 3. Powers and Duties.

(A) In order to properly exercise its powers and duties, the agency shall have the authority to:

(1) Investigate incidents of abuse and neglect of mentally ill persons if the incidents are reported to the agency or if there is probable cause to believe that the incidents occurred. In case of conflict with provisions of

the Abused and Neglected Child Reporting Act or the Nursing Home Care Act, the provisions of those Acts shall apply.

(2) Pursue administrative, legal and other appropriate remedies to ensure the protection of the rights of mentally ill persons who are receiving care and treatment in this State.

(3) Pursue administrative, legal and other remedies on behalf of an individual who:

(a) was a mentally ill individual; and

(b) is a resident of this State, but only with respect to matters which occur within 90 days after the date of the discharge of such individual from a facility providing care and treatment.

(4) Establish a board which shall:

(a) advise the protection and advocacy system on policies and priorities to be carried out in protecting and advocating the rights of mentally ill individuals; and

(b) include attorneys, mental health professionals, individuals from the public who are knowledgeable about mental illness, a provider of mental health services, individuals who have received or are receiving mental health services and family members of such individuals. At least one-half the members of the board shall be individuals who have received or are receiving mental health services or who

are family members of such individuals.

(5) On January 1, 1988, and on January 1 of each succeeding year, prepare and transmit to the Secretary of the United States Department of Health and Human Services and to the Illinois Secretary of Human Services a report describing the activities, accomplishments and expenditures of the protection and advocacy system during the most recently completed fiscal year.

(B) The agency shall have access to all mental health facilities as defined in Sections 1-107 and 1-114 of the Mental Health and Developmental Disabilities Code, all facilities as defined in Section 1-113 of the Nursing Home Care Act, all facilities as defined in Section 1-113 of the ID/DD ~~MR/DD~~ Community Care Act, all facilities as defined in Section 2.06 of the Child Care Act of 1969, as now or hereafter amended, and all other facilities providing care or treatment to mentally ill persons. Such access shall be granted for the purposes of meeting with residents and staff, informing them of services available from the agency, distributing written information about the agency and the rights of persons who are mentally ill, conducting scheduled and unscheduled visits, and performing other activities designed to protect the rights of mentally ill persons.

(C) The agency shall have access to all records of mentally ill persons who are receiving care or treatment from a facility, subject to the limitations of this Act, the Mental

Health and Developmental Disabilities Confidentiality Act, the Nursing Home Care Act and the Child Care Act of 1969, as now or hereafter amended. If the mentally ill person has a legal guardian other than the State or a designee of the State, the facility director shall disclose the guardian's name, address and telephone number to the agency upon its request. In cases of conflict with provisions of the Abused and Neglected Child Reporting Act and the Nursing Home Care Act, the provisions of the Abused and Neglected Child Reporting Act and the Nursing Home Care Act shall apply. The agency shall also have access, for the purpose of inspection and copying, to the records of a mentally ill person (i) who by reason of his or her mental or physical condition is unable to authorize the agency to have such access; (ii) who does not have a legal guardian or for whom the State or a designee of the State is the legal guardian; and (iii) with respect to whom a complaint has been received by the agency or with respect to whom there is probable cause to believe that such person has been subjected to abuse or neglect.

The agency shall provide written notice to the mentally ill person and the State guardian of the nature of the complaint based upon which the agency has gained access to the records. No record or the contents of the record shall be redisclosed by the agency unless the person who is mentally ill and the State guardian are provided 7 days advance written notice, except in emergency situations, of the agency's intent to redisclose such

record. Within such 7-day period, the mentally ill person or the State guardian may seek an injunction prohibiting the agency's redisclosure of such record on the grounds that such redisclosure is contrary to the interests of the mentally ill person.

Upon request, the authorized agency shall be entitled to inspect and copy any clinical or trust fund records of mentally ill persons which may further the agency's investigation of alleged problems affecting numbers of mentally ill persons. When required by law, any personally identifiable information of mentally ill persons shall be removed from the records. However, the agency may not inspect or copy any records or other materials when the removal of personally identifiable information imposes an unreasonable burden on any facility as defined by the Mental Health and Developmental Disabilities Code, the Nursing Home Care Act or the Child Care Act of 1969, or any other facility providing care or treatment to mentally ill persons.

(D) Prior to instituting any legal action in a federal or State court on behalf of a mentally ill individual, an eligible protection and advocacy system, or a State agency or nonprofit organization which entered into a contract with such an eligible system under Section 104(a) of the federal Protection and Advocacy for Mentally Ill Individuals Act of 1986, shall exhaust in a timely manner all administrative remedies where appropriate. If, in pursuing administrative remedies, the

system, State agency or organization determines that any matter with respect to such individual will not be resolved within a reasonable time, the system, State agency or organization may pursue alternative remedies, including the initiation of appropriate legal action.

(Source: P.A. 96-339, eff. 7-1-10.)

Section 105. The Developmental Disability and Mental Disability Services Act is amended by changing Sections 2-3, 2-5, 2-17, 3-3, 3-5, 5-1, 5-4, and 6-1 as follows:

(405 ILCS 80/2-3) (from Ch. 91 1/2, par. 1802-3)

Sec. 2-3. As used in this Article, unless the context requires otherwise:

(a) "Agency" means an agency or entity licensed by the Department pursuant to this Article or pursuant to the Community Residential Alternatives Licensing Act.

(b) "Department" means the Department of Human Services, as successor to the Department of Mental Health and Developmental Disabilities.

(c) "Home-based services" means services provided to a mentally disabled adult who lives in his or her own home. These services include but are not limited to:

(1) home health services;

(2) case management;

(3) crisis management;

(4) training and assistance in self-care;

(5) personal care services;

(6) habilitation and rehabilitation services;

(7) employment-related services;

(8) respite care; and

(9) other skill training that enables a person to become self-supporting.

(d) "Legal guardian" means a person appointed by a court of competent jurisdiction to exercise certain powers on behalf of a mentally disabled adult.

(e) "Mentally disabled adult" means a person over the age of 18 years who lives in his or her own home; who needs home-based services, but does not require 24-hour-a-day supervision; and who has one of the following conditions: severe autism, severe mental illness, a severe or profound intellectual disability ~~mental retardation~~, or severe and multiple impairments.

(f) In one's "own home" means that a mentally disabled adult lives alone; or that a mentally disabled adult is in full-time residence with his or her parents, legal guardian, or other relatives; or that a mentally disabled adult is in full-time residence in a setting not subject to licensure under the Nursing Home Care Act, the ID/DD ~~MR/DD~~ Community Care Act, or the Child Care Act of 1969, as now or hereafter amended, with 3 or fewer other adults unrelated to the mentally disabled adult who do not provide home-based services to the mentally

disabled adult.

(g) "Parent" means the biological or adoptive parent of a mentally disabled adult, or a person licensed as a foster parent under the laws of this State who acts as a mentally disabled adult's foster parent.

(h) "Relative" means any of the following relationships by blood, marriage or adoption: parent, son, daughter, brother, sister, grandparent, uncle, aunt, nephew, niece, great grandparent, great uncle, great aunt, stepbrother, stepsister, stepson, stepdaughter, stepparent or first cousin.

(i) "Severe autism" means a lifelong developmental disability which is typically manifested before 30 months of age and is characterized by severe disturbances in reciprocal social interactions; verbal and nonverbal communication and imaginative activity; and repertoire of activities and interests. A person shall be determined severely autistic, for purposes of this Article, if both of the following are present:

(1) Diagnosis consistent with the criteria for autistic disorder in the current edition of the Diagnostic and Statistical Manual of Mental Disorders.

(2) Severe disturbances in reciprocal social interactions; verbal and nonverbal communication and imaginative activity; repertoire of activities and interests. A determination of severe autism shall be based upon a comprehensive, documented assessment with an evaluation by a licensed clinical psychologist or

psychiatrist. A determination of severe autism shall not be based solely on behaviors relating to environmental, cultural or economic differences.

(j) "Severe mental illness" means the manifestation of all of the following characteristics:

(1) A primary diagnosis of one of the major mental disorders in the current edition of the Diagnostic and Statistical Manual of Mental Disorders listed below:

(A) Schizophrenia disorder.

(B) Delusional disorder.

(C) Schizo-affective disorder.

(D) Bipolar affective disorder.

(E) Atypical psychosis.

(F) Major depression, recurrent.

(2) The individual's mental illness must substantially impair his or her functioning in at least 2 of the following areas:

(A) Self-maintenance.

(B) Social functioning.

(C) Activities of community living.

(D) Work skills.

(3) Disability must be present or expected to be present for at least one year.

A determination of severe mental illness shall be based upon a comprehensive, documented assessment with an evaluation by a licensed clinical psychologist or psychiatrist, and shall

not be based solely on behaviors relating to environmental, cultural or economic differences.

(k) "Severe or profound intellectual disability ~~mental retardation~~" means a manifestation of all of the following characteristics:

(1) A diagnosis which meets Classification in Mental Retardation or criteria in the current edition of the Diagnostic and Statistical Manual of Mental Disorders for severe or profound mental retardation (an IQ of 40 or below). This must be measured by a standardized instrument for general intellectual functioning.

(2) A severe or profound level of disturbed adaptive behavior. This must be measured by a standardized adaptive behavior scale or informal appraisal by the professional in keeping with illustrations in Classification in Mental Retardation, 1983.

(3) Disability diagnosed before age of 18.

A determination of a severe or profound intellectual disability ~~mental retardation~~ shall be based upon a comprehensive, documented assessment with an evaluation by a licensed clinical psychologist or certified school psychologist or a psychiatrist, and shall not be based solely on behaviors relating to environmental, cultural or economic differences.

(l) "Severe and multiple impairments" means the manifestation of all of the following characteristics:

(1) The evaluation determines the presence of a developmental disability which is expected to continue indefinitely, constitutes a substantial handicap and is attributable to any of the following:

(A) Intellectual disability ~~Mental retardation~~, which is defined as general intellectual functioning that is 2 or more standard deviations below the mean concurrent with impairment of adaptive behavior which is 2 or more standard deviations below the mean. Assessment of the individual's intellectual functioning must be measured by a standardized instrument for general intellectual functioning.

(B) Cerebral palsy.

(C) Epilepsy.

(D) Autism.

(E) Any other condition which results in impairment similar to that caused by an intellectual disability ~~mental retardation~~ and which requires services similar to those required by intellectually disabled ~~mentally retarded~~ persons.

(2) The evaluation determines multiple handicaps in physical, sensory, behavioral or cognitive functioning which constitute a severe or profound impairment attributable to one or more of the following:

(A) Physical functioning, which severely impairs the individual's motor performance that may be due to:

(i) Neurological, psychological or physical involvement resulting in a variety of disabling conditions such as hemiplegia, quadriplegia or ataxia,

(ii) Severe organ systems involvement such as congenital heart defect,

(iii) Physical abnormalities resulting in the individual being non-mobile and non-ambulatory or confined to bed and receiving assistance in transferring, or

(iv) The need for regular medical or nursing supervision such as gastrostomy care and feeding.

Assessment of physical functioning must be based on clinical medical assessment by a physician licensed to practice medicine in all its branches, using the appropriate instruments, techniques and standards of measurement required by the professional.

(B) Sensory, which involves severe restriction due to hearing or visual impairment limiting the individual's movement and creating dependence in completing most daily activities. Hearing impairment is defined as a loss of 70 decibels aided or speech discrimination of less than 50% aided. Visual impairment is defined as 20/200 corrected in the better eye or a visual field of 20 degrees or less. Sensory functioning must be based on clinical medical

assessment by a physician licensed to practice medicine in all its branches using the appropriate instruments, techniques and standards of measurement required by the professional.

(C) Behavioral, which involves behavior that is maladaptive and presents a danger to self or others, is destructive to property by deliberately breaking, destroying or defacing objects, is disruptive by fighting, or has other socially offensive behaviors in sufficient frequency or severity to seriously limit social integration. Assessment of behavioral functioning may be measured by a standardized scale or informal appraisal by a clinical psychologist or psychiatrist.

(D) Cognitive, which involves intellectual functioning at a measured IQ of 70 or below. Assessment of cognitive functioning must be measured by a standardized instrument for general intelligence.

(3) The evaluation determines that development is substantially less than expected for the age in cognitive, affective or psychomotor behavior as follows:

(A) Cognitive, which involves intellectual functioning at a measured IQ of 70 or below. Assessment of cognitive functioning must be measured by a standardized instrument for general intelligence.

(B) Affective behavior, which involves over and

under responding to stimuli in the environment and may be observed in mood, attention to awareness, or in behaviors such as euphoria, anger or sadness that seriously limit integration into society. Affective behavior must be based on clinical assessment using the appropriate instruments, techniques and standards of measurement required by the professional.

(C) Psychomotor, which includes a severe developmental delay in fine or gross motor skills so that development in self-care, social interaction, communication or physical activity will be greatly delayed or restricted.

(4) A determination that the disability originated before the age of 18 years.

A determination of severe and multiple impairments shall be based upon a comprehensive, documented assessment with an evaluation by a licensed clinical psychologist or psychiatrist.

If the examiner is a licensed clinical psychologist, ancillary evaluation of physical impairment, cerebral palsy or epilepsy must be made by a physician licensed to practice medicine in all its branches.

Regardless of the discipline of the examiner, ancillary evaluation of visual impairment must be made by an ophthalmologist or a licensed optometrist.

Regardless of the discipline of the examiner, ancillary

evaluation of hearing impairment must be made by an otolaryngologist or an audiologist with a certificate of clinical competency.

The only exception to the above is in the case of a person with cerebral palsy or epilepsy who, according to the eligibility criteria listed below, has multiple impairments which are only physical and sensory. In such a case, a physician licensed to practice medicine in all its branches may serve as the examiner.

(m) "Twenty-four-hour-a-day supervision" means 24-hour-a-day care by a trained mental health or developmental disability professional on an ongoing basis.

(Source: P.A. 96-339, eff. 7-1-10.)

(405 ILCS 80/2-5) (from Ch. 91 1/2, par. 1802-5)

Sec. 2-5. The Department shall establish eligibility standards for the Program, taking into consideration the disability levels and service needs of the target population. The Department shall create application forms which shall be used to determine the eligibility of mentally disabled adults to participate in the Program. The forms shall be made available by the Department and shall require at least the following items of information which constitute eligibility criteria for participation in the Program:

(a) A statement that the mentally disabled adult resides in the State of Illinois and is over the age of 18

years.

(b) Verification that the mentally disabled adult has one of the following conditions: severe autism, severe mental illness, a severe or profound intellectual disability ~~mental retardation~~, or severe and multiple impairments.

(c) Verification that the mentally disabled adult has applied and is eligible for federal Supplemental Security Income or federal Social Security Disability Income benefits.

(d) Verification that the mentally disabled adult resides full-time in his or her own home or that, within 2 months of receipt of services under this Article, he or she will reside full-time in his or her own home.

The Department may by rule adopt provisions establishing liability of responsible relatives of a recipient of services under this Article for the payment of sums representing charges for services to such recipient. Such rules shall be substantially similar to the provisions for such liability contained in Chapter 5 of the Mental Health and Developmental Disabilities Code, as now or hereafter amended, and rules adopted pursuant thereto.

(Source: P.A. 86-921; 87-447.)

(405 ILCS 80/2-17)

Sec. 2-17. Transition from special education.

(a) If a person receiving special educational services under Article 14 of the School Code at a school in this State has severe autism, severe mental illness, a severe or profound intellectual disability ~~mental retardation~~, or severe and multiple impairments and is not over 18 years of age but is otherwise eligible to participate in the Program, the person shall be determined eligible to participate in the Program, subject to the availability of funds appropriated for this purpose, when he or she becomes an adult and no longer receives special educational services.

(b) The Department shall implement this Section for fiscal years beginning July 1, 1996 and thereafter.

(Source: P.A. 89-425, eff. 6-1-96.)

(405 ILCS 80/3-3) (from Ch. 91 1/2, par. 1803-3)

Sec. 3-3. As used in this Article, unless the context requires otherwise:

(a) "Agency" means an agency or entity licensed by the Department pursuant to this Article or pursuant to the Community Residential Alternatives Licensing Act.

(b) "Department" means the Department of Human Services, as successor to the Department of Mental Health and Developmental Disabilities.

(c) "Department-funded out-of-home placement services" means those services for which the Department pays the partial or full cost of care of the residential placement.

(d) "Family" or "families" means a family member or members and his, her or their parents or legal guardians.

(e) "Family member" means a child 17 years old or younger who has one of the following conditions: severe autism, severe emotional disturbance, a severe or profound intellectual disability ~~mental retardation~~, or severe and multiple impairments.

(f) "Legal guardian" means a person appointed by a court of competent jurisdiction to exercise certain powers on behalf of a family member and with whom the family member resides.

(g) "Parent" means a biological or adoptive parent with whom the family member resides, or a person licensed as a foster parent under the laws of this State, acting as a family member's foster parent, and with whom the family member resides.

(h) "Severe autism" means a lifelong developmental disability which is typically manifested before 30 months of age and is characterized by severe disturbances in reciprocal social interactions; verbal and nonverbal communication and imaginative activity; and repertoire of activities and interests. A person shall be determined severely autistic, for purposes of this Article, if both of the following are present:

(1) Diagnosis consistent with the criteria for autistic disorder in the current edition of the Diagnostic and Statistical Manual of Mental Disorders;

(2) Severe disturbances in reciprocal social

interactions; verbal and nonverbal communication and imaginative activity; and repertoire of activities and interests. A determination of severe autism shall be based upon a comprehensive, documented assessment with an evaluation by a licensed clinical psychologist or psychiatrist. A determination of severe autism shall not be based solely on behaviors relating to environmental, cultural or economic differences.

(i) "Severe mental illness" means the manifestation of all of the following characteristics:

(1) a severe mental illness characterized by the presence of a mental disorder in children or adolescents, classified in the Diagnostic and Statistical Manual of Mental Disorders (Third Edition - Revised), as now or hereafter revised, excluding V-codes (as that term is used in the current edition of the Diagnostic and Statistical Manual of Mental Disorders), adjustment disorders, the presence of an intellectual disability ~~mental retardation~~ when no other mental disorder is present, alcohol or substance abuse, or other forms of dementia based upon organic or physical disorders; and

(2) a functional disability of an extended duration which results in substantial limitations in major life activities.

A determination of severe mental illness shall be based upon a comprehensive, documented assessment with an evaluation

by a licensed clinical psychologist or a psychiatrist.

(j) "Severe or profound intellectual disability ~~mental retardation~~" means a manifestation of all of the following characteristics:

(1) A diagnosis which meets Classification in Mental Retardation or criteria in the current edition of the Diagnostic and Statistical Manual of Mental Disorders for severe or profound mental retardation (an IQ of 40 or below). This must be measured by a standardized instrument for general intellectual functioning.

(2) A severe or profound level of adaptive behavior. This must be measured by a standardized adaptive behavior scale or informal appraisal by the professional in keeping with illustrations in Classification in Mental Retardation, 1983.

(3) Disability diagnosed before age of 18.

A determination of a severe or profound intellectual disability ~~mental retardation~~ shall be based upon a comprehensive, documented assessment with an evaluation by a licensed clinical psychologist, certified school psychologist, a psychiatrist or other physician licensed to practice medicine in all its branches, and shall not be based solely on behaviors relating to environmental, cultural or economic differences.

(k) "Severe and multiple impairments" means the manifestation of all the following characteristics:

(1) The evaluation determines the presence of a

developmental disability which is expected to continue indefinitely, constitutes a substantial handicap and is attributable to any of the following:

(A) Intellectual disability ~~Mental retardation~~, which is defined as general intellectual functioning that is 2 or more standard deviations below the mean concurrent with impairment of adaptive behavior which is 2 or more standard deviations below the mean. Assessment of the individual's intellectual functioning must be measured by a standardized instrument for general intellectual functioning.

(B) Cerebral palsy.

(C) Epilepsy.

(D) Autism.

(E) Any other condition which results in impairment similar to that caused by an intellectual disability ~~mental retardation~~ and which requires services similar to those required by intellectually disabled ~~mentally retarded~~ persons.

(2) The evaluation determines multiple handicaps in physical, sensory, behavioral or cognitive functioning which constitute a severe or profound impairment attributable to one or more of the following:

(A) Physical functioning, which severely impairs the individual's motor performance that may be due to:

(i) Neurological, psychological or physical

involvement resulting in a variety of disabling conditions such as hemiplegia, quadriplegia or ataxia,

(ii) Severe organ systems involvement such as congenital heart defect,

(iii) Physical abnormalities resulting in the individual being non-mobile and non-ambulatory or confined to bed and receiving assistance in transferring, or

(iv) The need for regular medical or nursing supervision such as gastrostomy care and feeding.

Assessment of physical functioning must be based on clinical medical assessment, using the appropriate instruments, techniques and standards of measurement required by the professional.

(B) Sensory, which involves severe restriction due to hearing or visual impairment limiting the individual's movement and creating dependence in completing most daily activities. Hearing impairment is defined as a loss of 70 decibels aided or speech discrimination of less than 50% aided. Visual impairment is defined as 20/200 corrected in the better eye or a visual field of 20 degrees or less. Sensory functioning must be based on clinical medical assessment using the appropriate instruments, techniques and standards of measurement required by

the professional.

(C) Behavioral, which involves behavior that is maladaptive and presents a danger to self or others, is destructive to property by deliberately breaking, destroying or defacing objects, is disruptive by fighting, or has other socially offensive behaviors in sufficient frequency or severity to seriously limit social integration. Assessment of behavioral functioning may be measured by a standardized scale or informal appraisal by the medical professional.

(D) Cognitive, which involves intellectual functioning at a measured IQ of 70 or below. Assessment of cognitive functioning must be measured by a standardized instrument for general intelligence.

(3) The evaluation determines that development is substantially less than expected for the age in cognitive, affective or psychomotor behavior as follows:

(A) Cognitive, which involves intellectual functioning at a measured IQ of 70 or below. Assessment of cognitive functioning must be measured by a standardized instrument for general intelligence.

(B) Affective behavior, which involves over and under responding to stimuli in the environment and may be observed in mood, attention to awareness, or in behaviors such as euphoria, anger or sadness that seriously limit integration into society. Affective

behavior must be based on clinical medical and psychiatric assessment using the appropriate instruments, techniques and standards of measurement required by the professional.

(C) Psychomotor, which includes a severe developmental delay in fine or gross motor skills so that development in self-care, social interaction, communication or physical activity will be greatly delayed or restricted.

(4) A determination that the disability originated before the age of 18 years.

A determination of severe and multiple impairments shall be based upon a comprehensive, documented assessment with an evaluation by a licensed clinical psychologist or psychiatrist. If the examiner is a licensed clinical psychologist, ancillary evaluation of physical impairment, cerebral palsy or epilepsy must be made by a physician licensed to practice medicine in all its branches.

Regardless of the discipline of the examiner, ancillary evaluation of visual impairment must be made by an ophthalmologist or a licensed optometrist.

Regardless of the discipline of the examiner, ancillary evaluation of hearing impairment must be made by an otolaryngologist or an audiologist with a certificate of clinical competency.

The only exception to the above is in the case of a person

with cerebral palsy or epilepsy who, according to the eligibility criteria listed below, has multiple impairments which are only physical and sensory. In such a case, a physician licensed to practice medicine in all its branches may serve as the examiner.

(Source: P.A. 89-507, eff. 7-1-97.)

(405 ILCS 80/3-5) (from Ch. 91 1/2, par. 1803-5)

Sec. 3-5. The Department shall create application forms which shall be used to determine the eligibility of families for the Program. The forms shall require at least the following items of information which constitute the eligibility criteria for participation in the Program:

(a) A statement that the family resides in the State of Illinois.

(b) A statement that the family member is 17 years of age or younger.

(c) A statement that the family member resides, or is expected to reside, with his or her parent or legal guardian, or that the family member resides in an out-of-home placement with the expectation of residing with the parent or legal guardian within 2 months of the date of the application.

(d) Verification that the family member has one of the following conditions: severe autism, severe mental illness, a severe or profound intellectual disability ~~mental retardation~~, or severe and multiple impairments. Verification of the family

member's condition shall be:

(1) by the family member's local school district for family members enrolled with a local school district; or

(2) by an entity designated by the Department.

(e) Verification that the taxable income for the family for the year immediately preceding the date of the application did not exceed an amount to be established by rule of the Department, unless it can be verified that the taxable income for the family for the year in which the application is made will be less than such amount. The maximum taxable family income set by rule of the Department may not be less than $65,000 beginning January 1, 2008.

(Source: P.A. 95-112, eff. 8-13-07.)

(405 ILCS 80/5-1) (from Ch. 91 1/2, par. 1805-1)

Sec. 5-1. As the mental health and developmental disabilities or intellectual disabilities ~~mental retardation~~ authority for the State of Illinois, the Department of Human Services shall have the authority to license, certify and prescribe standards governing the programs and services provided under this Act, as well as all other agencies or programs which provide home-based or community-based services to the mentally disabled, except those services, programs or agencies established under or otherwise subject to the Child Care Act of 1969 or the ID/DD ~~MR/DD~~ Community Care Act, as now or hereafter amended, and this Act shall not be construed to

limit the application of those Acts.

(Source: P.A. 96-339, eff. 7-1-10.)

(405 ILCS 80/5-4)

Sec. 5-4. Home and Community-Based Services Waivers; autism spectrum disorder. A person diagnosed with an autism spectrum disorder may be assessed for eligibility for services under Home and Community-Based Services Waivers for persons with developmental disabilities, without regard to whether that person is also diagnosed with an intellectual disability ~~mental retardation~~, so long as the person otherwise meets applicable level-of-care criteria under those waivers. This amendatory Act of the 95th General Assembly does not create any new entitlement to a service, program, or benefit, but shall not affect any entitlement to a service, program, or benefit created by any other law.

(Source: P.A. 95-251, eff. 8-17-07.)

(405 ILCS 80/6-1)

Sec. 6-1. Community Residential Choices Program.

(a) The purpose of this Article is to promote greater compatibility among individuals with developmental disabilities who live together by allowing individuals with developmental disabilities who meet either the emergency or critical need criteria of the Department of Human Services as defined under the Department's developmental disabilities

cross-disability database (as required by Section 10-26 of the Department of Human Services Act), and who also meet the Department's developmental disabilities priority population criteria for residential services as defined in the Department's developmental disabilities Community Services Agreement and whose parents are over the age of 60, to choose to live together in a community-based residential program.

(b) For purposes of this Article:

"Community-based residential program" means one of a variety of living arrangements for persons with developmental disabilities, including existing settings such as community-integrated living arrangements, and may also include newly developed settings that are consistent with this definition.

"Developmental disability" may include an autism spectrum disorder.

(c) A person diagnosed with an autism spectrum disorder may be assessed for eligibility for services under Home and Community-Based Services Waivers for persons with developmental disabilities without regard to whether that person is also diagnosed with an intellectual disability ~~mental retardation~~, so long as the person otherwise meets applicable level-of-care criteria under those waivers. This provision does not create any new entitlement to a service, program, or benefit, but shall not affect any entitlement to a service, program, or benefit created by any other law.

(Source: P.A. 95-636, eff. 10-5-07.)

Section 110. The Medical Patient Rights Act is amended by changing Section 2.03 as follows:

(410 ILCS 50/2.03) (from Ch. 111 1/2, par. 5402.03)

Sec. 2.03. "Health care provider" means any public or private facility that provides, on an inpatient or outpatient basis, preventive, diagnostic, therapeutic, convalescent, rehabilitation, mental health, or intellectual disability ~~mental retardation~~ services, including general or special hospitals, skilled nursing homes, extended care facilities, intermediate care facilities and mental health centers.

(Source: P.A. 81-1167.)

Section 115. The Newborn Metabolic Screening Act is amended by changing Section 2 as follows:

(410 ILCS 240/2) (from Ch. 111 1/2, par. 4904)

Sec. 2. The Department of Public Health shall administer the provisions of this Act and shall:

(a) Institute and carry on an intensive educational program among physicians, hospitals, public health nurses and the public concerning the diseases phenylketonuria, hypothyroidism, galactosemia and other metabolic diseases. This educational program shall include information about the

nature of the diseases and examinations for the detection of the diseases in early infancy in order that measures may be taken to prevent the intellectual disabilities ~~mental retardation~~ resulting from the diseases.

(a-5) Beginning July 1, 2002, provide all newborns with expanded screening tests for the presence of genetic, endocrine, or other metabolic disorders, including phenylketonuria, galactosemia, hypothyroidism, congenital adrenal hyperplasia, biotinidase deficiency, and sickling disorders, as well as other amino acid disorders, organic acid disorders, fatty acid oxidation disorders, and other abnormalities detectable through the use of a tandem mass spectrometer. If by July 1, 2002, the Department is unable to provide expanded screening using the State Laboratory, it shall temporarily provide such screening through an accredited laboratory selected by the Department until the Department has the capacity to provide screening through the State Laboratory. If expanded screening is provided on a temporary basis through an accredited laboratory, the Department shall substitute the fee charged by the accredited laboratory, plus a 5% surcharge for documentation and handling, for the fee authorized in subsection (e) of this Section.

(a-6) In accordance with the timetable specified in this subsection, provide all newborns with expanded screening tests for the presence of certain Lysosomal Storage Disorders known as Krabbe, Pompe, Gaucher, Fabry, and Niemann-Pick. The testing

shall begin within 6 months following the occurrence of all of the following:

(i) the registration with the federal Food and Drug Administration of the necessary reagents;

(ii) the availability of the necessary reagents from the Centers for Disease Control and Prevention;

(iii) the availability of quality assurance testing methodology for these processes; and

(iv) the acquisition and installment by the Department of the equipment necessary to implement the expanded screening tests.

It is the goal of this amendatory Act of the 95th General Assembly that the expanded screening for the specified Lysosomal Storage Disorders begins within 3 years after the effective date of this Act. The Department is authorized to implement an additional fee for the screening prior to beginning the testing in order to accumulate the resources for start-up and other costs associated with implementation of the screening and thereafter to support the costs associated with screening and follow-up programs for the specified Lysosomal Storage Disorders.

(b) Maintain a registry of cases including information of importance for the purpose of follow-up services to prevent intellectual disabilities ~~mental retardation~~.

(c) Supply the necessary metabolic treatment formulas where practicable for diagnosed cases of amino acid metabolism

disorders, including phenylketonuria, organic acid disorders, and fatty acid oxidation disorders for as long as medically indicated, when the product is not available through other State agencies.

(d) Arrange for or provide public health nursing, nutrition and social services and clinical consultation as indicated.

(e) Require that all specimens collected pursuant to this Act or the rules and regulations promulgated hereunder be submitted for testing to the nearest Department of Public Health laboratory designated to perform such tests. The Department may develop a reasonable fee structure and may levy fees according to such structure to cover the cost of providing this testing service. Fees collected from the provision of this testing service shall be placed in a special fund in the State Treasury, hereafter known as the Metabolic Screening and Treatment Fund. Other State and federal funds for expenses related to metabolic screening, follow-up and treatment programs may also be placed in such Fund. Moneys shall be appropriated from such Fund to the Department of Public Health solely for the purposes of providing metabolic screening, follow-up and treatment programs. Nothing in this Act shall be construed to prohibit any licensed medical facility from collecting additional specimens for testing for metabolic or neonatal diseases or any other diseases or conditions, as it deems fit. Any person violating the provisions of this subsection (e) is guilty of a petty offense.

(Source: P.A. 95-695, eff. 11-5-07.)

Section 120. The Developmental Disability Prevention Act is amended by changing Section 2 as follows:

(410 ILCS 250/2) (from Ch. 111 1/2, par. 2102)

Sec. 2.

As used in this Act:

a "perinatal" means the period of time between the conception of an infant and the end of the first month of life;

b "congenital" means those intrauterine factors which influence the growth, development and function of the fetus;

c "environmental" means those extrauterine factors which influence the adaptation, well being or life of the newborn and may lead to disability;

d "high risk" means an increased level of risk of harm or mortality to the woman of childbearing age, fetus or newborn from congenital and/or environmental factors;

e "perinatal center" means a referral facility intended to care for the high risk patient before, during, or after labor and delivery and characterized by sophistication and availability of personnel, equipment, laboratory, transportation techniques, consultation and other support services;

f "developmental disability" means an intellectual disability ~~mental retardation~~, cerebral palsy, epilepsy, or

other neurological handicapping conditions of an individual found to be closely related to an intellectual disability ~~mental retardation~~ or to require treatment similar to that required by intellectually disabled ~~mentally retarded~~ individuals, and the disability originates before such individual attains age 18, and has continued, or can be expected to continue indefinitely, and constitutes a substantial handicap of such individuals;

g "disability" means a condition characterized by temporary or permanent, partial or complete impairment of physical, mental or physiological function;

h "Department" means the Department of Public Health.

(Source: P.A. 78-557.)

Section 125. The Communicable Disease Prevention Act is amended by changing Section 1 as follows:

(410 ILCS 315/1) (from Ch. 111 1/2, par. 22.11)

Sec. 1. Certain communicable diseases such as measles, poliomyelitis, invasive pneumococcal disease, and tetanus, may and do result in serious physical and mental disability including an intellectual disability ~~mental retardation~~, permanent paralysis, encephalitis, convulsions, pneumonia, and not infrequently, death.

Most of these diseases attack young children, and if they have not been immunized, may spread to other susceptible

children and possibly, adults, thus, posing serious threats to the health of the community. Effective, safe and widely used vaccines and immunization procedures have been developed and are available to prevent these diseases and to limit their spread. Even though such immunization procedures are available, many children fail to receive this protection either through parental oversight, lack of concern, knowledge or interest, or lack of available facilities or funds. The existence of susceptible children in the community constitutes a health hazard to the individual and to the public at large by serving as a focus for the spread of these communicable diseases.

It is declared to be the public policy of this State that all children shall be protected, as soon after birth as medically indicated, by the appropriate vaccines and immunizing procedures to prevent communicable diseases which are or which may in the future become preventable by immunization.

(Source: P.A. 95-159, eff. 8-14-07.)

Section 126. The Arthritis Quality of Life Initiative Act is amended by changing Section 5 as follows:

(410 ILCS 503/5)

Sec. 5. Legislative findings. The General Assembly finds and declares that:

(1) Arthritis is the most common, physically disabling ~~crippling~~, and costly chronic disease in the United States; it affects 14.5% of the population or more than 40,000,000 Americans of all ages. One in every 7 people and one in every 3 families are affected by the disease.

(2) Arthritis is the nation's number one disabling disease and disables 7,000,000 Americans. It is one of the most common and disabling chronic conditions reported by women and far exceeds the reporting of hypertension, heart disease, diabetes, and breast, cervical, and ovarian cancers.

(3) With an aggregate cost of about 1.1% of the gross national product or an estimated $64,800,000,000 annually in medical expenses, lost wages, and associated economic losses, arthritis and other rheumatic diseases have a significant economic impact on the nation.

(4) As the leading cause of industrial absenteeism after the common cold, arthritis accounts nationally for 500,000,000 days of restricted activity and 27,000,000 days lost from work each year.

(5) The federal Centers for Disease Control and Prevention project that by the year 2020, the incidence of arthritis will increase by 59% in the State and throughout the country, affecting 20% of the population.

(6) Programs and services presently are available that can dramatically impact on early diagnosis and treatment as

well as the quality of life of people with arthritis.

(7) A mechanism for broader dissemination of these programs and services aimed at prevention, information, and education is needed to help reduce the physical and emotional impact of arthritis and its associated health care and related costs.

(Source: P.A. 91-750, eff. 1-1-01.)

Section 128. The Facilities Requiring Smoke Detectors Act is amended by changing Section 1 as follows:

(425 ILCS 10/1) (from Ch. 127 1/2, par. 821)

Sec. 1. For purposes of this Act, unless the context requires otherwise:

(a) "Facility" means:

(1) Any long-term care facility as defined in Section 1-113 of the Nursing Home Care Act or any facility as defined in Section 1-113 of the ID/DD ~~MR/DD~~ Community Care Act, as amended;

(2) Any community residential alternative as defined in paragraph (4) of Section 3 of the Community Residential Alternatives Licensing Act, as amended; and

(3) Any child care facility as defined in Section 2.05 of the Child Care Act of 1969, as amended.

(b) "Approved smoke detector" or "detector" means a smoke detector of the ionization or photoelectric type which complies

with all the requirements of the rules and regulations of the Illinois State Fire Marshal.

(Source: P.A. 96-339, eff. 7-1-10.)

Section 130. The Firearm Owners Identification Card Act is amended by changing Sections 4 and 8 as follows:

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

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

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

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

(i) He or she is 21 years of age or over, or if he or she is under 21 years of age that he or she has the written consent of his or her parent or legal guardian to possess and acquire firearms and firearm ammunition and that he or she has never been convicted of a misdemeanor other than a traffic offense or adjudged delinquent, provided, however, that such parent or legal guardian is not an individual prohibited from having a Firearm Owner's Identification Card and files

an affidavit with the Department as prescribed by the Department stating that he or she is not an individual prohibited from having a Card;

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

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

(iv) He or she has not been a patient in a mental institution within the past 5 years and he or she has not been adjudicated as a mental defective;

(v) He or she is not intellectually disabled ~~mentally retarded~~;

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

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

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

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

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

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

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

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

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

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

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

(4) a foreign law enforcement officer of a

friendly foreign government entering the United States on official business; or

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

(xii) He or she is not a minor subject to a petition filed under Section 5-520 of the Juvenile Court Act of 1987 alleging that the minor is a delinquent minor for the commission of an offense that if committed by an adult would be a felony; and

(xiii) He or she is not an adult who had been adjudicated a delinquent minor under the Juvenile Court Act of 1987 for the commission of an offense that if committed by an adult would be a felony; and

(3) Upon request by the Department of State Police, sign a release on a form prescribed by the Department of State Police waiving any right to confidentiality and requesting the disclosure to the Department of State Police of limited mental health institution admission information from another state, the District of Columbia, any other territory of the United States, or a foreign nation concerning the applicant for the sole purpose of determining whether the applicant is or was a patient in a mental health institution and disqualified because of that status from receiving a Firearm Owner's Identification Card. No mental health care or treatment records may be

requested. The information received shall be destroyed within one year of receipt.

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

(a-10) Each applicant for a Firearm Owner's Identification Card, who is employed as an armed security officer at a nuclear energy, storage, weapons, or development facility regulated by the Nuclear Regulatory Commission and who is not an Illinois resident, shall furnish to the Department of State Police his or her driver's license number or state identification card number from his or her state of residence. The Department of State Police may promulgate rules to enforce the provisions of this subsection (a-10).

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

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

(Source: P.A. 95-581, eff. 6-1-08.)

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

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

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

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

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

(d) A person addicted to narcotics;

(e) A person who has been a patient of a mental institution within the past 5 years or has been adjudicated as a mental defective;

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

For the purposes of this Section, "mental condition" means

a state of mind manifested by violent, suicidal, threatening or assaultive behavior.

(g) A person who is intellectually disabled ~~mentally retarded~~;

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

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

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

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

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

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

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

(3) an official of a foreign government or distinguished foreign visitor who has been so designated by

the Department of State;

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

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

(j) (Blank);

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

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

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

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

(o) A minor subject to a petition filed under Section 5-520 of the Juvenile Court Act of 1987 alleging that the minor is a delinquent minor for the commission of an offense that if committed by an adult would be a felony; or

(p) An adult who had been adjudicated a delinquent minor

under the Juvenile Court Act of 1987 for the commission of an offense that if committed by an adult would be a felony.
(Source: P.A. 95-581, eff. 6-1-08; 96-701, eff. 1-1-10.)

Section 135. The Criminal Code of 1961 is amended by changing Sections 2-10.1, 10-1, 10-2, 10-5, 11-14.1, 11-15.1, 11-17.1, 11-18.1, 11-19.1, 11-19.2, 11-20.1, 11-20.3, 12-4.3, 12-14, 12-16, 12-19, 12-21, 17-29, 24-3, 24-3.1, and 26-1 as follows:

(720 ILCS 5/2-10.1) (from Ch. 38, par. 2-10.1)

Sec. 2-10.1. "Severely or profoundly intellectually disabled ~~mentally retarded~~ person" means a person (i) whose intelligence quotient does not exceed 40 or (ii) whose intelligence quotient does not exceed 55 and who suffers from significant mental illness to the extent that the person's ability to exercise rational judgment is impaired. In any proceeding in which the defendant is charged with committing a violation of Section 10-2, 10-5, 11-15.1, 11-19.1, 11-19.2, 11-20.1, 12-4.3, 12-14, or 12-16 of this Code against a victim who is alleged to be a severely or profoundly intellectually disabled ~~mentally retarded~~ person, any findings concerning the victim's status as a severely or profoundly intellectually disabled ~~mentally retarded~~ person, made by a court after a judicial admission hearing concerning the victim under Articles V and VI of Chapter 4 of the Mental Health and

Developmental Disabilities Code shall be admissible.

(Source: P.A. 92-434, eff. 1-1-02.)

(720 ILCS 5/10-1) (from Ch. 38, par. 10-1)

Sec. 10-1. Kidnapping.

(a) A person commits the offense of kidnapping when he or she knowingly:

(1) and secretly confines another against his or her will;

(2) by force or threat of imminent force carries another from one place to another with intent secretly to confine that other person against his or her will; or

(3) by deceit or enticement induces another to go from one place to another with intent secretly to confine that other person against his or her will.

(b) Confinement of a child under the age of 13 years, or of a severely or profoundly intellectually disabled ~~mentally retarded~~ person, is against that child's or person's will within the meaning of this Section if that confinement is without the consent of that child's or person's parent or legal guardian.

(c) Sentence. Kidnapping is a Class 2 felony.

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

(720 ILCS 5/10-2) (from Ch. 38, par. 10-2)

Sec. 10-2. Aggravated kidnaping.

(a) A person commits the offense of aggravated kidnaping when he or she commits kidnapping and:

(1) kidnaps with the intent to obtain ransom from the person kidnaped or from any other person;

(2) takes as his or her victim a child under the age of 13 years, or a severely or profoundly intellectually disabled ~~mentally retarded~~ person;

(3) inflicts great bodily harm, other than by the discharge of a firearm, or commits another felony upon his or her victim;

(4) wears a hood, robe, or mask or conceals his or her identity;

(5) commits the offense of kidnaping while armed with a dangerous weapon, other than a firearm, as defined in Section 33A-1 of this Code;

(6) commits the offense of kidnaping while armed with a firearm;

(7) during the commission of the offense of kidnaping, personally discharges a firearm; or

(8) during the commission of the offense of kidnaping, personally discharges a firearm that proximately causes great bodily harm, permanent disability, permanent disfigurement, or death to another person.

As used in this Section, "ransom" includes money, benefit, or other valuable thing or concession.

(b) Sentence. Aggravated kidnaping in violation of

paragraph (1), (2), (3), (4), or (5) of subsection (a) is a Class X felony. A violation of subsection (a)(6) is a Class X felony for which 15 years shall be added to the term of imprisonment imposed by the court. A violation of subsection (a)(7) is a Class X felony for which 20 years shall be added to the term of imprisonment imposed by the court. A violation of subsection (a)(8) is a Class X felony for which 25 years or up to a term of natural life shall be added to the term of imprisonment imposed by the court.

A person who is convicted of a second or subsequent offense of aggravated kidnaping shall be sentenced to a term of natural life imprisonment; except that a sentence of natural life imprisonment shall not be imposed under this Section unless the second or subsequent offense was committed after conviction on the first offense.

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

(720 ILCS 5/10-5) (from Ch. 38, par. 10-5)

Sec. 10-5. Child abduction.

(a) For purposes of this Section, the following terms have the following meanings:

(1) "Child" means a person who, at the time the alleged violation occurred, was under the age of 18 or severely or profoundly <u>intellectually disabled</u> ~~mentally retarded~~.

(2) "Detains" means taking or retaining physical custody of a child, whether or not the child resists or

objects.

(3) "Lawful custodian" means a person or persons granted legal custody of a child or entitled to physical possession of a child pursuant to a court order. It is presumed that, when the parties have never been married to each other, the mother has legal custody of the child unless a valid court order states otherwise. If an adjudication of paternity has been completed and the father has been assigned support obligations or visitation rights, such a paternity order should, for the purposes of this Section, be considered a valid court order granting custody to the mother.

(4) "Putative father" means a man who has a reasonable belief that he is the father of a child born of a woman who is not his wife.

(b) A person commits the offense of child abduction when he or she does any one of the following:

(1) Intentionally violates any terms of a valid court order granting sole or joint custody, care, or possession to another by concealing or detaining the child or removing the child from the jurisdiction of the court.

(2) Intentionally violates a court order prohibiting the person from concealing or detaining the child or removing the child from the jurisdiction of the court.

(3) Intentionally conceals, detains, or removes the child without the consent of the mother or lawful custodian

of the child if the person is a putative father and either: (A) the paternity of the child has not been legally established or (B) the paternity of the child has been legally established but no orders relating to custody have been entered. Notwithstanding the presumption created by paragraph (3) of subsection (a), however, a mother commits child abduction when she intentionally conceals or removes a child, whom she has abandoned or relinquished custody of, from an unadjudicated father who has provided sole ongoing care and custody of the child in her absence.

(4) Intentionally conceals or removes the child from a parent after filing a petition or being served with process in an action affecting marriage or paternity but prior to the issuance of a temporary or final order determining custody.

(5) At the expiration of visitation rights outside the State, intentionally fails or refuses to return or impedes the return of the child to the lawful custodian in Illinois.

(6) Being a parent of the child, and if the parents of that child are or have been married and there has been no court order of custody, knowingly conceals the child for 15 days, and fails to make reasonable attempts within the 15-day period to notify the other parent as to the specific whereabouts of the child, including a means by which to contact the child, or to arrange reasonable visitation or

contact with the child. It is not a violation of this Section for a person fleeing domestic violence to take the child with him or her to housing provided by a domestic violence program.

(7) Being a parent of the child, and if the parents of the child are or have been married and there has been no court order of custody, knowingly conceals, detains, or removes the child with physical force or threat of physical force.

(8) Knowingly conceals, detains, or removes the child for payment or promise of payment at the instruction of a person who has no legal right to custody.

(9) Knowingly retains in this State for 30 days a child removed from another state without the consent of the lawful custodian or in violation of a valid court order of custody.

(10) Intentionally lures or attempts to lure a child under the age of 16 into a motor vehicle, building, housetrailer, or dwelling place without the consent of the child's parent or lawful custodian for other than a lawful purpose. For the purposes of this item (10), the luring or attempted luring of a child under the age of 16 into a motor vehicle, building, housetrailer, or dwelling place without the consent of the child's parent or lawful custodian is prima facie evidence of other than a lawful purpose.

(11) With the intent to obstruct or prevent efforts to locate the child victim of a child abduction, knowingly destroys, alters, conceals, or disguises physical evidence or furnishes false information.

(c) It is an affirmative defense to subsections (b)(1) through (b)(10) of this Section that:

(1) the person had custody of the child pursuant to a court order granting legal custody or visitation rights that existed at the time of the alleged violation;

(2) the person had physical custody of the child pursuant to a court order granting legal custody or visitation rights and failed to return the child as a result of circumstances beyond his or her control, and the person notified and disclosed to the other parent or legal custodian the specific whereabouts of the child and a means by which the child could be contacted or made a reasonable attempt to notify the other parent or lawful custodian of the child of those circumstances and made the disclosure within 24 hours after the visitation period had expired and returned the child as soon as possible;

(3) the person was fleeing an incidence or pattern of domestic violence; or

(4) the person lured or attempted to lure a child under the age of 16 into a motor vehicle, building, housetrailer, or dwelling place for a lawful purpose in prosecutions under paragraph (10) of subsection (b).

(d) A person convicted of child abduction under this Section is guilty of a Class 4 felony. A person convicted of a second or subsequent violation of paragraph (10) of subsection (b) of this Section is guilty of a Class 3 felony. It is a factor in aggravation under subsections (b)(1) through (b)(10) of this Section for which a court may impose a more severe sentence under Section 5-8-1 (730 ILCS 5/5-8-1) or Article 4.5 of Chapter V of the Unified Code of Corrections if, upon sentencing, the court finds evidence of any of the following aggravating factors:

(1) that the defendant abused or neglected the child following the concealment, detention, or removal of the child;

(2) that the defendant inflicted or threatened to inflict physical harm on a parent or lawful custodian of the child or on the child with intent to cause that parent or lawful custodian to discontinue criminal prosecution of the defendant under this Section;

(3) that the defendant demanded payment in exchange for return of the child or demanded that he or she be relieved of the financial or legal obligation to support the child in exchange for return of the child;

(4) that the defendant has previously been convicted of child abduction;

(5) that the defendant committed the abduction while armed with a deadly weapon or the taking of the child

resulted in serious bodily injury to another; or

(6) that the defendant committed the abduction while in a school, regardless of the time of day or time of year; in a playground; 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 or playground. For purposes of this paragraph (6), "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; and "school" means a public or private elementary or secondary school, community college, college, or university.

(e) The court may order the child to be returned to the parent or lawful custodian from whom the child was concealed, detained, or removed. In addition to any sentence imposed, the court may assess any reasonable expense incurred in searching for or returning the child against any person convicted of violating this Section.

(f) Nothing contained in this Section shall be construed to limit the court's contempt power.

(g) Every law enforcement officer investigating an alleged incident of child abduction shall make a written police report of any bona fide allegation and the disposition of that investigation. Every police report completed pursuant to this

Section shall be compiled and recorded within the meaning of Section 5.1 of the Criminal Identification Act.

(h) Whenever a law enforcement officer has reasons to believe a child abduction has occurred, she or he shall provide the lawful custodian a summary of her or his rights under this Code, including the procedures and relief available to her or him.

(i) If during the course of an investigation under this Section the child is found in the physical custody of the defendant or another, the law enforcement officer shall return the child to the parent or lawful custodian from whom the child was concealed, detained, or removed, unless there is good cause for the law enforcement officer or the Department of Children and Family Services to retain temporary protective custody of the child pursuant to the Abused and Neglected Child Reporting Act.

(Source: P.A. 95-1052, eff. 7-1-09; 96-710, eff. 1-1-10; ; 96-1000, eff. 7-2-10.)

(720 ILCS 5/11-14.1)

Sec. 11-14.1. Solicitation of a sexual act.

(a) Any person who offers a person not his or her spouse any money, property, token, object, or article or anything of value for that person or any other person not his or her spouse to perform any act of sexual penetration as defined in Section 12-12 of this Code, or any touching or fondling of the sex

organs of one person by another person for the purpose of sexual arousal or gratification, commits the offense of solicitation of a sexual act.

(b) Sentence. Solicitation of a sexual act is a Class A misdemeanor. Solicitation of a sexual act from a person who is under the age of 18 or who is severely or profoundly intellectually disabled ~~mentally retarded~~ is a Class 4 felony.

(b-5) It is an affirmative defense to a charge of solicitation of a sexual act with a person who is under the age of 18 or who is severely or profoundly intellectually disabled ~~mentally retarded~~ that the accused reasonably believed the person was of the age of 18 years or over or was not a severely or profoundly intellectually disabled ~~mentally retarded~~ person at the time of the act giving rise to the charge.

(Source: P.A. 96-1464, eff. 8-20-10.)

(720 ILCS 5/11-15.1) (from Ch. 38, par. 11-15.1)

Sec. 11-15.1. Soliciting for a minor engaged in prostitution.

(a) Any person who violates any of the provisions of Section 11-15(a) of this Act commits soliciting for a minor engaged in prostitution where the person for whom such person is soliciting is under 18 years of age or is a severely or profoundly intellectually disabled ~~mentally retarded~~ person.

(b) It is an affirmative defense to a charge of soliciting for a minor engaged in prostitution that the accused reasonably

believed the person was of the age of 18 years or over or was not a severely or profoundly intellectually disabled ~~mentally retarded~~ person at the time of the act giving rise to the charge.

(c) Sentence.

Soliciting for a minor engaged in prostitution is a Class 1 felony. A person convicted of a second or subsequent violation of this Section, or of any combination of such number of convictions under this Section and Sections 11-14, 11-14.1, 11-15, 11-16, 11-17, 11-17.1, 11-18, 11-18.1, 11-19, 11-19.1, or 11-19.2 of this Code, is guilty of a Class X felony. The fact of such prior conviction is not an element of the offense and may not be disclosed to the jury during trial unless otherwise permitted by issues properly raised during the trial.

(c-5) A person who violates this Section within 1,000 feet of real property comprising a school commits a Class X felony. (Source: P.A. 95-95, eff. 1-1-08; 96-1464, eff. 8-20-10.)

(720 ILCS 5/11-17.1) (from Ch. 38, par. 11-17.1)

Sec. 11-17.1. Keeping a Place of Juvenile Prostitution.

(a) Any person who knowingly violates any of the provisions of Section 11-17 of this Act commits keeping a place of juvenile prostitution when any person engaged in prostitution in the place of prostitution is under 18 years of age or is a severely or profoundly intellectually disabled ~~mentally retarded~~ person.

(b) If the accused did not have a reasonable opportunity to observe the person, it is an affirmative defense to a charge of keeping a place of juvenile prostitution that the accused reasonably believed the person was of the age of 18 years or over or was not a severely or profoundly intellectually disabled ~~mentally retarded~~ person at the time of the act giving rise to the charge.

(c) Sentence. Keeping a place of juvenile prostitution is a Class 1 felony. A person convicted of a second or subsequent violation of this Section, or of any combination of such number of convictions under this Section and Sections 11-14, 11-14.1, 11-15, 11-15.1, 11-16, 11-17, 11-18, 11-18.1, 11-19, 11-19.1, or 11-19.2 of this Code, is guilty of a Class X felony.

(d) Forfeiture. Any person convicted under this Section is subject to the property forfeiture provisions set forth in Article 124B of the Code of Criminal Procedure of 1963.

(Source: P.A. 95-95, eff. 1-1-08; 96-712, eff. 1-1-10; 96-1464, eff. 8-20-10.)

(720 ILCS 5/11-18.1) (from Ch. 38, par. 11-18.1)

Sec. 11-18.1. Patronizing a minor engaged in prostitution.

(a) Any person who engages in an act of sexual penetration as defined in Section 12-12 of this Code with a person engaged in prostitution who is under 18 years of age or is a severely or profoundly intellectually disabled ~~mentally retarded~~ person commits the offense of patronizing a minor engaged in

prostitution.

(b) It is an affirmative defense to the charge of patronizing a minor engaged in prostitution that the accused reasonably believed that the person was of the age of 18 years or over or was not a severely or profoundly intellectually disabled ~~mentally retarded~~ person at the time of the act giving rise to the charge.

(c) Sentence. A person who commits patronizing a juvenile prostitute is guilty of a Class 3 felony. A person convicted of a second or subsequent violation of this Section, or of any combination of such number of convictions under this Section and Sections 11-14, 11-14.1, 11-15, 11-15.1, 11-16, 11-17, 11-17.1, 11-18, 11-19, 11-19.1, or 11-19.2 of this Code, is guilty of a Class 2 felony. The fact of such conviction is not an element of the offense and may not be disclosed to the jury during trial unless otherwise permitted by issues properly raised during such trial. A person who violates this Section within 1,000 feet of real property comprising a school commits a Class 2 felony.

(Source: P.A. 96-1464, eff. 8-20-10.)

(720 ILCS 5/11-19.1) (from Ch. 38, par. 11-19.1)

Sec. 11-19.1. Juvenile Pimping and aggravated juvenile pimping.

(a) A person commits the offense of juvenile pimping if the person knowingly receives any form of consideration derived

from the practice of prostitution, in whole or in part, and

(1) the prostituted person was under the age of 18 at the time the act of prostitution occurred; or

(2) the prostitute was a severely or profoundly intellectually disabled ~~mentally retarded~~ person at the time the act of prostitution occurred.

(b) A person commits the offense of aggravated juvenile pimping if the person knowingly receives any form of consideration derived from the practice of prostitution, in whole or in part, and the prostituted person was under the age of 13 at the time the act of prostitution occurred.

(c) If the accused did not have a reasonable opportunity to observe the prostituted person, it is an affirmative defense to a charge of juvenile pimping that the accused reasonably believed the person was of the age of 18 years or over or was not a severely or profoundly intellectually disabled ~~mentally retarded~~ person at the time of the act giving rise to the charge.

(d) Sentence.

A person who commits a violation of subsection (a) is guilty of a Class 1 felony. A person convicted of a second or subsequent violation of this Section, or of any combination of such number of convictions under this Section and Sections 11-14, 11-14.1, 11-15, 11-15.1, 11-16, 11-17, 11-17.1, 11-18, 11-18.1, 11-19, or 11-19.2 of this Code, is guilty of a Class X felony. A person who commits a violation of subsection (b) is

guilty of a Class X felony.

(e) For the purposes of this Section, "prostituted person" means any person who engages in, or agrees or offers to engage in, any act of sexual penetration as defined in Section 12-12 of this Code for any money, property, token, object, or article or anything of value, or any touching or fondling of the sex organs of one person by another person, for any money, property, token, object, or article or anything of value, for the purpose of sexual arousal or gratification.

(Source: P.A. 95-95, eff. 1-1-08; 96-1464, eff. 8-20-10.)

(720 ILCS 5/11-19.2) (from Ch. 38, par. 11-19.2)

Sec. 11-19.2. Exploitation of a child.

(A) A person commits exploitation of a child when he or she confines a child under the age of 18 or a severely or profoundly intellectually disabled ~~mentally retarded~~ person against his or her will by the infliction or threat of imminent infliction of great bodily harm, permanent disability or disfigurement or by administering to the child or severely or profoundly intellectually disabled ~~mentally retarded~~ person without his or her consent or by threat or deception and for other than medical purposes, any alcoholic intoxicant or a drug as defined in the Illinois Controlled Substances Act or the Cannabis Control Act or methamphetamine as defined in the Methamphetamine Control and Community Protection Act and:

(1) compels the child or severely or profoundly

intellectually disabled ~~mentally retarded~~ person to engage in prostitution; or

(2) arranges a situation in which the child or severely or profoundly intellectually disabled ~~mentally retarded~~ person may practice prostitution; or

(3) receives any money, property, token, object, or article or anything of value from the child or severely or profoundly intellectually disabled ~~mentally retarded~~ person knowing it was obtained in whole or in part from the practice of prostitution.

(B) For purposes of this Section, administering drugs, as defined in subsection (A), or an alcoholic intoxicant to a child under the age of 13 or a severely or profoundly intellectually disabled ~~mentally retarded~~ person shall be deemed to be without consent if such administering is done without the consent of the parents or legal guardian or if such administering is performed by the parents or legal guardians for other than medical purposes.

(C) Exploitation of a child is a Class X felony, for which the person shall be sentenced to a term of imprisonment of not less than 6 years and not more than 60 years.

(D) Any person convicted under this Section is subject to the property forfeiture provisions set forth in Article 124B of the Code of Criminal Procedure of 1963.

(Source: P.A. 95-640, eff. 6-1-08; 96-712, eff. 1-1-10; 96-1464, eff. 8-20-10.)

(720 ILCS 5/11-20.1) (from Ch. 38, par. 11-20.1)

Sec. 11-20.1. Child pornography.

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

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

(i) actually or by simulation engaged in any act of sexual penetration or sexual conduct with any person or animal; or

(ii) actually or by simulation engaged in any act of sexual penetration or sexual conduct involving the sex organs of the child or severely or profoundly intellectually disabled ~~mentally retarded~~ person and the mouth, anus, or sex organs of another person or animal; or which involves the mouth, anus or sex organs of the child or severely or profoundly intellectually disabled ~~mentally retarded~~ person and the sex organs of another person or animal; or

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

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

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

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

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

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

(3) with knowledge of the subject matter or theme thereof, produces any stage play, live performance, film, videotape or other similar visual portrayal or depiction by computer which includes a child whom the person knows or reasonably should know to be under the age of 18 or a severely or profoundly intellectually disabled ~~mentally retarded~~ person engaged in any activity described in subparagraphs (i) through (vii) of paragraph (1) of this subsection; or

(4) solicits, uses, persuades, induces, entices, or coerces any child whom he knows or reasonably should know to be under the age of 18 or a severely or profoundly intellectually disabled ~~mentally retarded~~ person to appear in any stage play, live presentation, film, videotape, photograph or other similar visual reproduction or depiction by computer in which the child or severely or profoundly intellectually disabled ~~mentally retarded~~ person is or will be depicted, actually or by simulation, in any act, pose or setting described in subparagraphs (i) through (vii) of paragraph (1) of this subsection; or

(5) is a parent, step-parent, legal guardian or other person having care or custody of a child whom the person knows or reasonably should know to be under the age of 18 or a severely or profoundly intellectually disabled ~~mentally retarded~~ person and who knowingly permits, induces, promotes, or arranges for such child or severely

or profoundly intellectually disabled ~~mentally retarded~~ person to appear in any stage play, live performance, film, videotape, photograph or other similar visual presentation, portrayal or simulation or depiction by computer of any act or activity described in subparagraphs (i) through (vii) of paragraph (1) of this subsection; or

(6) with knowledge of the nature or content thereof, possesses any film, videotape, photograph or other similar visual reproduction or depiction by computer of any child or severely or profoundly intellectually disabled ~~mentally retarded~~ person whom the person knows or reasonably should know to be under the age of 18 or to be a severely or profoundly intellectually disabled ~~mentally retarded~~ person, engaged in any activity described in subparagraphs (i) through (vii) of paragraph (1) of this subsection; or

(7) solicits, uses, persuades, induces, entices, or coerces a person to provide a child under the age of 18 or a severely or profoundly intellectually disabled ~~mentally retarded~~ person to appear in any videotape, photograph, film, stage play, live presentation, or other similar visual reproduction or depiction by computer in which the child or severely or profoundly intellectually disabled ~~mentally retarded~~ person will be depicted, actually or by simulation, in any act, pose, or setting described in subparagraphs (i) through (vii) of paragraph (1) of this subsection.

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

(2) (Blank).

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

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

(5) The charge of child pornography does not apply to a person who does not voluntarily possess a film, videotape, or visual reproduction or depiction by computer in which child pornography is depicted. Possession is voluntary if the defendant knowingly procures or receives a film, videotape, or visual reproduction or depiction for a sufficient time to be able to terminate his or her possession.

(6) Any violation of paragraph (1), (2), (3), (4), (5), or (7) of subsection (a) that includes a child engaged in, solicited for, depicted in, or posed in any act of sexual penetration or bound, fettered, or subject to sadistic, masochistic, or sadomasochistic abuse in a sexual context shall be deemed a crime of violence.

(c) Violation of paragraph (1), (4), (5), or (7) of subsection (a) is a Class 1 felony with a mandatory minimum fine of $2,000 and a maximum fine of $100,000. Violation of paragraph (3) of subsection (a) is a Class 1 felony with a mandatory minimum fine of $1500 and a maximum fine of $100,000. Violation of paragraph (2) of subsection (a) is a Class 1 felony with a mandatory minimum fine of $1000 and a maximum fine of $100,000. Violation of paragraph (6) of subsection (a) is a Class 3 felony with a mandatory minimum fine of $1000 and a maximum fine of $100,000.

(d) If a person is convicted of a second or subsequent violation of this Section within 10 years of a prior

conviction, the court shall order a presentence psychiatric examination of the person. The examiner shall report to the court whether treatment of the person is necessary.

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

In addition, any person convicted under this Section is subject to the property forfeiture provisions set forth in Article 124B of the Code of Criminal Procedure of 1963.

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

the hearing on the motion to unseal the evidence. Any person entitled to notice of a hearing under this subsection (e-5) may object to the motion.

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

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

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

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

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

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

(6) "Computer", "computer program", and "data" have

the meanings ascribed to them in Section 16D-2 of this Code.

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

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

(g) Re-enactment; findings; purposes.

(1) The General Assembly finds and declares that:

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

(ii) In addition, Public Act 88-680 was entitled "AN ACT to create a Safe Neighborhoods Law". (A) Article 5 was entitled JUVENILE JUSTICE and amended the Juvenile Court Act of 1987. (B) Article 15 was entitled GANGS and amended various provisions of the Criminal Code of 1961 and the Unified Code of Corrections. (C) Article 20 was entitled ALCOHOL ABUSE and amended various provisions of the Illinois Vehicle Code. (D) Article 25 was entitled DRUG ABUSE and amended the Cannabis Control Act and the Illinois Controlled Substances Act. (E) Article 30 was entitled FIREARMS and amended the Criminal Code of 1961 and the Code of Criminal Procedure of 1963. (F) Article 35 amended the Criminal Code of 1961, the Rights of Crime Victims and Witnesses Act, and the Unified Code of Corrections. (G) Article 40 amended the Criminal Code of 1961 to increase the penalty for compelling organization membership of persons. (H) Article 45 created the Secure Residential Youth Care Facility Licensing Act and amended the State Finance Act, the Juvenile Court Act of 1987, the Unified Code of Corrections, and the Private Correctional Facility Moratorium Act. (I) Article 50 amended the WIC Vendor Management Act, the Firearm Owners Identification Card Act, the Juvenile Court Act of 1987, the Criminal Code of 1961, the Wrongs to Children Act, and the Unified Code of

Corrections.

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

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

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

(3) This amendatory Act of 1999 re-enacts Section 11-20.1 of the Criminal Code of 1961, as it has been amended. This re-enactment is intended to remove any question as to the validity or content of that Section; it is not intended to supersede any other Public Act that amends the text of the Section as set forth in this amendatory Act of 1999. The material is shown as existing

text (i.e., without underscoring) because, as of the time this amendatory Act of 1999 was prepared, People v. Dainty was subject to appeal to the Illinois Supreme Court.

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

(Source: P.A. ; 96-292, eff. 1-1-10; 96-712, eff. 1-1-10; 96-1000, eff. 7-2-10.)

(720 ILCS 5/11-20.3)

Sec. 11-20.3. Aggravated child pornography.

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

(1) films, videotapes, photographs, or otherwise depicts or portrays by means of any similar visual medium or reproduction or depicts by computer any child whom he or she knows or reasonably should know to be under the age of 13 years where such child is:

(i) actually or by simulation engaged in any act of sexual penetration or sexual conduct with any person or animal; or

(ii) actually or by simulation engaged in any act

of sexual penetration or sexual conduct involving the sex organs of the child and the mouth, anus, or sex organs of another person or animal; or which involves the mouth, anus or sex organs of the child and the sex organs of another person or animal; or

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

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

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

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

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

(2) with the knowledge of the nature or content thereof, reproduces, disseminates, offers to disseminate, exhibits or possesses with intent to disseminate any film, videotape, photograph or other similar visual reproduction

or depiction by computer of any child whom the person knows or reasonably should know to be under the age of 13 engaged in any activity described in subparagraphs (i) through (vii) of paragraph (1) of this subsection; or

(3) with knowledge of the subject matter or theme thereof, produces any stage play, live performance, film, videotape or other similar visual portrayal or depiction by computer which includes a child whom the person knows or reasonably should know to be under the age of 13 engaged in any activity described in subparagraphs (i) through (vii) of paragraph (1) of this subsection; or

(4) solicits, uses, persuades, induces, entices, or coerces any child whom he or she knows or reasonably should know to be under the age of 13 to appear in any stage play, live presentation, film, videotape, photograph or other similar visual reproduction or depiction by computer in which the child or severely or profoundly intellectually disabled ~~mentally retarded~~ person is or will be depicted, actually or by simulation, in any act, pose or setting described in subparagraphs (i) through (vii) of paragraph (1) of this subsection; or

(5) is a parent, step-parent, legal guardian or other person having care or custody of a child whom the person knows or reasonably should know to be under the age of 13 and who knowingly permits, induces, promotes, or arranges for such child to appear in any stage play, live

performance, film, videotape, photograph or other similar visual presentation, portrayal or simulation or depiction by computer of any act or activity described in subparagraphs (i) through (vii) of paragraph (1) of this subsection; or

(6) with knowledge of the nature or content thereof, possesses any film, videotape, photograph or other similar visual reproduction or depiction by computer of any child whom the person knows or reasonably should know to be under the age of 13 engaged in any activity described in subparagraphs (i) through (vii) of paragraph (1) of this subsection; or

(7) solicits, or knowingly uses, persuades, induces, entices, or coerces a person to provide a child under the age of 13 to appear in any videotape, photograph, film, stage play, live presentation, or other similar visual reproduction or depiction by computer in which the child will be depicted, actually or by simulation, in any act, pose, or setting described in subparagraphs (i) through (vii) of paragraph (1) of this subsection.

(b)(1) It shall be an affirmative defense to a charge of aggravated child pornography that the defendant reasonably believed, under all of the circumstances, that the child was 13 years of age or older, but only where, prior to the act or acts giving rise to a prosecution under this Section, he or she took some affirmative action or made a bonafide inquiry designed to

ascertain whether the child was 13 years of age or older and his or her reliance upon the information so obtained was clearly reasonable.

(2) The charge of aggravated child pornography shall not apply to the performance of official duties by law enforcement or prosecuting officers or persons employed by law enforcement or prosecuting agencies, court personnel or attorneys, nor to bonafide treatment or professional education programs conducted by licensed physicians, psychologists or social workers.

(3) If the defendant possessed more than 3 of the same film, videotape or visual reproduction or depiction by computer in which aggravated child pornography is depicted, then the trier of fact may infer that the defendant possessed such materials with the intent to disseminate them.

(4) The charge of aggravated child pornography does not apply to a person who does not voluntarily possess a film, videotape, or visual reproduction or depiction by computer in which aggravated child pornography is depicted. Possession is voluntary if the defendant knowingly procures or receives a film, videotape, or visual reproduction or depiction for a sufficient time to be able to terminate his or her possession.

(5) Any violation of paragraph (1), (2), (3), (4), (5), or (7) of subsection (a) that includes a child engaged in, solicited for, depicted in, or posed in any act of sexual penetration or bound, fettered, or subject to sadistic,

masochistic, or sadomasochistic abuse in a sexual context shall be deemed a crime of violence.

(c) Sentence: (1) A person who commits a violation of paragraph (1), (2), (3), (4), (5), or (7) of subsection (a) is guilty of a Class X felony with a mandatory minimum fine of $2,000 and a maximum fine of $100,000.

(2) A person who commits a violation of paragraph (6) of subsection (a) is guilty of a Class 2 felony with a mandatory minimum fine of $1000 and a maximum fine of $100,000.

(3) A person who commits a violation of paragraph (1), (2), (3), (4), (5), or (7) of subsection (a) where the defendant has previously been convicted under the laws of this State or any other state of the offense of child pornography, aggravated child pornography, aggravated criminal sexual abuse, aggravated criminal sexual assault, predatory criminal sexual assault of a child, or any of the offenses formerly known as rape, deviate sexual assault, indecent liberties with a child, or aggravated indecent liberties with a child where the victim was under the age of 18 years or an offense that is substantially equivalent to those offenses, is guilty of a Class X felony for which the person shall be sentenced to a term of imprisonment of not less than 9 years with a mandatory minimum fine of $2,000 and a maximum fine of $100,000.

(4) A person who commits a violation of paragraph (6) of subsection (a) where the defendant has previously been convicted under the laws of this State or any other state of

the offense of child pornography, aggravated child pornography, aggravated criminal sexual abuse, aggravated criminal sexual assault, predatory criminal sexual assault of a child, or any of the offenses formerly known as rape, deviate sexual assault, indecent liberties with a child, or aggravated indecent liberties with a child where the victim was under the age of 18 years or an offense that is substantially equivalent to those offenses, is guilty of a Class 1 felony with a mandatory minimum fine of $1000 and a maximum fine of $100,000.

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

(e) Any film, videotape, photograph or other similar visual reproduction or depiction by computer which includes a child under the age of 13 engaged in any activity described in subparagraphs (i) through (vii) of paragraph (1) of subsection (a), and any material or equipment used or intended for use in photographing, filming, printing, producing, reproducing, manufacturing, projecting, exhibiting, depiction by computer, or disseminating such material shall be seized and forfeited in the manner, method and procedure provided by Section 36-1 of this Code for the seizure and forfeiture of vessels, vehicles and aircraft.

In addition, any person convicted under this Section is

subject to the property forfeiture provisions set forth in Article 124B of the Code of Criminal Procedure of 1963.

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

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

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

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

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

(4) "Depict by computer" means to generate or create, or cause to be created or generated, a computer program or

data that, after being processed by a computer either alone or in conjunction with one or more computer programs, results in a visual depiction on a computer monitor, screen, or display.

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

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

(7) For the purposes of this Section, "child" means a person, either in part or in total, under the age of 13, regardless of the method by which the film, videotape, photograph, or other similar visual medium or reproduction or depiction by computer is created, adopted, or modified to appear as such.

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

(g) When a charge of aggravated child pornography is brought, the age of the child is an element of the offense to be resolved by the trier of fact as either exceeding or not exceeding the age in question. The trier of fact can rely on its own everyday observations and common experiences in making this determination.

(Source: P.A. 95-579, eff. 6-1-08; 96-292, eff. 1-1-10; 96-712, eff. 1-1-10; 96-1000, eff. 7-2-10.)

(720 ILCS 5/12-4.3) (from Ch. 38, par. 12-4.3)

Sec. 12-4.3. Aggravated battery of a child.

(a) Any person of the age 18 years and upwards who intentionally or knowingly, and without legal justification and by any means, causes great bodily harm or permanent disability or disfigurement to any child under the age of 13 years or to any severely or profoundly intellectually disabled ~~mentally retarded~~ person, commits the offense of aggravated battery of a child.

(a-5) Any person of the age 18 years and upwards who intentionally or knowingly, and without legal justification and by any means, causes bodily harm or disability or disfigurement to any child under the age of 13 years or to any severely or profoundly intellectually disabled ~~mentally retarded~~ person, commits the offense of aggravated battery of a child.

(b) Sentence.

(1) Aggravated battery of a child under subsection (a) of this Section is a Class X felony, except that:

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

(B) if, during the commission of the offense, the

person personally discharged a firearm, 20 years shall be added to the term of imprisonment imposed by the court;

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

(2) Aggravated battery of a child under subsection (a-5) of this Section is a Class 3 felony.

(Source: P.A. 95-768, eff. 1-1-09.)

(720 ILCS 5/12-14) (from Ch. 38, par. 12-14)

Sec. 12-14. Aggravated Criminal Sexual Assault.

(a) The accused commits aggravated criminal sexual assault if he or she commits criminal sexual assault and any of the following aggravating circumstances existed during, or for the purposes of paragraph (7) of this subsection (a) as part of the same course of conduct as, the commission of the offense:

(1) the accused displayed, threatened to use, or used a dangerous weapon, other than a firearm, or any object fashioned or utilized in such a manner as to lead the victim under the circumstances reasonably to believe it to be a dangerous weapon; or

(2) the accused caused bodily harm, except as provided in subsection (a)(10), to the victim; or

(3) the accused acted in such a manner as to threaten or endanger the life of the victim or any other person; or

(4) the criminal sexual assault was perpetrated during the course of the commission or attempted commission of any other felony by the accused; or

(5) the victim was 60 years of age or over when the offense was committed; or

(6) the victim was a physically handicapped person; or

(7) the accused delivered (by injection, inhalation, ingestion, transfer of possession, or any other means) to the victim without his or her consent, or by threat or deception, and for other than medical purposes, any controlled substance; or

(8) the accused was armed with a firearm; or

(9) the accused personally discharged a firearm during the commission of the offense; or

(10) the accused, during the commission of the offense, personally discharged a firearm that proximately caused great bodily harm, permanent disability, permanent disfigurement, or death to another person.

(b) The accused commits aggravated criminal sexual assault if the accused was under 17 years of age and (i) commits an act of sexual penetration with a victim who was under 9 years of age when the act was committed; or (ii) commits an act of sexual penetration with a victim who was at least 9 years of age but under 13 years of age when the act was committed and

the accused used force or threat of force to commit the act.

(c) The accused commits aggravated criminal sexual assault if he or she commits an act of sexual penetration with a victim who was a severely or profoundly intellectually disabled ~~mentally retarded~~ person at the time the act was committed.

(d) Sentence.

(1) Aggravated criminal sexual assault in violation of paragraph (2), (3), (4), (5), (6), or (7) of subsection (a) or in violation of subsection (b) or (c) is a Class X felony. A violation of subsection (a)(1) is a Class X felony for which 10 years shall be added to the term of imprisonment imposed by the court. A violation of subsection (a)(8) is a Class X felony for which 15 years shall be added to the term of imprisonment imposed by the court. A violation of subsection (a)(9) is a Class X felony for which 20 years shall be added to the term of imprisonment imposed by the court. A violation of subsection (a)(10) is a Class X felony for which 25 years or up to a term of natural life imprisonment shall be added to the term of imprisonment imposed by the court.

(2) A person who is convicted of a second or subsequent offense of aggravated criminal sexual assault, or who is convicted of the offense of aggravated criminal sexual assault after having previously been convicted of the offense of criminal sexual assault or the offense of predatory criminal sexual assault of a child, or who is

convicted of the offense of aggravated criminal sexual assault after having previously been convicted under the laws of this or any other state of an offense that is substantially equivalent to the offense of criminal sexual assault, the offense of aggravated criminal sexual assault or the offense of predatory criminal sexual assault of a child, shall be sentenced to a term of natural life imprisonment. The commission of the second or subsequent offense is required to have been after the initial conviction for this paragraph (2) to apply.

(Source: P.A. 91-404, eff. 1-1-00; 92-434, eff. 1-1-02; 92-502, eff. 12-19-01; 92-721, eff. 1-1-03.)

(720 ILCS 5/12-16) (from Ch. 38, par. 12-16)

Sec. 12-16. Aggravated Criminal Sexual Abuse.

(a) The accused commits aggravated criminal sexual abuse if he or she commits criminal sexual abuse as defined in subsection (a) of Section 12-15 of this Code and any of the following aggravating circumstances existed during, or for the purposes of paragraph (7) of this subsection (a) as part of the same course of conduct as, the commission of the offense:

(1) the accused displayed, threatened to use or used a dangerous weapon or any object fashioned or utilized in such a manner as to lead the victim under the circumstances reasonably to believe it to be a dangerous weapon; or

(2) the accused caused bodily harm to the victim; or

(3) the victim was 60 years of age or over when the offense was committed; or

(4) the victim was a physically handicapped person; or

(5) the accused acted in such a manner as to threaten or endanger the life of the victim or any other person; or

(6) the criminal sexual abuse was perpetrated during the course of the commission or attempted commission of any other felony by the accused; or

(7) the accused delivered (by injection, inhalation, ingestion, transfer of possession, or any other means) to the victim without his or her consent, or by threat or deception, and for other than medical purposes, any controlled substance.

(b) The accused commits aggravated criminal sexual abuse if he or she commits an act of sexual conduct with a victim who was under 18 years of age when the act was committed and the accused was a family member.

(c) The accused commits aggravated criminal sexual abuse if:

(1) the accused was 17 years of age or over and (i) commits an act of sexual conduct with a victim who was under 13 years of age when the act was committed; or (ii) commits an act of sexual conduct with a victim who was at least 13 years of age but under 17 years of age when the act was committed and the accused used force or threat of force to commit the act; or

(2) the accused was under 17 years of age and (i) commits an act of sexual conduct with a victim who was under 9 years of age when the act was committed; or (ii) commits an act of sexual conduct with a victim who was at least 9 years of age but under 17 years of age when the act was committed and the accused used force or threat of force to commit the act.

(d) The accused commits aggravated criminal sexual abuse if he or she commits an act of sexual penetration or sexual conduct with a victim who was at least 13 years of age but under 17 years of age and the accused was at least 5 years older than the victim.

(e) The accused commits aggravated criminal sexual abuse if he or she commits an act of sexual conduct with a victim who was a severely or profoundly intellectually disabled ~~mentally retarded~~ person at the time the act was committed.

(f) The accused commits aggravated criminal sexual abuse if he or she commits an act of sexual conduct with a victim who was at least 13 years of age but under 18 years of age when the act was committed and the accused was 17 years of age or over and held a position of trust, authority or supervision in relation to the victim.

(g) Sentence. Aggravated criminal sexual abuse is a Class 2 felony.

(Source: P.A. 92-434, eff. 1-1-02.)

(720 ILCS 5/12-19) (from Ch. 38, par. 12-19)

Sec. 12-19. Abuse and Criminal Neglect of a Long Term Care Facility Resident.

(a) Any person or any owner or licensee of a long term care facility who abuses a long term care facility resident is guilty of a Class 3 felony. Any person or any owner or licensee of a long term care facility who criminally neglects a long term care facility resident is guilty of a Class 4 felony. A person whose criminal neglect of a long term care facility resident results in the resident's death is guilty of a Class 3 felony. However, nothing herein shall be deemed to apply to a physician licensed to practice medicine in all its branches or a duly licensed nurse providing care within the scope of his or her professional judgment and within the accepted standards of care within the community.

(b) Notwithstanding the penalties in subsections (a) and (c) and in addition thereto, if a licensee or owner of a long term care facility or his or her employee has caused neglect of a resident, the licensee or owner is guilty of a petty offense. An owner or licensee is guilty under this subsection (b) only if the owner or licensee failed to exercise reasonable care in the hiring, training, supervising or providing of staff or other related routine administrative responsibilities.

(c) Notwithstanding the penalties in subsections (a) and (b) and in addition thereto, if a licensee or owner of a long term care facility or his or her employee has caused gross

neglect of a resident, the licensee or owner is guilty of a business offense for which a fine of not more than $10,000 may be imposed. An owner or licensee is guilty under this subsection (c) only if the owner or licensee failed to exercise reasonable care in the hiring, training, supervising or providing of staff or other related routine administrative responsibilities.

(d) For the purpose of this Section:

(1) "Abuse" means intentionally or knowingly causing any physical or mental injury or committing any sexual offense set forth in this Code.

(2) "Criminal neglect" means an act whereby a person recklessly (i) performs acts that cause an elderly person's or person with a disability's life to be endangered, health to be injured, or pre-existing physical or mental condition to deteriorate or that create the substantial likelihood that an elderly person's or person with a disability's life will be endangered, health will be injured, or pre-existing physical or mental condition will deteriorate, or (ii) fails to perform acts that he or she knows or reasonably should know are necessary to maintain or preserve the life or health of an elderly person or person with a disability, and that failure causes the elderly person's or person with a disability's life to be endangered, health to be injured, or pre-existing physical or mental condition to deteriorate or that create the substantial likelihood that

an elderly person's or person with a disability's life will be endangered, health will be injured, or pre-existing physical or mental condition will deteriorate, or (iii) abandons an elderly person or person with a disability.

(3) "Neglect" means negligently failing to provide adequate medical or personal care or maintenance, which failure results in physical or mental injury or the deterioration of a physical or mental condition.

(4) "Resident" means a person residing in a long term care facility.

(5) "Owner" means the person who owns a long term care facility as provided under the Nursing Home Care Act, a facility as provided under the ID/DD ~~MR/DD~~ Community Care Act, or an assisted living or shared housing establishment under the Assisted Living and Shared Housing Act.

(6) "Licensee" means the individual or entity licensed to operate a facility under the Nursing Home Care Act, the MR/DD Community Care Act, or the Assisted Living and Shared Housing Act.

(7) "Facility" or "long term care facility" means a private home, institution, building, residence, or any other place, whether operated for profit or not, or a county home for the infirm and chronically ill operated pursuant to Division 5-21 or 5-22 of the Counties Code, or any similar institution operated by the State of Illinois or a political subdivision thereof, which provides,

through its ownership or management, personal care, sheltered care or nursing for 3 or more persons not related to the owner by blood or marriage. The term also includes skilled nursing facilities and intermediate care facilities as defined in Title XVIII and Title XIX of the federal Social Security Act and assisted living establishments and shared housing establishments licensed under the Assisted Living and Shared Housing Act.

(e) Nothing contained in this Section shall be deemed to apply to the medical supervision, regulation or control of the remedial care or treatment of residents in a facility conducted for those who rely upon treatment by prayer or spiritual means in accordance with the creed or tenets of any well recognized church or religious denomination and which is licensed in accordance with Section 3-803 of the Nursing Home Care Act or Section 3-803 of the ID/DD ~~MR/DD~~ Community Care Act.

(Source: P.A. 96-339, eff. 7-1-10; 96-1373, eff. 7-29-10.)

(720 ILCS 5/12-21) (from Ch. 38, par. 12-21)

Sec. 12-21. Criminal abuse or neglect of an elderly person or person with a disability.

(a) A person commits the offense of criminal abuse or neglect of an elderly person or person with a disability when he or she is a caregiver and he or she knowingly:

(1) performs acts that cause the elderly person or person with a disability's life to be endangered, health to

be injured, or pre-existing physical or mental condition to deteriorate; or

(2) fails to perform acts that he or she knows or reasonably should know are necessary to maintain or preserve the life or health of the elderly person or person with a disability and such failure causes the elderly person or person with a disability's life to be endangered, health to be injured or pre-existing physical or mental condition to deteriorate; or

(3) abandons the elderly person or person with a disability; or

(4) physically abuses, harasses, intimidates, or interferes with the personal liberty of the elderly person or person with a disability or exposes the elderly person or person with a disability to willful deprivation.

Criminal abuse or neglect of an elderly person or person with a disability is a Class 3 felony. Criminal neglect of an elderly person or person with a disability is a Class 2 felony if the criminal neglect results in the death of the person neglected for which the defendant, 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.

(b) For purposes of this Section:

(1) "Elderly person" means a person 60 years of age or older who is incapable of adequately providing for his own health and personal care.

(2) "Person with a disability" means a person who suffers from a permanent physical or mental impairment, resulting from disease, injury, functional disorder or congenital condition which renders such person incapable of adequately providing for his own health and personal care.

(3) "Caregiver" means a person who has a duty to provide for an elderly person or person with a disability's health and personal care, at such person's place of residence, including but not limited to, food and nutrition, shelter, hygiene, prescribed medication and medical care and treatment.

"Caregiver" shall include:

(A) a parent, spouse, adult child or other relative by blood or marriage who resides with or resides in the same building with or regularly visits the elderly person or person with a disability, knows or reasonably should know of such person's physical or mental impairment and knows or reasonably should know that such person is unable to adequately provide for his own health and personal care;

(B) a person who is employed by the elderly person or person with a disability or by another to reside with or regularly visit the elderly person or person with a disability and provide for such person's health and personal care;

(C) a person who has agreed for consideration to reside with or regularly visit the elderly person or person with a disability and provide for such person's health and personal care; and

(D) a person who has been appointed by a private or public agency or by a court of competent jurisdiction to provide for the elderly person or person with a disability's health and personal care.

"Caregiver" shall not include a long-term care facility licensed or certified under the Nursing Home Care Act or a facility licensed or certified under the ID/DD ~~MR/DD~~ Community Care Act, or any administrative, medical or other personnel of such a facility, or a health care provider who is licensed under the Medical Practice Act of 1987 and renders care in the ordinary course of his profession.

(4) "Abandon" means to desert or knowingly forsake an elderly person or person with a disability under circumstances in which a reasonable person would continue to provide care and custody.

(5) "Willful deprivation" has the meaning ascribed to it in paragraph (15) of Section 103 of the Illinois Domestic Violence Act of 1986.

(c) Nothing in this Section shall be construed to limit the remedies available to the victim under the Illinois Domestic Violence Act.

(d) Nothing in this Section shall be construed to impose criminal liability on a person who has made a good faith effort to provide for the health and personal care of an elderly person or person with a disability, but through no fault of his own has been unable to provide such care.

(e) Nothing in this Section shall be construed as prohibiting a person from providing treatment by spiritual means through prayer alone and care consistent therewith in lieu of medical care and treatment in accordance with the tenets and practices of any church or religious denomination of which the elderly person or person with a disability is a member.

(f) It is not a defense to criminal abuse or neglect of an elderly person or person with a disability that the accused reasonably believed that the victim was not an elderly person or person with a disability.

(Source: P.A. 96-339, eff. 7-1-10.)

(720 ILCS 5/17-29)

Sec. 17-29. Businesses owned by minorities, females, and persons with disabilities; fraudulent contracts with governmental units.

(a) In this Section:

"Minority person" means a person who is: (1) African American (a person having origins in any of the black racial groups in Africa); (2) Hispanic (a person of Spanish

or Portuguese culture with origins in Mexico, South or Central America, or the Caribbean Islands, regardless of race); (3) Asian American (a person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent or the Pacific Islands); or (4) Native American or Alaskan Native (a person having origins in any of the original peoples of North America).

"Female" means a person who is of the female gender.

"Person with a disability" means a person who is a person qualifying as being disabled.

"Disabled" means a severe physical or mental disability that: (1) results from: amputation, arthritis, autism, blindness, burn injury, cancer, cerebral palsy, cystic fibrosis, deafness, head injury, heart disease, hemiplegia, hemophilia, respiratory or pulmonary dysfunction, an intellectual disability ~~mental retardation~~, mental illness, multiple sclerosis, muscular dystrophy, musculoskeletal disorders, neurological disorders, including stroke and epilepsy, paraplegia, quadriplegia and other spinal cord conditions, sickle cell anemia, specific learning disabilities, or end stage renal failure disease; and (2) substantially limits one or more of the person's major life activities.

"Minority owned business" means a business concern that is at least 51% owned by one or more minority persons, or in the case of a corporation, at least 51% of the stock

in which is owned by one or more minority persons; and the management and daily business operations of which are controlled by one or more of the minority individuals who own it.

"Female owned business" means a business concern that is at least 51% owned by one or more females, or, in the case of a corporation, at least 51% of the stock in which is owned by one or more females; and the management and daily business operations of which are controlled by one or more of the females who own it.

"Business owned by a person with a disability" means a business concern that is at least 51% owned by one or more persons with a disability and the management and daily business operations of which are controlled by one or more of the persons with disabilities who own it. A not-for-profit agency for persons with disabilities that is exempt from taxation under Section 501 of the Internal Revenue Code of 1986 is also considered a "business owned by a person with a disability".

"Governmental unit" means the State, a unit of local government, or school district.

(b) In addition to any other penalties imposed by law or by an ordinance or resolution of a unit of local government or school district, any individual or entity that knowingly obtains, or knowingly assists another to obtain, a contract with a governmental unit, or a subcontract or written

commitment for a subcontract under a contract with a governmental unit, by falsely representing that the individual or entity, or the individual or entity assisted, is a minority owned business, female owned business, or business owned by a person with a disability is guilty of a Class 2 felony, regardless of whether the preference for awarding the contract to a minority owned business, female owned business, or business owned by a person with a disability was established by statute or by local ordinance or resolution.

(c) In addition to any other penalties authorized by law, the court shall order that an individual or entity convicted of a violation of this Section must pay to the governmental unit that awarded the contract a penalty equal to one and one-half times the amount of the contract obtained because of the false representation.

(Source: P.A. 94-126, eff. 1-1-06; 94-863, eff. 6-16-06.)

(720 ILCS 5/24-3) (from Ch. 38, par. 24-3)

Sec. 24-3. Unlawful Sale of Firearms.

(A) A person commits the offense of unlawful sale of firearms when he or she knowingly does any of the following:

(a) Sells or gives any firearm of a size which may be concealed upon the person to any person under 18 years of age.

(b) Sells or gives any firearm to a person under 21 years of age who has been convicted of a misdemeanor other

than a traffic offense or adjudged delinquent.

(c) Sells or gives any firearm to any narcotic addict.

(d) Sells or gives any firearm to any person who has been convicted of a felony under the laws of this or any other jurisdiction.

(e) Sells or gives any firearm to any person who has been a patient in a mental hospital within the past 5 years.

(f) Sells or gives any firearms to any person who is intellectually disabled ~~mentally retarded~~.

(g) Delivers any firearm of a size which may be concealed upon the person, incidental to a sale, without withholding delivery of such firearm for at least 72 hours after application for its purchase has been made, or delivers any rifle, shotgun or other long gun, or a stun gun or taser, incidental to a sale, without withholding delivery of such rifle, shotgun or other long gun, or a stun gun or taser for at least 24 hours after application for its purchase has been made. However, this paragraph (g) does not apply to: (1) the sale of a firearm to a law enforcement officer if the seller of the firearm knows that the person to whom he or she is selling the firearm is a law enforcement officer or the sale of a firearm to a person who desires to purchase a firearm for use in promoting the public interest incident to his or her employment as a bank guard, armed truck guard, or other

similar employment; (2) a mail order sale of a firearm to a nonresident of Illinois under which the firearm is mailed to a point outside the boundaries of Illinois; (3) the sale of a firearm to a nonresident of Illinois while at a firearm showing or display recognized by the Illinois Department of State Police; or (4) the sale of a firearm to a dealer licensed as a federal firearms dealer under Section 923 of the federal Gun Control Act of 1968 (18 U.S.C. 923). For purposes of this paragraph (g), "application" means when the buyer and seller reach an agreement to purchase a firearm.

(h) While holding any license as a dealer, importer, manufacturer or pawnbroker under the federal Gun Control Act of 1968, manufactures, sells or delivers to any unlicensed person a handgun having a barrel, slide, frame or receiver which is a die casting of zinc alloy or any other nonhomogeneous metal which will melt or deform at a temperature of less than 800 degrees Fahrenheit. For purposes of this paragraph, (1) "firearm" is defined as in the Firearm Owners Identification Card Act; and (2) "handgun" is defined as a firearm designed to be held and fired by the use of a single hand, and includes a combination of parts from which such a firearm can be assembled.

(i) Sells or gives a firearm of any size to any person under 18 years of age who does not possess a valid Firearm

Owner's Identification Card.

(j) Sells or gives a firearm while engaged in the business of selling firearms at wholesale or retail without being licensed as a federal firearms dealer under Section 923 of the federal Gun Control Act of 1968 (18 U.S.C. 923). In this paragraph (j):

A person "engaged in the business" means a person who devotes time, attention, and labor to engaging in the activity as a regular course of trade or business with the principal objective of livelihood and profit, but does not include a person who makes occasional repairs of firearms or who occasionally fits special barrels, stocks, or trigger mechanisms to firearms.

"With the principal objective of livelihood and profit" means that the intent underlying the sale or disposition of firearms is predominantly one of obtaining livelihood and pecuniary gain, as opposed to other intents, such as improving or liquidating a personal firearms collection; however, proof of profit shall not be required as to a person who engages in the regular and repetitive purchase and disposition of firearms for criminal purposes or terrorism.

(k) Sells or transfers ownership of a firearm to a person who does not display to the seller or transferor of the firearm a currently valid Firearm Owner's Identification Card that has previously been issued in the

transferee's name by the Department of State Police under the provisions of the Firearm Owners Identification Card Act. This paragraph (k) does not apply to the transfer of a firearm to a person who is exempt from the requirement of possessing a Firearm Owner's Identification Card under Section 2 of the Firearm Owners Identification Card Act. For the purposes of this Section, a currently valid Firearm Owner's Identification Card means (i) a Firearm Owner's Identification Card that has not expired or (ii) if the transferor is licensed as a federal firearms dealer under Section 923 of the federal Gun Control Act of 1968 (18 U.S.C. 923), an approval number issued in accordance with Section 3.1 of the Firearm Owners Identification Card Act shall be proof that the Firearm Owner's Identification Card was valid.

(B) Paragraph (h) of subsection (A) does not include firearms sold within 6 months after enactment of Public Act 78-355 (approved August 21, 1973, effective October 1, 1973), nor is any firearm legally owned or possessed by any citizen or purchased by any citizen within 6 months after the enactment of Public Act 78-355 subject to confiscation or seizure under the provisions of that Public Act. Nothing in Public Act 78-355 shall be construed to prohibit the gift or trade of any firearm if that firearm was legally held or acquired within 6 months after the enactment of that Public Act.

(C) Sentence.

(1) Any person convicted of unlawful sale of firearms in violation of paragraph (c), (e), (f), (g), or (h) of subsection (A) commits a Class 4 felony.

(2) Any person convicted of unlawful sale of firearms in violation of paragraph (b) or (i) of subsection (A) commits a Class 3 felony.

(3) Any person convicted of unlawful sale of firearms in violation of paragraph (a) of subsection (A) commits a Class 2 felony.

(4) Any person convicted of unlawful sale of firearms in violation of paragraph (a), (b), or (i) of subsection (A) in any school, on the real property comprising a school, within 1,000 feet of the real property comprising a school, at a school related activity, or on or within 1,000 feet of any conveyance owned, leased, or contracted by a school or school district to transport students to or from school or a school related activity, regardless of the time of day or time of year at which the offense was committed, commits a Class 1 felony. Any person convicted of a second or subsequent violation of unlawful sale of firearms in violation of paragraph (a), (b), or (i) of subsection (A) in any school, on the real property comprising a school, within 1,000 feet of the real property comprising a school, at a school related activity, or on or within 1,000 feet of any conveyance owned, leased, or contracted by a school or school district to transport students to or from school or

a school related activity, regardless of the time of day or time of year at which the offense was committed, commits a Class 1 felony for which the sentence shall be a term of imprisonment of no less than 5 years and no more than 15 years.

(5) Any person convicted of unlawful sale of firearms in violation of paragraph (a) or (i) of subsection (A) in residential property owned, operated, or managed by a public housing agency or leased by a public housing agency as part of a scattered site or mixed-income development, in a public park, in a courthouse, on residential property owned, operated, or managed by a public housing agency or leased by a public housing agency as part of a scattered site or mixed-income development, on the real property comprising any public park, on the real property comprising any courthouse, or on any public way within 1,000 feet of the real property comprising any public park, courthouse, or residential property owned, operated, or managed by a public housing agency or leased by a public housing agency as part of a scattered site or mixed-income development commits a Class 2 felony.

(6) Any person convicted of unlawful sale of firearms in violation of paragraph (j) of subsection (A) commits a Class A misdemeanor. A second or subsequent violation is a Class 4 felony.

(7) Any person convicted of unlawful sale of firearms

in violation of paragraph (k) of subsection (A) commits a Class 4 felony. A third or subsequent conviction for a violation of paragraph (k) of subsection (A) is a Class 1 felony.

(8) A person 18 years of age or older convicted of unlawful sale of firearms in violation of paragraph (a) or (i) of subsection (A), when the firearm that was sold or given to another person under 18 years of age was used in the commission of or attempt to commit a forcible felony, shall be fined or imprisoned, or both, not to exceed the maximum provided for the most serious forcible felony so committed or attempted by the person under 18 years of age who was sold or given the firearm.

(9) Any person convicted of unlawful sale of firearms in violation of paragraph (d) of subsection (A) commits a Class 3 felony.

(D) For purposes of this Section:

"School" means a public or private elementary or secondary school, community college, college, or university.

"School related activity" means any sporting, social, academic, or other activity for which students' attendance or participation is sponsored, organized, or funded in whole or in part by a school or school district.

(E) A prosecution for a violation of paragraph (k) of subsection (A) of this Section may be commenced within 6 years after the commission of the offense. A prosecution for a

violation of this Section other than paragraph (g) of subsection (A) of this Section may be commenced within 5 years after the commission of the offense defined in the particular paragraph.

(Source: P.A. 95-331, eff. 8-21-07; 95-735, eff. 7-16-08; 96-190, eff. 1-1-10.)

(720 ILCS 5/24-3.1) (from Ch. 38, par. 24-3.1)

Sec. 24-3.1. Unlawful possession of firearms and firearm ammunition.

(a) A person commits the offense of unlawful possession of firearms or firearm ammunition when:

(1) He is under 18 years of age and has in his possession any firearm of a size which may be concealed upon the person; or

(2) He is under 21 years of age, has been convicted of a misdemeanor other than a traffic offense or adjudged delinquent and has any firearms or firearm ammunition in his possession; or

(3) He is a narcotic addict and has any firearms or firearm ammunition in his possession; or

(4) He has been a patient in a mental hospital within the past 5 years and has any firearms or firearm ammunition in his possession; or

(5) He is <u>intellectually disabled</u> ~~mentally retarded~~ and has any firearms or firearm ammunition in his

possession; or

(6) He has in his possession any explosive bullet.

For purposes of this paragraph "explosive bullet" means the projectile portion of an ammunition cartridge which contains or carries an explosive charge which will explode upon contact with the flesh of a human or an animal. "Cartridge" means a tubular metal case having a projectile affixed at the front thereof and a cap or primer at the rear end thereof, with the propellant contained in such tube between the projectile and the cap.

(b) Sentence.

Unlawful possession of firearms, other than handguns, and firearm ammunition is a Class A misdemeanor. Unlawful possession of handguns is a Class 4 felony. The possession of each firearm or firearm ammunition in violation of this Section constitutes a single and separate violation.

(c) Nothing in paragraph (1) of subsection (a) of this Section prohibits a person under 18 years of age from participating in any lawful recreational activity with a firearm such as, but not limited to, practice shooting at targets upon established public or private target ranges or hunting, trapping, or fishing in accordance with the Wildlife Code or the Fish and Aquatic Life Code.

(Source: P.A. 94-284, eff. 7-21-05; 95-331, eff. 8-21-07.)

(720 ILCS 5/26-1) (from Ch. 38, par. 26-1)

Sec. 26-1. Elements of the Offense.

(a) A person commits disorderly conduct when he knowingly:

(1) Does any act in such unreasonable manner as to alarm or disturb another and to provoke a breach of the peace; or

(2) Transmits or causes to be transmitted in any manner to the fire department of any city, town, village or fire protection district a false alarm of fire, knowing at the time of such transmission that there is no reasonable ground for believing that such fire exists; or

(3) Transmits or causes to be transmitted in any manner to another a false alarm to the effect that a bomb or other explosive of any nature or a container holding poison gas, a deadly biological or chemical contaminant, or radioactive substance is concealed in such place that its explosion or release would endanger human life, knowing at the time of such transmission that there is no reasonable ground for believing that such bomb, explosive or a container holding poison gas, a deadly biological or chemical contaminant, or radioactive substance is concealed in such place; or

(4) Transmits or causes to be transmitted in any manner to any peace officer, public officer or public employee a report to the effect that an offense will be committed, is being committed, or has been committed, knowing at the time of such transmission that there is no reasonable ground for

believing that such an offense will be committed, is being committed, or has been committed; or

(5) Enters upon the property of another and for a lewd or unlawful purpose deliberately looks into a dwelling on the property through any window or other opening in it; or

(6) While acting as a collection agency as defined in the "Collection Agency Act" or as an employee of such collection agency, and while attempting to collect an alleged debt, makes a telephone call to the alleged debtor which is designed to harass, annoy or intimidate the alleged debtor; or

(7) Transmits or causes to be transmitted a false report to the Department of Children and Family Services under Section 4 of the "Abused and Neglected Child Reporting Act"; or

(8) Transmits or causes to be transmitted a false report to the Department of Public Health under the Nursing Home Care Act or the ID/DD ~~MR/DD~~ Community Care Act; or

(9) Transmits or causes to be transmitted in any manner to the police department or fire department of any municipality or fire protection district, or any privately owned and operated ambulance service, a false request for an ambulance, emergency medical technician-ambulance or emergency medical technician-paramedic knowing at the time there is no reasonable ground for believing that such assistance is required; or

(10) Transmits or causes to be transmitted a false report under Article II of "An Act in relation to victims of violence and abuse", approved September 16, 1984, as amended; or

(11) Transmits or causes to be transmitted a false report to any public safety agency without the reasonable grounds necessary to believe that transmitting such a report is necessary for the safety and welfare of the public; or

(12) Calls the number "911" for the purpose of making or transmitting a false alarm or complaint and reporting information when, at the time the call or transmission is made, the person knows there is no reasonable ground for making the call or transmission and further knows that the call or transmission could result in the emergency response of any public safety agency; or

(13) Transmits or causes to be transmitted a threat of destruction of a school building or school property, or a threat of violence, death, or bodily harm directed against persons at a school, school function, or school event, whether or not school is in session.

(b) Sentence. A violation of subsection (a)(1) of this Section is a Class C misdemeanor. A violation of subsection (a)(5) or (a)(11) of this Section is a Class A misdemeanor. A violation of subsection (a)(8) or (a)(10) of this Section is a Class B misdemeanor. A violation of subsection (a)(2), (a)(4),

(a)(7), (a)(9), (a)(12), or (a)(13) of this Section is a Class 4 felony. A violation of subsection (a)(3) of this Section is a Class 3 felony, for which a fine of not less than $3,000 and no more than $10,000 shall be assessed in addition to any other penalty imposed.

A violation of subsection (a)(6) of this Section is a Business Offense and shall be punished by a fine not to exceed $3,000. A second or subsequent violation of subsection (a)(7) or (a)(11) of this Section is a Class 4 felony. A third or subsequent violation of subsection (a)(5) of this Section is a Class 4 felony.

(c) In addition to any other sentence that may be imposed, a court shall order any person convicted of disorderly conduct to perform community service for not less than 30 and not more than 120 hours, if community service is available in the jurisdiction and is funded and approved by the county board of the county where the offense was committed. In addition, whenever any person is placed on supervision for an alleged offense under this Section, the supervision shall be conditioned upon the performance of the community service.

This subsection does not apply when the court imposes a sentence of incarceration.

(d) In addition to any other sentence that may be imposed, the court shall order any person convicted of disorderly conduct under paragraph (3) of subsection (a) involving a false alarm of a threat that a bomb or explosive device has been

placed in a school to reimburse the unit of government that employs the emergency response officer or officers that were dispatched to the school for the cost of the search for a bomb or explosive device. For the purposes of this Section, "emergency response" means any incident requiring a response by a police officer, a firefighter, a State Fire Marshal employee, or an ambulance.

(Source: P.A. 96-339, eff. 7-1-10; 96-413, eff. 8-13-09; 96-772, eff. 1-1-10; 96-1000, eff. 7-2-10; 96-1261, eff. 1-1-11.)

Section 140. The Code of Criminal Procedure of 1963 is amended by changing Sections 102-23, 106B-5, 114-15, 115-10, and 122-2.2 as follows:

(725 ILCS 5/102-23)

Sec. 102-23. "Moderately intellectually disabled ~~mentally retarded~~ person" means a person whose intelligence quotient is between 41 and 55 and who does not suffer from significant mental illness to the extent that the person's ability to exercise rational judgment is impaired.

(Source: P.A. 92-434, eff. 1-1-02.)

(725 ILCS 5/106B-5)

Sec. 106B-5. Testimony by a victim who is a child or a moderately, severely, or profoundly intellectually disabled

~~mentally retarded~~ person or a person affected by a developmental disability.

(a) In a proceeding in the prosecution of an offense of criminal sexual assault, predatory criminal sexual assault of a child, aggravated criminal sexual assault, criminal sexual abuse, or aggravated criminal sexual abuse, a court may order that the testimony of a victim who is a child under the age of 18 years or a moderately, severely, or profoundly intellectually disabled ~~mentally retarded~~ person or a person affected by a developmental disability be taken outside the courtroom and shown in the courtroom by means of a closed circuit television if:

(1) the testimony is taken during the proceeding; and

(2) the judge determines that testimony by the child victim or moderately, severely, or profoundly intellectually disabled ~~mentally retarded~~ victim or victim affected by a developmental disability in the courtroom will result in the child or moderately, severely, or profoundly intellectually disabled ~~mentally retarded~~ person or person affected by a developmental disability suffering serious emotional distress such that the child or moderately, severely, or profoundly intellectually disabled ~~mentally retarded~~ person or person affected by a developmental disability cannot reasonably communicate or that the child or moderately, severely, or profoundly intellectually disabled ~~mentally retarded~~ person or person

affected by a developmental disability will suffer severe emotional distress that is likely to cause the child or moderately, severely, or profoundly intellectually disabled ~~mentally retarded~~ person or person affected by a developmental disability to suffer severe adverse effects.

(b) Only the prosecuting attorney, the attorney for the defendant, and the judge may question the child or moderately, severely, or profoundly intellectually disabled ~~mentally retarded~~ person or person affected by a developmental disability.

(c) The operators of the closed circuit television shall make every effort to be unobtrusive.

(d) Only the following persons may be in the room with the child or moderately, severely, or profoundly intellectually disabled ~~mentally retarded~~ person or person affected by a developmental disability when the child or moderately, severely, or profoundly intellectually disabled ~~mentally retarded~~ person or person affected by a developmental disability testifies by closed circuit television:

(1) the prosecuting attorney;

(2) the attorney for the defendant;

(3) the judge;

(4) the operators of the closed circuit television equipment; and

(5) any person or persons whose presence, in the opinion of the court, contributes to the well-being of the

child or moderately, severely, or profoundly intellectually disabled ~~mentally retarded~~ person or person affected by a developmental disability, including a person who has dealt with the child in a therapeutic setting concerning the abuse, a parent or guardian of the child or moderately, severely, or profoundly intellectually disabled ~~mentally retarded~~ person or person affected by a developmental disability, and court security personnel.

(e) During the child's or moderately, severely, or profoundly intellectually disabled ~~mentally retarded~~ person's or person affected by a developmental disability's testimony by closed circuit television, the defendant shall be in the courtroom and shall not communicate with the jury if the cause is being heard before a jury.

(f) The defendant shall be allowed to communicate with the persons in the room where the child or moderately, severely, or profoundly intellectually disabled ~~mentally retarded~~ person or person affected by a developmental disability is testifying by any appropriate electronic method.

(g) The provisions of this Section do not apply if the defendant represents himself pro se.

(h) This Section may not be interpreted to preclude, for purposes of identification of a defendant, the presence of both the victim and the defendant in the courtroom at the same time.

(i) This Section applies to prosecutions pending on or commenced on or after the effective date of this amendatory Act

of 1994.

(j) For the purposes of this Section, "developmental disability" includes, but is not limited to, cerebral palsy, epilepsy, and autism.

(Source: P.A. 95-897, eff. 1-1-09.)

(725 ILCS 5/114-15)

Sec. 114-15. Intellectual disability ~~Mental retardation~~.

(a) In a first degree murder case in which the State seeks the death penalty as an appropriate sentence, any party may raise the issue of the defendant's intellectual disabilities ~~mental retardation~~ by motion. A defendant wishing to raise the issue of his or her intellectual disabilities ~~mental retardation~~ shall provide written notice to the State and the court as soon as the defendant reasonably believes such issue will be raised.

(b) The issue of the defendant's intellectual disabilities ~~mental retardation~~ shall be determined in a pretrial hearing. The court shall be the fact finder on the issue of the defendant's intellectual disabilities ~~mental retardation~~ and shall determine the issue by a preponderance of evidence in which the moving party has the burden of proof. The court may appoint an expert in the field of intellectual disabilities ~~mental retardation~~. The defendant and the State may offer experts from the field of intellectual disabilities ~~mental retardation~~. The court shall determine admissibility of

evidence and qualification as an expert.

(c) If after a plea of guilty to first degree murder, or a finding of guilty of first degree murder in a bench trial, or a verdict of guilty for first degree murder in a jury trial, or on a matter remanded from the Supreme Court for sentencing for first degree murder, and the State seeks the death penalty as an appropriate sentence, the defendant may raise the issue of defendant's intellectual disabilities ~~mental retardation~~ not at eligibility but at aggravation and mitigation. The defendant and the State may offer experts from the field of intellectual disabilities ~~mental retardation~~. The court shall determine admissibility of evidence and qualification as an expert.

(d) In determining whether the defendant is intellectually disabled ~~mentally retarded~~, the intellectual disability ~~mental retardation~~ must have manifested itself by the age of 18. IQ tests and psychometric tests administered to the defendant must be the kind and type recognized by experts in the field of intellectual disabilities ~~mental retardation~~. In order for the defendant to be considered intellectually disabled ~~mentally retarded~~, a low IQ must be accompanied by significant deficits in adaptive behavior in at least 2 of the following skill areas: communication, self-care, social or interpersonal skills, home living, self-direction, academics, health and safety, use of community resources, and work. An intelligence quotient (IQ) of 75 or below is presumptive evidence of an intellectual disability ~~mental retardation~~.

(e) Evidence of an intellectual disability ~~mental retardation~~ that did not result in disqualifying the case as a capital case, may be introduced as evidence in mitigation during a capital sentencing hearing. A failure of the court to determine that the defendant is intellectually disabled ~~mentally retarded~~ does not preclude the court during trial from allowing evidence relating to mental disability should the court deem it appropriate.

(f) If the court determines at a pretrial hearing or after remand that a capital defendant is intellectually disabled ~~mentally retarded~~, and the State does not appeal pursuant to Supreme Court Rule 604, the case shall no longer be considered a capital case and the procedural guidelines established for capital cases shall no longer be applicable to the defendant. In that case, the defendant shall be sentenced under the sentencing provisions of Chapter V of the Unified Code of Corrections.

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

(725 ILCS 5/115-10) (from Ch. 38, par. 115-10)

Sec. 115-10. Certain hearsay exceptions.

(a) In a prosecution for a physical or sexual act perpetrated upon or against a child under the age of 13, or a person who was a moderately, severely, or profoundly intellectually disabled ~~mentally retarded~~ person as defined in this Code and in Section 2-10.1 of the Criminal Code of 1961 at

the time the act was committed, including but not limited to prosecutions for violations of Sections 12-13 through 12-16 of the Criminal Code of 1961 and prosecutions for violations of Sections 10-1 (kidnapping), 10-2 (aggravated kidnapping), 10-3 (unlawful restraint), 10-3.1 (aggravated unlawful restraint), 10-4 (forcible detention), 10-5 (child abduction), 10-6 (harboring a runaway), 10-7 (aiding or abetting child abduction), 11-9 (public indecency), 11-11 (sexual relations within families), 11-21 (harmful material), 12-1 (assault), 12-2 (aggravated assault), 12-3 (battery), 12-3.2 (domestic battery), 12-4 (aggravated battery), 12-4.1 (heinous battery), 12-4.2 (aggravated battery with a firearm), 12-4.3 (aggravated battery of a child), 12-4.7 (drug induced infliction of great bodily harm), 12-5 (reckless conduct), 12-6 (intimidation), 12-6.1 (compelling organization membership of persons), 12-7.1 (hate crime), 12-7.3 (stalking), 12-7.4 (aggravated stalking), 12-10 (tattooing body of minor), 12-11 (home invasion), 12-21.5 (child abandonment), 12-21.6 (endangering the life or health of a child) or 12-32 (ritual mutilation) of the Criminal Code of 1961 or any sex offense as defined in subsection (B) of Section 2 of the Sex Offender Registration Act, the following evidence shall be admitted as an exception to the hearsay rule:

(1) testimony by the victim of an out of court statement made by the victim that he or she complained of such act to another; and

(2) testimony of an out of court statement made by the

victim describing any complaint of such act or matter or detail pertaining to any act which is an element of an offense which is the subject of a prosecution for a sexual or physical act against that victim.

(b) Such testimony shall only be admitted if:

(1) The court finds in a hearing conducted outside the presence of the jury that the time, content, and circumstances of the statement provide sufficient safeguards of reliability; and

(2) The child or moderately, severely, or profoundly intellectually disabled ~~mentally retarded~~ person either:

(A) testifies at the proceeding; or

(B) is unavailable as a witness and there is corroborative evidence of the act which is the subject of the statement; and

(3) In a case involving an offense perpetrated against a child under the age of 13, the out of court statement was made before the victim attained 13 years of age or within 3 months after the commission of the offense, whichever occurs later, but the statement may be admitted regardless of the age of the victim at the time of the proceeding.

(c) If a statement is admitted pursuant to this Section, the court shall instruct the jury that it is for the jury to determine the weight and credibility to be given the statement and that, in making the determination, it shall consider the age and maturity of the child, or the intellectual capabilities

of the moderately, severely, or profoundly intellectually disabled ~~mentally retarded~~ person, the nature of the statement, the circumstances under which the statement was made, and any other relevant factor.

(d) The proponent of the statement shall give the adverse party reasonable notice of his intention to offer the statement and the particulars of the statement.

(e) Statements described in paragraphs (1) and (2) of subsection (a) shall not be excluded on the basis that they were obtained as a result of interviews conducted pursuant to a protocol adopted by a Child Advocacy Advisory Board as set forth in subsections (c), (d), and (e) of Section 3 of the Children's Advocacy Center Act or that an interviewer or witness to the interview was or is an employee, agent, or investigator of a State's Attorney's office.

(Source: P.A. 95-892, eff. 1-1-09; 96-710, eff. 1-1-10.)

(725 ILCS 5/122-2.2)

Sec. 122-2.2. Intellectual disability ~~Mental retardation~~ and post-conviction relief.

(a) In cases where no determination of an intellectual disability ~~mental retardation~~ was made and a defendant has been convicted of first-degree murder, sentenced to death, and is in custody pending execution of the sentence of death, the following procedures shall apply:

(1) Notwithstanding any other provision of law or rule

of court, a defendant may seek relief from the death sentence through a petition for post-conviction relief under this Article alleging that the defendant was intellectually disabled ~~mentally retarded~~ as defined in Section 114-15 at the time the offense was alleged to have been committed.

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

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

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

Section 145. The Unified Code of Corrections is amended by changing Sections 5-1-8, 5-1-13, 5-2-6, and 5-5-3.1 as follows:

(730 ILCS 5/5-1-8) (from Ch. 38, par. 1005-1-8)

Sec. 5-1-8. Defendant in Need of Mental Treatment.

"Defendant in need of mental treatment" means any defendant afflicted with a mental disorder, not including a person who is intellectually disabled ~~mentally retarded~~, if that defendant, as a result of such mental disorder, is reasonably expected at

the time of determination or within a reasonable time thereafter to intentionally or unintentionally physically injure himself or other persons, or is unable to care for himself so as to guard himself from physical injury or to provide for his own physical needs.

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

(730 ILCS 5/5-1-13) (from Ch. 38, par. 1005-1-13)

Sec. 5-1-13. Intellectually Disabled ~~Mentally Retarded~~.

"Intellectually disabled" ~~Mentally retarded~~ and "intellectual disability ~~mental retardation~~" mean sub-average general intellectual functioning generally originating during the developmental period and associated with impairment in adaptive behavior reflected in delayed maturation or reduced learning ability or inadequate social adjustment.

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

(730 ILCS 5/5-2-6) (from Ch. 38, par. 1005-2-6)

Sec. 5-2-6. Sentencing and Treatment of Defendant Found Guilty but Mentally Ill.

(a) After a plea or verdict of guilty but mentally ill under Sections 115-2, 115-3 or 115-4 of the Code of Criminal Procedure of 1963, the court shall order a presentence investigation and report pursuant to Sections 5-3-1 and 5-3-2 of this Act, and shall set a date for a sentencing hearing. The court may impose any sentence upon the defendant which could be

imposed pursuant to law upon a defendant who had been convicted of the same offense without a finding of mental illness.

(b) If the court imposes a sentence of imprisonment upon a defendant who has been found guilty but mentally ill, the defendant shall be committed to the Department of Corrections, which shall cause periodic inquiry and examination to be made concerning the nature, extent, continuance, and treatment of the defendant's mental illness. The Department of Corrections shall provide such psychiatric, psychological, or other counseling and treatment for the defendant as it determines necessary.

(c) The Department of Corrections may transfer the defendant's custody to the Department of Human Services in accordance with the provisions of Section 3-8-5 of this Act.

(d) (1) The Department of Human Services shall return to the Department of Corrections any person committed to it pursuant to this Section whose sentence has not expired and whom the Department of Human Services deems no longer requires hospitalization for mental treatment, an intellectual disability ~~mental retardation~~, or addiction.

(2) The Department of Corrections shall notify the Secretary of Human Services of the expiration of the sentence of any person transferred to the Department of Human Services under this Section. If the Department of Human Services determines that any such person requires further hospitalization, it shall file an appropriate petition for

involuntary commitment pursuant to the Mental Health and Developmental Disabilities Code.

(e) (1) All persons found guilty but mentally ill, whether by plea or by verdict, who are placed on probation or sentenced to a term of periodic imprisonment or a period of conditional discharge shall be required to submit to a course of mental treatment prescribed by the sentencing court.

(2) The course of treatment prescribed by the court shall reasonably assure the defendant's satisfactory progress in treatment or habilitation and for the safety of the defendant and others. The court shall consider terms, conditions and supervision which may include, but need not be limited to, notification and discharge of the person to the custody of his family, community adjustment programs, periodic checks with legal authorities and outpatient care and utilization of local mental health or developmental disabilities facilities.

(3) Failure to continue treatment, except by agreement with the treating person or agency and the court, shall be a basis for the institution of probation revocation proceedings.

(4) The period of probation shall be in accordance with Article 4.5 of Chapter V of this Code and shall not be shortened without receipt and consideration of such psychiatric or psychological report or reports as the court may require.

(Source: P.A. 95-1052, eff. 7-1-09.)

(730 ILCS 5/5-5-3.1) (from Ch. 38, par. 1005-5-3.1)

Sec. 5-5-3.1. Factors in Mitigation.

(a) The following grounds shall be accorded weight in favor of withholding or minimizing a sentence of imprisonment:

(1) The defendant's criminal conduct neither caused nor threatened serious physical harm to another.

(2) The defendant did not contemplate that his criminal conduct would cause or threaten serious physical harm to another.

(3) The defendant acted under a strong provocation.

(4) There were substantial grounds tending to excuse or justify the defendant's criminal conduct, though failing to establish a defense.

(5) The defendant's criminal conduct was induced or facilitated by someone other than the defendant.

(6) The defendant has compensated or will compensate the victim of his criminal conduct for the damage or injury that he sustained.

(7) The defendant has no history of prior delinquency or criminal activity or has led a law-abiding life for a substantial period of time before the commission of the present crime.

(8) The defendant's criminal conduct was the result of circumstances unlikely to recur.

(9) The character and attitudes of the defendant indicate that he is unlikely to commit another crime.

(10) The defendant is particularly likely to comply with the terms of a period of probation.

(11) The imprisonment of the defendant would entail excessive hardship to his dependents.

(12) The imprisonment of the defendant would endanger his or her medical condition.

(13) The defendant was intellectually disabled ~~mentally retarded~~ as defined in Section 5-1-13 of this Code.

(b) If the court, having due regard for the character of the offender, the nature and circumstances of the offense and the public interest finds that a sentence of imprisonment is the most appropriate disposition of the offender, or where other provisions of this Code mandate the imprisonment of the offender, the grounds listed in paragraph (a) of this subsection shall be considered as factors in mitigation of the term imposed.

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

Section 146. The Unified Code of Corrections is amended by changing Section 5-5-3.2 as follows:

(730 ILCS 5/5-5-3.2)

Sec. 5-5-3.2. Factors in Aggravation and Extended-Term Sentencing.

(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 or Article 4.5 of Chapter V:

(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 or the ID/DD ~~MR/DD~~ Community 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;

(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;

(23) 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;

(24) the defendant committed any offense under Section 11-20.1 of the Criminal Code of 1961 and possessed 100 or more images;

(25) the defendant committed the offense while the defendant or the victim was in a train, bus, or other vehicle used for public transportation; ~~or~~

(26) the defendant committed the offense of child pornography or aggravated child pornography, specifically including paragraph (1), (2), (3), (4), (5), or (7) of subsection (a) of Section 11-20.1 of the Criminal Code of 1961 where a child engaged in, solicited for, depicted in, or posed in any act of sexual penetration or bound, fettered, or subject to sadistic, masochistic, or sadomasochistic abuse in a sexual context and specifically including paragraph (1), (2), (3), (4), (5), or (7) of subsection (a) of Section 11-20.3 of the Criminal Code of

1961 where a child engaged in, solicited for, depicted in, or posed in any act of sexual penetration or bound, fettered, or subject to sadistic, masochistic, or sadomasochistic abuse in a sexual context; or

(27) the defendant committed the offense of first degree murder, assault, aggravated assault, battery, aggravated battery, robbery, armed robbery, or aggravated robbery against a person who was a veteran and the defendant knew, or reasonably should have known, that the person was a veteran performing duties as a representative of a veterans' organization. For the purposes of this paragraph (27), "veteran" means an Illinois resident who has served as a member of the United States Armed Forces, a member of the Illinois National Guard, or a member of the United States Reserve Forces; and "veterans' organization" means an organization comprised of members of which substantially all are individuals who are veterans or spouses, widows, or widowers of veterans, the primary purpose of which is to promote the welfare of its members and to provide assistance to the general public in such a way as to confer a public benefit.

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.

"Public transportation" means the transportation or conveyance of persons by means available to the general public, and includes paratransit services.

(b) The following factors, related to all felonies, 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 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

(4) 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

(5) 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

(6) When a defendant is convicted of an offense

committed while using a firearm with a laser sight attached to it. For purposes of this paragraph, "laser sight" has the meaning ascribed to it in Section 24.6-5 of the Criminal Code of 1961; or

(7) 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

(8) 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.

(c) The following factors may be considered by the court as reasons to impose an extended term sentence under Section 5-8-2 (730 ILCS 5/5-8-2) upon any offender for the listed offenses:

(1) 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 (730 ILCS 5/5-5-3), when that conviction has occurred within 10 years after the previous conviction, excluding

time spent in custody, and the charges are separately brought and tried and arise out of different series of acts.

(1.5) When a defendant is convicted of first degree murder, after having been previously convicted of domestic battery (720 ILCS 5/12-3.2) or aggravated domestic battery (720 ILCS 5/12-3.3) committed on the same victim or after having been previously convicted of violation of an order of protection (720 ILCS 5/12-30) in which the same victim was the protected person.

(2) 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.

(3) When a defendant is convicted of aggravated criminal sexual assault or criminal sexual assault, when there is a finding 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.

(4) If the victim was under 18 years of age at the time

of the commission of the offense, when a defendant is 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 (720 ILCS 5/12-14.1).

(5) When a defendant is convicted of a felony violation of Section 24-1 of the Criminal Code of 1961 (720 ILCS 5/24-1) and there is a finding that the defendant is a member of an organized gang.

(6) When a defendant was convicted of unlawful use of weapons under Section 24-1 of the Criminal Code of 1961 (720 ILCS 5/24-1) 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 (720 ILCS 5/24-1).

(7) When a defendant is convicted of an offense involving the illegal manufacture of a controlled substance under Section 401 of the Illinois Controlled Substances Act (720 ILCS 570/401), the illegal manufacture of methamphetamine under Section 25 of the Methamphetamine Control and Community Protection Act (720 ILCS 646/25), 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, "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.

(d) 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.

(e) The court may impose an extended term sentence under Article 4.5 of Chapter V upon an offender who has been convicted of a felony violation of Section 12-13, 12-14, 12-14.1, 12-15, or 12-16 of the Criminal Code of 1961 when the victim of the offense is under 18 years of age at the time of the commission of the offense and, during the commission of the offense, the victim was under the influence of alcohol, regardless of whether or not the alcohol was supplied by the offender; and the offender, at the time of the commission of the offense, knew or should have known that the victim had consumed alcohol.

(Source: P.A. 95-85, eff. 1-1-08; 95-362, eff. 1-1-08; 95-569, eff. 6-1-08; 95-876, eff. 8-21-08; 95-942, eff. 1-1-09; 95-1052, eff. 7-1-09; 96-41, eff. 1-1-10; 96-292, eff. 1-1-10; 96-328, eff. 8-11-09; 96-339, eff. 7-1-10; 96-1000, eff.

7-2-10; 96-1200, eff. 7-22-10; 96-1228, eff. 1-1-11; 96-1390, eff. 1-1-11; revised 9-16-10.)

Section 147. The Secure Residential Youth Care Facility Licensing Act is amended by changing Section 45-10 as follows:

(730 ILCS 175/45-10)

Sec. 45-10. Definitions. As used in this Act:

"Department" means the Illinois Department of Corrections.

"Director" means the Director of Corrections.

"Secure residential youth care facility" means a facility (1) where youth are placed and reside for care, treatment, and custody; (2) that is designed and operated so as to ensure that all entrances and exits from the facility, or from a building or distinct part of a building within the facility, are under the exclusive control of the staff of the facility, whether or not the youth has freedom of movement within the perimeter of the facility or within the perimeter of a building or distinct part of a building within the facility; and (3) that uses physically restrictive construction including, but not limited to, locks, bolts, gates, doors, bars, fences, and screen barriers. This definition does not include jails, prisons, detention centers, or other such correctional facilities; State operated mental health facilities; or facilities operating as psychiatric hospitals under a license pursuant to the ID/DD ~~MR/DD~~ Community Care Act, the Nursing Home Care Act,

or the Hospital Licensing Act.

"Youth" means an adjudicated delinquent who is 18 years of age or under and is transferred to the Department pursuant to Section 3-10-11 of the Unified Code of Corrections.

(Source: P.A. 96-339, eff. 7-1-10.)

Section 150. The Code of Civil Procedure is amended by changing Sections 2-203 and 8-201 as follows:

(735 ILCS 5/2-203) (from Ch. 110, par. 2-203)

Sec. 2-203. Service on individuals.

(a) Except as otherwise expressly provided, service of summons upon an individual defendant shall be made (1) by leaving a copy of the summons with the defendant personally, (2) by leaving a copy at the defendant's usual place of abode, with some person of the family or a person residing there, of the age of 13 years or upwards, and informing that person of the contents of the summons, provided the officer or other person making service shall also send a copy of the summons in a sealed envelope with postage fully prepaid, addressed to the defendant at his or her usual place of abode, or (3) as provided in Section 1-2-9.2 of the Illinois Municipal Code with respect to violation of an ordinance governing parking or standing of vehicles in cities with a population over 500,000. The certificate of the officer or affidavit of the person that he or she has sent the copy in pursuance of this Section is

evidence that he or she has done so. No employee of a facility licensed under the Nursing Home Care Act or the ID/DD ~~MR/DD~~ Community Care Act shall obstruct an officer or other person making service in compliance with this Section.

(b) The officer, in his or her certificate or in a record filed and maintained in the Sheriff's office, or other person making service, in his or her affidavit or in a record filed and maintained in his or her employer's office, shall (1) identify as to sex, race, and approximate age the defendant or other person with whom the summons was left and (2) state the place where (whenever possible in terms of an exact street address) and the date and time of the day when the summons was left with the defendant or other person.

(c) Any person who knowingly sets forth in the certificate or affidavit any false statement, shall be liable in civil contempt. When the court holds a person in civil contempt under this Section, it shall award such damages as it determines to be just and, when the contempt is prosecuted by a private attorney, may award reasonable attorney's fees.

(Source: P.A. 95-858, eff. 8-18-08; 96-339, eff. 7-1-10.)

(735 ILCS 5/8-201) (from Ch. 110, par. 8-201)

Sec. 8-201. Dead-Man's Act. In the trial of any action in which any party sues or defends as the representative of a deceased person or person under a legal disability, no adverse party or person directly interested in the action shall be

allowed to testify on his or her own behalf to any conversation with the deceased or person under legal disability or to any event which took place in the presence of the deceased or person under legal disability, except in the following instances:

(a) If any person testifies on behalf of the representative to any conversation with the deceased or person under legal disability or to any event which took place in the presence of the deceased or person under legal disability, any adverse party or interested person, if otherwise competent, may testify concerning the same conversation or event.

(b) If the deposition of the deceased or person under legal disability is admitted in evidence on behalf of the representative, any adverse party or interested person, if otherwise competent, may testify concerning the same matters admitted in evidence.

(c) Any testimony competent under Section 8-401 of this Act, is not barred by this Section.

(d) No person shall be barred from testifying as to any fact relating to the heirship of a decedent.

As used in this Section:

(a) "Person under legal disability" means any person who is adjudged by the court in the pending civil action to be unable to testify by reason of mental illness, an intellectual disability, ~~mental retardation~~ or deterioration of mentality.

(b) "Representative" means an executor, administrator,

heir or legatee of a deceased person and any guardian or trustee of any such heir or legatee, or a guardian or guardian ad litem for a person under legal disability.

(c) "Person directly interested in the action" or "interested person" does not include a person who is interested solely as executor, trustee or in any other fiduciary capacity, whether or not he or she receives or expects to receive compensation for acting in that capacity.

(d) This Section applies to proceedings filed on or after October 1, 1973.

(Source: P.A. 82-280.)

Section 155. The Predator Accountability Act is amended by changing Section 10 as follows:

(740 ILCS 128/10)

Sec. 10. Definitions. As used in this Act:

"Sex trade" means any act, which if proven beyond a reasonable doubt could support a conviction for a violation or attempted violation of any of the following Sections of the Criminal Code of 1961: 11-15 (soliciting for a prostitute); 11-15.1 (soliciting for a juvenile prostitute); 11-16 (pandering); 11-17 (keeping a place of prostitution); 11-17.1 (keeping a place of juvenile prostitution); 11-19 (pimping); 11-19.1 (juvenile pimping and aggravated juvenile pimping); 11-19.2 (exploitation of a child); 11-20 (obscenity); or

11-20.1 (child pornography); or Section 10-9 of the Criminal Code of 1961 (trafficking of persons and involuntary servitude).

"Sex trade" activity may involve adults and youth of all genders and sexual orientations.

"Victim of the sex trade" means, for the following sex trade acts, the person or persons indicated:

(1) soliciting for a prostitute: the prostitute who is the object of the solicitation;

(2) soliciting for a juvenile prostitute: the juvenile prostitute, or severely or profoundly intellectually disabled ~~mentally retarded~~ person, who is the object of the solicitation;

(3) pandering: the person intended or compelled to act as a prostitute;

(4) keeping a place of prostitution: any person intended or compelled to act as a prostitute, while present at the place, during the time period in question;

(5) keeping a place of juvenile prostitution: any juvenile intended or compelled to act as a prostitute, while present at the place, during the time period in question;

(6) pimping: the prostitute from whom anything of value is received;

(7) juvenile pimping and aggravated juvenile pimping: the juvenile, or severely or profoundly intellectually

disabled ~~mentally retarded~~ person, from whom anything of value is received for that person's act of prostitution;

(8) exploitation of a child: the juvenile, or severely or profoundly intellectually disabled ~~mentally retarded~~ person, intended or compelled to act as a prostitute or from whom anything of value is received for that person's act of prostitution;

(9) obscenity: any person who appears in or is described or depicted in the offending conduct or material;

(10) child pornography: any child, or severely or profoundly intellectually disabled ~~mentally retarded~~ person, who appears in or is described or depicted in the offending conduct or material; or

(11) trafficking of persons or involuntary servitude: a "trafficking victim" as defined in Section 10-9 of the Criminal Code of 1961.

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

Section 160. The Sports Volunteer Immunity Act is amended by changing Section 1 as follows:

(745 ILCS 80/1) (from Ch. 70, par. 701)

Sec. 1. Manager, coach, umpire or referee negligence standard. (a) General rule. Except as provided otherwise in this Section, no person who, without compensation and as a volunteer, renders services as a manager, coach, instructor,

umpire or referee or who, without compensation and as a volunteer, assists a manager, coach, instructor, umpire or referee in a sports program of a nonprofit association, shall be liable to any person for any civil damages as a result of any acts or omissions in rendering such services or in conducting or sponsoring such sports program, unless the conduct of such person falls substantially below the standards generally practiced and accepted in like circumstances by similar persons rendering such services or conducting or sponsoring such sports programs, and unless it is shown that such person did an act or omitted the doing of an act which such person was under a recognized duty to another to do, knowing or having reason to know that such act or omission created a substantial risk of actual harm to the person or property of another. It shall be insufficient to impose liability to establish only that the conduct of such person fell below ordinary standards of care.

(b) Exceptions.

(1) Nothing in this Section shall be construed as affecting or modifying the liability of such person or a nonprofit association for any of the following:

(i) acts or omissions relating to the transportation of participants in a sports program or others to or from a game, event or practice.

(ii) acts or omissions relating to the care and maintenance of real estate unrelated to the practice or playing areas which

such persons or nonprofit associations own, possess or control.

(2) Nothing in this Section shall be construed as affecting or modifying any existing legal basis for determining the liability, or any defense thereto, of any person not covered by the standard of negligence established by this Section.

(c) Assumption of risk or comparative fault. Nothing in this Section shall be construed as affecting or modifying the doctrine of assumption of risk or comparative fault on the part of the participant.

(d) Definitions. As used in this Act the following words and phrases shall have the meanings given to them in this subsection:

"Compensation" means any payment for services performed but does not include reimbursement for reasonable expenses actually incurred or to be incurred or, solely in the case of umpires or referees, a modest honorarium.

"Nonprofit association" means an entity which is organized as a not-for-profit corporation under the laws of this State or the United States or a nonprofit unincorporated association or any entity which is authorized to do business in this State as a not-for-profit corporation under the laws of this State, including, but not limited to, youth or athletic associations, volunteer fire, ambulance, religious, charitable, fraternal, veterans, civic, county fair or agricultural associations, or any separately chartered auxiliary of the foregoing, if organized and operated on a nonprofit basis.

"Sports program" means baseball (including softball), football, basketball, soccer or any other competitive sport formally recognized as a sport by the United States Olympic Committee as specified by and under the jurisdiction of the Amateur Sports Act of 1978 (36 U.S.C. 371 et seq.), the Amateur Athletic Union or the National Collegiate Athletic Association. The term shall be limited to a program or that portion of a program that is organized for recreational purposes and whose activities are substantially for such purposes and which is primarily for participants who are 18 years of age or younger or whose 19th birthday occurs during the year of participation or the competitive season, whichever is longer. There shall, however, be no age limitation for programs operated for the physically handicapped or intellectually disabled ~~mentally retarded~~.

(e) Nothing in this Section is intended to bar any cause of action against a nonprofit association or change the liability of such an association which arises out of an act or omission of any person exempt from liability under this Act.

(Source: P.A. 85-959.)

Section 165. The Adoption Act is amended by changing Sections 1 and 12 as follows:

(750 ILCS 50/1) (from Ch. 40, par. 1501)

Sec. 1. Definitions. When used in this Act, unless the

context otherwise requires:

A. "Child" means a person under legal age subject to adoption under this Act.

B. "Related child" means a child subject to adoption where either or both of the adopting parents stands in any of the following relationships to the child by blood or marriage: parent, grand-parent, brother, sister, step-parent, step-grandparent, step-brother, step-sister, uncle, aunt, great-uncle, great-aunt, or cousin of first degree. A child whose parent has executed a final irrevocable consent to adoption or a final irrevocable surrender for purposes of adoption, or whose parent has had his or her parental rights terminated, is not a related child to that person, unless the consent is determined to be void or is void pursuant to subsection O of Section 10.

C. "Agency" for the purpose of this Act means a public child welfare agency or a licensed child welfare agency.

D. "Unfit person" means any person whom the court shall find to be unfit to have a child, without regard to the likelihood that the child will be placed for adoption. The grounds of unfitness are any one or more of the following, except that a person shall not be considered an unfit person for the sole reason that the person has relinquished a child in accordance with the Abandoned Newborn Infant Protection Act:

(a) Abandonment of the child.

(a-1) Abandonment of a newborn infant in a hospital.

(a-2) Abandonment of a newborn infant in any setting where the evidence suggests that the parent intended to relinquish his or her parental rights.

(b) Failure to maintain a reasonable degree of interest, concern or responsibility as to the child's welfare.

(c) Desertion of the child for more than 3 months next preceding the commencement of the Adoption proceeding.

(d) Substantial neglect of the child if continuous or repeated.

(d-1) Substantial neglect, if continuous or repeated, of any child residing in the household which resulted in the death of that child.

(e) Extreme or repeated cruelty to the child.

(f) There is a rebuttable presumption, which can be overcome only by clear and convincing evidence, that a parent is unfit if:

(1) Two or more findings of physical abuse have been entered regarding any children under Section 2-21 of the Juvenile Court Act of 1987, the most recent of which was determined by the juvenile court hearing the matter to be supported by clear and convincing evidence; or

(2) The parent has been convicted or found not guilty by reason of insanity and the conviction or finding resulted from the death of any child by

physical abuse; or

(3) There is a finding of physical child abuse resulting from the death of any child under Section 2-21 of the Juvenile Court Act of 1987.

No conviction or finding of delinquency pursuant to Article 5 of the Juvenile Court Act of 1987 shall be considered a criminal conviction for the purpose of applying any presumption under this item (f).

(g) Failure to protect the child from conditions within his environment injurious to the child's welfare.

(h) Other neglect of, or misconduct toward the child; provided that in making a finding of unfitness the court hearing the adoption proceeding shall not be bound by any previous finding, order or judgment affecting or determining the rights of the parents toward the child sought to be adopted in any other proceeding except such proceedings terminating parental rights as shall be had under either this Act, the Juvenile Court Act or the Juvenile Court Act of 1987.

(i) Depravity. Conviction of any one of the following crimes shall create a presumption that a parent is depraved which can be overcome only by clear and convincing evidence: (1) first degree murder in violation of paragraph 1 or 2 of subsection (a) of Section 9-1 of the Criminal Code of 1961 or conviction of second degree murder in violation of subsection (a) of Section 9-2 of the Criminal

Code of 1961 of a parent of the child to be adopted; (2) first degree murder or second degree murder of any child in violation of the Criminal Code of 1961; (3) attempt or conspiracy to commit first degree murder or second degree murder of any child in violation of the Criminal Code of 1961; (4) solicitation to commit murder of any child, solicitation to commit murder of any child for hire, or solicitation to commit second degree murder of any child in violation of the Criminal Code of 1961; (5) predatory criminal sexual assault of a child in violation of Section 12-14.1 of the Criminal Code of 1961; (6) heinous battery of any child in violation of the Criminal Code of 1961; or (7) aggravated battery of any child in violation of the Criminal Code of 1961.

There is a rebuttable presumption that a parent is depraved if the parent has been criminally convicted of at least 3 felonies under the laws of this State or any other state, or under federal law, or the criminal laws of any United States territory; and at least one of these convictions took place within 5 years of the filing of the petition or motion seeking termination of parental rights.

There is a rebuttable presumption that a parent is depraved if that parent has been criminally convicted of either first or second degree murder of any person as defined in the Criminal Code of 1961 within 10 years of the filing date of the petition or motion to terminate parental

rights.

No conviction or finding of delinquency pursuant to Article 5 of the Juvenile Court Act of 1987 shall be considered a criminal conviction for the purpose of applying any presumption under this item (i).

(j) Open and notorious adultery or fornication.

(j-1) (Blank).

(k) Habitual drunkenness or addiction to drugs, other than those prescribed by a physician, for at least one year immediately prior to the commencement of the unfitness proceeding.

There is a rebuttable presumption that a parent is unfit under this subsection with respect to any child to which that parent gives birth where there is a confirmed test result that at birth the child's blood, urine, or meconium contained any amount of a controlled substance as defined in subsection (f) of Section 102 of the Illinois Controlled Substances Act or metabolites of such substances, the presence of which in the newborn infant was not the result of medical treatment administered to the mother or the newborn infant; and the biological mother of this child is the biological mother of at least one other child who was adjudicated a neglected minor under subsection (c) of Section 2-3 of the Juvenile Court Act of 1987.

(l) Failure to demonstrate a reasonable degree of

interest, concern or responsibility as to the welfare of a new born child during the first 30 days after its birth.

(m) Failure by a parent (i) to make reasonable efforts to correct the conditions that were the basis for the removal of the child from the parent, or (ii) to make reasonable progress toward the return of the child to the parent within 9 months after an adjudication of neglected or abused minor under Section 2-3 of the Juvenile Court Act of 1987 or dependent minor under Section 2-4 of that Act, or (iii) to make reasonable progress toward the return of the child to the parent during any 9-month period after the end of the initial 9-month period following the adjudication of neglected or abused minor under Section 2-3 of the Juvenile Court Act of 1987 or dependent minor under Section 2-4 of that Act. If a service plan has been established as required under Section 8.2 of the Abused and Neglected Child Reporting Act to correct the conditions that were the basis for the removal of the child from the parent and if those services were available, then, for purposes of this Act, "failure to make reasonable progress toward the return of the child to the parent" includes (I) the parent's failure to substantially fulfill his or her obligations under the service plan and correct the conditions that brought the child into care within 9 months after the adjudication under Section 2-3 or 2-4 of the Juvenile Court Act of 1987 and (II) the parent's failure to

substantially fulfill his or her obligations under the service plan and correct the conditions that brought the child into care during any 9-month period after the end of the initial 9-month period following the adjudication under Section 2-3 or 2-4 of the Juvenile Court Act of 1987. Notwithstanding any other provision, when a petition or motion seeks to terminate parental rights on the basis of item (iii) of this subsection (m), the petitioner shall file with the court and serve on the parties a pleading that specifies the 9-month period or periods relied on. The pleading shall be filed and served on the parties no later than 3 weeks before the date set by the court for closure of discovery, and the allegations in the pleading shall be treated as incorporated into the petition or motion. Failure of a respondent to file a written denial of the allegations in the pleading shall not be treated as an admission that the allegations are true.

(m-1) Pursuant to the Juvenile Court Act of 1987, a child has been in foster care for 15 months out of any 22 month period which begins on or after the effective date of this amendatory Act of 1998 unless the child's parent can prove by a preponderance of the evidence that it is more likely than not that it will be in the best interests of the child to be returned to the parent within 6 months of the date on which a petition for termination of parental rights is filed under the Juvenile Court Act of 1987. The

15 month time limit is tolled during any period for which there is a court finding that the appointed custodian or guardian failed to make reasonable efforts to reunify the child with his or her family, provided that (i) the finding of no reasonable efforts is made within 60 days of the period when reasonable efforts were not made or (ii) the parent filed a motion requesting a finding of no reasonable efforts within 60 days of the period when reasonable efforts were not made. For purposes of this subdivision (m-1), the date of entering foster care is the earlier of: (i) the date of a judicial finding at an adjudicatory hearing that the child is an abused, neglected, or dependent minor; or (ii) 60 days after the date on which the child is removed from his or her parent, guardian, or legal custodian.

(n) Evidence of intent to forgo his or her parental rights, whether or not the child is a ward of the court, (1) as manifested by his or her failure for a period of 12 months: (i) to visit the child, (ii) to communicate with the child or agency, although able to do so and not prevented from doing so by an agency or by court order, or (iii) to maintain contact with or plan for the future of the child, although physically able to do so, or (2) as manifested by the father's failure, where he and the mother of the child were unmarried to each other at the time of the child's birth, (i) to commence legal proceedings to

establish his paternity under the Illinois Parentage Act of 1984 or the law of the jurisdiction of the child's birth within 30 days of being informed, pursuant to Section 12a of this Act, that he is the father or the likely father of the child or, after being so informed where the child is not yet born, within 30 days of the child's birth, or (ii) to make a good faith effort to pay a reasonable amount of the expenses related to the birth of the child and to provide a reasonable amount for the financial support of the child, the court to consider in its determination all relevant circumstances, including the financial condition of both parents; provided that the ground for termination provided in this subparagraph (n)(2)(ii) shall only be available where the petition is brought by the mother or the husband of the mother.

Contact or communication by a parent with his or her child that does not demonstrate affection and concern does not constitute reasonable contact and planning under subdivision (n). In the absence of evidence to the contrary, the ability to visit, communicate, maintain contact, pay expenses and plan for the future shall be presumed. The subjective intent of the parent, whether expressed or otherwise, unsupported by evidence of the foregoing parental acts manifesting that intent, shall not preclude a determination that the parent has intended to forgo his or her parental rights. In making this

determination, the court may consider but shall not require a showing of diligent efforts by an authorized agency to encourage the parent to perform the acts specified in subdivision (n).

It shall be an affirmative defense to any allegation under paragraph (2) of this subsection that the father's failure was due to circumstances beyond his control or to impediments created by the mother or any other person having legal custody. Proof of that fact need only be by a preponderance of the evidence.

(o) Repeated or continuous failure by the parents, although physically and financially able, to provide the child with adequate food, clothing, or shelter.

(p) Inability to discharge parental responsibilities supported by competent evidence from a psychiatrist, licensed clinical social worker, or clinical psychologist of mental impairment, mental illness or an intellectual disability ~~mental retardation~~ as defined in Section 1-116 of the Mental Health and Developmental Disabilities Code, or developmental disability as defined in Section 1-106 of that Code, and there is sufficient justification to believe that the inability to discharge parental responsibilities shall extend beyond a reasonable time period. However, this subdivision (p) shall not be construed so as to permit a licensed clinical social worker to conduct any medical diagnosis to determine mental illness or mental

impairment.

(q) (Blank).

(r) The child is in the temporary custody or guardianship of the Department of Children and Family Services, the parent is incarcerated as a result of criminal conviction at the time the petition or motion for termination of parental rights is filed, prior to incarceration the parent had little or no contact with the child or provided little or no support for the child, and the parent's incarceration will prevent the parent from discharging his or her parental responsibilities for the child for a period in excess of 2 years after the filing of the petition or motion for termination of parental rights.

(s) The child is in the temporary custody or guardianship of the Department of Children and Family Services, the parent is incarcerated at the time the petition or motion for termination of parental rights is filed, the parent has been repeatedly incarcerated as a result of criminal convictions, and the parent's repeated incarceration has prevented the parent from discharging his or her parental responsibilities for the child.

(t) A finding that at birth the child's blood, urine, or meconium contained any amount of a controlled substance as defined in subsection (f) of Section 102 of the Illinois Controlled Substances Act, or a metabolite of a controlled substance, with the exception of controlled substances or

metabolites of such substances, the presence of which in the newborn infant was the result of medical treatment administered to the mother or the newborn infant, and that the biological mother of this child is the biological mother of at least one other child who was adjudicated a neglected minor under subsection (c) of Section 2-3 of the Juvenile Court Act of 1987, after which the biological mother had the opportunity to enroll in and participate in a clinically appropriate substance abuse counseling, treatment, and rehabilitation program.

E. "Parent" means the father or mother of a lawful child of the parties or child born out of wedlock. For the purpose of this Act, a person who has executed a final and irrevocable consent to adoption or a final and irrevocable surrender for purposes of adoption, or whose parental rights have been terminated by a court, is not a parent of the child who was the subject of the consent or surrender, unless the consent is void pursuant to subsection O of Section 10.

F. A person is available for adoption when the person is:

(a) a child who has been surrendered for adoption to an agency and to whose adoption the agency has thereafter consented;

(b) a child to whose adoption a person authorized by law, other than his parents, has consented, or to whose adoption no consent is required pursuant to Section 8 of this Act;

(c) a child who is in the custody of persons who intend to adopt him through placement made by his parents;

(c-1) a child for whom a parent has signed a specific consent pursuant to subsection O of Section 10;

(d) an adult who meets the conditions set forth in Section 3 of this Act; or

(e) a child who has been relinquished as defined in Section 10 of the Abandoned Newborn Infant Protection Act.

A person who would otherwise be available for adoption shall not be deemed unavailable for adoption solely by reason of his or her death.

G. The singular includes the plural and the plural includes the singular and the "male" includes the "female", as the context of this Act may require.

H. "Adoption disruption" occurs when an adoptive placement does not prove successful and it becomes necessary for the child to be removed from placement before the adoption is finalized.

I. "Foreign placing agency" is an agency or individual operating in a country or territory outside the United States that is authorized by its country to place children for adoption either directly with families in the United States or through United States based international agencies.

J. "Immediate relatives" means the biological parents, the parents of the biological parents and siblings of the biological parents.

K. "Intercountry adoption" is a process by which a child from a country other than the United States is adopted.

L. "Intercountry Adoption Coordinator" is a staff person of the Department of Children and Family Services appointed by the Director to coordinate the provision of services by the public and private sector to prospective parents of foreign-born children.

M. "Interstate Compact on the Placement of Children" is a law enacted by most states for the purpose of establishing uniform procedures for handling the interstate placement of children in foster homes, adoptive homes, or other child care facilities.

N. "Non-Compact state" means a state that has not enacted the Interstate Compact on the Placement of Children.

O. "Preadoption requirements" are any conditions established by the laws or regulations of the Federal Government or of each state that must be met prior to the placement of a child in an adoptive home.

P. "Abused child" means a child whose parent or immediate family member, or any person responsible for the child's welfare, or any individual residing in the same home as the child, or a paramour of the child's parent:

(a) inflicts, causes to be inflicted, or allows to be inflicted upon the child physical injury, by other than accidental means, that causes death, disfigurement, impairment of physical or emotional health, or loss or

impairment of any bodily function;

(b) creates a substantial risk of physical injury to the child by other than accidental means which would be likely to cause death, disfigurement, impairment of physical or emotional health, or loss or impairment of any bodily function;

(c) commits or allows to be committed any sex offense against the child, as sex offenses are defined in the Criminal Code of 1961 and extending those definitions of sex offenses to include children under 18 years of age;

(d) commits or allows to be committed an act or acts of torture upon the child; or

(e) inflicts excessive corporal punishment.

Q. "Neglected child" means any child whose parent or other person responsible for the child's welfare withholds or denies nourishment or medically indicated treatment including food or care denied solely on the basis of the present or anticipated mental or physical impairment as determined by a physician acting alone or in consultation with other physicians or otherwise does not provide the proper or necessary support, education as required by law, or medical or other remedial care recognized under State law as necessary for a child's well-being, or other care necessary for his or her well-being, including adequate food, clothing and shelter; or who is abandoned by his or her parents or other person responsible for the child's welfare.

A child shall not be considered neglected or abused for the sole reason that the child's parent or other person responsible for his or her welfare depends upon spiritual means through prayer alone for the treatment or cure of disease or remedial care as provided under Section 4 of the Abused and Neglected Child Reporting Act. A child shall not be considered neglected or abused for the sole reason that the child's parent or other person responsible for the child's welfare failed to vaccinate, delayed vaccination, or refused vaccination for the child due to a waiver on religious or medical grounds as permitted by law.

R. "Putative father" means a man who may be a child's father, but who (1) is not married to the child's mother on or before the date that the child was or is to be born and (2) has not established paternity of the child in a court proceeding before the filing of a petition for the adoption of the child. The term includes a male who is less than 18 years of age. "Putative father" does not mean a man who is the child's father as a result of criminal sexual abuse or assault as defined under Article 12 of the Criminal Code of 1961.

S. "Standby adoption" means an adoption in which a parent consents to custody and termination of parental rights to become effective upon the occurrence of a future event, which is either the death of the parent or the request of the parent for the entry of a final judgment of adoption.

T. (Blank).

(Source: P.A. 93-732, eff. 1-1-05; 94-229, eff. 1-1-06; 94-563, eff. 1-1-06; 94-939, eff. 1-1-07.)

(750 ILCS 50/12) (from Ch. 40, par. 1514)

Sec. 12. Consent of child or adult. If, upon the date of the entry of the judgment the person sought to be adopted is of the age of 14 years or upwards, the adoption shall not be made without the consent of such person. Such consent shall be in writing and shall be acknowledged by such person as provided in Section 10 of this Act, provided, that if such person is in need of mental treatment or is intellectually disabled ~~mentally retarded~~, the court may waive the provisions of this Section. No consent shall be required under this Section if the person sought to be adopted has died before giving such consent.
(Source: P.A. 85-517.)

Section 170. The Probate Act of 1975 is amended by changing Section 11a-1 as follows:

(755 ILCS 5/11a-1) (from Ch. 110 1/2, par. 11a-1)

Sec. 11a-1. Developmental disability defined.) "Developmental disability" means a disability which is attributable to: (a) an intellectual disability ~~mental retardation~~, cerebral palsy, epilepsy or autism; or to (b) any other condition which results in impairment similar to that caused by an intellectual disability ~~mental retardation~~ and

which requires services similar to those required by intellectually disabled ~~mentally retarded~~ persons. Such disability must originate before the age of 18 years, be expected to continue indefinitely, and constitute a substantial handicap.

(Source: P.A. 80-1415.)

Section 175. The Health Care Surrogate Act is amended by changing Section 20 as follows:

(755 ILCS 40/20) (from Ch. 110 1/2, par. 851-20)

Sec. 20. Private decision making process. (a) Decisions whether to forgo life-sustaining or any other form of medical treatment involving an adult patient with decisional capacity may be made by that adult patient.

(b) Decisions whether to forgo life-sustaining treatment on behalf of a patient without decisional capacity are lawful, without resort to the courts or legal process, if the patient has a qualifying condition and if the decisions are made in accordance with one of the following paragraphs in this subsection and otherwise meet the requirements of this Act:

(1) Decisions whether to forgo life-sustaining treatment on behalf of a minor or an adult patient who lacks decisional capacity may be made by a surrogate decision maker or makers in consultation with the attending physician, in the order or priority provided in Section 25.

A surrogate decision maker shall make decisions for the adult patient conforming as closely as possible to what the patient would have done or intended under the circumstances, taking into account evidence that includes, but is not limited to, the patient's personal, philosophical, religious and moral beliefs and ethical values relative to the purpose of life, sickness, medical procedures, suffering, and death. Where possible, the surrogate shall determine how the patient would have weighed the burdens and benefits of initiating or continuing life-sustaining treatment against the burdens and benefits of that treatment. In the event an unrevoked advance directive, such as a living will, a declaration for mental health treatment, or a power of attorney for health care, is no longer valid due to a technical deficiency or is not applicable to the patient's condition, that document may be used as evidence of a patient's wishes. The absence of a living will, declaration for mental health treatment, or power of attorney for health care shall not give rise to any presumption as to the patient's preferences regarding the initiation or continuation of life-sustaining procedures. If the adult patient's wishes are unknown and remain unknown after reasonable efforts to discern them or if the patient is a minor, the decision shall be made on the basis of the patient's best interests as determined by the surrogate decision maker. In determining the patient's

best interests, the surrogate shall weigh the burdens on and benefits to the patient of initiating or continuing life-sustaining treatment against the burdens and benefits of that treatment and shall take into account any other information, including the views of family and friends, that the surrogate decision maker believes the patient would have considered if able to act for herself or himself.

(2) Decisions whether to forgo life-sustaining treatment on behalf of a minor or an adult patient who lacks decisional capacity, but without any surrogate decision maker or guardian being available determined after reasonable inquiry by the health care provider, may be made by a court appointed guardian. A court appointed guardian shall be treated as a surrogate for the purposes of this Act.

(b-5) Decisions concerning medical treatment on behalf of a patient without decisional capacity are lawful, without resort to the courts or legal process, if the patient does not have a qualifying condition and if decisions are made in accordance with one of the following paragraphs in this subsection and otherwise meet the requirements of this Act:

(1) Decisions concerning medical treatment on behalf of a minor or adult patient who lacks decisional capacity may be made by a surrogate decision maker or makers in consultation with the attending physician, in the order of

priority provided in Section 25 with the exception that decisions to forgo life-sustaining treatment may be made only when a patient has a qualifying condition. A surrogate decision maker shall make decisions for the patient conforming as closely as possible to what the patient would have done or intended under the circumstances, taking into account evidence that includes, but is not limited to, the patient's personal, philosophical, religious, and moral beliefs and ethical values relative to the purpose of life, sickness, medical procedures, suffering, and death. In the event an unrevoked advance directive, such as a living will, a declaration for mental health treatment, or a power of attorney for health care, is no longer valid due to a technical deficiency or is not applicable to the patient's condition, that document may be used as evidence of a patient's wishes. The absence of a living will, declaration for mental health treatment, or power of attorney for health care shall not give rise to any presumption as to the patient's preferences regarding any process. If the adult patient's wishes are unknown and remain unknown after reasonable efforts to discern them or if the patient is a minor, the decision shall be made on the basis of the patient's best interests as determined by the surrogate decision maker. In determining the patient's best interests, the surrogate shall weigh the burdens on and benefits to the patient of the treatment against the

burdens and benefits of that treatment and shall take into account any other information, including the views of family and friends, that the surrogate decision maker believes the patient would have considered if able to act for herself or himself.

(2) Decisions concerning medical treatment on behalf of a minor or adult patient who lacks decisional capacity, but without any surrogate decision maker or guardian being available as determined after reasonable inquiry by the health care provider, may be made by a court appointed guardian. A court appointed guardian shall be treated as a surrogate for the purposes of this Act.

(c) For the purposes of this Act, a patient or surrogate decision maker is presumed to have decisional capacity in the absence of actual notice to the contrary without regard to advanced age. With respect to a patient, a diagnosis of mental illness or an intellectual disability ~~mental retardation~~, of itself, is not a bar to a determination of decisional capacity. A determination that an adult patient lacks decisional capacity shall be made by the attending physician to a reasonable degree of medical certainty. The determination shall be in writing in the patient's medical record and shall set forth the attending physician's opinion regarding the cause, nature, and duration of the patient's lack of decisional capacity. Before implementation of a decision by a surrogate decision maker to forgo life-sustaining treatment, at least one other qualified

physician must concur in the determination that an adult patient lacks decisional capacity. The concurring determination shall be made in writing in the patient's medical record after personal examination of the patient. The attending physician shall inform the patient that it has been determined that the patient lacks decisional capacity and that a surrogate decision maker will be making life-sustaining treatment decisions on behalf of the patient. Moreover, the patient shall be informed of the identity of the surrogate decision maker and any decisions made by that surrogate. If the person identified as the surrogate decision maker is not a court appointed guardian and the patient objects to the statutory surrogate decision maker or any decision made by that surrogate decision maker, then the provisions of this Act shall not apply.

(d) A surrogate decision maker acting on behalf of the patient shall express decisions to forgo life-sustaining treatment to the attending physician and one adult witness who is at least 18 years of age. This decision and the substance of any known discussion before making the decision shall be documented by the attending physician in the patient's medical record and signed by the witness.

(e) The existence of a qualifying condition shall be documented in writing in the patient's medical record by the attending physician and shall include its cause and nature, if known. The written concurrence of another qualified physician is also required.

(f) Once the provisions of this Act are complied with, the attending physician shall thereafter promptly implement the decision to forgo life-sustaining treatment on behalf of the patient unless he or she believes that the surrogate decision maker is not acting in accordance with his or her responsibilities under this Act, or is unable to do so for reasons of conscience or other personal views or beliefs.

(g) In the event of a patient's death as determined by a physician, all life-sustaining treatment and other medical care is to be terminated, unless the patient is an organ donor, in which case appropriate organ donation treatment may be applied or continued temporarily.

(Source: P.A. 93-794, eff. 7-22-04.)

Section 177. The Consumer Fraud and Deceptive Business Practices Act is amended by changing Section 2BBB as follows:

(815 ILCS 505/2BBB)

Sec. 2BBB. Long term care or ID/DD ~~MR/DD~~ facility; Consumer Choice Information Report. A long term care facility that fails to comply with Section 2-214 of the Nursing Home Care Act or a facility that fails to comply with Section 2-214 of the ID/DD ~~MR/DD~~ Community Care Act commits an unlawful practice within the meaning of this Act.

(Source: P.A. 95-823, eff. 1-1-09; 96-328, eff. 8-11-09; 96-339, eff. 7-1-10.)