

**SENATE JOURNAL****STATE OF ILLINOIS****NINETY-THIRD GENERAL ASSEMBLY****47TH LEGISLATIVE DAY****FRIDAY, MAY 16, 2003****9:00 O'CLOCK A.M.**

The Senate met pursuant to adjournment.

Senator Louis S. Viverito, Burbank, Illinois, presiding.

Prayer by Cook County Circuit Court Judge Peter Felice, Country Side, Illinois.

Senator Link led the Senate in the Pledge of Allegiance.

2003 Senator Woolard moved that reading and approval of the Journals of Wednesday, May 14, and Thursday, May 15, 2003 be postponed pending arrival of the printed Journals.

The motion prevailed.

**LEGISLATIVE MEASURES FILED**

The following Floor amendments to the House Bills listed below have been filed with the Secretary, and referred to the Committee on Rules:

Senate Floor Amendment No. 1 to House Bill 920

Senate Floor Amendment No. 2 to House Bill 1482

Senate Floor Amendment No. 2 to House Bill 2345

**JOINT ACTION MOTIONS FILED**

The following Joint Action Motions to the Senate Bills listed below have been filed with the Secretary and referred to the Committee on Rules:

Motion to Concur in House Amendment 1 to Senate Bill 59

Motion to Concur in House Amendment 1 to Senate Bill 105

Motion to Concur in House Amendment 1 to Senate Bill 125

Motion to Concur in House Amendment 1 to Senate Bill 263

Motion to Concur in House Amendments 1 and 2 to Senate Bill 319

Motion to Concur in House Amendment 1 to Senate Bill 332

Motion to Concur in House Amendment 1 to Senate Bill 680

Motion to Concur in House Amendment 1 to Senate Bill 698

Motion to Concur in House Amendment 1 to Senate Bill 886

**PRESENTATION OF RESOLUTIONS**

**SENATE RESOLUTION 158**

Offered by Senators Demuzio, E. Jones and all Senators  
Mourns the death of Robert E. Woods of Carlinville.

By unanimous consent, the foregoing resolutions were referred to the Resolutions Consent Calendar.

At the hour of 9:13 o'clock a.m., Senator Welch presiding.

**HOUSE BILL RECALLED**

On motion of Senator Crotty, **House Bill No. 43** was recalled from the order of third reading to the order of second reading.

Senator Crotty offered the following amendment and moved its adoption:

**AMENDMENT NO. 3**

AMENDMENT NO. 3. Amend House Bill 43, AS AMENDED, with reference to page and line numbers of Senate Amendment No. 2, on page 47, between lines 10 and 11, by inserting the following:

"(e) This Section does not apply to a public hospital."

The motion prevailed.

And the amendment was adopted, and ordered printed.

There being no further amendments, the bill, as amended, was ordered to a third reading.

**READING BILL FROM THE HOUSE OF REPRESENTATIVES A THIRD TIME**

On motion of Senator Crotty, **House Bill No. 43**, having been printed as received from the House of Representatives, together with all Senate Amendments adopted thereto, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

Yeas 32; Nays 23; Present 2.

The following voted in the affirmative:

Clayborne	Halvorson	Munoz	Viverito
Collins	Harmon	Obama	Walsh
Crotty	Hendon	Ronen	Welch
Cullerton	Hunter	Sandoval	Woolard
del Valle	Jacobs	Schoenberg	Mr. President
DeLeo	Link	Shadid	
Demuzio	Maloney	Silverstein	
Garrett	Martinez	Sullivan, D.	
Haine	Meeks	Trotter	

The following voted in the negative:

Althoff	Jones, J.	Radogno	Soden
Bomke	Jones, W.	Rauschenberger	Sullivan, J.
Brady	Lauzen	Righter	Syverson
Burzynski	Luechtefeld	Roskam	Watson
Cronin	Peterson	Rutherford	Winkel
Dillard	Petka	Sieben	

The following voted present:

Lightford  
Risinger

This bill, having received the vote of constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the title be as aforesaid, and that the Secretary inform the House of Representatives thereof and ask their concurrence in the Senate Amendments adopted thereto.

### COMMITTEE MEETING ANNOUNCEMENT

Senator Cullerton, Co-Chairperson of the Committee on Judiciary announced that the Judiciary Committee will meet Friday, May 16, 2003 in Room 400 Capitol, at 10:30 o'clock a.m..

### READING OF BILLS FROM THE HOUSE OF REPRESENTATIVES A THIRD TIME

On motion of Senator Obama, **House Bill No. 6**, having been printed as received from the House of Representatives, together with all Senate Amendments adopted thereto, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

Yeas 58; Nays None.

The following voted in the affirmative:

Althoff	Haine	Munoz	Silverstein
Bomke	Halvorson	Obama	Soden
Brady	Harmon	Peterson	Sullivan, D.
Burzynski	Hendon	Petka	Sullivan, J.
Clayborne	Hunter	Radogno	Syverson
Collins	Jacobs	Rauschenberger	Trotter
Cronin	Jones, J.	Righter	Viverito
Crotty	Jones, W.	Risinger	Walsh
Cullerton	Lauzen	Ronen	Watson
del Valle	Lightford	Roskam	Welch
DeLeo	Link	Rutherford	Winkel
Demuzio	Luechtefeld	Sandoval	Woolard
Dillard	Maloney	Schoenberg	Mr. President
Garrett	Martinez	Shadid	
Geo-Karis	Meeks	Sieben	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof.

On motion of Senator Schoenberg, **House Bill No. 44**, having been printed as received from the House of Representatives, together with all Senate Amendments adopted thereto, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

Yeas 58; Nays None.

The following voted in the affirmative:

Althoff	Haine	Munoz	Soden
Bomke	Halvorson	Obama	Sullivan, D.
Brady	Harmon	Peterson	Sullivan, J.
Burzynski	Hendon	Petka	Syverson
Clayborne	Hunter	Radogno	Trotter
Collins	Jacobs	Righter	Viverito
Cronin	Jones, J.	Risinger	Walsh
Crotty	Jones, W.	Ronen	Watson

Cullerton	Lauzen	Roskam	Welch
del Valle	Lightford	Rutherford	Winkel
DeLeo	Link	Sandoval	Wojcik
Demuzio	Luechtefeld	Schoenberg	Woolard
Dillard	Maloney	Shadid	Mr. President
Garrett	Martinez	Sieben	
Geo-Karis	Meeks	Silverstein	

This bill, having received the vote of constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the title be as aforesaid, and that the Secretary inform the House of Representatives thereof and ask their concurrence in the Senate Amendment adopted thereto.

On motion of Senator Trotter, **House Bill No. 88**, having been printed as received from the House of Representatives, together with all Senate Amendments adopted thereto, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

Yeas 59; Nays None.

The following voted in the affirmative:

Althoff	Haine	Munoz	Silverstein
Bomke	Halvorson	Obama	Soden
Brady	Harmon	Peterson	Sullivan, D.
Burzynski	Hendon	Petka	Sullivan, J.
Clayborne	Hunter	Radogno	Syverson
Collins	Jacobs	Rauschenberger	Trotter
Cronin	Jones, J.	Righter	Viverito
Crotty	Jones, W.	Risinger	Walsh
Cullerton	Lauzen	Ronen	Watson
del Valle	Lightford	Roskam	Welch
DeLeo	Link	Rutherford	Winkel
Demuzio	Luechtefeld	Sandoval	Wojcik
Dillard	Maloney	Schoenberg	Woolard
Garrett	Martinez	Shadid	Mr. President
Geo-Karis	Meeks	Sieben	

This bill, having received the vote of constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the title be as aforesaid, and that the Secretary inform the House of Representatives thereof and ask their concurrence in the Senate Amendment adopted thereto.

On motion of Senator Martinez, **House Bill No. 211**, having been printed as received from the House of Representatives, together with all Senate Amendments adopted thereto, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

Yeas 34; Nays 23; Present 1.

The following voted in the affirmative:

Althoff	Geo-Karis	Meeks	Shadid
Clayborne	Halvorson	Munoz	Silverstein
Collins	Harmon	Obama	Syverson
Crotty	Hendon	Radogno	Trotter
Cullerton	Hunter	Rauschenberger	Viverito
del Valle	Jacobs	Risinger	Welch
DeLeo	Lightford	Ronen	Mr. President

Dillard	Link	Sandoval
Garrett	Martinez	Schoenberg

The following voted in the negative:

Bomke	Jones, W.	Righter	Sullivan, J.
Brady	Lauzen	Roskam	Walsh
Burzynski	Luechtefeld	Rutherford	Watson
Cronin	Maloney	Sieben	Winkel
Demuzio	Peterson	Soden	Woolard
Haine	Petka	Sullivan, D.	

The following voted present:

Wojcik

This bill, having received the vote of constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the title be as aforesaid, and that the Secretary inform the House of Representatives thereof and ask their concurrence in the Senate Amendment adopted thereto.

On motion of Senator Walsh, **House Bill No. 264**, having been printed as received from the House of Representatives, together with all Senate Amendments adopted thereto, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

Yeas 59; Nays None.

The following voted in the affirmative:

Althoff	Haine	Munoz	Silverstein
Bomke	Halvorson	Obama	Soden
Brady	Harmon	Peterson	Sullivan, D.
Burzynski	Hendon	Petka	Sullivan, J.
Clayborne	Hunter	Radogno	Syverson
Collins	Jacobs	Rauschenberger	Trotter
Cronin	Jones, J.	Righter	Viverito
Crotty	Jones, W.	Risinger	Walsh
Cullerton	Lauzen	Ronen	Watson
del Valle	Lightford	Roskam	Welch
DeLeo	Link	Rutherford	Winkel
Demuzio	Luechtefeld	Sandoval	Wojcik
Dillard	Maloney	Schoenberg	Woolard
Garrett	Martinez	Shadid	Mr. President
Geo-Karis	Meeks	Sieben	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof.

At the hour of 10:30 o'clock a.m., the Chair announced that the Senate stand at recess subject to the call of the Chair.

#### AFTER RECESS

At the hour of 11:05 o'clock a.m., the Senate resumed consideration of business. Senator Welch, presiding.

#### REPORT FROM STANDING COMMITTEE

Senators Cullerton and Dillard, Co-Chairpersons of the Committee on Judiciary to which was referred the following Senate floor amendment reported that the Committee recommends that it be approved for consideration:

Senate Amendment No. 5 to House Bill 1281

Under the rules, the foregoing floor amendment is eligible for consideration on second reading.

### MESSAGE FROM THE GOVERNOR

Message for the Governor by Joseph B. Handley  
Deputy Chief of Staff for Legislative Affairs

May 16, 2003

Mr. President,

The Governor directs me to lay before the Senate the following Message:

#### STATE OF ILLINOIS EXECUTIVE DEPARTMENT

To the Honorable  
Members of the Senate  
Ninety-Third General Assembly

I have nominated and appointed the following named persons to the offices enumerated below and respectfully ask concurrence in and confirmation of these appointments of your Honorable body.

#### **EMPLOYMENT SECURITY REVIEW BOARD, DEPARTMENT OF**

To be Member of the Department of Employment Security Review Board for a term commencing May 12, 2003, and ending January 12, 2005:

J. Hunt Bonan of McLeansboro  
Salaried

#### **HUMAN RIGHTS COMMISSION**

To be Member of the Human Rights Commission for a term commencing May 12, 2003, and ending January 15, 2007:

Marti Baricevic of Fairview Heights  
Salaried

#### **HUMAN RIGHTS COMMISSION**

To be Member of the Human Rights Commission for a term commencing May 12, 2003, and ending January 15, 2007:

David Chang of Chicago  
Salaried

#### **HUMAN SERVICES, DEPARTMENT OF**

To be Assistant Secretary of the Department of Human Services for a term commencing June 1, 2003, and ending January 17, 2005:

Grace B. Hou of LaGrange Park  
Salaried

**BI-STATE DEVELOPMENT AGENCY, ILLINOIS & MISSOURI**

To be a Member of the Illinois and Missouri Bi-State Development Agency for a term commencing May 12, 2003, and ending January 21, 2008:

Jeffrey K. Watson of Belleville  
Non-Salaried

**HIGHER EDUCATION, BOARD OF**

To be a Member of the Board of Higher Education for a term commencing May 16, 2003, and ending January 31, 2009:

Thomas R. Lamont of Springfield.  
Non-Salaried

**UNIVERSITY OF ILLINOIS BOARD OF TRUSTEES**

To be a Member of the University of Illinois Board of Trustees for a term commencing May 5, 2003, and ending January 10, 2005:

Frances G. Carroll of Chicago  
Non-Salaried

Rod Blagojevich  
GOVERNOR

Under the rules, the foregoing Message was referred to the Committee on Executive Appointments.

**PRESENTATION OF RESOLUTIONS**

Senator Silverstein offered the following Senate Joint Resolution, which was referred to the Committee on Rules:

**SENATE JOINT RESOLUTION NO. 35**

WHEREAS, Lynn Frances Hirsch was born on December 10, 1949 with a severe health condition; her mother, Diane Hirsch, took her to the Mayo Clinic only to receive the devastating news that her daughter would not live past the age of 13; and

WHEREAS, With great optimism, courage and determination, Lynn was blessed with 37 more years; throughout her 50 years of life, she remained a kind, caring, thoughtful, and courageous person, never letting her health problems take over her life; and

WHEREAS, Lynn Hirsch would routinely cross the Lincoln Avenue Bridge in Chicago on her way to her doctor appointments, however, each time she crossed the bridge she would experience excruciating pain in her back due to the rough surface of the roadway; it was her dream to see a new bridge built, but unfortunately she passed away before its completion; therefore, be it

RESOLVED, BY THE SENATE OF THE NINETY-THIRD GENERAL ASSEMBLY OF THE STATE OF ILLINOIS, THE HOUSE OF REPRESENTATIVES CONCURRING HEREIN, that we urge the Illinois Department of Transportation and the City of Chicago to erect, at suitable locations consistent with State and Federal Regulations, a plaque on the Lincoln Avenue Bridge in Chicago in the memory of Lynn Frances Hirsch in recognition of her never-ending courage, optimism and human spirit that she displayed during her life despite her medical condition; and be it further

RESOLVED, That suitable copies of this resolution be presented to Diane Hirsch, the City of Chicago, and the Secretary of Transportation.

**SENATE RESOLUTION 159**

Offered by Senators Martinez and all Senators  
Mourns the death of Maria Rios of Chicago.

By unanimous consent, the foregoing resolutions were referred to the Resolutions Consent Calendar.

**MESSAGE FROM THE HOUSE**

A message from the House by  
Mr. Rossi, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has adopted the following joint resolution, in the adoption of which I am instructed to ask the concurrence of the Senate, to-wit:

**HOUSE JOINT RESOLUTION NO. 12**

WHEREAS, The presence of mold in indoor environments presents a public health risk to the citizens of Illinois; and

WHEREAS, Mold in schools, places of employment, and homes has been shown to adversely affect the health of Illinois' children and senior citizens; and

WHEREAS, The adverse health effects of exposure to molds on the general population and the specific effects of mold on certain subpopulations, including infants, children, the elderly, pregnant women, asthmatics, allergic individuals, immune-compromised individuals, and others are resulting in illness and increased medical costs; and

WHEREAS, The United States Environmental Protection Agency has promulgated advisory standards relating to permissible levels of mold in indoor environments; and

WHEREAS, The State of California has passed an Act regulating mold in indoor environments, including residential homes and places of employment; and

WHEREAS, The Department of Health of the City of New York has also adopted standards regulating mold exposure; and

WHEREAS, Insurance costs in the State of Texas and other states have risen dramatically due to claims relating to mold in homes, businesses, and schools; therefore, be it

RESOLVED, BY THE HOUSE OF REPRESENTATIVES OF THE NINETY-THIRD GENERAL ASSEMBLY OF THE STATE OF ILLINOIS, THE SENATE CONCURRING HEREIN, that there is created a Joint Task Force on Mold in Indoor Environments for the purpose of examining the mold issue in Illinois and making recommendations to the General Assembly pertaining to the regulation of mold in indoor environments in Illinois; and be it further

RESOLVED, That the Joint Task Force on Mold in Indoor Environments shall be comprised as follows: 2 co-chairpersons, each a member of the General Assembly appointed one each by the Speaker of the House and the President of the Senate; 2 spokespersons, each a member of the General Assembly appointed one each by the Minority Leader of the House and the Minority Leader of the Senate; the Director of Public Health, or his or her designee; and the Director of the Illinois Environmental Protection Agency, or his or her designee; and be it further

RESOLVED, That the co-chairpersons shall appoint the remaining members, which shall not exceed 15 and shall represent the following: local health authorities; medical experts on the health effects of molds; school districts; realtors; the insurance industry; abatement contractors; abatement consultants; certified industrial hygienists; licensed environmental health practitioners; representatives of employers; representatives of employees; tenants organizations; building owner organizations; and any other interested parties; and be it further

RESOLVED, That the Joint Task Force members shall serve on a voluntary basis and shall be responsible for any costs associated with their participation in the Joint Task Force; and be it further

RESOLVED, That the Joint Task Force shall meet at least quarterly and shall summarize its findings and recommendations in a report to the General Assembly no later than June 1, 2004.

Adopted by the House, May 14, 2003.

ANTHONY D. ROSSI, Clerk of the House

The foregoing message from the House of Representatives, reporting House Joint Resolution No. 12, was referred to the Committee on Rules.

**READING BILL FROM THE HOUSE OF REPRESENTATIVES A THIRD TIME**

On motion of Senator Trotter, **House Bill No. 294**, having been printed as received from the House of Representatives, together with all Senate Amendments adopted thereto, was taken up and read by title a third time.



And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

Yeas 59; Nays None.

The following voted in the affirmative:

Althoff	Haine	Munoz	Silverstein
Bomke	Halvorson	Obama	Soden
Brady	Harmon	Peterson	Sullivan, D.
Burzynski	Hendon	Petka	Sullivan, J.
Clayborne	Hunter	Radogno	Syverson
Collins	Jacobs	Rauschenberger	Trotter
Cronin	Jones, J.	Righter	Viverito
Crotty	Jones, W.	Risinger	Walsh
Cullerton	Lauzen	Ronen	Watson
del Valle	Lightford	Roskam	Welch
DeLeo	Link	Rutherford	Winkel
Demuzio	Luechtefeld	Sandoval	Wojcik
Dillard	Maloney	Schoenberg	Woolard
Garrett	Martinez	Shadid	Mr. President
Geo-Karis	Meeks	Sieben	

This bill, having received the vote of constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the title be as aforesaid, and that the Secretary inform the House of Representatives thereof and ask their concurrence in the Senate Amendment adopted thereto.

#### HOUSE BILL RECALLED

On motion of Senator Obama, **House Bill No. 467** was recalled from the order of third reading to the order of second reading.

Senator Obama offered the following amendment and moved its adoption:

#### AMENDMENT NO. 1

AMENDMENT NO. 1. Amend House Bill 467 on page 3, below line 17, by inserting the following:

"For the purpose of this subsection (i), the term "person operating a terminal" means the person who has control over and is responsible for a terminal. The term "person operating a terminal" does not mean the person who owns or controls the property or building in which a terminal is located, unless he or she also has control over and is responsible for the terminal."

The motion prevailed.

And the amendment was adopted, and ordered printed.

There being no further amendments, the bill, as amended, was ordered to a third reading.

#### READING BILLS FROM THE HOUSE OF REPRESENTATIVES A THIRD TIME

On motion of Senator Obama, **House Bill No. 467**, having been printed as received from the House of Representatives, together with all Senate Amendments adopted thereto, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

Yeas 30; Nays 26; Present 2.

The following voted in the affirmative:

Clayborne	Harmon	Meeks	Trotter
Collins	Hendon	Munoz	Viverito
Crotty	Hunter	Obama	Walsh

Cullerton	Jacobs	Ronen	Welch
del Valle	Lightford	Sandoval	Woolard
DeLeo	Link	Schoenberg	Mr. President
Demuzio	Maloney	Shadid	
Halvorson	Martinez	Silverstein	

The following voted in the negative:

Althoff	Jones, W.	Righter	Sullivan, J.
Bomke	Lauzen	Risinger	Syverson
Brady	Luechtefeld	Roskam	Watson
Burzynski	Peterson	Rutherford	Winkel
Cronin	Petka	Sieben	Wojcik
Dillard	Radogno	Soden	
Jones, J.	Rauschenberger	Sullivan, D.	

The following voted present:

Garrett  
Geo-Karis

This roll call verified.

This bill, having received the vote of constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the title be as aforesaid, and that the Secretary inform the House of Representatives thereof and ask their concurrence in the Senate Amendment adopted thereto.

On motion of Senator Cullerton, **House Bill No. 469**, having been printed as received from the House of Representatives, together with all Senate Amendments adopted thereto, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

Yeas 59; Nays None.

The following voted in the affirmative:

Althoff	Haine	Munoz	Silverstein
Bomke	Halvorson	Obama	Soden
Brady	Harmon	Peterson	Sullivan, D.
Burzynski	Hendon	Petka	Sullivan, J.
Clayborne	Hunter	Radogno	Syverson
Collins	Jacobs	Rauschenberger	Trotter
Cronin	Jones, J.	Righter	Viverito
Crotty	Jones, W.	Risinger	Walsh
Cullerton	Lauzen	Ronen	Watson
del Valle	Lightford	Roskam	Welch
DeLeo	Link	Rutherford	Winkel
Demuzio	Luechtefeld	Sandoval	Wojcik
Dillard	Maloney	Schoenberg	Woolard
Garrett	Martinez	Shadid	Mr. President
Geo-Karis	Meeks	Sieben	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof.

On motion of Senator Schoenberg, **House Bill No. 414**, having been printed as received from the House of Representatives, together with all Senate Amendments adopted thereto, was taken up and read by title a third time.

And the question being, “Shall this bill pass?” it was decided in the affirmative by the following vote:

Yeas 57; Nays None.

The following voted in the affirmative:

Althoff	Haine	Munoz	Soden
Bomke	Halvorson	Obama	Sullivan, D.
Brady	Harmon	Peterson	Sullivan, J.
Burzynski	Hendon	Petka	Trotter
Clayborne	Hunter	Radogno	Viverito
Collins	Jacobs	Righter	Walsh
Cronin	Jones, J.	Risinger	Watson
Crotty	Jones, W.	Ronen	Welch
Cullerton	Laufen	Roskam	Winkel
del Valle	Lightford	Rutherford	Wojcik
DeLeo	Link	Sandoval	Woolard
Demuzio	Luechtefeld	Schoenberg	Mr. President
Dillard	Maloney	Shadid	
Garrett	Martinez	Sieben	
Geo-Karis	Meeks	Silverstein	

This bill, having received the vote of constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the title be as aforesaid, and that the Secretary inform the House of Representatives thereof and ask their concurrence in the Senate Amendment adopted thereto.

On motion of Senator Dillard, **House Bill No. 558**, having been printed as received from the House of Representatives, together with all Senate Amendments adopted thereto, was taken up and read by title a third time.

And the question being, “Shall this bill pass?” it was decided in the affirmative by the following vote:

Yeas 58; Nays None.

The following voted in the affirmative:

Althoff	Haine	Munoz	Soden
Bomke	Halvorson	Peterson	Sullivan, D.
Brady	Harmon	Petka	Sullivan, J.
Burzynski	Hendon	Radogno	Syverson
Clayborne	Hunter	Rauschenberger	Trotter
Collins	Jacobs	Righter	Viverito
Cronin	Jones, J.	Risinger	Walsh
Crotty	Jones, W.	Ronen	Watson
Cullerton	Laufen	Roskam	Welch
del Valle	Lightford	Rutherford	Winkel
DeLeo	Link	Sandoval	Wojcik
Demuzio	Luechtefeld	Schoenberg	Woolard
Dillard	Maloney	Shadid	Mr. President
Garrett	Martinez	Sieben	
Geo-Karis	Meeks	Silverstein	

This bill, having received the vote of constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the title be as aforesaid, and that the Secretary inform the House of Representatives thereof and ask their concurrence in the Senate Amendment adopted thereto.

#### READING BILLS FROM THE HOUSE OF REPRESENTATIVES A SECOND TIME

On motion of Senator Hunter **House Bill No. 560** was recalled from the order of third reading to the order of second reading.

Senator Hunter offered the following amendment and moved its adoption:

**AMENDMENT NO. 3**

AMENDMENT NO. 3. Amend House Bill 560, AS AMENDED, with reference to the page and line numbers of Senate Amendment No. 1, as follows:  
on page 4, line 33, by inserting "and the person committing the battery is not a participant, coach, or sports official", after "facility".

The motion prevailed.

And the amendment was adopted, and ordered printed.

There being no further amendments, the bill, as amended, was ordered to a third reading.

**READING BILLS FROM THE HOUSE OF REPRESENTATIVES A THIRD TIME**

On motion of Senator Hunter, **House Bill No. 560**, having been printed as received from the House of Representatives, together with all Senate Amendments adopted thereto, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

Yeas 57; Nays None.

The following voted in the affirmative:

Althoff	Haine	Obama	Sullivan, D.
Bomke	Halvorson	Peterson	Sullivan, J.
Brady	Harmon	Petka	Syverson
Burzynski	Hendon	Rauschenberger	Trotter
Clayborne	Hunter	Righter	Viverito
Collins	Jacobs	Risinger	Walsh
Cronin	Jones, J.	Ronen	Watson
Crotty	Jones, W.	Roskam	Welch
Cullerton	Lauzen	Rutherford	Winkel
del Valle	Lightford	Sandoval	Wojcik
DeLeo	Link	Schoenberg	Woolard
Demuzio	Maloney	Shadid	Mr. President
Dillard	Martinez	Sieben	
Garrett	Meeks	Silverstein	
Geo-Karis	Munoz	Soden	

This bill, having received the vote of constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the title be as aforesaid, and that the Secretary inform the House of Representatives thereof and ask their concurrence in the Senate Amendments adopted thereto.

On motion of Senator Cullerton, **House Bill No. 564**, having been printed as received from the House of Representatives, together with all Senate Amendments adopted thereto, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

Yeas 57; Nays None.

The following voted in the affirmative:

Althoff	Haine	Obama	Soden
Bomke	Halvorson	Peterson	Sullivan, D.
Brady	Harmon	Petka	Sullivan, J.
Burzynski	Hendon	Radogno	Syverson

Clayborne	Hunter	Rauschenberger	Trotter
Collins	Jacobs	Righter	Walsh
Cronin	Jones, J.	Risinger	Watson
Crotty	Jones, W.	Ronen	Welch
Cullerton	Laufen	Roskam	Winkel
del Valle	Link	Rutherford	Wojcik
DeLeo	Luechtefeld	Sandoval	Woolard
Demuzio	Maloney	Schoenberg	Mr. President
Dillard	Martinez	Shadid	
Garrett	Meeks	Sieben	
Geo-Karis	Munoz	Silverstein	

This bill, having received the vote of constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the title be as aforesaid, and that the Secretary inform the House of Representatives thereof and ask their concurrence in the Senate Amendment adopted thereto.

At the hour of 11:53 o'clock a.m., Senator Hendon presiding.

On motion of Senator Welch, **House Bill No. 570**, having been printed as received from the House of Representatives, together with all Senate Amendments adopted thereto, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

Yeas 59; Nays None.

The following voted in the affirmative:

Althoff	Haine	Munoz	Silverstein
Bomke	Halvorson	Obama	Soden
Brady	Harmon	Peterson	Sullivan, D.
Burzynski	Hendon	Petka	Sullivan, J.
Clayborne	Hunter	Radogno	Syverson
Collins	Jacobs	Rauschenberger	Trotter
Cronin	Jones, J.	Righter	Viverito
Crotty	Jones, W.	Risinger	Walsh
Cullerton	Laufen	Ronen	Watson
del Valle	Lightford	Roskam	Welch
DeLeo	Link	Rutherford	Winkel
Demuzio	Luechtefeld	Sandoval	Wojcik
Dillard	Maloney	Schoenberg	Woolard
Garrett	Martinez	Shadid	Mr. President
Geo-Karis	Meeks	Sieben	

This bill, having received the vote of constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the title be as aforesaid, and that the Secretary inform the House of Representatives thereof and ask their concurrence in the Senate Amendment adopted thereto.

On motion of Senator Welch, **House Bill No. 430**, having been printed as received from the House of Representatives, together with all Senate Amendments adopted thereto, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

Yeas 59; Nays None.

The following voted in the affirmative:

Althoff	Haine	Munoz	Silverstein
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Bomke	Halvorson	Obama	Soden
Brady	Harmon	Peterson	Sullivan, D.
Burzynski	Hendon	Petka	Sullivan, J.
Clayborne	Hunter	Radogno	Syverson
Collins	Jacobs	Rauschenberger	Trotter
Cronin	Jones, J.	Righter	Viverito
Crotty	Jones, W.	Risinger	Walsh
Cullerton	Lauzen	Ronen	Watson
del Valle	Lightford	Roskam	Welch
DeLeo	Link	Rutherford	Winkel
Demuzio	Luechtefeld	Sandoval	Wojcik
Dillard	Maloney	Schoenberg	Woolard
Garrett	Martinez	Shadid	Mr. President
Geo-Karis	Meeks	Sieben	

This bill, having received the vote of constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the title be as aforesaid, and that the Secretary inform the House of Representatives thereof and ask their concurrence in the Senate Amendments adopted thereto.

### HOUSE BILL RECALLED

On motion of Senator Welch, **House Bill No. 563** was recalled from the order of third reading to the order of second reading.

Senator Welch offered the following amendment and moved its adoption:

#### AMENDMENT NO. 2

AMENDMENT NO. 2. Amend House Bill 563 by replacing everything after the enacting clause with the following:

"Section 5. If and only if House Bill 2526 of the 93rd General Assembly becomes law, the Code of Criminal Procedure of 1963 is amended by changing Section 115-10.2 as follows:

(725 ILCS 5/115-10.2)

Sec. 115-10.2. Admissibility of prior statements when witness refused to testify despite a court order to testify.

(a) A statement not specifically covered by any other hearsay exception but having equivalent circumstantial guarantees of trustworthiness, is not excluded by the hearsay rule if the declarant is unavailable as defined in subsection (c) and if the court determines that:

(1) the statement is offered as evidence of a material fact; and

(2) the statement is more probative on the point for which it is offered than any other evidence which the proponent can procure through reasonable efforts; and

(3) the general purposes of this Section and the interests of justice will best be served by admission of the statement into evidence.

(b) A statement may not be admitted under this exception unless the proponent of it makes known to the adverse party sufficiently in advance of the trial or hearing to provide the adverse party with a fair opportunity to prepare to meet it, the proponent's intention to offer the statement, and the particulars of the statement, including the name and address of the declarant.

(c) Unavailability as a witness is limited to the situation in which the declarant persists in refusing to testify concerning the subject matter of the declarant's statement despite an order of the court to do so. Unavailability as a witness includes circumstances in which the declarant:

~~(1) is exempted by ruling of the court on the ground of privilege from testifying concerning the subject matter of the declarant's statement; or~~

~~(2) persists in refusing to testify concerning the subject matter of the declarant's statement despite an order of the court to do so; or~~

~~(3) testifies to a lack of memory of the subject matter of the declarant's statement; or~~

~~(4) is unable to be present or to testify at the hearing because of health or then existing physical or mental illness or infirmity; or~~

~~(5) is absent from the hearing and the proponent of the statement has been unable to procure the declarant's attendance by process or other reasonable means; or~~

~~(6) is a crime victim as defined in Section 3 of the Rights of Crime Victims and Witnesses Act and the failure of the declarant to testify is caused by the defendant's intimidation of the declarant as defined in Section 12-6 of the Criminal Code of 1961.~~

(d) A declarant is not unavailable as a witness if exemption, refusal, claim or lack of memory, inability or absence is due to the procurement or wrongdoing of the proponent of a statement for purpose of preventing the witness from attending or testifying.

(e) Nothing in this Section shall render a prior statement inadmissible for purposes of impeachment because the statement was not recorded or otherwise fails to meet the criteria set forth in this Section. (Source: P.A. 89-689, eff. 12-31-96; 93HB2526enrolled.)

Section 10. The Code of Criminal Procedure of 1963 is amended by adding Section 115-10.2a as follows:

(725 ILCS 5/115-10.2a new)

Sec. 115-10.2a. Admissibility of prior statements in domestic violence prosecutions when the witness is unavailable to testify.

(a) In a domestic violence prosecution, a statement, made by an individual identified in Section 201 of the Illinois Domestic Violence Act of 1986 as a person protected by that Act, that is not specifically covered by any other hearsay exception but having equivalent circumstantial guarantees of trustworthiness, is not excluded by the hearsay rule if the declarant is identified as unavailable as defined in subsection (c) and if the court determines that:

(1) the statement is offered as evidence of a material fact; and

(2) the statement is more probative on the point for which it is offered than any other evidence which the proponent can procure through reasonable efforts; and

(3) the general purposes of this Section and the interests of justice will best be served by admission of the statement into evidence.

(b) A statement may not be admitted under this exception unless the proponent of it makes known to the adverse party sufficiently in advance of the trial or hearing to provide the adverse party with a fair opportunity to prepare to meet it, the proponent's intention to offer the statement, and the particulars of the statement, including the name and address of the declarant.

(c) Unavailability as a witness includes circumstances in which the declarant:

(1) is exempted by ruling of the court on the ground of privilege from testifying concerning the subject matter of the declarant's statement; or

(2) persists in refusing to testify concerning the subject matter of the declarant's statement despite an order of the court to do so; or

(3) testifies to a lack of memory of the subject matter of the declarant's statement; or

(4) is unable to be present or to testify at the hearing because of health or then existing physical or mental illness or infirmity; or

(5) is absent from the hearing and the proponent of the statement has been unable to procure the declarant's attendance by process or other reasonable means; or

(6) is a crime victim as defined in Section 3 of the Rights of Crime Victims and Witnesses Act and the failure of the declarant to testify is caused by the defendant's intimidation of the declarant as defined in Section 12-6 of the Criminal Code of 1961.

(d) A declarant is not unavailable as a witness if exemption, refusal, claim of lack of memory, inability, or absence is due to the procurement or wrongdoing of the proponent of a statement for purpose of preventing the witness from attending or testifying.

(e) Nothing in this Section shall render a prior statement inadmissible for purposes of impeachment because the statement was not recorded or otherwise fails to meet the criteria set forth in this Section.

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

The motion prevailed.

And the amendment was adopted, and ordered printed.

There being no further amendments, the bill, as amended, was ordered to a third reading.

### **READING BILL FROM THE HOUSE OF REPRESENTATIVES A THIRD TIME**

On motion of Senator Welch, **House Bill No. 563**, having been printed as received from the House of Representatives, together with all Senate Amendments adopted thereto, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

Yeas 58; Nays None.

The following voted in the affirmative:

Althoff	Haine	Munoz	Soden
Bomke	Halvorson	Obama	Sullivan, D.
Brady	Harmon	Peterson	Sullivan, J.
Burzynski	Hendon	Petka	Syverson
Clayborne	Hunter	Rauschenberger	Trotter
Collins	Jacobs	Richter	Viverito
Cronin	Jones, J.	Risinger	Walsh
Crotty	Jones, W.	Ronen	Watson
Cullerton	Lauzen	Roskam	Welch
del Valle	Lightford	Rutherford	Winkel
DeLeo	Link	Sandoval	Wojcik
Demuzio	Luechtefeld	Schoenberg	Woolard
Dillard	Maloney	Shadid	Mr. President
Garrett	Martinez	Sieben	
Geo-Karis	Meeks	Silverstein	

This bill, having received the vote of constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the title be as aforesaid, and that the Secretary inform the House of Representatives thereof and ask their concurrence in the Senate Amendment adopted thereto.

#### HOUSE BILL RECALLED

On motion of Senator Harmon, **House Bill No. 571** was recalled from the order of third reading to the order of second reading.

Senator Harmon offered the following amendment and moved its adoption:

#### AMENDMENT NO. 3

AMENDMENT NO. 3. Amend House Bill 571 by replacing everything after the enacting clause with the following:

"Section 5. The Unified Code of Corrections is amended by changing Section 5-5-3 as follows:  
(730 ILCS 5/5-5-3) (from Ch. 38, par. 1005-5-3)

Sec. 5-5-3. Disposition. (a) Every person convicted of an offense shall be sentenced as provided in this Section.

(b) The following options shall be appropriate dispositions, alone or in combination, for all felonies and misdemeanors other than those identified in subsection (c) of this Section:

(1) A period of probation.

(2) A term of periodic imprisonment.

(3) A term of conditional discharge.

(4) A term of imprisonment.

(5) An order directing the offender to clean up and repair the damage, if the offender was convicted under paragraph (h) of Section 21-1 of the Criminal Code of 1961.

(6) A fine.

(7) An order directing the offender to make restitution to the victim under Section 5-5-6 of this Code.

(8) A sentence of participation in a county impact incarceration program under Section 5-8-1.2 of this Code.

Whenever an individual is sentenced for an offense based upon an arrest for a violation of Section 11-501 of the Illinois Vehicle Code, or a similar provision of a local ordinance, and the professional evaluation recommends remedial or rehabilitative treatment or education, neither the treatment nor the education shall be the sole disposition and either or both may be imposed only in conjunction with another disposition. The court shall monitor compliance with any remedial education or treatment recommendations contained in the professional evaluation. Programs conducting alcohol or other drug evaluation or remedial education must be licensed by the Department of Human Services. However, if the individual is not a resident of Illinois, the court may accept an alcohol or other drug evaluation or remedial education program in the state of such individual's residence. Programs providing treatment must be licensed under existing applicable alcoholism and drug treatment licensure standards.

In addition to any other fine or penalty required by law, any individual convicted of a violation of



Section 11-501 of the Illinois Vehicle Code or a similar provision of local ordinance, whose operation of a motor vehicle while in violation of Section 11-501 or such ordinance proximately caused an incident resulting in an appropriate emergency response, shall be required to make restitution to a public agency for the costs of that emergency response. Such restitution shall not exceed \$500 per public agency for each such emergency response. For the purpose of this paragraph, emergency response shall mean any incident requiring a response by: a police officer as defined under Section 1-162 of the Illinois Vehicle Code; a fireman carried on the rolls of a regularly constituted fire department; and an ambulance as defined under Section ~~3.85 4.05~~ of the Emergency Medical Services (EMS) Systems Act.

Neither a fine nor restitution shall be the sole disposition for a felony and either or both may be imposed only in conjunction with another disposition.

(c) (1) When a defendant is found guilty of first degree murder the State may either seek a sentence of imprisonment under Section 5-8-1 of this Code, or where appropriate seek a sentence of death under Section 9-1 of the Criminal Code of 1961.

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

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

(B) Attempted first degree murder.

(C) A Class X felony.

(D) A violation of Section 401.1 or 407 of the Illinois Controlled Substances Act, or a violation of subdivision (c)(1) or (c)(2) of Section 401 of that Act which relates to more than 5 grams of a substance containing heroin or cocaine or an analog thereof.

(E) A violation of Section 5.1 or 9 of the Cannabis Control Act.

(F) A Class 2 or greater felony if the offender had been convicted of a Class 2 or greater felony within 10 years of the date on which the offender committed the offense for which he or she is being sentenced, except as otherwise provided in Section 40-10 of the Alcoholism and Other Drug Abuse and Dependency Act.

(G) Residential burglary, except as otherwise provided in Section 40-10 of the Alcoholism and Other Drug Abuse and Dependency Act.

(H) Criminal sexual assault, ~~except as otherwise provided in subsection (e) of this Section.~~

(I) Aggravated battery of a senior citizen.

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

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

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

(K) Vehicular hijacking.

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

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

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

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

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

(Q) A violation of Section 20-1.2 of the Criminal Code of 1961.

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

(S) A violation of Section 11-501(c-1)(3) of the Illinois Vehicle Code.

(3) A minimum term of imprisonment of not less than 5 days or 30 days of community service as may be determined by the court shall be imposed for a second violation committed within 5 years of a previous violation of Section 11-501 of the Illinois Vehicle Code or a similar provision of a local ordinance. In the case of a third or subsequent violation committed within 5 years of a previous violation of Section 11-501 of the Illinois Vehicle Code or a similar provision of a local ordinance, a minimum term of either 10 days of imprisonment or 60 days of community service shall be imposed.

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

(4.1) A minimum term of 30 consecutive days of imprisonment, 40 days of 24 hour periodic imprisonment or 720 hours of community service, as may be determined by the court, shall be imposed for a violation of Section 11-501 of the Illinois Vehicle Code during a period in which the defendant's driving privileges are revoked or suspended, where the revocation or suspension was for a violation of Section 11-501 or Section 11-501.1 of that Code.

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

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

(4.4) Except as provided in paragraph (4.5) and paragraph (4.6) of this subsection (c), a minimum term of imprisonment of 30 days or 300 hours of community service, as determined by the court, shall be imposed for a third or subsequent violation of Section 6-303 of the Illinois Vehicle Code.

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

(4.6) A minimum term of imprisonment of 180 days shall be imposed for a fourth or subsequent violation of subsection (c) of Section 6-303 of the Illinois Vehicle Code.

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

(A) a period of conditional discharge;

(B) a fine;

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

(5.1) In addition to any penalties imposed under paragraph (5) of this subsection (c), and except as provided in paragraph (5.2) or (5.3), a person convicted of violating subsection (c) of Section 11-907 of the Illinois Vehicle Code shall have his or her driver's license, permit, or privileges suspended for at least 90 days but not more than one year, if the violation resulted in damage to the property of another person.

(5.2) In addition to any penalties imposed under paragraph (5) of this subsection (c), and except as provided in paragraph (5.3), a person convicted of violating subsection (c) of Section 11-907 of the Illinois Vehicle Code shall have his or her driver's license, permit, or privileges suspended for at least 180 days but not more than 2 years, if the violation resulted in injury to another person.

(5.3) In addition to any penalties imposed under paragraph (5) of this subsection (c), a person convicted of violating subsection (c) of Section 11-907 of the Illinois Vehicle Code shall have his or her driver's license, permit, or privileges suspended for 2 years, if the violation resulted in the death of another person.

(6) In no case shall an offender be eligible for a disposition of probation or conditional discharge for a Class 1 felony committed while he was serving a term of probation or conditional discharge for a felony.

(7) When a defendant is adjudged a habitual criminal under Article 33B of the Criminal Code of 1961, the court shall sentence the defendant to a term of natural life imprisonment.

(8) When a defendant, over the age of 21 years, is convicted of a Class 1 or Class 2 felony, after having twice been convicted in any state or federal court of an offense that contains the same elements as an offense now classified in Illinois as a Class 2 or greater Class felony and such charges are separately brought and tried and arise out of different series of acts, such defendant shall be sentenced as a Class X offender. This paragraph shall not apply unless (1) the first felony was committed after the effective date of this amendatory Act of 1977; and (2) the second felony was committed after conviction on the first; and (3) the third felony was committed after conviction on the second. A person sentenced as a Class X offender under this paragraph is not eligible to apply for treatment as a condition of probation as provided by Section 40-10 of the Alcoholism and Other Drug Abuse and Dependency Act.

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

(10) When a person is convicted of violating Section 11-501 of the Illinois Vehicle Code or a similar provision of a local ordinance, the following penalties apply when his or her blood, breath, or urine was .16 or more based on the definition of blood, breath, or urine units in Section

11-501.2 or that person is convicted of violating Section 11-501 of the Illinois Vehicle Code while transporting a child under the age of 16:

(A) For a first violation of subsection (a) of Section 11-501, in addition to any other penalty that may be imposed under subsection (c) of Section 11-501: a mandatory minimum of 100 hours of community service and a minimum fine of \$500.

(B) For a second violation of subsection (a) of Section 11-501, in addition to any other penalty that may be imposed under subsection (c) of Section 11-501 within 10 years: a mandatory minimum of 2 days of imprisonment and a minimum fine of \$1,250.

(C) For a third violation of subsection (a) of Section 11-501, in addition to any other penalty that may be imposed under subsection (c) of Section 11-501 within 20 years: a mandatory minimum of 90 days of imprisonment and a minimum fine of \$2,500.

(D) For a fourth or subsequent violation of subsection (a) of Section 11-501: ineligibility for a sentence of probation or conditional discharge and a minimum fine of \$2,500.

(d) In any case in which a sentence originally imposed is vacated, the case shall be remanded to the trial court. The trial court shall hold a hearing under Section 5-4-1 of the Unified Code of Corrections which may include evidence of the defendant's life, moral character and occupation during the time since the original sentence was passed. The trial court shall then impose sentence upon the defendant. The trial court may impose any sentence which could have been imposed at the original trial subject to Section 5-5-4 of the Unified Code of Corrections. If a sentence is vacated on appeal or on collateral attack due to the failure of the trier of fact at trial to determine beyond a reasonable doubt the existence of a fact (other than a prior conviction) necessary to increase the punishment for the offense beyond the statutory maximum otherwise applicable, either the defendant may be re-sentenced to a term within the range otherwise provided or, if the State files notice of its intention to again seek the extended sentence, the defendant shall be afforded a new trial.

(e) In cases where prosecution for ~~criminal sexual assault or~~ aggravated criminal sexual abuse under Section ~~12-13 or~~ 12-16 of the Criminal Code of 1961 results in conviction of a defendant who was a family member of the victim at the time of the commission of the offense, the court shall consider the safety and welfare of the victim and may impose a sentence of probation only where:

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

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

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

(i) removal from the household;

(ii) restricted contact with the victim;

(iii) continued financial support of the family;

(iv) restitution for harm done to the victim; and

(v) compliance with any other measures that the court may deem appropriate; and

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

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

For the purposes of this Section, "family member" and "victim" shall have the meanings ascribed to them in Section 12-12 of the Criminal Code of 1961.

(f) This Article shall not deprive a court in other proceedings to order a forfeiture of property, to suspend or cancel a license, to remove a person from office, or to impose any other civil penalty.

(g) Whenever a defendant is convicted of an offense under Sections 11-14, 11-15, 11-15.1, 11-16, 11-17, 11-18, 11-18.1, 11-19, 11-19.1, 11-19.2, 12-13, 12-14, 12-14.1, 12-15 or 12-16 of the Criminal Code of 1961, the defendant shall undergo medical testing to determine whether the defendant has any sexually transmissible disease, including a test for infection with human immunodeficiency virus (HIV) or any other identified causative agent of acquired immunodeficiency syndrome (AIDS). Any such medical test shall be performed only by appropriately licensed medical practitioners and may include an analysis of any bodily fluids as well as an examination of the defendant's person. Except as otherwise provided by law, the results of such test shall be kept strictly confidential by all medical personnel involved in the testing and must be personally delivered in a sealed envelope to the judge of the court in which the conviction was

entered for the judge's inspection in camera. Acting in accordance with the best interests of the victim and the public, the judge shall have the discretion to determine to whom, if anyone, the results of the testing may be revealed. The court shall notify the defendant of the test results. The court shall also notify the victim if requested by the victim, and if the victim is under the age of 15 and if requested by the victim's parents or legal guardian, the court shall notify the victim's parents or legal guardian of the test results. The court shall provide information on the availability of HIV testing and counseling at Department of Public Health facilities to all parties to whom the results of the testing are revealed and shall direct the State's Attorney to provide the information to the victim when possible. A State's Attorney may petition the court to obtain the results of any HIV test administered under this Section, and the court shall grant the disclosure if the State's Attorney shows it is relevant in order to prosecute a charge of criminal transmission of HIV under Section 12-16.2 of the Criminal Code of 1961 against the defendant. The court shall order that the cost of any such test shall be paid by the county and may be taxed as costs against the convicted defendant.

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

(h) Whenever a defendant is convicted of an offense under Section 1 or 2 of the Hypodermic Syringes and Needles Act, the defendant shall undergo medical testing to determine whether the defendant has been exposed to human immunodeficiency virus (HIV) or any other identified causative agent of acquired immunodeficiency syndrome (AIDS). Except as otherwise provided by law, the results of such test shall be kept strictly confidential by all medical personnel involved in the testing and must be personally delivered in a sealed envelope to the judge of the court in which the conviction was entered for the judge's inspection in camera. Acting in accordance with the best interests of the public, the judge shall have the discretion to determine to whom, if anyone, the results of the testing may be revealed. The court shall notify the defendant of a positive test showing an infection with the human immunodeficiency virus (HIV). The court shall provide information on the availability of HIV testing and counseling at Department of Public Health facilities to all parties to whom the results of the testing are revealed and shall direct the State's Attorney to provide the information to the victim when possible. A State's Attorney may petition the court to obtain the results of any HIV test administered under this Section, and the court shall grant the disclosure if the State's Attorney shows it is relevant in order to prosecute a charge of criminal transmission of HIV under Section 12-16.2 of the Criminal Code of 1961 against the defendant. The court shall order that the cost of any such test shall be paid by the county and may be taxed as costs against the convicted defendant.

(i) All fines and penalties imposed under this Section for any violation of Chapters 3, 4, 6, and 11 of the Illinois Vehicle Code, or a similar provision of a local ordinance, and any violation of the Child Passenger Protection Act, or a similar provision of a local ordinance, shall be collected and disbursed by the circuit clerk as provided under Section 27.5 of the Clerks of Courts Act.

(j) In cases when prosecution for any violation of Section 11-6, 11-8, 11-9, 11-11, 11-14, 11-15, 11-15.1, 11-16, 11-17, 11-17.1, 11-18, 11-18.1, 11-19, 11-19.1, 11-19.2, 11-20.1, 11-21, 12-13, 12-14, 12-14.1, 12-15, or 12-16 of the Criminal Code of 1961, any violation of the Illinois Controlled Substances Act, or any violation of the Cannabis Control Act results in conviction, a disposition of court supervision, or an order of probation granted under Section 10 of the Cannabis Control Act or Section 410 of the Illinois Controlled Substance Act of a defendant, the court shall determine whether the defendant is employed by a facility or center as defined under the Child Care Act of 1969, a public or private elementary or secondary school, or otherwise works with children under 18 years of age on a daily basis. When a defendant is so employed, the court shall order the Clerk of the Court to send a copy of the judgment of conviction or order of supervision or probation to the defendant's employer by certified mail. If the employer of the defendant is a school, the Clerk of the Court shall direct the mailing of a copy of the judgment of conviction or order of supervision or probation to the appropriate regional superintendent of schools. The regional superintendent of schools shall notify the State Board of Education of any notification under this subsection.

(j-5) A defendant at least 17 years of age who is convicted of a felony and who has not been previously convicted of a misdemeanor or felony and who is sentenced to a term of imprisonment in the Illinois Department of Corrections shall as a condition of his or her sentence be required by the court to attend educational courses designed to prepare the defendant for a high school diploma and to work toward a high school diploma or to work toward passing the high school level Test of

General Educational Development (GED) or to work toward completing a vocational training program offered by the Department of Corrections. If a defendant fails to complete the educational training required by his or her sentence during the term of incarceration, the Prisoner Review Board shall, as a condition of mandatory supervised release, require the defendant, at his or her own expense, to pursue a course of study toward a high school diploma or passage of the GED test. The Prisoner Review Board shall revoke the mandatory supervised release of a defendant who wilfully fails to comply with this subsection (j-5) upon his or her release from confinement in a penal institution while serving a mandatory supervised release term; however, the inability of the defendant after making a good faith effort to obtain financial aid or pay for the educational training shall not be deemed a wilful failure to comply. The Prisoner Review Board shall recommit the defendant whose mandatory supervised release term has been revoked under this subsection (j-5) as provided in Section 3-3-9. This subsection (j-5) does not apply to a defendant who has a high school diploma or has successfully passed the GED test. This subsection (j-5) does not apply to a defendant who is determined by the court to be developmentally disabled or otherwise mentally incapable of completing the educational or vocational program.

(k) A court may not impose a sentence or disposition for a felony or misdemeanor that requires the defendant to be implanted or injected with or to use any form of birth control.

(l) (A) Except as provided in paragraph (C) of subsection (l), whenever a defendant, who is an alien as defined by the Immigration and Nationality Act, is convicted of any felony or misdemeanor offense, the court after sentencing the defendant may, upon motion of the State's Attorney, hold sentence in abeyance and remand the defendant to the custody of the Attorney General of the United States or his or her designated agent to be deported when:

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

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

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

(B) If the defendant has already been sentenced for a felony or misdemeanor offense, or has been placed on probation under Section 10 of the Cannabis Control Act or Section 410 of the Illinois Controlled Substances Act, the court may, upon motion of the State's Attorney to suspend the sentence imposed, commit the defendant to the custody of the Attorney General of the United States or his or her designated agent when:

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

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

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

(D) Upon motion of the State's Attorney, if a defendant sentenced under this Section returns to the jurisdiction of the United States, the defendant shall be recommitted to the custody of the county from which he or she was sentenced. Thereafter, the defendant shall be brought before the sentencing court, which may impose any sentence that was available under Section 5-5-3 at the time of initial sentencing. In addition, the defendant shall not be eligible for additional good conduct credit for meritorious service as provided under Section 3-6-6.

(m) A person convicted of criminal defacement of property under Section 21-1.3 of the Criminal Code of 1961, in which the property damage exceeds \$300 and the property damaged is a school building, shall be ordered to perform community service that may include cleanup, removal, or painting over the defacement. (Source: P.A. 91-357, eff. 7-29-99; 91-404, eff. 1-1-00; 91-663, eff. 12-22-99; 91-695, eff. 4-13-00; 91-953, eff. 2-23-01; 92-183, eff. 7-27-01; 92-248, eff. 8-3-01; 92-283, eff. 1-1-02; 92-340, eff. 8-10-01; 92-418, eff. 8-17-01; 92-422, eff. 8-17-01; 92-651, eff. 7-11-02; 92-698, eff. 7-19-02; revised 2-17-03.)"

The motion prevailed.

And the amendment was adopted, and ordered printed.

There being no further amendments, the bill, as amended, was ordered to a third reading.

### READING BILLS FROM THE HOUSE OF REPRESENTATIVES A THIRD TIME

On motion of Senator Harmon, **House Bill No. 571**, having been printed as received from the House of Representatives, together with all Senate Amendments adopted thereto, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

Yeas 59; Nays None.

The following voted in the affirmative:

Althoff	Haine	Munoz	Silverstein
Bomke	Halvorson	Obama	Soden
Brady	Harmon	Peterson	Sullivan, D.
Burzynski	Hendon	Petka	Sullivan, J.
Clayborne	Hunter	Radogno	Syverson
Collins	Jacobs	Rauschenberger	Trotter
Cronin	Jones, J.	Righter	Viverito
Crotty	Jones, W.	Risinger	Walsh
Cullerton	Lauzen	Ronen	Watson
del Valle	Lightford	Roskam	Welch
DeLeo	Link	Rutherford	Winkel
Demuzio	Luechtefeld	Sandoval	Wojcik
Dillard	Maloney	Schoenberg	Woolard
Garrett	Martinez	Shadid	Mr. President
Geo-Karis	Meeks	Sieben	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof.

On motion of Senator Shadid, **House Bill No. 572**, having been printed as received from the House of Representatives, together with all Senate Amendments adopted thereto, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

Yeas 59; Nays None.

The following voted in the affirmative:

Althoff	Haine	Munoz	Silverstein
Bomke	Halvorson	Obama	Soden
Brady	Harmon	Peterson	Sullivan, D.
Burzynski	Hendon	Petka	Sullivan, J.
Clayborne	Hunter	Radogno	Syverson
Collins	Jacobs	Rauschenberger	Trotter
Cronin	Jones, J.	Righter	Viverito
Crotty	Jones, W.	Risinger	Walsh
Cullerton	Lauzen	Ronen	Watson
del Valle	Lightford	Roskam	Welch
DeLeo	Link	Rutherford	Winkel
Demuzio	Luechtefeld	Sandoval	Wojcik
Dillard	Maloney	Schoenberg	Woolard
Garrett	Martinez	Shadid	Mr. President
Geo-Karis	Meeks	Sieben	

This bill, having received the vote of constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the title be as aforesaid, and that the Secretary inform the House of Representatives thereof and ask their concurrence in the Senate Amendment adopted thereto.

**HOUSE BILL RECALLED**

On motion of Senator Martinez, **House Bill No. 625** was recalled from the order of third reading to the order of second reading.

Senator Martinez offered the following amendment and moved its adoption:

#### AMENDMENT NO. 1

AMENDMENT NO. 1. Amend House Bill 625 by replacing everything after the enacting clause with the following:

"Section 1. Short title. This Act may be cited as the Affordable Housing Planning and Appeal Act.

Section 5. Findings. The legislature finds and declares that:

- (1) there exists a shortage of affordable, accessible, safe, and sanitary housing in the State;
- (2) it is imperative that action be taken to assure the availability of workforce and retirement housing; and
- (3) local governments in the State that do not have sufficient affordable housing are encouraged to assist in providing affordable housing opportunities to assure the health, safety, and welfare of all citizens of the State.

Section 10. Purpose. The purpose of this Act is to encourage counties and municipalities to incorporate affordable housing within their housing stock sufficient to meet the needs of their county or community. Further, affordable housing developers who believe that they have been unfairly treated due to the fact that the development contains affordable housing may seek relief from local ordinances and regulations that may inhibit the construction of affordable housing needed to serve low-income and moderate-income households in this State.

Section 15. Definitions. As used in this Act:

"Affordable housing" means housing that has a sales price or rental amount that is within the means of a household that may occupy moderate-income or low-income housing. In the case of dwelling units for sale, housing that is affordable means housing in which mortgage, amortization, taxes, insurance, and condominium or association fees, if any, constitute no more than 30% of the gross annual household income for a household of the size that may occupy the unit. In the case of dwelling units for rent, housing that is affordable means housing for which the rent and utilities constitute no more than 30% of the gross annual household income for a household of the size that may occupy the unit.

"Affordable housing developer" means a nonprofit entity, limited equity cooperative or public agency, or private individual, firm, corporation, or other entity seeking to build an affordable housing development.

"Affordable housing development" means (i) any housing that is subsidized by the federal or State government or (ii) any housing in which at least 20% of the dwelling units are subject to covenants or restrictions that require that the dwelling units be sold or rented at prices that preserve them as affordable housing for a period of at least 15 years, in the case of for-sale housing, and at least 30 years, in the case of rental housing.

"Approving authority" means the governing body of the county or municipality.

"Development" means any building, construction, renovation, or excavation or any material change in the use or appearance of any structure or in the land itself; the division of land into parcels; or any change in the intensity or use of land, such as an increase in the number of dwelling units in a structure or a change to a commercial use.

"Exempt local government" means any local government in which at least 10% of its total year-round housing units are affordable, as determined by the Illinois Housing Development Authority pursuant to Section 20 of this Act; or any municipality under 1,000 population.

"Household" means the person or persons occupying a dwelling unit.

"Local government" means a county or municipality.

"Low-income housing" means housing that is affordable, according to the federal Department of Housing and Urban Development, for either home ownership or rental, and that is occupied, reserved, or marketed for occupancy by households with a gross household income that does not exceed 50% of the median gross household income for households of the same size within the county in which the housing is located.

"Moderate-income housing" means housing that is affordable, according to the federal Department of Housing and Urban Development, for either home ownership or rental, and that is occupied, reserved, or marketed for occupancy by households with a gross household income that is greater than 50% but does not exceed 80% of the median gross household income for households of the same size within the county in which the housing is located.

"Non-appealable local government requirements" means all essential requirements that protect the public health and safety, including any local building, electrical, fire, or plumbing code

requirements or those requirements that are critical to the protection or preservation of the environment.

Section 20. Determination of exempt local governments.

(a) Beginning January 1, 2006, the Illinois Housing Development Authority shall determine which local governments are exempt and not exempt from the operation of this Act based on an identification of the total number of year-round housing units in the most recent decennial census for each local government within the State and by an inventory of for-sale and rental affordable housing units, as defined in this Act, for each local government from the decennial census and other relevant sources.

(b) The Illinois Housing Development Authority shall make this determination by:

(i) totaling the number of for-sale housing units in each local government that are affordable to households with a gross household income that is less than 80% of the median household income within the county or primary metropolitan statistical area;

(ii) totaling the number of rental units in each local government that are affordable to households with a gross household income that is less than 60% of the median household income within the county or primary metropolitan statistical area;

(iii) adding the number of for-sale and rental units for each local government from items (i) and (ii); and

(iv) dividing the sum of (iii) above by the total number of year-round housing units in the local government as contained in the latest decennial census and multiplying the result by 100 to determine the percentage of affordable housing units within the jurisdiction of the local government.

(c) Beginning January 1, 2006, the Illinois Housing Development Authority shall publish on an annual basis a list of exempt and non-exempt local governments and the data that it used to calculate its determination. The data shall be shown for each local government in the State and for the State as a whole.

(d) A local government or developer of affordable housing may appeal the determination of the Illinois Housing Development Authority as to whether the local government is exempt or non-exempt under this Act in connection with an appeal under Section 30 of this Act.

Section 25. Affordable housing plan.

(a) Prior to July 1, 2004, all non-exempt local governments must approve an affordable housing plan.

(b) For the purposes of this Act, the affordable housing plan shall consist of at least the following:

(i) a statement of the total number of affordable housing units that are necessary to exempt the local government from the operation of this Act as defined in Section 15 and Section 20;

(ii) an identification of lands within the jurisdiction that are most appropriate for the construction of affordable housing and of existing structures most appropriate for conversion to, or rehabilitation for, affordable housing, including a consideration of lands and structures of developers who have expressed a commitment to provide affordable housing and lands and structures that are publicly or semi-publicly owned;

(iii) incentives that local governments may provide for the purpose of attracting affordable housing to their jurisdiction; and

(iv) a goal of a minimum of 15% of all new development or redevelopment within the local government that would be defined as affordable housing in this Act; or a minimum of a 3 percentage point increase in the overall percentage of affordable housing within its jurisdiction, as defined in Section 20 of this Act; or a minimum of a total of 10% of affordable housing within its jurisdiction.

(c) Within 60 days after the adoption of an affordable housing plan or revisions to its affordable housing plan, the local government must submit a copy of that plan to the Illinois Housing Development Authority.

Section 30. Appeal to State Housing Appeals Board.

(a) Beginning January 1, 2006, an affordable housing developer whose application is either denied or approved with conditions that in his or her judgment render the provision of affordable housing infeasible may, within 45 days after the decision, submit to the State Housing Appeals Board information regarding why the developer believes he or she was unfairly denied or conditions were placed upon the tentative approval of the development unless the local government that rendered the decision is exempt under Section 15 or Section 20 of this Act. The Board shall maintain all information forwarded to them by developers and shall compile and make available an annual report summarizing the information thus received.

(b) Beginning January 1, 2009, an affordable housing developer whose application is either



denied or approved with conditions that in his or her judgment render the provision of affordable housing infeasible may, within 45 days after the decision, appeal to the State Housing Appeals Board challenging that decision unless the municipality or county that rendered the decision is exempt under Section 15 of this Act. The developer must submit information regarding why the developer believes he or she was unfairly denied or unreasonable conditions were placed upon the tentative approval of the development.

(c) Beginning January 1, 2009, the Board shall render a decision on the appeal within 120 days after the appeal is filed. In its determination of an appeal, the Board shall conduct a de novo review of the matter. In rendering its decision, the Board shall consider the facts and whether the developer was treated in a manner that places an undue burden on the development due to the fact that the development contains affordable housing as defined in this Act. The Board shall further consider any action taken by the unit of local government in regards to granting waivers or variances that would have the effect of creating or prohibiting the economic viability of the development. In any proceeding before the Board, the developer bears the burden of demonstrating that he or she has been unfairly denied or unreasonable conditions have been placed upon the tentative approval for the application for an affordable housing development.

(d) The Board shall dismiss any appeal if:

(i) the local government has adopted an affordable housing plan as defined in Section 25 of this Act and submitted that plan to the Illinois Housing Development Authority within the time frame required by this Act; and

(ii) the local government has implemented its affordable housing plan and has met its goal as established in its affordable housing plan as defined in Section 25 of this Act.

(e) The Board shall dismiss any appeal if the reason for denying the application or placing conditions upon the approval is a non-appealable local government requirement under Section 15 of this Act.

(f) The Board may affirm, reverse, or modify the conditions of, or add conditions to, a decision made by the approving authority. The decision of the Board constitutes an order directed to the approving authority and is binding on the local government.

(g) The appellate court has the exclusive jurisdiction to review decisions of the Board.

Section 40. Nonresidential development as part of an affordable housing development.

(a) An affordable housing developer who applies to develop property that contains nonresidential uses in a nonresidential zoning district must designate either at least 50% of the area or at least 50% of the square footage of the development for residential use. Unless adjacent to a residential development, the nonresidential zoning district shall not include property zoned industrial. The applicant bears the burden of proof of demonstrating that the purposes of a nonresidential zoning district will not be impaired by the construction of housing in the zoning district and that the public health and safety of the residents of the affordable housing will not be adversely affected by nonresidential uses either in existence or permitted in that zoning district. The development should be completed simultaneously to the extent possible and shall be unified in design.

(b) For purposes of subsection (a), the square footage of the residential portion of the development shall be measured by the interior floor area of dwelling units, excluding that portion that is unheated. Square footage of the nonresidential portion shall be calculated according to the gross leasable area.

Section 50. Housing Appeals Board.

(a) Prior to July 1, 2006, a Housing Appeals Board shall be created consisting of 7 members appointed by the Governor as follows:

- (1) a retired circuit judge or retired appellate judge, who shall act as chairperson;
- (2) a zoning board of appeals member;
- (3) a planning board member;
- (4) a mayor or municipal council or board member;
- (5) a county board member;
- (6) an affordable housing developer; and
- (7) an affordable housing advocate.

In addition, the Chairman of the Illinois Housing Development Authority, ex officio, shall serve as a non-voting member. No more than 4 of the appointed members may be from the same political party. Appointments under items (2), (3), and (4) shall be from local governments that are not exempt under this Act.

(b) Initial terms of 4 members designated by the Governor shall be for 2 years. Initial terms of 3 members designated by the Governor shall be for one year. Thereafter, members shall be appointed for terms of 2 years. A member shall receive no compensation for his or her services, but shall be

reimbursed by the State for all reasonable expenses actually and necessarily incurred in the performance of his or her official duties. The board shall hear all petitions for review filed under this Act and shall conduct all hearings in accordance with the rules and regulations established by the chairperson. The Illinois Housing Development Authority shall provide space and clerical and other assistance that the Board may require.

(c) The Illinois Housing Development Authority may adopt such other rules and regulations as it deems necessary and appropriate to carry out the Board's responsibilities under this Act and to provide direction to local governments and affordable housing developers."

The motion prevailed.

And the amendment was adopted, and ordered printed.

There being no further amendments, the bill, as amended, was ordered to a third reading.

### READING BILLS FROM THE HOUSE OF REPRESENTATIVES A THIRD TIME

On motion of Senator Martinez, **House Bill No. 625**, having been printed as received from the House of Representatives, together with all Senate amendments adopted thereto, was taken up and read by title a third time.

Senator Roskam requested a Parliamentary Ruling as to whether **House Bill 625** preempts the powers of the Home Rule Units in accordance with Article VII, Section 6, of the Constitution of the State of Illinois.

The Chair ruled that **House Bill 625** does not preempt the powers of Home Rule Units, therefore, a vote of thirty of the members elected will be required for its passage.

Pending roll call on motion of Senator Martinez, further consideration of **House Bill No. 625** was postponed.

On motion of Senator Welch, **House Bill No. 691**, having been printed as received from the House of Representatives, together with all Senate Amendments adopted thereto, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

Yeas 59; Nays None.

The following voted in the affirmative:

Althoff	Haine	Munoz	Silverstein
Bomke	Halvorson	Obama	Soden
Brady	Harmon	Peterson	Sullivan, D.
Burzynski	Hendon	Petka	Sullivan, J.
Clayborne	Hunter	Radogno	Syverson
Collins	Jacobs	Rauschenberger	Trotter
Cronin	Jones, J.	Righter	Viverito
Crotty	Jones, W.	Risinger	Walsh
Cullerton	Laufen	Ronen	Watson
del Valle	Lightford	Roskam	Welch
DeLeo	Link	Rutherford	Winkel
Demuzio	Luechtefeld	Sandoval	Wojcik
Dillard	Maloney	Schoenberg	Woolard
Garrett	Martinez	Shadid	Mr. President
Geo-Karis	Meeks	Sieben	

This bill, having received the vote of constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the title be as aforesaid, and that the Secretary inform the House of Representatives thereof and ask their concurrence in the Senate Amendment adopted thereto.

On motion of Senator Harmon, **House Bill No. 696**, having been printed as received from the House of Representatives, together with all Senate Amendments adopted thereto, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

Yeas 42; Nays 16.

The following voted in the affirmative:

Althoff	Geo-Karis	Meeks	Sullivan, D.
Bomke	Haine	Munoz	Sullivan, J.
Clayborne	Halvorson	Obama	Trotter
Collins	Harmon	Radogno	Viverito
Crotty	Hendon	Rauschenberger	Walsh
Cullerton	Hunter	Ronen	Welch
del Valle	Jacobs	Sandoval	Winkel
DeLeo	Lightford	Schoenberg	Woolard
Demuzio	Link	Shadid	Mr. President
Dillard	Maloney	Silverstein	
Garrett	Martinez	Soden	

The following voted in the negative:

Brady	Lauzen	Risinger	Wojcik
Burzynski	Luechtefeld	Rutherford	
Cronin	Peterson	Sieben	
Jones, J.	Petka	Syverson	
Jones, W.	Righter	Watson	

This bill, having received the vote of constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the title be as aforesaid, and that the Secretary inform the House of Representatives thereof and ask their concurrence in the Senate Amendment adopted thereto.

On motion of Senator Hunter, **House Bill No. 702**, having been printed as received from the House of Representatives, together with all Senate Amendments adopted thereto, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

Yeas 48; Nays 8; Present 2.

The following voted in the affirmative:

Althoff	Haine	Munoz	Sullivan, J.
Bomke	Halvorson	Obama	Trotter
Brady	Harmon	Peterson	Viverito
Clayborne	Hendon	Radogno	Walsh
Collins	Hunter	Risinger	Welch
Crotty	Jacobs	Ronen	Winkel
Cullerton	Jones, W.	Rutherford	Wojcik
del Valle	Lightford	Sandoval	Woolard
DeLeo	Link	Schoenberg	Mr. President
Demuzio	Luechtefeld	Shadid	
Dillard	Maloney	Silverstein	
Garrett	Martinez	Soden	
Geo-Karis	Meeks	Sullivan, D.	

The following voted in the negative:

Burzynski	Lauzen	Roskam
Cronin	Petka	Syverson
Jones, J.	Righter	

The following voted present:

Sieben  
Watson

This bill, having received the vote of constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the title be as aforesaid, and that the Secretary inform the House of Representatives thereof and ask their concurrence in the Senate Amendment adopted thereto.

On motion of Senator Demuzio, **House Bill No. 715**, having been printed as received from the House of Representatives, together with all Senate Amendments adopted thereto, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

Yeas 59; Nays None.

The following voted in the affirmative:

Althoff	Haine	Munoz	Silverstein
Bomke	Halvorson	Obama	Soden
Brady	Harmon	Peterson	Sullivan, D.
Burzynski	Hendon	Petka	Sullivan, J.
Clayborne	Hunter	Radogno	Syverson
Collins	Jacobs	Rauschenberger	Trotter
Cronin	Jones, J.	Righter	Viverito
Crotty	Jones, W.	Risinger	Walsh
Cullerton	Lauzen	Ronen	Watson
del Valle	Lightford	Roskam	Welch
DeLeo	Link	Rutherford	Winkel
Demuzio	Luechtefeld	Sandoval	Wojcik
Dillard	Maloney	Schoenberg	Woolard
Garrett	Martinez	Shadid	Mr. President
Geo-Karis	Meeks	Sieben	

This bill, having received the vote of constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the title be as aforesaid, and that the Secretary inform the House of Representatives thereof and ask their concurrence in the Senate Amendment adopted thereto.

On motion of Senator Crotty, **House Bill No. 764**, having been printed as received from the House of Representatives, together with all Senate Amendments adopted thereto, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

Yeas 54; Nays 1; Present 2.

The following voted in the affirmative:

Althoff	Geo-Karis	Munoz	Sullivan, D.
Bomke	Haine	Obama	Sullivan, J.
Brady	Halvorson	Peterson	Syverson
Burzynski	Harmon	Radogno	Trotter
Clayborne	Hendon	Rauschenberger	Viverito
Collins	Hunter	Risinger	Walsh
Cronin	Jacobs	Ronen	Watson
Crotty	Jones, J.	Rutherford	Welch
Cullerton	Lauzen	Sandoval	Winkel

del Valle	Lightford	Schoenberg	Wojcik
DeLeo	Link	Shadid	Woolard
Demuzio	Maloney	Sieben	Mr. President
Dillard	Martinez	Silverstein	
Garrett	Meeks	Soden	

The following voted in the negative:

Petka

The following voted present:

Jones, W.  
Luechtefeld

This bill, having received the vote of constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the title be as aforesaid, and that the Secretary inform the House of Representatives thereof and ask their concurrence in the Senate Amendment adopted thereto.

On motion of Senator Silverstein, **House Bill No. 259**, having been printed as received from the House of Representatives, together with all Senate Amendments adopted thereto, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

Yeas 59; Nays None.

The following voted in the affirmative:

Althoff	Haine	Munoz	Silverstein
Bomke	Halvorson	Obama	Soden
Brady	Harmon	Peterson	Sullivan, D.
Burzynski	Hendon	Petka	Sullivan, J.
Clayborne	Hunter	Radogno	Syverson
Collins	Jacobs	Rauschenberger	Trotter
Cronin	Jones, J.	Righter	Viverito
Crotty	Jones, W.	Risinger	Walsh
Cullerton	Lauzen	Ronen	Watson
del Valle	Lightford	Roskam	Welch
DeLeo	Link	Rutherford	Winkel
Demuzio	Luechtefeld	Sandoval	Wojcik
Dillard	Maloney	Schoenberg	Woolard
Garrett	Martinez	Shadid	Mr. President
Geo-Karis	Meeks	Sieben	

This bill, having received the vote of constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the title be as aforesaid, and that the Secretary inform the House of Representatives thereof and ask their concurrence in the Senate Amendment adopted thereto.

On motion of Senator Schoenberg, **House Bill No. 784**, having been printed as received from the House of Representatives, together with all Senate Amendments adopted thereto, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

Yeas 35; Nays 21; Present 1.

The following voted in the affirmative:

Althoff	Haine	Martinez	Silverstein
Clayborne	Halvorson	Meeks	Sullivan, J.
Collins	Harmon	Munoz	Trotter
Crotty	Hendon	Obama	Viverito
Cullerton	Hunter	Risinger	Walsh
del Valle	Jacobs	Ronen	Welch
DeLeo	Lightford	Sandoval	Woolard
Demuzio	Link	Schoenberg	Mr. President
Garrett	Maloney	Shadid	

The following voted in the negative:

Bomke	Jones, W.	Rauschenberger	Sullivan, D.
Brady	Lauzen	Righter	Syverson
Burzynski	Luechtefeld	Roskam	Winkel
Dillard	Peterson	Rutherford	
Geo-Karis	Petka	Sieben	
Jones, J.	Radogno	Soden	

The following voted present:

Watson

This bill, having received the vote of constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the title be as aforesaid, and that the Secretary inform the House of Representatives thereof and ask their concurrence in the Senate Amendment adopted thereto.

On motion of Senator Walsh, **House Bill No. 816**, having been printed as received from the House of Representatives, together with all Senate Amendments adopted thereto, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

Yeas 59; Nays None.

The following voted in the affirmative:

Althoff	Haine	Munoz	Silverstein
Bomke	Halvorson	Obama	Soden
Brady	Harmon	Peterson	Sullivan, D.
Burzynski	Hendon	Petka	Sullivan, J.
Clayborne	Hunter	Radogno	Syverson
Collins	Jacobs	Rauschenberger	Trotter
Cronin	Jones, J.	Righter	Viverito
Crotty	Jones, W.	Risinger	Walsh
Cullerton	Lauzen	Ronen	Watson
del Valle	Lightford	Roskam	Welch
DeLeo	Link	Rutherford	Winkel
Demuzio	Luechtefeld	Sandoval	Wojcik
Dillard	Maloney	Schoenberg	Woolard
Garrett	Martinez	Shadid	Mr. President
Geo-Karis	Meeks	Sieben	

This bill, having received the vote of constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the title be as aforesaid, and that the Secretary inform the House of Representatives thereof and ask their concurrence in the Senate Amendment adopted thereto.

**HOUSE BILL RECALLED**

On motion of Senator Clayborne, **House Bill No. 860** was recalled from the order of third reading to the order of second reading.

Senator Clayborne offered the following amendment and moved its adoption:

**AMENDMENT NO. 2**

AMENDMENT NO. 2. Amend House Bill 860, AS AMENDED, with reference to page and line numbers of Senate Amendment No. 1, on page 1, line 9, by replacing "receiving a" with "that qualify for the"; and on page 2, line 8, by replacing "receiving a" with "that qualifies for the"; and on page 3, line 6, by replacing "receiving a" with "that qualify for the"; and on page 3, line 11, by replacing "is receiving a" with "that qualifies for the".

The motion prevailed.

And the amendment was adopted, and ordered printed.

There being no further amendments, the bill, as amended, was ordered to a third reading.

**READING BILL FROM THE HOUSE OF REPRESENTATIVES A THIRD TIME**

On motion of Senator Clayborne, **House Bill No. 860**, having been printed as received from the House of Representatives, together with all Senate Amendments adopted thereto, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

Yeas 59; Nays None.

The following voted in the affirmative:

Althoff	Haine	Munoz	Silverstein
Bomke	Halvorson	Obama	Soden
Brady	Harmon	Peterson	Sullivan, D.
Burzynski	Hendon	Petka	Sullivan, J.
Clayborne	Hunter	Radogno	Syverson
Collins	Jacobs	Rauschenberger	Trotter
Cronin	Jones, J.	Righter	Viverito
Crotty	Jones, W.	Risinger	Walsh
Cullerton	Laufen	Ronen	Watson
del Valle	Lightford	Roskam	Welch
DeLeo	Link	Rutherford	Winkel
Demuzio	Luechtefeld	Sandoval	Wojcik
Dillard	Maloney	Schoenberg	Woolard
Garrett	Martinez	Shadid	Mr. President
Geo-Karis	Meeks	Sieben	

This bill, having received the vote of constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the title be as aforesaid, and that the Secretary inform the House of Representatives thereof and ask their concurrence in the Senate Amendments adopted thereto.

**HOUSE BILL RECALLED**

On motion of Senator Cullerton, **House Bill No. 873** was recalled from the order of third reading to the order of second reading.

Senator Cullerton offered the following amendment and moved its adoption:

**AMENDMENT NO. 1**

AMENDMENT NO. 1. Amend House Bill 873 by replacing everything after the enacting clause with the following:

"Section 5. The Public Utilities Act is amended by changing Section 5-109 as follows:  
(220 ILCS 5/5-109) (from Ch. 111 2/3, par. 5-109)

Sec. 5-109. Each public utility in the State, other than a commercial mobile radio service provider, shall each year furnish to the Commission, in such form as the Commission shall require, annual reports as to all the items mentioned in the preceding Sections of this Article, and in addition such other items, whether of a nature similar to those therein enumerated or otherwise, as the Commission may prescribe. Such annual reports shall contain all the required information for the period of ~~12 to twelve~~ months ending on the thirtieth day of June in each year, or ending on the thirty-first day of December in each year, as the Commission may by order prescribe for each class of public utilities, except commercial mobile radio service providers, and shall be filed with the Commission at its office in Springfield within ~~3~~ three months after the close of the year for which the report is made. The Commission shall have authority to require any public utility to file monthly reports of earnings and expenses of such utility, and to file other periodical or special, or both periodical and special reports concerning any matter about which the Commission is authorized by law to keep itself informed. All reports shall be under oath.

When any report is erroneous or defective or appears to the Commission to be erroneous or defective, the Commission may notify the public utility to amend such report within ~~30~~ thirty days, and before or after the termination of such period the Commission may examine the officers, agents, or employees, and books, records, accounts, vouchers, plant, equipment and property of such public utility, and correct such items in the report as upon such examination the Commission may find defective or erroneous.

All reports made to the Commission by any public utility and the contents thereof shall be open to public inspection, unless otherwise ordered by the Commission. Such reports shall be preserved in the office of the Commission.

Any public utility which fails to make and file any report called for by the Commission within the time specified; or to make specific answer to any question propounded by the Commission within ~~30~~ thirty days from the time it is lawfully required to do so, or within such further time, not to exceed ~~90~~ ninety days, as may in its discretion be allowed by the Commission, shall forfeit up to \$100 for each and every day it may so be in default if the utility collects less than \$100,000 annually in gross revenue; and if the utility collects \$100,000 or more annually in gross revenue, it shall forfeit \$100 per day for each and every day it is in default.

Any person who wilfully makes any false return or report to the Commission, or to any member, officer or employee thereof, and any person who aids or abets such person shall be guilty of a Class A misdemeanor. (Source: P.A. 84-617.)

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

The motion prevailed.

And the amendment was adopted, and ordered printed.

There being no further amendments, the bill, as amended, was ordered to a third reading.

### READING BILLS FROM THE HOUSE OF REPRESENTATIVES A THIRD TIME

On motion of Senator Cullerton, **House Bill No. 873**, having been printed as received from the House of Representatives, together with all Senate Amendments adopted thereto, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

Yeas 59; Nays None.

The following voted in the affirmative:

Althoff	Haine	Munoz	Silverstein
Bomke	Halvorson	Obama	Soden
Brady	Harmon	Peterson	Sullivan, D.
Burzynski	Hendon	Petka	Sullivan, J.
Clayborne	Hunter	Radogno	Syverson
Collins	Jacobs	Rauschenberger	Trotter
Cronin	Jones, J.	Righter	Viverito
Crotty	Jones, W.	Risinger	Walsh
Cullerton	Lauzen	Ronen	Watson
del Valle	Lightford	Roskam	Welch
DeLeo	Link	Rutherford	Winkel



Demuzio	Luechtefeld	Sandoval	Wojcik
Dillard	Maloney	Schoenberg	Woolard
Garrett	Martinez	Shadid	Mr. President
Geo-Karis	Meeks	Sieben	

This bill, having received the vote of constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the title be as aforesaid, and that the Secretary inform the House of Representatives thereof and ask their concurrence in the Senate Amendment adopted thereto.

On motion of Senator Haine, **House Bill No. 910**, having been printed as received from the House of Representatives, together with all Senate Amendments adopted thereto, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

Yeas 59; Nays None.

The following voted in the affirmative:

Althoff	Haine	Munoz	Silverstein
Bomke	Halvorson	Obama	Soden
Brady	Harmon	Peterson	Sullivan, D.
Burzynski	Hendon	Petka	Sullivan, J.
Clayborne	Hunter	Radogno	Syverson
Collins	Jacobs	Rauschenberger	Trotter
Cronin	Jones, J.	Righter	Viverito
Crotty	Jones, W.	Risinger	Walsh
Cullerton	Laufen	Ronen	Watson
del Valle	Lightford	Roskam	Welch
DeLeo	Link	Rutherford	Winkel
Demuzio	Luechtefeld	Sandoval	Wojcik
Dillard	Maloney	Schoenberg	Woolard
Garrett	Martinez	Shadid	Mr. President
Geo-Karis	Meeks	Sieben	

This bill, having received the vote of constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the title be as aforesaid, and that the Secretary inform the House of Representatives thereof and ask their concurrence in the Senate Amendment adopted thereto.

On motion of Senator Link, **House Bill No. 988**, having been printed as received from the House of Representatives, together with all Senate Amendments adopted thereto, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

Yeas 59; Nays None.

The following voted in the affirmative:

Althoff	Haine	Munoz	Silverstein
Bomke	Halvorson	Obama	Soden
Brady	Harmon	Peterson	Sullivan, D.
Burzynski	Hendon	Petka	Sullivan, J.
Clayborne	Hunter	Radogno	Syverson
Collins	Jacobs	Rauschenberger	Trotter
Cronin	Jones, J.	Righter	Viverito
Crotty	Jones, W.	Risinger	Walsh
Cullerton	Laufen	Ronen	Watson
del Valle	Lightford	Roskam	Welch

DeLeo	Link	Rutherford	Winkel
Demuzio	Luechtefeld	Sandoval	Wojcik
Dillard	Maloney	Schoenberg	Woolard
Garrett	Martinez	Shadid	Mr. President
Geo-Karis	Meeks	Sieben	

This bill, having received the vote of constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the title be as aforesaid, and that the Secretary inform the House of Representatives thereof and ask their concurrence in the Senate Amendment adopted thereto.

On motion of Senator Demuzio, **House Bill No. 992**, having been printed as received from the House of Representatives, together with all Senate Amendments adopted thereto, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

Yeas 59; Nays None.

The following voted in the affirmative:

Althoff	Haine	Munoz	Silverstein
Bomke	Halvorson	Obama	Soden
Brady	Harmon	Peterson	Sullivan, D.
Burzynski	Hendon	Petka	Sullivan, J.
Clayborne	Hunter	Radogno	Syverson
Collins	Jacobs	Rauschenberger	Trotter
Cronin	Jones, J.	Righter	Viverito
Crotty	Jones, W.	Risinger	Walsh
Cullerton	Laufen	Ronen	Watson
del Valle	Lightford	Roskam	Welch
DeLeo	Link	Rutherford	Winkel
Demuzio	Luechtefeld	Sandoval	Wojcik
Dillard	Maloney	Schoenberg	Woolard
Garrett	Martinez	Shadid	Mr. President
Geo-Karis	Meeks	Sieben	

This bill, having received the vote of constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the title be as aforesaid, and that the Secretary inform the House of Representatives thereof and ask their concurrence in the Senate Amendment adopted thereto.

On motion of Senator Martinez, **House Bill No. 1032**, having been printed as received from the House of Representatives, together with all Senate Amendments adopted thereto, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

Yeas 57; Nays None.

The following voted in the affirmative:

Althoff	Haine	Obama	Sullivan, D.
Bomke	Halvorson	Peterson	Sullivan, J.
Brady	Harmon	Petka	Syverson
Burzynski	Hendon	Radogno	Trotter
Clayborne	Hunter	Rauschenberger	Viverito
Collins	Jacobs	Righter	Walsh
Cronin	Jones, J.	Risinger	Watson
Crotty	Laufen	Ronen	Welch
Cullerton	Lightford	Roskam	Winkel

del Valle	Link	Rutherford	Wojcik
DeLeo	Luechtefeld	Sandoval	Woolard
Demuzio	Maloney	Schoenberg	Mr. President
Dillard	Martinez	Sieben	
Garrett	Meeks	Silverstein	
Geo-Karis	Munoz	Soden	

This bill, having received the vote of constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the title be as aforesaid, and that the Secretary inform the House of Representatives thereof and ask their concurrence in the Senate Amendment adopted thereto.

At the hour of 1:32 o'clock p.m., Senator Demuzio presiding.

### HOUSE BILL RECALLED

On motion of Senator Jacobs, **House Bill No. 1074** was recalled from the order of third reading to the order of second reading.

Senator Jacobs offered the following amendment and moved its adoption:

#### AMENDMENT NO. 2

AMENDMENT NO. 2. Amend House Bill 1074, AS AMENDED, with reference to page and line numbers of Senate Amendment No. 1, by replacing lines 27 through 33 of page 4 and lines 1 through 8 of page 5 with the following:

"(b) When".

The motion prevailed.

And the amendment was adopted, and ordered printed.

There being no further amendments, the bill, as amended, was ordered to a third reading.

### READING BILLS FROM THE HOUSE OF REPRESENTATIVES A THIRD TIME

On motion of Senator Jacobs, **House Bill No. 1074**, having been printed as received from the House of Representatives, together with all Senate Amendments adopted thereto, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

Yeas 54; Nays None.

The following voted in the affirmative:

Althoff	Haine	Meeks	Sullivan, D.
Bomke	Halvorson	Munoz	Sullivan, J.
Brady	Harmon	Obama	Syverson
Burzynski	Hendon	Peterson	Trotter
Clayborne	Hunter	Righter	Viverito
Collins	Jacobs	Risinger	Walsh
Crotty	Jones, J.	Ronen	Watson
Cullerton	Jones, W.	Roskam	Welch
Del Valle	Lauzen	Rutherford	Winkel
DeLeo	Lightford	Sandoval	Wojcik
Demuzio	Link	Schoenberg	Woolard
Dillard	Luechtefeld	Shadid	Mr. President
Garrett	Maloney	Sieben	
Geo-Karis	Martinez	Silverstein	

This bill, having received the vote of constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the title be as aforesaid, and that the Secretary inform the House of Representatives thereof and ask their concurrence in the Senate Amendments adopted thereto.

On motion of Senator Cullerton, **House Bill No. 2579**, having been printed as received from the House of Representatives, together with all Senate Amendments adopted thereto, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the negative by the following vote:

Yeas 23; Nays 36.

The following voted in the affirmative:

Collins	Harmon	Martinez	Schoenberg
Crotty	Hendon	Meeks	Silverstein
Cullerton	Hunter	Munoz	Trotter
del Valle	Lightford	Obama	Viverito
DeLeo	Link	Ronen	Mr. President
Garrett	Maloney	Sandoval	

The following voted in the negative:

Althoff	Halvorson	Righter	Walsh
Bomke	Jacobs	Risinger	Watson
Brady	Jones, J.	Roskam	Welch
Burzynski	Jones, W.	Rutherford	Winkel
Clayborne	Laufen	Shadid	Wojcik
Cronin	Luechtefeld	Sieben	Woolard
Demuzio	Peterson	Soden	
Dillard	Petka	Sullivan, D.	
Geo-Karis	Radogno	Sullivan, J.	
Haine	Rauschenberger	Syverson	

This bill, having failed to receive the vote of a constitutional majority of the members elected, was declared lost, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

#### HOUSE BILL RECALLED

On motion of Senator Brady, **House Bill No. 1161** was recalled from the order of third reading to the order of second reading.

Senator Cullerton moved to reconsider the vote by which Amendment No. 1 was adopted.

The motion prevailed.

Senator Cullerton moved that Amendment No. 1 to **House Bill No. 1161** be ordered to lie on the table.

The motion to table prevailed.

There being no further amendments the bill was ordered to a third reading

#### READING OF BILLS FROM THE HOUSE OF REPRESENTATIVES A THIRD TIME

On motion of Senator Brady, **House Bill No. 1161**, having been printed as received from the House of Representatives, together with all Senate amendments adopted thereto, was taken up and read by title a third time.

Pending roll call on motion of Senator Brady, further consideration of **House Bill No. 1161** was postponed.

#### HOUSE BILL RECALLED

On motion of Senator Cullerton, **House Bill No. 1281** was recalled from the order of third reading to the order of second reading.

Senator Cullerton offered the following amendment and moved its adoption:

#### AMENDMENT NO. 5

AMENDMENT NO. 5. Amend House Bill 1281, AS AMENDED, by replacing everything after

the enacting clause with the following:

"Section 1. Short title. This Act may be cited as the Capital Punishment Reform Study Committee Act.

Section 2. Capital Punishment Reform Study Committee.

(a) There is created the Capital Punishment Reform Study Committee, hereinafter referred to as the Committee, consisting of 15 members appointed as follows:

- (1) Three members appointed by the President of the Senate;
- (2) Two members appointed by the Minority Leader of the Senate;
- (3) Three members appointed by the Speaker of the House of Representatives;
- (4) Two members appointed by the Minority Leader of the House of Representatives;
- (5) One member appointed by the Attorney General;
- (6) One member appointed by the Governor;
- (7) One member appointed by the Cook County State's Attorney;
- (8) One member appointed by the Office of the Cook County Public Defender;
- (9) One member appointed by the Office of the State Appellate Defender; and
- (10) One member appointed by the office of the State's Attorneys Appellate Prosecutor.

(b) The Committee shall study the impact of the various reforms to the capital punishment system enacted by the 93rd General Assembly and annually report to the General Assembly on the effects of these reforms. Each report shall include:

(1) The impact of the reforms on the issue of uniformity and proportionality in the application of the death penalty including, but not limited to, the tracking of data related to whether the reforms have eliminated the statistically significant differences in sentencing related to the geographic location of the homicide and the race of the victim found by the Governor's Commission on Capital Punishment in its report issued on April 15, 2002.

(2) The implementation of training for police, prosecutors, defense attorneys, and judges as recommended by the Governor's Commission on Capital Punishment.

(3) The impact of the various reforms on the quality of evidence used during capital prosecutions.

(4) The quality of representation provided by defense counsel to defendants in capital prosecutions.

(5) The impact of the various reforms on the costs associated with the administration of the Illinois capital punishment system.

(c) The Committee shall hold hearings on a periodic basis to receive testimony from the public regarding the manner in which reforms have impacted the capital punishment system.

(d) The Committee shall submit its final report to the General Assembly no later than 5 years after the effective date of this Act.

Section 5. The Illinois Criminal Justice Information Act is amended by adding Section 7.2 as follows:

(20 ILCS 3930/7.2 new)

Sec. 7.2. Custodial Interview Pilot Program.

(a) Legislative findings and intent. The General Assembly finds that technology has made it possible to electronically record custodial interviews of suspects during first degree murder investigations. This technology will protect law enforcement agencies against claims of abuse and coercion by suspects while providing a memorialized account of interviews at police stations. The technology will also provide a better means for courts to review confessions of suspects with direct evidence of demeanor, tone, manner, and content of statements. The General Assembly intends to create a Custodial Interview Pilot Program to establish 4 pilot programs at police stations in the State of Illinois. For each program, video and audio experts shall install equipment and train participating law enforcement agencies to electronically record custodial interviews at their respective police stations. Participating law enforcement agencies shall choose how to use the equipment in cooperation with the local State's Attorney's office. The participating law enforcement agencies may choose to electronically record interviews of suspects for offenses other than first degree murder if they adopt local protocols in cooperation with the local State's Attorney's office.

(b) Definitions. In this Section:

(1) "Electronically record" means to memorialize by video and audio electronic equipment.

(2) "Custodial interviews" means interviews of suspects during first degree murder investigations or other investigations established by local protocol by law enforcement authorities that take place at the police station.

(c) Custodial Interview Pilot Program. The Authority shall, subject to appropriation, establish a Custodial Interview Pilot Program to operate 4 custodial interview pilot programs. The programs shall be established in a police station in the County of Cook and in 3 other police stations

geographically distributed throughout the State. Each participating law enforcement agency must:

(1) Promulgate procedures for recording custodial interviews of suspects during first degree murder investigations by video and audio means.

(2) Promulgate procedures for maintaining and storing video and audio recordings.

(d) Each of the 4 pilot programs established by the Authority shall be in existence for a minimum of 2 years after its establishment under this Act.

(e) Report. No later than one year after the establishment of pilot programs under this Section, the Authority must report to the General Assembly on the efficacy of the Custodial Interview Pilot Program.

(f) The Authority shall adopt rules in cooperation with the Illinois Department of State Police to implement this Section.

Section 6. The Illinois Police Training Act is amended by changing Section 6.1 as follows:

(50 ILCS 705/6.1)

Sec. 6.1. Decertification of full-time and part-time police officers. (a) The Board must review police officer conduct and records to ensure that no police officer is certified or provided a valid waiver if that police officer has been convicted of a felony offense under the laws of this State or any other state which if committed in this State would be punishable as a felony. The Board must also ensure that no police officer is certified or provided a valid waiver if that police officer has been convicted on or after the effective date of this amendatory Act of 1999 of any misdemeanor specified in this Section or if committed in any other state would be an offense similar to Section 11-6, 11-9.1, 11-14, 11-17, 11-19, 12-2, 12-15, 16-1, 17-1, 17-2, 28-3, 29-1, 31-1, 31-6, 31-7, 32-4a, or 32-7 of the Criminal Code of 1961 or to Section 5 or 5.2 of the Cannabis Control Act. The Board must appoint investigators to enforce the duties conferred upon the Board by this Act.

(b) It is the responsibility of the sheriff or the chief executive officer of every local law enforcement agency or department within this State to report to the Board any arrest or conviction of any officer for an offense identified in this Section.

(c) It is the duty and responsibility of every full-time and part-time police officer in this State to report to the Board within 30 days, and the officer's sheriff or chief executive officer, of his or her arrest or conviction for an offense identified in this Section. Any full-time or part-time police officer who knowingly makes, submits, causes to be submitted, or files a false or untruthful report to the Board must have his or her certificate or waiver immediately decertified or revoked.

(d) Any person, or a local or State agency, or the Board is immune from liability for submitting, disclosing, or releasing information of arrests or convictions in this Section as long as the information is submitted, disclosed, or released in good faith and without malice. The Board has qualified immunity for the release of the information.

(e) Any full-time or part-time police officer with a certificate or waiver issued by the Board who is convicted of any offense described in this Section immediately becomes decertified or no longer has a valid waiver. The decertification and invalidity of waivers occurs as a matter of law. Failure of a convicted person to report to the Board his or her conviction as described in this Section or any continued law enforcement practice after receiving a conviction is a Class 4 felony.

(f) The Board's investigators are peace officers and have all the powers possessed by policemen in cities and by sheriff's, provided that the investigators may exercise those powers anywhere in the State, only after contact and cooperation with the appropriate local law enforcement authorities.

(g) The Board must request and receive information and assistance from any federal, state, or local governmental agency as part of the authorized criminal background investigation. The Department of State Police must process, retain, and additionally provide and disseminate information to the Board concerning criminal charges, arrests, convictions, and their disposition, that have been filed before, on, or after the effective date of this amendatory Act of the 91st General Assembly against a basic academy applicant, law enforcement applicant, or law enforcement officer whose fingerprint identification cards are on file or maintained by the Department of State Police. The Federal Bureau of Investigation must provide the Board any criminal history record information contained in its files pertaining to law enforcement officers or any applicant to a Board certified basic law enforcement academy as described in this Act based on fingerprint identification. The Board must make payment of fees to the Department of State Police for each fingerprint card submission in conformance with the requirements of paragraph 22 of Section 55a of the Civil Administrative Code of Illinois.

(h) A police officer who has been certified or granted a valid waiver may also be decertified or have his or her waiver revoked upon a determination by the Board that he or she, while under oath, has knowingly and willfully made false statements as to a material fact during a homicide proceeding. A determination may be made only after an investigation and hearing upon a verified complaint filed with the Illinois Law Enforcement Training Standards Board. No action may be

taken by the Board regarding a complaint unless a majority of the members of the Board are present at the meeting at which the action is taken.

(1) The Board shall adopt rules governing the investigation and hearing of a verified complaint to assure the police officer due process and to eliminate conflicts of interest within the Board itself.

(2) Upon receipt of the initial verified complaint, the Board must make a finding within 30 days of receipt of the complaint as to whether sufficient evidence exists to support the complaint. The Board is empowered to investigate and dismiss the complaint if it finds, by a vote of a majority of the members present, that there is insufficient evidence to support it. Upon the initial filing, the sheriff or police chief, or other employing agency, of the accused officer may suspend, with or without pay, the accused officer pending a decision of the Board. Upon a Board finding of insufficient evidence, the police officer shall be reinstated with back pay, benefits, and seniority status as appropriate. The sheriff or police chief, or employing agency, shall take such necessary action as is ordered by the Board.

(3) If the Board finds, by a vote of a majority of the members present, that sufficient evidence exists to support the complaint, it shall authorize a hearing before an administrative law judge within 45 days of the Board's finding, unless, based upon the complexity and extent of the allegations and charges, additional time is needed. In no event may a hearing before an administrative law judge take place later than 60 days after the Board's finding.

(i) The Board shall have the power and authority to appoint administrative law judges on a contractual basis. The Administrative law judges must be attorneys licensed to practice law in the State of Illinois. The Board shall also adopt rules governing the appointment of administrative law judges and the conduct of hearings consistent with the requirements of this Section. The administrative law judge shall hear all evidence and prepare a written recommendation of his or her findings to the Board. At the hearing the accused police officer shall be afforded the opportunity to:

(1) Be represented by counsel;

(2) Be heard in his or her own defense;

(3) Produce evidence in his or her defense;

(4) Request that the Board compel the attendance of witnesses and production of court records and documents.

(j) Once a case has been set for hearing, the person who filed the verified complaint shall have the opportunity to produce evidence to support any charge against a police officer that he or she, while under oath, has knowingly and willfully made false statements as to a material fact during a homicide proceeding.

(1) The person who filed the verified complaint shall have the opportunity to be represented by counsel and shall produce evidence to support his or her charges;

(2) The person who filed the verified complaint may request the Board to compel the attendance of witnesses and production of court records and documents.

(k) The Board shall have the power to issue subpoenas requiring the attendance and testimony of witnesses and the production of court records and documents and shall have the power to administer oaths.

(l) The administrative law judge shall have the responsibility of receiving into evidence relevant testimony and documents, including court records, to support or disprove the allegations made by the person filing the verified complaint, and, at the close of the case, hear arguments. If the administrative law judge finds that there is not clear and convincing evidence to support the verified complaint that the police officer has, while under oath, knowingly and willfully made false statements as to a material fact during a homicide proceeding, the administrative law judge shall make a written recommendation of dismissal to the Board. If the administrative law judge finds that there is clear and convincing evidence to support the verified complaint that the police officer has, while under oath, knowingly and willfully made false statements as to a material fact during a homicide proceeding, the administrative law judge shall make a written recommendation of decertification to the Board.

(m) Any person, with the exception of the police officer who is the subject of the hearing, who is served by the Board with a subpoena to appear, testify or produce evidence and refuses to comply with the subpoena is guilty of a Class B misdemeanor. Any circuit court or judge, upon application by the Board, may compel compliance with a subpoena issued by the Board.

(n) Within 15 days of receiving the recommendation, the Board shall consider the recommendation of the administrative law judge and the record of the hearing at a Board meeting. If, by a two-thirds vote of the members present at the Board meeting, the Board finds that there is clear and convincing evidence that the police officer has, while under oath, knowingly and willfully made false statements as to a material fact during a homicide proceeding, the Board shall order that

the police officer be decertified as a full-time or part-time police officer. If less than two-thirds of the members present vote to decertify the police officer, the Board shall dismiss the complaint.

(o) The provisions of the Administrative Review Law shall govern all proceedings for the judicial review of any order rendered by the Board. The moving party shall pay the reasonable costs of preparing and certifying the record for review. If the moving party is the police officer and he or she prevails, the court may award the police officer actual costs incurred in all proceedings, including reasonable attorney fees. If the court awards the police officer the actual costs incurred in a proceeding, including reasonable attorney fees, the costs and attorney fees shall be paid, subject to appropriation, from the Illinois Law Enforcement Training Standards Board Costs and Attorney Fees Fund, a special fund that is created in the State Treasury. The Fund shall consist of moneys appropriated or transferred into the Fund for the purpose of making payments of costs and attorney fees in accordance with this subsection (o). The Illinois Law Enforcement Training Standards Board shall administer the Fund and adopt rules for the administration of the Fund and for the submission and disposition of claims for costs and attorney fees in accordance with this subsection (o).

(p) If the police officer is decertified under subsection (h), the Board shall notify the defendant who was a party to the proceeding that resulted in the police officer's decertification and his or her attorney of the Board's decision. Notification shall be by certified mail, return receipt requested, sent to the party's last known address and to the party's attorney if any.

(q) Limitation of action.

(1) No complaint may be filed pursuant to this Section until after a verdict or other disposition is rendered in the underlying case or the underlying case is dismissed in the trial court.

(2) A complaint pursuant to this Section may not be filed more than 2 years after the final resolution of the case. For purposes of this Section, final resolution is defined as the trial court's ruling on the State post-conviction proceeding in the case in which it is alleged the police officer, while under oath, knowingly and willfully made false statements as to a material fact during a homicide proceeding. In the event a post-conviction petition is not filed, an action pursuant to this Section may not be commenced more than 2 years after the denial of a petition for certiorari to the United States Supreme Court, or if no petition for certiorari is filed, 2 years after the date such a petition should have been filed. In the event of an acquittal, no proceeding may be commenced pursuant to this Section more than 6 years after the date upon which judgment on the verdict of acquittal was entered.

(r) Interested parties. Only interested parties to the criminal prosecution in which the police officer allegedly, while under oath, knowingly and willfully made false statements as to a material fact during a homicide proceeding may file a verified complaint pursuant to this Section. For purposes of this Section, "interested parties" include the defendant and any police officer who has personal knowledge that the police officer who is the subject of the complaint has, while under oath, knowingly and willfully made false statements as to a material fact during a homicide proceeding. (Source: P.A. 91-495, eff. 1-1-00.)

Section 10. The Criminal Code of 1961 is amended by changing Sections 9-1 and 14-3 as follows:

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

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

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

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

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

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

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

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

(2) the murdered individual was an employee of an institution or facility of the Department of Corrections, or any similar local correctional agency, killed in the course of performing his official duties, to prevent the performance of his official duties, or in retaliation for performing



his official duties, or the murdered individual was an inmate at such institution or facility and was killed on the grounds thereof, or the murdered individual was otherwise present in such institution or facility with the knowledge and approval of the chief administrative officer thereof; or

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

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

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

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

(a) the murdered individual:

(i) was actually killed by the defendant, or

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

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

(c) the other felony was ~~an inherently violent crime one of the following: armed robbery, armed violence, robbery, predatory criminal sexual assault of a child, aggravated criminal sexual assault, aggravated kidnapping, aggravated vehicular hijacking, forcible detention, arson, aggravated arson, aggravated stalking, burglary, residential burglary, home invasion, calculated criminal drug conspiracy as defined in Section 405 of the Illinois Controlled Substances Act, streetgang criminal drug conspiracy as defined in Section 405.2 of the Illinois Controlled Substances Act, or the attempt to commit an inherently violent crime. In this subparagraph (c), "inherently violent crime" includes, but is not limited to, armed robbery, robbery, predatory criminal sexual assault of a child, aggravated criminal sexual assault, aggravated kidnapping, aggravated vehicular hijacking, aggravated arson, aggravated stalking, residential burglary, and home invasion~~ any of the felonies listed in this subsection (c); or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(21) the murder was committed by the defendant in connection with or as a result of the offense of terrorism as defined in Section 29D-30 of this Code.

(c) Consideration of factors in Aggravation and Mitigation.

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

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

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

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

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

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

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

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

(d) Separate sentencing hearing.

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

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

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

- A. the defendant was convicted upon a plea of guilty; or
- B. the defendant was convicted after a trial before the court sitting without a jury; or
- C. the court for good cause shown discharges the jury that determined the defendant's guilt; or

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

(e) Evidence and Argument.

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

(f) Proof.

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

(g) Procedure - Jury.

If at the separate sentencing proceeding the jury finds that none of the factors set forth in subsection (b) exists, the court shall sentence the defendant to a term of imprisonment under Chapter V of the Unified Code of Corrections. If there is a unanimous finding by the jury that one or more of the factors set forth in subsection (b) exist, the jury shall consider aggravating and mitigating factors as instructed by the court and shall determine whether the sentence of death shall be imposed. If the jury determines unanimously, after weighing the factors in aggravation and mitigation, that death is the appropriate sentence that there are no mitigating factors sufficient to preclude the imposition of the death sentence, the court shall sentence the defendant to death. If the court does not concur with the jury determination that death is the appropriate sentence, the court shall set forth reasons in writing including what facts or circumstances the court relied upon, along with any relevant documents, that compelled the court to non-concur with the sentence. This document and any attachments shall be part of the record for appellate review. The court shall be bound by the jury's sentencing determination.

If after weighing the factors in aggravation and mitigation, one or more jurors determines that death is not the appropriate sentence. Unless the jury unanimously finds that there are no mitigating factors sufficient to preclude the imposition of the death sentence the court shall sentence the defendant to a term of imprisonment under Chapter V of the Unified Code of Corrections.

(h) Procedure - No Jury.

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

If the Court determines that one or more of the factors set forth in subsection (b) exists, the Court shall consider any aggravating and mitigating factors as indicated in subsection (c). If the Court determines, after weighing the factors in aggravation and mitigation, that death is the appropriate sentence that there are no mitigating factors sufficient to preclude the imposition of the death sentence, the Court shall sentence the defendant to death.

If Unless the court finds that there are no mitigating factors sufficient to preclude the imposition of the sentence of death is not the appropriate sentence, the court shall sentence the defendant to a term of imprisonment under Chapter V of the Unified Code of Corrections.

(h-5) Decertification as a capital case.

In a case in which the defendant has been found guilty of first degree murder by a judge or jury, or a case on remand for resentencing, and the State seeks the death penalty as an appropriate sentence, on the court's own motion or the written motion of the defendant, the court may decertify the case as a death penalty case if the court finds that the only evidence supporting the defendant's conviction is the uncorroborated testimony of an informant witness, as defined in Section 115-21 of the Code of Criminal Procedure of 1963, concerning the confession or admission of the defendant or that the sole evidence against the defendant is a single eyewitness or single accomplice without any other corroborating evidence. If the court decertifies the case as a capital case under either of the grounds set forth above, the court shall issue a written finding. The State may pursue its right to appeal the decertification pursuant to Supreme Court Rule 604(a)(1). If the court does not decertify the case as a capital case, the matter shall proceed to the eligibility phase of the sentencing hearing.

(i) Appellate Procedure.

The conviction and sentence of death shall be subject to automatic review by the Supreme Court. Such review shall be in accordance with rules promulgated by the Supreme Court. The Illinois Supreme Court may overturn the death sentence, and order the imposition of imprisonment under

Chapter V of the Unified Code of Corrections if the court finds that the death sentence is fundamentally unjust as applied to the particular case. If the Illinois Supreme Court finds that the death sentence is fundamentally unjust as applied to the particular case, independent of any procedural grounds for relief, the Illinois Supreme Court shall issue a written opinion explaining this finding.

(j) Disposition of reversed death sentence.

In the event that the death penalty in this Act is held to be unconstitutional by the Supreme Court of the United States or of the State of Illinois, any person convicted of first degree murder shall be sentenced by the court to a term of imprisonment under Chapter V of the Unified Code of Corrections.

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

(k) Guidelines for seeking the death penalty.

The Attorney General and State's Attorneys Association shall consult on voluntary guidelines for procedures governing whether or not to seek the death penalty. The guidelines do not have the force of law and are only advisory in nature. (Source: P.A. 91-357, eff. 7-29-99; 91-434, eff. 1-1-00; 92-854, eff. 12-5-02.)

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

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

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

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

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

(d) Recording or listening with the aid of any device to any emergency communication made in the normal course of operations by any federal, state or local law enforcement agency or institutions dealing in emergency services, including, but not limited to, hospitals, clinics, ambulance services, fire fighting agencies, any public utility, emergency repair facility, civilian defense establishment or military installation;

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

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

(g) With prior notification to the State's Attorney of the county in which it is to occur, recording or listening with the aid of any device to any conversation where a law enforcement officer, or any person acting at the direction of law enforcement, is a party to the conversation and has consented to it being intercepted or recorded under circumstances where the use of the device is necessary for the protection of the law enforcement officer or any person acting at the direction of law enforcement, in the course of an investigation of a forcible felony, a felony violation of the Illinois Controlled Substances Act, a felony violation of the Cannabis Control Act, or any "streetgang related" or "gang-related" felony as those terms are defined in the Illinois Streetgang Terrorism Omnibus Prevention Act. Any recording or evidence derived as the result of this exemption shall be inadmissible in any proceeding, criminal, civil or administrative, except (i) where a party to the conversation suffers great bodily injury or is killed during such conversation, or (ii) when used as direct impeachment of a witness concerning matters contained in the interception or recording. The Director of the Department of State Police shall issue regulations as are necessary concerning the use of devices, retention of tape recordings, and reports regarding their use;

(g-5) With approval of the State's Attorney of the county in which it is to occur, recording or

listening with the aid of any device to any conversation where a law enforcement officer, or any person acting at the direction of law enforcement, is a party to the conversation and has consented to it being intercepted or recorded in the course of an investigation of any offense defined in Article 29D of this Code. In all such cases, an application for an order approving the previous or continuing use of an eavesdropping device must be made within 48 hours of the commencement of such use. In the absence of such an order, or upon its denial, any continuing use shall immediately terminate. The Director of State Police shall issue rules as are necessary concerning the use of devices, retention of tape recordings, and reports regarding their use.

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

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

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

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

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

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

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

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

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

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

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

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

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

For the purposes of this subsection (j), "marketing or opinion research" means a marketing or

opinion research interview conducted by a live telephone interviewer engaged by a corporation or other business entity whose principal business is the design, conduct, and analysis of polls and surveys measuring the opinions, attitudes, and responses of respondents toward products and services, or social or political issues, or both; and

(k) Recording the interview or statement of any person when the person knows that the interview is being conducted by a law enforcement officer or prosecutor and the interview takes place at a police station that is currently participating in the Custodial Interview Pilot Program established under the Illinois Criminal Justice Information Act. (Source: P.A. 91-357, eff. 7-29-99; 92-854, eff. 12-5-02.)

Section 15. The Code of Criminal Procedure of 1963 is amended by changing Sections 114-13, 116-3, 122-1, and 122-2.1 and adding Article 107A and Sections 114-15, 115-21, 115-22, 116-5, and 122-2.2 as follows:

(725 ILCS 5/107A Art. heading new) ARTICLE 107A. LINEUP AND PHOTO SPREAD PROCEDURE

(725 ILCS 5/107A-5 new)

Sec. 107A-5. Lineup and photo spread procedure.

(a) All lineups shall be photographed or otherwise recorded. These photographs shall be disclosed to the accused and his or her defense counsel during discovery proceedings as provided in Illinois Supreme Court Rules. All photographs of suspects shown to an eyewitness during the photo spread shall be disclosed to the accused and his or her defense counsel during discovery proceedings as provided in Illinois Supreme Court Rules.

(b) Each eyewitness who views a lineup or photo spread shall sign a form containing the following information:

(1) The suspect might not be in the lineup or photo spread and the eyewitness is not obligated to make an identification.

(2) The eyewitness should not assume that the person administering the lineup or photo spread knows which person is the suspect in the case.

(c) Suspects in a lineup or photo spread should not appear to be substantially different from "fillers" or "distracters" in the lineup or photo spread, based on the eyewitness' previous description of the perpetrator, or based on other factors that would draw attention to the suspect.

(725 ILCS 5/107A-10 new)

Sec. 107A-10. Pilot study on sequential lineup procedures.

(a) Legislative intent. Because the goal of a police investigation is to apprehend the person or persons responsible for committing a crime, it is useful to conduct a pilot study in the field on the effectiveness of the sequential method for lineup procedures.

(b) Establishment of pilot jurisdictions. The Department of State Police shall select 3 police departments to participate in a one-year pilot study on the effectiveness of the sequential lineup method for photo and live lineup procedures. One such pilot jurisdiction shall be a police district within a police department in a municipality whose population is at least 500,000 residents; one such pilot jurisdiction shall be a police department in a municipality whose population is at least 100,000 but less than 500,000; and one such pilot jurisdiction shall be a police department in a municipality whose population is less than 100,000. All such pilot jurisdictions shall be selected no later than January 1, 2004.

(c) Sequential lineup procedures in pilot jurisdictions. For any offense alleged to have been committed in a pilot jurisdiction on or after January 1, 2004, selected lineup identification procedure shall be presented in the sequential method in which a witness is shown lineup participants one at a time, using the following procedures:

(1) The witness shall be requested to state whether the individual shown is the perpetrator of the crime prior to viewing the next lineup participant. Only one member of the lineup shall be a suspect and the remainder shall be "fillers" who are not suspects but fit the general description of the offender without the suspect unduly standing out;

(2) The lineup administrator shall be someone who is not aware of which member of the lineup is the suspect in the case; and

(3) Prior to presenting the lineup using the sequential method the lineup administrator shall:

(A) Inform the witness that the perpetrator may or may not be among those shown, and the witness should not feel compelled to make an identification;

(B) Inform the witness that he or she will view individuals one at a time and will be requested to state whether the individual shown is the perpetrator of the crime, prior to viewing the next lineup participant; and

(C) Ask the witness to state in his or her own words how sure he or she is that the person identified is the actual offender. During the statement, or as soon thereafter as reasonably

possible, the witness's actual words shall be documented.

(d) Application. This Section applies to selected live lineups that are composed and presented at a police station and to selected photo lineups regardless of where presented; provided that this Section does not apply in police investigations in which a spontaneous identification is possible and no lineup procedure is being used. This Section does not affect the right to counsel afforded by the U.S. or Illinois Constitutions or State law at any stage of a criminal proceeding.

(e) Selection of lineups. The participating jurisdictions shall develop a protocol for the selection and administration of lineups which is practical, designed to elicit information for comparative evaluation purposes, and is consistent with objective scientific research methodology.

(f) Training and administrators. The Department of State Police shall offer training to police officers and any other appropriate personnel on the sequential method of conducting lineup procedures in the pilot jurisdictions and the requirements of this Section. The Department of State Police may seek funding for training and administration from the Illinois Criminal Justice Information Authority and the Illinois Law Enforcement Training Standards Board if necessary.

(g) Report on the pilot study. The Department of State Police shall gather information from each of the participating police departments selected as a pilot jurisdiction with respect to the effectiveness of the sequential method for lineup procedures and shall file a report of its findings with the Governor and the General Assembly no later than April 1, 2005.

(725 ILCS 5/114-13) (from Ch. 38, par. 114-13)

Sec. 114-13. Discovery in criminal cases. (a) Discovery procedures in criminal cases shall be in accordance with Supreme Court Rules.

(b) Any public investigative, law enforcement, or other public agency responsible for investigating any homicide offense or participating in an investigation of any homicide offense, other than defense investigators, shall provide to the authority prosecuting the offense all investigative material, including but not limited to reports, memoranda, and field notes, that have been generated by or have come into the possession of the investigating agency concerning the homicide offense being investigated. In addition, the investigating agency shall provide to the prosecuting authority any material or information, including but not limited to reports, memoranda, and field notes, within its possession or control that would tend to negate the guilt of the accused of the offense charged or reduce his or her punishment for the homicide offense. Every investigative and law enforcement agency in this State shall adopt policies to ensure compliance with these standards. Any investigative, law enforcement, or other public agency responsible for investigating any "non-homicide felony" offense or participating in an investigation of any "non-homicide felony" offense, other than defense investigators, shall provide to the authority prosecuting the offense all investigative material, including but not limited to reports and memoranda that have been generated by or have come into the possession of the investigating agency concerning the "non-homicide felony" offense being investigated. In addition, the investigating agency shall provide to the prosecuting authority any material or information, including but not limited to reports and memoranda, within its possession or control that would tend to negate the guilt of the accused of the "non-homicide felony" offense charged or reduce his or her punishment for the "non-homicide felony" offense. This obligation to furnish exculpatory evidence exists whether the information was recorded or documented in any form. Every investigative and law enforcement agency in this State shall adopt policies to ensure compliance with these standards. (Source: Laws 1963, p. 2836.)

(725 ILCS 5/114-15 new)

Sec. 114-15. 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 mental retardation by motion. A defendant wishing to raise the issue of his or her 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 mental retardation shall be determined in a pretrial hearing. The court shall be the fact finder on the issue of the defendant's 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 mental retardation. The defendant and the State may offer experts from the field of 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 mental retardation not at eligibility but at aggravation and mitigation. The defendant and the State may offer experts from the field of mental retardation. The court shall determine admissibility of evidence and qualification as

an expert.

(d) In determining whether the defendant is mentally retarded, the 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 mental retardation. In order for the defendant to be considered 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 mental retardation.

(e) Evidence of 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 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 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.

(725 ILCS 5/115-21 new)

Sec. 115-21. Informant testimony.

(a) For the purposes of this Section, "informant" means someone who is purporting to testify about admissions made to him or her by the accused while incarcerated in a penal institution contemporaneously.

(b) This Section applies to any capital case in which the prosecution attempts to introduce evidence of incriminating statements made by the accused to or overheard by an informant.

(c) In any case under this Section, the prosecution shall timely disclose in discovery:

(1) the complete criminal history of the informant;

(2) any deal, promise, inducement, or benefit that the offering party has made or will make in the future to the informant;

(3) the statements made by the accused;

(4) the time and place of the statements, the time and place of their disclosure to law enforcement officials, and the names of all persons who were present when the statements were made;

(5) whether at any time the informant recanted that testimony or statement and, if so, the time and place of the recantation, the nature of the recantation, and the names of the persons who were present at the recantation;

(6) other cases in which the informant testified, provided that the existence of such testimony can be ascertained through reasonable inquiry and whether the informant received any promise, inducement, or benefit in exchange for or subsequent to that testimony or statement; and

(7) any other information relevant to the informant's credibility.

(d) In any case under this Section, the prosecution must timely disclose its intent to introduce the testimony of an informant. The court shall conduct a hearing to determine whether the testimony of the informant is reliable, unless the defendant waives such a hearing. If the prosecution fails to show by a preponderance of the evidence that the informant's testimony is reliable, the court shall not allow the testimony to be heard at trial. At this hearing, the court shall consider the factors enumerated in subsection (c) as well as any other factors relating to reliability.

(e) A hearing required under subsection (d) does not apply to statements covered under subsection (b) that are lawfully recorded.

(f) This Section applies to all death penalty prosecutions initiated on or after the effective date of this amendatory Act of the 93rd General Assembly.

(725 ILCS 5/115-22 new)

Sec. 115-22. Witness inducements. When the State intends to introduce the testimony of a witness in a capital case, the State shall, before trial, disclose to the defendant and to his or her defense counsel the following information, which shall be reduced to writing:

(1) whether the witness has received or been promised anything, including pay, immunity from prosecution, leniency in prosecution, or personal advantage, in exchange for testimony;

(2) any other case in which the witness testified or offered statements against an individual but was not called, and whether the statements were admitted in the case, and whether the witness received any deal, promise, inducement, or benefit in exchange for that testimony or statement; provided that the existence of such testimony can be ascertained through reasonable inquiry;

(3) whether the witness has ever changed his or her testimony;



- (4) the criminal history of the witness; and
- (5) any other evidence relevant to the credibility of the witness.

(725 ILCS 5/116-3)

Sec. 116-3. Motion for fingerprint or forensic testing not available at trial regarding actual innocence.

(a) A defendant may make a motion before the trial court that entered the judgment of conviction in his or her case for the performance of fingerprint or forensic DNA testing, including comparison analysis of genetic marker groupings of the evidence collected by criminal justice agencies pursuant to the alleged offense, to those of the defendant, to those of other forensic evidence, and to those maintained under subsection (f) of Section 5-4-3 of the Unified Code of Corrections, on evidence that was secured in relation to the trial which resulted in his or her conviction, but which was not subject to the testing which is now requested because the technology for the testing was not available at the time of trial. Reasonable notice of the motion shall be served upon the State.

(b) The defendant must present a prima facie case that:

(1) identity was the issue in the trial which resulted in his or her conviction; and

(2) the evidence to be tested has been subject to a chain of custody sufficient to establish that it has not been substituted, tampered with, replaced, or altered in any material aspect.

(c) The trial court shall allow the testing under reasonable conditions designed to protect the State's interests in the integrity of the evidence and the testing process upon a determination that:

(1) the result of the testing has the scientific potential to produce new, noncumulative evidence materially relevant to the defendant's assertion of actual innocence even though the results may not completely exonerate the defendant;

(2) the testing requested employs a scientific method generally accepted within the relevant scientific community.

(Source: P.A. 90-141, eff. 1-1-98.)

(725 ILCS 5/116-5 new)

Sec. 116-5. Motion for DNA database search (genetic marker groupings comparison analysis).

(a) Upon motion by a defendant charged with any offense where DNA evidence may be material to the defense investigation or relevant at trial, a court may order a DNA database search by the Department of State Police. Such analysis may include comparing:

(1) the genetic profile from forensic evidence that was secured in relation to the trial against the genetic profile of the defendant,

(2) the genetic profile of items of forensic evidence secured in relation to trial to the genetic profile of other forensic evidence secured in relation to trial, or

(3) the genetic profiles referred to in subdivisions (1) and (2) against:

(i) genetic profiles of offenders maintained under subsection (f) of Section 5-4-3 of the Unified Code of Corrections, or

(ii) genetic profiles, including but not limited to, profiles from unsolved crimes maintained in state or local DNA databases by law enforcement agencies.

(b) If appropriate federal criteria are met, the court may order the Department of State Police to request the National DNA index system to search its database of genetic profiles.

(c) If requested by the defense, a defense representative shall be allowed to view any genetic marker grouping analysis conducted by the Department of State Police. The defense shall be provided with copies of all documentation, correspondence, including digital correspondence, notes, memoranda, and reports generated in relation to the analysis.

(d) Reasonable notice of the motion shall be served upon the State.

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

Sec. 122-1. Petition in the trial court. (a) Any person imprisoned in the penitentiary may institute a proceeding under this Article if the person ~~who~~ asserts that:

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

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

(a-5) A proceeding under paragraph (2) of subsection (a) may be commenced within a reasonable period of time after the person's conviction notwithstanding any other provisions of this Article. In such a proceeding regarding actual innocence, if the court determines the petition is frivolous or is patently without merit, it shall dismiss the petition in a written order, specifying the

findings of fact and conclusions of law it made in reaching its decision. Such order of dismissal is a final judgment and shall be served upon the petitioner by certified mail within 10 days of its entry.

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

(c) Except as otherwise provided in subsection (a-5), if the petitioner is under sentence of death, no proceedings under this Article shall be commenced more than 6 months after the denial of a petition for certiorari to the United States Supreme Court on direct appeal, or more than 6 months from the date for filing such a petition if none is filed, unless the petitioner alleges facts showing that the delay was not due to his or her culpable negligence.

When a defendant has a sentence other than death, no proceedings under this Article shall be commenced more than 6 months after the denial of the Petition for Leave to Appeal to the Illinois Supreme Court, or more than 6 months from the date for filing such a petition if none is filed, unless the petitioner alleges facts showing that the delay was not due to his or her culpable negligence.

~~This limitation does not apply to a petition advancing a claim of actual innocence. no proceedings under this Article shall be commenced more than 6 months after the denial of a petition for leave to appeal or the date for filing such a petition if none is filed or more than 45 days after the defendant files his or her brief in the appeal of the sentence before the Illinois Supreme Court (or more than 45 days after the deadline for the filing of the defendant's brief with the Illinois Supreme Court if no brief is filed) or 3 years from the date of conviction, whichever is sooner, unless the petitioner alleges facts showing that the delay was not due to his or her culpable negligence.~~

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

(e) A proceeding under this Article may not be commenced on behalf of a defendant who has been sentenced to death without the written consent of the defendant, unless the defendant, because of a mental or physical condition, is incapable of asserting his or her own claim. (Source: P.A. 89-284, eff. 1-1-96; 89-609, eff. 1-1-97; 89-684, eff. 6-1-97; 90-14, eff. 7-1-97.)

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

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

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

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

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

(c) In considering a petition pursuant to this Section, the court may examine the court file of the proceeding in which the petitioner was convicted, any action taken by an appellate court in such proceeding and any transcripts of such proceeding. (Source: P.A. 86-655; 87-904.)

(725 ILCS 5/122-2.2 new)

Sec. 122-2.2. Mental retardation and post-conviction relief.

(a) In cases where no determination of 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 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 mental retardation.

Section 20. The Capital Crimes Litigation Act is amended by changing Sections 15 and 19 as follows:

(725 ILCS 124/15) (Section scheduled to be repealed on July 1, 2004)

Sec. 15. Capital Litigation Trust Fund. (a) The Capital Litigation Trust Fund is created as a special fund in the State Treasury. The Trust Fund shall be administered by the State Treasurer to provide moneys for the appropriations to be made, grants to be awarded, and compensation and expenses to be paid under this Act. All interest earned from the investment or deposit of moneys accumulated in the Trust Fund shall, under Section 4.1 of the State Finance Act, be deposited into the Trust Fund.

(b) Moneys deposited into the Trust Fund shall not be considered general revenue of the State of Illinois.

(c) Moneys deposited into the Trust Fund shall be used exclusively for the purposes of providing funding for the prosecution and defense of capital cases as provided in this Act and shall not be appropriated, loaned, or in any manner transferred to the General Revenue Fund of the State of Illinois.

(d) Every fiscal year the State Treasurer shall transfer from the General Revenue Fund to the Capital Litigation Trust Fund an amount equal to the full amount of moneys appropriated by the General Assembly (both by original and supplemental appropriation), less any unexpended balance from the previous fiscal year, from the Capital Litigation Trust Fund for the specific purpose of making funding available for the prosecution and defense of capital cases. The Public Defender and State's Attorney in Cook County, the State Appellate Defender, the State's Attorneys Appellate Prosecutor, and the Attorney General shall make annual requests for appropriations from the Trust Fund.

(1) The Public Defender in Cook County shall request appropriations to the State Treasurer for expenses incurred by the Public Defender and for funding for private appointed defense counsel in Cook County.

(2) The State's Attorney in Cook County shall request an appropriation to the State Treasurer for expenses incurred by the State's Attorney.

(3) The State Appellate Defender shall request a direct appropriation from the Trust Fund for expenses incurred by the State Appellate Defender in providing assistance to trial attorneys under item (c)(5) of Section 10 of the State Appellate Defender Act and an appropriation to the State Treasurer for payments from the Trust Fund for the defense of cases in counties other than Cook County.

(4) The State's Attorneys Appellate Prosecutor shall request a direct appropriation from the Trust Fund to pay expenses incurred by the State's Attorneys Appellate Prosecutor and an appropriation to the State Treasurer for payments from the Trust Fund for expenses incurred by State's Attorneys in counties other than Cook County.

(5) The Attorney General shall request a direct appropriation from the Trust Fund to pay expenses incurred by the Attorney General in assisting the State's Attorneys in counties other than Cook County.

The Public Defender and State's Attorney in Cook County, the State Appellate Defender, the State's Attorneys Appellate Prosecutor, and the Attorney General may each request supplemental appropriations from the Trust Fund during the fiscal year.

(e) Moneys in the Trust Fund shall be expended only as follows:

(1) To pay the State Treasurer's costs to administer the Trust Fund. The amount for this purpose may not exceed 5% in any one fiscal year of the amount otherwise appropriated from the Trust Fund in the same fiscal year.

(2) To pay the capital litigation expenses of trial defense including, but not limited to, DNA testing, including DNA testing under Section 116-3 of the Code of Criminal Procedure of 1963, analysis, and expert testimony, investigatory and other assistance, expert, forensic, and other witnesses, and mitigation specialists, and grants and aid provided to public defenders or assistance to attorneys who have been appointed by the court to represent defendants who are charged with capital crimes.

(3) To pay the compensation of trial attorneys, other than public defenders, who have been appointed by the court to represent defendants who are charged with capital crimes.

(4) To provide State's Attorneys with funding for capital litigation expenses including, but not

limited to, investigatory and other assistance and expert, forensic, and other witnesses necessary to prosecute capital cases. State's Attorneys in any county other than Cook County seeking funding for capital litigation expenses including, but not limited to, investigatory and other assistance and expert, forensic, or other witnesses under this Section may request that the State's Attorneys Appellate Prosecutor or the Attorney General, as the case may be, certify the expenses as reasonable, necessary, and appropriate for payment from the Trust Fund, on a form created by the State Treasurer. Upon certification of the expenses and delivery of the certification to the State Treasurer, the Treasurer shall pay the expenses directly from the Capital Litigation Trust Fund if there are sufficient moneys in the Trust Fund to pay the expenses.

(5) To provide financial support through the Attorney General pursuant to the Attorney General Act for the several county State's Attorneys outside of Cook County, but shall not be used to increase personnel for the Attorney General's Office.

(6) To provide financial support through the State's Attorneys Appellate Prosecutor pursuant to the State's Attorneys Appellate Prosecutor's Act for the several county State's Attorneys outside of Cook County, but shall not be used to increase personnel for the State's Attorneys Appellate Prosecutor.

(7) To provide financial support to the State Appellate Defender pursuant to the State Appellate Defender Act.

Moneys expended from the Trust Fund shall be in addition to county funding for Public Defenders and State's Attorneys, and shall not be used to supplant or reduce ordinary and customary county funding.

(f) Moneys in the Trust Fund shall be appropriated to the State Appellate Defender, the State's Attorneys Appellate Prosecutor, the Attorney General, and the State Treasurer. The State Appellate Defender shall receive an appropriation from the Trust Fund to enable it to provide assistance to appointed defense counsel throughout the State and to Public Defenders in counties other than Cook. The State's Attorneys Appellate Prosecutor and the Attorney General shall receive appropriations from the Trust Fund to enable them to provide assistance to State's Attorneys in counties other than Cook County. Moneys shall be appropriated to the State Treasurer to enable the Treasurer (i) to make grants to Cook County, (ii) to pay the expenses of Public Defenders and State's Attorneys in counties other than Cook County, (iii) to pay the expenses and compensation of appointed defense counsel in counties other than Cook County, and (iv) to pay the costs of administering the Trust Fund. All expenditures and grants made from the Trust Fund shall be subject to audit by the Auditor General.

(g) For Cook County, grants from the Trust Fund shall be made and administered as follows:

(1) For each State fiscal year, the State's Attorney and Public Defender must each make a separate application to the State Treasurer for capital litigation grants.

(2) The State Treasurer shall establish rules and procedures for grant applications. The rules shall require the Cook County Treasurer as the grant recipient to report on a periodic basis to the State Treasurer how much of the grant has been expended, how much of the grant is remaining, and the purposes for which the grant has been used. The rules may also require the Cook County Treasurer to certify on a periodic basis that expenditures of the funds have been made for expenses that are reasonable, necessary, and appropriate for payment from the Trust Fund.

(3) The State Treasurer shall make the grants to the Cook County Treasurer as soon as possible after the beginning of the State fiscal year.

(4) The State's Attorney or Public Defender may apply for supplemental grants during the fiscal year.

(5) Grant moneys shall be paid to the Cook County Treasurer in block grants and held in separate accounts for the State's Attorney, the Public Defender, and court appointed defense counsel other than the Cook County Public Defender, respectively, for the designated fiscal year, and are not subject to county appropriation.

(6) Expenditure of grant moneys under this subsection (g) is subject to audit by the Auditor General.

(7) The Cook County Treasurer shall immediately make payment from the appropriate separate account in the county treasury for capital litigation expenses to the State's Attorney, Public Defender, or court appointed defense counsel other than the Public Defender, as the case may be, upon order of the State's Attorney, Public Defender or the court, respectively.

(h) If a defendant in a capital case in Cook County is represented by court appointed counsel other than the Cook County Public Defender, the appointed counsel shall petition the court for an order directing the Cook County Treasurer to pay the court appointed counsel's reasonable and necessary compensation and capital litigation expenses from grant moneys provided from the Trust Fund. These petitions shall be considered in camera. Orders denying petitions for compensation or

expenses are final. Counsel may not petition for expenses that may have been provided or compensated by the State Appellate Defender under item (c)(5) of Section 10 of the State Appellate Defender Act.

(i) In counties other than Cook County, and excluding capital litigation expenses or services that may have been provided by the State Appellate Defender under item (c)(5) of Section 10 of the State Appellate Defender Act:

(1) Upon certification by the circuit court, on a form created by the State Treasurer, that all or a portion of the expenses are reasonable, necessary, and appropriate for payment from the Trust Fund and the court's delivery of the certification to the Treasurer, the Treasurer shall pay the certified expenses of Public Defenders from the money appropriated to the Treasurer for capital litigation expenses of Public Defenders in any county other than Cook County, if there are sufficient moneys in the Trust Fund to pay the expenses.

(2) If a defendant in a capital case is represented by court appointed counsel other than the Public Defender, the appointed counsel shall petition the court to certify compensation and capital litigation expenses including, but not limited to, investigatory and other assistance, expert, forensic, and other witnesses, and mitigation specialists as reasonable, necessary, and appropriate for payment from the Trust Fund. Upon certification on a form created by the State Treasurer of all or a portion of the compensation and expenses certified as reasonable, necessary, and appropriate for payment from the Trust Fund and the court's delivery of the certification to the Treasurer, the State Treasurer shall pay the certified compensation and expenses from the money appropriated to the Treasurer for that purpose, if there are sufficient moneys in the Trust Fund to make those payments.

(3) A petition for capital litigation expenses under this subsection shall be considered in camera. Orders denying petitions for compensation or expenses are final.

(j) If the Trust Fund is discontinued or dissolved by an Act of the General Assembly or by operation of law, any balance remaining in the Trust Fund shall be returned to the General Revenue Fund after deduction of administrative costs, any other provision of this Act to the contrary notwithstanding. (Source: P.A. 91-589, eff. 1-1-00.)

(725 ILCS 124/19) (Section scheduled to be repealed on July 1, 2004)

Sec. 19. Report; repeal. (a) The Cook County Public Defender, the Cook County State's Attorney, the State Appellate Defender, the State's Attorneys Appellate Prosecutor, and the Attorney General shall each report separately to the General Assembly by January 1, 2004 detailing the amounts of money received by them through this Act, the uses for which those funds were expended, the balances then in the Capital Litigation Trust Fund or county accounts, as the case may be, dedicated to them for the use and support of Public Defenders, appointed trial defense counsel, and State's Attorneys, as the case may be. The report shall describe and discuss the need for continued funding through the Fund and contain any suggestions for changes to this Act.

(b) ~~(Blank). Unless the General Assembly provides otherwise, this Act is repealed on July 1, 2004.~~ (Source: P.A. 91-589, eff. 1-1-00.)

Section 25. The Unified Code of Corrections is amended by changing Section 5-4-3 as follows:

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

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

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

(1) convicted of a qualifying offense or attempt of a qualifying offense on or after July 1, 1990 ~~the effective date of this amendatory Act of 1989~~, and sentenced to a term of imprisonment, periodic imprisonment, fine, probation, conditional discharge or any other form of sentence, or given a disposition of court supervision for the offense; ~~or~~

(1.5) found guilty or given supervision under the Juvenile Court Act of 1987 for a qualifying offense or attempt of a qualifying offense on or after January 1, 1997; ~~the effective date of this amendatory Act of 1996, or~~

(2) ordered institutionalized as a sexually dangerous person on or after July 1, 1990; ~~the effective date of this amendatory Act of 1989, or~~

(3) convicted of a qualifying offense or attempt of a qualifying offense before July 1, 1990 ~~the effective date of this amendatory Act of 1989~~ and is presently confined as a result of such conviction in any State correctional facility or county jail or is presently serving a sentence of probation, conditional discharge or periodic imprisonment as a result of such conviction; ~~or~~

(3.5) convicted or found guilty of any offense classified as a felony under Illinois law or found guilty or given supervision for such an offense under the Juvenile Court Act of 1987 on or after August 22, 2002; ~~the effective date of this amendatory Act of the 92nd General Assembly~~; ~~or~~

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

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

(5) seeking transfer to or residency in Illinois under Sections 3-3-11.05 through 3-3-11.5 of the Unified Code of Corrections and the Interstate Compact for Adult Offender Supervision or the Interstate Agreements on Sexually Dangerous Persons Act.

Notwithstanding other provisions of this Section, any person incarcerated in a facility of the Illinois Department of Corrections on or after August 22, 2002 ~~the effective date of this amendatory Act of the 92nd General Assembly~~ shall be required to submit a specimen of blood, saliva, or tissue prior to his or her release on parole or mandatory supervised release, as a condition of his or her parole or mandatory supervised release.

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

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

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

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

(c-6) The Illinois Department of State Police may determine which type of specimen or specimens, blood, saliva, or tissue, is acceptable for submission to the Division of Forensic Services for analysis.

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

(d-1) The Illinois Department of State Police shall provide all equipment and instructions necessary for the collection of saliva samples. The collection of saliva samples shall be performed in a medically approved manner. Only a person trained in the instructions promulgated by the Illinois State Police on collecting saliva may collect saliva for the purposes of this Section. The samples shall thereafter be forwarded to the Illinois Department of State Police, Division of Forensic Services, for analysis and categorizing into genetic marker groupings.

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

(d-5) To the extent that funds are available, the Illinois Department of State Police shall contract with qualified personnel and certified laboratories for the collection, analysis, and categorization of known samples.

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

(f) The genetic marker grouping analysis information obtained pursuant to this Act shall be confidential and shall be released only to peace officers of the United States, of other states or territories, of the insular possessions of the United States, of foreign countries duly authorized to receive the same, to all peace officers of the State of Illinois and to all prosecutorial agencies, and to defense counsel as provided by Section 116-5 of the Code of Criminal Procedure of 1963. The genetic marker grouping analysis information obtained pursuant to this Act shall be used only for (i) valid law enforcement identification purposes and as required by the Federal Bureau of Investigation for participation in the National DNA database or (ii) technology validation purposes or (iii) assisting in the defense of the criminally accused pursuant to Section 116-5 of the Code of Criminal Procedure of 1963. Notwithstanding any other statutory provision to the contrary, all information obtained under this Section shall be maintained in a single State data base, which may be uploaded into a national database, and which information may be subject to expungement only as set forth in subsection (f-1).

(f-1) Upon receipt of notification of a reversal of a conviction based on actual innocence, or of the granting of a pardon pursuant to Section 12 of Article V of the Illinois Constitution, if that pardon document specifically states that the reason for the pardon is the actual innocence of an individual whose DNA record has been stored in the State or national DNA identification index in accordance with this Section by the Illinois Department of State Police, the DNA record shall be expunged from the DNA identification index, and the Department shall by rule prescribe procedures to ensure that the record and any samples, analyses, or other documents relating to such record, whether in the possession of the Department or any law enforcement or police agency, or any forensic DNA laboratory, including any duplicates or copies thereof, are destroyed and a letter is sent to the court verifying the expungement is completed.

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

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

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

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

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

(3) (blank); ~~or~~

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

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

(g-5) (Blank).

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

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

(j) Any person required by subsection (a) to submit specimens of blood, saliva, or tissue to the Illinois Department of State Police for analysis and categorization into genetic marker grouping, in addition to any other disposition, penalty, or fine imposed, shall pay an analysis fee of \$200. If the analysis fee is not paid at the time of sentencing, the court shall establish a fee schedule by which the entire amount of the analysis fee shall be paid in full, such schedule not to exceed 24 months from the time of conviction. The inability to pay this analysis fee shall not be the sole ground to incarcerate the person.

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

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

(2) All fees shall be collected by the clerk of the court and forwarded to the State Offender

DNA Identification System Fund for deposit. The clerk of the circuit court may retain the amount of \$10 from each collected analysis fee to offset administrative costs incurred in carrying out the clerk's responsibilities under this Section.

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

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

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

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

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

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

(I) The failure of a person to provide a specimen, or of any person or agency to collect a specimen, within the 45 day period shall in no way alter the obligation of the person to submit such specimen, or the authority of the Illinois Department of State Police or persons designated by the Department to collect the specimen, or the authority of the Illinois Department of State Police to accept, analyze and maintain the specimen or to maintain or upload results of genetic marker grouping analysis information into a State or national database. (Source: P.A. 91-528, eff. 1-1-00; 92-16, eff. 6-28-01; 92-40, eff. 6-29-01; 92-571, eff. 6-26-02; 92-600, eff. 6-28-02; 92-829, eff. 8-22-02; 92-854, eff. 12-5-02; revised 1-20-03.)

Section 90. The State Finance Act is amended by adding Section 5.595 as follows:

(30 ILCS 105/5.595 new)

Sec. 5.595. The Illinois Law Enforcement Training Standards Board Costs and Attorney Fees Fund.

Section 95. Severability. The provisions of this Act are severable under Section 1.31 of the Statute on Statutes.

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

The motion prevailed.

And the amendment was adopted, and ordered printed.

There being no further amendments, the bill, as amended, was ordered to a third reading.

### READING BILLS FROM THE HOUSE OF REPRESENTATIVES A THIRD TIME

On motion of Senator Cullerton, **House Bill No. 1281**, having been printed as received from the House of Representatives, together with all Senate Amendments adopted thereto, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

Yeas 54; Nays 4.

The following voted in the affirmative:

Althoff	Geo-Karis	Obama	Sullivan, D.
Bomke	Haine	Peterson	Sullivan, J.
Brady	Halvorson	Radogno	Syverson
Burzynski	Harmon	Rauschenberger	Trotter
Clayborne	Hendon	Righter	Viverito
Collins	Hunter	Risinger	Walsh
Cronin	Jacobs	Ronen	Watson
Crotty	Jones, J.	Roskam	Welch
Cullerton	Lightford	Rutherford	Winkel
del Valle	Link	Sandoval	Wojcik
DeLeo	Luechtefeld	Schoenberg	Woolard
Demuzio	Martinez	Shadid	Mr. President



Dillard	Meeks	Sieben
Garrett	Munoz	Silverstein

The following voted in the negative:

Jones, W.	Maloney
Lauzen	Petka

This bill, having received the vote of constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the title be as aforesaid, and that the Secretary inform the House of Representatives thereof and ask their concurrence in the Senate Amendments adopted thereto.

On motion of Senator Dillard, **House Bill No. 1373**, having been printed as received from the House of Representatives, together with all Senate Amendments adopted thereto, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

Yeas 58; Nays None.

The following voted in the affirmative:

Althoff	Haine	Obama	Soden
Bomke	Halvorson	Peterson	Sullivan, D.
Brady	Harmon	Petka	Sullivan, J.
Burzynski	Hendon	Radogno	Syverson
Clayborne	Jacobs	Rauschenberger	Trotter
Collins	Jones, J.	Righter	Viverito
Cronin	Jones, W.	Risinger	Walsh
Crotty	Lauzen	Ronen	Watson
Cullerton	Lightford	Roskam	Welch
del Valle	Link	Rutherford	Winkel
DeLeo	Luechtefeld	Sandoval	Wojcik
Demuzio	Maloney	Schoenberg	Woolard
Dillard	Martinez	Shadid	Mr. President
Garrett	Meeks	Sieben	
Geo-Karis	Munoz	Silverstein	

This bill, having received the vote of constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the title be as aforesaid, and that the Secretary inform the House of Representatives thereof and ask their concurrence in the Senate Amendment adopted thereto.

Senator Hunter asked and obtained unanimous consent for the Journal to reflect her affirmative vote on **House Bill No. 1373**.

### HOUSE BILL RECALLED

On motion of Senator Garrett, **House Bill No. 1382** was recalled from the order of third reading to the order of second reading.

Senator Garrett offered the following amendment:

#### AMENDMENT NO. 3

AMENDMENT NO. 3. Amend House Bill 1382 on page 1, line 16, after "visitation.", by inserting "The Court shall consider the following factors when deciding whether to enjoin removal of a child:

- (1) the extent of previous involvement with the child by the party seeking to enjoin removal;
- (2) the likelihood that parentage will be established; and
- (3) the impact on the financial, physical, and emotional health of the party being enjoined from removing the child."

Senator Garrett moved that the foregoing amendment be ordered to lie on the table.  
The motion to table prevailed.  
Senator Garrett offered the following amendment and moved its adoption:

**AMENDMENT NO. 4**

AMENDMENT NO. 4. Amend House Bill 1382 on page 1, line 16, after "visitation," by inserting "When deciding whether to enjoin removal of a child, the Court shall consider the following factors including, but not limited to:

(1) the extent of previous involvement with the child by the party seeking to enjoin removal;  
(2) the likelihood that parentage will be established; and  
(3) the impact on the financial, physical, and emotional health of the party being enjoined from removing the child."

The motion prevailed.

And the amendment was adopted, and ordered printed.

There being no further amendments, the bill, as amended, was ordered to a third reading.

**READING BILLS FROM THE HOUSE OF REPRESENTATIVES A THIRD TIME**

On motion of Senator Garrett, **House Bill No. 1382**, having been printed as received from the House of Representatives, together with all Senate Amendments adopted thereto, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

Yeas 58; Nays None.

The following voted in the affirmative:

Althoff	Haine	Obama	Soden
Bomke	Halvorson	Peterson	Sullivan, D.
Brady	Harmon	Petka	Sullivan, J.
Burzynski	Hendon	Radogno	Syverson
Clayborne	Jacobs	Rauschenberger	Trotter
Collins	Jones, J.	Righter	Viverito
Cronin	Jones, W.	Risinger	Walsh
Crotty	Lauzen	Ronen	Watson
Cullerton	Lightford	Roskam	Welch
del Valle	Link	Rutherford	Winkel
DeLeo	Luechtefeld	Sandoval	Wojcik
Demuzio	Maloney	Schoenberg	Woolard
Dillard	Martinez	Shadid	Mr. President
Garrett	Meeks	Sieben	
Geo-Karis	Munoz	Silverstein	

This bill, having received the vote of constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the title be as aforesaid, and that the Secretary inform the House of Representatives thereof and ask their concurrence in the Senate Amendment adopted thereto.

Senator Hunter asked and obtained unanimous consent for the Journal to reflect her affirmative vote on **House Bill No. 1382**.

On motion of Senator Shadid, **House Bill No. 1475**, having been printed as received from the House of Representatives, together with all Senate Amendments adopted thereto, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

Yeas 57; Nays 2.

The following voted in the affirmative:

Althoff	Halvorson	Peterson	Sullivan, D.
Brady	Harmon	Petka	Sullivan, J.
Burzynski	Hendon	Radogno	Syverson
Clayborne	Hunter	Rauschenberger	Trotter
Collins	Jacobs	Righter	Viverito
Cronin	Jones, W.	Risinger	Walsh
Crotty	Laufen	Ronen	Watson
Cullerton	Lightford	Roskam	Welch
del Valle	Link	Rutherford	Winkel
DeLeo	Luechtefeld	Sandoval	Wojcik
Demuzio	Maloney	Schoenberg	Woolard
Dillard	Martinez	Shadid	Mr. President
Garrett	Meeks	Sieben	
Geo-Karis	Munoz	Silverstein	
Haine	Obama	Soden	

The following voted in the negative:

Bomke  
Jones, J.

This bill, having received the vote of constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the title be as aforesaid, and that the Secretary inform the House of Representatives thereof and ask their concurrence in the Senate Amendments adopted thereto.

On motion of Senator Trotter, **House Bill No. 1480**, having been printed as received from the House of Representatives, together with all Senate Amendments adopted thereto, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

Yeas 59; Nays None.

The following voted in the affirmative:

Althoff	Haine	Munoz	Silverstein
Bomke	Halvorson	Obama	Soden
Brady	Harmon	Peterson	Sullivan, D.
Burzynski	Hendon	Petka	Sullivan, J.
Clayborne	Hunter	Radogno	Syverson
Collins	Jacobs	Rauschenberger	Trotter
Cronin	Jones, J.	Righter	Viverito
Crotty	Jones, W.	Risinger	Walsh
Cullerton	Laufen	Ronen	Watson
del Valle	Lightford	Roskam	Welch
DeLeo	Link	Rutherford	Winkel
Demuzio	Luechtefeld	Sandoval	Wojcik
Dillard	Maloney	Schoenberg	Woolard
Garrett	Martinez	Shadid	Mr. President
Geo-Karis	Meeks	Sieben	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof.

On motion of Senator Welch, **House Bill No. 2685**, having been printed as received from the House of Representatives, together with all Senate Amendments adopted thereto, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

Yeas 58; Nays None.

The following voted in the affirmative:

Althoff	Haine	Munoz	Soden
Bomke	Halvorson	Obama	Sullivan, D.
Brady	Harmon	Peterson	Sullivan, J.
Burzynski	Hendon	Petka	Syverson
Clayborne	Hunter	Radogno	Trotter
Collins	Jacobs	Rauschenberger	Viverito
Cronin	Jones, J.	Righter	Walsh
Crotty	Jones, W.	Risinger	Watson
Cullerton	Laufen	Ronen	Welch
del Valle	Lightford	Rutherford	Winkel
DeLeo	Link	Sandoval	Wojcik
Demuzio	Luechtefeld	Schoenberg	Woolard
Dillard	Maloney	Shadid	Mr. President
Garrett	Martinez	Sieben	
Geo-Karis	Meeks	Silverstein	

This bill, having received the vote of constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the title be as aforesaid, and that the Secretary inform the House of Representatives thereof and ask their concurrence in the Senate Amendment adopted thereto.

On motion of Senator Trotter, **House Bill No. 2730**, having been printed as received from the House of Representatives, together with all Senate Amendments adopted thereto, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

Yeas 58; Nays None; Present 1.

The following voted in the affirmative:

Althoff	Haine	Munoz	Soden
Bomke	Halvorson	Obama	Sullivan, D.
Brady	Harmon	Peterson	Sullivan, J.
Burzynski	Hendon	Petka	Syverson
Clayborne	Hunter	Radogno	Trotter
Collins	Jacobs	Rauschenberger	Viverito
Cronin	Jones, J.	Risinger	Walsh
Crotty	Jones, W.	Ronen	Watson
Cullerton	Laufen	Roskam	Welch
del Valle	Lightford	Rutherford	Winkel
DeLeo	Link	Sandoval	Wojcik
Demuzio	Luechtefeld	Schoenberg	Woolard
Dillard	Maloney	Shadid	Mr. President
Garrett	Martinez	Sieben	
Geo-Karis	Meeks	Silverstein	

The following voted present:

Righter

This bill, having received the vote of constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the title be as aforesaid, and that the Secretary inform the House of Representatives thereof and ask their concurrence in the Senate Amendment adopted thereto.

On motion of Senator Walsh, **House Bill No. 1489**, having been printed as received from the House of Representatives, together with all Senate Amendments adopted thereto, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

Yeas 34; Nays 24.

The following voted in the affirmative:

Burzynski	Haine	Martinez	Soden
Clayborne	Halvorson	Meeks	Trotter
Collins	Harmon	Munoz	Viverito
Crotty	Hendon	Obama	Walsh
Cullerton	Hunter	Ronen	Welch
del Valle	Jacobs	Sandoval	Woolard
DeLeo	Lightford	Schoenberg	Mr. President
Demuzio	Link	Shadid	
Geo-Karis	Maloney	Silverstein	

The following voted in the negative:

Althoff	Jones, W.	Risinger	Watson
Bomke	Lauzen	Roskam	Winkel
Brady	Luechtefeld	Rutherford	Wojcik
Cronin	Peterson	Sieben	
Dillard	Petka	Sullivan, D.	
Garrett	Rauschenberger	Sullivan, J.	
Jones, J.	Righter	Syverson	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof.

On motion of Senator Link, **House Bill No. 1514**, having been printed as received from the House of Representatives, together with all Senate Amendments adopted thereto, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

Yeas 59; Nays None.

The following voted in the affirmative:

Althoff	Haine	Munoz	Silverstein
Bomke	Halvorson	Obama	Soden
Brady	Harmon	Peterson	Sullivan, D.
Burzynski	Hendon	Petka	Sullivan, J.
Clayborne	Hunter	Radogno	Syverson
Collins	Jacobs	Rauschenberger	Trotter
Cronin	Jones, J.	Righter	Viverito
Crotty	Jones, W.	Risinger	Walsh
Cullerton	Lauzen	Ronen	Watson
del Valle	Lightford	Roskam	Welch
DeLeo	Link	Rutherford	Winkel
Demuzio	Luechtefeld	Sandoval	Wojcik
Dillard	Maloney	Schoenberg	Woolard
Garrett	Martinez	Shadid	Mr. President

Geo-Karis

Meeks

Sieben

This bill, having received the vote of constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the title be as aforesaid, and that the Secretary inform the House of Representatives thereof and ask their concurrence in the Senate Amendments adopted thereto.

### HOUSE BILL RECALLED

On motion of Senator del Valle, **House Bill No. 1543** was recalled from the order of third reading to the order of second reading.

Senator del Valle offered the following amendment and moved its adoption:

#### AMENDMENT NO. 2

AMENDMENT NO. 2. Amend House Bill 1543 by replacing everything after the enacting clause with the following:

"Section 5. The State Finance Act is amended by adding Section 13.5 as follows:

Sec. 13.5. Appropriations for higher education. State appropriations to the Board of Trustees of Southern Illinois University, the Board of Trustees of the University of Illinois, the Board of Trustees of Chicago State University, the Board of Trustees of Eastern Illinois University, the Board of Trustees of Illinois State University, the Board of Trustees of Governors 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 for operations shall identify the amounts appropriated for personal services, State contributions to social security for Medicare, contractual services, travel, commodities, equipment, operation of automotive equipment, telecommunications, awards and grants, and permanent improvements.

Within 120 days after the conclusion of each fiscal year, each State-supported institution of higher learning must provide, through the Illinois Board of Higher Education, a financial report to the Governor and General Assembly documenting the institution's revenues and expenditures of funds for that fiscal year ending June 30 for all funds.

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

The motion prevailed.

And the amendment was adopted, and ordered printed.

There being no further amendments, the bill, as amended, was ordered to a third reading.

### READING BILLS FROM THE HOUSE OF REPRESENTATIVES A THIRD TIME

On motion of Senator del Valle, **House Bill No. 1543**, having been printed as received from the House of Representatives, together with all Senate Amendments adopted thereto, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

Yeas 58; Nays None.

The following voted in the affirmative:

Althoff	Haine	Obama	Soden
Bomke	Halvorson	Peterson	Sullivan, D.
Brady	Harmon	Petka	Sullivan, J.
Burzynski	Hendon	Radogno	Syverson
Clayborne	Hunter	Rauschenberger	Trotter
Collins	Jacobs	Righter	Viverito
Cronin	Jones, J.	Risinger	Walsh
Crotty	Jones, W.	Ronen	Watson
Cullerton	Lauzen	Roskam	Welch
del Valle	Lightford	Rutherford	Winkel
DeLeo	Link	Sandoval	Wojcik
Demuzio	Maloney	Schoenberg	Woolard
Dillard	Martinez	Shadid	Mr. President

Garrett	Meeks	Sieben
Geo-Karis	Munoz	Silverstein

This bill, having received the vote of constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the title be as aforesaid, and that the Secretary inform the House of Representatives thereof and ask their concurrence in the Senate Amendment adopted thereto.

On motion of Senator Martinez, **House Bill No. 1632**, having been printed as received from the House of Representatives, together with all Senate Amendments adopted thereto, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

Yeas 57; Nays None.

The following voted in the affirmative:

Althoff	Haine	Munoz	Sullivan, D.
Bomke	Halvorson	Obama	Sullivan, J.
Brady	Harmon	Peterson	Syverson
Burzynski	Hendon	Petka	Trotter
Clayborne	Hunter	Rauschenberger	Viverito
Collins	Jacobs	Righter	Walsh
Cronin	Jones, J.	Risinger	Watson
Crotty	Jones, W.	Ronen	Welch
Cullerton	Lauzen	Roskam	Winkel
del Valle	Lightford	Sandoval	Wojcik
DeLeo	Link	Schoenberg	Woolard
Demuzio	Luechtefeld	Shadid	Mr. President
Dillard	Maloney	Sieben	
Garrett	Martinez	Silverstein	
Geo-Karis	Meeks	Soden	

This bill, having received the vote of constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the title be as aforesaid, and that the Secretary inform the House of Representatives thereof and ask their concurrence in the Senate Amendment adopted thereto.

**HOUSE BILL RECALLED**

On motion of Senator Cullerton, **House Bill No. 2136** was recalled from the order of third reading to the order of second reading.

Senator Cullerton offered the following amendment and moved its adoption:

**AMENDMENT NO. 3**

AMENDMENT NO. 3. Amend House Bill 2136, AS AMENDED, by replacing everything after the enacting clause with the following:

"Section 5. The Adoption Act is amended by changing Sections 18.2, 18.3a, and 18.4 as follows: (750 ILCS 50/18.2) (from Ch. 40, par. 1522.2)

Sec. 18.2. Forms. (a) The form of the Birth Parent Registration Identification Form shall be substantially as follows:

**BIRTH PARENT REGISTRATION IDENTIFICATION**

(Insert all known information)

I, ....., state that I am the ..... (mother or father) of the following child:

Child's original name: ..... (first) ..... (middle) ..... (last), ..... (hour of birth), ..... (date of birth), ..... (city and state of birth), ..... (name of hospital).

Father's full name: ..... (first) ..... (middle) ..... (last), ..... (date of birth), ..... (city and state of birth).

Name of mother inserted on birth certificate: ..... (first) ..... (middle) ..... (last), ..... (race), ..... (date of birth), ..... (city and state of birth).

That I surrendered my child to: ..... (name of agency), ..... (city and state of agency), ..... (approximate date child surrendered).

That I placed my child by private adoption: ..... (date), ..... (city and state).

Name of adoptive parents, if known: .....

Other identifying information: .....

.....  
(Signature of parent)

.....  
(date) (printed name of parent)

(b) The form of the Adopted Person Registration Identification shall be substantially as follows:

ADOPTED PERSON  
REGISTRATION IDENTIFICATION

(Insert all known information)

I, ....., state the following:

Adopted Person's present name: ..... (first) ..... (middle) ..... (last).

Adopted Person's name at birth (if known): ..... (first) ..... (middle) ..... (last), ..... (birth date), ..... (city and state of birth), ..... (sex), ..... (race).

Name of adoptive father: ..... (first) ..... (middle) ..... (last), ..... (race).

Maiden name of adoptive mother: ..... (first) ..... (middle) ..... (last), ..... (race).

Name of birth mother (if known): ..... (first) ..... (middle) ..... (last), ..... (race).

Name of birth father (if known): ..... (first) ..... (middle) ..... (last), ..... (race).

Name(s) at birth of sibling(s) having a common birth parent with adoptee (if known): ..... (first) ..... (middle) ..... (last), ..... (race), and name of common birth parent: ..... (first) ..... (middle) ..... (last), ..... (race).

I was adopted through: ..... (name of agency).

I was adopted privately: ..... (state "yes" if known).

I was adopted in ..... (city and state), ..... (approximate date).

Other identifying information: .....

.....  
(signature of adoptee)

.....  
(date) (printed name of adoptee)

(c) The form of the Surrendered Person Registration Identification shall be substantially as follows:

SURRENDERED PERSON REGISTRATION  
IDENTIFICATION

(Insert all known information)

I, ....., state the following:

Surrendered Person's present name: ..... (first) ..... (middle) ..... (last).

Surrendered Person's name at birth (if known): ..... (first) ..... (middle) ..... (last), .....(birth date), ..... (city and state of birth), ..... (sex), ..... (race).

Name of guardian father: ..... (first) ..... (middle) ..... (last), ..... (race).

Maiden name of guardian mother: ..... (first) ..... (middle) ..... (last), ..... (race).

Name of birth mother (if known): ..... (first) ..... (middle) ..... (last) ..... (race).

Name of birth father (if known): ..... (first) ..... (middle) ..... (last), .....(race).

Name(s) at birth of sibling(s) having a common birth parent with surrendered person (if known): ..... (first) ..... (middle) ..... (last), ..... (race), and name of common birth parent: ..... (first) ..... (middle) ..... (last), ..... (race).

I was surrendered for adoption to: ..... (name of agency).

I was surrendered for adoption in ..... (city and state), ..... (approximate date).

Other identifying information: .....

.....  
(signature of surrendered person)

.....  
(date) (printed name of person  
surrendered for adoption)

(d) The form of the Information Exchange Authorization shall be substantially as follows:

INFORMATION EXCHANGE AUTHORIZATION

I, ....., state that I am the person who completed the Registration Identification; that I am of the age of ..... years; that I hereby authorize the Department of Public Health to give to my (birth parent) (birth sibling) (surrendered child) the following (please check the information authorized for



exchange):

- 1. Only my name and last known address.
- 2. A copy of my Illinois Adoption Registry Application.
- 3. A copy of the original certificate of live birth.

I am fully aware that I can only be supplied with any information about my (birth parent) (birth sibling) (surrendered child) if such person has duly executed an Information Exchange Authorization for such information which has not been revoked; that I can be contacted by writing to: ..... (own name or name of person to contact) (address) (phone number).

Dated (insert date).

.....  
(witness) (signature)

(e) The form of the Denial of Information Exchange shall be substantially as follows:

DENIAL OF INFORMATION EXCHANGE

I, ....., state that I am the person who completed the Registration Identification; that I am of the age of ..... years; that I hereby instruct the Department of Public Health not to give any identifying information about me to my (birth parent) (birth sibling) (surrendered child); that I do not wish to be contacted.

Dated (insert date).

.....  
(witness) (signature)

(f) The Information Exchange Authorization and the Denial of Information Exchange shall be acknowledged by the birth parent, birth sibling, adopted or surrendered person, adoptive parent, or legal guardian before a notary public, in form substantially as follows:

State of .....  
County of .....

I, a Notary Public, in and for the said County, in the State aforesaid, do hereby certify that ..... personally known to me to be the same person whose name is subscribed to the foregoing certificate of acknowledgement, appeared before me in person and acknowledged that (he or she) signed such certificate as (his or her) free and voluntary act and that the statements in such certificate are true.

Given under my hand and notarial seal on (insert date).

.....  
(signature)

(g) When the execution of an Information Exchange Authorization or a Denial of Information Exchange is acknowledged before a representative of an agency, such representative shall have his signature on said Certificate acknowledged before a notary public, in form substantially as follows:

State of .....  
County of .....

I, a Notary Public, in and for the said County, in the State aforesaid, do hereby certify that ..... personally known to me to be the same person whose name is subscribed to the foregoing certificate of acknowledgement, appeared before me in person and acknowledged that (he or she) signed such certificate as (his or her) free and voluntary act and that the statements in such certificate are true.

Given under my hand and notarial seal on (insert date).

.....  
(signature)

(h) When an Illinois Adoption Registry Application, Information Exchange Authorization or a Denial of Information Exchange is executed in a foreign country, the execution of such document shall be acknowledged or affirmed before an officer of the United States consular services.

(i) If the person signing an Information Exchange Authorization or a Denial of Information is in the military service of the United States, the execution of such document may be acknowledged before a commissioned officer and the signature of such officer on such certificate shall be verified or acknowledged before a notary public or by such other procedure as is then in effect for such division or branch of the armed forces.

(j) The Department shall modify these forms as necessary to implement the provisions of this amendatory Act of 1999 including creating Registration Identification Forms for non-surrendered birth siblings, adoptive parents and legal guardians. (Source: P.A. 91-357, eff. 7-29-99; 91-417, eff. 1-1-00.)

(750 ILCS 50/18.3a) (from Ch. 40, par. 1522.3a)

Sec. 18.3a. Confidential intermediary. (a) General purposes. Notwithstanding any other provision of this Act, any adopted person 21 years of age or over, any adoptive parent or legal

guardian of an adopted person under the age of 21, or any birth parent of an adopted person who is 21 years of age or over may petition the court in any county in the State of Illinois for appointment of a confidential intermediary as provided in this Section for the purpose of exchanging medical information with one or more mutually consenting biological relatives, obtaining identifying information about one or more mutually consenting biological relatives, or arranging contact with one or more mutually consenting biological relatives. Additionally, in cases where an adopted or surrendered person is deceased, an adult child of the adopted or surrendered person may file a petition under this Section and in cases where the birth parent is deceased, an adult birth sibling of the adopted person or of the deceased birth parent may file a petition under this Section for the purpose of exchanging medical information with one or more mutually consenting biological relatives, obtaining identifying information about one or more mutually consenting biological relatives, or arranging contact with one or more mutually consenting biological relatives.

(b) Petition. Upon petition by an adopted person 21 years of age or over, an adoptive parent or legal guardian of an adopted person under the age of 21, or a birth parent of an adopted person who is 21 years of age or over, the court shall appoint a confidential intermediary. Upon petition by an adult child of an adopted person who is deceased or by an adult birth sibling of an adopted person whose birth parent is deceased or by an adult sibling of a birth parent who is deceased, the court may appoint a confidential intermediary if the court finds that the disclosure is of greater benefit than nondisclosure. The petition shall state which biological relative or relatives are being sought and shall indicate if the petitioner wants to do any one or more of the following: exchange medical information with the biological relative or relatives, obtain identifying information from the biological relative or relatives, or to arrange contact with the biological relative.

(c) Fees and expenses. The court shall condition the appointment of the confidential intermediary on the petitioner's payment of the intermediary's fees and expenses in advance of the commencement of the work of the confidential intermediary.

(d) Eligibility of intermediary. The court may appoint as confidential intermediary either an employee of the Illinois Department of Children and Family Services designated by the Department to serve as such, any other person certified by the Department as qualified to serve as a confidential intermediary, or any employee of a licensed child welfare agency certified by the agency as qualified to serve as a confidential intermediary.

(e) Access. Subject to the limitations of subsection (f) of this Section, the confidential intermediary shall have access to vital records maintained by the Department of Public Health and its local designees for the maintenance of vital records and all records of the court or any adoption agency, public or private, which relate to the adoption or the identity and location of an adopted person, of an adult child of a deceased adopted person, or of a birth parent, birth sibling, or the sibling of a deceased birth parent. The confidential intermediary shall not have access to any personal health information protected by the Standards for Privacy of Individually Identifiable Health Information adopted by the U.S. Department of Health and Human Services under the Health Insurance Portability and Accountability Act of 1996 unless the confidential intermediary has obtained written consent from the person whose information is being sought or, if that person is a minor child, that person's parent or guardian. Confidential intermediaries shall be authorized to inspect confidential relinquishment and adoption records. The confidential intermediary shall not be authorized to access medical records, financial records, credit records, banking records, home studies, attorney file records, or other personal records that do not specifically relate to the identity or location of the sought-after relative. Information provided to the confidential intermediary by an adoption agency shall be restricted to the full name, date of birth, place of birth, last known address, and last known telephone number of the sought-after relative or, if applicable, of the children or siblings of the sought-after relative.

(f) If the petitioner is an adult adopted person or the adoptive parent of a minor and if the petitioner has signed a written authorization to disclose personal medical information, an adoption agency disclosing information to a confidential intermediary shall disclose available medical information about the adopted person from birth through adoption.

(g) Duties of confidential intermediary in conducting a search. In conducting a search under this Section, the confidential intermediary shall first confirm that there is no Denial of Information Exchange on file with the Illinois Adoption Registry. If the petitioner is an adult child of an adopted person who is deceased, the confidential intermediary shall additionally confirm that the adopted person did not file a Denial of Information Exchange with the Illinois Adoption Registry during his or her life. If the petitioner is an adult birth sibling of an adopted person or an adult sibling of a birth parent who is deceased, the confidential intermediary shall additionally confirm that the birth parent did not file a Denial of Information Exchange with the Registry during his or her life.

In conducting a search under this Section, the confidential intermediary shall attempt to locate the

relative or relatives from whom the petitioner has requested information. If the sought-after relative is deceased or cannot be located after a diligent search, the confidential intermediary may contact adult biological relatives of the sought-after relative.

The confidential intermediary shall contact a sought-after relative on behalf of the petitioner in a manner that respects the sought-after relative's privacy and shall inform the sought-after relative of the petitioner's request for medical information, identifying information or contact as stated in the petition. Based upon the terms of the petitioner's request, the confidential intermediary shall contact a sought-after relative on behalf of the petitioner and inform the sought-after relative of the following options:

(1) The sought-after relative may totally reject one or all of the requests for medical information, identifying information or contact. The sought-after relative shall be informed that they can provide a medical questionnaire to be forwarded to the petitioner without releasing any identifying information. The confidential intermediary shall inform the petitioner of the sought-after relative's decision to reject the sharing of information or contact.

(2) The sought-after relative may consent to completing a medical questionnaire only. In this case, the confidential intermediary shall provide the questionnaire and ask the sought-after relative to complete it. The confidential intermediary shall forward the completed questionnaire to the petitioner and inform the petitioner of the sought-after relative's desire to not provide any additional information.

(3) The sought-after relative may communicate with the petitioner without having his or her identity disclosed. In this case, the confidential intermediary shall arrange the desired communication in a manner that protects the identity of the sought-after relative. The confidential intermediary shall inform the petitioner of the sought-after relative's decision to communicate but not disclose his or her identity.

(4) The sought after relative may consent to initiate contact with the petitioner. If both the petitioner and the sought-after relative or relatives are eligible to register with the Illinois Adoption Registry, the confidential intermediary shall provide the necessary application forms and request that the sought-after relative register with the Illinois Adoption Registry. If either the petitioner or the sought-after relative or relatives are ineligible to register with the Illinois Adoption Registry, the confidential intermediary shall obtain written consents from both parties that they wish to disclose their identities to each other and to have contact with each other.

(h) Oath. The confidential intermediary shall sign an oath of confidentiality substantially as follows: "I, ....., being duly sworn, on oath depose and say: As a condition of appointment as a confidential intermediary, I affirm that:

(1) I will not disclose to the petitioner, directly or indirectly, any confidential information except in a manner consistent with the law.

(2) I recognize that violation of this oath subjects me to civil liability and to a potential finding of contempt of court .....

SUBSCRIBED AND SWORN to before me, a Notary Public, on (insert date)

....."

(i) Sanctions.

(1) Any confidential intermediary who improperly discloses confidential information identifying a sought-after relative shall be liable to the sought-after relative for damages and may also be found in contempt of court.

(2) Any person who learns a sought-after relative's identity, directly or indirectly, through the use of procedures provided in this Section and who improperly discloses information identifying the sought-after relative shall be liable to the sought-after relative for actual damages plus minimum punitive damages of \$10,000.

(3) The Department shall fine any confidential intermediary who improperly discloses confidential information in violation of item (1) or (2) of this subsection (i) an amount up to \$2,000 per improper disclosure. This fine does not affect civil liability under item (2) of this subsection (i). The Department shall deposit all fines and penalties collected under this Section into the Illinois Adoption Registry and Medical Information Fund.

(j) Death of person being sought. Notwithstanding any other provision of this Act, if the confidential intermediary discovers that the person being sought has died, he or she shall report this fact to the court, along with a copy of the death certificate.

(k) Any confidential information obtained by the confidential intermediary during the course of his or her search shall be kept strictly confidential and shall be used for the purpose of arranging contact between the petitioner and the sought-after birth relative. At the time the case is closed, all identifying information shall be returned to the court for inclusion in the impounded adoption file.

(l) If the petitioner is an adopted person 21 years of age or over or the adoptive parent or legal

guardian of an adopted person under the age of 21, any non-identifying information, as defined in Section 18.4, that is ascertained during the course of the search may be given in writing to the petitioner before the case is closed.

(m) Except as provided in subsection (i) of this Section, no liability shall accrue to the State, any State agency, any judge, any officer or employee of the court, any certified confidential intermediary, or any agency designated to oversee confidential intermediary services for acts, omissions, or efforts made in good faith within the scope of this Section.

(a) General purposes. Notwithstanding any other provision of this Act, any adopted person over the age of 21 or any adoptive parent or legal guardian of an adopted person under the age of 21 may petition the court for appointment of a confidential intermediary as provided in this Section for the purpose of obtaining from one or both birth parents or a sibling or siblings of the adopted person information concerning the background of a psychological or genetically-based medical problem experienced or which may be expected to be experienced in the future by the adopted person or obtaining assistance in treating such a problem.

(b) Petition. The court shall appoint a confidential intermediary for the purposes described in subsection (f) if the petitioner shows the following:

(1) the adopted person is suffering or may be expected to suffer in the future from a life-threatening or substantially incapacitating physical illness of any nature, or a psychological disturbance which is substantially incapacitating but not life threatening, or a mental illness which, in the opinion of a physician licensed to practice medicine in all its branches, is or could be genetically based to a significant degree;

(2) the treatment of the adopted person, in the opinion of a physician licensed to practice medicine in all of its branches, would be materially assisted by information obtainable from the birth parents or might benefit from the provision of organs or other bodily tissues, materials, or fluids by the birth parents or other close biological relatives; and

(3) there is neither an Information Exchange Authorization nor a Denial of Information Exchange filed in the Registry as provided in Section 18.1.

The affidavit or testimony of the treating physician shall be conclusive on the issue of the utility of contact with the birth parents unless the court finds that the relationship between the illness to be treated and the alleged need for contact is totally without foundation.

(c) Fees and expenses. The court shall condition the appointment of the confidential intermediary on the payment of the intermediary's fees and expenses in advance, unless the intermediary waives the right to full advance payment or to any reimbursement at all.

(d) Eligibility of intermediary. The court may appoint as confidential intermediary either an employee of the Illinois Department of Children and Family Services designated by the Department to serve as such, any other person certified by the Department as qualified to serve as a confidential intermediary, or any employee of a licensed child welfare agency certified by the agency as qualified to serve as a confidential intermediary.

(e) Access. Notwithstanding any other provision of law, the confidential intermediary shall have access to all records of the court or any agency, public or private, which relate to the adoption or the identity and location of any birth parent.

(f) Purposes of contact. The confidential intermediary has only the following powers and duties:

(1) To contact one or both birth parents, inform the parent or parents of the basic medical problem of the adopted person and the nature of the information or assistance sought from the birth parent, and inform the parent or parents of the following options:

(A) The birth parent may totally reject the request for assistance or information, or both, and no disclosure of identity or location shall be made to the petitioner.

(B) The birth parent may file an Information Exchange Authorization as provided in Section 18.1. The confidential intermediary shall explain to the birth parent the consequences of such a filing, including that the birth parent's identity will be available for discovery by the adopted person. If the birth parent agrees to this option, the confidential intermediary shall supply the parent with the appropriate forms, shall be responsible for their immediate filing with the Registry, and shall inform the petitioner of their filing.

(C) If the birth parent wishes to provide the information or assistance sought but does not wish his or her identity disclosed, the confidential intermediary shall arrange for the disclosure of the information or the provision of assistance in as confidential a manner as possible so as to protect the privacy of the birth parent and minimize the likelihood of disclosure of the birth parent's identity.

(2) If a birth parent so desires, to arrange for a confidential communication with the treating physician to discuss the need for the requested information or assistance.

(3) If a birth parent agrees to provide the information or assistance sought but wishes to

maintain his or her privacy, to arrange for the provision of the information or assistance to the physician in as confidential a manner as possible so as to protect the privacy of the birth parent and minimize the likelihood of disclosure of the birth parent's identity.

(g) Oath. The confidential intermediary shall sign an oath of confidentiality substantially as follows:

"I, ....., being duly sworn, on oath depose and say: As a condition of appointment as a confidential intermediary, I affirm that:

(1) I will not disclose to the petitioner, directly or indirectly, any information about the identity or location of the birth parent whose assistance is being sought for medical reasons except in a manner consistent with the law.

(2) I recognize that violation of this oath subjects me to civil liability and to being found in contempt of court.

.....  
 SUBSCRIBED AND SWORN to before me, a Notary Public, on (insert date).

....."  
 (h) Sanctions.

(1) Any confidential intermediary who improperly discloses information identifying a birth parent shall be liable to the birth parent for damages and may also be found in contempt of court.

(2) Any person who learns a birth parent's identity, directly or indirectly, through the use of procedures provided in this Section and who improperly discloses information identifying the birth parent shall be liable to the birth parent for actual damages plus minimum punitive damages of \$10,000.

(i) Death of birth parent. Notwithstanding any other provision of this Act, if the confidential intermediary discovers that the person whose assistance is sought has died, he or she shall report this fact to the court, along with a copy of the death certificate. (Source: P.A. 91-357, eff. 7-29-99; 91-417, eff. 1-1-00.)

(750 ILCS 50/18.4) (from Ch. 40, par. 1522.4)

Sec. 18.4. (a) The agency, Department of Children and Family Services, Court Supportive Services, Juvenile Division of the Circuit Court, or the Probation Officers of the Circuit Court involved in the adoption proceedings shall give in writing the following non-identifying information, if known, to the adoptive parents not later than the date of placement with the petitioning adoptive parents: (i) age of biological parents; (ii) their race, religion and ethnic background; (iii) general physical appearance of biological parents; (iv) their education, occupation, hobbies, interests and talents; (v) existence of any other children born to the biological parents; (vi) information about biological grandparents; reason for emigrating into the United States, if applicable, and country of origin; (vii) relationship between biological parents; ~~and~~ (viii) detailed medical and mental health histories of the child, the biological parents, and their immediate relatives; and (ix) the actual date and place of birth of the adopted person. However, no information provided under this subsection shall disclose the name or last known address of the biological parents, grandparents, the siblings of the biological parents, the adopted person, or any other relative of the adopted person.

(b) Any adoptee 18 years of age or over shall be given the information in subsection (a) upon request.

(c) The Illinois Adoption Registry shall release any non-identifying information listed in (a) of this Section that appears on the certified copy of the original birth certificate or the Certificate of Adoption to an adopted person, adoptive parent, or legal guardian who is a registrant of the Illinois Adoption Registry.

(d) The Illinois Adoption Registry shall release the actual date and place of birth of an adopted person who is 21 years of age or over to the birth parent if the birth parent is a registrant of the Illinois Adoption Registry and has completed a Medical Information Exchange Authorization.

(e) The Illinois Adoption Registry shall release information regarding the date the adoption was finalized and the county in which the adoption was finalized to a certified confidential intermediary upon submission of a court order.

(f) In cases where the Illinois Adoption Registry possesses information indicating that an adopted person who is 21 years of age or over was adopted in a state other than Illinois or a country other than the United States, the Illinois Adoption Registry shall release the name of the state or country where the adoption was finalized and, if available, the agency involved in the adoption to a registrant of the Illinois Adoption Registry, provided the registrant is not the subject of a Denial of

Information Exchange and the registrant has completed a Medical Information Exchange Authorization.

(g) (☞) Any of the above available information for any adoption proceedings completed before the effective date of this Act shall be supplied to the adoptive parents or an adoptee 18 years of age or over upon request.

(h) (☞) The agency, Department of Children and Family Services, Court Supportive Services, Juvenile Division of the Circuit Court, the Probation Officers of the Circuit Court and any other governmental bodies having any of the above information shall retain the file until the adoptee would have reached the age of 99 years. (Source: P.A. 87-617.)".

The motion prevailed.

And the amendment was adopted, and ordered printed.

Senator Cullerton offered the following amendment and moved its adoption:

**AMENDMENT NO. 4**

AMENDMENT NO. 4. Amend House Bill 2136, AS AMENDED, with reference to page and line numbers of Senate Amendment No. 3, on page 8, line 26, after "intermediary," by inserting "Certification shall be dependent upon the confidential intermediary completing a course of training including, but not limited to, applicable federal and State privacy laws."; and on page 9, by replacing line 15 with "records, or other personal records."; and on page 9, by deleting line 16; and on page 9, line 17, by deleting "relative."

The motion prevailed.

And the amendment was adopted, and ordered printed.

There being no further amendments, the bill, as amended, was ordered to a third reading.

**READING BILLS FROM THE HOUSE OF REPRESENTATIVES A THIRD TIME**

On motion of Senator Cullerton, **House Bill No. 2136**, having been printed as received from the House of Representatives, together with all Senate Amendments adopted thereto, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

Yeas 56; Nays None.

The following voted in the affirmative:

Althoff	Haine	Peterson	Sullivan, J.
Bomke	Halvorson	Petka	Syverson
Brady	Harmon	Radogno	Trotter
Burzynski	Hendon	Rauschenberger	Viverito
Clayborne	Hunter	Righter	Walsh
Collins	Jacobs	Risinger	Watson
Cronin	Jones, J.	Ronen	Welch
Crotty	Jones, W.	Roskam	Winkel
Cullerton	Lightford	Sandoval	Wojcik
del Valle	Link	Schoenberg	Woolard
DeLeo	Luechtefeld	Shadid	Mr. President
Demuzio	Maloney	Sieben	
Dillard	Meeks	Silverstein	
Garrett	Munoz	Soden	
Geo-Karis	Obama	Sullivan, D.	

This bill, having received the vote of constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the title be as aforesaid, and that the Secretary inform the House of Representatives thereof and ask their concurrence in the Senate Amendments adopted thereto.

On motion of Senator Schoenberg, **House Bill No. 2188**, having been printed as received from the House of Representatives, together with all Senate Amendments adopted thereto, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

Yeas 57; Nays None.

The following voted in the affirmative:

Althoff	Haine	Obama	Sullivan, D.
Bomke	Halvorson	Peterson	Sullivan, J.
Brady	Harmon	Petka	Syverson
Burzynski	Hendon	Radogno	Trotter
Clayborne	Hunter	Rauschenberger	Viverito
Collins	Jacobs	Righter	Walsh
Cronin	Jones, J.	Risinger	Watson
Crotty	Jones, W.	Ronen	Welch
Cullerton	Lightford	Roskam	Winkel
del Valle	Link	Sandoval	Wojcik
DeLeo	Luechtefeld	Schoenberg	Woolard
Demuzio	Maloney	Shadid	Mr. President
Dillard	Martinez	Sieben	
Garrett	Meeks	Silverstein	
Geo-Karis	Munoz	Soden	

This bill, having received the vote of constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the title be as aforesaid, and that the Secretary inform the House of Representatives thereof and ask their concurrence in the Senate Amendment adopted thereto.

On motion of Senator Lightford, **House Bill No. 2332**, having been printed as received from the House of Representatives, together with all Senate Amendments adopted thereto, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

Yeas 57; Nays None.

The following voted in the affirmative:

Althoff	Haine	Obama	Sullivan, D.
Bomke	Halvorson	Peterson	Sullivan, J.
Brady	Harmon	Petka	Syverson
Burzynski	Hendon	Radogno	Trotter
Clayborne	Hunter	Rauschenberger	Viverito
Collins	Jacobs	Righter	Walsh
Cronin	Jones, J.	Risinger	Watson
Crotty	Jones, W.	Ronen	Welch
Cullerton	Lightford	Roskam	Winkel
del Valle	Link	Sandoval	Wojcik
DeLeo	Luechtefeld	Schoenberg	Woolard
Demuzio	Maloney	Shadid	Mr. President
Dillard	Martinez	Sieben	
Garrett	Meeks	Silverstein	
Geo-Karis	Munoz	Soden	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof.

On motion of Senator del Valle, **House Bill No. 2352**, having been printed as received from the House of Representatives, together with all Senate Amendments adopted thereto, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

Yeas 55; Nays 1; Present 1.

The following voted in the affirmative:

Althoff	Haine	Obama	Soden
Bomke	Halvorson	Peterson	Sullivan, D.
Brady	Harmon	Petka	Sullivan, J.
Clayborne	Hendon	Radogno	Syverson
Collins	Hunter	Rauschenberger	Trotter
Cronin	Jacobs	Righter	Viverito
Crotty	Jones, J.	Risinger	Walsh
Cullerton	Jones, W.	Ronen	Watson
del Valle	Lightford	Roskam	Welch
DeLeo	Link	Sandoval	Winkel
Demuzio	Maloney	Schoenberg	Wojcik
Dillard	Martinez	Shadid	Woolard
Garrett	Meeks	Sieben	Mr. President
Geo-Karis	Munoz	Silverstein	

The following voted in the negative:

Burzynski

The following voted present:

Luechtefeld

This bill, having received the vote of constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the title be as aforesaid, and that the Secretary inform the House of Representatives thereof and ask their concurrence in the Senate Amendments adopted thereto.

#### MESSAGE FROM THE PRESIDENT

#### OFFICE OF THE SENATE PRESIDENT STATE OF ILLINOIS

**EMIL JONES, JR.**  
**SENATE PRESIDENT**  
**62706**

**327 STATE CAPITOL**  
**SPRINGFIELD, ILLINOIS**

May 16, 2003

Ms. Linda Hawker  
Secretary of the Senate  
Room 403, State House  
Springfield, IL 62706

Dear Madam Secretary:

Pursuant to Senate Rule 2-10, I hereby establish December 31, 2003 as the Third Reading deadline for the following legislative measures:

- 1) All House Bills on Third Reading on the May 16, 2003 Senate Calendar
- 2) All House Bills on Second Reading on the May 16, 2003 Senate Calendar



- 3) All Senate and House Bills on Consideration Postponed on the May 16, 2003 Senate Calendar.

Very truly yours,  
s/Emil Jones, Jr.  
Senate President

cc: Senate Minority Leader Frank Watson

**MESSAGES FROM THE HOUSE**

A message from the House by  
Mr. Rossi, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has passed bills of the following titles, in the passage of which I am instructed to ask the concurrence of the Senate, to-wit:

HOUSE BILL NO. 3741  
A bill for AN ACT making appropriations.  
HOUSE BILL NO. 3749  
A bill for AN ACT making appropriations.  
HOUSE BILL NO. 3750  
A bill for AN ACT making appropriations.  
HOUSE BILL NO. 3752  
A bill for AN ACT making appropriations.  
HOUSE BILL NO. 3755  
A bill for AN ACT making appropriations.  
HOUSE BILL NO. 3756  
A bill for AN ACT making appropriations.

Passed the House, May 16, 2003.

ANTHONY D. ROSSI, Clerk of the House

The foregoing **House Bills Numbered 3741, 3749, 3750, 3752, 3755 and 3756** were taken up, ordered printed and placed on first reading.

A message from the House by  
Mr. Rossi, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has passed bills of the following titles, in the passage of which I am instructed to ask the concurrence of the Senate, to-wit:

HOUSE BILL NO. 3758  
A bill for AN ACT making appropriations.  
HOUSE BILL NO. 3760  
A bill for AN ACT making appropriations.  
HOUSE BILL NO. 3761  
A bill for AN ACT making appropriations.  
HOUSE BILL NO. 3762  
A bill for AN ACT making appropriations.  
HOUSE BILL NO. 3763  
A bill for AN ACT making appropriations.

Passed the House, May 16, 2003.

ANTHONY D. ROSSI, Clerk of the House

The foregoing **House Bills Numbered 3758, 3760, 3761, 3762 and 3763** were taken up, ordered printed and placed on first reading.

A message from the House by  
Mr. Rossi, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has passed bills of the following titles, in the passage of which I am instructed to ask the concurrence of the Senate, to-wit:

HOUSE BILL NO. 3765  
A bill for AN ACT making appropriations.  
HOUSE BILL NO. 3769  
A bill for AN ACT making appropriations.  
HOUSE BILL NO. 3773  
A bill for AN ACT making appropriations.  
HOUSE BILL NO. 3778  
A bill for AN ACT making appropriations.  
HOUSE BILL NO. 3779  
A bill for AN ACT making appropriations.  
HOUSE BILL NO. 3790  
A bill for AN ACT making appropriations.  
HOUSE BILL NO. 3794  
A bill for AN ACT making appropriations.

Passed the House, May 16, 2003.

ANTHONY D. ROSSI, Clerk of the House

The foregoing **House Bills Numbered 3765, 3769, 3773, 3778, 3779, 3790 and 3794** were taken up, ordered printed and placed on first reading.

A message from the House by  
Mr. Rossi, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has passed bills of the following titles, in the passage of which I am instructed to ask the concurrence of the Senate, to-wit:

HOUSE BILL NO. 2289  
A bill for AN ACT making appropriations.  
HOUSE BILL NO. 3726  
A bill for AN ACT making appropriations.  
HOUSE BILL NO. 3727  
A bill for AN ACT making appropriations.  
HOUSE BILL NO. 3728  
A bill for AN ACT making appropriations.  
HOUSE BILL NO. 3729  
A bill for AN ACT making appropriations.  
HOUSE BILL NO. 3730  
A bill for AN ACT making appropriations.  
HOUSE BILL NO. 3731  
A bill for AN ACT making appropriations.

Passed the House, May 16, 2003.

ANTHONY D. ROSSI, Clerk of the House

The foregoing **House Bills Numbered 2289, 3726, 3727, 3728, 3729, 3730 and 3731** were taken up, ordered printed and placed on first reading.

A message from the House by  
Mr. Rossi, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has passed bills of the following titles, in the passage of which I am instructed to ask the concurrence of the Senate, to-wit:

HOUSE BILL NO. 3732  
A bill for AN ACT making appropriations.  
HOUSE BILL NO. 3733

A bill for AN ACT making appropriations.  
HOUSE BILL NO. 3734  
A bill for AN ACT making appropriations.  
HOUSE BILL NO. 3735  
A bill for AN ACT making appropriations.  
HOUSE BILL NO. 3736  
A bill for AN ACT making appropriations.  
HOUSE BILL NO. 3737  
A bill for AN ACT making appropriations.  
HOUSE BILL NO. 3739  
A bill for AN ACT making appropriations.

Passed the House, May 16, 2003.

ANTHONY D. ROSSI, Clerk of the House

The foregoing **House Bills Numbered 3732, 3733, 3734, 3735, 3736, 3737 and 3739** were taken up, ordered printed and placed on first reading.

A message from the House by  
Mr. Rossi, Clerk:  
Mr. President -- I am directed to inform the Senate that the House of Representatives has passed a bill of the following title, in the passage of which I am instructed to ask the concurrence of the Senate, to-wit:

HOUSE BILL NO. 3738  
A bill for AN ACT making appropriations.

Passed the House, May 16, 2003.

ANTHONY D. ROSSI, Clerk of the House

The foregoing **House Bill No. 3738** was taken up, ordered printed and placed on first reading.

A message from the House by  
Mr. Rossi, Clerk:  
Mr. President -- I am directed to inform the Senate that the House of Representatives has passed a bill of the following title, in the passage of which I am instructed to ask the concurrence of the Senate, to-wit:

HOUSE BILL NO. 3788  
A bill for AN ACT making appropriations.  
Passed the House, May 16, 2003.

ANTHONY D. ROSSI, Clerk of the House

The foregoing **House Bill No. 3788** was taken up, ordered printed and placed on first reading.

A message from the House by  
Mr. Rossi, Clerk:  
Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the passage of bills of the following titles, to-wit:

SENATE BILL NO. 1757  
A bill for AN ACT concerning budget stabilization.  
SENATE BILL NO. 1759  
A bill for AN ACT concerning truth in budgeting.

Passed the House, May 16, 2003.

ANTHONY D. ROSSI, Clerk of the House

A message from the House by  
Mr. Rossi, Clerk:  
Mr. President -- I am directed to inform the Senate that the House of Representatives has adopted the following House Joint Resolution, in the adoption of which I am instructed to ask the concurrence of the Senate, to-wit:

## HOUSE JOINT RESOLUTION NO. 37

RESOLVED, BY THE HOUSE OF REPRESENTATIVES OF THE NINETY-THIRD GENERAL ASSEMBLY OF THE STATE OF ILLINOIS, THE SENATE CONCURRING HEREIN, that when the House of Representatives adjourns on Friday, May 16, 2003, it stand adjourned until Tuesday, May 20, 2003; at 1:00 o'clock p.m.; and when the Senate adjourns on Friday, May 16, 2003, it stand adjourned until Monday, May 19, 2003; at 4:00 o'clock p.m.

Adopted by the House, May 16, 2003.

ANTHONY D. ROSSI, Clerk of the House

By unanimous consent, on motion of Senator Welch, the foregoing message reporting House Joint Resolution No. 37, was taken up for immediate consideration.

Senator Welch moved that the Senate concur with the House in the adoption of the resolution. The motion prevailed.

And the Senate concurred with the House in the adoption of the resolution.

Ordered that the Secretary inform the House of Representatives thereof.

**PRESENTATION OF RESOLUTION****SENATE RESOLUTION 160**

Offered by Senators J. Jones and all Senators

Mourns the death of Lance Corporal Nicholas Kleiboeker of Odin.

By unanimous consent, the foregoing resolutions were referred to the Resolutions Consent Calendar.

**RESOLUTIONS CONSENT CALENDAR****SENATE RESOLUTION 149**

Offered by Senator Shadid and all Senators

Mourns the death of Robin C. Unes of Peoria.

**SENATE RESOLUTION 150**

Offered by Senator Dillard and all Senators

Mourns the death of Burnell William "Burnie" Furstenuau of Downers Grove.

**SENATE RESOLUTION 151**

Offered by Senator Harmon and all Senators

Mourns the death of Margaret "Peg" Pedersen of Franklin Park.

**SENATE RESOLUTION 152**

Offered by Senator Hunter and all Senators

Mourns the death of Mildred Marie Lindsey of Chicago.

**SENATE RESOLUTION 154**

Offered by Senator Geo-Karis and all Senators

Mourns the death of Fred C. Fettingner of Millburn.

**SENATE RESOLUTION 155**

Offered by Senator Jacobs and all Senators

Mourns the death of Rose M. Nelson of Silvis.

**SENATE RESOLUTION 156**

Offered by Senator Viverito and all Senators

Mourns the death of Carol V. Giltner .

**SENATE RESOLUTION 157**

Offered by Senator Brady and all Senators

Mourns the death of Jim Beveridge of Heyworth.

**SENATE RESOLUTION 158**

Offered by Senators Demuzio, E. Jones and all Senators  
Mourns the death of Robert E. Woods of Carlinville.

**SENATE RESOLUTION 159**

Offered by Senators Martinez and all Senators  
Mourns the death of Maria Rios of Chicago.

**SENATE RESOLUTION 160**

Offered by Senators J. Jones and all Senators  
Mourns the death of Lance Corporal Nicholas Kleiboeker of Odin.

Senator Demuzio moved the adoption of the foregoing resolutions. The motion prevailed.  
And the resolutions were adopted.

**READING BILLS FROM THE HOUSE OF REPRESENTATIVES A FIRST TIME**

**House Bill No. 2289**, sponsored by Senator Trotter was taken up, read by title a first time and referred to the Committee on Rules.

**House Bill No. 3726**, sponsored by Senator Trotter was taken up, read by title a first time and referred to the Committee on Rules.

**House Bill No. 3727**, sponsored by Senator Trotter was taken up, read by title a first time and referred to the Committee on Rules.

**House Bill No. 3728**, sponsored by Senator Trotter was taken up, read by title a first time and referred to the Committee on Rules.

**House Bill No. 3729**, sponsored by Senator Trotter was taken up, read by title a first time and referred to the Committee on Rules.

**House Bill No. 3730**, sponsored by Senator Trotter was taken up, read by title a first time and referred to the Committee on Rules.

**House Bill No. 3731**, sponsored by Senator Trotter was taken up, read by title a first time and referred to the Committee on Rules.

**House Bill No. 3732**, sponsored by Senator Trotter was taken up, read by title a first time and referred to the Committee on Rules.

**House Bill No. 3733**, sponsored by Senator Trotter was taken up, read by title a first time and referred to the Committee on Rules.

**House Bill No. 3734**, sponsored by Senator Trotter was taken up, read by title a first time and referred to the Committee on Rules.

**House Bill No. 3735**, sponsored by Senator Trotter was taken up, read by title a first time and referred to the Committee on Rules.

**House Bill No. 3736**, sponsored by Senator Trotter was taken up, read by title a first time and referred to the Committee on Rules.

**House Bill No. 3737**, sponsored by Senator Trotter was taken up, read by title a first time and referred to the Committee on Rules.

**House Bill No. 3738**, sponsored by Senator Trotter was taken up, read by title a first time and referred to the Committee on Rules.

**House Bill No. 3739**, sponsored by Senator Trotter was taken up, read by title a first time and referred to the Committee on Rules.

**House Bill No. 3741**, sponsored by Senator Trotter was taken up, read by title a first time and referred to the Committee on Rules.

**House Bill No. 3749**, sponsored by Senator Trotter was taken up, read by title a first time and referred to the Committee on Rules.

**House Bill No. 3750**, sponsored by Senator Trotter was taken up, read by title a first time and referred to the Committee on Rules.

**House Bill No. 3752**, sponsored by Senator Trotter was taken up, read by title a first time and referred to the Committee on Rules.

**House Bill No. 3755**, sponsored by Senator Trotter was taken up, read by title a first time and referred to the Committee on Rules.

**House Bill No. 3756**, sponsored by Senator Trotter was taken up, read by title a first time and referred to the Committee on Rules.

**House Bill No. 3758**, sponsored by Senator Trotter was taken up, read by title a first time and referred to the Committee on Rules.

**House Bill No. 3760**, sponsored by Senator Trotter was taken up, read by title a first time and referred to the Committee on Rules.

**House Bill No. 3761**, sponsored by Senator Trotter was taken up, read by title a first time and referred to the Committee on Rules.

**House Bill No. 3762**, sponsored by Senator Trotter was taken up, read by title a first time and referred to the Committee on Rules.

**House Bill No. 3763**, sponsored by Senator Trotter was taken up, read by title a first time and referred to the Committee on Rules.

**House Bill No. 3765**, sponsored by Senator Trotter was taken up, read by title a first time and referred to the Committee on Rules.

**House Bill No. 3769**, sponsored by Senator Trotter was taken up, read by title a first time and referred to the Committee on Rules.

**House Bill No. 3773**, sponsored by Senator Trotter was taken up, read by title a first time and referred to the Committee on Rules.

**House Bill No. 3778**, sponsored by Senator Trotter was taken up, read by title a first time and referred to the Committee on Rules.

**House Bill No. 3779**, sponsored by Senator Trotter was taken up, read by title a first time and referred to the Committee on Rules.

**House Bill No. 3788**, sponsored by Senator Trotter was taken up, read by title a first time and referred to the Committee on Rules.

**House Bill No. 3790**, sponsored by Senator Trotter was taken up, read by title a first time and referred to the Committee on Rules.

**House Bill No. 3794**, sponsored by Senator Trotter was taken up, read by title a first time and referred to the Committee on Rules.

**MESSAGE FROM THE PRESIDENT**

OFFICE OF THE SENATE PRESIDENT  
STATE OF ILLINOIS

EMIL JONES, JR.  
SENATE PRESIDENT  
62706

327 STATE CAPITOL  
SPRINGFIELD, ILLINOIS

May 16, 2003

Ms. Linda Hawker  
Secretary of the Senate  
Room 403, State House  
Springfield, IL 62706

Dear Madam Secretary:

Pursuant to Senate Rule 2-10, I hereby establish May 31, 2003 as the final Committee and Third Reading deadlines for the following House Appropriation Bills: 2289, 3726, 3727, 3728, 3729, 3730, 3731, 3732, 3733, 3734, 3735, 3736, 3737, 3738, 3739, 3741, 3749, 3750, 3752, 3755, 3756, 3758, 3760, 3761, 3762, 3763, 3765, 3769, 3773, 3778, 3779, 3788, 3790 and 3794.

Very truly yours,  
s/Emil Jones, Jr.  
Senate President

cc: Senate Minority Leader Frank Watson

**REPORT FROM RULES COMMITTEE**

Senator Demuzio, Chairperson of the Committee on Rules, during its May 16, 2003 meeting, reported the following House Bills have been assigned to the indicated Standing Committee of the Senate:

Appropriations I: **House Bills Numbered 2289, 3726, 3727, 3728, 3729, 3730, 3731, 3732, 3733, 3734, 3735, 3736, 3737, 3739, 3741, 3749, 3750, 3752, 3755, 3756, 3758, 3760, 3761, 3762, 3763, 3765, 3769, 3773, 3778, 3779, 3790 and 3794.**

At the hour of 3:43 o'clock p.m., pursuant to **House Joint Resolution No. 37**, the Chair announced the Senate stand adjourned until Monday, May 19, 2003, at 4:00 o'clock p.m.