THE LAW BOOK

ILLINOIS CRIMINAL SEXUAL ASSAULT ACT AND RELATED STATUTES

---

with Amended and Newly-Enacted Statutes
through P.A. 96-1555

Illinois Coalition Against Sexual Assault
Revised June 2011

ACKNOWLEDGEMENTS

Lyn M. Schollett, General Counsel, Libby Shawgo, Paralegal, and Suzanne Knox, Secretary, of the Illinois Coalition Against Sexual Assault, conducted the revisionary research and compiled the information contained in this publication. Kim Marsin, formerly of Northwest Action Against Rape, now Northwest CASA, provided the original chart of sex offenses on page 18.

This project was supported by Grant # WE-AX-0039, awarded by the Office on Violence Against Women, Office of Justice Programs, U.S. Department of Justice, through the Illinois State's Attorney Appellate Prosecutor. The opinions, findings, conclusions, and recommendations expressed in this publication are those of the author(s) and do not necessarily reflect the views of the Department of Justice, Office on Violence Against Women or the Illinois State's Attorney Appellate Prosecutor.

This project was supported in part by Grant # 93.991, awarded by the Centers for Disease Control and Prevention, through the Illinois Department of Public Health. The opinions, findings, conclusions, and recommendations expressed in this publication are those of the author(s) and do not necessarily reflect the views of the Centers for Disease Control and Prevention or the Illinois Department of Public Health.

This project was supported in part by Grant # 2010-VA-GX-0118, awarded by the Office for Victims of Crime, Office of Justice Programs, U.S. Department of Justice, through the Illinois Criminal Justice Information Authority. Points of view or opinions contained within this document are those of the author and do not necessarily represent the official position or policies of the U.S. Department of Justice, or the Illinois Criminal Justice Information Authority.

LIMITATION

This booklet is intended to be an accurate rendition of the compiled statutes through its revision date. The reader is responsible for checking the official statute.

For additional copies or information:
Illinois Coalition Against Sexual Assault
100 North 16th Street
Springfield, IL 62703-1102
(phone) 217-753-4117; (fax) 217-753-8229
www.icasa.org

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I. Criminal Sexual Assault Act

A. Definitions

720 ILCS 5/11-0.1 (new) (definitions previously located in 720 ILCS 5/12-12)

In this Article, unless the context clearly requires otherwise, the following terms are defined as indicated:

"Accused" means a person accused of an offense prohibited by Section 11-1.20, 11-1.30, 11-1.40, 11-1.50, or 11-1.60 of this Code or a person for whose conduct the accused is legally responsible under Article 5 of this Code.

"Adult obscenity or child pornography Internet site". See Section 11-23.

"Advance prostitution" means:

(1) Soliciting for a prostitute by performing any of the following acts when acting other than as a prostitute or a patron of a prostitute:

(A) Soliciting another for the purpose of prostitution.

(B) Arranging or offering to arrange a meeting of persons for the purpose of prostitution.

(C) Directing another to a place knowing the direction is for the purpose of prostitution.

(2) Keeping a place of prostitution by controlling or exercising control over the use of any place that could offer seclusion or shelter for the practice of prostitution and performing any of the following acts when acting other than as a prostitute or a patron of a prostitute:

(A) Knowingly granting or permitting the use of the place for the purpose of prostitution.

(B) Granting or permitting the use of the place under circumstances from which he or she could reasonably know that the place is used or is to be used for purposes of prostitution.

(C) Permitting the continued use of the place after becoming aware of facts or circumstances from which he or she should reasonably know that the place is being used for purposes of prostitution.

"Agency". See Section 11-9.5.

"Arranges". See Section 11-6.5.

"Bodily harm" means physical harm, and includes, but is not limited to, sexually transmitted disease, pregnancy, and impotence.

"Care and custody". See Section 11-9.5.

"Child care institution". See Section 11-9.3.

"Child pornography". See Section 11-20.1.

"Child sex offender". See Section 11-9.3.

"Community agency". See Section 11-9.5.

"Conditional release". See Section 11-9.2.

"Consent". See Section 11-1.70.

"Custody". See Section 11-9.2.

"Day care center". See Section 11-9.3.

"Depict by computer". See Section 11-20.1.

"Depiction by computer". See Section 11-20.1.

"Disseminate". See Section 11-20.1.

"Distribute". See Section 11-21.

"Family member" means a parent, grandparent, child, aunt, uncle, great-aunt, or great-uncle, whether by whole blood, half-blood, or adoption, and includes a step-grandparent, step-parent, or step-child. "Family member" also means, if the victim is a child under 18 years of age, an accused who has resided in the household with the child continuously for at least 6 months.

"Force or threat of force" means the use of force or violence or the threat of force or violence, including, but not limited to, the following situations:

(1) when the accused threatens to use force or violence on the victim or on any other person, and the victim under the circumstances reasonably believes that the accused has the ability to execute that threat; or

(2) when the accused overcomes the victim by use of superior strength or size, physical restraint, or physical confinement.

"Harmful to minors". See Section 11-21.

"Loiter". See Section 9.3.

"Material". See Section 11-21.

"Minor". See Section 11-21.

"Nudity". See Section 11-21.

"Obscene". See Section 11-20.

"Part day child care facility". See Section 11-9.3.

"Penal system". See Section 11-9.2.

"Person responsible for the child's welfare". See Section 11-9.1A.

"Person with a disability". See Section 11-9.5.

"Playground". See Section 11-9.3.

"Probation officer". See Section 11-9.2.

"Produce". See Section 11-20.1.

"Profit from prostitution" means, when acting other than as a prostitute, to receive anything of value for personally rendered prostitution services or to receive anything of value from a prostitute, if the thing received is not for lawful consideration and the person knows it was earned in whole or in part from the practice of prostitution.

"Public park". See Section 11-9.3.

"Public place". See Section 11-30.

"Reproduce". See Section 11-20.1.

"Sado-masochistic abuse". See Section 11-21.

"School". See Section 11-9.3.

"School official". See Section 11-9.3.

"Sexual abuse". See Section 11-9.1A.

"Sexual act". See Section 11-9.1.

"Sexual conduct" means any knowing touching or fondling by the victim or the accused, either directly or through clothing, of the sex organs, anus, or breast of the victim or the accused, or any part of the body of a child under 13 years of age, or any transfer or transmission of semen by the accused upon any part of the clothed or unclothed body of the victim, for the purpose of sexual gratification or arousal of the victim or the accused.

"Sexual excitement". See Section 11-21.

"Sexual penetration" means any contact, however slight, between the sex organ or anus of one person and an object or the sex organ, mouth, or anus of another person, or any intrusion, however slight, of any part of the body of one person or of any animal or object into the sex organ or anus of another person, including, but not limited to, cunnilingus, fellatio, or anal penetration. Evidence of emission of semen is not required to prove sexual penetration.

"Solicit". See Section 11-6.

"State-operated facility". See Section 11-9.5.

"Supervising officer". See Section 11-9.2.

"Surveillance agent". See Section 11-9.2.

"Treatment and detention facility". See Section 11-9.2.

"Victim" means a person alleging to have been subjected to an offense prohibited by Section 11-1.20, 11-1.30, 11-1.40, 11-1.50, or 11-1.60 of this Code.

B. General Provisions

720 ILCS 5/11-1.10 (was 720 ILCS 5/12-18)

(a) No person accused of violating Section 11-1.20, 11-1.30, 11-1.40, 11-1.50, or 11-1.60 of this Code shall be presumed to be incapable of committing an offense prohibited by Section 11-1.20, 11-1.30, 11-1.40, 11-1.50, or 11-1.60 of this Code because of age, physical condition or relationship to the victim. Nothing in this Section shall be construed to modify or abrogate the affirmative defense of infancy under Section 6-1 of this Code or the provisions of Section 5-805 of the Juvenile Court Act of 1987.

(b) Any medical examination or procedure which is conducted by a physician, nurse, medical or hospital personnel, parent, or caretaker for purposes and in a manner consistent with reasonable medical standards is not an offense under Section 11-1.20, 11-1.30, 11-1.40, 11-1.50, or 11-1.60 of this Code.

• • •

(e) After a finding at a preliminary hearing that there is probable cause to believe that an accused has committed a violation of Section 11-1.20, 11-1.30, or 11-1.40 of this Code, or after an indictment is returned charging an accused with a violation of Section 11-1.20, 11-1.30, or 11-1.40 of this Code, or after a finding that a defendant charged with a violation of Section 11-1.20, 11-1.30, or 11-1.40 of this Code is unfit to stand trial pursuant to Section 104-16 of the Code of Criminal Procedure of 1963 where the finding is made prior to preliminary hearing, at the request of the person who was the victim of the violation of Section 11-1.20, 11-1.30, or 11-1.40, the prosecuting State's attorney shall seek an order from the court to compel the accused to be tested within 48 hours for any sexually transmissible disease, including a test for infection with human immunodeficiency virus (HIV). The medical tests shall be performed only by appropriately licensed medical practitioners. The test for infection with human immunodeficiency virus (HIV) shall consist of an enzyme-linked immunosorbent assay (ELISA) test, or such other test as may be approved by the Illinois Department of Public Health; in the event of a positive result, the Western Blot Assay or a more reliable confirmatory test shall be administered. The results of the tests and any follow-up tests shall be kept strictly confidential by all medical personnel involved in the testing and must be personally delivered in a sealed envelope to the victim, to the defendant, to the State's Attorney, and to the judge who entered the order, for the judge's inspection in camera. The judge shall provide to the victim a referral to the Illinois Department of Public Health HIV/AIDS toll-free hotline for counseling and information in connection with the test result. 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 result of the testing may be revealed; however, in no case shall the identity of the victim be disclosed. The court shall order that the cost of the tests shall be paid by the county, and shall be taxed as costs against the accused if convicted.

(f) Whenever any law enforcement officer has reasonable cause to believe that a person has been delivered a controlled substance without his or her consent, the law enforcement officer shall advise the victim about seeking medical treatment and preserving evidence.

(g) Every hospital providing emergency hospital services to an alleged sexual assault survivor, when there is reasonable cause to believe that a person has been delivered a controlled substance without his or her consent, shall designate personnel to provide:

(1) An explanation to the victim about the nature and effects of commonly used controlled substances and how such controlled substances are administered.

(2) An offer to the victim of testing for the presence of such controlled substances.

(3) A disclosure to the victim that all controlled substances or alcohol ingested by the victim will be disclosed by the test.

(4) A statement that the test is completely voluntary.

(5) A form for written authorization for sample analysis of all controlled substances and alcohol ingested by the victim.

A physician licensed to practice medicine in all its branches may agree to be a designated person under this subsection.

No sample analysis may be performed unless the victim returns a signed written authorization within 30 days after the sample was collected.

Any medical treatment or care under this subsection shall be only in accordance with the order of a physician licensed to practice medicine in all of its branches. Any testing under this subsection shall be only in accordance with the order of a licensed individual authorized to order the testing.

C. Criminal Sexual Assault

720 ILCS 5/11-1.20 (was 720 ILCS 5/12-13)

(a) A person commits criminal sexual assault if that person commits an act of sexual penetration and:

(1) uses force or threat of force;

(2) knows that the victim is unable to understand the nature of the act or is unable to give knowing consent

(3) is a family member of the victim, and the victim is under 18 years of age; or

(4) is 17 years of age or over and holds a position of trust, authority, or supervision in relation to the victim, and the victim is at least 13 years of age but under 18 years of age.

(b) Sentence.

(1) Criminal sexual assault is a Class 1 felony, except that:

(A) A person who is convicted of the offense of criminal sexual assault as defined in paragraph (a)(1) or (a)(2) after having previously been convicted of the offense of criminal sexual assault or the offense of exploitation of a child, or who is convicted of the offense of criminal sexual assault as defined in paragraph (a)(1) or (a)(2) after having previously been convicted under the laws of this State or any other state of an offense that is substantially equivalent to the offense of criminal sexual assault or to the offense of exploitation of a child, commits a Class X felony for which the person shall be sentenced to a term of imprisonment of not less than 30 years and not more than 60 years. The commission of the second or subsequent offense is required to have been after the initial conviction for this paragraph (A) to apply.

(B) A person who is convicted of the offense of criminal sexual assault as defined in paragraph (a)(1) or (a)(2) after having previously been convicted of the offense of aggravated criminal sexual assault or the offense of predatory criminal sexual assault of a child, or who is convicted of the offense of criminal sexual assault as defined in paragraph (a)(1) or (a)(2) after having previously been convicted under the laws of this State or any other state of an offense that is substantially equivalent to the offense of aggravated criminal sexual assault or the offense of predatory criminal sexual assault of a child shall be sentenced to a term of natural life imprisonment. The commission of the second or subsequent offense is required to have been after the initial conviction for this paragraph (B) to apply.

(C) A second or subsequent conviction for a violation of paragraph (a)(3) or (a)(4) or under any similar statute of this State or any other state for any offense involving criminal sexual assault that is substantially equivalent to or more serious than the sexual assault prohibited under paragraph (a)(3) or (a)(4) is a Class X felony.

D. Aggravated Criminal Sexual Assault

720 ILCS 5/11-1.30 (was 720 ILCS 5/12-14)

(a) A person commits aggravated criminal sexual assault if that person commits criminal sexual assault and any of the following aggravating circumstances exist during the commission of the offense or, for purposes of paragraph (7), occur as part of the same course of conduct as the commission of the offense:

(1) the person displays, threatens to use, or uses a dangerous weapon, other than a firearm, or any other object fashioned or used in a manner that leads the victim, under the circumstances, reasonably to believe that the object is a dangerous weapon;

(2) the person causes bodily harm to the victim, except as provided in paragraph (10);

(3) the person acts in a manner that threatens or endangers the life of the victim or any other person;

(4) the person commits the criminal sexual assault during the course of committing or attempting to commit any other felony;

(5) the victim is 60 years of age or older;

(6) the victim is a physically handicapped person;

(7) the person delivers (by injection, inhalation, ingestion, transfer of possession, or any other means) any controlled substance to the victim without the victim's consent or by threat or deception for other than medical purposes;

(8) the person is armed with a firearm;

(9) the person personally discharges a firearm during the commission of the offense; or

(10) the person personally discharges a firearm during the commission of the offense, and that discharge proximately causes great bodily harm, permanent disability, permanent disfigurement, or death to another person.

(b) A person commits aggravated criminal sexual assault if that person is under 17 years of age and:

(i) commits an act of sexual penetration with a victim who is under 9 years of age; or

(ii) commits an act of sexual penetration with a victim who is at least 9 years of age but under 13 years of age and the person uses force or threat of force to commit the act.

(c) A person commits aggravated criminal sexual assault if that person commits an act of sexual penetration with a victim who is a severely or profoundly mentally retarded person.

(d) Sentence.

(1) Aggravated criminal sexual assault in violation of paragraph (2), (3), (4), (5), (6), or (7) of subsection (a) or in violation of subsection (b) or (c) is a

Class X felony. A violation of subsection (a)(1) is a Class X felony for which 10 years shall be added to the term of imprisonment imposed by the court. A violation of subsection (a)(8) is a Class X felony for which 15 years shall be added to the term of imprisonment imposed by the court. A violation of subsection (a)(9) is a Class X felony for which 20 years shall be added to the term of imprisonment imposed by the court. A violation of subsection (a)(10) is a Class X felony for which 25 years or up to a term of natural life imprisonment shall be added to the term of imprisonment imposed by the court.

(2) A person who is convicted of a second or subsequent offense of aggravated criminal sexual assault, or who is convicted of the offense of aggravated criminal sexual assault after having previously been convicted of the offense of criminal sexual assault or the offense of predatory criminal sexual assault of a child, or who is convicted of the offense of aggravated criminal sexual assault after having previously been convicted under the laws of this or any other state of an offense that is substantially equivalent to the offense of criminal sexual assault, the offense of aggravated criminal sexual assault or the offense of predatory criminal sexual assault of a child, shall be sentenced to a term of natural life imprisonment. The commission of the second or subsequent offense is required to have been after the initial conviction for this paragraph (2) to apply.

E. Predatory Criminal Sexual Assault of a Child

720 ILCS 5/11-1.40 (was 720 ILCS 5/12-14.1)

(a) A person commits predatory criminal sexual assault of a child if that person commits an act of sexual penetration, is 17 years of age or older, and:

(1) the victim is under 13 years of age; or

(2) the victim is under 13 years of age and that person:

(A) is armed with a firearm;

(B) personally discharges a firearm during the commission of the offense;

(C) causes great bodily harm to the victim that:

(i) results in permanent disability; or

(ii) is life threatening; or

(D) delivers (by injection, inhalation, ingestion, transfer of possession, or any other means) any controlled substance to the victim without the victim's consent or by threat or deception, for other than medical purposes.

(b) Sentence.

(1) A person convicted of a violation of subsection (a)(1) commits a Class X felony, for which the person shall be sentenced to a term of imprisonment of not less than 6 years and not more than 60 years. A person convicted of a violation of subsection (a)(2)(A) commits a Class X felony for which 15 years shall be added to the term of imprisonment imposed by the court. A person convicted of a violation of subsection (a)(2)(B) commits a Class X felony for which 20 years shall be added to the term of imprisonment imposed by the court. A person convicted of a violation of subsection (a)(2)(C) commits a Class X felony for which the person shall be sentenced to a term of imprisonment of not less than 50 years or up to a term of natural life imprisonment.

(1.1) A person convicted of a violation of subsection (a)(2)(D) commits a Class X felony for which the person shall be sentenced to a term of imprisonment of not less than 50 years and not more than 60 years.

(1.2) A person convicted of predatory criminal sexual assault of a child committed against 2 or more persons regardless of whether the offenses occurred as the result of the same act or of several related or unrelated acts shall be sentenced to a term of natural life imprisonment.

(2) A person who is convicted of a second or subsequent offense of predatory criminal sexual assault of a child, or who is convicted of the offense of predatory criminal sexual assault of a child after having previously been convicted of the offense of criminal sexual assault or the offense of aggravated criminal sexual assault, or who is convicted of the offense of predatory criminal sexual assault of a child after having previously been convicted under the laws of this State or any other state of an offense that is substantially equivalent to the offense of predatory criminal sexual assault of a child, the offense of aggravated criminal sexual assault or the offense of criminal sexual assault, shall be sentenced to a term of natural life imprisonment. The commission of the second or subsequent offense is required to have been after the initial conviction for this paragraph (2) to apply.

F. Criminal Sexual Abuse

720 ILCS 5/11-1.50 (was 720 ILCS 5/12-15)

(a) A person commits criminal sexual abuse if that person:

(1) commits an act of sexual conduct by the use of force or threat of force; or

(2) commits an act of sexual conduct and knows that the victim is unable to understand the nature of the act or is unable to give knowing consent.

(b) A person commits criminal sexual abuse if that person is under 17 years of age and commits an act of sexual penetration or sexual conduct with a victim who is at least 9 years of age but under 17 years of age.

(c) A person commits criminal sexual abuse if that person commits an act of sexual penetration or sexual conduct with a victim who is at least 13 years of age but under 17 years of age and the person is less than 5 years older than the victim.

(d) Sentence. Criminal sexual abuse for a violation of subsection (b) or (c) of this Section is a Class A misdemeanor. Criminal sexual abuse for a violation of paragraph (1) or (2) of subsection (a) of this Section is a Class 4 felony. A second or subsequent conviction for a violation of subsection (a) of this Section is a Class 2 felony. For purposes of this Section it is a second or subsequent conviction if the accused has at any time been convicted under this Section or under any similar statute of this State or any other state for any offense involving sexual abuse or sexual assault that is substantially equivalent to or more serious than the sexual abuse prohibited under this Section.

G. Aggravated Criminal Sexual Abuse

720 ILCS 5/11-1.60 (was 720 ILCS 5/12-16)

(a) A person commits aggravated criminal sexual abuse if that person commits criminal sexual abuse and any of the following aggravating circumstances exist (i) during the commission of the offense or (ii) for purposes of paragraph (7), as part of the same course of conduct as the commission of the offense:

(1) the person displays, threatens to use, or uses a dangerous weapon or any other object fashioned or used in a manner that leads the victim, under the circumstances, reasonably to believe that the object is a dangerous weapon;

(2) the person causes bodily harm to the victim;

(3) the victim is 60 years of age or older;

(4) the victim is a physically handicapped person;

(5) the person acts in a manner that threatens or endangers the life of the victim or any other person;

(6) the person commits the criminal sexual abuse during the course of committing or attempting to commit any other felony; or

(7) the person delivers (by injection, inhalation, ingestion, transfer of possession, or any other means) any controlled substance to the victim for other than medical purposes without the victim's consent or by threat or deception.

(b) A person commits aggravated criminal sexual abuse if that person commits an act of sexual conduct with a victim who is under 18 years of age and the person is a family member.

(c) A person commits aggravated criminal sexual abuse if:

(1) that person is 17 years of age or over and:

(i) commits an act of sexual conduct with a victim who is under 13 years of age; or

(ii) commits an act of sexual conduct with a victim who is at least 13 years of age but under 17 years of age and the person uses force or threat of force to commit the act; or

(2) that person is under 17 years of age and:

(i) commits an act of sexual conduct with a victim who is under 9 years of age; or

(ii) commits an act of sexual conduct with a victim who is at least 9 years of age but under 17 years of age and the person uses force or threat of force to commit the act.

(d) A person commits aggravated criminal sexual abuse if that person commits an act of sexual penetration or sexual conduct with a victim who is at least 13 years of age but under 17 years of age and the person is at least 5 years older than the victim.

(e) A person commits aggravated criminal sexual abuse if that person commits an act of sexual conduct with a victim who is a severely or profoundly mentally retarded person.

(f) A person commits aggravated criminal sexual abuse if that person commits an act of sexual conduct with a victim who is at least 13 years of age but under 18 years of age and the person is 17 years of age or over and holds a position of trust, authority, or supervision in relation to the victim.

(g) Sentence. Aggravated criminal sexual abuse is a Class 2 felony.

H. Defenses

720 ILCS 5/11-1.70 (was 720 ILCS 5/12-17)

(a) It shall be a defense to any offense under Section 11-1.20, 11-1.30, 11-1.40, 11-1.50, or 11-1.60 of this Code where force or threat of force is an element of the offense that the victim consented. "Consent" means a freely given agreement to the act of sexual penetration or sexual conduct in question. Lack of verbal or physical resistance or submission by the victim resulting from the use of force or threat of force by the accused shall not constitute consent. The manner of dress of the victim at the time of the offense shall not constitute consent.

(b) It shall be a defense under subsection (b) and subsection (c) of Section 11-1.50 and subsection (d) of Section 11-1.60 of this Code that the accused reasonably believed the person to be 17 years of age or over.

(c) A person who initially consents to sexual penetration or sexual conduct is not deemed to have consented to any sexual penetration or sexual conduct that occurs after he or she withdraws consent during the course of that sexual penetration or sexual conduct.

I. Criminal Transmission of HIV

720 ILCS 5/12-5.01 (was 720 ILCS 5/12-16.2)

(a) A person commits criminal transmission of HIV when he or she, knowing that he or she is infected with HIV:

(1) engages in intimate contact with another;

(2) transfers, donates, or provides his or her blood, tissue, semen, organs, or other potentially infectious body fluids for transfusion, transplantation, insemination, or other administration to another; or

(3) dispenses, delivers, exchanges, sells, or in any other way transfers to another any nonsterile intravenous or intramuscular drug paraphernalia.

(b) For purposes of this Section:

"HIV" means the human immunodeficiency virus or any other identified causative agent of acquired immunodeficiency syndrome.

"Intimate contact with another" means the exposure of the body of one person to a bodily fluid of another person in a manner that could result in the transmission of HIV.

"Intravenous or intramuscular drug paraphernalia" means any equipment, product, or material of any kind which is peculiar to and marketed for use in injecting a substance into the human body.

(c) Nothing in this Section shall be construed to require that an infection with HIV has occurred in order for a person to have committed criminal transmission of HIV.

(d) It shall be an affirmative defense that the person exposed knew that the infected person was infected with HIV, knew that the action could result in infection with HIV, and consented to the action with that knowledge.

(e) A person who commits criminal transmission of HIV commits a Class 2 felony.

J. Female Genital Mutilation

720 ILCS 5/12-34

(a) Except as otherwise permitted in subsection (b), whoever knowingly circumcises, excises, or infibulates, in whole or in part, the labia majora, labia minora, or clitoris of another commits female genital mutilation. Consent to the procedure by a minor on whom it is performed or by the minor's parent or guardian is not a defense to a violation of this Section.

(b) A surgical procedure is not a violation of subsection (a) if the procedure is performed by a physician licensed to practice medicine in all its branches and:

(1) is necessary to the health of the person on whom it is performed; or

(2) is performed on a person who is in labor or who has just given birth and is performed for medical purposes connected with that labor or birth.

(c) Sentence. Female genital mutilation is a Class X felony.

K. Sexual Conduct or Sexual Contact with an Animal

720 ILCS 5/12-35

(a) A person may not knowingly engage in any sexual conduct or sexual contact with an animal.

(b) A person may not knowingly cause, aid, or abet another person to engage in any sexual conduct or sexual contact with an animal.

(c) A person may not knowingly permit any sexual conduct or sexual contact with an animal to be conducted on any premises under his or her charge or control.

(d) A person may not knowingly engage in, promote, aid, or abet any activity involving any sexual conduct or sexual contact with an animal for a commercial or recreational purpose.

(e) Sentence. A person who violates this Section is guilty of a Class 4 felony. A person who violates this Section in the presence of a person under 18 years of age or causes the animal serious physical injury or death is guilty of a Class 3 felony.

(f) In addition to the penalty imposed in subsection (e), the court may order that the defendant do any of the following:

(1) Not harbor animals or reside in any household where animals are present for a reasonable period of time or permanently, if necessary.

(2) Relinquish and permanently forfeit all animals residing in the household to a recognized or duly organized animal shelter or humane society.

(3) Undergo a psychological evaluation and counseling at defendant's expense.

(4) Reimburse the animal shelter or humane society for any reasonable costs incurred for the care and maintenance of the animal involved in the sexual conduct or sexual contact in addition to any animals relinquished to the animal shelter or humane society.

(g) Nothing in this Section shall be construed to prohibit accepted animal husbandry practices or accepted veterinary medical practices by a licensed veterinarian or certified veterinary technician.

(h) If the court has reasonable grounds to believe that a violation of this Section has occurred, the court may order the seizure of all animals involved in the alleged violation as a condition of bond of a person charged with a violation of this Section.

(i) In this Section:

"Animal" means every creature, either alive or dead, other than a human being.

"Sexual conduct" means any touching or fondling by a person, either directly or through clothing, of the sex organs or anus of an animal or any transfer or transmission of semen by the person upon any part of the animal, for the purpose of sexual gratification or arousal of the person.

"Sexual contact" means any contact, however slight, between the sex organ or anus of a person and the sex organ, mouth, or anus of an animal, or any intrusion, however slight, of any part of the body of the person into the sex organ or anus of an animal, for the purpose of sexual gratification or arousal of the person. Evidence of emission of semen is not required to prove sexual contact.

OVERVIEW OF CRIMINAL CHARGES
UNDER THE CRIMINAL SEXUAL ASSAULT ACT

CHILD & TEEN VICTIMS					
Victim Age	**Accused Age**	**Sexual Activity**	**Offense**	**Penalty**	**Citation**
0 THRU 8	**Under 17**	Sexual Penetration	ACSAs	Class X	§11-1.30(b)(i)
		Sexual Conduct	ACSAb	Class 2	§11-1.60(c)(2)(i)
0 THRU 12	**17 or Older**	Sexual Penetration	PCSAs	Class X	§11-1.40(a)(1)
		Sexual Conduct	ACSAb	Class 2	§11-1.60(c)(1)(i)
9 THRU 12	**Under 17**	Sexual Penetration	CSAb	Class A (M)	§11-1.50(b)
		Sexual Penetration + Force	ACSAs	Class X	§11-1.30(b)(ii)
		Sexual Conduct	CSAb	Class A (M)	§11-1.50(b)
9 THRU 16		Sexual Conduct + Force	ACSAb	Class 2	§11-1.60(c)(2)(ii)
13 THRU 16	**Under 17**	Sexual Penetration	CSAb	Class A (M)	§11-1.50(b)
		Sexual Penetration + Force	CSAs	Class 1	§11-1.20(a)(1)
		Sexual Conduct	CSAb	Class A (M)	§11-1.50(b)
9 THRU 16		Sexual Conduct + Force	ACSAb	Class 2	§11-1.60(c)(2)(ii)
13 THRU 16	**Less Than 5 Years Older**	Sexual Penetration or Sexual Conduct	CSAb	Class A (M)	§11-1.50(c)
	5 Or More Years Older	Sexual Penetration or Sexual Conduct	ACSAb	Class 2	§11-1.60(d)
13 THRU 16	**17 or Older**	Sexual Penetration + Force	CSAs	Class 1	§11-1.20(a)(1)
		Sexual Conduct + Force	ACSAb	Class 2	§11-1.60(c)(1)(ii)
13 THRU 17	**17 or Older in Position of Authority**	Sexual Penetration Sexual Conduct	CSAs ACSAb	Class 1 Class 2	§11-1.20(a)(4) §11-1.60(f)
FAMILY MEMBERS					
0 THRU 12	**Family Member who is 17 or Older**	Sexual Penetration	PCSAs	Class X	§11-1.40(a)(1)
0 THRU 17	**Any Family Member**	Sexual Penetration	CSAs	Class 1	§11-1.20(a)(3)
		Sexual Conduct	ACSAb	Class 2	§11-1.60(b)
ADULT VICTIMS					
Any age	**Any Age**	Sexual Conduct + Force	CSAb	Class 4	§11-1.50(a)(1)
Any age	**Any Age**	Sexual Conduct + Force + Aggravating Factor	ACSAb	Class 2	§11-1.60(a)
Any age	**Any Age**	Sexual Penetration + Force	CSAs	Class 1	§11-1.20(a)(1)
		Sexual Penetration + Force + Aggravating Factor	ACSAs	Class X	§11-1.30(a)
60 + UP	**Any Age**	Sexual Conduct + Force	ACSAb	Class 2	§11-1.60(a)(3)
		Sexual Penetration + Force	ACSAs	Class X	§11-1.30(a)(5)
VICTIMS WITH A DISABILITY					
Physical Handicap	**Any Age**	Sexual Conduct + Force	ACSAb	Class 2	§11-1.60(a)(4)
		Sexual Penetration + Force	ACSAs	Class X	§11-1.30(a)(6)
Severely Mentally Retarded	**Any Age**	Sexual Conduct Sexual Penetration	ACSAb ACSAs	Class 2 Class X	§11-1.60(e) §11-1.30(c)
Unable to Understand Act	**Any Age**	Sexual Conduct Sexual Penetration	CSAb CSAs	Class 4 Class 1	§11-1.50(a)(2) §11-1.20(a)(2)
Unable to Give Consent	**Any Age**	Sexual Conduct Sexual Penetration	CSAb CSAs	Class 4 Class 1	§11-1.50(a)(2) §11-1.20(a)(2)

KEY: **ACSAb = Aggravated Criminal Sexual Abuse** **CSAb = Criminal Sexual Abuse**
ACSAs = Aggravated Criminal Sexual Assault **CSAs = Criminal Sexual Assault**
PCSAs = Predatory Criminal Sexual Assault **M = Misdemeanor**

For a Chart of Illinois Sex Crimes

CLICK HERE

II. Sex Offenses – Related Statutes

A. Minors Involved in Electronic Dissemination of Indecent Visual Depictions in Need of Supervision – "Sexting"

705 ILCS 405/3-40

(a) For the purposes of this Section:

"Computer" has the meaning ascribed to it in Section 16D-2 of the Criminal Code of 1961.

"Electronic communication device" means an electronic device, including but not limited to a wireless telephone, personal digital assistant, or a portable or mobile computer, that is capable of transmitting images or pictures.

"Indecent visual depiction" means a depiction or portrayal in any pose, posture, or setting involving a lewd exhibition of the unclothed or transparently clothed genitals, pubic area, buttocks, or, if such person is female, a fully or partially developed breast of the person.

"Minor" means a person under 18 years of age.

(b) A minor shall not distribute or disseminate an indecent visual depiction of another minor through the use of a computer or electronic communication device.

(c) Adjudication. A minor who violates subsection (b) of this Section may be subject to a petition for adjudication and adjudged a minor in need of supervision.

(d) Kinds of dispositional orders. A minor found to be in need of supervision under this Section may be:

(1) ordered to obtain counseling or other supportive services to address the acts that led to the need for supervision; or

(2) ordered to perform community service.

(e) Nothing in this Section shall be construed to prohibit a prosecution for disorderly conduct, public indecency, child pornography, a violation of the Harassing and Obscene Communications Act, or any other applicable provision of law.

B. Luring of a Minor

720 ILCS 5/10-5.1

(a) A person commits the offense of luring of a minor when the offender is 21 years of age or older and knowingly contacts or communicates electronically to the minor:

(1) knowing the minor is under 15 years of age;

(2) with the intent to persuade, lure or transport the minor away from his or her home, or other location known by the minor's parent or legal guardian to be the place where the minor is to be located;

(3) for an unlawful purpose;

(4) without the express consent of the person's parent or legal guardian;

(5) with the intent to avoid the express consent of the person's parent or legal guardian;

(6) after so communicating, commits any act in furtherance of the intent described in clause (a)(2); and

(7) is a stranger to the parents or legal guardian of the minor.

(b) A person commits the offense of luring of a minor when the offender is at least 18 years of age but under 21 years of age and knowingly contacts or communicates electronically to the minor:

(1) knowing the minor is under 15 years of age;

(2) with the intent to persuade, lure, or transport the minor away from his or her home or other location known by the minor's parent or legal guardian, to be the place where the minor is to be located;

(3) for an unlawful purpose;

(4) without the express consent of the person's parent or legal guardian;

(5) with the intent to avoid the express consent of the person's parent or legal guardian;

(6) after so communicating, commits any act in furtherance of the intent described in clause (b)(2); and

(7) is a stranger to the parents or legal guardian of the minor.

(c) Definitions. For purposes of this Section:

(1) "Emergency situation" means a situation in which the minor is threatened with imminent bodily harm, emotional harm or psychological harm.

(2) "Express consent" means oral or written permission that is positive, direct, and unequivocal, requiring no inference or implication to supply its meaning.

(3) "Contacts or communicates electronically" includes but is not limited to, any attempt to make contact or communicate telephonically or through the Internet or text messages.

(4) "Luring" shall mean any knowing act to solicit, entice, tempt, or attempt to attract the minor.

(5) "Minor" shall mean any person under the age of 15.

(6) "Stranger" shall have its common and ordinary meaning, including but not limited to, a person that is either not known by the parents of the minor or does not have any association with the parents of the minor.

(7) "Unlawful purpose" shall mean any misdemeanor or felony violation of State law or a similar federal or sister state law or local ordinance.

(d) This Section may not be interpreted to criminalize an act or person contacting a minor within the scope and course of his employment, or status as a volunteer of a recognized civic, charitable or youth organization.

(e) This Section is intended to protect minors and to help parents and legal guardians exercise reasonable care, supervision, protection, and control over minor children.

(f) Affirmative defenses.

(1) It shall be an affirmative defense to any offense under this Section 10-5.1 that the accused reasonably believed that the minor was over the age of 15.

(2) It shall be an affirmative defense to any offense under this Section 10-5.1 that the accused is assisting the minor in an emergency situation.

(3) It shall not be a defense to the prosecution of any offense under this Section 10-5.1 if the person who is contacted by the offender is posing as a minor and is in actuality an adult law enforcement officer.

(g) Penalties.

(1) A first offense of luring of a minor under subsection (a) shall be a Class 4 felony. A person convicted of luring of a minor under subsection (a) shall undergo a sex offender evaluation prior to a sentence being imposed. An offense of luring of a minor under subsection (a) when a person has a prior conviction in Illinois of a sex offense as defined in the Sex Offender Registration Act, or any substantially similar federal, Uniform Code of Military Justice, sister state, or foreign government offense, is guilty of a Class 2 felony.

(2) A first offense of luring of a minor under subsection (b) is a Class B misdemeanor.

(3) A second or subsequent offense of luring of a minor under subsection (a) is a Class 3 felony. A second or subsequent offense of luring of a minor under subsection (b) is a Class 4 felony. A second or subsequent offense when a person has a prior conviction in Illinois of a sex offense as defined in the Sex Offender Registration Act, or any substantially similar federal, Uniform Code of Military Justice, sister state, or foreign government offense, is a Class 1 felony. A defendant convicted a second time of an offense under subsection (a) or (b) shall register as a sexual predator of children pursuant to the Sex Offender Registration Act.

(4) A third or subsequent offense is a Class 1 felony. A third or subsequent offense when a person has a prior conviction in Illinois of a sex offense as defined in the Sex Offender Registration Act, or any substantially similar federal, Uniform Code of Military Justice, sister state, or foreign government offense, is a Class X felony.

(h) For violations of subsection (a), jurisdiction shall be established if the transmission that constitutes the offense either originates in this State or is received in this State and does not apply to emergency situations. For violations of subsection (b), jurisdiction shall be established in any county where the act in furtherance of the commission of the offense is committed, in the county where the minor resides, or in the county where the offender resides.

C. Trafficking in Persons, Involuntary Servitude, and Related Offenses

720 ILCS 5/10-9

(a) Definitions. In this Section:

(1) “Intimidation” has the meaning prescribed in Section 12-6.

(2) “Commercial sexual activity” means any sex act on account of which anything of value is given, promised to, or received by any person.

(3) “Financial harm” includes intimidation that brings about financial loss, criminal usury, or employment contracts that violate the Frauds Act.

(4) “Forced labor or services” means labor or services that are performed or provided by another person and are obtained or maintained through:

(A) any scheme, plan, or pattern intending to cause or threatening to cause serious harm to any person;

(B) an actor's physically restraining or threatening to physically restrain another person;

(C) an actor's abusing or threatening to abuse the law or legal process;

(D) an actor's knowingly destroying, concealing, removing, confiscating, or possessing any actual or purported passport or other immigration document, or any other actual or purported government identification document, of another person;

(E) an actor's blackmail; or

(F) an actor's causing or threatening to cause financial harm to or exerting financial control over any person.

(5) “Labor” means work of economic or financial value.

(6) “Maintain” means, in relation to labor or services, to secure continued performance thereof, regardless of any initial agreement on the part of the victim to perform that type of service.

(7) “Obtain” means, in relation to labor or services, to secure performance thereof.

(8) “Services” means activities resulting from a relationship between a person and the actor in which the person performs activities under the supervision of or for the benefit of the actor. Commercial sexual activity and sexually-explicit performances are forms of activities that are “services” under this Section. Nothing in this definition may be construed to legitimize or legalize prostitution.

(9) “Sexually-explicit performance” means a live, recorded, broadcast (including over the Internet), or public act or show intended to arouse or satisfy the sexual desires or appeal to the prurient interests of patrons.

(10) "Trafficking victim" means a person subjected to the practices set forth in subsection (b), (c), or (d).

(b) Involuntary servitude. A person commits the offense of involuntary servitude when he or she knowingly subjects, attempts to subject, or engages in a conspiracy to subject another person to forced labor or services and:

(1) causes or threatens to cause physical harm to any person;

(2) physically restrains or threatens to physically restrain another person;

(3) abuses or threatens to abuse the law or legal process;

(4) knowingly destroys, conceals, removes, confiscates, or possesses any actual or purported passport or other immigration document, or any other actual or purported government identification document, of another person; or

(5) uses intimidation, or uses or threatens to cause financial harm to or exerts financial control over any person.

Sentence. Except as otherwise provided in subsection (e) or (f), a violation of subsection (b)(1) is a Class X felony, (b)(2) is a Class 1 felony, (b)(3) is a Class 2 felony, (b)(4) is a Class 3 felony, and (b)(5) is a Class 4 felony.

(c) Involuntary sexual servitude of a minor. A person commits the offense of involuntary sexual servitude of a minor when he or she knowingly recruits, entices, harbors, transports, provides, or obtains by any means, or attempts to recruit, entice, harbor, provide, or obtain by any means, another person under 18 years of age, knowing that the minor will engage in commercial sexual activity, a sexually-explicit performance, or the production of pornography, or causes or attempts to cause a minor to engage in one or more of those activities and:

(1) there is no overt force or threat and the minor is between the ages of 17 and 18 years;

(2) there is no overt force or threat and the minor is under the age of 17 years; or

(3) there is overt force or threat.

Sentence. Except as otherwise provided in subsection (e) or (f), a violation of subsection (c)(1) is a Class 1 felony, (c)(2) is a Class X felony, and (c)(3) is a Class X felony.

(d) Trafficking in persons for forced labor or services. A person commits the offense of trafficking in persons for forced labor or services when he or she knowingly:

(1) recruits, entices, harbors, transports, provides, or obtains by any means, or attempts to recruit, entice, harbor, transport, provide, or obtain by any means, another person, intending or knowing that the person will be subjected to forced labor or services; or

(2) benefits, financially or by receiving anything of value, from participation in a venture that has engaged in an act of involuntary servitude or involuntary sexual servitude of a minor.

Sentence. Except as otherwise provided in subsection (e) or (f), a violation of this subsection is a Class 1 felony.

(e) Aggravating factors. A violation of this Section involving kidnapping or an attempt to kidnap, aggravated criminal sexual assault or an attempt to commit aggravated criminal sexual assault, or an attempt to commit first degree murder is a Class X felony.

(f) Sentencing considerations.

(1) Bodily injury. If, pursuant to a violation of this Section, a victim suffered bodily injury, the defendant may be sentenced to an extended-term sentence under Section 5-8-2 of the Unified Code of Corrections. The sentencing court must take into account the time in which the victim was held in servitude, with increased penalties for cases in which the victim was held for between 180 days and one year, and increased penalties for cases in which the victim was held for more than one year.

(2) Number of victims. In determining sentences within statutory maximums, the sentencing court should take into account the number of victims, and may provide for substantially increased sentences in cases involving more than 10 victims.

(g) Restitution. Restitution is mandatory under this Section. In addition to any other amount of loss identified, the court shall order restitution including the greater of (1) the gross income or value to the defendant of the victim's labor or services or (2) the value of the victim's labor as guaranteed under the Minimum Wage Law and overtime provisions of the Fair Labor Standards Act (FLSA) or the Minimum Wage Law, whichever is greater.

(h) Trafficking victim services. Subject to the availability of funds, the Department of Human Services may provide or fund emergency services and assistance to individuals who are victims of one or more offenses defined in this Section.

(i) Certification. The Attorney General, a State's Attorney, or any law enforcement official shall certify in writing to the United States Department of Justice or other federal agency, such as the United States Department of Homeland Security, that an investigation or prosecution under this Section has begun and the individual who is a likely victim of a crime described in this Section is willing to cooperate or is cooperating with the investigation to enable the individual, if eligible under federal law, to qualify for an appropriate special immigrant visa and to access available federal benefits. Cooperation with law enforcement shall not be required of victims of a crime described in this Section who are under 18 years of age. This certification shall be made available to the victim and his or her designated legal representative.

(j) A person who commits the offense of involuntary servitude, involuntary sexual servitude of a minor, or trafficking in persons for forced labor or services under subsection (b), (c), or (d) of this Section is subject to the property forfeiture provisions set forth in Article 124B of the Code of Criminal Procedure of 1963.

D. Indecent Solicitation of a Child

720 ILCS 5/11-6

(a) A person of the age of 17 years and upwards commits indecent solicitation of a child if the person, with the intent that the offense of aggravated criminal sexual assault, criminal sexual assault, predatory criminal sexual assault of a child, or aggravated criminal sexual abuse be committed, knowingly solicits a child or one whom he or she believes to be a child to perform an act of sexual penetration or sexual conduct as defined in Section 11-0.1 of this Code.

(a-5) A person of the age of 17 years and upwards commits indecent solicitation of a child if the person knowingly discusses an act of sexual conduct or sexual penetration with a child or with one whom he or she believes to be a child by means of the Internet with the intent that the offense of aggravated criminal sexual assault, predatory criminal sexual assault of a child, or aggravated criminal sexual abuse be committed.

(a-6) It is not a defense to subsection (a-5) that the person did not solicit the child to perform sexual conduct or sexual penetration with the person.

(b) Definitions. As used in this Section:

“Solicit” means to command, authorize, urge, incite, request, or advise another to perform an act by any means including, but not limited to, in person, over the phone, in writing, by computer, or by advertisement of any kind.

“Child” means a person under 17 years of age.

"Internet" has the meaning set forth in Section 16J-5 of this Code.

"Sexual penetration" or "sexual conduct" are defined in Section 11-0.1 of this Code.

(c) Sentence. Indecent solicitation of a child under subsection (a) is:

(1) a Class 1 felony when the act, if done, would be predatory criminal sexual assault of a child or aggravated criminal sexual assault;

(2) a Class 2 felony when the act, if done, would be criminal sexual assault;

(3) a Class 3 felony when the act, if done, would be aggravated criminal sexual abuse.

Indecent solicitation of a child under subsection (a-5) is a Class 4 felony.

E. Indecent Solicitation of an Adult

720 ILCS 5/11-6.5

(a) A person commits indecent solicitation of an adult if the person knowingly:

(1) Arranges for a person 17 years of age or over to commit an act of sexual penetration as defined in Section 11-0.1 with a person:

(i) Under the age of 13 years; or

(ii) Thirteen years of age or over but under the age of 17 years; or

(2) Arranges for a person 17 years of age or over to commit an act of sexual conduct as defined in Section 11-0.1 with a person:

(i) Under the age of 13 years; or

(ii) Thirteen years of age or older but under the age of 17 years.

(b) Sentence.

(1) Violation of paragraph (a)(1)(i) is a Class X felony.

(2) Violation of paragraph (a)(1)(ii) is a Class 1 felony.

(3) Violation of paragraph (a)(2)(i) is a Class 2 felony.

(4) Violation of paragraph (a)(2)(ii) is a Class A misdemeanor.

(c) For the purposes of this Section, “arranges” includes but is not limited to oral or written communication and communication by telephone, computer, or other electronic means. “Computer” has the meaning ascribed to it in Section 16D-2 of this Code.

F. Solicitation to Meet a Child

720 ILCS 5/11-6.6

(a) A person of the age of 18 or more years commits the offense of solicitation to meet a child if the person while using a computer, cellular telephone, or any other device, with the intent to meet a child or one whom he or she believes to be a child, solicits, entices, induces, or arranges with the child to meet at a location without the knowledge of the child's parent or guardian and the meeting with the child is arranged for a purpose other than a lawful purpose under Illinois law.

(b) Sentence. Solicitation to meet a child is a Class A misdemeanor. Solicitation to meet a child is a Class 4 felony when the solicitor believes he or she is 5 or more years older than the child.

(c) For purposes of this Section, “child” means any person under 17 years of age; and “computer” has the meaning ascribed to it in Section 16D-2 of this Code.

G. Sexual Exploitation of a Child

720 ILCS 5/11-9.1

(a) A person commits sexual exploitation of a child if in the presence of a child and with knowledge that a child would view his or her acts, that person:

(1) engages in a sexual act; or

(2) exposes his or her sex organs, anus or breast for the purpose of sexual arousal or gratification of such person or the child.

(a-5) A person commits sexual exploitation of a child who knowingly entices, coerces, or persuades a child to remove the child's clothing for the purpose of sexual arousal or gratification of the person or the child, or both.

(b) Definitions. As used in this Section:

“Sexual act” means masturbation, sexual conduct or sexual penetration as defined in Section 11-0.1 of this Code.

“Sex offense” means any violation of Article 11 of this Code or Section 12-16.2 of this Code.

“Child” means a person under 17 years of age.

(c) Sentence.

(1) Sexual exploitation of a child is a Class A misdemeanor. A second or subsequent violation of this Section or a substantially similar law of another state is a Class 4 felony.

(2) Sexual exploitation of a child is a Class 4 felony if the person has been previously convicted of a sex offense.

(3) Sexual exploitation of a child is a Class 4 felony if the victim was under 13 years of age at the time of the commission of the offense.

(4) Sexual exploitation of a child is a Class 4 felony if committed by a person 18 years of age or older who is on or within 500 feet of elementary or secondary school grounds when children are present on the grounds.

H. Permitting Sexual Abuse of a Child

720 ILCS 5/11-9.1A (was 720 ILCS 150/5.1)

(a) A person responsible for a child's welfare commits permitting sexual abuse of a child if the person has actual knowledge of and permits an act of sexual abuse upon the child, or permits the child to engage in prostitution as defined in Section 11-14 of the Criminal Code of 1961.

(b) In this Section:

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

“Child” means a minor under the age of 17 years.

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

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

“Sexual abuse” includes criminal sexual abuse or criminal sexual assault as defined in Section Section 11-1.20, 11-1.30, 11-1.40, 11-1.50, or 11-1.60 of the Criminal Code of 1961.

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

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

(e) An order of protection under Section 111-8 of the Code of Criminal Procedure of 1963 shall be sought in all cases where there is reason to believe that a child has been sexually abused by a family or household member. In considering appropriate available remedies, it shall be presumed that awarding physical care or custody to the abuser is not in the child's best interest.

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

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

(h) It is an affirmative defense to a charge of permitting sexual abuse of a child under this Section that the person responsible for the child's welfare had a reasonable apprehension that timely action to stop the abuse or prostitution would result in the imminent infliction of death, great bodily harm, permanent disfigurement, or permanent disability to that person or another in retaliation for reporting.

I. Custodial Sexual Misconduct

720 ILCS 5/11-9.2

(a) A person commits custodial sexual misconduct when: (1) he or she is an employee of a penal system and engages in sexual conduct or sexual penetration with a person who is in the custody of that penal system or (2) he or she is an employee of a treatment and detention facility and engages in sexual conduct or sexual penetration with a person who is in the custody of that treatment and detention facility.

(b) A probation or supervising officer or surveillance agent commits custodial sexual misconduct when the probation or supervising officer or surveillance agent engages in sexual conduct or sexual penetration with a probationer, parolee, or releasee or person serving a term of conditional release who is under the supervisory, disciplinary, or custodial authority of the officer or agent so engaging in the sexual conduct or sexual penetration.

(c) Custodial sexual misconduct is a Class 3 felony.

(d) Any person convicted of violating this Section immediately shall forfeit his or her employment with a penal system, treatment and detention facility, or conditional release program.

(e) For purposes of this Section, the consent of the probationer, parolee, releasee, or inmate in custody of the penal system or person detained or civilly committed under the Sexually Violent Persons Commitment Act shall not be a defense to a prosecution under this Section. A person is deemed incapable of consent, for purposes of this Section, when he or she is a probationer, parolee, releasee, or inmate in custody of a penal system or person detained or civilly committed under the Sexually Violent Persons Commitment Act.

(f) This Section does not apply to:

(1) Any employee, probation or supervising officer, or surveillance agent who is lawfully married to a person in custody if the marriage occurred before the date of custody.

(2) Any employee, probation or supervising officer, or surveillance agent who has no knowledge, and would have no reason to believe, that the person with whom he or she engaged in custodial sexual misconduct was a person in custody.

(g) In this Section:

(1) “Custody” means:

(i) pretrial incarceration or detention;

(ii) incarceration or detention under a sentence or commitment to a State or local penal institution;

(iii) parole or mandatory supervised release;

(iv) electronic home detention;

(v) probation;

(vi) detention or civil commitment either in secure care or in the community under the Sexually Violent Persons Commitment Act.

(2) "Penal system" means any system which includes institutions as defined in Section 2-14 of this Code or a county shelter care or detention home established under Section 1 of the County Shelter Care and Detention Home Act

(2.1) "Treatment and detention facility" means any Department of Human Services facility established for the detention or civil commitment of persons under the Sexually Violent Persons Commitment Act.

(2.2) "Conditional release" means a program of treatment and services, vocational services, and alcohol or other drug abuse treatment provided to any person civilly committed and conditionally released to the community under the Sexually Violent Persons Commitment Act;

(3) "Employee" means:

(i) an employee of any governmental agency of this State or any county or municipal corporation that has by statute, ordinance, or court order the responsibility for the care, control, or supervision of pretrial or sentenced persons in a penal system or persons detained or civilly committed under the Sexually Violent Persons Commitment Act;

(ii) a contractual employee of a penal system as defined in paragraph (g)(2) of this Section who works in a penal institution as defined in Section 2-14 of this Code;

(iii) a contractual employee of a "treatment and detention facility" as defined in paragraph (g)(2.1) of this Code or a contractual employee of the Department of Human Services who provides supervision of persons serving a term of conditional release as defined in paragraph (g)(2.2) of this Code.

(4) "Sexual conduct" or "sexual penetration" means any act of sexual conduct or sexual penetration as defined in Section 12-12 of this Code.

(5) "Probation officer" means any person employed in a probation or court services department as defined in Section 9b of the Probation and Probation Officers Act.

(6) "Supervising officer" means any person employed to supervise persons placed on parole or mandatory supervised release with the duties described in Section 3-14-2 of the Unified Code of Corrections.

(7) "Surveillance agent" means any person employed or contracted to supervise persons placed on conditional release in the community under the Sexually Violent Persons Commitment Act.

J. Presence Within School Zone by Child Sex Offenders Prohibited; Approaching, Contacting, Residing With, or Communicating With a Child Within Certain Places by Child Sex Offenders Prohibited

720 ILCS 5/11-9.3

(a) It is unlawful for a child sex offender to knowingly be present in any school building, on real property comprising any school, or in any conveyance owned, leased, or contracted by a school to transport students to or from school or a school related activity when persons under the age of 18 are present in the building, on the grounds or in the conveyance, unless the offender is a parent or guardian of a student attending the school and the parent or guardian is:

(i) attending a conference at the school with school personnel to discuss the progress of his or her child academically or socially,

(ii) participating in child review conferences in which evaluation and placement decisions may be made with respect to his or her child regarding special education services, or

(iii) attending conferences to discuss other student issues concerning his or her child such as retention and promotion and notifies the principal of the school of his or her presence at the school or unless the offender has permission to be present from the superintendent or the school board or in the case of a private school from the principal. In the case of a public school, if permission is granted, the superintendent or school board president must inform the principal of the school where the sex offender will be present.

Notification includes the nature of the sex offender's visit and the hours in which the sex offender will be present in the school. The sex offender is responsible for notifying the principal's office when he or she arrives on school property and when he or she departs from school property. If the sex offender is to be present in the vicinity of children, the sex offender has the duty to remain under the direct supervision of a school official.

(a-5) It is unlawful for a child sex offender to knowingly be present within 100 feet of a site posted as a pick-up or discharge stop for a conveyance owned, leased, or contracted by a school to transport students to or from school or a school related activity when one or more persons under the age of 18 are present at the site.

(a-10) It is unlawful for a child sex offender to knowingly be present in any public park building or on real property comprising any public park when persons under the age of 18 are present in the building or on the grounds and to approach, contact, or communicate with a child under 18 years of age, unless the offender is a parent or guardian of a person under 18 years of age present in the building or on the grounds.

(b) It is unlawful for a child sex offender to knowingly loiter within 500 feet of a school building or real property comprising any school while persons under the age of 18 are present in the building or on the grounds, unless the offender is a parent or guardian of a student attending the school and the parent or guardian is: (i) attending a conference at the school with school personnel to discuss the progress of his or her child academically or socially, (ii) participating in child review conferences in which evaluation and placement decisions may be made with respect to his or her child regarding special education services, or (iii) attending conferences to discuss other student issues concerning his or her child such as retention and promotion and notifies the principal of the school of his or her presence at the school or has permission to be present from the superintendent or the school board or in the case of a private school from the principal. In the case of a public school, if permission is granted, the superintendent or school board president must inform the principal of the school where the sex offender will be present. Notification includes the nature of the sex offender's visit and the hours in which the sex offender will be present in the school. The sex offender is responsible for notifying the principal's office when he or she arrives on school property and when he or she departs from school property. If the sex offender is to be present in the vicinity of children, the sex offender has the duty to remain under the direct supervision of a school official.

(b-2) It is unlawful for a child sex offender to knowingly loiter on a public way within 500 feet of a public park building or real property comprising any public park while persons under the age of 18 are present in the building or on the grounds and to approach, contact, or communicate with a child under 18 years of age,

unless the offender is a parent or guardian of a person under 18 years of age present in the building or on the grounds.

(b-5) It is unlawful for a child sex offender to knowingly reside within 500 feet of a school building or the real property comprising any school that persons under the age of 18 attend. Nothing in this subsection (b-5) prohibits a child sex offender from residing within 500 feet of a school building or the real property comprising any school that persons under 18 attend if the property is owned by the child sex offender and was purchased before the effective date of this amendatory Act of the 91st General Assembly.

(b-10) It is unlawful for a child sex offender to knowingly reside within 500 feet of a playground, child care institution, day care center, part day child care facility, day care home, group day care home, or a facility providing programs or services exclusively directed toward persons under 18 years of age. Nothing in this subsection (b-10) prohibits a child sex offender from residing within 500 feet of a playground or a facility providing programs or services exclusively directed toward persons under 18 years of age if the property is owned by the child sex offender and was purchased before July 7, 2000. Nothing in this subsection (b-10) prohibits a child sex offender from residing within 500 feet of a child care institution, day care center, or part day child care facility if the property is owned by the child sex offender and was purchased before June 26, 2006. Nothing in this subsection (b-10) prohibits a child sex offender from residing within 500 feet of a day care home or group day care home if the property is owned by the child sex offender and was purchased before August 14, 2008 (the effective date of Public Act 95-821).

(b-15) It is unlawful for a child sex offender to knowingly reside within 500 feet of the victim of the sex offense. Nothing in this subsection (b-15) prohibits a child sex offender from residing within 500 feet of the victim if the property in which the child sex offender resides is owned by the child sex offender and was purchased before August 22, 2002.

This subsection (b-15) does not apply if the victim of the sex offense is 21 years of age or older.

(b-20) It is unlawful for a child sex offender to knowingly communicate, other than for a lawful purpose under Illinois law, using the Internet or any other digital media, with a person under 18 years of age or with a person whom he or she believes to be a person under 18 years of age, unless the offender is a parent or guardian of the person under 18 years of age.

(c) It is unlawful for a child sex offender to knowingly operate, manage, be employed by, volunteer at, be associated with, or knowingly be present at any: (i) facility providing programs or services exclusively directed toward persons under the age of 18; (ii) day care center; (iii) part day child care facility; (iv) child care

institution; (v) school providing before and after school programs for children under 18 years of age; (vi) day care home; or (vii) group day care home. This does not prohibit a child sex offender from owning the real property upon which the programs or services are offered or upon which the day care center, part day child care facility, child care institution, or school providing before and after school programs for children under 18 years of age is located, provided the child sex offender refrains from being present on the premises for the hours during which: (1) the programs or services are being offered or (2) the day care center, part day child care facility, child care institution, or school providing before and after school programs for children under 18 years of age, day care home, or group day care home is operated.

(c-5) It is unlawful for a child sex offender to knowingly operate, manage, be employed by, or be associated with any county fair when persons under the age of 18 are present.

(c-6) It is unlawful for a child sex offender who owns and resides at residential real estate to knowingly rent any residential unit within the same building in which he or she resides to a person who is the parent or guardian of a child or children under 18 years of age. This subsection shall apply only to leases or other rental arrangements entered into after January 1, 2009 (the effective date of Public Act 95-820).

(c-7) It is unlawful for a child sex offender to knowingly offer or provide any programs or services to persons under 18 years of age in his or her residence or the residence of another or in any facility for the purpose of offering or providing such programs or services, whether such programs or services are offered or provided by contract, agreement, arrangement, or on a volunteer basis.

(c-8) It is unlawful for a child sex offender to knowingly operate, whether authorized to do so or not, any of the following vehicles: (1) a vehicle which is specifically designed, constructed or modified and equipped to be used for the retail sale of food or beverages, including but not limited to an ice cream truck; (2) an authorized emergency vehicle; or (3) a rescue vehicle.

(d) Definitions. In this Section:

(1) “Child sex offender” means any person who:

(i) has been charged under Illinois law, or any substantially similar federal law or law of another state, with a sex offense set forth in paragraph (2) of this subsection (d) or the attempt to commit an included sex offense, and:

(A) is convicted of such offense or an attempt to commit such offense; or

(B) is found not guilty by reason of insanity of such offense or an attempt to commit such offense; or

(C) is found not guilty by reason of insanity pursuant to subsection (c) of Section 104-25 of the Code of Criminal Procedure of 1963 of such offense or an attempt to commit such offense; or

(D) is the subject of a finding not resulting in an acquittal at a hearing conducted pursuant to subsection (a) of Section 104-25 of the Code of Criminal Procedure of 1963 for the alleged commission or attempted commission of such offense; or

(E) is found not guilty by reason of insanity following a hearing conducted pursuant to a federal law or the law of another state substantially similar to subsection (c) of Section 104-25 of the Code of Criminal Procedure of 1963 of such offense or of the attempted commission of such offense; or

(F) is the subject of a finding not resulting in an acquittal at a hearing conducted pursuant to a federal law or the law of another state substantially similar to subsection (a) of Section 104-25 of the Code of Criminal Procedure of 1963 for the alleged violation or attempted commission of such offense; or

(ii) is certified as a sexually dangerous person pursuant to the Illinois Sexually Dangerous Persons Act, or any substantially similar federal law or the law of another state, when any conduct giving rise to such certification is committed or attempted against a person less than 18 years of age; or

(iii) is subject to the provisions of Section 2 of the Interstate Agreements on Sexually Dangerous Persons Act.

Convictions that result from or are connected with the same act, or result from offenses committed at the same time, shall be counted for the purpose of this Section as one conviction. Any conviction set aside pursuant to law is not a conviction for purposes of this Section.

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K. Sexual Misconduct with a Person with a Disability

720 ILCS 5/11-9.5

(a) Definitions. As used in this Section:

(1) "Person with a disability" means:

(i) a person diagnosed with a developmental disability as defined in Section 1-106 of the Mental Health and Developmental Disabilities Code; or

(ii) a person diagnosed with a mental illness as defined in Section 1-129 of the Mental Health and Developmental Disabilities Code.

(2) "State-operated facility" means:

(i) a developmental disability facility as defined in the Mental Health and Developmental Disabilities Code; or

(ii) a mental health facility as defined in the Mental Health and Developmental Disabilities Code.

(3) "Community agency" or "agency" means any community entity or program providing residential mental health or developmental disabilities services that is licensed, certified, or funded by the Department of Human Services and not licensed or certified by any other human service agency of the State such as the Departments of Public Health, Healthcare and Family Services, and Children and Family Services.

(4) "Care and custody" means admission to a State-operated facility.

(5) "Employee" means:

(i) any person employed by the Illinois Department of Human Services;

(ii) any person employed by a community agency providing services at the direction of the owner or operator of the agency on or off site; or

(iii) any person who is a contractual employee or contractual agent of the Department of Human Services or the community agency. This includes but is not limited to payroll personnel, contractors, subcontractors, and volunteers.

(6) "Sexual conduct" or "sexual penetration" means any act of sexual conduct or sexual penetration as defined in Section 11-0.1 of this Code.

(b) A person commits sexual misconduct with a person with a disability when:

(1) he or she is an employee and knowingly engages in sexual conduct or sexual penetration with a person with a disability who is under the care and custody of the Department of Human Services at a State-operated facility; or

(2) he or she is an employee of a community agency funded by the Department of Human Services and knowingly engages in sexual conduct or sexual penetration with a person with a disability who is in a residential program operated or supervised by a community agency.

(c) For purposes of this Section, the consent of a person with a disability in custody of the Department of Human Services residing at a State-operated facility or receiving services from a community agency shall not be a defense to a prosecution under this Section. A person is deemed incapable of consent, for purposes of this Section, when he or she is a person with a disability and is receiving services at a State-operated facility or is a person with a disability who is in a residential program operated or supervised by a community agency.

(d) This Section does not apply to:

(1) any State employee or any community agency employee who is lawfully married to a person with a disability in custody of the Department of Human Services or receiving services from a community agency if the marriage occurred before the date of custody or the initiation of services at a community agency; or

(2) any State employee or community agency employee who has no knowledge, and would have no reason to believe, that the person with whom he or she engaged in sexual misconduct was a person with a disability in custody of the Department of Human Services or was receiving services from a community agency.

(e) Sentence. Sexual misconduct with a person with a disability is a Class 3 felony.

(f) Any person convicted of violating this Section shall immediately forfeit his or her employment with the State or the community agency.

L. Sexual Relations Within Families

720 ILCS 5/11-11

(a) A person commits sexual relations within families if he or she:

(1) Commits an act of sexual penetration as defined in Section 11-0.1 of this Code; and

(2) The person knows that he or she is related to the other person as follows:

(i) Brother or sister, either of the whole blood or the half blood; or

(ii) Father or mother, when the child, regardless of legitimacy and regardless of whether the child was of the whole blood or half-blood or was adopted, was 18 years of age or over when the act was committed; or

(iii) Stepfather or stepmother, when the stepchild was 18 years of age or over when the act was committed; or

(iv) Aunt or uncle, when the niece or nephew was 18 years of age or over when the act was committed; or

(v) Great-aunt or great-uncle, when the grand-niece or grand-nephew was 18 years of age or over when the act was committed; or

(vi) Grandparent or step-grandparent, when the grandchild or step-grandchild was 18 years of age or over when the act was committed.

(b) Sentence. Sexual relations within families is a Class 3 felony.

M. Prostitution

720 ILCS 5/11-14

(a) Any person who knowingly performs, offers or agrees to perform any act of sexual penetration as defined in Section 11-0.1 of this Code for anything of value, or any touching or fondling of the sex organs of one person by another person, for anything of value, for the purpose of sexual arousal or gratification commits an act of prostitution.

(b) Sentence. A violation of this Section is a Class A misdemeanor, unless committed within 1,000 feet of real property comprising a school, in which case it is a Class 4 felony. A second or subsequent violation of this Section, or any

combination of convictions under this Section and Section 11-14.1 (solicitation of a sexual act), 11-14.3 (promoting prostitution), 11-14.4 (promoting juvenile prostitution), 11-15 (soliciting for a prostitute), 11-15.1 (soliciting for a juvenile prostitute), 11-16 (pandering), 11-17 (keeping a place of prostitution), 11-17.1 keeping a place of juvenile prostitution), 11-18 (patronizing a prostitute), 11-18.1 (patronizing a juvenile prostitute), 11-19 (pimping), 11-19.1 (juvenile pimping or aggravated juvenile pimping), or 11-19.2 (exploitation of a child), is a Class 4 felony.

(c) First offender; felony prostitution.

(1) Whenever any person who has not previously been convicted of or placed on probation for felony prostitution or any law of the United States or of any other state relating to felony prostitution pleads guilty to or is found guilty of felony prostitution, the court, without entering a judgment and with the consent of such person, may sentence the person to probation.

(2) When a person is placed on probation, the court shall enter an order specifying a period of probation of 24 months and shall defer further proceedings in the case until the conclusion of the period or until the filing of a petition alleging violation of a term or condition of probation.

The conditions of probation shall be that the person: (i) not violate any criminal statute of any jurisdiction; (ii) refrain from possessing a firearm or other dangerous weapon; (iii) submit to periodic drug testing at a time and in a manner as ordered by the court, but no less than 3 times during the period of the probation, with the cost of the testing to be paid by the probationer; and (iv) perform no less than 30 hours of community service, provided community service is available in the jurisdiction and is funded and approved by the county board.

(4) The court may, in addition to other conditions, require that the person:

(A) make a report to and appear in person before or participate with the court or such courts, person, or social service agency as directed by the court in the order of probation;

(B) pay a fine and costs;

(C) work or pursue a course of study or vocational training;

(D) undergo medical or psychiatric treatment; or treatment or rehabilitation by a provider approved by the Illinois Department of Human Services;

(E) attend or reside in a facility established for the instruction or residence of defendants on probation;

(F) support his or her dependents;

(G) refrain from having in his or her body the presence of any illicit drug prohibited by the Cannabis Control Act or the Illinois Controlled Substances Act, unless prescribed by a physician, and submit samples of his or her blood or urine or both for tests to determine the presence of any illicit drug.

(5) Upon violation of a term or condition of probation, the court may enter a judgment on its original finding of guilt and proceed as otherwise provided.

(6) Upon fulfillment of the terms and conditions of probation, the court shall discharge the person and dismiss the proceedings against him or her.

(7) A disposition of probation is considered to be a conviction for the purposes of imposing the conditions of probation and for appeal, however, discharge and dismissal under this subsection is not a conviction for purposes of this Code or for purposes of disqualifications or disabilities imposed by law upon conviction of a crime.

(8) There may be only one discharge and dismissal under this Section.

(9) If a person is convicted of prostitution within 5 years subsequent to a discharge and dismissal under this subsection, the discharge and dismissal under this subsection shall be admissible in the sentencing proceeding for that conviction as evidence in aggravation.

(d) Notwithstanding the foregoing, if it is determined, after a reasonable detention for investigative purposes, that a person suspected of or charged with a violation of this Section is a person under the age of 18, that person shall be immune from prosecution for a prostitution offense under this Section, and shall be subject to the temporary protective custody provisions of Sections 2-5 and 2-6 of the Juvenile Court Act of 1987. Pursuant to the provisions of Section 2-6 of the Juvenile Court Act of 1987, a law enforcement officer who takes a person under 18 years of age into custody under this Section shall immediately report an allegation of a violation of Section 10-9 of this Code to the Illinois Department of Children and Family Services State Central Register, which shall commence an initial investigation into child abuse or child neglect within 24 hours pursuant to Section 7.4 of the Abused and Neglected Child Reporting Act.

N. Child Pornography

720 ILCS 5/11-20.1

(a) A person commits child pornography who:

(1) films, videotapes, photographs, or otherwise depicts or portrays by means of any similar visual medium or reproduction or depicts by computer any child whom he or she knows or reasonably should know to be under the age of 18 and at least 13 years of age or any severely or profoundly mentally retarded person where such child or severely or profoundly mentally retarded person is:

(i) actually or by simulation engaged in any act of sexual penetration or sexual conduct with any person or animal; or

(ii) actually or by simulation engaged in any act of sexual penetration or sexual conduct involving the sex organs of the child or severely or profoundly mentally retarded person and the mouth, anus, or sex organs of another person or animal; or which involves the mouth, anus or sex organs of the child or severely or profoundly mentally retarded person and the sex organs of another person or animal; or

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

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

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

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

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

(2) with the knowledge of the nature or content thereof, reproduces, disseminates, offers to disseminate, exhibits or possesses with intent to disseminate any film, videotape, photograph or other similar visual reproduction or depiction by computer of any child or severely or profoundly mentally retarded person whom the person knows or reasonably should know to be under the age of 18 and at least 13 years of

age or to be a severely or profoundly mentally retarded person, engaged in any activity described in subparagraphs (i) through (vii) of paragraph (1) of this subsection; or

(3) with knowledge of the subject matter or theme thereof, produces any stage play, live performance, film, videotape or other similar visual portrayal or depiction by computer which includes a child whom the person knows or reasonably should know to be under the age of 18 and at least 13 years of age or a severely or profoundly mentally retarded person engaged in any activity described in subparagraphs (i) through (vii) of paragraph (1) of this subsection; or

(4) solicits, uses, persuades, induces, entices, or coerces any child whom he or she knows or reasonably should know to be under the age of 18 and at least 13 years of age or a severely or profoundly mentally retarded person to appear in any stage play, live presentation, film, videotape, photograph or other similar visual reproduction or depiction by computer in which the child or severely or profoundly mentally retarded person is or will be depicted, actually or by simulation, in any act, pose or setting described in subparagraphs (i) through (vii) of paragraph (1) of this subsection; or

(5) is a parent, step-parent, legal guardian or other person having care or custody of a child whom the person knows or reasonably should know to be under the age of 18 and at least 13 years of age or a severely or profoundly mentally retarded person and who knowingly permits, induces, promotes, or arranges for such child or severely or profoundly mentally retarded person to appear in any stage play, live performance, film, videotape, photograph or other similar visual presentation, portrayal or simulation or depiction by computer of any act or activity described in subparagraphs (i) through (vii) of paragraph (1) of this subsection; or

(6) with knowledge of the nature or content thereof, possesses any film, videotape, photograph or other similar visual reproduction or depiction by computer of any child or severely or profoundly mentally retarded person whom the person knows or reasonably should know to be under the age of 18 and at least 13 years of age or to be a severely or profoundly mentally retarded person, engaged in any activity described in subparagraphs (i) through (vii) of paragraph (1) of this subsection; or

(7) solicits, or knowingly uses, persuades, induces, entices, or coerces, a person to provide a child under the age of 18 and at least 13 years of age or a severely or profoundly mentally retarded person to appear in any videotape, photograph, film, stage play, live presentation, or other similar visual reproduction or depiction by computer in which the child or severely or profoundly mentally retarded person will be depicted, actually

or by simulation, in any act, pose, or setting described in subparagraphs (i) through (vii) of paragraph (1) of this subsection.

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

(2) (Blank).

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

(4) If the defendant possessed more than one of the same film, videotape or visual reproduction or depiction by computer in which child pornography is depicted, then the trier of fact may infer that the defendant possessed such materials with the intent to disseminate them.

(5) The charge of child pornography does not apply to a person who does not voluntarily possess a film, videotape, or visual reproduction or depiction by computer in which child pornography is depicted. Possession is voluntary if the defendant knowingly procures or receives a film, videotape, or visual reproduction or depiction for a sufficient time to be able to terminate his or her possession.

(6) Any violation of paragraph (1), (2), (3), (4), (5), or (7) of subsection (a) that includes a child engaged in, solicited for, depicted in, or posed in any act of sexual penetration or bound, fettered, or subject to sadistic, masochistic, or sadomasochistic abuse in a sexual context shall be deemed a crime of violence.

(c) Violation of paragraph (1), (4), (5), or (7) of subsection (a) is a Class 1 felony with a mandatory minimum fine of $2,000 and a maximum fine of $100,000. Violation of paragraph (3) of subsection (a) is a Class 1 felony with a mandatory minimum fine of $1500 and a maximum fine of $100,000. Violation of paragraph (2) of subsection (a) is a Class 1 felony with a mandatory minimum fine of $1000 and a maximum fine of $100,000. Violation of paragraph (6) of subsection (a) is a

Class 3 felony with a mandatory minimum fine of $1000 and a maximum fine of $100,000.

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

(e) Any film, videotape, photograph or other similar visual reproduction or depiction by computer which includes a child under the age of 18 and at least 13 years of age or a severely or profoundly mentally retarded person engaged in any activity described in subparagraphs (i) through (vii) or paragraph 1 of subsection (a), and any material or equipment used or intended for use in photographing, filming, printing, producing, reproducing, manufacturing, projecting, exhibiting, depiction by computer, or disseminating such material shall be seized and forfeited in the manner, method and procedure provided by Section 36-1 of this Code for the seizure and forfeiture of vessels, vehicles and aircraft.

In addition, any person convicted under this Section is subject to the property forfeiture provisions set forth in Article 124B of the Code of Criminal Procedure of 1963.

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

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

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

(2) “Produce” means to direct, promote, advertise, publish, manufacture, issue, present or show.

(3) “Reproduce” means to make a duplication or copy.

(4) “Depict by computer” means to generate or create, or cause to be created or generated, a computer program or data that, after being processed by a

computer either alone or in conjunction with one or more computer programs, results in a visual depiction on a computer monitor, screen, or display.

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

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

(7) For the purposes of this Section, "child pornography" includes a film, videotape, photograph, or other similar visual medium or reproduction or depiction by computer that is, or appears to be, that of a person, either in part, or in total, under the age of 18 and at least 13 years of age or a severely or profoundly mentally retarded person, regardless of the method by which the film, videotape, photograph, or other similar visual medium or reproduction or depiction by computer is created, adopted, or modified to appear as such. "Child pornography" also includes a film, videotape, photograph, or other similar visual medium or reproduction or depiction by computer that is advertised, promoted, presented, described, or distributed in such a manner that conveys the impression that the film, videotape, photograph, or other similar visual medium or reproduction or depiction by computer is of a person under the age of 18 and at least 13 years of age or a severely or profoundly mentally retarded person.

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O. Aggravated Child Pornography

720 ILCS 5/11-20.1B (was 720 ILCS 5/11-20.3)

(a) A person commits aggravated child pornography who:

(1) films, videotapes, photographs, or otherwise depicts or portrays by means of any similar visual medium or reproduction or depicts by computer any child whom he or she knows or reasonably should know to be under the age of 13 years where such child is:

(i) actually or by simulation engaged in any act of sexual penetration or sexual conduct with any person or animal; or

(ii) actually or by simulation engaged in any act of sexual penetration or sexual conduct involving the sex organs of the child and the mouth, anus, or sex organs of another person or animal; or which

involves the mouth, anus or sex organs of the child and the sex organs of another person or animal; or

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

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

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

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

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

(2) with the knowledge of the nature or content thereof, reproduces, disseminates, offers to disseminate, exhibits or possesses with intent to disseminate any film, videotape, photograph or other similar visual reproduction or depiction by computer of any child whom the person knows or reasonably should know to be under the age of 13 engaged in any activity described in subparagraphs (i) through (vii) of paragraph (1) of this subsection; or

(3) with knowledge of the subject matter or theme thereof, produces any stage play, live performance, film, videotape or other similar visual portrayal or depiction by computer which includes a child whom the person knows or reasonably should know to be under the age of 13 engaged in any activity described in subparagraphs (i) through (vii) of paragraph (1) of this subsection; or

(4) solicits, uses, persuades, induces, entices, or coerces any child whom he or she knows or reasonably should know to be under the age of 13 to appear in any stage play, live presentation, film, videotape, photograph or other similar visual reproduction or depiction by computer in which the child or severely or profoundly mentally retarded person is or will be depicted, actually or by simulation, in any act, pose or setting described in subparagraphs (i) through (vii) of paragraph (1) of this subsection; or

(5) is a parent, step-parent, legal guardian or other person having care or custody of a child whom the person knows or reasonably should know to

be under the age of 13 and who knowingly permits, induces, promotes, or arranges for such child to appear in any stage play, live performance, film, videotape, photograph or other similar visual presentation, portrayal or simulation or depiction by computer of any act or activity described in subparagraphs (i) through (vii) of paragraph (1) of this subsection; or

(6) with knowledge of the nature or content thereof, possesses any film, videotape, photograph or other similar visual reproduction or depiction by computer of any child whom the person knows or reasonably should know to be under the age of 13 engaged in any activity described in subparagraphs (i) through (vii) of paragraph (1) of this subsection; or

(7) solicits, or knowingly uses, persuades, induces, entices, or coerces a person to provide a child under the age of 13 to appear in any videotape, photograph, film, stage play, live presentation, or other similar visual reproduction or depiction by computer in which the child will be depicted, actually or by simulation, in any act, pose, or setting described in subparagraphs (i) through (vii) of paragraph (1) of this subsection.

(b) (1) It shall be an affirmative defense to a charge of aggravated child pornography that the defendant reasonably believed, under all of the circumstances, that the child was 13 years of age or older, but only where, prior to the act or acts giving rise to a prosecution under this Section, he or she took some affirmative action or made a bonafide inquiry designed to ascertain whether the child was 13 years of age or older and his or her reliance upon the information so obtained was clearly reasonable.

(2) The charge of aggravated child pornography shall not apply to the performance of official duties by law enforcement or prosecuting officers or persons employed by law enforcement or prosecuting agencies, court personnel or attorneys, nor to bonafide treatment or professional education programs conducted by licensed physicians, psychologists or social workers.

(3) If the defendant possessed more than 3 of the same film, videotape or visual reproduction or depiction by computer in which aggravated child pornography is depicted, then the trier of fact may infer that the defendant possessed such materials with the intent to disseminate them.

(4) The charge of aggravated child pornography does not apply to a person who does not voluntarily possess a film, videotape, or visual reproduction or depiction by computer in which aggravated child pornography is depicted. Possession is voluntary if the defendant knowingly procures or receives a film, videotape, or visual reproduction or depiction for a sufficient time to be able to terminate his or her possession.

(5) Any violation of paragraph (1), (2), (3), (4), (5), or (7) of subsection (a) that includes a child engaged in, solicited for, depicted in, or posed in any act of sexual penetration or bound, fettered, or subject to sadistic, masochistic, or sadomasochistic abuse in a sexual context shall be deemed a crime of violence.

(c) Sentence: (1) A person who commits a violation of paragraph (1), (2), (3), (4), (5), or (7) of subsection (a) is guilty of a Class X felony with a mandatory minimum fine of $2,000 and a maximum fine of $100,000.

(2) A person who commits a violation of paragraph (6) of subsection (a) is guilty of a Class 2 felony with a mandatory minimum fine of $1000 and a maximum fine of $100,000.

(3) A person who commits a violation of paragraph (1), (2), (3), (4), (5), or (7) of subsection (a) where the defendant has previously been convicted under the laws of this State or any other state of the offense of child pornography, aggravated child pornography, aggravated criminal sexual abuse, aggravated criminal sexual assault, predatory criminal sexual assault of a child, or any of the offenses formerly known as rape, deviate sexual assault, indecent liberties with a child, or aggravated indecent liberties with a child where the victim was under the age of 18 years or an offense that is substantially equivalent to those offenses, is guilty of a Class X felony for which the person shall be sentenced to a term of imprisonment of not less than 9 years with a mandatory minimum fine of $2,000 and a maximum fine of $100,000.

(4) A person who commits a violation of paragraph (6) of subsection (a) where the defendant has previously been convicted under the laws of this State or any other state of the offense of child pornography, aggravated child pornography, aggravated criminal sexual abuse, aggravated criminal sexual assault, predatory criminal sexual assault of a child, or any of the offenses formerly known as rape, deviate sexual assault, indecent liberties with a child, or aggravated indecent liberties with a child where the victim was under the age of 18 years or an offense that is substantially equivalent to those offenses, is guilty of a Class 1 felony with a mandatory minimum fine of $1000 and a maximum fine of $100,000.

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

(e) Any film, videotape, photograph or other similar visual reproduction or depiction by computer which includes a child under the age of 13 engaged in any activity described in subparagraphs (i) through (vii) of paragraph (1) of subsection (a),

and any material or equipment used or intended for use in photographing, filming, printing, producing, reproducing, manufacturing, projecting, exhibiting, depiction by computer, or disseminating such material shall be seized and forfeited in the manner, method and procedure provided by Section 36-1 of this Code for the seizure and forfeiture of vessels, vehicles and aircraft.

In addition, any person convicted under this Section is subject to the property forfeiture provisions set forth in Article 124B of the Code of Criminal Procedure of 1963.

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

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

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

(2) “Produce” means to direct, promote, advertise, publish, manufacture, issue, present or show.

(3) “Reproduce” means to make a duplication or copy.

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

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

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

(7) For the purposes of this Section, “child” means a person, either in part or in total, under the age of 13, regardless of the method by which the film, videotape, photograph, or other similar visual medium or reproduction or depiction by computer is created, adopted, or modified to appear as such.

(g) When a charge of aggravated child pornography is brought, the age of the child is an element of the offense to be resolved by the trier of fact as either exceeding or not exceeding the age in question. The trier of fact can rely on its own everyday observations and common experiences in making this determination.

P. Harmful Material

720 ILCS 5/11-21

(a) As used in this Section:

“Distribute” means to transfer possession of, whether with or without consideration.

“Harmful to minors” means that quality of any description or representation, in whatever form, of nudity, sexual conduct, sexual excitement, or sado-masochistic abuse, when, taken as a whole, it (i) predominately appeals to the prurient interest in sex of minors, (ii) is patently offensive to prevailing standards in the adult community in the State as a whole with respect to what is suitable material for minors, and (iii) lacks serious literary, artistic, political, or scientific value for minors.

“Knowingly” means having knowledge of the contents of the subject matter, or recklessly failing to exercise reasonable inspection which would have disclosed the contents.

“Material” means (i) any picture, photograph, drawing, sculpture, film, video game, computer game, video or similar visual depiction, including any such representation or image which is stored electronically, or (ii) any book, magazine, printed matter however reproduced, or recorded audio of any sort.

“Minor” means any person under the age of 18.

“Nudity” means the showing of the human male or female genitals, pubic area or buttocks with less than a fully opaque covering, or the showing of the female breast with less than a fully opaque covering of any portion below the top of the nipple, or the depiction of covered male genitals in a discernably turgid state.

“Sado-masochistic abuse” means flagellation or torture by or upon a person clad in undergarments, a mask or bizarre costume, or the condition of being fettered,

bound or otherwise physically restrained on the part of one clothed for sexual gratification or stimulation.

"Sexual conduct" means acts of masturbation, sexual intercourse, or physical contact with a person's clothed or unclothed genitals, pubic area, buttocks or, if such person be a female, breast.

"Sexual excitement" means the condition of human male or female genitals when in a state of sexual stimulation or arousal.

(b) A person is guilty of distributing harmful material to a minor when he or she:

(1) knowingly sells, lends, distributes, exhibits to, depicts to, or gives away to a minor, knowing that the minor is under the age of 18 or failing to exercise reasonable care in ascertaining the person's true age:

(A) any material which depicts nudity, sexual conduct or sado-masochistic abuse, or which contains explicit and detailed verbal descriptions or narrative accounts of sexual excitement, sexual conduct or sado-masochistic abuse, and which taken as a whole is harmful to minors;

(B) a motion picture, show, or other presentation which depicts nudity, sexual conduct or sado-masochistic abuse and is harmful to minors; or

(C) an admission ticket or pass to premises where there is exhibited or to be exhibited such a motion picture, show, or other presentation; or

(2) admits a minor to premises where there is exhibited or to be exhibited such a motion picture, show, or other presentation, knowing that the minor is a person under the age of 18 or failing to exercise reasonable care in ascertaining the person's true age.

(c) In any prosecution arising under this Section, it is an affirmative defense:

(1) that the minor as to whom the offense is alleged to have been committed exhibited to the accused a draft card, driver's license, birth certificate or other official or apparently official document purporting to establish that the minor was 18 years of age or older, which was relied upon by the accused;

(2) that the defendant was in a parental or guardianship relationship with the minor or that the minor was accompanied by a parent or legal guardian;

(3) that the defendant was a bona fide school, museum, or public library, or was a person acting in the course of his or her employment as an employee or official of such organization or retail outlet affiliated with and serving the educational purpose of such organization;

(4) that the act charged was committed in aid of legitimate scientific or educational purposes; or

(5) that an advertisement of harmful material as defined in this Section culminated in the sale or distribution of such harmful material to a child under circumstances where there was no personal confrontation of the child by the defendant, his or her employees, or agents, as where the order or request for such harmful material was transmitted by mail, telephone, Internet or similar means of communication, and delivery of such harmful material to the child was by mail, freight, Internet or similar means of transport, which advertisement contained the following statement, or a substantially similar statement, and that the defendant required the purchaser to certify that he or she was not under the age of 18 and that the purchaser falsely stated that he or she was not under the age of 18: "NOTICE: It is unlawful for any person under the age of 18 to purchase the matter advertised. Any person under the age of 18 that falsely states that he or she is not under the age of 18 for the purpose of obtaining the material advertised is guilty of a Class B misdemeanor under the laws of the State."

(d) The predominant appeal to prurient interest of the material shall be judged with reference to average children of the same general age of the child to whom such material was sold, lent, distributed or given, unless it appears from the nature of the matter or the circumstances of its dissemination or distribution that it is designed for specially susceptible groups, in which case the predominant appeal of the material shall be judged with reference to its intended or probable recipient group.

(e) Distribution of harmful material in violation of this Section is a Class A misdemeanor. A second or subsequent offense is a Class 4 felony.

(f) Any person under the age of 18 who falsely states, either orally or in writing, that he or she is not under the age of 18, or who presents or offers to any person any evidence of age and identity that is false or not actually his or her own with the intent of ordering, obtaining, viewing, or otherwise procuring or attempting to procure or view any harmful material is guilty of a Class B misdemeanor.

(g) A person over the age of 18 who fails to exercise reasonable care in ascertaining the true age of a minor, knowingly distributes to, or sends, or causes to be sent, or exhibits to, or offers to distribute, or exhibits any harmful material to a person that he or she believes is a minor is guilty of a Class A misdemeanor. If that person

utilized a computer web camera, cellular telephone, or any other type of device to manufacture the harmful material, then each offense is a Class 4 felony.

(h) Telecommunications carriers, commercial mobile service providers, and providers of information services, including, but not limited to, Internet service providers and hosting service providers, are not liable under this Section, except for willful and wanton misconduct, by virtue of the transmission, storage, or caching of electronic communications or messages of others or by virtue of the provision of other related telecommunications, commercial mobile services, or information services used by others in violation of this Section.

Q. Grooming

720 ILCS 5/11-25

(a) A person commits the offense of grooming when he or she knowingly uses a computer on-line service, Internet service, local bulletin board service, or any other device capable of electronic data storage or transmission to seduce, solicit, lure, or entice, or attempt to seduce, solicit, lure, or entice, a child, a child's guardian, or another person believed by the person to be a child or a child's guardian, to commit any sex offense as defined in Section 2 of the Sex Offender Registration Act or to otherwise engage in any unlawful sexual conduct with a child or with another person believed by the person to be a child.

(b) Sentence. Grooming is a Class 4 felony.

R. Traveling to Meet a Minor

720 ILCS 5/11-26

(a) A person commits the offense of traveling to meet a minor when he or she travels any distance either within this State, to this State, or from this State by any means, attempts to do so, or causes another to do so or attempt to do so for the purpose of engaging in any sex offense as defined in Section 2 of the Sex Offender Registration Act, or to otherwise engage in other unlawful sexual conduct with a child or with another person believed by the person to be a child after using a computer on-line service, Internet service, local bulletin board service, or any other device capable of electronic data storage or transmission to seduce, solicit, lure, or entice, or to attempt to seduce, solicit, lure, or entice, a child or a child's guardian, or another person believed by the person to be a child or a child's guardian, for such purpose.

(b) Sentence. Traveling to meet a minor is a Class 3 felony.

S. Public Indecency

720 ILCS 5/11-30 (was 720 ILCS 5/11-9)

(a) Any person of the age of 17 years and upwards who performs any of the following acts in a public place commits a public indecency:

(1) An act of sexual penetration or sexual conduct; or

(2) A lewd exposure of the body done with intent to arouse or to satisfy the sexual desire of the person.

Breast-feeding of infants is not an act of public indecency.

(b) "Public place" for purposes of this Section means any place where the conduct may reasonably be expected to be viewed by others.

(c) Sentence.

Public indecency is a Class A misdemeanor. A person convicted of a third or subsequent violation for public indecency is guilty of a Class 4 felony. Public indecency is a Class 4 felony if committed by a person 18 years of age or older who is on or within 500 feet of elementary or secondary school grounds when children are present on the grounds.

T. Stalking

720 ILCS 5/12-7.3

(a) A person commits stalking when he or she knowingly engages in a course of conduct directed at a specific person, and he or she knows or should know that this course of conduct would cause a reasonable person to:

(1) fear for his or her safety or the safety of a third person; or

(2) suffer other emotional distress.

(a-3) A person commits stalking when he or she, knowingly and without lawful justification, on at least 2 separate occasions follows another person or places the person under surveillance or any combination thereof and:

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

(2) places that person in reasonable apprehension of immediate or future bodily harm, sexual assault, confinement or restraint to that person or a family member of that person.

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

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

(2) transmits a threat of immediate or future bodily harm, sexual assault, confinement or restraint to that person or a family member of that person.

(b) Sentence. Stalking is a Class 4 felony; a second or subsequent conviction is a Class 3 felony.

(c) Definitions. For purposes of this Section:

(1) "Course of conduct" means 2 or more acts, including but not limited to acts in which a defendant directly, indirectly, or through third parties, by any action, method, device, or means follows, monitors, observes, surveils, threatens, or communicates to or about, a person, engages in other non-consensual contact, or interferes with or damages a person's property or pet. A course of conduct may include contact via electronic communications.

(2) "Electronic communication" means any transfer of signs, signals, writings, sounds, data, or intelligence of any nature transmitted in whole or in part by a wire, radio, electromagnetic, photoelectric, or photo-optical system. "Electronic communication" includes transmissions by a computer through the Internet to another computer.

(3) "Emotional distress" means significant mental suffering, anxiety or alarm.

(4) "Family member" means a parent, grandparent, brother, sister, or child, whether by whole blood, half-blood, or adoption and includes a step-grandparent, step-parent, step-brother, step-sister or step-child. "Family member" also means any other person who regularly resides in the household, or who, within the prior 6 months, regularly resided in the household.

(5) "Follows another person" means (i) to move in relative proximity to a person as that person moves from place to place or (ii) to remain in relative proximity to a person who is stationary or whose movements are

confined to a small area. “Follows another person” does not include a following within the residence of the defendant.

(6) “Non-consensual contact” means any contact with the victim that is initiated or continued without the victim's consent, including but not limited to being in the physical presence of the victim; appearing within the sight of the victim; approaching or confronting the victim in a public place or on private property; appearing at the workplace or residence of the victim; entering onto or remaining on property owned, leased, or occupied by the victim; or placing an object on, or delivering an object to, property owned, leased, or occupied by the victim.

(7) “Places a person under surveillance” means: (1) remaining present outside the person's school, place of employment, vehicle, other place occupied by the person, or residence other than the residence of the defendant; or (2) placing an electronic tracking device on the person or the person's property.

(8) “Reasonable person” means a person in the victim's situation.

(9) “Transmits a threat” means a verbal or written threat or a threat implied by a pattern of conduct or a combination of verbal or written statements or conduct.

(d) Exemptions.

(1) This Section does not apply to any individual or organization (i) monitoring or attentive to compliance with public or worker safety laws, wage and hour requirements, or other statutory requirements, or (ii) picketing occurring at the workplace that is otherwise lawful and arises out of a bona fide labor dispute, including any controversy concerning wages, salaries, hours, working conditions or benefits, including health and welfare, sick leave, insurance, and pension or retirement provisions, the making or maintaining of collective bargaining agreements, and the terms to be included in those agreements.

(2) This Section does not apply to an exercise of the right to free speech or assembly that is otherwise lawful.

(3) Telecommunications carriers, commercial mobile service providers, and providers of information services, including, but not limited to, Internet service providers and hosting service providers, are not liable under this Section, except for willful and wanton misconduct, by virtue of the transmission, storage, or caching of electronic communications or messages of others or by virtue of the provision of other related

telecommunications, commercial mobile services, or information services used by others in violation of this Section.

(d-5) The incarceration of a person in a penal institution who commits the course of conduct or transmits a threat is not a bar to prosecution under this Section.

U. Aggravated Stalking

720 ILCS 5/12-7.4

(a) A person commits aggravated stalking when he or she commits stalking and,

(1) causes bodily harm to the victim;

(2) confines or restrains the victim; or

(3) violates a temporary restraining order, an order of protection, a stalking no contact order, a civil no contact order, or an injunction prohibiting the behavior described in subsection (b)(1) of Section 214 of the Illinois Domestic Violence Act of 1986.

(b) Sentence. Aggravated stalking is a Class 3 felony; a second or subsequent conviction is a Class 2 felony.

(c) Exemptions.

(1) This Section does not apply to any individual or organization (i) monitoring or attentive to compliance with public or worker safety laws, wage and hour requirements, or other statutory requirements, or (ii) picketing occurring at the workplace that is otherwise lawful and arises out of a bona fide labor dispute including any controversy concerning wages, salaries, hours, working conditions or benefits, including health and welfare, sick leave, insurance, and pension or retirement provisions, the managing or maintenance of collective bargaining agreements, and the terms to be included in those agreements.

(2) This Section does not apply to an exercise of the right of free speech or assembly that is otherwise lawful.

(3) Telecommunications carriers, commercial mobile service providers, and providers of information services, including, but not limited to, Internet service providers and hosting service providers, are not liable under this Section, except for willful and wanton misconduct, by virtue of the transmission, storage, or caching of electronic communications or messages of others or by virtue of the provision of other related

telecommunications, commercial mobile services, or information services used by others in violation of this Section.

V. Cyberstalking

720 ILCS 5/12-7.5

(a) A person commits cyberstalking when he or she engages in a course of conduct using electronic communication directed at a specific person, and he or she knows or should know that would cause a reasonable person to:

(1) fear for his or her safety or the safety of a third person; or

(2) suffer other emotional distress.

(a-3) A person commits cyberstalking when he or she, knowingly and without lawful justification, on at least 2 separate occasions, harasses another person through the use of electronic communication and:

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

(2) places that person or a family member of that person in reasonable apprehension of immediate or future bodily harm, sexual assault, confinement, or restraint; or

(3) at any time knowingly solicits the commission of an act by any person which would be a violation of this Code directed towards that person or a family member of that person.

(a-5) A person commits cyberstalking when he or she, knowingly and without lawful justification, creates and maintains an Internet website or webpage which is accessible to one or more third parties for a period of at least 24 hours, and which contains statements harassing another person and:

(1) which communicates a threat of immediate or future bodily harm, sexual assault, confinement, or restraint, where the threat is directed towards that person or a family member of that person; or

(2) which places that person or a family member of that person in reasonable apprehension of immediate or future bodily harm, sexual assault, confinement, or restraint, or

(3) which knowingly solicits the commission of an act by any person which would be a violation of this Code directed towards that person or a family member of that person.

(b) Sentence. Cyberstalking is a Class 4 felony; a second or subsequent conviction is a Class 3 felony.

(c) For purposes of this Section:

(1) "Course of conduct" means 2 or more acts, including but not limited to acts in which a defendant directly, indirectly, or through third parties, by any action, method, device, or means follows, monitors, observes, surveils, threatens, or communicates to or about, a person, engages in other non-consensual contact, or interferes with or damages a person's property or pet. The incarceration in a penal institution of a person who commits the course of conduct is not a bar to prosecution under this Section.

(2) "Electronic communication" means any transfer of signs, signals, writings, sounds, data, or intelligence of any nature transmitted in whole or in part by a wire, radio, electromagnetic, photoelectric, or photo-optical system. "Electronic communication" includes transmissions by a computer through the Internet to another computer.

(3) "Emotional distress" means significant mental suffering, anxiety or alarm.

(4) "Harass" means to engage in a knowing and willful course of conduct directed at a specific person that alarms, torments, or terrorizes that person.

(5) "Non-consensual contact" means any contact with the victim that is initiated or continued without the victim's consent, including but not limited to being in the physical presence of the victim; appearing within the sight of the victim; approaching or confronting the victim in a public place or on private property; appearing at the workplace or residence of the victim; entering onto or remaining on property owned, leased, or occupied by the victim; or placing an object on, or delivering an object to, property owned, leased, or occupied by the victim.

(6) "Reasonable person" means a person in the victim's circumstances, with the victim's knowledge of the defendant and the defendant's prior acts.

(7) "Third party" means any person other than the person violating these provisions and the person or persons towards whom the violator's actions are directed.

(d) Telecommunications carriers, commercial mobile service providers, and providers of information services, including, but not limited to, Internet service providers and hosting service providers, are not liable under this Section, except for willful and wanton misconduct, by virtue of the transmission, storage, or caching of electronic communications or messages of others or by virtue of the provision of other related telecommunications, commercial mobile services, or information services used by others in violation of this Section.

W. Unauthorized Video Recording and Live Video Transmission

720 ILCS 5/26-4

(a) It is unlawful for any person to knowingly make a video record or transmit live video of another person without that person's consent in a restroom, tanning bed, tanning salon, locker room, changing room, or hotel bedroom.

(a-5) It is unlawful for any person to knowingly make a video record or transmit live video of another person in that other person's residence without that person's consent.

(a-6) It is unlawful for any person to knowingly make a video record or transmit live video of another person in that other person's residence without that person's consent when the recording or transmission is made outside that person's residence by use of an audio or video device that records or transmits from a remote location.

(a-10) It is unlawful for any person to knowingly make a video record or transmit live video of another person under or through the clothing worn by that other person for the purpose of viewing the body of or the undergarments worn by that other person without that person's consent.

(a-15) It is unlawful for any person to place or cause to be placed a device that makes a video record or transmits a live video in a restroom, tanning bed, tanning salon, locker room, changing room, or hotel bedroom with the intent to make a video record or transmit live video of another person without that person's consent.

(a-20) It is unlawful for any person to place or cause to be placed a device that makes a video record or transmits a live video with the intent to make a video record or transmit live video of another person in that other person's residence without that person's consent.

(a-25) It is unlawful for any person to, by any means, knowingly disseminate, or permit to be disseminated, a video record or live video that he or she knows to have been made or transmitted in violation of (a), (a-5), (a-6), (a-10), (a-15), or (a-20).

(b) Exemptions. The following activities shall be exempt from the provisions of this Section:

(1) The making of a video record or transmission of live video by law enforcement officers pursuant to a criminal investigation, which is otherwise lawful;

(2) The making of a video record or transmission of live video by correctional officials for security reasons or for investigation of alleged misconduct involving a person committed to the Department of Corrections.

(3) The making of a video record or transmission of live video in a locker room by a reporter or news medium, as those terms are defined in Section 8-902 of the Code of Civil Procedure, where the reporter or news medium has been granted access to the locker room by an appropriate authority for the purpose of conducting interviews.

(c) The provisions of this Section do not apply to any sound recording or transmission of an oral conversation made as the result of the making of a video record or transmission of live video, and to which Article 14 of this Code applies.

(d) Sentence.

(1) A violation of subsection (a-10), (a-15), or (a-20) is a Class A misdemeanor.

(2) A violation of subsection (a), (a-5), or (a-6) is a Class 4 felony.

(3) A violation of subsection (a-25) is a Class 3 felony.

(4) A violation of subsection (a), (a-5), (a-6), (a-10), (a-15) or (a-20) is a Class 3 felony if the victim is a person under 18 years of age or if the violation is committed by an individual who is required to register as a sex offender under the Sex Offender Registration Act.

(5) A violation of subsection (a-25) is a Class 2 felony if the victim is a person under 18 years of age or if the violation is committed by an individual who is required to register as a sex offender under the Sex Offender Registration Act.

(e) For purposes of this Section:

(1) “Residence” includes a rental dwelling, but does not include stairwells, corridors, laundry facilities, or additional areas in which the general public has access.

(2) "Video record" means and includes any videotape, photograph, film, or other electronic or digital recording of a still or moving visual image; and "live video" means and includes any real-time or contemporaneous electronic or digital transmission of a still or moving visual image.

X. The Sexually Dangerous Persons Act

720 ILCS 205/0.01

1. Sexually Dangerous Persons – Definition

725 ILCS 205/1.01

All persons suffering from a mental disorder, which mental disorder has existed for a period of not less than one year, immediately prior to the filing of the petition hereinafter provided for, coupled with criminal propensities to the commission of sex offenses, and who have demonstrated propensities toward acts of sexual assault or acts of sexual molestation of children, are hereby declared sexually dangerous persons.

2. Jurisdiction

725 ILCS 205/2

Jurisdiction of proceedings under this Act is vested in the circuit courts in this State, for the purpose of conducting hearings for commitment and detention of such persons, as hereinafter provided.

3. Petition – Contents

725 ILCS 205/3

When any person is charged with a criminal offense and it shall appear to the Attorney General or to the State's Attorney of the county wherein such person is so charged, that such person is a sexually dangerous person, within the meaning of this Act, then the Attorney General or State's Attorney of such county may file with the clerk of the court in the same proceeding wherein such person stands charged with criminal offense, a petition in writing setting forth facts tending to show that the person named is a sexually dangerous person.

4. Civil Nature of Proceedings – Burden of Proof – Procedure

725 ILCS 205/3.01

The proceedings under this Act shall be civil in nature, however, the burden of proof required to commit a defendant to confinement as a sexually dangerous person shall be the standard of proof required in a criminal proceedings of proof beyond a reasonable doubt. The provisions of the Civil Practice Law, and all

existing and future amendments of that Law and modifications thereof and the Supreme Court Rules now or hereafter adopted in relation to that Law shall apply to all proceedings hereunder except as otherwise provided in this Act.

5. Examination by Psychiatrist

725 ILCS 205/4

After the filing of the petition, the court shall appoint two qualified psychiatrists to make a personal examination of such alleged sexually dangerous person, to ascertain whether such person is sexually dangerous, and the psychiatrists shall file with the court a report in writing of the result of their examination, a copy of which shall be delivered to the respondent.

6. "Qualified Psychiatrist" – Defined

725 ILCS 205/4.01

"Qualified psychiatrist" means a reputable physician licensed in Illinois to practice medicine in all its branches, who has specialized in the diagnosis and treatment of mental and nervous disorders for a period of not less than 5 years.

7. Psychiatric Examinations in Counties less than 500,000 – Costs

725 ILCS 205/4.02

In counties of less than 500,000 inhabitants the cost of the psychiatric examination required by Section 4 is a charge against and shall be paid out of the general fund of the county in which the proceeding is brought.

8. Mental Disorder

725 ILCS 205/4.03

Mental disorder. "Mental disorder" means a congenital or acquired condition affecting the emotional or volitional capacity that predisposes a person to engage in acts of sexual violence.

9. Jury Trial, Right to; Evidence

725 ILCS 205/5

The respondent in any proceedings under this Act shall have the right to demand a trial by jury and to be represented by counsel. At the hearing on the petition it shall be competent to introduce evidence of the commission by the respondent of any number of crimes together with whatever punishments, if any, were inflicted.

10. Director of Corrections as Guardian

725 ILCS 205/8

If the respondent is found to be a sexually dangerous person then the court shall appoint the Director of Corrections guardian of the person found to be sexually dangerous and such person shall stand committed to the custody of such guardian. The Director of Corrections as guardian shall keep safely the person so committed until the person has recovered and is released as hereinafter provided. The Director of Corrections as guardian shall provide care and treatment for the person committed to him designed to effect recovery. Any treatment provided under this Section shall be in conformance with the standards promulgated by the Sex Offender Management Board Act and conducted by a treatment provider approved by the Board. The Director may place that ward in any facility in the Department of Corrections or portion thereof set aside for the care and treatment of sexually dangerous persons. The Department of Corrections may also request another state Department or Agency to examine such person and upon such request, such Department or Agency shall make such examination and the Department of Corrections may, with the consent of the chief executive officer of such other Department or Agency, thereupon place such person in the care and treatment of such other Department or Agency.

11. Recovery; Examination and Hearing

725 ILCS 205/9

(a) An application in writing setting forth facts showing that such sexually dangerous person or criminal sexual psychopathic person has recovered may be filed before the committing court. Upon receipt thereof, the clerk of the court shall cause a copy of the application to be sent to the Director of the Department of Corrections. The Director shall then cause to be prepared and sent to the court a socio-psychiatric report concerning the applicant. The report shall be prepared by a social worker and psychologist under the supervision of a licensed psychiatrist assigned to the institution wherein such applicant is confined. The court shall set a date for the hearing upon such application and shall consider the report so prepared under the direction of the Director of the Department of Corrections and any other relevant information submitted by or on behalf of such applicant.

(b) At a hearing under this Section, the Attorney General or State's Attorney who filed the original application shall represent the State. The sexually dangerous person or the State may elect to have the hearing before a jury. The State has the burden of proving by clear and convincing evidence that the applicant is still a sexually dangerous person.

(c) If the applicant refuses to speak to, communicate with, or otherwise fails to cooperate with the State's examiner, the applicant may only introduce

evidence and testimony from any expert or professional person who is retained to conduct an examination based upon review of the records and may not introduce evidence resulting from an examination of the person. Notwithstanding the provisions of Section 10 of the Mental Health and Developmental Disabilities Confidentiality Act, all evaluations conducted under this Act and all Illinois Department of Corrections treatment records shall be admissible at all proceedings held under this Act.

(d) If a person has previously filed an application in writing setting forth facts showing that the sexually dangerous person or criminal sexual psychopathic person has recovered and the court determined either at a hearing or following a jury trial that the applicant is still a sexually dangerous person, or if the application is withdrawn, no additional application may be filed for one year after a finding that the person is still sexually dangerous or after the application is withdrawn, except if the application is accompanied by a statement from the treatment provider that the applicant has made exceptional progress and the application contains facts upon which a court could find that the condition of the person had so changed that a hearing is warranted.

(e) If the person is found to be no longer dangerous, the court shall order that he be discharged. If the court finds that the person appears no longer to be dangerous but that it is impossible to determine with certainty under conditions of institutional care that such person has fully recovered, the court shall enter an order permitting such person to go at large subject to such conditions and such supervision by the Director as in the opinion of the court will adequately protect the public. In the event the person violates any of the conditions of such order, the court shall revoke such conditional release and recommit the person pursuant to Section 5-6-4 of the Unified Code of Corrections under the terms of the original commitment. Upon an order of discharge every outstanding information and indictment, the basis of which was the reason for the present detention, shall be quashed.

12. Conditional Release – Petition – Revocation and Re-Commitment

725 ILCS 205/10

Whenever the Director finds that any person committed to him under this Act as now or hereafter amended, appears no longer to be dangerous but that it is impossible to determine with certainty under conditions of institutional care that such person has fully recovered, the Director of the Department of Corrections may petition the committing court for an order authorizing the conditional release of any person committed to him under this Act and the court may enter an order permitting such person to go at large subject to such conditions and such supervision by the Director as in the opinion of the court will adequately protect

the public. In the event the person violates any of the conditions of such order, the court shall revoke such conditional release and re-commit the person pursuant to Section 5-6-4 of the Unified Code of Corrections under the terms of the original commitment.

13. Partial Invalidity

725 ILCS 205/11

If any provision of this Act, or the application of any provision to any person or circumstance, is held invalid, the remainder of the Act, and the application of such provision to other persons or circumstances, shall not be affected thereby.

14. Custody Transferred from Department of Public Safety to Director of Corrections

725 ILCS 205/12

Persons heretofore committed to the Department of Public Safety are deemed transferred and committed to the custody of the Director of Corrections.

III. Victim – Related Statutes

A. Notification of Treatment of Injury (Hospital Report to Law Enforcement)

20 ILCS 2630/3.2

It is the duty of any person conducting or operating a medical facility, or any physician or nurse as soon as treatment permits to notify the local law enforcement agency of that jurisdiction upon the application for treatment of a person who is not accompanied by a law enforcement officer, when it reasonably appears that the person requesting treatment has received:

(1) any injury resulting from the discharge of a firearm; or

(2) any injury sustained in the commission of or as a victim of a criminal offense.

Any hospital, physician or nurse shall be forever held harmless from any civil liability for their reasonable compliance with the provisions of this Section.

B. Child Advocacy Advisory Board

55 ILCS 80/3

(a) Each county in the State of Illinois shall establish a Child Advocacy Advisory Board ("Advisory Board").

Each of the following county officers or State agencies shall designate a representative to serve on the Advisory Board: the sheriff, the Illinois Department of Children and Family Services, the State's attorney, the county mental health department, and the Department of State Police.

The chairman may appoint additional members of the Advisory Board as is deemed necessary to accomplish the purposes of this Act, the additional members to include but not be limited to representatives of local law enforcement agencies, and the Circuit Courts.

(b) The Advisory Board shall organize itself and elect from among its members a chairman and such other officers as are deemed necessary. Until a chairman is so elected, the State's attorney shall serve as interim chairman.

(c) The Advisory Board shall adopt, by a majority of the members, a written child sexual abuse protocol within one year after the effective date of this Act. An Advisory Board adopting a protocol after the effective date of this amendatory Act of 1996 shall, prior to finalization, submit its draft to the Illinois Child

Advocacy Commission for review and comments. After considering the comments of the Illinois Child Advocacy Commission and upon finalization of its protocol, the Advisory Board shall file the protocol with the Department of Children and Family Services. A copy shall be furnished to the Illinois Child Advocacy Commission and to each agency in the county or counties which has any involvement with the cases of sexually abused children.

The Illinois Child Advocacy Commission shall consist of the Attorney General and the Directors of the Illinois State Police and the Department of Children and Family Services or their designees. Additional members may be appointed to the Illinois Child Advocacy Commission as deemed necessary by the Attorney General and the Directors of the Illinois State Police and the Department of Children and Family Services. The Illinois Child Advocacy Commission may also provide technical assistance and guidance to the Advisory Boards.

(d) The purpose of the protocol shall be to ensure coordination and cooperation among all agencies involved in child sexual abuse cases so as to increase the efficiency and effectiveness of those agencies, to minimize the stress created for the child and his or her family by the investigatory and judicial process, and to ensure that more effective treatment is provided for the child and his or her family.

(e) The protocol shall be a written document outlining in detail the procedures to be used in investigating and prosecuting cases arising from alleged child sexual abuse and in coordinating treatment referrals for the child and his or her family. In preparing the written protocol, the Advisory Board shall consider the following:

(1) An interdisciplinary, coordinated systems approach to the investigation of child sexual abuse which shall include, at a minimum;

(i) an interagency notification procedure;

(ii) a dispute resolution process between the involved agencies when a conflict arises on how to proceed with the investigation of a case;

(iii) a policy on interagency decision-making; and

(iv) a description of the role each agency has in the investigation of the case;

(2) A safe, separate space with assigned personnel designated for the investigation and coordination of child sexual abuse cases;

(3) An interdisciplinary case review process for purposes of decision-making, problem solving, systems coordination, and information sharing;

(4) A comprehensive tracking system to receive and coordinate information concerning child sexual abuse cases from each participating agency;

(5) Interdisciplinary specialized training for all professionals involved with the victims and families of child sexual abuse cases; and

(6) A process for evaluating the implementation and effectiveness of the protocol.

(f) The Advisory Board shall evaluate the implementation and effectiveness of the protocol required under subsection (c) of this Section on an annual basis, and shall propose appropriate modifications to the protocol to maximize its effectiveness. A report of the Advisory Board's review, along with proposed modifications, shall be submitted to the Illinois Child Advocacy Commission for its review and comments. After considering the comments of the Illinois Child Advocacy Commission and adopting modifications, the Advisory Board shall file its amended protocol with the Department of Children and Family Services. A copy of the Advisory Board's review and amended protocol shall be furnished to the Illinois Child Advocacy Commission and to each agency in the county or counties having any involvement with the cases covered by the protocol.

(g) The Advisory Board shall adopt, by a majority of the members, a written protocol for coordinating cases of serious or fatal injury to a child, following the procedures and purposes described in subsections (c), (d), (e), and (f) of this Section. The protocol shall be a written document outlining in detail the procedures that will be used by all of the agencies involved in investigating and prosecuting cases arising from alleged cases of serious or fatal injury to a child and in coordinating treatment referrals for the child and his or her family.

C. Abused and Neglected Child Reporting Act

325 ILCS 5/1

1. Definitions

325 ILCS 5/3

As used in this Act unless the context otherwise requires:

"Adult resident" means any person between 18 and 22 years of age who resides in any facility licensed by the Department under the Child Care Act of 1969. For purposes of this Act, the criteria set forth in the definitions of "abused child" and "neglected child" shall be used in determining whether an adult resident is abused or neglected.

“Child” means any person under the age of 18 years, unless legally emancipated by reason of marriage or entry into a branch of the United States armed services.

“Department” means Department of Children and Family Services.

“Local law enforcement agency” means the police of a city, town, village or other incorporated area or the sheriff of an unincorporated area or any sworn officer of the Illinois Department of State Police.

“Abused child” means a child whose parent or immediate family member, or any person responsible for the child's welfare, or any individual residing in the same home as the child, or a paramour of the child's parent:

(a) inflicts, causes to be inflicted, or allows to be inflicted upon such child physical injury, by other than accidental means, which causes death, disfigurement, impairment of physical or emotional health, or loss or impairment of any bodily function;

(b) creates a substantial risk of physical injury to such child by other than accidental means which would be likely to cause death, disfigurement, impairment of physical or emotional health, or loss or impairment of any bodily function;

(c) commits or allows to be committed any sex offense against such child, as such sex offenses are defined in the Criminal Code of 1961, as amended, and extending those definitions of sex offenses to include children under 18 years of age;

(d) commits or allows to be committed an act or acts of torture upon such child;

(e) inflicts excessive corporal punishment;

(f) commits or allows to be committed the offense of female genital mutilation, as defined in Section 12-34 of the Criminal Code of 1961, against the child; or

(g) causes to be sold, transferred, distributed, or given to such child under 18 years of age, a controlled substance as defined in Section 102 of the Illinois Controlled Substances Act in violation of Article IV of the Illinois Controlled Substances Act or in violation of the Methamphetamine Control and Community Protection Act, except for controlled substances that are prescribed in accordance with Article III of the Illinois Controlled Substances Act and are dispensed to such child in a manner that substantially complies with the prescription.

A child shall not be considered abused for the sole reason that the child has been relinquished in accordance with the Abandoned Newborn Infant Protection Act.

“Neglected child” means any child who is not receiving the proper or necessary nourishment or medically indicated treatment including food or care not provided solely on the basis of the present or anticipated mental or physical impairment as determined by a physician acting alone or in consultation with other physicians or otherwise is not receiving the proper or necessary support or medical or other remedial care recognized under State law as necessary for a child's well-being, or other care necessary for his or her well-being, including adequate food, clothing and shelter; or who is abandoned by his or her parents or other person responsible for the child's welfare without a proper plan of care; or who has been provided with interim crisis intervention services under Section 3-5 of the Juvenile Court Act of 1987 and whose parent, guardian, or custodian refuses to permit the child to return home and no other living arrangement agreeable to the parent, guardian, or custodian can be made, and the parent, guardian, or custodian has not made any other appropriate living arrangement for the child; or who is a newborn infant whose blood, urine, or meconium contains any amount of a controlled substance as defined in subsection (f) of Section 102 of the Illinois Controlled Substances Act or a metabolite thereof, with the exception of a controlled substance or metabolite thereof whose presence in the newborn infant is the result of medical treatment administered to the mother or the newborn infant. A child shall not be considered neglected for the sole reason that the child's parent or other person responsible for his or her welfare has left the child in the care of an adult relative for any period of time. A child shall not be considered neglected for the sole reason that the child has been relinquished in accordance with the Abandoned Newborn Infant Protection Act. A child shall not be considered neglected or abused for the sole reason that such child's parent or other person responsible for his or her welfare depends upon spiritual means through prayer alone for the treatment or cure of disease or remedial care as provided under Section 4 of this Act. A child shall not be considered neglected or abused solely because the child is not attending school in accordance with the requirements of Article 26 of The School Code, as amended.

“Child Protective Service Unit” means certain specialized State employees of the Department assigned by the Director to perform the duties and responsibilities as provided under Section 7.2 of this Act.

“Person responsible for the child's welfare” means the child's parent; guardian; foster parent; relative caregiver; any person responsible for the child's welfare in a public or private residential agency or institution; any person responsible for the child's welfare within a public or private profit or not for profit child care facility; or any other person responsible for the child's welfare at the time of the alleged abuse or neglect, or any person who came to know the child through an official capacity or position of trust, including but not limited to health care professionals, educational personnel, recreational supervisors, members of the clergy, and volunteers or support personnel in any setting where children may be subject to abuse or neglect.

“Temporary protective custody” means custody within a hospital or other medical facility or a place previously designated for such custody by the Department, subject to review by the Court, including a licensed foster home, group home, or other institution; but such place shall not be a jail or other place for the detention of criminal or juvenile offenders.

“An unfounded report” means any report made under this Act for which it is determined after an investigation that no credible evidence of abuse or neglect exists.

“An indicated report” means a report made under this Act if an investigation determines that credible evidence of the alleged abuse or neglect exists.

“An undetermined report” means any report made under this Act in which it was not possible to initiate or complete an investigation on the basis of information provided to the Department.

"Subject of report" means any child reported to the central register of child abuse and neglect established under Section 7.7 of this Act as an alleged victim of child abuse or neglect and the parent or guardian of the alleged victim or other person responsible for the alleged victim's welfare who is named in the report or added to the report as an alleged perpetrator of child abuse or neglect.

“Perpetrator” means a person who, as a result of investigation, has been determined by the Department to have caused child abuse or neglect.

“Member of the clergy” means a clergyman or practitioner of any religious denomination accredited by the religious body to which he or she belongs.

2. Persons Required to Report – Privileged Communications – Transmitting False Report

325 ILCS 5/4

Any physician, resident, intern, hospital, hospital administrator and personnel engaged in examination, care and treatment of persons, surgeon, dentist, dentist hygienist, osteopath, chiropractor, podiatrist, physician assistant, substance abuse treatment personnel, funeral home director or employee, coroner, medical examiner, emergency medical technician, acupuncturist, crisis line or hotline personnel, school personnel (including administrators and both certified and non-certified school employees), educational advocate assigned to a child pursuant to the School Code, member of a school board or the Chicago Board of Education or the governing body of a private school (but only to the extent required in accordance with other provisions of this Section expressly concerning the duty of school board members to report suspected child abuse), truant officers, social worker, social services administrator, domestic violence program personnel,

registered nurse, licensed practical nurse, genetic counselor, respiratory care practitioner, advanced practice nurse, home health aide, director or staff assistant of a nursery school or a child day care center, recreational program or facility personnel, law enforcement officer, licensed professional counselor, licensed clinical professional counselor, registered psychologist and assistants working under the direct supervision of a psychologist, psychiatrist, or field personnel of the Department of Healthcare and Family Services, Juvenile Justice, Public Health, Human Services (acting as successor to the Department of Mental Health and Developmental Disabilities, Rehabilitation Services, or Public Aid), Corrections, Human Rights, or Children and Family Services, supervisor and administrator of general assistance under the Illinois Public Aid Code, probation officer, animal control officer or Illinois Department of Agriculture Bureau of Animal Health and Welfare field investigator, or any other foster parent, homemaker or child care worker having reasonable cause to believe a child known to them in their professional or official capacity may be an abused child or a neglected child shall immediately report or cause a report to be made to the Department.

Any member of the clergy having reasonable cause to believe that a child known to that member of the clergy in his or her professional capacity may be an abused child as defined in item (c) of the definition of “abused child” in Section 3 of this Act shall immediately report or cause a report to be made to the Department.

If an allegation is raised to a school board member during the course of an open or closed school board meeting that a child who is enrolled in the school district of which he or she is a board member is an abused child as defined in Section 3 of this Act, the member shall direct or cause the school board to direct the superintendent of the school district or other equivalent school administrator to comply with the requirements of this Act concerning the reporting of child abuse. For purposes of this paragraph, a school board member is granted the authority in his or her individual capacity to direct the superintendent of the school district or other equivalent school administrator to comply with the requirements of this Act concerning the reporting of child abuse.

Notwithstanding any other provision of this Act, if an employee of a school district has made a report or caused a report to be made to the Department under this Act involving the conduct of a current or former employee of the school district and a request is made by another school district for the provision of information concerning the job performance or qualifications of the current or former employee because he or she is an applicant for employment with the requesting school district, the general superintendent of the school district to which the request is being made must disclose to the requesting school district the fact that an employee of the school district has made a report involving the conduct of the applicant or caused a report to be made to the Department, as required under this Act. Only the fact that an employee of the school district has made a report involving the conduct of the applicant or caused a report to be made

to the Department may be disclosed by the general superintendent of the school district to which the request for information concerning the applicant is made, and this fact may be disclosed only in cases where the employee and the general superintendent have not been informed by the Department that the allegations were unfounded. An employee of a school district who is or has been the subject of a report made pursuant to this Act during his or her employment with the school district must be informed by that school district that if he or she applies for employment with another school district, the general superintendent of the former school district, upon the request of the school district to which the employee applies, shall notify that requesting school district that the employee is or was the subject of such a report.

Whenever such person is required to report under this Act in his capacity as a member of the staff of a medical or other public or private institution, school, facility or agency, or as a member of the clergy, he shall make report immediately to the Department in accordance with the provisions of this Act and may also notify the person in charge of such institution, school, facility or agency, or church, synagogue, temple, mosque, or other religious institution, or his designated agent that such report has been made. Under no circumstances shall any person in charge of such institution, school, facility or agency, or church, synagogue, temple, mosque, or other religious institution, or his designated agent to whom such notification has been made, exercise any control, restraint, modification or other change in the report or the forwarding of such report to the Department.

The privileged quality of communication between any professional person required to report and his patient or client shall not apply to situations involving abused or neglected children and shall not constitute grounds for failure to report as required by this Act.

A member of the clergy may claim the privilege under Section 8-803 of the Code of Civil Procedure.

In addition to the above persons required to report suspected cases of abused or neglected children, any other person may make a report if such person has reasonable cause to believe a child may be an abused child or a neglected child.

Any person who enters into employment on and after July 1, 1986 and is mandated by virtue of that employment to report under this Act, shall sign a statement on a form prescribed by the Department, to the effect that the employee has knowledge and understanding of the reporting requirements of this Act. The statement shall be signed prior to commencement of the employment. The signed statement shall be retained by the employer. The cost of printing, distribution, and filing of the statement shall be borne by the employer.

The Department shall provide copies of this Act, upon request, to all employers employing persons who shall be required under the provisions of this Section to report under this Act.

Any person who knowingly transmits a false report to the Department commits the offense of disorderly conduct under subsection (a)(7) of Section 26-1 of the “Criminal Code of 1961”. Any person who violates this provision a second or subsequent time shall be guilty of a Class 3 felony.

Any person who knowingly and willfully violates any provision of this Section other than a second or subsequent violation of transmitting a false report as described in the preceding paragraph, is guilty of a Class A misdemeanor for a first violation and a Class 4 felony for a second or subsequent violation; except that if the person acted as part of a plan or scheme having as its object the prevention of discovery of an abused or neglected child by lawful authorities for the purpose of protecting or insulating any person or entity from arrest or prosecution, the person is guilty of a Class 4 felony for a first offense and a Class 3 felony for a second or subsequent offense (regardless of whether the second or subsequent offense involves any of the same facts or persons as the first or other prior offense).

A child whose parent, guardian or custodian in good faith selects and depends upon spiritual means through prayer alone for the treatment or cure of disease or remedial care may be considered neglected or abused, but not for the sole reason that his parent, guardian or custodian accepts and practices such beliefs.

A child shall not be considered neglected or abused solely because the child is not attending school in accordance with the requirements of Article 26 of the School Code, as amended.

Nothing in this Act prohibits a mandated reporter who reasonably believes that an animal is being abused or neglected in violation of the Humane Care for Animals Act from reporting animal abuse or neglect to the Department of Agriculture's Bureau of Animal Health and Welfare.

A home rule unit may not regulate the reporting of child abuse or neglect in a manner inconsistent with the provisions of this Section. This Section is a limitation under subsection (i) of Section 6 of Article VII of the Illinois Constitution on the concurrent exercise by home rule units of powers and functions exercised by the State.

For purposes of this Section "child abuse or neglect" includes abuse or neglect of an adult resident as defined in this Act.

3. Failure to Report Suspected Abuse or Neglect

325 ILCS 5/4.02

Any physician who willfully fails to report suspected child abuse or neglect as required by this Act shall be referred to the Illinois State Medical Disciplinary Board for action in accordance with paragraph 22 of Section 22 of the Medical Practice Act of 1987. Any dentist or dental hygienist who willfully fails to report suspected child abuse or neglect as required by this Act shall be referred to the Department of Professional Regulation for action in accordance with paragraph 19 of Section 23 of the Illinois Dental Practice Act. Any other person required by this Act to report suspected child abuse and neglect who willfully fails to report such is guilty of a Class A misdemeanor for a first violation and a Class 4 felony for a second or subsequent violation.

D. Minor's Right to Consent to Counseling

405 ILCS 5/3-501

(a) Any minor 12 years of age or older may request and receive counseling services or psychotherapy on an outpatient basis. The consent of his parent, guardian or person in loco parentis shall not be necessary to authorize outpatient counseling or psychotherapy. The minor's parent, guardian or person in loco parentis shall not be informed of such counseling or psychotherapy without the consent of the minor unless the facility director believes such disclosure is necessary. If the facility director intends to disclose the fact of counseling or psychotherapy, the minor shall be so informed. However, until the consent of the minor's parent, guardian or person in loco parentis has been obtained, outpatient counseling or psychotherapy provided to a minor under the age of 17 shall be limited to not more than 5 sessions, a session lasting not more than 45 minutes.

(b) The minor's parent, guardian or person in loco parentis shall not be liable for the costs of outpatient counseling or psychotherapy which is received by the minor without the consent of the minor's parent, guardian or person in loco parentis.

E. Sexual Assault Survivors Emergency Treatment Act

410 ILCS 70/1

1. Definitions

410 ILCS 70/1a

"Ambulance provider" means an individual or entity that owns and operates a business or service using ambulances or emergency medical services vehicles to transport emergency patients.

“Areawide sexual assault treatment plan” means a plan, developed by the hospitals in the community or area to be served, which provides for hospital emergency services to sexual assault survivors that shall be made available by each of the participating hospitals.

“Department” means the Department of Public Health.

“Emergency contraception” means medication as approved by the federal Food and Drug Administration (FDA) that can significantly reduce the risk of pregnancy if taken within 72 hours after sexual assault.

“Follow-up healthcare” means healthcare services related to a sexual assault, including laboratory services and pharmacy services, rendered within 90 days of the initial visit for hospital emergency services.

“Forensic services” means the collection of evidence pursuant to a statewide sexual assault evidence collection program administered by the Department of State Police, using the Illinois State Police Sexual Assault Evidence Collection Kit.

“Health care professional” means a physician, a physician assistant, or an advanced practice nurse.

“Hospital” has the meaning given to that term in the Hospital Licensing Act.

“Hospital emergency services” means healthcare delivered to outpatients within or under the care and supervision of personnel working in a designated emergency department of a hospital, including, but not limited to, care ordered by such personnel for a sexual assault survivor in the emergency department.

“Illinois State Police Sexual Assault Evidence Collection Kit” means a prepackaged set of materials and forms to be used for the collection of evidence relating to sexual assault. The standardized evidence collection kit for the State of Illinois shall be the Illinois State Police Sexual Assault Evidence Collection Kit.

“Nurse” means a nurse licensed under the Nurse Practice Act.

“Physician” means a person licensed to practice medicine in all its branches.

“Sexual assault” means an act of nonconsensual sexual conduct or sexual penetration, as defined in Section 11-0.1 of the Criminal Code of 1961, including, without limitation, acts prohibited under Sections 11-1.20 through 11-1.60 of the Criminal Code of 1961.

“Sexual assault survivor” means a person who presents for hospital emergency services in relation to injuries or trauma resulting from a sexual assault.

“Sexual assault transfer plan” means a written plan developed by a hospital and approved by the Department, which describes the hospital's procedures for transferring sexual assault survivors to another hospital in order to receive emergency treatment.

“Sexual assault treatment plan” means a written plan developed by a hospital that describes the hospital's procedures and protocols for providing hospital emergency services and forensic services to sexual assault survivors who present themselves for such services, either directly or through transfer from another hospital.

“Transfer services” means the appropriate medical screening examination and necessary stabilizing treatment prior to the transfer of a sexual assault survivor to a hospital that provides hospital emergency services and forensic services to sexual assault survivors pursuant to a sexual assault treatment plan or areawide sexual assault treatment plan.

2. Hospitals to Furnish Emergency Service

410 ILCS 70/2

Every hospital required to be licensed by the Department pursuant to the Hospital Licensing Act, approved July 1, 1953, as now or hereafter amended, which provides general medical and surgical hospital services shall provide either (i) transfer services or (ii) hospital emergency services and forensic services, in accordance with rules and regulations adopted by the Department, to all sexual assault survivors who apply for either (i) transfer services or (ii) hospital emergency services and forensic services in relation to injuries or trauma resulting from the sexual assault.

In addition, every such hospital, regardless of whether or not a request is made for reimbursement, shall submit to the Department a plan to provide either (i) transfer services or (ii) hospital emergency services and forensic services to sexual assault survivors. Such plan shall be submitted within 60 days after receipt of the Department's request for this plan, to the Department for approval prior to such plan becoming effective. The Department shall approve such plan for either (i) transfer services or (ii) hospital emergency services and forensic services to sexual assault survivors if it finds that the implementation of the proposed plan would provide adequate (i) transfer services or (ii) hospital emergency services and forensic services for sexual assault survivors and provide sufficient protections from the risk of pregnancy to sexual assault survivors.

The Department shall periodically conduct on site reviews of such approved plans with hospital personnel to insure that the established procedures are being followed.

On January 1, 2007, and each January 1 thereafter, the Department shall submit a report to the General Assembly containing information on the hospitals in this State that have submitted a plan to provide either (i) transfer services or (ii) hospital emergency services and forensic services to sexual assault survivors. The Department shall post on its Internet website the report required in this Section. The report shall include all of the following:

(1) A list of all hospitals that have submitted a plan.

(2) A list of hospitals whose plans have been found by the Department to be in compliance with this Act.

(3) A list of hospitals that have failed to submit an acceptable Plan of Correction within the time required by Section 2.1 of this Act.

(4) A list of hospitals at which the periodic site review required by this Act has been conducted.

When a hospital listed as noncompliant under item (3) of this Section submits and implements the required Plan of Correction, the Department shall immediately update the report on its Internet website to reflect that hospital's compliance.

3. Plans of Correction – Penalties for Failure to Implement Such Plans

410 ILCS 70/2.1

If the Department surveyor determines that the hospital is not in compliance with its approved plan, the surveyor shall provide the hospital with a written list of the specific items of noncompliance within 10 working days after the conclusion of the on site review. The hospital shall have 10 working days to submit to the Department a plan of correction which contains the hospital's specific proposals for correcting the items of noncompliance. The Department shall review the plan of correction and notify the hospital in writing within 10 working days as to whether the plan is acceptable or unacceptable.

If the Department finds the Plan of Correction unacceptable, the hospital shall have 10 working days to resubmit an acceptable Plan of Correction. Upon notification that its Plan of Correction is acceptable, a hospital shall implement the Plan of Correction within 60 days.

The failure to submit an acceptable Plan of Correction or to implement the Plan of Correction, within the time frames required in this Section, will subject a hospital to the imposition of a fine by the Department. The Department may impose a fine of up to $500 per day until a hospital complies with the requirements of this Section.

Before imposing a fine pursuant to this Section, the Department shall provide the hospital via certified mail with written notice and an opportunity for an administrative hearing. Such hearing must be requested within 10 working days after receipt of the Department's Notice. All hearings shall be conducted in accordance with the Department's rules in administrative hearings.

4. Emergency Contraception

410 ILCS 70/2.2

(a) The General Assembly finds:

(1) Crimes of sexual assault and sexual abuse cause significant physical, emotional, and psychological trauma to the victims. This trauma is compounded by a victim's fear of becoming pregnant and bearing a child as a result of the sexual assault.

(2) Each year over 32,000 women become pregnant in the United States as the result of rape and approximately 50% of these pregnancies end in abortion.

(3) As approved for use by the Federal Food and Drug Administration (FDA), emergency contraception can significantly reduce the risk of pregnancy if taken within 72 hours after the sexual assault.

(4) By providing emergency contraception to rape victims in a timely manner, the trauma of rape can be significantly reduced.

(b) Within 120 days after the effective date of this amendatory Act of the 92nd General Assembly, every hospital providing services to sexual assault survivors in accordance with a plan approved under Section 2 must develop a protocol that ensures that each survivor of sexual assault will receive medically and factually accurate and written and oral information about emergency contraception; the indications and counter-indications and risks associated with the use of emergency contraception; and a description of how and when victims may be provided emergency contraception upon the written order of a physician licensed to practice medicine in all its branches, an advanced practice nurse who has a written collaborative agreement with a collaborating physician that authorizes prescription of emergency contraception, or a physician assistant who has been delegated authority to prescribe emergency contraception. The Department shall approve the protocol if it finds that the implementation of the protocol would provide sufficient protection for survivors of sexual assault.

The hospital shall implement the protocol upon approval by the Department. The Department shall adopt rules and regulations establishing

one or more safe harbor protocols and setting minimum acceptable protocol standards that hospitals may develop and implement. The Department shall approve any protocol that meets those standards. The Department may provide a sample acceptable protocol upon request.

5. Minimum Requirements for Hospitals Providing Emergency Service to Sexual Assault Survivors

410 ILCS 70/5

(a) Every hospital providing hospital emergency services and forensic services to sexual assault survivors under this Act shall, as minimum requirements for such services, provide, with the consent of the sexual assault survivor, and as ordered by the attending physician, an advanced practice nurse who has a written collaborative agreement with a collaborating physician that authorizes provision of emergency services, or a physician assistant who has been delegated authority to provide hospital emergency services and forensic services, the following:

(1) appropriate medical examinations and laboratory tests required to ensure the health, safety, and welfare of a sexual assault survivor or which may be used as evidence in a criminal proceeding against a person accused of the sexual assault, or both; and records of the results of such examinations and tests shall be maintained by the hospital and made available to law enforcement officials upon the request of the sexual assault survivor;

(2) appropriate oral and written information concerning the possibility of infection, sexually transmitted disease and pregnancy resulting from sexual assault;

(3) appropriate oral and written information concerning accepted medical procedures, medication, and possible contraindications of such medication available for the prevention or treatment of infection or disease resulting from sexual assault;

(4) an amount of medication for treatment at the hospital and after discharge as is deemed appropriate by the attending physician, an advanced practice nurse, or a physician assistant and consistent with the hospital's current approved protocol for sexual assault survivors;

(5) an evaluation of the sexual assault survivor's risk of contracting human immunodeficiency virus (HIV) from the sexual assault;

(6) written and oral instructions indicating the need for follow-up examinations and laboratory tests after the sexual assault to

determine the presence or absence of sexually transmitted disease;

(7) referral by hospital personnel for appropriate counseling; and

(8) when HIV prophylaxis is deemed appropriate, an initial dose or doses of HIV prophylaxis, along with written and oral instructions indicating the importance of timely follow-up healthcare.

(b) Any person who is a sexual assault survivor who seeks emergency hospital services and forensic services or follow-up healthcare under this Act shall be provided such services without the consent of any parent, guardian, custodian, surrogate, or agent.

(c) Nothing in this Section creates a physician-patient relationship that extends beyond discharge from the hospital emergency department.

6. Minimum Reimbursement Requirements for Follow-Up Healthcare

410 ILCS 70/5.5

(a) Every hospital, health care professional, laboratory, or pharmacy that provides follow-up healthcare to a sexual assault survivor, with the consent of the sexual assault survivor and as ordered by the attending physician, an advanced practice nurse who has a written collaborative agreement with a collaborating physician, or physician assistant who has been delegated authority by a supervising physician shall be reimbursed for the follow-up healthcare services provided. Follow-up healthcare services include, but are not limited to, the following:

(1) a physical examination;

(2) laboratory tests to determine the presence or absence of sexually transmitted disease; and

(3) appropriate medications, including HIV prophylaxis.

(b) Reimbursable follow-up healthcare is limited to office visits with a physician, advanced practice nurse, or physician assistant within 90 days after an initial visit for hospital emergency services.

(c) Nothing in this Section requires a hospital, health care professional, laboratory, or pharmacy to provide follow-up healthcare to a sexual assault survivor.

7. Sexual Assault Evidence Collection Program

410 ILCS 70/6.4

(a) There is created a statewide sexual assault evidence collection program to facilitate the prosecution of persons accused of sexual assault. This program shall be administered by the Illinois State Police. The program shall consist of the following:

(1) distribution of sexual assault evidence collection kits which have been approved by the Illinois State Police to hospitals that request them, or arranging for such distribution by the manufacturer of the kits,

(2) collection of the kits from hospitals after the kits have been used to collect evidence,

(3) analysis of the collected evidence and conducting of laboratory tests,

(4) maintaining the chain of custody and safekeeping of the evidence for use in a legal proceeding, and

(5) the comparison of the collected evidence with the genetic marker grouping analysis information maintained by the Department of State Police under Section 5-4-3 of the Unified Code of Corrections and with the information contained in the Federal Bureau of Investigation's National DNA database; provided the amount and quality of genetic marker grouping results obtained from the evidence in the sexual assault case meets the requirements of both the Department of State Police and the Federal Bureau of Investigation's Combined DNA Index System (CODIS) policies. The standardized evidence collection kit for the State of Illinois shall be the Illinois State Police Sexual Assault Evidence Kit. A sexual assault evidence collection kit may not be released by a hospital without the written consent of the sexual assault survivor. In the case of a survivor who is a minor 13 years of age or older, evidence and information concerning the sexual assault may be released at the written request of the minor. If the survivor is a minor who is under 13 years of age, evidence and information concerning the alleged sexual assault may be released at the written request of the parent, guardian, investigating law enforcement officer, or Department of Children and Family Services. If the survivor is an adult who has a guardian of the person, a health care surrogate, or an agent acting under a health care power of attorney, then consent of the guardian, surrogate, or agent is not required to release evidence and information concerning the sexual assault. If the adult is unable to provide

consent for the release of evidence and information and a guardian, surrogate, or agent under a health care power of attorney is unavailable or unwilling to release the information, then an investigating law enforcement officer may authorize the release. Any health care professional, including any physician, advanced practice nurse, physician assistant, or nurse, sexual assault nurse examiner, and any health care institution, including any hospital, who provides evidence or information to a law enforcement officer pursuant to a written request as specified in this Section is immune from any civil or professional liability that might arise from those actions, with the exception of willful or wanton misconduct. The immunity provision applies only if all of the requirements of this Section are met.

(a-5) (Blank).

(b) The Illinois State Police shall administer a program to train hospitals and hospital personnel participating in the sexual assault evidence collection program, in the correct use and application of the sexual assault evidence collection kits. A sexual assault nurse examiner may conduct examinations using the sexual assault evidence collection kits, without the presence or participation of a physician. The Department shall cooperate with the Illinois State Police in this program as it pertains to medical aspects of the evidence collection.

(c) In this Section, “sexual assault nurse examiner” means a registered nurse who has completed a sexual assault nurse examiner (SANE) training program that meets the Forensic Sexual Assault Nurse Examiner Education Guidelines established by the International Association of Forensic Nurses.

8. Hospital Charges and Reimbursement

410 ILCS 70/7

(a) When any ambulance provider furnishes transportation, hospital provides hospital emergency services and forensic services, hospital or health care professional or laboratory provides follow-up healthcare, or pharmacy dispenses prescribed medications to any sexual assault survivor, as defined by the Department of Healthcare and Family Services, who is neither eligible to receive such services under the Illinois Public Aid Code nor covered as to such services by a policy of insurance, the ambulance provider, hospital, health care professional, or laboratory shall furnish such services to that person without charge and shall be entitled to be reimbursed for its billed charges in providing such services by the Illinois Sexual Assault Emergency Treatment Program under the Department of Healthcare and Family Services. Pharmacies shall dispense prescribed

medications without charge to the survivor and shall be reimbursed at the Department of Healthcare and Family Services' Medicaid allowable rates.

(b) The hospital is responsible for submitting the request for reimbursement for ambulance services, hospital emergency services, and forensic services to the Illinois Sexual Assault Emergency Treatment Program. Nothing in this Section precludes hospitals from providing follow-up healthcare and receiving reimbursement under this Section.

(c) The health care professional who provides follow-up healthcare and the pharmacy that dispenses prescribed medications to a sexual assault survivor are responsible for submitting the request for reimbursement for follow-up healthcare or pharmacy services to the Illinois Sexual Assault Emergency Treatment Program.

(d) The Department of Healthcare and Family Services shall establish standards, rules, and regulations to implement this Section.

9. Complaints

410 ILCS 70/8.5

The Department shall implement a complaint system through which the Department may receive complaints of violations of this Act. The Department may use an existing complaint system to fulfill the requirements of this Section.

F. Consent by Minor to Medical Procedures

410 ILCS 210/1

The consent to the performance of a medical or surgical procedure by a physician licensed to practice medicine and surgery, an advanced practice nurse who has a written collaborative agreement with a collaborating physician that authorizes provision of services for minors, or a physician assistant who has been delegated authority to provide services for minors executed by a married person who is a minor, by a parent who is a minor, by a pregnant woman who is a minor, or by any person 18 years of age or older, is not voidable because of such minority, and, for such purpose, a married person who is a minor, a parent who is a minor, a pregnant woman who is a minor, or any person 18 years of age or older, is deemed to have the same legal capacity to act and has the same powers and obligations as has a person of legal age.

1. Situations Where Consent Need Not Be Obtained

410 ILCS 210/3

(a) Where a hospital, a physician licensed to practice medicine or surgery, an advanced practice nurse who has a written collaborative agreement with a

collaborating physician that authorizes provision of services for minors, or a physician assistant who has been delegated authority to provide services for minors renders emergency treatment or first aid or a licensed dentist renders emergency dental treatment to a minor, consent of the minor's parent or legal guardian need not be obtained if, in the sole opinion of the physician, advanced practice nurse, physician assistant, dentist, or hospital, the obtaining of consent is not reasonably feasible under the circumstances without adversely affecting the condition of such minor's health.

(b) Where a minor is the victim of a predatory criminal sexual assault of a child, aggravated criminal sexual assault, criminal sexual assault, aggravated criminal sexual abuse or criminal sexual abuse, as provided in Sections 11-1.20 through 11-1.60 of the Criminal Code of 1961, as now or hereafter amended, the consent of the minor's parent or legal guardian need not be obtained to authorize a hospital, physician, advanced practice nurse, physician assistant, or other medical personnel to furnish medical care or counseling related to the diagnosis or treatment of any disease or injury arising from such offense. The minor may consent to such counseling, diagnosis or treatment as if the minor had reached his or her age of majority. Such consent shall not be voidable, nor subject to later disaffirmance, because of minority.

G. Bill of Rights for Children

725 ILCS 115/1

1. Purposes

725 ILCS 115/2

The purpose of this Act is to ensure the fair and compassionate treatment of children involved in the criminal justice system by affording certain basic rights and considerations to these children.

2. Rights to Present Child Impact Statement

725 ILCS 115/3

(a) In any case where a defendant has been convicted of a violent crime involving a child or a juvenile has been adjudicated a delinquent for any offense defined in Sections 11-6, 11-20.1, 11-20.1B, and 11-20.3 and in Sections 11-1.20 through 11-1.60 or 12-13 through 12-16 of the Criminal Code of 1961, except those in which both parties have agreed to the imposition of a specific sentence, and a parent or legal guardian of the child involved is present in the courtroom at the time of the sentencing or

the disposition hearing, the parent or legal guardian upon his or her request shall have the right to address the court regarding the impact which the defendant's criminal conduct or the juvenile's delinquent conduct has had upon the child. If the parent or legal guardian chooses to exercise this right, the impact statement must have been prepared in writing in conjunction with the Office of the State's Attorney prior to the initial hearing or sentencing, before it can be presented orally at the sentencing hearing. The court shall consider any statements made by the parent or legal guardian, along with all other appropriate factors in determining the sentence of the defendant or disposition of such juvenile.

(b) The crime victim has the right to prepare a victim impact statement and present it to the office of the State's Attorney at any time during the proceedings.

(c) This Section shall apply to any child victims of any offense defined in Sections 11-1.20 through 11-1.60 or 12-13 through 12-16 of the Criminal Code of 1961 during any dispositional hearing under Section 5-705 of the Juvenile Court Act of 1987 which takes place pursuant to an adjudication of delinquency for any such offense.

3. Scope of Act

725 ILCS 115/4

This Act does not limit any rights or responsibilities otherwise enjoyed by or imposed upon victims or witnesses of violent crime, nor does it grant any person a cause of action for damages. Nothing in this Act creates a basis for vacating a conviction or a ground for appellate relief in any criminal case. Failure of the crime victim to receive notice as required, however, shall not deprive the court of the power to act regarding the proceeding before it; nor shall any such failure grant the defendant the right to seek a continuance.

H. The Rights of Crime Victims and Witnesses Act

725 ILCS 120/1

1. Purpose

725 ILCS 120/2

The purpose of this Act is to implement, preserve and protect the rights guaranteed to crime victims by Article I, Section 8.1 of the Illinois Constitution to ensure that crime victims are treated with fairness and respect for their dignity and privacy throughout the criminal justice system and to increase the effectiveness of the criminal justice system by affording certain basic rights and considerations to the witnesses of violent crime who are essential to prosecution.

2. Definitions

725 ILCS 120/3

The terms used in this Act, unless the context clearly requires otherwise, shall have the following meanings:

(a) “Crime victim” and "victim" mean

(1) a person physically injured in this State as a result of a violent crime perpetrated or attempted against that person or

(2) a person who suffers injury to or loss of property as a result of a violent crime perpetrated or attempted against that person or

(3) a single representative who may be the spouse, parent, child or sibling of a person killed as a result of a violent crime perpetrated against the person killed or the spouse, parent, child or sibling of any person granted rights under this Act who is physically or mentally incapable of exercising such rights, except where the spouse, parent, child or sibling is also the defendant or prisoner or

(4) any person against whom a violent crime has been committed or

(5) any person who has suffered personal injury as a result of a violation of Section 11-501 of the Illinois Vehicle Code, or of a similar provision of a local ordinance, or of Section 9-3 of the Criminal Code of 1961, as amended or

(6) in proceedings under the Juvenile Court Act of 1987, both parents, legal guardians, foster parents, or a single adult representative of a minor or disabled person who is a crime victim.

(b) “Witness” means any person who personally observed the commission of a violent crime and who will testify on behalf of the State of Illinois in the criminal prosecution of the violent crime.

(c) “Violent Crime” means any felony in which force or threat of force was used against the victim, or any offense involving sexual exploitation, sexual conduct or sexual penetration, or a violation of Section 11-20.1, 11-20.1B, or 11-20.3 of the Criminal Code of 1961, domestic battery, violation of an order of protection, stalking, or any misdemeanor which results in death or great bodily harm to the victim or any violation of Section 9-3 of the Criminal Code of 1961, or Section 11-501 of the Illinois Vehicle Code, or a similar provision of a local ordinance, if the violation resulted in personal injury or death, and includes any action committed by

a juvenile that would be a violent crime if committed by an adult. For the purposes of this paragraph, “personal injury” shall include any Type A injury as indicated on the traffic accident report completed by a law enforcement officer that requires immediate professional attention in either a doctor's office or medical facility. A type A injury shall include severely bleeding wounds, distorted extremities, and injuries that require the injured party to be carried from the scene.

(d) “Sentencing Hearing” means any hearing where a sentence is imposed by the court on a convicted defendant and includes hearings conducted pursuant to Sections 5-6-4, 5-6-4.1, 5-7-2 and 5-7-7 of the Unified Code of Corrections except those cases in which both parties have agreed to the imposition of a specific sentence.

(e) “Court proceedings” includes the preliminary hearing, any hearing the effect of which may be the release of the defendant from custody or to alter the conditions of bond, the trial, sentencing hearing, notice of appeal, any modification of sentence, probation revocation hearings or parole hearings.

(f) "Concerned citizen" includes relatives of the victim, friends of the victim, witnesses to the crime, or any other person associated with the victim or prisoner.

3. Rights of Crime Victims

725 ILCS 120/4

(a) Crime victims shall have the following rights:

(1) The right to be treated with fairness and respect for their dignity and privacy throughout the criminal justice process.

(2) The right to notification of court proceedings.

(3) The right to communicate with the prosecution.

(4) The right to make a statement to the court at sentencing.

(5) The right to information about the conviction, sentence, imprisonment and release of the accused.

(6) The right to the timely disposition of the case following the arrest of the accused.

(7) The right to be reasonably protected from the accused through the criminal justice process.

(8) The right to be present at the trial and all other court proceedings on the same basis as the accused, unless the victim is to testify and the court determines that the victim's testimony would be materially affected if the victim hears other testimony at the trial.

(9) the right to have present at all court proceedings, including proceedings under the Juvenile Court Act of 1987, subject to the admonition of the rules of confidentiality and subject to the rules of evidence, a victim-witness specialist, an advocate or other support person of the victim's choice.

(10) The right to restitution.

(b) A statement and explanation of the rights of crime victims set forth in paragraph (a) of this Section shall be given to a crime victim at the initial contact with the criminal justice system by the appropriate authorities and shall be conspicuously posted in all court facilities.

4. Procedures to Implement the Rights of Crime Victims

725 ILCS 120/4.5

To afford crime victims their rights, law enforcement, prosecutors, judges and corrections will provide information, as appropriate of the following procedures:

(a) At the request of the crime victim, law enforcement authorities investigating the case shall provide notice of the status of the investigation, except where the State's Attorney determines that disclosure of such information would unreasonably interfere with the investigation, until such time as the alleged assailant is apprehended or the investigation is closed.

(b) The office of the State's Attorney:

(1) shall provide notice of the filing of information, the return of an indictment by which a prosecution for any violent crime is commenced, or the filing of a petition to adjudicate a minor as a delinquent for a violent crime;

(2) shall provide notice of the date, time, and place of trial;

(3) or victim advocate personnel shall provide information of social services and financial assistance available for victims of crime, including information of how to apply for these services and assistance;

(4) shall assist in having any stolen or other personal property held by law enforcement authorities for evidentiary or other purposes returned as expeditiously as possible, pursuant to the procedures set out in Section 115-9 of the Code of Criminal Procedure of 1963;

(5) or victim advocate personnel shall provide appropriate employer intercession services to ensure that employers of victims will cooperate with the criminal justice system in order to minimize an employee's loss of pay and other benefits resulting from court appearances;

(6) shall provide information whenever possible, of a secure waiting area during court proceedings that does not require victims to be in close proximity to defendant or juveniles accused of a violent crime, and their families and friends;

(7) shall provide notice to the crime victim of the right to have a translator present at all court proceedings and, in compliance with the federal Americans with Disabilities Act of 1990, the right to communications access through a sign language interpreter or by other means;

(8) in the case of the death of a person, which death occurred in the same transaction or occurrence in which acts occurred for which a defendant is charged with an offense, shall notify the spouse, parent, child or sibling of the decedent of the date of the trial of the person or persons allegedly responsible for the death;

(9) shall inform the victim of the right to have present at all court proceedings, subject to the rules of evidence, an advocate or other support person of the victim's choice, and the right to retain an attorney, at the victim's own expense, who, upon written notice filed with the clerk of the court and State's Attorney, is to receive copies of all notices, motions and court orders filed thereafter in the case, in the same manner as if the victim were a named party in the case;

(10) at the sentencing hearing shall make a good faith attempt to explain the minimum amount of time during which the defendant may actually be physically imprisoned. The Office of the State's Attorney shall further notify the crime victim of the right to request from the Prisoner Review Board information concerning the release of the defendant under subparagraph (d)(1) of this Section;

(11) shall request restitution at sentencing and shall consider restitution in any plea negotiation, as provided by law; and

(12) shall, upon the court entering a verdict of not guilty by reason of insanity, inform the victim of the notification services available from the Department of Human Services, including the statewide telephone number, under subparagraph (d)(2) of this Section.

(c) At the written request of the crime victim, the office of the State's Attorney shall:

(1) provide notice a reasonable time in advance of the following court proceedings: preliminary hearing, any hearing the effect of which may be the release of defendant from custody, or to alter the conditions of bond and the sentencing hearing. The crime victim shall also be notified of the cancellation of the court proceeding in sufficient time, wherever possible, to prevent an unnecessary appearance in court;

(2) provide notice within a reasonable time after receipt of notice from the custodian, of the release of the defendant on bail or personal recognizance or the release from detention of a minor who has been detained for a violent crime;

(3) explain in nontechnical language the details of any plea or verdict of a defendant, or any adjudication of a juvenile as a delinquent for a violent crime;

(4) where practical, consult with the crime victim before the Office of the State's Attorney makes an offer of a plea bargain to the defendant or enters into negotiations with the defendant concerning a possible plea agreement, and shall consider the written victim impact statement, if prepared prior to entering into a plea agreement;

(5) provide notice of the ultimate disposition of the cases arising from an indictment or an information, or a petition to have a juvenile adjudicated as a delinquent for a violent crime;

(6) provide notice of any appeal taken by the defendant and information on how to contact the appropriate agency handling the appeal;

(7) provide notice of any request for post-conviction review filed by the defendant under Article 122 of the Code of Criminal Procedure of 1963, and of the date, time and place of any hearing concerning

the petition. Whenever possible, notice of the hearing shall be given in advance;

(8) forward a copy of any statement presented under Section 6 to the Prisoner Review Board to be considered by the Board in making its determination under subsection (b) of Section 3-3-8 of the Unified Code of Corrections.

(d) (1) The Prisoner Review Board shall inform a victim or any other concerned citizen, upon written request, of the prisoner's release on parole, mandatory supervised release, electronic detention, work release, international transfer or exchange, or by the custodian of the discharge of any individual who was adjudicated a delinquent for a violent crime from State custody and by the sheriff of the appropriate county of any such person's final discharge from county custody. The Prisoner Review Board, upon written request, shall provide to a victim or any other concerned citizen a recent photograph of any person convicted of a felony, upon his or her release from custody. The Prisoner Review Board, upon written request, shall inform a victim or any other concerned citizen when feasible at least 7 days prior to the prisoner's release on furlough of the times and dates of such furlough. Upon written request by the victim or any other concerned citizen, the State's Attorney shall notify the person once of the times and dates of release of a prisoner sentenced to periodic imprisonment. Notification shall be based on the most recent information as to victim's or other concerned citizen's residence or other location available to the notifying authority.

(2) When the defendant has been committed to the Department of Human Services pursuant to Section 5-2-4 or any other provision of the Unified Code of Corrections, the victim may request to be notified by the releasing authority of the defendant's furloughs, temporary release, or final discharge from State custody. The Department of Human Services shall establish and maintain a statewide telephone number to be used by victims to make notification requests under these provisions and shall publicize this telephone number on its website and to the State's Attorney of each county.

(3) In the event of an escape from State custody, the Department of Corrections or the Department of Juvenile Justice immediately shall notify the Prisoner Review Board of the escape and the Prisoner Review Board shall notify the victim. The notification shall be based upon the most recent information as to the victim's residence or other location available to the Board. When no such

information is available, the Board shall make all reasonable efforts to obtain the information and make the notification. When the escapee is apprehended, the Department of Corrections or the Department of Juvenile Justice immediately shall notify the Prisoner Review Board and the Board shall notify the victim.

(4) The victim of the crime for which the prisoner has been sentenced shall receive reasonable written notice not less than 30 days prior to the parole interview and may submit, in writing, on film, videotape or other electronic means or in the form of a recording or in person at the parole interview or if a victim of a violent crime, by calling the toll-free number established in subsection (f) of this Section, information for consideration by the Prisoner Review Board. The victim shall be notified within 7 days after the prisoner has been granted parole and shall be informed of the right to inspect the registry of parole decisions, established under subsection (g) of Section 3-3-5 of the Unified Code of Corrections. The provisions of this paragraph (4) are subject to the Open Parole Hearings Act.

(5) If a statement is presented under Section 6, the Prisoner Review Board shall inform the victim of any order of discharge entered by the Board pursuant to Section 3-3-8 of the Unified Code of Corrections.

(6) At the written request of the victim of the crime for which the prisoner was sentenced or the State's Attorney of the county where the person seeking parole was prosecuted, the Prisoner Review Board shall notify the victim and the State's Attorney of the county where the person seeking parole was prosecuted of the death of the prisoner if the prisoner died while on parole or mandatory supervised release.

(7) When a defendant who has been committed to the Department of Corrections, the Department of Juvenile Justice, or the Department of Human Services is released or discharged and subsequently committed to the Department of Human Services as a sexually violent person and the victim had requested to be notified by the releasing authority of the defendant's discharge from State custody, the releasing authority shall provide to the Department of Human Services such information that would allow the Department of Human Services to contact the victim.

(8) When a defendant has been convicted of a sex offense as defined in Section 2 of the Sex Offender Registration Act and has been sentenced to the Department of Corrections or the Department of

Juvenile Justice, the Prisoner Review Board shall notify the victim of the sex offense of the prisoner's eligibility for release on parole, mandatory supervised release, electronic detention, work release, international transfer or exchange, or by the custodian of the discharge of any individual who was adjudicated a delinquent for a sex offense from State custody and by the sheriff of the appropriate county of any such person's final discharge from county custody. The notification shall be made to the victim at least 30 days, whenever possible, before release of the sex offender.

(e) The officials named in this Section may satisfy some or all of their obligations to provide notices and other information through participation in a statewide victim and witness notification system established by the Attorney General under Section 8.5 of this Act.

(f) To permit a victim of a violent crime to provide information to the Prisoner Review Board for consideration by the Board at a parole hearing of a person who committed the crime against the victim in accordance with clause (d)(4) of this Section or at a proceeding to determine the conditions of mandatory supervised release of a person sentenced to a determinate sentence or at a hearing on revocation of mandatory supervised release of a person sentenced to a determinate sentence, the Board shall establish a toll-free number that may be accessed by the victim of a violent crime to present that information to the Board.

5. Rights of Witnesses

725 ILCS 120/5

(a) Witnesses as defined in subsection (b) of Section 3 of this Act shall have the following rights:

(1) to be notified by the Office of the State's Attorney of all court proceedings at which the witness' presence is required in a reasonable amount of time prior to the proceeding, and to be notified of the cancellation of any scheduled court proceeding in sufficient time to prevent an unnecessary appearance in court, where possible;

(2) to be provided with appropriate employer intercession services by the Office of the State's Attorney or the victim advocate personnel to ensure that employers of witnesses will cooperate with the criminal justice system in order to minimize an employee's loss of pay and other benefits resulting from court appearances;

(3) to be provided, whenever possible, a secure waiting area during court proceedings that does not require witnesses to be in close proximity to defendants and their families and friends;

(4) to be provided with notice by the Office of the State's Attorney, where necessary, of the right to have a translator present whenever the witness' presence is required and, in compliance with the federal Americans with Disabilities Act of 1990, to be provided with notice of the right to communications access through a sign language interpreter or by other means.

(b) At the written request of the witness, the witness shall:

(1) receive notice from the office of the State's Attorney of any request for post-conviction review filed by the defendant under Article 122 of the Code of Criminal Procedure of 1963, and of the date, time, and place of any hearing concerning the petition for post-conviction review; whenever possible, notice of the hearing on the petition shall be given in advance;

(2) receive notice by the releasing authority of the defendant's discharge from State custody if the defendant was committed to the Department of Human Services under § 5-2-4 or any other provision of the Unified Code of Corrections;

(3) receive notice from the Prisoner Review Board of the prisoner's escape from State custody, after the Board has been notified of the escape by the Department of Corrections or the Department of Juvenile Justice; when the escapee is apprehended, the Department of Corrections or the Department of Juvenile Justice shall immediately notify the Prisoner Review Board and the Board shall notify the witness;

(4) receive notice from the Prisoner Review Board of the prisoner's release on parole, electronic detention, work release or mandatory supervised release and of the prisoner's final discharge from parole, electronic detention, work release, or mandatory supervised release.

6. Rights to Present Victim Impact Statement

725 ILCS 120/6

(a) In any case where a defendant has been convicted of a violent crime or a juvenile has been adjudicated a delinquent for a violent crime and a victim of the violent crime or the victim's spouse, guardian, parent, grandparent, or other immediate family or household member is present in the

courtroom at the time of the sentencing or the disposition hearing, the victim or his or her representative shall have the right and the victim's spouse, guardian, parent, grandparent, and other immediate family or household member upon his, her, or their request may be permitted by the court to address the court regarding the impact that the defendant's criminal conduct or the juvenile's delinquent conduct has had upon them and the victim. The court has discretion to determine the number of oral presentations of victim impact statements. Any impact statement must have been prepared in writing in conjunction with the Office of the State's Attorney prior to the initial hearing or sentencing, before it can be presented orally or in writing at the sentencing hearing. In conjunction with the Office of the State's Attorney, a victim impact statement that is presented orally may be done so by the victim or the victim's spouse, guardian, parent, grandparent, or other immediate family or household member or his, her, or their representative. At the sentencing hearing, the prosecution may introduce that evidence either in its case in chief or in rebuttal. The court shall consider any impact statement admitted along with all other appropriate factors in determining the sentence of the defendant or disposition of such juvenile.

(a-5) In any case where a defendant has been found not guilty by reason of insanity of a violent crime and a hearing has been ordered by the court under the Mental Health and Developmental Disabilities Code to determine if the defendant is: (1) in need of mental health services on an inpatient basis; (2) in need of mental health services on an outpatient basis; or (3) not in need of mental health services and a victim of the violent crime or the victim's spouse, guardian, parent, grandparent, or other immediate family or household member is present in the courtroom at the time of the initial commitment hearing, the victim or his or her representative shall have the right and the victim's spouse, guardian, parent, grandparent, and other immediate family or household members upon their request may be permitted by the court to address the court regarding the impact that the defendant's criminal conduct has had upon them and the victim. The court has discretion to determine the number of oral presentations of victim impact statements. Any impact statement must have been prepared in writing in conjunction with the Office of the State's Attorney prior to the initial commitment hearing, before it may be presented orally or in writing at the commitment hearing. In conjunction with the Office of the State's Attorney, a victim impact statement that is presented orally may be presented so by the victim or the victim's spouse, guardian, parent, grandparent, or other immediate family or household member or his or her representative. At the initial commitment hearing, the State's Attorney may introduce the statement either in its case in chief or in rebuttal. The court may only consider the impact statement along with all other appropriate factors in determining the:

(1) threat of serious physical harm poised by the respondent to himself or herself, or to another person;

(2) location of inpatient or outpatient mental health services ordered by the court, but only after complying with all other applicable administrative, rule, and statutory requirements;

(3) maximum period of commitment for inpatient mental health services; and

(4) conditions of release for outpatient mental health services ordered by the court.

(b) The crime victim has the right to prepare a victim impact statement and present it to the Office of the State's Attorney at any time during the proceedings. Any written victim impact statement submitted to the Office of the State's Attorney shall be considered by the court during its consideration of aggravation and mitigation in plea proceedings under Supreme Court Rule 402.

(c) This Section shall apply to any victims of a violent crime during any dispositional hearing under Section 5-705 of the Juvenile Court Act of 1987 which takes place pursuant to an adjudication or trial or plea of delinquency for any such offense.

7. Responsibilities of Victims and Witnesses

725 ILCS 120/7

Victims and witnesses shall have the following responsibilities to aid in the prosecution of violent crime.

(a) To make a timely report of the violent crime;

(b) To cooperate with law enforcement authorities throughout the investigation, prosecution, and trial;

(c) To testify at trial;

(d) To notify law enforcement authorities of any change of address.

8. Privately Operated Crime Victim and Witness Notification Service

725 ILCS 120/8

A county sheriff with the approval of the county board in counties with 3,000,000 or fewer inhabitants, or a county department of corrections with the approval of the county board of commissioners and under the direction of the sheriff in counties with more than 3,000,000 inhabitants, and the office of the State's Attorney with the approval of the respective county board or county board of commissioners may contract with a private entity to operate a crime victim and witness notification service. The county sheriff, the county department of corrections, and the State's Attorney shall make available to the private entity the information to implement the notification procedure in a timely manner. The private entity shall immediately deliver the notification information to the requesting crime victim or witness according to the requirements of this Act for certain offenses determined by the county board upon the release or discharge of a defendant or prisoner in county custody. The release of information to the private entity to implement the contract shall be limited to the extent necessary to comply with the provisions of this Act.

9. Statewide Victim and Witness Notification System

725 ILCS 120/8.5

(a) The Attorney General may establish a crime victim and witness notification system to assist public officials in carrying out their duties to notify and inform crime victims and witnesses under Section 4.5 of this Act or under subsections (a), (a-2), and (a-3) of Section 120 of the Sex Offender Community Notification Law as the Attorney General specifies by rule. The system shall download necessary information from participating officials into its computers, where it shall be maintained, updated, and automatically transmitted to victims and witnesses by telephone, computer, or written notice.

(b) The Illinois Department of Corrections, the Department of Juvenile Justice, the Department of Human Services, and the Prisoner Review Board shall cooperate with the Attorney General in the implementation of this Section and shall provide information as necessary to the effective operation of the system.

(c) State's attorneys, circuit court clerks, and local law enforcement and correctional authorities may enter into agreements with the Attorney General for participation in the system. The Attorney General may provide those who elect to participate with the equipment, software, or training necessary to bring their offices into the system.

(d) The provision of information to crime victims and witnesses through the Attorney General's notification system satisfies a given State or local official's corresponding obligation under Section 4.5 to provide the information.

(e) The Attorney General may provide for telephonic, electronic, or other public access to the database established under this Section.

(f) The Attorney General shall adopt rules as necessary to implement this Section. The rules shall include, but not be limited to, provisions for the scope and operation of any system the Attorney General may establish and procedures, requirements, and standards for entering into agreements to participate in the system and to receive equipment, software, or training.

(g) There is established in the Office of the Attorney General a Crime Victim and Witness Notification Advisory Committee consisting of those victims advocates, sheriffs, State's Attorneys, circuit court clerks, Illinois Department of Corrections, the Department of Juvenile Justice, and Prisoner Review Board employees that the Attorney General chooses to appoint. The Attorney General shall designate one member to chair the Committee.

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10. Scope of Act

725 ILCS 120/9

This Act does not limit any rights or responsibilities otherwise enjoyed by or imposed upon victims or witnesses of violent crime, nor does it grant any person a cause of action for damages or attorneys fees. Any act of omission or commission by any law enforcement officer, circuit court clerk, or State's Attorney, by the Attorney General, Prisoner Review Board, Department of Corrections, the Department of Juvenile Justice, Department of Human Services, or other State agency, or private entity under contract pursuant to Section 8, or by any employee of any State agency or private entity under contract pursuant to Section 8 acting in good faith in rendering crime victim's assistance or otherwise enforcing this Act shall not impose civil liability upon the individual or entity or his or her supervisor or employer. Nothing in this Act shall create a basis for vacating a conviction or a ground for appellate relief in any criminal case. Failure of the crime victim to receive notice as required, however, shall not deprive the court of the power to act regarding the proceeding before it; nor shall any such failure grant the defendant the right to seek a continuance.

I. Privacy of Child Victims of Criminal Sexual Offenses Act

725 ILCS 190/1

1. Child

725 ILCS 190/2

As used in this Act, “Child” means any person under 18 years of age.

2. Confidentiality of Law Enforcement and Court Records

725 ILCS 190/3

Notwithstanding any other law to the contrary, inspection and copying of law enforcement records maintained by any law enforcement agency or circuit court records maintained by any circuit clerk relating to any investigation or proceeding pertaining to a criminal sexual offense, by any person, except a judge, state's attorney, assistant state's attorney, psychologist, psychiatrist, social worker, doctor, parent, parole agent, probation officer, defendant or defendant's attorney in any criminal proceeding or investigation related thereto, shall be restricted to exclude the identity of any child who is a victim of such criminal sexual offense or alleged criminal sexual offense. A court may for the child's protection and for good cause shown, prohibit any person or agency present in court from further disclosing the child's identity.

When a criminal sexual offense is committed or alleged to have been committed by a school district employee or any individual contractually employed by a school district, a copy of the criminal history record information relating to the investigation of the offense or alleged offense shall be transmitted to the superintendent of schools of the district immediately upon request or if the law enforcement agency knows that a school district employee or any individual contractually employed by a school district has committed or is alleged to have committed a criminal sexual offense, the superintendent of schools of the district shall be immediately provided a copy of the criminal history record information. The superintendent shall be restricted from specifically revealing the name of the victim without written consent of the victim or victim's parent or guardian.

A court may prohibit such disclosure only after giving notice and a hearing to all affected parties. In determining whether to prohibit disclosure of the minor's identity the court shall consider:

(a) the best interest of the child; and

(b) whether such nondisclosure would further a compelling State interest.

For the purposes of this Act, “criminal history record information” means:

(i) chronologically maintained arrest information, such as traditional arrest logs or blotters;

(ii) the name of a person in the custody of a law enforcement agency and the charges for which that person is being held;

(iii) court records that are public;

(iv) records that are otherwise available under State or local law; or

(v) records in which the requesting party is the individual identified, except as provided under part (vii) of paragraph (c) of subsection (1) of Section 7 of the Freedom of Information Act.

J. Sex Offense Victim Polygraph Act

725 ILCS 200/0.01

1. Lie Detector Tests

725 ILCS 200/1

(a) No law enforcement officer, State's Attorney or other official shall ask or require an alleged victim of an offense described in Sections 11-1.20 through 11-1.60 or 12-13 through 12-16 of the Criminal Code of 1961, as amended, to submit to a polygraph examination or any form of a mechanical or electrical lie detector test.

(b) A victim's refusal to submit to a polygraph or any form of a mechanical or electrical lie detector test shall not mitigate against the investigation, charging or prosecution of the pending case as originally charged.

K. Sexual Assault Evidence Submission Act

725 ILCS 202/1

1. Definitions

725 ILCS 202/5

“Department” means the Department of State Police or Illinois State Police.

“Law enforcement agencies” means local, county, State or federal law enforcement agencies involved in the investigation of sexual assault cases in Illinois.

"Sexual assault evidence" means evidence collected in connection with a sexual assault investigation, including, but not limited to, evidence collected using the State Police Evidence Collection Kits.

2. Submission of Evidence

725 ILCS 202/10

Law enforcement agencies that receive sexual assault evidence in connection with the investigation of a criminal case on or after the effective date of this Act must submit evidence from the case within 10 business days of receipt to a Department of State Police forensic laboratory or a laboratory approved and designated by the Director of State Police. Sexual assault evidence received by a law enforcement agency within 30 days prior to the effective date of this Act shall be submitted pursuant to this Section.

3. Analysis of Evidence

725 ILCS 202/15

All sexual assault evidence submitted pursuant to Section 10 of this Act on or after the effective date of this Act shall be analyzed within 6 months after receipt of all necessary evidence and standards by the State Police Laboratory or other designated laboratory if sufficient staffing and resources are available.

4. Inventory of Evidence

725 ILCS 202/20

By October 15, 2010, each Illinois law enforcement agency shall provide written notice to the Department of State Police, in a form and manner prescribed by the Department, stating the number of sexual assault cases in the custody of the law enforcement agency that have not been previously submitted to a laboratory for analysis. Within 180 days after the effective date of this Act, appropriate arrangements shall be made between the law enforcement agency and the Department of State Police, or a laboratory approved and designated by the Director of State Police, to ensure that all cases that were collected prior to the effective date of this Act and are, or were at the time of collection, the subject of a criminal investigation, are submitted to the Department of State Police, or a laboratory approved and designated by the Director of State Police. By February 15, 2011, the Department of State Police shall submit to the Governor, the Attorney General, and both houses of the General Assembly a plan for analyzing cases submitted pursuant to this Section. The plan shall include but not be limited to a timeline for completion of analysis and a summary of the inventory received, as well as requests for funding and resources necessary to meet the established timeline. Should the Department determine it is necessary to outsource the forensic testing of the cases submitted in accordance with this Section, all such

cases will be exempt from the provisions of subsection (n) of Section 5-4-3 of the Unified Code of Corrections.

5. Failure of a Law Enforcement Agency to Submit the Sexual Assault Evidence

725 ILCS 202/25

The failure of a law enforcement agency to submit the sexual assault evidence collected on or after the effective date of this Act within 10 business days after receipt shall in no way alter the authority of the law enforcement agency to submit the evidence or the authority of the Department of State Police forensic laboratory or designated laboratory to accept and analyze the evidence or specimen or to maintain or upload the results of genetic marker grouping analysis information into a local, State, or national database in accordance with established protocol.

6. Required Certification

725 ILCS 202/30

Each submission of sexual assault evidence submitted for analysis pursuant to this Act shall be accompanied by the following signed certification:

“This evidence is being submitted by (name of investigating law enforcement agency) in connection with a prior or current criminal investigation.”

7. Expungement

725 ILCS 202/35

If the Department receives written confirmation from the investigating law enforcement agency or State's Attorney's office that a DNA record that has been uploaded pursuant to this Act into a local, State or national DNA database was not connected to a criminal investigation, the DNA record shall be expunged from the DNA database and the Department shall, by rule, prescribe procedures to ensure that written confirmation is sent to the submitting law enforcement agency verifying the expungement.

8. Failure to Expunge

725 ILCS 202/40

The failure to expunge a DNA record or strictly comply with the provisions of Section 35 of this Act shall not be grounds for challenging the validity of a database match or database information, and evidence based upon or derived from the DNA record may not be excluded by a court.

9. Rules

725 ILCS 202/45

The Department of State Police shall promulgate rules that prescribe the procedures for the operation of this Act, including expunging a DNA record.

L. Confidentiality of Statements Made to Rape Crisis Personnel

735 ILCS 5/8-802.1

(a) Purpose. This Section is intended to protect victims of rape from public disclosure of statements they make in confidence to counselors of organizations established to help them. On or after July 1, 1984, "rape" means an act of forced sexual penetration or sexual conduct, as defined in Section 11-0.1 of the Criminal Code of 1961, as amended, including acts prohibited under Sections 11-1.20 through 11-1.60 or 12-13 through 12-16 of the Criminal Code of 1961, as amended. Because of the fear and stigma that often results from those crimes, many victims hesitate to seek help even where it is available at no cost to them. As a result they not only fail to receive needed medical care and emergency counseling, but may lack the psychological support necessary to report the crime and aid police in preventing future crimes.

(b) Definitions. As used in this Act:

(1) "Rape crisis organization" means any organization or association the major purpose of which is providing information, counseling, and psychological support to victims of any or all of the crimes of aggravated criminal sexual assault, predatory criminal sexual assault of a child, criminal sexual assault, sexual relations between siblings, criminal sexual abuse and aggravated criminal sexual abuse.

(2) "Rape crisis counselor" means a person who is a psychologist, social worker, employee, or volunteer in any organization or association defined as a rape crisis organization under this Section, who has undergone 40 hours of training and is under the control of a direct services supervisor of a rape crisis organization.

(3) "Victim" means a person who is the subject of, or who seeks information, counseling, or advocacy services as a result of an aggravated criminal sexual assault, predatory criminal sexual assault of a child, criminal sexual assault, sexual relations within families, criminal sexual abuse, aggravated criminal sexual abuse, sexual exploitation of a child, indecent solicitation of a child, public indecency, exploitation of a child, promoting juvenile prostitution as described in subdivision (a)(4) of Section 11-14.4,or an attempt to commit any of these offenses.

(4) “Confidential communication” means any communication between a victim and a rape crisis counselor in the course of providing information, counseling, and advocacy. The term includes all records kept by the counselor or by the organization in the course of providing services to an alleged victim concerning the alleged victim and the services provided.

(c) Waiver of privilege.

(1) The confidential nature of the communication is not waived by: the presence of a third person who further expresses the interests of the victim at the time of the communication; group counseling; or disclosure to a third person with the consent of the victim when reasonably necessary to accomplish the purpose for which the counselor is consulted.

(2) The confidential nature of counseling records is not waived when: the victim inspects the records; or in the case of a minor child less than 12 years of age, a parent or guardian whose interests are not adverse to the minor inspects the records; or in the case of a minor victim 12 years or older, a parent or guardian whose interests are not adverse to the minor inspects the records with the victim's consent, or in the case of an adult who has a guardian of his or her person, the guardian inspects the records with the victim's consent.

(3) When a victim is deceased, the executor or administrator of the victim's estate may waive the privilege established by this Section, unless the executor or administrator has an interest adverse to the victim.

(4) A minor victim 12 years of age or older may knowingly waive the privilege established in this Section. When a minor is, in the opinion of the Court, incapable of knowingly waiving the privilege, the parent or guardian of the minor may waive the privilege on behalf of the minor, unless the parent or guardian has been charged with a violent crime against the victim or otherwise has any interest adverse to that of the minor with respect to the waiver of the privilege.

(5) An adult victim who has a guardian of his or her person may knowingly waive the privilege established in this Section. When the victim is, in the opinion of the court, incapable of knowingly waiving the privilege, the guardian of the adult victim may waive the privilege on behalf of the victim, unless the guardian has been charged with a violent crime against the victim or otherwise has any interest adverse to the victim with respect to the privilege.

(d) Confidentiality. Except as provided in this Act, no rape crisis counselor shall disclose any confidential communication or be examined as a witness in any civil

or criminal proceeding as to any confidential communication without the written consent of the victim or a representative of the victim as provided in subparagraph (c).

(e) A rape crisis counselor may disclose a confidential communication without the consent of the victim if failure to disclose is likely to result in a clear, imminent risk of serious physical injury or death of the victim or another person. Any rape crisis counselor or rape crisis organization participating in good faith in the disclosing of records and communications under this Act shall have immunity from any liability, civil, criminal, or otherwise that might result from the action. In any proceeding, civil or criminal, arising out of a disclosure under this Section, the good faith of any rape crisis counselor or rape crisis organization who disclosed the confidential communication shall be presumed.

(f) Any rape crisis counselor who knowingly discloses any confidential communication in violation of this Act commits a Class C misdemeanor.

M. Crime Victims Compensation Act

740 ILCS 45/1

1. Definitions

740 ILCS 45/2

As used in this Act, unless the context otherwise requires:

(a) “Applicant” means any person who applies for compensation under this Act or any person the Court of Claims finds is entitled to compensation, including the guardian of a minor or of a person under legal disability. It includes any person who was a dependent of a deceased victim of a crime of violence for his or her support at the time of the death of that victim.

(b) “Court of Claims” means the Court of Claims created by the Court of Claims Act.

(c) "Crime of violence" means and includes any offense defined in Sections 9- 1, 9-2, 9-3, 10-1, 10-2, 11-1.20, 11-1.30, 11-1.40, 11-1.50, 11-1.60, 11-11, 11-19.2, 11-20.1, 11-20.1B, 11-20.3, 12-1, 12-2, 12-3, 12-3.2, 12-3.3, 12-4, 12-4.1, 12-4.2, 12-4.3, 12-5, 12-7.1, 12-7.3, 12-7.4, 12-13, 12-14, 12-14.1, 12-15, 12-16, 12-20.5, 12-30, 20-1 or 20-1.1, or subdivision (a)(4) of Section 11-14.4, of the Criminal Code of 1961, Sections 1(a) and 1(a-5) of the Cemetery Protection Act, driving under the influence of intoxicating liquor or narcotic drugs as defined in Section 11-501 of the Illinois Vehicle Code, and a violation of Section 11-401 of the Illinois Vehicle Code, provided the victim was a pedestrian or was operating a vehicle moved solely by human power or a mobility device at the time of

contact; so long as the offense did not occur during a civil riot, insurrection or rebellion. "Crime of violence" does not include any other offense or accident involving a motor vehicle except those vehicle offenses specifically provided for in this paragraph. "Crime of violence" does include all of the offenses specifically provided for in this paragraph that occur within this State but are subject to federal jurisdiction and crimes involving terrorism as defined in 18 U.S.C. 2331.

(d) “Victim” means (1) a person killed or injured in this State as a result of a crime of violence perpetrated or attempted against him or her, (2) the parent of a person killed or injured in this State as a result of a crime of violence perpetrated or attempted against the person, (3) a person killed or injured in this State while attempting to assist a person against whom a crime of violence is being perpetrated or attempted, if that attempt of assistance would be expected of a reasonable person under the circumstances, (4) a person killed or injured in this State while assisting a law enforcement official apprehend a person who has perpetrated a crime of violence or prevent the perpetration of any such crime if that assistance was in response to the express request of the law enforcement official, (5) a person who personally witnessed a violent crime, (5.1) solely for the purpose of compensating for pecuniary loss incurred for psychological treatment of a mental or emotional condition caused or aggravated by the crime, any other person under the age of 18 who is the brother, sister, half brother, half sister, child, or stepchild of a person killed or injured in this State as a result of a crime of violence, or (6) an Illinois resident who is a victim of a “crime of violence” as defined in this Act except, if the crime occurred outside this State, the resident has the same rights under this Act as if the crime had occurred in this State upon a showing that the state, territory, country, or political subdivision of a country in which the crime occurred does not have a compensation of victims of crimes law for which that Illinois resident is eligible, (7) a deceased person whose body is dismembered or whose remains are desecrated as the result of a crime of violence, or (8) solely for the purpose of compensating for pecuniary loss incurred for psychological treatment of a mental or emotional condition caused or aggravated by the crime, any parent, spouse, or child under the age of 18 of a deceased person whose body is dismembered or whose remains are desecrated as the result of a crime of violence.

(e) “Dependent” means a relative of a deceased victim who was wholly or partially dependent upon the victim's income at the time of his or her death and shall include the child of a victim born after his or her death.

(f) “Relative” means a spouse, parent, grandparent, stepfather, stepmother, child, grandchild, brother, brother-in-law, sister, sister-in-law, half brother, half sister, spouse's parent, nephew, niece, uncle or aunt.

(g) “Child” means an unmarried son or daughter who is under 18 years of age and includes a stepchild, an adopted child or a child born out of wedlock.

(h) “Pecuniary loss” means, in the case of injury, appropriate medical expenses and hospital expenses including expenses of medical examinations, rehabilitation, medically required nursing care expenses, appropriate psychiatric care or psychiatric counseling expenses, expenses for care or counseling by a licensed clinical psychologist, licensed clinical social worker, or licensed clinical professional counselor and expenses for treatment by Christian Science practitioners and nursing care appropriate thereto; transportation expenses to and from medical and treatment facilities; prosthetic appliances, eyeglasses, and hearing aids necessary or damaged as a result of the crime; replacement costs for clothing and bedding used as evidence; costs associated with temporary lodging or relocation necessary as a result of the crime, including, but not limited to, the first month's rent and security deposit of the dwelling that the claimant relocated to and other reasonable relocation expenses incurred as a result of the violent crime; locks or windows necessary or damaged as a result of the crime; the purchase, lease, or rental of equipment necessary to create usability of and accessibility to the victim's real and personal property, or the real and personal property which is used by the victim, necessary as a result of the crime; the costs of appropriate crime scene clean-up; replacement services loss, to a maximum of $1000 per month; dependents replacement services loss, to a maximum of $1000 per month; loss of tuition paid to attend grammar school or high school when the victim had been enrolled as a student prior to the injury, or college or graduate school when the victim had been enrolled as a day or night student prior to the injury when the victim becomes unable to continue attendance at school as a result of the crime of violence perpetrated against him or her; loss of earnings, loss of future earnings because of disability resulting from the injury, and, in addition, in the case of death, expenses for funeral, burial, and travel and transport for survivors of homicide victims to secure bodies of deceased victims and to transport bodies for burial all of which may not exceed a maximum of $5,000 and loss of support of the dependents of the victim; in the case of dismemberment or desecration of a body, expenses for funeral and burial, all of which may not exceed a maximum of $5,000. Loss of future earnings shall be reduced by any income from substitute work actually performed by the victim or by income he or she would have earned in available appropriate substitute work he or she was capable of performing but unreasonably failed to undertake. Loss of earnings, loss of future earnings and loss of support shall be determined on the basis of the victim's average net monthly earnings for the 6 months immediately preceding the date of the injury or on $1000 per month, whichever is less. If a divorced or legally separated applicant is claiming loss of support for a minor child of the deceased, the amount of support for each child shall be based either on the amount of support pursuant to the judgment prior to

the date of the deceased victim's injury or death, or, if the subject of pending litigation filed by or on behalf of the divorced or legally separated applicant prior to the injury or death, on the result of that litigation. Real and personal property includes, but is not limited to, vehicles, houses, apartments, town houses, or condominiums. Pecuniary loss does not include pain and suffering or property loss or damage.

(i) "Replacement services loss" means expenses reasonably incurred in obtaining ordinary and necessary services in lieu of those the injured person would have performed, not for income, but for the benefit of himself or herself or his or her family, if he or she had not been injured.

(j) "Dependents replacement services loss" means loss reasonably incurred by dependents or private legal guardians of minor dependents after a victim's death in obtaining ordinary and necessary services in lieu of those the victim would have performed, not for income, but for their benefit, if he or she had not been fatally injured.

(k) "Survivor" means immediate family including a parent, step-father, step-mother, child, brother, sister, or spouse.

2. Right to Compensation – Conditions – Time for Filing

740 ILCS 45/6.1

A person is entitled to compensation under this Act if:

(a) Within 2 years of the occurrence of the crime, or within one year after a criminal indictment of a person for an offense, upon which the claim is based, he files an application, under oath, with the Court of Claims and on a form prescribed in accordance with Section 7.1 furnished by the Attorney General. If the person entitled to compensation is under 18 years of age or under other legal disability at the time of the occurrence or becomes legally disabled as a result of the occurrence, he may file the application required by this subsection within 2 years after he attains the age of 18 years or the disability is removed, as the case may be. Legal disability includes a diagnosis of posttraumatic stress disorder.

(b) For all crimes of violence, except those listed in subsection (b-1) of this Section, the appropriate law enforcement officials were notified within 72 hours of the perpetration of the crime allegedly causing the death or injury to the victim or, in the event such notification was made more than 72 hours after the perpetration of the crime, the applicant establishes that such notice was timely under the circumstances.

(b-1) For victims of offenses defined in Sections 11-1.20, 11-1.30, 11-1.40, 11-1.50, 11-1.60, 12-13, 12-14, 12-14.1, 12-15, and 12-16 of the Criminal

Code of 1961, the appropriate law enforcement officials were notified within 7 days of the perpetration of the crime allegedly causing death or injury to the victim or, in the event that the notification was made more than 7 days after the perpetration of the crime, the applicant establishes that the notice was timely under the circumstances. If the applicant has obtained an order of protection or a civil no contact order or has presented himself or herself to a hospital for sexual assault evidence collection and medical care, such action shall constitute appropriate notification under this subsection (b-1) or subsection (b) of this Section.

(c) The applicant has cooperated with law enforcement officials in the apprehension and prosecution of the assailant. If the applicant has obtained an order of protection or a civil no contact order or has presented himself or herself to a hospital for sexual assault evidence collection and medical care, such action shall constitute cooperation under this subsection (c).

(d) The applicant is not the offender or an accomplice of the offender and the award would not unjustly benefit the offender or his accomplice.

(e) The injury to or death of the victim was not substantially attributable to his own wrongful act and was not substantially provoked by the victim.

3. Amount of Compensation – Factors

740 ILCS 45/10.1

The amount of compensation to which an applicant and other persons are entitled shall be based on the following factors:

(a) A victim may be compensated for his or her pecuniary loss.

(b) A dependent may be compensated for loss of support.

(c) Any person, even though not dependent upon the victim for his or her support, may be compensated for reasonable funeral, medical and hospital expenses of the victim to the extent to which he or she has paid or become obligated to pay such expenses and only after compensation for reasonable funeral, medical and hospital expenses of the victim have been awarded may compensation be made for reasonable expenses of the victim incurred for psychological treatment of a mental or emotional condition caused or aggravated by the crime.

(d) An award shall be reduced or denied according to the extent to which the victim's acts or conduct provoked or contributed to his or her injury or death, or the extent to which any prior criminal conviction or conduct of

the victim may have directly or indirectly contributed to the injury or death of the victim.

(e) An award shall be reduced by the amount of benefits, payments or awards payable under those sources which are required to be listed under item (7) of Section 7.1(a) and any other sources except annuities, pension plans, Federal Social Security payments payable to dependents of the victim and the net proceeds of the first $25,000 of life insurance that would inure to the benefit of the applicant, which the applicant or any other person dependent for the support of a deceased victim, as the case may be, has received or to which he or she is entitled as a result of injury to or death of the victim.

(f) A final award shall not exceed $10,000 for a crime committed prior to September 22, 1979, $15,000 for a crime committed on or after September 22, 1979 and prior to January 1, 1986, $25,000 for a crime committed on or after January 1, 1986 and prior to August 7, 1998, or $27,000 for a crime committed on or after August 7, 1998. If the total pecuniary loss is greater than the maximum amount allowed, the award shall be divided in proportion to the amount of actual loss among those entitled to compensation.

(g) Compensation under this Act is a secondary source of compensation and the applicant must show that he or she has exhausted the benefits reasonably available under the Criminal Victims' Escrow Account Act or any governmental or medical or health insurance programs, including but not limited to Workers' Compensation, the Federal Medicare program, the State Public Aid program, Social Security Administration burial benefits, Veterans Administration burial benefits, and life, health, accident or liability insurance.

IV. Selected Pre-Trial and Trial Statutes

A. Sealing Record in Sex Crimes Case

20 ILCS 2630/5.2

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(b)(5) Whenever a person has been convicted of criminal sexual assault, aggravated criminal sexual assault, predatory criminal sexual assault of a child, criminal sexual abuse, or aggravated criminal sexual abuse, the victim of that offense may request that the State's Attorney of the county in which the conviction occurred file a verified petition with the presiding trial judge at the petitioner's trial to have a court order entered to seal the records of the circuit court clerk in connection with the proceedings of the trial court concerning that offense. However, the records of the arresting authority and the Department of State Police concerning the offense shall not be sealed. The court, upon good cause shown, shall make the records of the circuit court clerk in connection with the proceedings of the trial court concerning the offense available for public inspection.

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B. Testimony by a Victim Who Is A Child or A Moderately, Severely, or Profoundly Mentally Retarded Person or A Person Affected by A Developmental Disability (Closed Circuit Testimony)

725 ILCS 5/106B-5

(a) In a proceeding in the prosecution of an offense of criminal sexual assault, predatory criminal sexual assault of a child, aggravated criminal sexual assault, criminal sexual abuse, or aggravated criminal sexual abuse, a court may order that the testimony of a victim who is a child under the age of 18 years or a moderately, severely, or profoundly mentally retarded person or a person affected by a developmental disability be taken outside the courtroom and shown in the courtroom by means of a closed circuit television if:

(1) the testimony is taken during the proceeding; and

(2) the judge determines that testimony by the child victim or moderately, severely, or profoundly mentally retarded victim or victim affected by a developmental disability in the courtroom will result in the child or moderately, severely, or profoundly mentally retarded person or person affected by a developmental disability suffering serious emotional distress such that the child or moderately, severely, or profoundly mentally

retarded person or person affected by a developmental disability cannot reasonably communicate or that the child or moderately, severely, or profoundly mentally retarded person or person affected by a developmental disability will suffer severe emotional distress that is likely to cause the child or moderately, severely, or profoundly mentally retarded person or person affected by a developmental disability to suffer severe adverse effects.

(b) Only the prosecuting attorney, the attorney for the defendant, and the judge may question the child or moderately, severely, or profoundly mentally retarded person or person affected by a developmental disability.

(c) The operators of the closed circuit television shall make every effort to be unobtrusive.

(d) Only the following persons may be in the room with the child or moderately, severely, or profoundly mentally retarded person or person affected by a developmental disability when the child or moderately, severely, or profoundly mentally retarded person or person affected by a developmental disability testifies by closed circuit television:

(1) the prosecuting attorney;

(2) the attorney for the defendant;

(3) the judge;

(4) the operators of the closed circuit television equipment; and

(5) any person or persons whose presence, in the opinion of the court, contributes to the well-being of the child or moderately, severely, or profoundly mentally retarded person or person affected by a developmental disability, including a person who has dealt with the child in a therapeutic setting concerning the abuse, a parent or guardian of the child or moderately, severely, or profoundly mentally retarded person or person affected by a developmental disability, and court security personnel.

(e) During the child's or moderately, severely, or profoundly mentally retarded person's or person affected by a developmental disability's testimony by closed circuit television, the defendant shall be in the courtroom and shall not communicate with the jury if the cause is being heard before a jury.

(f) The defendant shall be allowed to communicate with the persons in the room where the child or moderately, severely, or profoundly mentally retarded person

or person affected by a developmental disability is testifying by any appropriate electronic method.

(g) The provisions of this Section do not apply if the defendant represents himself pro se.

(h) This Section may not be interpreted to preclude, for purposes of identification of a defendant, the presence of both the victim and the defendant in the courtroom at the same time.

(i) This Section applies to prosecutions pending on or commenced on or after the effective date of this amendatory Act of 1994.

(j) For the purposes of this Section, “developmental disability” includes, but is not limited to, cerebral palsy, epilepsy, and autism.

C. Bailable Offenses

725 ILCS 5/110-4

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(b) A person seeking release on bail who is charged with a capital offense or an offense for which a sentence of life imprisonment may be imposed shall not be bailable until a hearing is held wherein such person has the burden of demonstrating that the proof of his guilt is not evident and the presumption is not great.

(c) Where it is alleged that bail should be denied to a person upon the grounds that the person presents a real and present threat to the physical safety of any person or persons, the burden of proof of such allegations shall be upon the State.

(d) When it is alleged that bail should be denied to a person charged with stalking or aggravated stalking upon the grounds set forth in Section 110-6.3 of this Code, the burden of proof of those allegations shall be upon the State.

D. Bail, Certain Persons Charged with Violent Crimes Against Family or Household Members

725 ILCS 5/110-5.1

(a) Subject to subsection (c), a person who is charged with a violent crime shall appear before the court for the setting of bail if the alleged victim was a family or household member at the time of the alleged offense, and if any of the following applies:

(1) the person charged, at the time of the alleged offense, was subject to the terms of an order of protection issued under Section 112A-14 of this Code or Section 214 of the Illinois Domestic Violence Act of 1986 or previously was convicted of a violation of an order of protection under Section 12-3.4 or 12-30 of the Criminal Code of 1961 or a violent crime if the victim was a family or household member at the time of the offense or a violation of a substantially similar municipal ordinance or law of this or any other state or the United States if the victim was a family or household member at the time of the offense;

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E. Denial of Bail in Nonprobationable Felony Offenses

725 ILCS 5/110-6.1

(a) Upon verified petition by the State, the court shall hold a hearing to determine whether bail should be denied to a defendant who is charged with a felony offense for which a sentence of imprisonment, without probation, periodic imprisonment or conditional discharge, is required by law upon conviction, when it is alleged that the defendant's admission to bail poses a real and present threat to the physical safety of any person or persons.

(1) A petition may be filed without prior notice to the defendant at the first appearance before a judge, or within the 21 calendar days, except as provided in Section 110-6, after arrest and release of the defendant upon reasonable notice to defendant; provided that while such petition is pending before the court, the defendant if previously released shall not be detained.

(2) The hearing shall be held immediately upon the defendant's appearance before the court, unless for good cause shown the defendant or the State seeks a continuance. A continuance on motion of the defendant may not exceed 5 calendar days, and a continuance on the motion of the State may not exceed 3 calendar days. The defendant may be held in custody during such continuance.

(b) The court may deny bail to the defendant where, after the hearing, it is determined that:

(1) the proof is evident or the presumption great that the defendant has committed an offense for which a sentence of imprisonment, without probation, periodic imprisonment or conditional discharge, must be imposed by law as a consequence of conviction, and

(2) the defendant poses a real and present threat to the physical safety of any person or persons, by conduct which may include, but is not limited to, a

forcible felony, the obstruction of justice, intimidation, injury, physical harm, an offense under the Illinois Controlled Substances Act which is a Class X felony, or an offense under the Methamphetamine Control and Community Protection Act which is a Class X felony, and

(3) the court finds that no condition or combination of conditions set forth in subsection (b) of Section 110-10 of this Article, can reasonably assure the physical safety of any other person or persons.

(c) Conduct of the hearings.

(1) The hearing on the defendant's culpability and dangerousness shall be conducted in accordance with the following provisions:

(A) Information used by the court in its findings or stated in or offered at such hearing may be by way of proffer based upon reliable information offered by the State or by defendant. Defendant has the right to be represented by counsel, and if he is indigent, to have counsel appointed for him. Defendant shall have the opportunity to testify, to present witnesses in his own behalf, and to cross-examine witnesses if any are called by the State. The defendant has the right to present witnesses in his favor. When the ends of justice so require, the court may exercises its discretion and compel the appearance of a complaining witness. The court shall state on the record reasons for granting a defense request to compel the presence of a complaining witness. Cross-examination of a complaining witness at the pretrial detention hearing for the purpose of impeaching the witness' credibility is insufficient reason to compel the presence of the witness. In deciding whether to compel the appearance of a complaining witness, the court shall be considerate of the emotional and physical well-being of the witness. The pre-trial detention hearing is not to be used for purposes of discovery, and the post arraignment rules of discovery do not apply. The State shall tender to the defendant, prior to the hearing, copies of defendant's criminal history, if any, if available, and any written or recorded statements and the substance of any oral statements made by any person, if relied upon by the State in its petition. The rules concerning the admissibility of evidence in criminal trials do not apply to the presentation and consideration of information at the hearing. At the trial concerning the offense for which the hearing was conducted neither the finding of the court nor any transcript or other record of the hearing shall be admissible in the State's case in chief, but shall be admissible for impeachment, or as provided in Section 115-10.1 of this Code, or in a perjury proceeding.

(B) A motion by the defendant to suppress evidence or to suppress a confession shall not be entertained. Evidence that proof may have been obtained as the result of an unlawful search and seizure or through improper interrogation is not relevant to this state of the prosecution.

(2) The facts relied upon by the court to support a finding that the defendant poses a real and present threat to the physical safety of any person or persons shall be supported by clear and convincing evidence presented by the State.

(d) Factors to be considered in making a determination of dangerousness. The court may, in determining whether the defendant poses a real and present threat to the physical safety of any person or persons, consider but shall not be limited to evidence or testimony concerning:

(1) The nature and circumstances of any offense charged, including whether the offense is a crime of violence, involving a weapon.

(2) The history and characteristics of the defendant including:

(A) Any evidence of the defendant's prior criminal history indicative of violent, abusive or assaultive behavior, or lack of such behavior. Such evidence may include testimony or documents received in juvenile proceedings, criminal, quasi-criminal, civil commitment, domestic relations or other proceedings.

(B) Any evidence of the defendant's psychological, psychiatric or other similar social history which tends to indicate a violent, abusive, or assaultive nature, or lack of any such history.

(3) The identity of any person or persons to whose safety the defendant is believed to pose a threat, and the nature of the threat;

(4) Any statements made by, or attributed to the defendant, together with the circumstances surrounding them;

(5) The age and physical condition of any person assaulted by the defendant;

(6) Whether the defendant is known to possess or have access to any weapon or weapons;

(7) Whether, at the time of the current offense or any other offense or arrest, the defendant was on probation, parole, mandatory supervised release or other release from custody pending trial, sentencing, appeal or completion of sentence for an offense under federal or state law;

(8) Any other factors, including those listed in Section 110-5 of this Article deemed by the court to have a reasonable bearing upon the defendant's propensity or reputation for violent, abusive or assaultive behavior, or lack of such behavior.

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F. Denial of Bail in Stalking and Aggravated Stalking Offenses

725 ILCS 5/110-6.3

(a) Upon verified petition by the State, the court shall hold a hearing to determine whether bail should be denied to a defendant who is charged with stalking or aggravated stalking, when it is alleged that the defendant's admission to bail poses a real and present threat to the physical safety of the alleged victim of the offense, and denial of release on bail or personal recognizance is necessary to prevent fulfillment of the threat upon which the charge is based.

(1) A petition may be filed without prior notice to the defendant at the first appearance before a judge, or within 21 calendar days, except as provided in Section 110-6, after arrest and release of the defendant upon reasonable notice to defendant; provided that while the petition is pending before the court, the defendant if previously released shall not be detained.

(2) The hearing shall be held immediately upon the defendant's appearance before the court, unless for good cause shown the defendant or the State seeks a continuance. A continuance on motion of the defendant may not exceed 5 calendar days, and the defendant may be held in custody during the continuance. A continuance on the motion of the State may not exceed 3 calendar days; however, the defendant may be held in custody during the continuance under this provision if the defendant has been previously found to have violated an order of protection or has been previously convicted of, or granted court supervision for, any of the offenses set forth in Sections 12-2, 12-3.05, 12-3.2, 12-3.3, 12-4, 12-4.1, 12-7.3, 12-7.4, 12-13, 12-14, 12-14.1, 12-15 or 12-16 of the Criminal Code of 1961, against the same person as the alleged victim of the stalking or aggravated stalking offense.

(b) The court may deny bail to the defendant when, after the hearing, it is determined that:

(1) the proof is evident or the presumption great that the defendant has committed the offense of stalking or aggravated stalking; and

(2) the defendant poses a real and present threat to the physical safety of the alleged victim of the offense; and

(3) the denial of release on bail or personal recognizance is necessary to prevent fulfillment of the threat upon which the charge is based; and

(4) the court finds that no condition or combination of conditions set forth in subsection (b) of Section 110-10 of this Code, including mental health treatment at a community mental health center, hospital, or facility of the Department of Human Services, can reasonably assure the physical safety of the alleged victim of the offense.

(c) Conduct of the hearings.

(1) The hearing on the defendant's culpability and threat to the alleged victim of the offense shall be conducted in accordance with the following provisions:

(A) Information used by the court in its findings or stated in or offered at the hearing may be by way of proffer based upon reliable information offered by the State or by defendant. Defendant has the right to be represented by counsel, and if he is indigent, to have counsel appointed for him. Defendant shall have the opportunity to testify, to present witnesses in his own behalf, and to cross-examine witnesses if any are called by the State. The defendant has the right to present witnesses in his favor. When the ends of justice so require, the court may exercise its discretion and compel the appearance of a complaining witness. The court shall state on the record reasons for granting a defense request to compel the presence of a complaining witness. Cross-examination of a complaining witness at the pretrial detention hearing for the purpose of impeaching the witness' credibility is insufficient reason to compel the presence of the witness. In deciding whether to compel the appearance of a complaining witness, the court shall be considerate of the emotional and physical well-being of the witness. The pretrial detention hearing is not to be used for the purposes of discovery, and the post arraignment rules of discovery do not apply. The State shall tender to the defendant, prior to the hearing, copies of defendant's criminal history, if any, if available, and any written or recorded statements and the substance of any oral statements made by any person, if relied upon by the State. The rules concerning the admissibility of evidence in criminal trials do not apply to the presentation and consideration of information at the hearing. At the trial concerning the offense for which the hearing was conducted neither the finding of the court nor any transcript or other record of the hearing shall be admissible

in the State's case in chief, but shall be admissible for impeachment, or as provided in Section 115-10.1 of this Code, or in a perjury proceeding.

(B) A motion by the defendant to suppress evidence or to suppress a confession shall not be entertained. Evidence that proof may have been obtained as the result of an unlawful search and seizure or through improper interrogation is not relevant to this state of the prosecution.

(2) The facts relied upon by the court to support a finding that:

(A) the defendant poses a real and present threat to the physical safety of the alleged victim of the offense; and

(B) the denial of release on bail or personal recognizance is necessary to prevent fulfillment of the threat upon which the charge is based;

shall be supported by clear and convincing evidence presented by the State.

(d) Factors to be considered in making a determination of the threat to the alleged victim of the offense. The court may, in determining whether the defendant poses, at the time of the hearing, a real and present threat to the physical safety of the alleged victim of the offense, consider but shall not be limited to evidence or testimony concerning:

(1) The nature and circumstances of the offense charged;

(2) The history and characteristics of the defendant including:

(A) Any evidence of the defendant's prior criminal history indicative of violent, abusive or assaultive behavior, or lack of that behavior. The evidence may include testimony or documents received in juvenile proceedings, criminal, quasi-criminal, civil commitment, domestic relations or other proceedings;

(B) Any evidence of the defendant's psychological, psychiatric or other similar social history that tends to indicate a violent, abusive, or assaultive nature, or lack of any such history.

(3) The nature of the threat which is the basis of the charge against the defendant;

(4) Any statements made by, or attributed to the defendant, together with the circumstances surrounding them;

(5) The age and physical condition of any person assaulted by the defendant;

(6) Whether the defendant is known to possess or have access to any weapon or weapons;

(7) Whether, at the time of the current offense or any other offense or arrest, the defendant was on probation, parole, mandatory supervised release or other release from custody pending trial, sentencing, appeal or completion of sentence for an offense under federal or state law;

(8) Any other factors, including those listed in Section 110-5 of this Code, deemed by the court to have a reasonable bearing upon the defendant's propensity or reputation for violent, abusive or assaultive behavior, or lack of that behavior.

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G. Conditions of Bail Bond

725 ILCS 5/110-10

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(c) When a person is charged with an offense under Section 11-1.20, 11-1.30, 11-1.40, 11-1.50, 11-1.60, 12-13, 12-14, 12-14.1, 12-15 or 12-16 of the "Criminal Code of 1961", involving a victim who is a minor under 18 years of age living in the same household with the defendant at the time of the offense, in granting bail or releasing the defendant on his own recognizance, the judge shall impose conditions to restrict the defendant's access to the victim which may include, but are not limited to conditions that he will:

1. Vacate the Household.

2. Make payment of temporary support to his dependents.

3. Refrain from contact or communication with the child victim, except as ordered by the court.

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H. Motion for Continuance

725 ILCS 5/114-4

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(k) In prosecutions for violations of Section 10-1, 10-2, 11-1.20, 11-1.30, 11-1.40, 11-1.50, 11-1.60, 12-13, 12-14, 12-14.1, 12-15 or 12-16 of the "Criminal Code of 1961" involving a victim or witness who is a minor under 18 years of age, the court shall, in ruling on any motion or other request for a delay or continuance of proceedings, consider and give weight to the adverse impact the delay or continuance may have on the well-being of a child or witness.

(l) The court shall consider the age of the victim and the condition of the victim's health when ruling on a motion for a continuance.

I. Motion for Severance

725 ILCS 5/114-8

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(b) In the case of a prosecution of multiple defendants for criminal sexual assault, aggravated criminal sexual assault, predatory criminal sexual assault of a child, criminal sexual abuse, or aggravated criminal sexual abuse arising out of the same course of conduct, the court, in deciding a motion to sever the charges and try the defendants separately, must consider, subject to constitutional limitations, the impact upon the alleged victim of multiple trials requiring the victim's testimony.

J. Prior Sexual Activity or Reputation as Evidence ("Rape Shield")

725 ILCS 5/115-7

(a) In prosecutions for predatory criminal sexual assault of a child, aggravated criminal sexual assault, criminal sexual assault, aggravated criminal sexual abuse, criminal sexual abuse, or criminal transmission of HIV; and in prosecutions for battery and aggravated battery, when the commission of the offense involves sexual penetration or sexual conduct as defined in Section 11-0.1 of the Criminal Code of 1961; and with the trial or retrial of the offenses formerly known as rape, deviate sexual assault, indecent liberties with a child, and aggravated indecent liberties with a child, the prior sexual activity or the reputation of the alleged victim or corroborating witness under Section 115-7.3 of this Code is inadmissible except (1) as evidence concerning the past sexual conduct of the alleged victim or corroborating witness under Section 115-7.3 of this Code with the accused when this evidence is offered by the accused upon the issue of

whether the alleged victim or corroborating witness under Section 115-7.3 of this Code consented to the sexual conduct with respect to which the offense is alleged; or (2) when constitutionally required to be admitted.

(b) No evidence admissible under this Section shall be introduced unless ruled admissible by the trial judge after an offer of proof has been made at a hearing to be held in camera in order to determine whether the defense has evidence to impeach the witness in the event that prior sexual activity with the defendant is denied. Such offer of proof shall include reasonably specific information as to the date, time and place of the past sexual conduct between the alleged victim or corroborating witness under Section 115-7.3 of this Code and the defendant. Unless the court finds that reasonably specific information as to date, time or place, or some combination thereof, has been offered as to prior sexual activity with the defendant, counsel for the defendant shall be ordered to refrain from inquiring into prior sexual activity between the alleged victim or corroborating witness under Section 115-7.3 of this Code and the defendant. The court shall not admit evidence under this Section unless it determines at the hearing that the evidence is relevant and the probative value of the evidence outweighs the danger of unfair prejudice. The evidence shall be admissible at trial to the extent an order made by the court specifies the evidence that may be admitted and areas with respect to which the alleged victim or corroborating witness under Section 115-7.3 of this Code may be examined or cross examined.

K. Prohibition on Court-Ordered Mental Exam of Victim

725 ILCS 5/115-7.1

Court may not order mental examination of sex victim. Except where explicitly authorized by this Code or by the Rules of the Supreme Court of Illinois, no court may require or order a witness who is the victim of an alleged sex offense to submit to or undergo either a psychiatric or psychological examination.

L. Prosecution for Illegal Sexual Act Perpetrated upon a Victim – Admissibility of Evidence – Posttraumatic Stress Syndrome

725 ILCS 5/115-7.2

In a prosecution for an illegal sexual act perpetrated upon a victim, including but not limited to prosecutions for violations of Sections 11-1.20 through 11-1.60 or 12-13 through 12-16 of the Criminal Code of 1961, or ritualized abuse of a child under Section 12-33 of the Criminal Code of 1961, testimony by an expert, qualified by the court relating to any recognized and accepted form of post-traumatic stress syndrome shall be admissible as evidence.

M. Evidence in Certain Cases

725 ILCS 5/115-7.3

(a) This Section applies to criminal cases in which:

(1) the defendant is accused of predatory criminal sexual assault of a child, aggravated criminal sexual assault, criminal sexual assault, aggravated criminal sexual abuse, criminal sexual abuse, child pornography, aggravated child pornography, or criminal transmission of HIV;

(2) the defendant is accused of battery, aggravated battery, first degree murder, or second degree murder when the commission of the offense involves sexual penetration or sexual conduct as defined in Section 12-12 of the Criminal Code of 1961; or

(3) the defendant is tried or retried for any of the offenses formerly known as rape, deviate sexual assault, indecent liberties with a child, or aggravated indecent liberties with a child.

(b) If the defendant is accused of an offense set forth in paragraph (1) or (2) of subsection (a) or the defendant is tried or retried for any of the offenses set forth in paragraph (3) of subsection (a), evidence of the defendant's commission of another offense or offenses set forth in paragraph (1), (2), or (3) of subsection (a), or evidence to rebut that proof or an inference from that proof, may be admissible (if that evidence is otherwise admissible under the rules of evidence) and may be considered for its bearing on any matter to which it is relevant.

(c) In weighing the probative value of the evidence against undue prejudice to the defendant, the court may consider:

(1) the proximity in time to the charged or predicate offense;

(2) the degree of factual similarity to the charged or predicate offense; or

(3) other relevant facts and circumstances.

(d) In a criminal case in which the prosecution intends to offer evidence under this Section, it must disclose the evidence, including statements of witnesses or a summary of the substance of any testimony, at a reasonable time in advance of trial, or during trial if the court excuses pretrial notice on good cause shown.

(e) In a criminal case in which evidence is offered under this Section, proof may be made by specific instances of conduct, testimony as to reputation, or testimony in the form of an expert opinion, except that the prosecution may offer reputation testimony only after the opposing party has offered that testimony.

(f) In prosecutions for a violation of Section 10-2, 12-3.05, 12-4, 12-13, 12-14, 12-14.1, 12-15, 12-16, or 18-5 of the Criminal Code of 1961, involving the involuntary delivery of a controlled substance to a victim, no inference may be made about the fact that a victim did not consent to a test for the presence of controlled substances.

N. Certain Hearsay Exceptions (Child under 13 or Mentally Retarded Person)

725 ILCS 5/115-10

(a) In a prosecution for a physical or sexual act perpetrated upon or against a child under the age of 13, or a person who was a moderately, severely, or profoundly mentally retarded person as defined in this Code and in Section 2-10.1 of the Criminal Code of 1961 at the time the act was committed, including but not limited to prosecutions for violations of Sections 12-13 through 12-16 of the Criminal Code of 1961 and prosecutions for violations of Sections 10-1 (kidnapping), 10-2 (aggravated kidnapping), 10-3 (unlawful restraint), 10-3.1 (aggravated unlawful restraint), 10-4 (forcible detention), 10-5 (child abduction), 10-6 (harboring a runaway), 10-7 (aiding or abetting child abduction), 11-9 (public indecency), 11-11 (sexual relations within families), 11-21 (harmful material), 12-1 (assault), 12-2 (aggravated assault), 12-3 (battery), 12-3.2 (domestic battery), 12-3.3 (aggravated domestic battery), 12-3.05 or12-4 (aggravated battery), 12-4.1 (heinous battery), 12-4.2 (aggravated battery with a firearm), 12-4.3 (aggravated battery of a child), 12-4.7 (drug induced infliction of great bodily harm), 12-5 (reckless conduct), 12-6 (intimidation), 12-6.1 or 12-6.5 (compelling organization membership of persons), 12-7.1 (hate crime), 12-7.3 (stalking), 12-7.4 (aggravated stalking), 12-10 (tattooing body of minor), 12-11 (home invasion), 12-21.5 (child abandonment), 12-21.6 (endangering the life or health of a child) or 12-32 (ritual mutilation) of the Criminal Code of 1961 or any sex offense as defined in subsection (B) of Section 2 of the Sex Offender Registration Act, the following evidence shall be admitted as an exception to the hearsay rule:

(1) testimony by the victim of an out of court statement made by the victim that he or she complained of such act to another; and

(2) testimony of an out of court statement made by the victim describing any complaint of such act or matter or detail pertaining to any act which is an element of an offense which is the subject of a prosecution for a sexual or physical act against that victim.

(b) Such testimony shall only be admitted if:

(1) The court finds in a hearing conducted outside the presence of the jury that the time, content, and circumstances of the statement provide sufficient safeguards of reliability; and

(2) The child or moderately, severely, or profoundly mentally retarded person either:

(A) testifies at the proceeding; or

(B) is unavailable as a witness and there is corroborative evidence of the act which is the subject of the statement; and

(3) In a case involving an offense perpetrated against a child under the age of 13, the out of court statement was made before the victim attained 13 years of age or within 3 months after the commission of the offense, whichever occurs later, but the statement may be admitted regardless of the age of the victim at the time of the proceeding.

(c) If a statement is admitted pursuant to this Section, the court shall instruct the jury that it is for the jury to determine the weight and credibility to be given the statement and that, in making the determination, it shall consider the age and maturity of the child, or the intellectual capabilities of the moderately, severely, or profoundly mentally retarded person, the nature of the statement, the circumstances under which the statement was made, and any other relevant factor.

(d) The proponent of the statement shall give the adverse party reasonable notice of his intention to offer the statement and the particulars of the statement.

(e) Statements described in paragraphs (1) and (2) of subsection (a) shall not be excluded on the basis that they were obtained as a result of interviews conducted pursuant to a protocol adopted by a Child Advocacy Advisory Board as set forth in subsections (c), (d), and (e) of Section 3 of the Children's Advocacy Center Act or that an interviewer or witness to the interview was or is an employee, agent, or investigator of a State's Attorney's office.

O. Prosecution for Sex Offenses – Victims under 18 Years – Persons Excluded from Proceedings

725 ILCS 5/115-11

In a prosecution for a criminal offense defined in Article 11 or in Section 11-1.20, 11-1.30, 11-1.40, 11-1.50, 11-1.60, 12-13, 12-14, 12-14.1, 12-15 or 12-16 of the “Criminal Code of 1961”, where the alleged victim of the offense is a minor under 18 years of age, the court may exclude from the proceedings while the victim is testifying, all persons, who, in the opinion of the court, do not have a direct interest in the case, except the media.

P. Use of “Rape”

725 ILCS 5/115-11.1

The use of the word “rape”, “rapist”, or any derivative of “rape” by any victim, witness, State's Attorney, defense attorney, judge or other court personnel in any prosecutions of offenses in Sections 11-1.20 through 11-1.60 or12-13 through 12-16 of the Criminal Code of 1961, as amended, is not inadmissible.

Q. Hearsay Exception – Statements by Victims of Sex Offenses to Medical Personnel

725 ILCS 5/115-13

In a prosecution for violation of Section 11-1.20, 11-1.30, 11-1.40, 11-1.50, 11-1.60, 12-13, 12-14, 12-14.1, 12-15 or 12-16 of the “Criminal Code of 1961”, statements made by the victim to medical personnel for purposes of medical diagnosis or treatment including descriptions of the cause of symptom, pain or sensations, or the inception or general character of the cause or external source thereof insofar as reasonably pertinent to diagnosis or treatment shall be admitted as an exception to the hearsay rule.

R. Witness Competency

725 ILCS 5/115-14

(a) Every person, irrespective of age, is qualified to be a witness and no person is disqualified to testify to any matter, except as provided in subsection (b).

(b) A person is disqualified to be a witness if he or she is:

(1) Incapable of expressing himself or herself concerning the matter so as to be understood, either directly or through interpretation by one who can understand him or her; or

(2) Incapable of understanding the duty of a witness to tell the truth.

(c) A party may move the court prior to a witness' testimony being received in evidence, requesting that the court make a determination if a witness is competent to testify. The hearing shall be conducted outside the presence of the jury and the burden of proof shall be on the moving party.

S. Witness Disqualification (and Marital Privilege)

725 ILCS 5/115-16

No person shall be disqualified as a witness in a criminal case or proceeding by reason of his or her interest in the event of the case or proceeding, as a party or otherwise, or by reason of his or her having been convicted of a crime; but the interest or conviction may be shown for the purpose of affecting the credibility of the witness. A defendant in a criminal case or proceeding shall only at his or her own request be deemed a competent witness, and the person's neglect to testify shall not create a presumption against the person, nor shall the court permit a reference or comment to be made to or upon that neglect.

In criminal cases, husband and wife may testify for or against each other. Neither, however, may testify as to any communication or admission made by either of them to the other or as to any conversation between them during marriage, except in cases in which either is charged with an offense against the person or property of the other, in case of spouse abandonment, when the interests of their child or children or of any child or children in either spouse's care, custody, or control are directly involved, when either is charged with or under investigation for an offense under Section 11-1.20, 11-1.30, 11-1.40, 11-1.50, 11-1.60, 12-13, 12-14, 12-14.1, 12-15, or 12-16 of the Criminal Code of 1961 and the victim is a minor under 18 years of age in either spouse's care, custody, or control at the time of the offense, or as to matters in which either has acted as agent of the other.

V. Sentencing Dispositions

A. Summary of Dispositions of Adult Offenders

Offense	Criminal Sexual Assault	Aggravated Criminal Sexual Assault	Predatory Criminal Sexual Assault	Criminal Sexual Abuse		Aggravated Criminal Sexual Abuse
Penalty	Class 1 felony	Class X felony	Class X felony	Class A misdemeanor	Class 4 felony	Class 2 felony
Incarceration	4-15 years	6-30 years	6-60 years	Up to 364 days	1-3 years	3-7 years
Mandatory supervised release (MSR)	3 years to natural life	3 years to natural life	3 years to natural life	N/A	1 year	2 years
Extended Term	15-30	10, 15, 20, 25, 30-60 years or natural life	15, 20, 50, 50-60 years or natural life	N/A	3-6 years	7-14 years
Conditional Discharge	N/A	N/A	N/A	Up to 2 years	30 months	Up to 4 years[1]
Periodic Imprisonment	N/A	N/A	N/A	Up to 364 days	18 months	18-30 months[1]
Probation	N/A	N/A	N/A	Up to 2 years	30 months	Up to 4 years[1]; family member offenders[2]
Sexual Assault Fine	$200	$200	$200	$200	$200	$200
Fine[3]	Up to $25,000	Up to $25,000	Up to $25,000	Up to $2,500	Up to $25,000	Up to $25,000
Restitution[3]	Yes	Yes	Yes	Yes	Yes	Yes
2nd or subsequent offense	Class X felony	Class X felony	Class X felony	No increased level of offense	Class 2 felony.	2nd offense = Class 2 3rd offense = Class X
Penalty for 2nd or subsequent offense	6-30 years, 30-60 years or natural life	Natural life	Natural life	No increased level of penalty	3-7 years	No increased level of penalty

[1]No probation, periodic imprisonment or conditional discharge if convicted of Class 2 or greater felony within 10 years. 730 ILCS 5/5-5-3(c)(2)(F).
[2]Special conditions attach for family member offenders. 730 ILCS 5/5-5-3(e).
[3]Neither a fine nor restitution shall be the sole disposition for a felony and either or both may be imposed for a felony only in conjunction with another disposition. 730 ILCS 5/5-4.5-15(b).

1. Criminal Sexual Assault

This Class 1 felony is punishable by a mandatory term of incarceration of 4 to 15 years. 730 ILCS 5/5-4.5-30(a). MSR is three years to natural life. 730 ILCS 5/5-8-1(d)(4). Conditional discharge, probation, and periodic imprisonment are not permitted. 730 ILCS 5/5-5-3(c)(2)(H). An extended term of from 15-30 years may be imposed. 730 ILCS 5/5-4.5-30(a). The court may extend the sentence if a minor victim was under the influence of alcohol. 730 ILCS 5/5-5-3.2(e). A sexual assault fine of $200 shall be imposed. 730 ILCS 5/5-9-1.7(b). A fine of up to $25,000 may be imposed. 730 ILCS 5/5-4.5-50(b). Restitution is available for victims after consideration of the defendant's ability to pay. The defendant may be required to pay restitution in cash for out-of-pocket expenses, damages, losses or injuries found to have been proximately caused by the conduct of the defendant (730 ILCS 5/5-5-6(a)), including long-term physical and mental healthcare (730 ILCS 5/5-5-6(f-1)(1)). Restitution shall be ordered for losses and expenses and when a victim requires counseling. 730 ILCS 5/5-5-6(g). However, restitution is not to be ordered to be paid on account of pain and suffering. 730 ILCS 5/5-5-6(b). A second or subsequent conviction is a Class X felony punishable by 6-30 years (720 ILCS 5/11-1.20(C), 730 ILCS 5/5-4.5-25(a)); 30-60 years (720 ILCS 5/12-13(b)(2)); or natural life imprisonment (720 ILCS 5/11-1.20(B)), depending on the previous conviction.

2. Aggravated Criminal Sexual Assault

This Class X felony is punishable by a mandatory term of incarceration of 6 to 30 years. An extended term of 30-60 years is available. 730 ILCS 5/5-4.5-25(a). The court may extend the sentence if a minor victim was under the influence of alcohol. 730 ILCS 5/5-5-3.2(e). If the accused displayed a weapon other than a firearm, this felony shall carry an additional 10 years. If the accused is armed with a firearm this felony shall carry an additional 15 years. 720 ILCS 5/11-1.30(d)(1). If the accused discharges a firearm during the commission of the offense, this felony shall carry an additional 20 years and if the accused discharges a firearm causing great bodily harm, disability or death, this felony shall carry an additional 25 years to natural life. *Id.* MSR is 3 years to natural life. 730 ILCS 5/5-8-1(d)(4). Conditional discharge, probation and periodic imprisonment are not permitted. 730 ILCS 5/5-5-3(c)(2)(C). A sexual assault fine of $200 shall be imposed. 730 ILCS 5/5-9-1.7(b)(1). A fine of up to $25,000 for each offense may be imposed. 730 ILCS 5/5-4.5-50(b). Restitution is available for victims after consideration of the defendant's ability to pay. The defendant may be required to pay restitution in cash for out-of-pocket expenses, damages, losses or injuries found to have been proximately caused by the conduct of the defendant (730 ILCS 5/5-5-6(a)), including long-term physical and mental healthcare (730 ILCS 5/5-5-6(f-1)(1)). Restitution shall be ordered for losses and expenses and when a victim requires counseling. 730 ILCS 5/5-5-6(g). However, restitution is not to be ordered to be paid on account of pain and suffering. 730

ILCS 5/5-5-6(b). A second or subsequent conviction is a Class X felony punishable by natural life imprisonment. 720 ILCS 5/11-1.30(d)(2).

3. Predatory Criminal Sexual Assault of a Child

This Class X felony is punishable by a mandatory term of incarceration of 6 to 30 years. 730 ILCS 5/5-4.5-25(a). MSR is three years to natural life. 730 ILCS 5/5-8-1(d)(4). An extended term of 30-60 years is available. 730 ILCS 5/5-4.5-25(a). The court may extend the sentence if a minor victim was under the influence of alcohol. 730 ILCS 5/5-5-3.2(e). An extended 15-year term shall be imposed if the offender was armed with a firearm. 720 ILCS 5/12-14.1(b)(1). An extended 20-year term shall be added if the offender discharged a firearm during the offense. *Id.* An extended term of not less than 50 years or up to natural life shall be imposed if the offender caused great bodily harm that resulted in permanent disability or was life threatening. *Id.* An extended term sentence shall be imposed of not less than 50 years and not more than 60 years if the offender delivered to the victim a controlled substance by any means, other than for medicinal purposes. 720 ILCS 5/12-14.1(b)(1.1). MSR is three years to natural life. 730 ILCS 5/5-8-1(d)(4). Conditional discharge, probation and periodic imprisonment are not permitted. 730 ILCS 5/5-5-3(c)(2)(C). A sexual assault fine of $200 shall be imposed. 730 ILCS 5/5-9-1.7(b)(1). A fine of up to $25,000 may be imposed. 730 ILCS 5/5-4.5-50(b). Restitution is available for victims after consideration of the defendant's ability to pay. The defendant may be required to pay restitution in cash for out-of-pocket expenses, damages, losses or injuries found to have been proximately caused by the conduct of the defendant (730 ILCS 5/5-5-6(a)), including long-term physical and mental healthcare (730 ILCS 5/5-5-6(f-1)(1)). Restitution shall be ordered for losses and expenses and when a victim requires counseling. 730 ILCS 5/5-5-6(g). However, restitution is not to be ordered to be paid on account of pain and suffering. 730 ILCS 5/5-5-6(b). A second or subsequent conviction is a Class X felony punishable by natural life imprisonment. 720 ILCS 5/11-1.40(b)(2).

4. Criminal Sexual Abuse

<u>Class A Misdemeanor:</u>

A person commits a Class A misdemeanor by committing sexual conduct or sexual penetration if the offender is 16 years old or younger and the victim is 9 years old to 16 years old, or if the victim is 13 years old to 16 years old and the offender is less than five years older than the victim. This Class A misdemeanor is punishable by a jail term of less than one year. 730 ILCS 5/5-4.5-55(a). Conditional discharge and probation are available to a length of 2 years. 730 ILCS 5/5-4.5-55(d).. Periodic imprisonment of less than one year is available for this offense. 730 ILCS 5/5-4.5-55(b). A sexual assault fine of $200 shall be imposed. 730 ILCS 5/5-9-1.7(b)(1). A fine of up to $2,500 may be imposed. 730 ILCS 5/5-4.5-55(e) Restitution is available for victims after consideration of

the defendant's ability to pay. The defendant may be required to pay restitution in cash for out-of-pocket expenses, damages, losses or injuries found to have been proximately caused by the conduct of the defendant (730 ILCS 5/5-5-6(a)), including long-term physical and mental healthcare (730 ILCS 5/5-5-6(f-1)(1**)**. Restitution shall be ordered for losses and expenses and when a victim requires counseling. 730 ILCS 5/5-5-6(g). However, restitution is not to be ordered to be paid on account of pain and suffering. 730 ILCS 5/5-5-6(b). There is no increased penalty for a second or subsequent offense. 720-ILCS 5/11-1.50(d).

Class 4 Felony:

A person commits a Class 4 felony by committing sexual conduct and the offender uses force or threat of force or knows that the victim was unable to understand the nature of the act or unable to give knowing consent. This Class 4 felony is punishable by 1 to 3 years incarceration. An extended term of 3 to 6 years is available. 730 ILCS 5/5-4.5-45(a). The court may extend the sentence if a minor victim was under the influence of alcohol. 730 ILCS 5/5-5-3.2(e). Conditional discharge and probation of up to 30 months are available. 730 ILCS 5/5-4.5-45(d). Periodic imprisonment of up to 18 months is available for this offence. 730 ILCS 5/5-4.5-45(b). MSR is 1 year 730 ILCS 5/5-4.5-45(*l*). A sexual assault fine of $200 shall be imposed. 730 ILCS 5/5-9-1.7(b)(1). A fine of up to $25,000 may be imposed for this felony. 730 ILCS 5/5-4.5-50(b). Restitution is available for victims after consideration of the defendant's ability to pay. The defendant may be required to pay restitution in cash for out-of-pocket expenses, damages, losses or injuries found to have been proximately caused by the conduct of the defendant (730 ILCS 5/5-5-6(a)), including long-term physical and mental healthcare (730 ILCS 5/5-5-6(f-1)(1)). Restitution shall be ordered for losses and expenses and when a victim requires counseling. 730 ILCS 5/5-5-6(g). However, restitution is not to be ordered to be paid on account of pain and suffering. 730 ILCS 5/5-5-6(b). A second or subsequent conviction is a Class 2 felony punishable by 3 to 7 years imprisonment. 720 ILCS 5/11-1.50(d). An extended term of 7 to 14 years is available. 730 ILCS 5/5-4.5-35(a), If the victim is under 18, for a second and subsequent offense MSR is 4 years, and the first 2 years of MSR must be served in an electronic home detention program. 730 ILCS 5/5-8-1(d)(5).

5. Aggravated Criminal Sexual Abuse

This Class 2 felony is punishable by a term of incarceration of 3 to 7 years. 730 ILCS 5/5-4.5-35(a). MSR is two years. 730 ILCS 5/5-8-1(d)(4). Conditional discharge and probation may not exceed 4 years. 730 ILCS 5/5-4.5-35(d). Periodic imprisonment is allowed from 18-30 months. 730 ILCS 5/5-4.5-35(b). To receive probation, family member offenders must comply with conditions set out in 730 ILCS 5/5-5-3(e). Probation, conditional discharge or periodic imprisonment are not allowed if the offender has been convicted of a Class 2 or greater felony within 10 years. 730 ILCS 5/5-5-3(c)(2)(F). An extended term of

7 to 14 years may be imposed. 730 ILCS 5/5-4.5-35(a). The court may extend the sentence if a minor victim was under the influence of alcohol. 730 ILCS 5/5-5-3.2(e). A sexual assault fine of $200 shall be imposed. 730 ILCS 5/5-9-1.7(b)(1). A fine of up to $25,000 may be imposed. 730 ILCS 5/5-4.5-50(b). Restitution is available for victims after consideration of the defendant's ability to pay. The defendant may be required to pay restitution in cash for out-of-pocket expenses, damages, losses or injuries found to have been proximately caused by the conduct of the defendant (730 ILCS 5/5-5-6(a)), including long-term physical and mental healthcare (730 ILCS 5/5-5-6(f-1)(1)). Restitution shall be ordered for losses and expenses and when a victim requires counseling. 730 ILCS 5/5-5-6(g). However, restitution is not to be ordered to be paid on account of pain and suffering. 730 ILCS 5/5-5-6(b). The Aggravated Criminal Sexual Abuse statute does not provide for a higher level of penalty for a second or subsequent offense. 720 ILCS 5/11-1.60(g). A third conviction is a Class X felony. 730 ILCS 5/5-4.5-95(b). If the victim is under 18, for a second and subsequent offense MSR is 4 years, and the first 2 years of MSR must be served in an electronic home detention program. 730 ILCS 5/5-8-1(d)(5).

B. Motion for Fingerprint or Forensic Testing Not Available at Trial Regarding Actual Innocence

725 ILCS 5/116-3

(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, Integrated Ballistic Identification System, 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, and:

(1) was not subject to the testing which is now requested at the time of trial; or

(2) although previously subjected to testing, can be subjected to additional testing utilizing a method that was not scientifically available at the time of trial that provides a reasonable likelihood of more probative results. 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.

(d) If evidence previously tested pursuant to this Section reveals an unknown fingerprint from the crime scene that does not match the defendant or the victim, the order of the Court shall direct the prosecuting authority to request the Illinois State Police Bureau of Forensic Science to submit the unknown fingerprint evidence into the FBI's Integrated Automated Fingerprint Identification System (AIFIS) for identification.

C. The Sexually Violent Persons Commitment Act

725 ILCS 207/1

To view the text of this statute, go to www.ilga.gov.

D. Rules and Regulations for Early Release (Truth-In-Sentencing)

730 ILCS 5/3-6-3

(a)(1) The Department of Corrections shall prescribe rules and regulations for the early release on account of good conduct of persons committed to the Department which shall be subject to review by the Prisoner Review Board.

(2) The rules and regulations on early release shall provide, with respect to offenses listed in clause (i), (ii), or (iii) of this paragraph (2) committed on or after June 19, 1998 or with respect to the offense listed in clause (iv) of this paragraph (2) committed on or after June 23, 2005 (the effective date of Public Act 94-71) or with respect to offense listed in clause (vi) committed on or after June 1, 2008 (the effective date of Public Act 95-625) or with respect to the offense of being an armed habitual criminal committed on or after August 2, 2005 (the effective date of Public Act 94-

398) or with respect to the offenses listed in clause (v) of this paragraph (2) committed on or after August 13, 2007 (the effective date of Public Act 95-134) or with respect to the offense of aggravated domestic battery committed on or after the effective date of July 23, 2010 (the effective date of Public Act 96-1224), the following:

• • •

(ii) that a prisoner serving a sentence for attempt to commit first degree murder, solicitation of murder, solicitation of murder for hire, intentional homicide of an unborn child, predatory criminal sexual assault of a child, aggravated criminal sexual assault, criminal sexual assault, aggravated kidnapping, aggravated battery with a firearm as described in Section 12-4.2 or subdivision (e)(1), (e)(2), (e)(3), or (e)(4) of Section 12-3.05, heinous battery as described in Section 12-4.1 or subdivision (a)(2) of Section 12-3.05, being an armed habitual criminal, aggravated battery of a senior citizen, or aggravated battery of a child as described in Section 12-4.6 or subdivision (a)(4) of Section 12-3.05 shall receive no more than 4.5 days of good conduct credit for each month of his or her sentence of imprisonment;

• • •

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

(2.1) For all offenses, other than those enumerated in subdivision (a)(2)(i), (ii), or (iii) committed on or after June 19, 1998, • • • the rules and regulations shall provide that a prisoner who is serving a term of imprisonment shall receive one day of good conduct credit for each day of his or her sentence of imprisonment or recommitment under Section 3-3-9. Each day of good conduct credit shall reduce by one day the prisoner's period of imprisonment or recommitment under Section 3-3-9. • • •

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

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E. Mental Health Treatment; Stalking and Aggravated Stalking

730 ILCS 5/3-14-5

For defendants found guilty of stalking or aggravated stalking and sentenced to the custody of the Department of Corrections, the court may order the Prisoner Review Board to consider requiring the defendant to undergo mental health treatment by a mental health professional or at a community mental health center, hospital, or facility of the Department of Human Services as a condition of parole or mandatory supervised release.

F. Presentence Investigation

730 ILCS 5/5-3-1

A defendant shall not be sentenced for a felony before a written presentence report of investigation is presented to and considered by the court.

However, other than for felony sex offenders being considered for probation, the court need not order a presentence report of investigation where both parties agree to the imposition of a specific sentence, provided there is a finding made for the record as to the defendant's history of delinquency or criminality, including any previous sentence to a term of probation, periodic imprisonment, conditional discharge, or imprisonment.

The court may order a presentence investigation of any defendant.

G. Presentence Report

730 ILCS 5/5-3-2

(a) In felony cases, the presentence report shall set forth:

• • •

(3) the effect the offense committed has had upon the victim or victims thereof, and any compensatory benefit that various sentencing alternatives would confer on such victim or victims;

• • •

(b-5) In cases involving felony sex offenses in which the offender is being considered for probation only or any felony offense that is sexually motivated as defined in the Sex Offender Management Board Act in which the offender is being considered for probation only, the investigation shall include a sex offender evaluation by an evaluator approved by the Board and conducted in conformance with the standards developed under the Sex Offender Management Board Act. In cases in which the offender is being considered for any mandatory prison sentence, the investigation shall not include a sex offender evaluation.

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H. Disclosure of Reports

730 ILCS 5/5-3-4

(a) Any report made pursuant to this Article or Section 5-705 of the Juvenile Court Act of 1987 shall be filed of record with the court in a sealed envelope.

(b) Presentence reports shall be open for inspection only as follows:

(1) to the sentencing court;

(2) to the state's attorney and the defendant's attorney at least 3 days prior to the imposition of sentence, unless such 3 day requirement is waived;

(3) to an appellate court in which the conviction or sentence is subject to review;

(4) to any department, agency or institution to which the defendant is committed;

(5) to any probation department of whom courtesy probation is requested;

(6) to any probation department assigned by a court of lawful jurisdiction to conduct a presentence report;

(7) to any other person only as ordered by the court; and

(8) to any mental health professional on behalf of the Illinois Department of Corrections or the Department of Human Services or to a prosecutor who is evaluating or investigating a potential or actual petition brought under the Sexually Violent Persons Commitment Act relating to a person who is the subject of a presentence report or the respondent to a petition brought under the Sexually Violent Persons Commitment Act who is the subject of the presentence report sought. Any records and any information obtained from those records under this paragraph (8) may be used only in sexually violent persons commitment proceedings.

(c) Presentence reports shall be filed of record with the court within 60 days of a verdict or finding of guilty for any offense involving an illegal sexual act perpetrated upon a victim, including but not limited to offenses for violations of Article 12 of the Criminal Code of 1961, or any offense determined by the court or the probation department to be sexually motivated, as defined in the Sex Offender Management Board Act.

(d) A complaint, information or indictment shall not be quashed or dismissed nor shall any person in custody for an offense be discharged from custody because of noncompliance with subsection (c) of this Section.

I. Persons Convicted of, or Found Delinquent for, Certain Offenses or Institutionalized as Sexually Dangerous; Specimens; Genetic Marker Groups

730 ILCS 5/5-4-3

(a) Any person convicted of, found guilty under the Juvenile Court Act of 1987 for, or who received a disposition of court supervision for, a qualifying offense or attempt of a qualifying offense, convicted or found guilty of any offense classified as a felony under Illinois law, convicted or found guilty of any offense requiring registration under the Sex Offender Registration Act, found guilty or given supervision for any offense classified as a felony under the Juvenile Court Act of 1987, convicted or found guilty of, under the Juvenile Court Act of 1987, any offense requiring registration under the Sex Offender Registration Act, or institutionalized as a sexually dangerous person under the Sexually Dangerous Persons Act, or committed as a sexually violent person under the Sexually Violent Persons Commitment Act shall, regardless of the sentence or disposition imposed, be required to submit specimens of blood, saliva, or tissue to the Illinois 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 and sentenced to a term of imprisonment, periodic imprisonment, fine, probation, conditional discharge or any other form of sentence, or given a disposition of court supervision for the offense;

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

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

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

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

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

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

• • •

(a-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.

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(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, (ii) technology validation purposes, (iii) a population statistics database, (iv) quality assurance purposes if personally identifying information is removed, (v) assisting in the defense of the criminally accused pursuant to Section 116-5 of the Code of Criminal Procedure of 1963, or (vi) identifying and assisting in the prosecution of a person who is suspected of committing a sexual assault as defined in Section 1a of the Sexual Assault Survivors Emergency Treatment Act. Notwithstanding any other statutory provision to the contrary, all information obtained under this Section shall be maintained in a single State data base, which may be uploaded into a national database, and which information may be subject to expungement only as set forth in subsection (f-1).

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

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

(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;

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

(3) (blank);

(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.

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(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.

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J. Sentencing Hearing for Sex Offenses

730 ILCS 5/5-4-3.1

(a) Except for good cause shown by written motion, any person adjudged guilty of any offense involving an illegal sexual act perpetrated upon a victim, including but not limited to offenses for violations of Article 12 of the Criminal Code of 1961, or any offense determined by the court or the probation department to be sexually motivated, as defined in the Sex Offender Management Board Act, shall be sentenced within 65 days of a verdict or finding of guilt for the offense.

(b) The court shall set the sentencing date at the time the verdict or finding of guilt is entered by the court.

(c) Any motion for continuance shall be in writing and supported by affidavit and in compliance with Section 114-4 of the Code of Criminal Procedure of 1963, and the victim shall be notified of the date and time of hearing and shall be provided an opportunity to address the court on the impact the continuance may have on the victim's well-being.

(d) A complaint, information or indictment shall not be quashed or dismissed, nor shall any person in custody for an offense be discharged from custody because of non-compliance with this Section.

K. Habitual Criminals

730 ILCS 5/5-4.5-95

(a) Habitual Criminals.

(1) Every person who has been twice convicted in any state or federal court of an offense that contains the same elements as an offense now (the date of the offense committed after the 2 prior convictions) classified in Illinois as a Class X felony, criminal sexual assault, aggravated kidnapping, or first degree murder, and who is thereafter convicted of a Class X felony, criminal sexual assault, or first degree murder, committed after the 2 prior convictions, shall be adjudged an habitual criminal.

(2) The 2 prior convictions need not have been for the same offense.

(3) Any convictions that result from or are connected with the same transaction, or result from offenses committed at the same time, shall be counted for the purposes of this Section as one conviction.

(4) This Section does not apply unless each of the following requirements are satisfied:

(A) The third offense was committed after July 3, 1980.

(B) The third offense was committed within 20 years of the date that judgment was entered on the first conviction; provided, however, that time spent in custody shall not be counted.

(C) The third offense was committed after conviction on the second offense.

(D) The second offense was committed after conviction on the first offense.

(5) Except when the death penalty is imposed, anyone adjudged an habitual criminal shall be sentenced to a term of natural life imprisonment.

(6) A prior conviction shall not be alleged in the indictment, and no evidence or other disclosure of that conviction shall be presented to the court or the jury during the trial of an offense set forth in this Section unless otherwise permitted by the issues properly raised in that trial. After a plea or verdict or finding of guilty and before sentence is imposed, the prosecutor may file with the court a verified written statement signed by the State's Attorney concerning any former conviction of an offense set forth in this Section rendered against the defendant. The court shall then cause the defendant to be brought before it; shall inform the defendant of the allegations of the statement so filed, and of his or her right to a hearing before the court on the issue of that former conviction and of his or her right to counsel at that hearing; and unless the defendant admits such conviction, shall hear and determine the issue, and shall make a written finding thereon. If a sentence has previously been imposed, the court may vacate that sentence and impose a new sentence in accordance with this Section.

(7) A duly authenticated copy of the record of any alleged former conviction of an offense set forth in this Section shall be prima facie evidence of that former conviction; and a duly authenticated copy of the record of the defendant's final release or discharge from probation granted, or from sentence and parole supervision (if any) imposed pursuant to that former conviction, shall be prima facie evidence of that release or discharge.

(8) Any claim that a previous conviction offered by the prosecution is not a former conviction of an offense set forth in this Section because of the existence of any exceptions described in this Section, is waived unless duly raised at the hearing on that conviction, or unless the prosecution's proof shows the existence of the exceptions described in this Section.

(9) If the person so convicted shows to the satisfaction of the court before whom that conviction was had that he or she was released from imprisonment, upon either of the sentences upon a pardon granted for the reason that he or she was innocent, that conviction and sentence shall not be considered under this Section.

(b) 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 (the date the Class 1 or Class 2 felony was committed) classified in Illinois as a Class 2 or greater Class felony and those charges are separately brought and tried and arise out of different series of acts, that defendant shall be sentenced as a Class X offender. This subsection does not apply unless:

(1) the first felony was committed after February 1, 1978 (the effective date of Public Act 80-1099);

(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 subsection (b) 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 (20 ILCS 31/40-10).

L. Disposition (Family Member Probation)

730 ILCS 5/5-5-3

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

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

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

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

(i) removal from the household;

(ii) restricted contact with the victim;

(iii) continued financial support of the family;

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

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

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

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

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

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M. HIV Testing Upon Conviction

730 ILCS 5/5-5-3

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(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 12-5.01 or 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.

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N. Annual Driver's License Renewal for Sex Offenders

730 ILCS 5/5-5-3

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

O. Factors in Aggravation

730 ILCS 5/5-5-3.2

(a) The following factors shall be accorded weight in favor of imposing a term of imprisonment or may be considered by the court as reasons to impose a more severe sentence under Section 5-8-1 or Article 4.5 of Chapter V:

(1) the defendant's conduct caused or threatened serious harm;

(2) the defendant received compensation for committing the offense;

(3) the defendant has a history of prior delinquency or criminal activity;

(4) the defendant, by the duties of his office or by his position, was obliged to prevent the particular offense committed or to bring the offenders committing it to justice;

(5) the defendant held public office at the time of the offense, and the offense related to the conduct of that office;

(6) the defendant utilized his professional reputation or position in the community to commit the offense, or to afford him an easier means of committing it;

(7) the sentence is necessary to deter others from committing the same crime;

(8) the defendant committed the offense against a person 60 years of age or older or such person's property;

(9) the defendant committed the offense against a person who is physically handicapped or such person's property;

(10) by reason of another individual's actual or perceived race, color, creed, religion, ancestry, gender, sexual orientation, physical or mental disability, or national origin, the defendant committed the offense against (i) the person or property of that individual; (ii) the person or property of a person who has an association with, is married to, or has a friendship with the other individual; or (iii) the person or property of a relative (by blood or marriage) of a person described in clause (i) or (ii). For the purposes of this Section, “sexual orientation” means heterosexuality, homosexuality, or bisexuality;

(11) the offense took place in a place of worship or on the grounds of a place of worship, immediately prior to, during or immediately following worship services. For purposes of this subparagraph, “place of worship” shall mean any church, synagogue or other building, structure or place used primarily for religious worship;

(12) the defendant was convicted of a felony committed while he was released on bail or his own recognizance pending trial for a prior felony and was convicted of such prior felony, or the defendant was convicted of a felony committed while he was serving a period of probation, conditional discharge, or mandatory supervised release under subsection (d) of Section 5-8-1 for a prior felony;

(13) the defendant committed or attempted to commit a felony while he was wearing a bulletproof vest. For the purposes of this paragraph (13), a bulletproof vest is any device which is designed for the purpose of protecting the wearer from bullets, shot or other lethal projectiles;

(14) the defendant held a position of trust or supervision such as, but not limited to, family member as defined in Section 12-12 of the Criminal

Code of 1961, teacher, scout leader, baby sitter, or day care worker, in relation to a victim under 18 years of age, and the defendant committed an offense in violation of Section 11-6, 11-11, 11-15.1, 11-19.1, 11-19.2, 11-20.1, 12-13, 12-14, 12-14.1, 12-15 or 12-16 of the Criminal Code of 1961 against that victim;

(15) the defendant committed an offense related to the activities of an organized gang. For the purposes of this factor, “organized gang” has the meaning ascribed to it in Section 10 of the Streetgang Terrorism Omnibus Prevention Act;

(16) the defendant committed an offense in violation of one of the following Sections while in a school, regardless of the time of day or time of year; on any conveyance owned, leased, or contracted by a school to transport students to or from school or a school related activity; on the real property of a school; or on a public way within 1,000 feet of the real property comprising any school: Section 10-1, 10-2, 10-5, 11-15.1, 11-17.1, 11-18.1, 11-19.1, 11-19.2, 12-2, 12-4, 12-4.1, 12-4.2, 12-4.3, 12-6, 12-6.1, 12-6.5, 12-13, 12-14, 12-14.1, 12-15, 12-16, 18-2, or 33A-2, or Section 12-3.05 except for subdivision (a)(4) or (g)(1), of the Criminal Code of 1961;

(16.5) the defendant committed an offense in violation of one of the following Sections while in a day care center, regardless of the time of day or time of year; on the real property of a day care center, regardless of the time of day or time of year; or on a public way within 1,000 feet of the real property comprising any day care center, regardless of the time of day or time of year: Section 10-1, 10-2, 10-5, 11-15.1, 11-17.1, 11-18.1, 11-19.1, 11-19.2, 12-2, 12-4, 12-4.1, 12-4.2, 12-4.3, 12-6, 12-6.1, 12-6.5, 12-13, 12-14, 12-14.1, 12-15, 12-16, 18-2, or 33A-2, or Section 12-3.05 except for subdivision (a)(4) or (g)(1), of the Criminal Code of 1961;

(17) the defendant committed the offense by reason of any person's activity as a community policing volunteer or to prevent any person from engaging in activity as a community policing volunteer. For the purpose of this Section, “community policing volunteer” has the meaning ascribed to it in Section 2-3.5 of the Criminal Code of 1961;

(18) the defendant committed the offense in a nursing home or on the real property comprising a nursing home. For the purposes of this paragraph (18), “nursing home” means a skilled nursing or intermediate long term care facility that is subject to license by the Illinois Department of Public Health under the Nursing Home Care Act or the MR/DD Community Care Act;

(19) the defendant was a federally licensed firearm dealer and was previously convicted of a violation of subsection (a) of Section 3 of the Firearm Owners Identification Card Act and has now committed either a felony violation of the Firearm Owners Identification Card Act or an act of armed violence while armed with a firearm;

(20) the defendant (i) committed the offense of reckless homicide under Section 9-3 of the Criminal Code of 1961 or the offense of driving under the influence of alcohol, other drug or drugs, intoxicating compound or compounds or any combination thereof under Section 11-501 of the Illinois Vehicle Code or a similar provision of a local ordinance and (ii) was operating a motor vehicle in excess of 20 miles per hour over the posted speed limit as provided in Article VI of Chapter 11 of the Illinois Vehicle Code;

(21) the defendant (i) committed the offense of reckless driving or aggravated reckless driving under Section 11-503 of the Illinois Vehicle Code and (ii) was operating a motor vehicle in excess of 20 miles per hour over the posted speed limit as provided in Article VI of Chapter 11 of the Illinois Vehicle Code;

(22) the defendant committed the offense against a person that the defendant knew, or reasonably should have known, was a member of the Armed Forces of the United States serving on active duty. For purposes of this clause (22), the term “Armed Forces” means any of the Armed Forces of the United States, including a member of any reserve component thereof or National Guard unit called to active duty;

(23) the defendant committed the offense against a person who was elderly, disabled, or infirm by taking advantage of a family or fiduciary relationship with the elderly, disabled, or infirm person;

(24) the defendant committed any offense under Section 11-20.1 of the Criminal Code of 1961 and possessed 100 or more images;

(25) the defendant committed the offense while the defendant or the victim was in a train, bus, or other vehicle used for public transportation;

(26) the defendant committed the offense of child pornography or aggravated child pornography, specifically including paragraph (1), (2), (3), (4), (5), or (7) of subsection (a) of Section 11-20. 1 of the Criminal Code of 1961 where a child engaged in, solicited for, depicted in, or posed in any act of sexual penetration or bound, fettered, or subject to sadistic, masochistic, or sadomasochistic abuse in a sexual context and specifically including paragraph (1), (2), (3), (4), (5), or (7) of subsection (a) of Section 11-20.3 of the Criminal Code of 1961 where a child engaged in, solicited for,

depicted in, or posed in any act of sexual penetration or bound, fettered, or subject to sadistic, masochistic, or sadomasochistic abuse in a sexual context; or

(27) the defendant committed the offense of first degree murder, assault, aggravated assault, battery, aggravated battery, robbery, armed robbery, or aggravated robbery against a person who was a veteran and the defendant knew, or reasonably should have known, that the person was a veteran performing duties as a representative of a veterans' organization. For the purposes of this paragraph (27), “veteran” means an Illinois resident who has served as a member of the United States Armed Forces, a member of the Illinois National Guard, or a member of the United States Reserve Forces; and “veterans' organization” means an organization comprised of members of which substantially all are individuals who are veterans or spouses, widows, or widowers of veterans, the primary purpose of which is to promote the welfare of its members and to provide assistance to the general public in such a way as to confer a public benefit.

For the purposes of this Section:

“School” is defined as a public or private elementary or secondary school, community college, college, or university.

“Day care center” means a public or private State certified and licensed day care center as defined in Section 2.09 of the Child Care Act of 1969 that displays a sign in plain view stating that the property is a day care center.

“Public transportation” means the transportation or conveyance of persons by means available to the general public, and includes paratransit services.

(b) The following factors, related to all felonies, may be considered by the court as reasons to impose an extended term sentence under Section 5-8-2 upon any offender:

(1) When a defendant is convicted of any felony, after having been previously convicted in Illinois or any other jurisdiction of the same or similar class felony or greater class felony, when such conviction has occurred within 10 years after the previous conviction, excluding time spent in custody, and such charges are separately brought and tried and arise out of different series of acts; or

(2) When a defendant is convicted of any felony and the court finds that the offense was accompanied by exceptionally brutal or heinous behavior indicative of wanton cruelty; or

(3) When a defendant is convicted of any felony committed against:

(i) a person under 12 years of age at the time of the offense or such person's property;

(ii) a person 60 years of age or older at the time of the offense or such person's property; or

(iii) a person physically handicapped at the time of the offense or such person's property; or

(4) When a defendant is convicted of any felony and the offense involved any of the following types of specific misconduct committed as part of a ceremony, rite, initiation, observance, performance, practice or activity of any actual or ostensible religious, fraternal, or social group:

(i) the brutalizing or torturing of humans or animals;

(ii) the theft of human corpses;

(iii) the kidnapping of humans;

(iv) the desecration of any cemetery, religious, fraternal, business, governmental, educational, or other building or property; or

(v) ritualized abuse of a child; or

(5) When a defendant is convicted of a felony other than conspiracy and the court finds that the felony was committed under an agreement with 2 or more other persons to commit that offense and the defendant, with respect to the other individuals, occupied a position of organizer, supervisor, financier, or any other position of management or leadership, and the court further finds that the felony committed was related to or in furtherance of the criminal activities of an organized gang or was motivated by the defendant's leadership in an organized gang; or

(6) When a defendant is convicted of an offense committed while using a firearm with a laser sight attached to it. For purposes of this paragraph, “laser sight” has the meaning ascribed to it in Section 24.6-5 of the Criminal Code of 1961; or

(7) When a defendant who was at least 17 years of age at the time of the commission of the offense is convicted of a felony and has been previously adjudicated a delinquent minor under the Juvenile Court Act of 1987 for an act that if committed by an adult would be a Class X or Class 1 felony when the conviction has occurred within 10 years after the previous adjudication, excluding time spent in custody; or

(8) When a defendant commits any felony and the defendant used, possessed, exercised control over, or otherwise directed an animal to assault a law enforcement officer engaged in the execution of his or her official duties or in furtherance of the criminal activities of an organized gang in which the defendant is engaged.

(c) The following factors may be considered by the court as reasons to impose an extended term sentence under Section 5-8-2 (730 ILCS 5/5-8-2) upon any offender for the listed offenses:

(1) When a defendant is convicted of first degree murder, after having been previously convicted in Illinois of any offense listed under paragraph (c)(2) of Section 5-5-3 (730 ILCS 5/5-5-3), when that conviction has occurred within 10 years after the previous conviction, excluding time spent in custody, and the charges are separately brought and tried and arise out of different series of acts.

(1.5) When a defendant is convicted of first degree murder, after having been previously convicted of domestic battery (720 ILCS 5/12-3.2) or aggravated domestic battery (720 ILCS 5/12-3.3) committed on the same victim or after having been previously convicted of violation of an order of protection (720 ILCS 5/12-30) in which the same victim was the protected person.

(2) When a defendant is convicted of voluntary manslaughter, second degree murder, involuntary manslaughter, or reckless homicide in which the defendant has been convicted of causing the death of more than one individual.

(3) When a defendant is convicted of aggravated criminal sexual assault or criminal sexual assault, when there is a finding that aggravated criminal sexual assault or criminal sexual assault was also committed on the same victim by one or more other individuals, and the defendant voluntarily participated in the crime with the knowledge of the participation of the others in the crime, and the commission of the crime was part of a single course of conduct during which there was no substantial change in the nature of the criminal objective.

(4) If the victim was under 18 years of age at the time of the commission of the offense, when a defendant is convicted of aggravated criminal sexual assault or predatory criminal sexual assault of a child under subsection (a)(1) of Section 12-14.1 of the Criminal Code of 1961 (720 ILCS 5/12-14.1).

(5) When a defendant is convicted of a felony violation of Section 24-1 of the Criminal Code of 1961 (720 ILCS 5/24-1) and there is a finding that the defendant is a member of an organized gang.

(6) When a defendant was convicted of unlawful use of weapons under Section 24-1 of the Criminal Code of 1961 (720 ILCS 5/24-1) for possessing a weapon that is not readily distinguishable as one of the weapons enumerated in Section 24-1 of the Criminal Code of 1961 (720 ILCS 5/24-1).

(7) When a defendant is convicted of an offense involving the illegal manufacture of a controlled substance under Section 401 of the Illinois Controlled Substances Act (720 ILCS 570/401), the illegal manufacture of methamphetamine under Section 25 of the Methamphetamine Control and Community Protection Act (720 ILCS 646/25), or the illegal possession of explosives and an emergency response officer in the performance of his or her duties is killed or injured at the scene of the offense while responding to the emergency caused by the commission of the offense. In this paragraph, “emergency” means a situation in which a person's life, health, or safety is in jeopardy; and “emergency response officer” means a peace officer, community policing volunteer, fireman, emergency medical technician-ambulance, emergency medical technician-intermediate, emergency medical technician-paramedic, ambulance driver, other medical assistance or first aid personnel, or hospital emergency room personnel.

(d) For the purposes of this Section, “organized gang” has the meaning ascribed to it in Section 10 of the Illinois Streetgang Terrorism Omnibus Prevention Act.

(e) The court may impose an extended term sentence under Article 4.5 of Chapter V upon an offender who has been convicted of a felony violation of Section 12-13, 12-14, 12-14.1, 12-15, or 12-16 of the Criminal Code of 1961 when the victim of the offense is under 18 years of age at the time of the commission of the offense and, during the commission of the offense, the victim was under the influence of alcohol, regardless of whether or not the alcohol was supplied by the offender; and the offender, at the time of the commission of the offense, knew or should have known that the victim had consumed alcohol.

P. Restitution

730 ILCS 5/5-5-6

In all convictions for offenses in violation of the Criminal Code of 1961 or of Section 11-501 of the Illinois Vehicle Code in which the person received any injury to his or her person or damage to his or her real or personal property as a result of the criminal act of the defendant, the court shall order restitution as provided in this Section. In all other

cases, except cases in which restitution is required under this Section, the court must at the sentence hearing determine whether restitution is an appropriate sentence to be imposed on each defendant convicted of an offense. If the court determines that an order directing the offender to make restitution is appropriate, the offender may be sentenced to make restitution. The court may consider restitution an appropriate sentence to be imposed on each defendant convicted of an offense in addition to a sentence of imprisonment. The sentence of the defendant to a term of imprisonment is not a mitigating factor that prevents the court from ordering the defendant to pay restitution. If the offender is sentenced to make restitution the Court shall determine the restitution as hereinafter set forth:

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(b) In fixing the amount of restitution to be paid in cash, the court shall allow credit for property returned in kind, for property damages ordered to be repaired by the defendant, and for property ordered to be restored by the defendant; and after granting the credit, the court shall assess the actual out-of-pocket expenses, losses, damages, and injuries suffered by the victim named in the charge and any other victims who may also have suffered out-of-pocket expenses, losses, damages, and injuries proximately caused by the same criminal conduct of the defendant, and insurance carriers who have indemnified the named victim or other victims for the out-of-pocket expenses, losses, damages, or injuries, provided that in no event shall restitution be ordered to be paid on account of pain and suffering. If a defendant is placed on supervision for, or convicted of, domestic battery, the defendant shall be required to pay restitution to any domestic violence shelter in which the victim and any other family or household members lived because of the domestic battery. The amount of the restitution shall equal the actual expenses of the domestic violence shelter in providing housing and any other services for the victim and any other family or household members living at the shelter. If a defendant fails to pay restitution in the manner or within the time period specified by the court, the court may enter an order directing the sheriff to seize any real or personal property of a defendant to the extent necessary to satisfy the order of restitution and dispose of the property by public sale. All proceeds from such sale in excess of the amount of restitution plus court costs and the costs of the sheriff in conducting the sale shall be paid to the defendant. The defendant convicted of domestic battery, if a person under 18 years of age was present and witnessed the domestic battery of the victim, is liable to pay restitution for the cost of any counseling required for the child at the discretion of the court.

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(f) Taking into consideration the ability of the defendant to pay, including any real or personal property or any other assets of the defendant, the court shall determine whether restitution shall be paid in a single payment or in installments, and shall fix a period of time not in excess of 5 years or the period of time specified in subsection (f-1), not including periods of incarceration, within which payment of restitution is to be paid in full. Complete restitution shall be paid in as short a time

period as possible. However, if the court deems it necessary and in the best interest of the victim, the court may extend beyond 5 years the period of time within which the payment of restitution is to be paid. If the defendant is ordered to pay restitution and the court orders that restitution is to be paid over a period greater than 6 months, the court shall order that the defendant make monthly payments; the court may waive this requirement of monthly payments only if there is a specific finding of good cause for waiver.

(f-1) (1) In addition to any other penalty prescribed by law and any restitution ordered under this Section that did not include long-term physical health care costs, the court may, upon conviction of any misdemeanor or felony, order a defendant to pay restitution to a victim in accordance with the provisions of this subsection (f-1) if the victim has suffered physical injury as a result of the offense that is reasonably probable to require or has required long-term physical health care for more than 3 months. As used in this subsection (f-1) “long-term physical health care” includes mental health care.

(2) The victim's estimate of long-term physical health care costs may be made as part of a victim impact statement under Section 6 of the Rights of Crime Victims and Witnesses Act or made separately. The court shall enter the long-term physical health care restitution order at the time of sentencing. An order of restitution made under this subsection (f-1) shall fix a monthly amount to be paid by the defendant for as long as long-term physical health care of the victim is required as a result of the offense. The order may exceed the length of any sentence imposed upon the defendant for the criminal activity. The court shall include as a special finding in the judgment of conviction its determination of the monthly cost of long-term physical health care.

(3) After a sentencing order has been entered, the court may from time to time, on the petition of either the defendant or the victim, or upon its own motion, enter an order for restitution for long-term physical care or modify the existing order for restitution for long-term physical care as to the amount of monthly payments. Any modification of the order shall be based only upon a substantial change of circumstances relating to the cost of long-term physical health care or the financial condition of either the defendant or the victim. The petition shall be filed as part of the original criminal docket.

(g) In addition to the sentences provided for in Sections 11-1.20, 11-1.30, 11-1.40, 11-1.50, 11-1.60, 11-19.2, 11-20.1, 11-20.1B, 11-20.3, 12-13, 12-14, 12-14.1, 12-15, and 12-16, and subdivision (a)(4) of Section 11-14.4, of the Criminal Code of 1961, the court may order any person who is convicted of violating any of those Sections or who was charged with any of those offenses and which charge was reduced to another charge as a result of a plea agreement under subsection (d) of

this Section to meet all or any portion of the financial obligations of treatment, including but not limited to medical, psychiatric, or rehabilitative treatment or psychological counseling, prescribed for the victim or victims of the offense.

The payments shall be made by the defendant to the clerk of the circuit court and transmitted by the clerk to the appropriate person or agency as directed by the court. Except as otherwise provided in subsection (f-1), the order may require such payments to be made for a period not to exceed 5 years after sentencing, not including periods of incarceration.

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(i) A sentence of restitution may be modified or revoked by the court if the offender commits another offense, or the offender fails to make restitution as ordered by the court, but no sentence to make restitution shall be revoked unless the court shall find that the offender has had the financial ability to make restitution, and he has wilfully refused to do so. When the offender's ability to pay restitution was established at the time an order of restitution was entered or modified, or when the offender's ability to pay was based on the offender's willingness to make restitution as part of a plea agreement made at the time the order of restitution was entered or modified, there is a rebuttable presumption that the facts and circumstances considered by the court at the hearing at which the order of restitution was entered or modified regarding the offender's ability or willingness to pay restitution have not materially changed. If the court shall find that the defendant has failed to make restitution and that the failure is not wilful, the court may impose an additional period of time within which to make restitution. The length of the additional period shall not be more than 2 years. The court shall retain all of the incidents of the original sentence, including the authority to modify or enlarge the conditions, and to revoke or further modify the sentence if the conditions of payment are violated during the additional period.

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Q. Concurrent and Consecutive Terms of Imprisonment

730 ILCS 5/5-8-4

(a) Concurrent terms; multiple or additional sentences. When an Illinois court (i) imposes multiple sentences of imprisonment on a defendant at the same time or (ii) imposes a sentence of imprisonment on a defendant who is already subject to a sentence of imprisonment imposed by an Illinois court, a court of another state, or a federal court, then the sentences shall run concurrently unless otherwise determined by the Illinois court under this Section.

(b) Concurrent terms; misdemeanor and felony. A defendant serving a sentence for a misdemeanor who is convicted of a felony and sentenced to imprisonment shall

be transferred to the Department of Corrections, and the misdemeanor sentence shall be merged in and run concurrently with the felony sentence.

(c) Consecutive terms; permissive. The court may impose consecutive sentences in any of the following circumstances:

(1) If, having regard to the nature and circumstances of the offense and the history and character of the defendant, it is the opinion of the court that consecutive sentences are required to protect the public from further criminal conduct by the defendant, the basis for which the court shall set forth in the record.

(2) If one of the offenses for which a defendant was convicted was a violation of Section 32-5.2 (aggravated false personation of a peace officer) of the Criminal Code of 1961 (720 ILCS 5/32-5.2) or a violation of subdivision (b)(5) or (b)(6) of Section 17-2 of that Code (720 ILCS 5/17-2) and the offense was committed in attempting or committing a forcible felony.

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(d) Consecutive terms; mandatory. The court shall impose consecutive sentences in each of the following circumstances:

(1) One of the offenses for which the defendant was convicted was first degree murder or a Class X or Class 1 felony and the defendant inflicted severe bodily injury.

(2) The defendant was convicted of a violation of Section 11-1.20 or 12-13 (criminal sexual assault), 11-1.30 or 12-14 (aggravated criminal sexual assault), or 11-1.40 or 12-14.1 (predatory criminal sexual assault of a child) of the Criminal Code of 1961 (720 ILCS 5/11-1.20, 5/12-13, 5/11-1.30, 5/12-14, 5/11-1.40, or 5/12-14.1)

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R. Electronic Monitoring of Certain Sex Offenders

730 ILCS 5/5-8A-6

For a sexual predator subject to electronic home monitoring under paragraph (7.7) of subsection (a) of Section 3-3-7, the Department of Corrections must use a system that actively monitors and identifies the offender's current location and timely reports or records the offender's presence and that alerts the Department of the offender's presence within a prohibited area described in Sections 11-9.3 and 11-9.4 of the Criminal Code of 1961, in a court order, or as a condition of the offender's parole, mandatory supervised release, or extended mandatory supervised release and the offender's departure from

specified geographic limitations. To the extent that he or she is able to do so, which the Department of Corrections by rule shall determine, the offender must pay for the cost of the electronic home monitoring.

S. Sexual Assault Fines

730 ILCS 5/5-9-1.7

(a) Definitions. The terms used in this Section shall have the following meanings ascribed to them:

(1) "Sexual assault" means the commission or attempted commission of the following: sexual exploitation of a child, criminal sexual assault, predatory criminal sexual assault of a child, aggravated criminal sexual assault, criminal sexual abuse, aggravated criminal sexual abuse, indecent solicitation of a child, public indecency, sexual relations within families, promoting juvenile prostitution, soliciting for a juvenile prostitute, keeping a place of juvenile prostitution, patronizing a juvenile prostitute, juvenile pimping, exploitation of a child, obscenity, child pornography, aggravated child pornography, harmful material, or ritualized abuse of a child, as those offenses are defined in the Criminal Code of 1961.

(2) "Family member" shall have the meaning ascribed to it in Section 12-12 of the Criminal Code of 1961.

(3) "Sexual assault organization" means any not-for-profit organization providing comprehensive, community-based services to victims of sexual assault. "Community-based services" include, but are not limited to, direct crisis intervention through a 24-hour response, medical and legal advocacy, counseling, information and referral services, training, and community education.

(b) Sexual assault fine; collection by clerk.

(1) In addition to any other penalty imposed, a fine of $200 shall be imposed upon any person who pleads guilty or who is convicted of, or who receives a disposition of court supervision for, a sexual assault or attempt of a sexual assault. Upon request of the victim or the victim's representative, the court shall determine whether the fine will impose an undue burden on the victim of the offense. For purposes of this paragraph, the defendant may not be considered the victim's representative. If the court finds that the fine would impose an undue burden on the victim, the court may reduce or waive the fine. The court shall order that the defendant may not use funds belonging solely to the victim of the offense for payment of the fine.

(2) Sexual assault fines shall be assessed by the court imposing the sentence and shall be collected by the circuit clerk. The circuit clerk shall retain 10% of the penalty to cover the costs involved in administering and enforcing this Section. The circuit clerk shall remit the remainder of each fine within one month of its receipt to the State Treasurer for deposit as follows:

(i) for family member offenders, one-half to the Sexual Assault Services Fund, and one-half to the Domestic Violence Shelter and Service Fund; and

(ii) for other than family member offenders, the full amount to the Sexual Assault Services Fund.

(c) Sexual Assault Services Fund; administration. There is created a Sexual Assault Services Fund. Moneys deposited into the Fund under this Section shall be appropriated to the Department of Public Health. Upon appropriation of moneys from the Sexual Assault Services Fund, the Department of Public Health shall make grants of these moneys from the Fund to sexual assault organizations with whom the Department has contracts for the purpose of providing community-based services to victims of sexual assault. Grants made under this Section are in addition to, and are not substitutes for, other grants authorized and made by the Department.

T. Sex Offender Registration Act

730 ILCS 150/1

1. Definitions

730 ILCS 150/2

(A) As used in this Article, “sex offender” means any person who is:

(1) charged pursuant to Illinois law, or any substantially similar federal, Uniform Code of Military Justice, sister state, or foreign country law, with a sex offense set forth in subsection (B) of this Section or the attempt to commit an included sex offense, and:

(a) is convicted of such offense or an attempt to commit such offense; or

(b) is found not guilty by reason of insanity of such offense or an attempt to commit such offense; or

(c) is found not guilty by reason of insanity pursuant to Section 104-25(c) of the Code of Criminal Procedure of 1963 of such offense or an attempt to commit such offense; or

(d) is the subject of a finding not resulting in an acquittal at a hearing conducted pursuant to Section 104-25(a) of the Code of Criminal Procedure of 1963 for the alleged commission or attempted commission of such offense; or

(e) is found not guilty by reason of insanity following a hearing conducted pursuant to a federal, Uniform Code of Military Justice, sister state, or foreign country law substantially similar to Section 104-25(c) of the Code of Criminal Procedure of 1963 of such offense or of the attempted commission of such offense; or

(f) is the subject of a finding not resulting in an acquittal at a hearing conducted pursuant to a federal, Uniform Code of Military Justice, sister state, or foreign country law substantially similar to Section 104-25(a) of the Code of Criminal Procedure of 1963 for the alleged violation or attempted commission of such offense; or

(2) certified as a sexually dangerous person pursuant to the Illinois Sexually Dangerous Persons Act, or any substantially similar federal, Uniform Code of Military Justice, sister state, or foreign country law; or

(3) subject to the provisions of Section 2 of the Interstate Agreements on Sexually Dangerous Persons Act; or

(4) found to be a sexually violent person pursuant to the Sexually Violent Persons Commitment Act or any substantially similar federal, Uniform Code of Military Justice, sister state, or foreign country law; or

(5) adjudicated a juvenile delinquent as the result of committing or attempting to commit an act which, if committed by an adult, would constitute any of the offenses specified in item (B), (C), or (C-5) of this Section or a violation of any substantially similar federal, Uniform Code of Military Justice, sister state, or foreign country law, or found guilty under Article V of the Juvenile Court Act of 1987 of committing or attempting to commit an act which, if committed by an adult, would constitute any of the offenses specified in item (B), (C), or (C-5) of this Section or. a violation of

any substantially similar federal, Uniform Code of Military Justice, sister state, or foreign country law.

Convictions that result from or are connected with the same act, or result from offenses committed at the same time, shall be counted for the purpose of this Article as one conviction. Any conviction set aside pursuant to law is not a conviction for purposes of this Article.

For purposes of this Section, “convicted” shall have the same meaning as “adjudicated”.

(B) As used in this Article, “sex offense” means:

(1) A violation of any of the following Sections of the Criminal Code of 1961:

11-20.1 (child pornography

11-20.1B or 11-20.3 (aggravated child pornography),

11-6 (indecent solicitation of a child),

11-9.1 (sexual exploitation of a child),

11-9.2 (custodial sexual misconduct),

11-9.5 (sexual misconduct with a person with a disability),

11-14.4 (promoting juvenile prostitution),

11-15.1 (soliciting for a juvenile prostitute),

11-18.1 (patronizing a juvenile prostitute),

11-17.1 (keeping a place of juvenile prostitution),

11-19.1 (juvenile pimping),

11-19.2 (exploitation of a child),

11-25 (grooming),

11-26 (traveling to meet a minor),

11-1.20 or 12-13 (criminal sexual assault),

11-1.30 or 12-14 (aggravated criminal sexual assault),

11-1.40 or 12-14.1 (predatory criminal sexual assault of a child),

11-1.50 or 12-15 (criminal sexual abuse),

11-1.60 or 12-16 (aggravated criminal sexual abuse),

12-33 (ritualized abuse of a child).

An attempt to commit any of these offenses.

(1.5) A violation of any of the following Sections of the Criminal Code of 1961, when the victim is a person under 18 years of age, the defendant is not a parent of the victim, the offense was sexually motivated as defined in Section 10 of the Sex Offender Management Board Act, and the offense was committed on or after January 1, 1996:

10-1 (kidnapping),

10-2 (aggravated kidnapping),

10-3 (unlawful restraint),

10-3.1 (aggravated unlawful restraint).

(1.6) First degree murder under Section 9-1 of the Criminal Code of 1961 when the victim was a person under 18 years of age and the defendant was at least 17 years of age at the time of the commission of the offense, provided the offense was sexually motivated as defined in Section 10 of the Sex Offender Management Board Act.

(1.7) (Blank).

(1.8) A violation or attempted violation of Section 11-11 (sexual relations within families) of the Criminal Code of 1961, and the offense was committed on or after June 1, 1997.

(1.9) Child abduction under paragraph (10) of subsection (b) of Section 10-5 of the Criminal Code of 1961 committed by luring or attempting to lure a child under the age of 16 into a motor vehicle, building, house trailer, or dwelling place without the consent of the parent or lawful custodian of the child for other than a lawful purpose and the offense was committed on or after January 1,

1998, provided the offense was sexually motivated as defined in Section 10 of the Sex Offender Management Board Act.

(1.10) A violation or attempted violation of any of the following Sections of the Criminal Code of 1961 when the offense was committed on or after July 1, 1999:

10-4 (forcible detention, if the victim is under 18 years of age), provided the offense was sexually motivated as defined in Section 10 of the Sex Offender Management Board Act,

11-6.5 (indecent solicitation of an adult)

11-14.3 that involves soliciting for a prostitute, or 11-15 (soliciting for a prostitute, if the victim is under 18 years of age),

subdivision (a)(2)(A) or (a)(2)(B) of Section 11-14.3, or Section 11-16 (pandering, if the victim is under 18 years of age),

11-18 (patronizing a prostitute, if the victim is under 18 years of age),

subdivision (a)(2)(C) of Section 11-14.3, or Section 11-19 (pimping, if the victim is under 18 years of age).

(1.11) A violation or attempted violation of any of the following Sections of the Criminal Code of 1961 when the offense was committed on or after August 22, 2002:

11-9 or 11-30 (public indecency for a third or subsequent conviction).

(1.12) A violation or attempted violation of Section 5.1 of the Wrongs to Children Act or Section 11-9.1A of the Criminal Code of 1961 (permitting sexual abuse) when the offense was committed on or after August 22, 2002.

(2) A violation of any former law of this State substantially equivalent to any offense listed in subsection (B) of this Section.

(C) A conviction for an offense of federal law, Uniform Code of Military Justice, or the law of another state or a foreign country that is substantially equivalent to any offense listed in subsections (B), (C), (E), and (E-5) of this Section shall constitute a conviction for the purpose of this Article. A finding or adjudication as a sexually dangerous person or a sexually violent person under any federal law, Uniform Code of Military Justice, or

the law of another state or foreign country that is substantially equivalent to the Sexually Dangerous Persons Act or the Sexually Violent Persons Commitment Act shall constitute an adjudication for the purposes of this Article.

(C-5) A person at least 17 years of age at the time of the commission of the offense who is convicted of first degree murder under Section 9-1 of the Criminal Code of 1961, against a person under 18 years of age, shall be required to register for natural life. A conviction for an offense of federal, Uniform Code of Military Justice, sister state, or foreign country law that is substantially equivalent to any offense listed in subsection (C-5) of this Section shall constitute a conviction for the purpose of this Article. This subsection (C-5) applies to a person who committed the offense before June 1, 1996 only if the person is incarcerated in an Illinois Department of Corrections facility on August 20, 2004 (the effective date of Public Act 93-977).

(D) As used in this Article, "law enforcement agency having jurisdiction" means the Chief of Police in each of the municipalities in which the sex offender expects to reside, work, or attend school (1) upon his or her discharge, parole or release or (2) during the service of his or her sentence of probation or conditional discharge, or the Sheriff of the county, in the event no Police Chief exists or if the offender intends to reside, work, or attend school in an unincorporated area. "Law enforcement agency having jurisdiction" includes the location where out-of-state students attend school and where out-of-state employees are employed or are otherwise required to register.

(D-1) As used in this Article, "supervising officer" means the assigned Illinois Department of Corrections parole agent or county probation officer.

(E) As used in this Article, "sexual predator" means any person who, after July 1, 1999, is:

(1) Convicted for an offense of federal, Uniform Code of Military Justice, sister state, or foreign country law that is substantially equivalent to any offense listed in subsection (E) or (E-5) of this Section shall constitute a conviction for the purpose of this Article. Convicted of a violation or attempted violation of any of the following Sections of the Criminal Code of 1961, if the conviction occurred after July 1, 1999:

11-14.4 that involves keeping a place of juvenile prostitution, or 11-17.1 (keeping a place of juvenile prostitution),

subdivision (a)(2) or (a)(3) of Section 11-14.4, or Section 11-19.1 (juvenile pimping),

subdivision (a)(4) of Section 11-14.4, or Section 11-19.2 (exploitation of a child),

11-20.1 (child pornography),

11-20.1B or 11-20.3 (aggravated child pornography),

11-1.20 or 12-13 (criminal sexual assault),

11-1.30 or 12-14 (aggravated criminal sexual assault),

11-1.40 or 12-14.1 (predatory criminal sexual assault of a child),

11-1.60 or 12-16 (aggravated criminal sexual abuse),

12-33 (ritualized abuse of a child);

(2) (blank);

(3) certified as a sexually dangerous person pursuant to the Sexually Dangerous Persons Act or any substantially similar federal, Uniform Code of Military Justice, sister state, or foreign country law;

(4) found to be a sexually violent person pursuant to the Sexually Violent Persons Commitment Act or any substantially similar federal, Uniform Code of Military Justice, sister state, or foreign country law;

(5) convicted of a second or subsequent offense which requires registration pursuant to this Act. The conviction for the second or subsequent offense must have occurred after July 1, 1999. For purposes of this paragraph (5), “convicted” shall include a conviction under any substantially similar Illinois, federal, Uniform Code of Military Justice, sister state, or foreign country law; or

(6) convicted of a second or subsequent offense of luring a minor under Section 10-5.1 of the Criminal Code of 1961.

(E-5) As used in this Article, “sexual predator” also means a person convicted of a violation or attempted violation of any of the following Sections of the Criminal Code of 1961:

(1) Section 9-1 (first degree murder, when the victim was a person under 18 years of age and the defendant was at least 17 years of age at the time of the commission of the offense, provided the offense was sexually motivated as defined in Section 10 of the Sex Offender Management Board Act);

(2) Section 11-9.5 (sexual misconduct with a person with a disability);

(3) when the victim is a person under 18 years of age, the defendant is not a parent of the victim, the offense was sexually motivated as defined in Section 10 of the Sex Offender Management Board Act, and the offense was committed on or after January 1, 1996: (A) Section 10-1 (kidnapping), (B) Section 10-2 (aggravated kidnapping), (C) Section 10-3 (unlawful restraint), and (D) Section 10-3.1 (aggravated unlawful restraint); and

(4) Section 10-5(b)(10) (child abduction committed by luring or attempting to lure a child under the age of 16 into a motor vehicle, building, house trailer, or dwelling place without the consent of the parent or lawful custodian of the child for other than a lawful purpose and the offense was committed on or after January 1, 1998, provided the offense was sexually motivated as defined in Section 10 of the Sex Offender Management Board Act).

(F) As used in this Article, “out-of-state student” means any sex offender, as defined in this Section, or sexual predator who is enrolled in Illinois, on a full-time or part-time basis, in any public or private educational institution, including, but not limited to, any secondary school, trade or professional institution, or institution of higher learning.

(G) As used in this Article, “out-of-state employee” means any sex offender, as defined in this Section, or sexual predator who works in Illinois, regardless of whether the individual receives payment for services performed, for a period of time of 10 or more days or for an aggregate period of time of 30 or more days during any calendar year. Persons who operate motor vehicles in the State accrue one day of employment time for any portion of a day spent in Illinois.

(H) As used in this Article, “school” means any public or private educational institution, including, but not limited to, any elementary or secondary school, trade or professional institution, or institution of higher education.

(I) As used in this Article, “fixed residence” means any and all places that a sex offender resides for an aggregate period of time of 5 or more days in a calendar year.

(J) As used in this Article, “Internet protocol address” means the string of numbers by which a location on the Internet is identified by routers or other computers connected to the Internet.

2. Duty to Register

730 ILCS 150/3

(a) A sex offender, as defined in Section 2 of this Act, or sexual predator shall, within the time period prescribed in subsections (b) and (c), register in person and provide accurate information as required by the Department of State Police. Such information shall include a current photograph, current address, current place of employment, the sex offender's or sexual predator's telephone number, including cellular telephone number, the employer's telephone number, school attended, all e-mail addresses, instant messaging identities, chat room identities, and other Internet communications identities that the sex offender uses or plans to use, all Uniform Resource Locators (URLs) registered or used by the sex offender, all blogs and other Internet sites maintained by the sex offender or to which the sex offender has uploaded any content or posted any messages or information, extensions of the time period for registering as provided in this Article and, if an extension was granted, the reason why the extension was granted and the date the sex offender was notified of the extension. The information shall also include a copy of the terms and conditions of parole or release signed by the sex offender and given to the sex offender by his or her supervising officer, the county of conviction, license plate numbers for every vehicle registered in the name of the sex offender, the age of the sex offender at the time of the commission of the offense, the age of the victim at the time of the commission of the offense, and any distinguishing marks located on the body of the sex offender. A sex offender convicted under Section 11-6, 11-20.1, 11-20.1B, 11-20.3, or 11-21 of the Criminal Code of 1961 shall provide all Internet protocol (IP) addresses in his or her residence, registered in his or her name, accessible at his or her place of employment, or otherwise under his or her control or custody. If the sex offender is a child sex offender as defined in Section 11-9.3 or 11-9.4 of the Criminal Code of 1961, the sex offender shall report to the registering agency whether he or she is living in a household with a child under 18 years of age who is not his or her own child, provided that his or her own child is not the victim of the sex offense. The sex offender or sexual predator shall register:

(1) with the chief of police in the municipality in which he or she resides or is temporarily domiciled for a period of time of 3 or more days, unless the municipality is the City of Chicago, in which case he or she shall register at the Chicago Police Department Headquarters; or

(2) with the sheriff in the county in which he or she resides or is temporarily domiciled for a period of time of 3 or more days in an unincorporated area or, if incorporated, no police chief exists.

If the sex offender or sexual predator is employed at or attends an institution of higher education, he or she shall register:

(i) with the chief of police in the municipality in which he or she is employed at or attends an institution of higher education, unless the municipality is the City of Chicago, in which case he or she shall register at the Chicago Police Department Headquarters; or

(ii) with the sheriff in the county in which he or she is employed or attends an institution of higher education located in an unincorporated area, or if incorporated, no police chief exists.

For purposes of this Article, the place of residence or temporary domicile is defined as any and all places where the sex offender resides for an aggregate period of time of 3 or more days during any calendar year. Any person required to register under this Article who lacks a fixed address or temporary domicile must notify, in person, the agency of jurisdiction of his or her last known address within 3 days after ceasing to have a fixed residence.

A sex offender or sexual predator who is temporarily absent from his or her current address of registration for 3 or more days shall notify the law enforcement agency having jurisdiction of his or her current registration, including the itinerary for travel, in the manner provided in Section 6 of this Act for notification to the law enforcement agency having jurisdiction of change of address.

Any person who lacks a fixed residence must report weekly, in person, with the sheriff's office of the county in which he or she is located in an unincorporated area, or with the chief of police in the municipality in which he or she is located. The agency of jurisdiction will document each weekly registration to include all the locations where the person has stayed during the past 7 days.

The sex offender or sexual predator shall provide accurate information as required by the Department of State Police. That information shall include the sex offender's or sexual predator's current place of employment.

(a-5) An out-of-state student or out-of-state employee shall, within 3 days after beginning school or employment in this State, register in person and provide accurate information as required by the Department of State Police. Such information will include current place of employment, school

attended, and address in state of residence. A sex offender convicted under Section 11-6, 11-20.1, 11-20.1B, 11-20.3, or 11-21 of the Criminal Code of 1961 shall provide all Internet protocol (IP) addresses in his or her residence, registered in his or her name, accessible at his or her place of employment, or otherwise under his or her control or custody. The out-of-state student or out-of-state employee shall register:

(1) with the chief of police in the municipality in which he or she attends school or is employed for a period of time of 5 or more days or for an aggregate period of time of more than 30 days during any calendar year, unless the municipality is the City of Chicago, in which case he or she shall register at the Chicago Police Department Headquarters; or

(2) with the sheriff in the county in which he or she attends school or is employed for a period of time of 5 or more days or for an aggregate period of time of more than 30 days during any calendar year in an unincorporated area or, if incorporated, no police chief exists.

The out-of-state student or out-of-state employee shall provide accurate information as required by the Department of State Police. That information shall include the out-of-state student's current place of school attendance or the out-of-state employee's current place of employment.

(a-10) Any law enforcement agency registering sex offenders or sexual predators in accordance with subsections (a) or (a-5) of this Section shall forward to the Attorney General a copy of sex offender registration forms from persons convicted under Section 11-6, 11-20.1, 11-20.1B, 11-20.3, or 11-21 of the Criminal Code of 1961, including periodic and annual registrations under Section 6 of this Act.

(b) Any sex offender, as defined in Section 2 of this Act, or sexual predator, regardless of any initial, prior, or other registration, shall, within 3 days of beginning school, or establishing a residence, place of employment, or temporary domicile in any county, register in person as set forth in subsection (a) or (a-5).

(c) The registration for any person required to register under this Article shall be as follows:

(1) Any person registered under the Habitual Child Sex Offender Registration Act or the Child Sex Offender Registration Act prior to January 1, 1996, shall be deemed initially registered as of January 1, 1996; however, this shall not be construed to extend the duration of registration set forth in Section 7.

(2) Except as provided in subsection (c)(4), any person convicted or adjudicated prior to January 1, 1996, whose liability for registration under Section 7 has not expired, shall register in person prior to January 31, 1996.

(2.5) Except as provided in subsection (c)(4), any person who has not been notified of his or her responsibility to register shall be notified by a criminal justice entity of his or her responsibility to register. Upon notification the person must then register within 3 days of notification of his or her requirement to register. If notification is not made within the offender's 10 year registration requirement, and the Department of State Police determines no evidence exists or indicates the offender attempted to avoid registration, the offender will no longer be required to register under this Act.

(3) Except as provided in subsection (c)(4), any person convicted on or after January 1, 1996, shall register in person within 3 days after the entry of the sentencing order based upon his or her conviction.

(4) Any person unable to comply with the registration requirements of this Article because he or she is confined, institutionalized, or imprisoned in Illinois on or after January 1, 1996, shall register in person within 3 days of discharge, parole or release.

(5) The person shall provide positive identification and documentation that substantiates proof of residence at the registering address.

(6) The person shall pay a $100 initial registration fee and a $100 annual renewal fee. The fees shall be used by the registering agency for official purposes. The agency shall establish procedures to document receipt and use of the funds. The law enforcement agency having jurisdiction may waive the registration fee if it determines that the person is indigent and unable to pay the registration fee. Thirty dollars for the initial registration fee and $30 of the annual renewal fee shall be used by the registering agency for official purposes. Ten dollars of the initial registration fee and $10 of the annual fee shall be deposited into the Sex Offender Management Board Fund under Section 19 of the Sex Offender Management Board Act. Money deposited into the Sex Offender Management Board Fund shall be administered by the Sex Offender Management Board and shall be used to fund practices endorsed or required by the Sex Offender Management Board Act including but not limited to sex offenders evaluation, treatment, or monitoring programs that are or may be developed, as

well as for administrative costs, including staff, incurred by the Board. Thirty dollars of the initial registration fee and $30 of the annual renewal fee shall be deposited into the Sex Offender Registration Fund and shall be used by the Department of State Police to maintain and update the Illinois State Police Sex Offender Registry. Thirty dollars of the initial registration fee and $30 of the annual renewal fee shall be deposited into the Attorney General Sex Offender Awareness, Training, and Education Fund. Moneys deposited into the Fund shall be used by the Attorney General to administer the I-SORT program and to alert and educate the public, victims, and witnesses of their rights under various victim notification laws and for training law enforcement agencies, State's Attorneys, and medical providers of their legal duties concerning the prosecution and investigation of sex offenses.

(d) Within 3 days after obtaining or changing employment and, if employed on January 1, 2000, within 5 days after that date, a person required to register under this Section must report, in person to the law enforcement agency having jurisdiction, the business name and address where he or she is employed. If the person has multiple businesses or work locations, every business and work location must be reported to the law enforcement agency having jurisdiction.

3. Application of Act to Adjudicated Juvenile Delinquents

730 ILCS 150/3-5

(a) In all cases involving an adjudicated juvenile delinquent who meets the definition of sex offender as set forth in paragraph (5) of subsection (A) of Section 2 of this Act, the court shall order the minor to register as a sex offender.

(b) Once an adjudicated juvenile delinquent is ordered to register as a sex offender, the adjudicated juvenile delinquent shall be subject to the registration requirements set forth in Sections 3, 6, 6-5, 8, 8-5, and 10 for the term of his or her registration.

(c) For a minor adjudicated delinquent for an offense which, if charged as an adult, would be a felony, no less than 5 years after registration ordered pursuant to subsection (a) of this Section, the minor may petition for the termination of the term of registration. For a minor adjudicated delinquent for an offense which, if charged as an adult, would be a misdemeanor, no less than 2 years after registration ordered pursuant to subsection (a) of this Section, the minor may petition for termination of the term of registration.

(d) The court may upon a hearing on the petition for termination of registration, terminate registration if the court finds that the registrant poses no risk to the community by a preponderance of the evidence based upon the factors set forth in subsection (e).

(e) To determine whether a registrant poses a risk to the community as required by subsection (d), the court shall consider the following factors:

(1) a risk assessment performed by an evaluator approved by the Sex Offender Management Board;

(2) the sex offender history of the adjudicated juvenile delinquent;

(3) evidence of the adjudicated juvenile delinquent's rehabilitation;

(4) the age of the adjudicated juvenile delinquent at the time of the offense;

(5) information related to the adjudicated juvenile delinquent's mental, physical, educational, and social history;

(6) victim impact statements; and

(7) any other factors deemed relevant by the court.

(f) At the hearing set forth in subsections (c) and (d), a registrant shall be represented by counsel and may present a risk assessment conducted by an evaluator who is a licensed psychiatrist, psychologist, or other mental health professional, and who has demonstrated clinical experience in juvenile sex offender treatment.

(g) After a registrant completes the term of his or her registration, his or her name, address, and all other identifying information shall be removed from all State and local registries.

(h) This Section applies retroactively to cases in which adjudicated juvenile delinquents who registered or were required to register before the effective date of this amendatory Act of the 95th General Assembly. On or after the effective date of this amendatory Act of the 95th General Assembly, a person adjudicated delinquent before the effective date of this amendatory Act of the 95th General Assembly may request a hearing regarding status of registration by filing a Petition Requesting Registration Status with the clerk of the court. Upon receipt of the Petition Requesting Registration Status, the clerk of the court shall provide notice to the parties and set the Petition for hearing pursuant to subsections (c) through (e) of this Section.

(i) This Section does not apply to minors prosecuted under the criminal laws as adults.

4. Discharge of Sex Offender or Sexual Predator from Department of Corrections Facility or Other Penal Institution; Duties of Official in Charge

730 ILCS 150/4

Any sex offender, as defined in Section 2 of this Act, or sexual predator, as defined by this Article, who is discharged, paroled or released from a Department of Corrections facility, a facility where such person was placed by the Department of Corrections or another penal institution, and whose liability for registration has not terminated under Section 7 shall, prior to discharge, parole or release from the facility or institution, be informed of his or her duty to register in person within 3 days of release by the facility or institution in which he or she was confined. The facility or institution shall also inform any person who must register that if he or she establishes a residence outside of the State of Illinois, is employed outside of the State of Illinois, or attends school outside of the State of Illinois, he or she must register in the new state within 3 days after establishing the residence, beginning employment, or beginning school.

The facility shall require the person to read and sign such form as may be required by the Department of State Police stating that the duty to register and the procedure for registration has been explained to him or her and that he or she understands the duty to register and the procedure for registration. The facility shall further advise the person in writing that the failure to register or other violation of this Article shall result in revocation of parole, mandatory supervised release or conditional release. The facility shall obtain information about where the person expects to reside, work, and attend school upon his or her discharge, parole or release and shall report the information to the Department of State Police. The facility shall give one copy of the form to the person and shall send one copy to each of the law enforcement agencies having jurisdiction where the person expects to reside, work, and attend school upon his or her discharge, parole or release and retain one copy for the files. Electronic data files which includes all notification form information and photographs of sex offenders being released from an Illinois Department of Corrections facility will be shared on a regular basis as determined between the Department of State Police and the Department of Corrections.

5. Release of Sex Offender or Sexual Predator; Duties of the Court

730 ILCS 150/5

Any sex offender, as defined in Section 2 of this Act, or sexual predator, as defined by this Article, who is released on probation or discharged upon payment

of a fine because of the commission of one of the offenses defined in subsection (B) of Section 2 of this Article, shall, prior to such release be informed of his or her duty to register under this Article by the Court in which he or she was convicted. The Court shall also inform any person who must register that if he or she establishes a residence outside of the State of Illinois, is employed outside of the State of Illinois, or attends school outside of the State of Illinois, he or she must register in the new state within 3 days after establishing the residence, beginning employment, or beginning school. The Court shall require the person to read and sign such form as may be required by the Department of State Police stating that the duty to register and the procedure for registration has been explained to him or her and that he or she understands the duty to register and the procedure for registration. The Court shall further advise the person in writing that the failure to register or other violation of this Article shall result in probation revocation. The Court shall obtain information about where the person expects to reside, work, and attend school upon his or her release, and shall report the information to the Department of State Police. The Court shall give one copy of the form to the person and retain the original in the court records. The Department of State Police shall notify the law enforcement agencies having jurisdiction where the person expects to reside, work and attend school upon his or her release.

6. Discharge of Sex Offender or Sexual Predator from a Hospital or Other Treatment Facility; Duties of the Official in Charge

730 ILCS 150/5-5

Any sex offender, as defined in Section 2 of this Act, or sexual predator, as defined in this Article, who is discharged or released from a hospital or other treatment facility where he or she was confined shall be informed by the hospital or treatment facility in which he or she was confined, prior to discharge or release from the hospital or treatment facility, of his or her duty to register under this Article.

The facility shall require the person to read and sign such form as may be required by the Department of State Police stating that the duty to register and the procedure for registration has been explained to him or her and that he or she understands the duty to register and the procedure for registration. The facility shall give one copy of the form to the person, retain one copy for their records, and forward the original to the Department of State Police. The facility shall obtain information about where the person expects to reside, work, and attend school upon his or her discharge, parole, or release and shall report the information to the Department of State Police within 3 days. The facility or institution shall also inform any person who must register that if he or she establishes a residence outside of the State of Illinois, is employed outside of the State of Illinois, or attends school outside of the State of Illinois, he or she must

register in the new state within 3 days after establishing the residence, beginning school, or beginning employment. The Department of State Police shall notify the law enforcement agencies having jurisdiction where the person expects to reside, work, and attend school upon his or her release.

7. Nonforwardable Verification Letters

730 ILCS 150/5-10

The Department of State Police shall mail a quarterly nonforwardable verification letter to each registered person who has been adjudicated to be sexually dangerous or is a sexually violent person and is later released, or found to be no longer sexually dangerous or no longer a sexually violent person and discharged, beginning 90 days from the date of his or her last registration. To any other person registered under this Article, the Department of State Police shall mail an annual nonforwardable verification letter, beginning one year from the date of his or her last registration. A person required to register under this Article who is mailed a verification letter shall complete, sign, and return the enclosed verification form to the Department of State Police postmarked within 10 days after the mailing date of the letter. A person's failure to return the verification form to the Department of State Police within 10 days after the mailing date of the letter shall be considered a violation of this Article.

8. Duty to Report; Change of Address, School, or Employment; Duty to Inform

730 ILCS 150/6

A person who has been adjudicated to be sexually dangerous or is a sexually violent person and is later released, or found to be no longer sexually dangerous or no longer a sexually violent person and discharged, or convicted of a violation of this Act after July 1, 2005, shall report in person to the law enforcement agency with whom he or she last registered no later than 90 days after the date of his or her last registration and every 90 days thereafter and at such other times at the request of the law enforcement agency not to exceed 4 times a year. Such sexually dangerous or sexually violent person must report all new or changed e-mail addresses, all new or changed instant messaging identities, all new or changed chat room identities, and all other new or changed Internet communications identities that the sexually dangerous or sexually violent person uses or plans to use, all new or changed Uniform Resource Locators (URLs) registered or used by the sexually dangerous or sexually violent person, and all new or changed blogs and other Internet sites maintained by the sexually dangerous or sexually violent person or to which the sexually dangerous or sexually violent person has uploaded any content or posted any messages or information. Any person who lacks a fixed residence must report weekly, in person, to the appropriate law enforcement agency where the sex offender is located. Any other person who is required to register under this Article shall report in person to the appropriate law

enforcement agency with whom he or she last registered within one year from the date of last registration and every year thereafter and at such other times at the request of the law enforcement agency not to exceed 4 times a year. If any person required to register under this Article lacks a fixed residence or temporary domicile, he or she must notify, in person, the agency of jurisdiction of his or her last known address within 3 days after ceasing to have a fixed residence and if the offender leaves the last jurisdiction of residence, he or she, must within 3 days after leaving register in person with the new agency of jurisdiction. If any other person required to register under this Article changes his or her residence address, place of employment, telephone number, cellular telephone number, or school, he or she shall report in person, to the law enforcement agency with whom he or she last registered, his or her new address, change in employment, telephone number, cellular telephone number, or school, all new or changed e-mail addresses, all new or changed instant messaging identities, all new or changed chat room identities, and all other new or changed Internet communications identities that the sex offender uses or plans to use, all new or changed Uniform Resource Locators (URLs) registered or used by the sex offender, and all new or changed blogs and other Internet sites maintained by the sex offender or to which the sex offender has uploaded any content or posted any messages or information, and register, in person, with the appropriate law enforcement agency within the time period specified in Section 3. If the sex offender is a child sex offender as defined in Section 11-9.3 or 11-9.4 of the Criminal Code of 1961, the sex offender shall within 3 days after beginning to reside in a household with a child under 18 years of age who is not his or her own child, provided that his or her own child is not the victim of the sex offense, report that information to the registering law enforcement agency. The law enforcement agency shall, within 3 days of the reporting in person by the person required to register under this Article, notify the Department of State Police of the new place of residence, change in employment, telephone number, cellular telephone number, or school.

If any person required to register under this Article intends to establish a residence or employment outside of the State of Illinois, at least 10 days before establishing that residence or employment, he or she shall report in person to the law enforcement agency with which he or she last registered of his or her out-of-state intended residence or employment. The law enforcement agency with which such person last registered shall, within 3 days after the reporting in person of the person required to register under this Article of an address or employment change, notify the Department of State Police. The Department of State Police shall forward such information to the out-of-state law enforcement agency having jurisdiction in the form and manner prescribed by the Department of State Police.

9. Out-of-State Employee or Student; Duty to Report Change

730 ILCS 150/6-5

Every out-of-state student or out-of-state employee must notify the agency having jurisdiction of any change of employment or change of educational status, in writing, within 3 days of the change. The law enforcement agency shall, within 3 days after receiving the notice, enter the appropriate changes into LEADS.

10. Duration of Registration

730 ILCS 150/7

A person who has been adjudicated to be sexually dangerous and is later released or found to be no longer sexually dangerous and discharged, shall register for the period of his or her natural life. A sexually violent person or sexual predator shall register for the period of his or her natural life after conviction or adjudication if not confined to a penal institution, hospital, or other institution or facility, and if confined, for the period of his or her natural life after parole, discharge, or release from any such facility. A person who becomes subject to registration under this Article who has previously been subject to registration under this Article or under the Child Murderer and Violent Offender Against Youth Registration Act or similar registration requirements of other jurisdictions shall register for the period of his or her natural life if not confined to a penal institution, hospital, or other institution or facility, and if confined, for the period of his or her natural life after parole, discharge, or release from any such facility. Any other person who is required to register under this Article shall be required to register for a period of 10 years after conviction or adjudication if not confined to a penal institution, hospital or any other institution or facility, and if confined, for a period of 10 years after parole, discharge or release from any such facility. A sex offender who is allowed to leave a county, State, or federal facility for the purposes of work release, education, or overnight visitations shall be required to register within 3 days of beginning such a program. Liability for registration terminates at the expiration of 10 years from the date of conviction or adjudication if not confined to a penal institution, hospital or any other institution or facility and if confined, at the expiration of 10 years from the date of parole, discharge or release from any such facility, providing such person does not, during that period, again become liable to register under the provisions of this Article. Reconfinement due to a violation of parole or other circumstances that relates to the original conviction or adjudication shall extend the period of registration to 10 years after final parole, discharge, or release. Reconfinement due to a violation of parole or other circumstances that do not relate to the original conviction or adjudication shall toll the running of the balance of the 10-year period of registration, which shall not commence running until after final parole, discharge, or release. The Director of State Police, consistent with administrative rules, shall extend for 10 years the registration period of any sex offender, as defined in Section 2 of this Act, who

fails to comply with the provisions of this Article. The registration period for any sex offender who fails to comply with any provision of the Act shall extend the period of registration by 10 years beginning from the first date of registration after the violation. If the registration period is extended, the Department of State Police shall send a registered letter to the law enforcement agency where the sex offender resides within 3 days after the extension of the registration period. The sex offender shall report to that law enforcement agency and sign for that letter. One copy of that letter shall be kept on file with the law enforcement agency of the jurisdiction where the sex offender resides and one copy shall be returned to the Department of State Police.

11. Registration Requirements

730 ILCS 150/8

Registration as required by this Article shall consist of a statement in writing signed by the person giving the information that is required by the Department of State Police, which may include the fingerprints and must include a current photograph of the person, to be updated annually. If the sex offender is a child sex offender as defined in Section 11-9.3 or 11-9.4 of the Criminal Code of 1961, he or she shall sign a statement that he or she understands that according to Illinois law as a child sex offender he or she may not reside within 500 feet of a school, park, or playground. The offender may also not reside within 500 feet of a facility providing services directed exclusively toward persons under 18 years of age unless the sex offender meets specified exemptions. The registration information must include whether the person is a sex offender as defined in the Sex Offender Community Notification Law. Within 3 days, the registering law enforcement agency shall forward any required information to the Department of State Police. The registering law enforcement agency shall enter the information into the Law Enforcement Agencies Data System (LEADS) as provided in Sections 6 and 7 of the Intergovernmental Missing Child Recovery Act of 1984.

12. Verification Requirements

730 ILCS 150/8-5

(a) Address verification. The agency having jurisdiction shall verify the address of sex offenders, as defined in Section 2 of this Act, or sexual predators required to register with their agency at least once per year. The verification must be documented in LEADS in the form and manner required by the Department of State Police.

(a-5) Internet Protocol address verification. The agency having jurisdiction may verify the Internet protocol (IP) address of sex offenders, as defined in Section 2 of this Act, who are required to register with their agency under Section 3 of this Act. A copy of any such verification must be sent to the Attorney General for entrance in the Illinois Cyber-crimes Location Database pursuant to Section 5-4-3.2 of the Unified Code of Corrections.

(b) Registration verification. The supervising officer shall, within 15 days of sentencing to probation or release from an Illinois Department of Corrections facility, contact the law enforcement agency in the jurisdiction in which the sex offender or sexual predator designated as his or her intended residence and verify compliance with the requirements of this Act. Revocation proceedings shall be immediately commenced against a sex offender or sexual predator on probation, parole, or mandatory supervised release who fails to comply with the requirements of this Act.

(c) In an effort to ensure that sexual predators and sex offenders who fail to respond to address-verification attempts or who otherwise abscond from registration are located in a timely manner, the Department of State Police shall share information with local law enforcement agencies. The Department shall use analytical resources to assist local law enforcement agencies to determine the potential whereabouts of any sexual predator or sex offender who fails to respond to address-verification attempts or who otherwise absconds from registration. The Department shall review and analyze all available information concerning any such predator or offender who fails to respond to address-verification attempts or who otherwise absconds from registration and provide the information to local law enforcement agencies in order to assist the agencies in locating and apprehending the sexual predator or sex offender.

13. Public Inspection of Registration Data

730 ILCS 150/9

Except as provided in the Sex Offender Community Notification Law, the statements or any other information required by this Article shall not be open to inspection by the public, or by any person other than by a law enforcement officer or other individual as may be authorized by law and shall include law enforcement agencies of this State, any other state, or of the federal government. Similar information may be requested from any law enforcement agency of another state or of the federal government for purposes of this Act. It is a Class B misdemeanor to permit the unauthorized release of any information required by this Article.

14. Penalty

730 ILCS 150/10

(a) Any person who is required to register under this Article who violates any of the provisions of this Article and any person who is required to register under this Article who seeks to change his or her name under Article 21 of the Code of Civil Procedure is guilty of a Class 3 felony. Any person who is convicted for a violation of this Act for a second or subsequent time is guilty of a Class 2 felony. Any person who is required to register under

this Article who knowingly or wilfully gives material information required by this Article that is false is guilty of a Class 3 felony. Any person convicted of a violation of any provision of this Article shall, in addition to any other penalty required by law, be required to serve a minimum period of 7 days confinement in the local county jail. The court shall impose a mandatory minimum fine of $500 for failure to comply with any provision of this Article. These fines shall be deposited in the Sex Offender Registration Fund. Any sex offender, as defined in Section 2 of this Act, or sexual predator who violates any provision of this Article may be arrested and tried in any Illinois county where the sex offender can be located. The local police department or sheriff's office is not required to determine whether the person is living within its jurisdiction.

(b) Any person, not covered by privilege under Part 8 of Article VIII of the Code of Civil Procedure or the Illinois Supreme Court's Rules of Professional Conduct, who has reason to believe that a sexual predator is not complying, or has not complied, with the requirements of this Article and who, with the intent to assist the sexual predator in eluding a law enforcement agency that is seeking to find the sexual predator to question the sexual predator about, or to arrest the sexual predator for, his or her noncompliance with the requirements of this Article is guilty of a Class 3 felony if he or she:

(1) provides false information to the law enforcement agency having jurisdiction about the sexual predator's noncompliance with the requirements of this Article, and, if known, the whereabouts of the sexual predator;

(2) harbors, or attempts to harbor, or assists another person in harboring or attempting to harbor, the sexual predator; or

(3) conceals or attempts to conceal, or assists another person in concealing or attempting to conceal, the sexual predator.

(c) Subsection (b) does not apply if the sexual predator is incarcerated in or is in the custody of a State correctional facility, a private correctional facility, a county or municipal jail, a State mental health facility or a State treatment and detention facility, or a federal correctional facility.

(d) Subsections (a) and (b) do not apply if the sex offender accurately registered his or her Internet protocol address under this Act, and the address subsequently changed without his or her knowledge or intent.

15. Sex Offender Registration Fund

730 ILCS 150/11

There is created the Sex Offender Registration Fund. Moneys in the Fund shall be used to cover costs incurred by the criminal justice system to administer this Article. The Department of State Police shall establish and promulgate rules and procedures regarding the administration of this Fund. Fifty percent of the moneys in the Fund shall be allocated by the Department for sheriffs' offices and police departments. The remaining moneys in the Fund shall be allocated to the Illinois State Police Sex Offender Registration Unit for education and administration of the Act.

16. Access to State of Illinois Databases

730 ILCS 150/12

The Department of State Police shall have access to State of Illinois databases containing information that may help in the identification or location of persons required to register under this Article, including, but not limited to, information obtained in the course of administering the Unemployment Insurance Act. Interagency agreements shall be implemented, consistent with security and procedures established by the State agency and consistent with the laws governing the confidentiality of the information in the databases. Information shall be used only for administration of this Article.

U. Sex Offender Community Notification Law

730 ILCS 152/101

1. Definitions

730 ILCS 152/105

As used in this Article, the following definitions apply:

“Child care facilities” has the meaning set forth in the Child Care Act of 1969, but does not include licensed foster homes.

“Law enforcement agency having jurisdiction” means the Chief of Police in the municipality in which the sex offender expects to reside (1) upon his or her discharge, parole or release or (2) during the service of his or her sentence of probation or conditional discharge, or the Sheriff of the county, in the event no Police Chief exists or if the offender intends to reside in an unincorporated area. “Law enforcement agency having jurisdiction” includes the location where out-of-state students attend school and where out-of-state employees are employed or are otherwise required to register.

"Sex offender" means any sex offender as defined in the Sex Offender Registration Act whose offense or adjudication as a sexually dangerous person occurred on or after June 1, 1996, and whose victim was under the age of 18 at the time the offense was committed but does not include the offenses set forth in subsection (b)(1.5) of Section 2 of that Act; and any sex offender as defined in the Sex Offender Registration Act whose offense or adjudication as a sexually dangerous person occurred on or after June 1, 1997, and whose victim was 18 years of age or older at the time the offense was committed but does not include the offenses set forth in subsection (b)(1.5) of Section 2 of that Act.

"Sex offender" also means any sex offender as defined in the Sex Offender Registration Act whose offense or adjudication as a sexually dangerous person occurred before June 1, 1996, and whose victim was under the age of 18 at the time the offense was committed but does not include the offenses set forth in subsection (b)(1.5) of Section 2 of that Act; and any sex offender as defined in the Sex Offender Registration Act whose offense or adjudication as a sexually dangerous person occurred before June 1, 1997, and whose victim was 18 years of age or older at the time the offense was committed but does not include the offenses set forth in subsection (b)(1.5) of Section 2 of that Act.

"Juvenile sex offender" means any person who is adjudicated a juvenile delinquent as the result of the commission of or attempt to commit a violation set forth in item (B), (C), or (C-5) of Section 2 of the Sex Offender Registration Act, or a violation of any substantially similar federal, Uniform Code of Military Justice, sister state, or foreign country law, and whose adjudication occurred on or after the effective date of this amendatory Act of the 91st General Assembly.

2. Registration

730 ILCS 152/110

At the time a sex offender registers under Section 3 of the Sex Offender Registration Act or reports a change of address or employment under Section 6 of that Act, the offender shall notify the law enforcement agency having jurisdiction with whom the offender registers or reports a change of address or employment that the offender is a sex offender.

3. Sex Offender Database

730 ILCS 152/115

(a) The Department of State Police shall establish and maintain a Statewide Sex Offender Database for the purpose of identifying sex offenders and making that information available to the persons specified in Sections 120 and 125 of this Law. The Database shall be created from the Law Enforcement Agencies Data System (LEADS) established under Section 6 of the Intergovernmental Missing Child Recovery Act of 1984. The

Department of State Police shall examine its LEADS database for persons registered as sex offenders under the Sex Offender Registration Act and shall identify those who are sex offenders and shall add all the information, including photographs if available, on those sex offenders to the Statewide Sex Offender Database.

(b) The Department of State Police must make the information contained in the Statewide Sex Offender Database accessible on the Internet by means of a hyperlink labeled “Sex Offender Information” on the Department's World Wide Web home page. The Department must make the information contained in the Statewide Sex Offender Database searchable via a mapping system which identifies registered sex offenders living within 5 miles of an identified address. The Department of State Police must update that information as it deems necessary.

The Department of State Police may require that a person who seeks access to the sex offender information submit biographical information about himself or herself before permitting access to the sex offender information. The Department of State Police must promulgate rules in accordance with the Illinois Administrative Procedure Act to implement this subsection (b) and those rules must include procedures to ensure that the information in the database is accurate.

(c) The Department of State Police, Sex Offender Registration Unit, must develop and conduct training to educate all those entities involved in the Sex Offender Registration Program.

4. Missing Sex Offender Database

730 ILCS 152/117

(a) The Department of State Police shall establish and maintain a Statewide Missing Sex Offender Database for the purpose of identifying missing sex offenders and making that information available to the persons specified in Sections 120 and 125 of this Law. The Database shall be created from the Law Enforcement Agencies Data System (LEADS) established under Section 6 of the Intergovernmental Missing Child Recovery Act of 1984. The Department of State Police shall examine its LEADS database for persons registered as sex offenders under the Sex Offender Registration Act and shall identify those who are sex offenders and who have not complied with the provisions of Section 6 of that Act or whose address can not be verified under Section 8-5 of that Act and shall add all the information, including photographs if available, on those missing sex offenders to the Statewide Sex Offender Database.

(b) The Department of State Police must make the information contained in the Statewide Missing Sex Offender Database accessible on the Internet by means of a hyperlink labeled “Missing Sex Offender Information” on

the Department's World Wide Web home page and on the Attorney General's I-SORT page. The Department of State Police must update that information as it deems necessary. The Internet page shall also include information that rewards are available to persons who inform the Department of State Police or a local law enforcement agency of the whereabouts of a missing sex offender.

The Department of State Police may require that a person who seeks access to the missing sex offender information submit biographical information about himself or herself before permitting access to the missing sex offender information. The Department of State Police must promulgate rules in accordance with the Illinois Administrative Procedure Act to implement this subsection (b) and those rules must include procedures to ensure that the information in the database is accurate.

(c) The Department of State Police, Sex Offender Registration Unit, must develop and conduct training to educate all those entities involved in the Missing Sex Offender Registration Program.

5. Community Notification of Sex Offenders

730 ILCS 152/120

(a) The sheriff of the county, except Cook County, shall disclose to the following the name, address, date of birth, place of employment, school attended, e-mail addresses, instant messaging identities, chat room identities, other Internet communications identities, all Uniform Resource Locators (URLs) registered or used by the sex offender, all blogs and other Internet sites maintained by the sex offender or to which the sex offender has uploaded any content or posted any messages or information, and offense or adjudication of all sex offenders required to register under Section 3 of the Sex Offender Registration Act:

(1) The boards of institutions of higher education or other appropriate administrative offices of each non-public institution of higher education located in the county where the sex offender is required to register, resides, is employed, or is attending an institution of higher education;

(2) School boards of public school districts and the principal or other appropriate administrative officer of each nonpublic school located in the county where the sex offender is required to register or is employed;

(3) Child care facilities located in the county where the sex offender is required to register or is employed;

(4) Libraries located in the county where the sex offender is required to register or is employed;

(5) Public libraries located in the county where the sex offender is required to register or is employed;

(6) Public housing agencies located in the county where the sex offender is required to register or is employed;

(7) The Illinois Department of Children and Family Services;

(8) Social service agencies providing services to minors located in the county where the sex offender is required to register or is employed;

(9) Volunteer organizations providing services to minors located in the county where the sex offender is required to register or is employed; and

(10) A victim of a sex offense residing in the county where the sex offender is required to register or is employed, who is not otherwise required to be notified under Section 4.5 of the Rights of Crime Victims and Witnesses Act or Section 75 of the Sexually Violent Persons Commitment Act.

(a-2) The sheriff of Cook County shall disclose to the following the name, address, date of birth, place of employment, school attended, e-mail addresses, instant messaging identities, chat room identities, other Internet communications identities, all Uniform Resource Locators (URLs) registered or used by the sex offender, all blogs and other Internet sites maintained by the sex offender or to which the sex offender has uploaded any content or posted any messages or information, and offense or adjudication of all sex offenders required to register under Section 3 of the Sex Offender Registration Act:

(1) School boards of public school districts and the principal or other appropriate administrative officer of each nonpublic school located within the region of Cook County, as those public school districts and nonpublic schools are identified in LEADS, other than the City of Chicago, where the sex offender is required to register or is employed;

(2) Child care facilities located within the region of Cook County, as those child care facilities are identified in LEADS, other than the City of Chicago, where the sex offender is required to register or is employed;

(3) The boards of institutions of higher education or other appropriate administrative offices of each non-public institution of higher education located in the county, other than the City of Chicago, where the sex offender is required to register, resides, is employed, or attending an institution of higher education;

(4) Libraries located in the county, other than the City of Chicago, where the sex offender is required to register, resides, is employed, or is attending an institution of higher education;

(5) Public libraries located in the county, other than the City of Chicago, where the sex offender is required to register, resides, is employed, or attending an institution of higher education;

(6) Public housing agencies located in the county, other than the City of Chicago, where the sex offender is required to register, resides, is employed, or attending an institution of higher education;

(7) The Illinois Department of Children and Family Services;

(8) Social service agencies providing services to minors located in the county, other than the City of Chicago, where the sex offender is required to register, resides, is employed, or attending an institution of higher education;

(9) Volunteer organizations providing services to minors located in the county, other than the City of Chicago, where the sex offender is required to register, resides, is employed, or attending an institution of higher education; and

(10) A victim of a sex offense residing in the county, other than the City of Chicago, where the sex offender is required to register, resides, is employed, or attends an institution of higher education, who is not otherwise required to be notified under Section 4.5 of the Rights of Crime Victims and Witnesses Act or Section 75 of the Sexually Violent Persons Commitment Act.

(a-3) The Chicago Police Department shall disclose to the following the name, address, date of birth, place of employment, school attended, e-mail addresses, instant messaging identities, chat room identities, other Internet communications identities, all Uniform Resource Locators (URLs) registered or used by the sex offender, all blogs and other Internet sites maintained by the sex offender or to which the sex offender has uploaded any content or posted any messages or information, and offense or

adjudication of all sex offenders required to register under Section 3 of the Sex Offender Registration Act:

(1) School boards of public school districts and the principal or other appropriate administrative officer of each nonpublic school located in the police district where the sex offender is required to register or is employed if the offender is required to register or is employed in the City of Chicago;

(2) Child care facilities located in the police district where the sex offender is required to register or is employed if the offender is required to register or is employed in the City of Chicago;

(3) The boards of institutions of higher education or other appropriate administrative offices of each non-public institution of higher education located in the police district where the sex offender is required to register, resides, is employed, or attending an institution of higher education in the City of Chicago;

(4) Libraries located in the police district where the sex offender is required to register or is employed if the offender is required to register or is employed in the City of Chicago;

(5) Public libraries located in the police district where the sex offender is required to register, resides, is employed, or attending an institution of higher education in the City of Chicago;

(6) Public housing agencies located in the police district where the sex offender is required to register, resides, is employed, or attending an institution of higher education in the City of Chicago;

(7) The Illinois Department of Children and Family Services;

(8) Social service agencies providing services to minors located in the police district where the sex offender is required to register, resides, is employed, or attending an institution of higher education in the City of Chicago;

(9) Volunteer organizations providing services to minors located in the police district where the sex offender is required to register, resides, is employed, or attending an institution of higher education in the City of Chicago; and

(10) A victim of a sex offense residing in the police district where the sex offender is required to register, resides, is employed, or attends an institution of higher education in the City of Chicago, who is

not otherwise required to be notified under Section 4.5 of the Rights of Crime Victims and Witnesses Act or Section 75 of the Sexually Violent Persons Commitment Act.

(a-4) The Department of State Police shall provide a list of sex offenders required to register to the Illinois Department of Children and Family Services.

(b) The Department of State Police and any law enforcement agency may disclose, in the Department's or agency's discretion, the following information to any person likely to encounter a sex offender, or sexual predator:

(1) The offender's name, address, date of birth, e-mail addresses, instant messaging identities, chat room identities, and other Internet communications identities, all Uniform Resource Locators (URLs) registered or used by the sex offender, and all blogs and other Internet sites maintained by the sex offender or to which the sex offender has uploaded any content or posted any messages or information.

(2) The offense for which the offender was convicted.

(3) Adjudication as a sexually dangerous person.

(4) The offender's photograph or other such information that will help identify the sex offender.

(5) Offender employment information, to protect public safety.

(c) The name, address, date of birth, e-mail addresses, instant messaging identities, chat room identities, other Internet communications identities, all Uniform Resource Locators (URLs) registered or used by the sex offender, all blogs and other Internet sites maintained by the sex offender or to which the sex offender has uploaded any content or posted any messages or information, offense or adjudication, the county of conviction, license plate numbers for every vehicle registered in the name of the sex offender, the age of the sex offender at the time of the commission of the offense, the age of the victim at the time of the commission of the offense, and any distinguishing marks located on the body of the sex offender for sex offenders required to register under Section 3 of the Sex Offender Registration Act shall be open to inspection by the public as provided in this Section. Every municipal police department shall make available at its headquarters the information on all sex offenders who are required to register in the municipality under the Sex Offender Registration Act. The sheriff shall also make available at his

or her headquarters the information on all sex offenders who are required to register under that Act and who live in unincorporated areas of the county. Sex offender information must be made available for public inspection to any person, no later than 72 hours or 3 business days from the date of the request. The request must be made in person, in writing, or by telephone. Availability must include giving the inquirer access to a facility where the information may be copied. A department or sheriff may charge a fee, but the fee may not exceed the actual costs of copying the information. An inquirer must be allowed to copy this information in his or her own handwriting. A department or sheriff must allow access to the information during normal public working hours. The sheriff or a municipal police department may publish the photographs of sex offenders where any victim was 13 years of age or younger and who are required to register in the municipality or county under the Sex Offender Registration Act in a newspaper or magazine of general circulation in the municipality or county or may disseminate the photographs of those sex offenders on the Internet or on television. The law enforcement agency may make available the information on all sex offenders residing within any county.

(d) The Department of State Police and any law enforcement agency having jurisdiction may, in the Department's or agency's discretion, place the information specified in subsection (b) on the Internet or in other media.

(e) (Blank).

(f) The administrator of a transitional housing facility for sex offenders shall comply with the notification procedures established in paragraph (4) of subsection (b) of Section 3-17-5 of the Unified Code of Corrections.

(g) A principal or teacher of a public or private elementary or secondary school shall notify the parents of children attending the school during school registration or during parent-teacher conferences that information about sex offenders is available to the public as provided in this Act.

(h) In order to receive notice under paragraph (10) of subsection (a), paragraph (10) of subsection (a-2), or paragraph (10) of subsection (a-3), the victim of the sex offense must notify the appropriate sheriff or the Chicago Police Department in writing, by facsimile transmission, or by e-mail that the victim desires to receive such notice.

(i) For purposes of this Section, “victim of a sex offense” means:

(1) the victim of the sex offense; or

(2) a single representative who may be the spouse, parent, child, or sibling of a person killed during the course of a sex offense

perpetrated against the person killed or the spouse, parent, child, or sibling of any victim of a sex offense who is physically or mentally incapable of comprehending or requesting notice.

6. Notification Regarding Juvenile Offenders

730 ILCS 152/121

(a) The Department of State Police and any law enforcement agency having jurisdiction may, in the Department's or agency's discretion, only provide the information specified in subsection (b) of Section 120 of this Act, with respect to an adjudicated juvenile delinquent, to any person when that person's safety may be compromised for some reason related to the juvenile sex offender.

(b) The local law enforcement agency having jurisdiction to register the juvenile sex offender shall ascertain from the juvenile sex offender whether the juvenile sex offender is enrolled in school; and if so, shall provide a copy of the sex offender registration form only to the principal or chief administrative officer of the school and any guidance counselor designated by him or her. The registration form shall be kept separately from any and all school records maintained on behalf of the juvenile sex offender.

7. Immunity

730 ILCS 152/130

Notwithstanding any other provision of law to the contrary, any person who provides or fails to provide information relevant to the procedures set forth in this Law shall not be liable in any civil or criminal action. This immunity extends to the secondary release of any of this information legally obtained in conjunction with procedures set forth in this Law.

VI. Juvenile Offenders

A. The Juvenile Court Act of 1987 and the Juvenile Justice Reform Provisions of 1998

705 ILCS 405/1-1

B. Definitions

705 ILCS 405/5-105

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(3) "Delinquent minor" means any minor who prior to his or her 17th birthday has violated or attempted to violate, regardless of where the act occurred, any federal or State law, county or municipal ordinance, and any minor who prior to his or her 18th birthday has violated or attempted to violate, regardless of where the act occurred, any federal, State, county or municipal law or ordinance classified as a misdemeanor offense.

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(10) "Minor" means a person under the age of 21 years subject to this Act.

• • •

(17) "Trial" means a hearing to determine whether the allegations of a petition under Section 5-520 that a minor is delinquent are proved beyond a reasonable doubt. It is the intent of the General Assembly that the term "trial" replace the term "adjudicatory hearing" and be synonymous with that definition as it was used in the Juvenile Court Act of 1987.

C. Rights of Victims

705 ILCS 405/5-115

In all proceedings under this Article, victims shall have the same rights of victims in criminal proceedings as provided in the Bill of Rights for Children and the Rights of Crime Victims and Witnesses Act.

D. Exclusive Jurisdiction

705 ILCS 405/5-120

Proceedings may be instituted under the provisions of this Article concerning any minor who prior to the minor's 17th birthday has violated or attempted to violate, regardless of where the act occurred, any federal or State law or municipal or county ordinance, and any minor who prior to his or her 18th birthday has violated or attempted to violate, regardless of where the act occurred, any federal, State, county or municipal law or ordinance classified as a misdemeanor offense. If before trial or plea, an information or indictment is filed that includes one or more charges under the criminal laws of this State and additional charges that are classified as misdemeanors that are subject to proceedings under this Act, all of the charges arising out of the same incident shall be prosecuted under the criminal laws of this State. If after trial or plea the court finds that the minor committed an offense that is solely classified as a misdemeanor, the court must proceed under Section 5-705 and 5-710 of this Act. Except as provided in Sections 5-125, 5-130, 5-805, and 5-810 of this Article, no minor who was under 17 years of age at the time of the alleged offense may be prosecuted under the criminal laws of this State.

E. Excluded Jurisdiction

705 ILCS 405/5-130

(1)(a) The definition of delinquent minor under Section 5-120 of this Article shall not apply to any minor who at the time of an offense was at least 15 years of age and who is charged with: (i) first degree murder, (ii) aggravated criminal sexual assault, (iii) aggravated battery with a firearm as described in Section 12-4.2 or subdivision (e)(1), (e)(2), (e)(3), or (e)(4) of Section 12-3.05 where the minor personally discharged a firearm as defined in Section 2-15.5 of the Criminal Code of 1961, (iv) armed robbery when the armed robbery was committed with a firearm, or (v) aggravated vehicular hijacking when the hijacking was committed with a firearm.

These charges and all other charges arising out of the same incident shall be prosecuted under the criminal laws of this State.

(b)(i) If before trial or plea an information or indictment is filed that does not charge an offense specified in paragraph (a) of this subsection (1) the State's Attorney may proceed on any lesser charge or charges, but only in Juvenile Court under the provisions of this Article. The State's Attorney may proceed under the Criminal Code of 1961 on a lesser charge if before trial the minor defendant knowingly and with advice of counsel waives, in writing, his or her right to have the matter proceed in Juvenile Court.

(ii) If before trial or plea an information or indictment is filed that includes one or more charges specified in paragraph (a) of this subsection (1) and additional charges that are not specified in that paragraph, all of the charges arising out of the same incident shall be prosecuted under the Criminal Code of 1961.

(c)(i) If after trial or plea the minor is convicted of any offense covered by paragraph (a) of this subsection (1), then, in sentencing the minor, the court shall have available any or all dispositions prescribed for that offense under Chapter V of the Unified Code of Corrections.

(ii) If after trial or plea the court finds that the minor committed an offense not covered by paragraph (a) of this subsection (1), that finding shall not invalidate the verdict or the prosecution of the minor under the criminal laws of the State; however, unless the State requests a hearing for the purpose of sentencing the minor under Chapter V of the Unified Code of Corrections, the Court must proceed under Sections 5-705 and 5-710 of this Article. To request a hearing, the State must file a written motion within 10 days following the entry of a finding or the return of a verdict. Reasonable notice of the motion shall be given to the minor or his or her counsel. If the motion is made by the State, the court shall conduct a hearing to determine if the minor should be sentenced under Chapter V of the Unified Code of Corrections. In making its determination, the court shall consider among other matters: (a) whether there is evidence that the offense was committed in an aggressive and premeditated manner; (b) the age of the minor; (c) the previous history of the minor; (d) whether there are facilities particularly available to the Juvenile Court or the Department of Juvenile Justice for the treatment and rehabilitation of the minor; (e) whether the security of the public requires sentencing under Chapter V of the Unified Code of Corrections; and (f) whether the minor possessed a deadly weapon when committing the offense. The rules of evidence shall be the same as if at trial. If after the hearing the court finds that the minor should be sentenced under Chapter V of the Unified Code of Corrections, then the court shall sentence the minor accordingly having available to it any or all dispositions so prescribed

(6) The definition of delinquent minor under Section 5-120 of this Article shall not apply to any minor who, pursuant to subsection (1) or (3) or Section 5-805 or 5-810, has previously been placed under the jurisdiction of the criminal court and has been convicted of a crime under an adult criminal or penal statute. Such a minor shall be subject to prosecution under the criminal laws of this State.

(7) The procedures set out in this Article for the investigation, arrest and prosecution of juvenile offenders shall not apply to minors who are excluded from jurisdiction of the Juvenile Court, except that minors under 17 years of age shall be kept separate from confined adults.

(8) Nothing in this Act prohibits or limits the prosecution of any minor for an offense committed on or after his or her 17th birthday even though he or she is at the time of the offense a ward of the court.

(9) If an original petition for adjudication of wardship alleges the commission by a minor 13 years of age or over of an act that constitutes a crime under the laws of this State, the minor, with the consent of his or her counsel, may, at any time before commencement of the adjudicatory hearing, file with the court a motion that criminal prosecution be ordered and that the petition be dismissed insofar as the act or acts involved in the criminal proceedings are concerned. If such a motion is filed as herein provided, the court shall enter its order accordingly.

F. Transfer to Criminal Court (Juvenile Offenders)

AGE OF JUVENILE OFFENDER	MISDEMEANOR CRIMINAL SEXUAL ABUSE***	FELONY CRIMINAL SEXUAL ABUSE	AGGRAVATED CRIMINAL SEXUAL ABUSE	CRIMINAL SEXUAL ASSAULT	AGGRAVATED CRIMINAL SEXUAL ASSAULT
13*	R	P	P	P	P
14	R	P	P	P	P
15	R	P	P	P	A
16**	R	P	P	P	A
17	R	N/A	N/A	N/A	N/A

R = Case is required to be prosecuted in juvenile court. 705 ILCS 405/5-120.
P = Petition to transfer may be filed by prosecutor. 705 ILCS 405/5-805(2) - (3).
A = Transfer is automatic. (Case begins in criminal court). 705 ILCS 405/5-130(1)(a).
* Minors under 13 cannot be transferred to criminal court. 705 ILCS 405/5-805(3).
** An offender 17 or over will be considered an adult and will be tried in criminal court for felonies. 705 ILCS 405/5-120.
*** An offender under age 18 who commits only a misdemeanor must be tried in juvenile court. 705 ILCS 405/5-120.

G. Habitual Juvenile Offender

705 ILCS 405/5-815

(a) Definition. Any minor having been twice adjudicated a delinquent minor for offenses which, had he been prosecuted as an adult, would have been felonies under the laws of this State, and who is thereafter adjudicated a delinquent minor for a third time shall be adjudged an Habitual Juvenile Offender where:

1. the third adjudication is for an offense occurring after adjudication on the second; and

2. the second adjudication was for an offense occurring after adjudication on the first; and

3. the third offense occurred after January 1, 1980; and

4. the third offense was based upon the commission of or attempted commission of the following offenses: first degree murder, second degree murder or involuntary manslaughter; criminal sexual assault or aggravated criminal sexual assault; aggravated or heinous battery involving permanent disability or disfigurement or great bodily harm to the victim; burglary of a home or other residence intended for use as a temporary or permanent dwelling place for human beings; home invasion; robbery or armed robbery; or aggravated arson.

Nothing in this Section shall preclude the State's Attorney from seeking to prosecute a minor as an adult as an alternative to prosecution as an habitual juvenile offender.

A continuance under supervision authorized by Section 5-615 of this Act shall not be permitted under this Section.

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(f) Disposition. If the court finds that the prerequisites established in subsection (a) of this Section have been proven, it shall adjudicate the minor an Habitual Juvenile Offender and commit him to the Department of Juvenile Justice until his 21st birthday, without possibility of parole, furlough, or non-emergency authorized absence. However, the minor shall be entitled to earn one day of good conduct credit for each day served as reductions against the period of his confinement. Such good conduct credits shall be earned or revoked according to the procedures applicable to the allowance and revocation of good conduct credit for adult prisoners serving determinate sentences for felonies.

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H. Violent Juvenile Offender

705 ILCS 405/5-820

(a) Definition. A minor having been previously adjudicated a delinquent minor for an offense which, had he or she been prosecuted as an adult, would have been a Class 2 or greater felony involving the use or threat of physical force or violence against an individual or a Class 2 or greater felony for which an element of the offense is possession or use of a firearm, and who is thereafter adjudicated a delinquent minor for a second time for any of those offenses shall be adjudicated a Violent Juvenile Offender if:

(1) The second adjudication is for an offense occurring after adjudication on the first; and

(2) The second offense occurred on or after January 1, 1995.

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(f) Disposition. If the court finds that the prerequisites established in subsection (a) of this Section have been proven, it shall adjudicate the minor a Violent Juvenile Offender and commit the minor to the Department of Juvenile Justice until his or her 21st birthday, without possibility of parole, furlough, or non-emergency authorized absence. However, the minor shall be entitled to earn one day of good conduct credit for each day served as reductions against the period of his or her confinement. The good conduct credits shall be earned or revoked according to the procedures applicable to the allowance and revocation of good conduct credit for adult prisoners serving determinate sentences for felonies.

I. Law Enforcement Records

705 ILCS 405/5-905

(1) Law Enforcement Records. Inspection and copying of law enforcement records maintained by law enforcement agencies that relate to a minor who has been arrested or taken into custody before his or her 17th birthday shall be restricted to the following and when necessary for the discharge of their official duties:

(a) A judge of the circuit court and members of the staff of the court designated by the judge;

(b) Law enforcement officers, probation officers or prosecutors or their staff, or, when necessary for the discharge of its official duties in connection with a particular investigation of the conduct of a law enforcement officer, an independent agency or its staff created by ordinance and charged by a unit of local government with the duty of investigating the conduct of law enforcement officers;

(c) The minor, the minor's parents or legal guardian and their attorneys, but only when the juvenile has been charged with an offense;

(d) Adult and Juvenile Prisoner Review Boards;

(e) Authorized military personnel;

(f) Persons engaged in bona fide research, with the permission of the judge of juvenile court and the chief executive of the agency that prepared the particular recording: provided that publication of such research results in no disclosure of a minor's identity and protects the confidentiality of the record;

(g) Individuals responsible for supervising or providing temporary or permanent care and custody of minors pursuant to orders of the juvenile court or directives from officials of the Department of Children and Family Services or the Department of Human Services who certify in writing that the information will not be disclosed to any other party except as provided under law or order of court;

(h) The appropriate school official. Inspection and copying shall be limited to law enforcement records transmitted to the appropriate school official by a local law enforcement agency under a reciprocal reporting system established and maintained between the school district and the local law enforcement agency under Section 10-20.14 of the School Code concerning a minor enrolled in a school within the school district who has been arrested for any offense classified as a felony or a Class A or B misdemeanor.

(2) Information identifying victims and alleged victims of sex offenses, shall not be disclosed or open to public inspection under any circumstances. Nothing in this Section shall prohibit the victim or alleged victim of any sex offense from voluntarily disclosing his or her identity.

(2.5) If the minor is a victim of aggravated battery, battery, attempted first degree murder, or other non-sexual violent offense, the identity of the victim may be disclosed to appropriate school officials, for the purpose of preventing foreseeable future violence involving minors, by a local law enforcement agency pursuant to an agreement established between the school district and a local law enforcement agency subject to the approval by the presiding judge of the juvenile court.

(3) Relevant information, reports and records shall be made available to the Department of Juvenile Justice when a juvenile offender has been placed in the custody of the Department of Juvenile Justice.

(4) Nothing in this Section shall prohibit the inspection or disclosure to victims and witnesses of photographs contained in the records of law enforcement agencies when the inspection or disclosure is conducted in the presence of a law enforcement officer for purposes of identification or apprehension of any person in the course of any criminal investigation or prosecution.

(5) The records of law enforcement officers, or of an independent agency created by ordinance and charged by a unit of local government with the duty of investigating the conduct of law enforcement officers, concerning all minors under 17 years of age must be maintained separate from the records of adults and may not be open to public inspection or their contents disclosed to the public except by order of the court or when the institution of criminal proceedings has been permitted under Section 5-130 or 5-805 or required under Section 5-130 or 5-805 or such a person has been convicted of a crime and is the subject of pre-sentence investigation or when provided by law.

(6) Except as otherwise provided in this subsection (6), law enforcement officers, and personnel of an independent agency created by ordinance and charged by a unit of local government with the duty of investigating the conduct of law enforcement officers, may not disclose the identity of any minor in releasing information to the general public as to the arrest, investigation or disposition of any case involving a minor. Any victim or parent or legal guardian of a victim may petition the court to disclose the name and address of the minor and the minor's parents or legal guardian, or both. Upon a finding by clear and convincing evidence that the disclosure is either necessary for the victim to pursue a civil remedy against the minor or the minor's parents or legal guardian, or both, or to protect the victim's person or property from the minor, then the court may order the disclosure of the information to the victim or to the parent or legal guardian of the victim only for the purpose of the victim pursuing a civil remedy against the minor or the minor's parents or legal guardian, or both, or to protect the victim's person or property from the minor.

(7) Nothing contained in this Section shall prohibit law enforcement agencies when acting in their official capacity from communicating with each other by letter, memorandum, teletype or intelligence alert bulletin or other means the identity or other relevant information pertaining to a person under 17 years of age. The information provided under this subsection (7) shall remain confidential and shall not be publicly disclosed, except as otherwise allowed by law.

(8) No person shall disclose information under this Section except when acting in his or her official capacity and as provided by law or order of court.

VII. Limitations – Criminal

A. General Limitations

720 ILCS 5/3-5

(a) A prosecution for: (1) first degree murder, attempt to commit first degree murder, second degree murder, involuntary manslaughter, reckless homicide, leaving the scene of a motor vehicle accident involving death or personal injuries under Section 11-401 of the Illinois Vehicle Code, failing to give information and render aid under Section 11-403 of the Illinois Vehicle Code, concealment of homicidal death, treason, arson, aggravated arson, forgery, child pornography under paragraph (1) of subsection (a) of Section 11-20.1, aggravated child pornography under paragraph (1) of subsection (a) of Section 11-20.1B, or (2) any offense involving sexual conduct or sexual penetration, as defined by Section 11-0.1 of this Code in which the DNA profile of the offender is obtained and entered into a DNA database within 10 years after the commission of the offense, may be commenced at any time. Clause (2) of this subsection (a) applies if either: (i) the victim reported the offense to law enforcement authorities within 3 years after the commission of the offense unless a longer period for reporting the offense to law enforcement authorities is provided in Section 3-6 or (ii) the victim is murdered during the course of the offense or within 2 years after the commission of the offense.

(b) Unless the statute describing the offense provides otherwise, or the period of limitation is extended by Section 3-6, a prosecution for any offense not designated in Subsection (a) must be commenced within 3 years after the commission of the offense if it is a felony, or within one year and 6 months after its commission if it is a misdemeanor.

B. Extended Limitations

720 ILCS 5/3-6

The period within which a prosecution must be commenced under the provisions of Section 3-5 or other applicable statute is extended under the following conditions:

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(d) A prosecution for child pornography, aggravated child pornography, indecent solicitation of a child, soliciting for a juvenile prostitute, juvenile pimping, exploitation of a child, or promoting juvenile prostitution except for keeping a place of juvenile prostitution may be commenced within one year of the victim attaining the age of 18 years.. However, in no such case shall the time period for prosecution expire sooner than 3 years after the commission of the offense. When the victim is under 18 years of age, a prosecution for criminal sexual abuse may

be commenced within one year of the victim attaining the age of 18 years. However, in no such case shall the time period for prosecution expire sooner than 3 years after the commission of the offense.

(e) Except as otherwise provided in subdivision (j), a prosecution for any offense involving sexual conduct or sexual penetration, as defined in Section 11-0.1 of this Code, where the defendant was within a professional or fiduciary relationship or a purported professional or fiduciary relationship with the victim at the time of the commission of the offense may be commenced within one year after the discovery of the offense by the victim.

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(i) Except as otherwise provided in subdivision (j), a prosecution for criminal sexual assault, aggravated criminal sexual assault, or aggravated criminal sexual abuse may be commenced within 10 years of the commission of the offense if the victim reported the offense to law enforcement authorities within 3 years after the commission of the offense.

Nothing in this subdivision (i) shall be construed to shorten a period within which a prosecution must be commenced under any other provision of this Section.

(j) When the victim is under 18 years of age at the time of the offense, a prosecution for criminal sexual assault, aggravated criminal sexual assault, predatory criminal sexual assault of a child, aggravated criminal sexual abuse, or felony criminal sexual abuse, or a prosecution for failure of a person who is required to report an alleged or suspected commission of any of these offenses under the Abused and Neglected Child Reporting Act may be commenced within 20 years after the child victim attains 18 years of age. When the victim is under 18 years of age at the time of the offense, a prosecution for misdemeanor criminal sexual abuse may be commenced within 10 years after the child victim attains 18 years of age.

Nothing in this subdivision (j) shall be construed to shorten a period within which a prosecution must be commenced under any other provision of this Section.

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VIII. No Contact Orders

A. Stalking No Contact Order Act

740 ILCS 21/1

1. Purpose

740 ILCS 21/5

Stalking generally refers to a course of conduct, not a single act. Stalking behavior includes following a person, conducting surveillance of the person, appearing at the person's home, work or school, making unwanted phone calls, sending unwanted emails or text messages, leaving objects for the person, vandalizing the person's property, or injuring a pet. Stalking is a serious crime. Victims experience fear for their safety, fear for the safety of others and suffer emotional distress. Many victims alter their daily routines to avoid the persons who are stalking them. Some victims are in such fear that they relocate to another city, town or state. While estimates suggest that 70% of victims know the individuals stalking them, only 30% of victims have dated or been in intimate relationships with their stalkers. All stalking victims should be able to seek a civil remedy requiring the offenders stay away from the victims and third parties.

2. Definitions

740 ILCS 21/10

“Course of conduct” means 2 or more acts, including but not limited to acts in which a respondent directly, indirectly, or through third parties, by any action, method, device, or means follows, monitors, observes, surveils, threatens, or communicates to or about, a person, engages in other contact, or interferes with or damages a person's property or pet. A course of conduct may include contact via electronic communications. The incarceration of a person in a penal institution who commits the course of conduct is not a bar to prosecution under this Section.

“Emotional distress” means significant mental suffering, anxiety or alarm.

“Contact” includes any contact with the victim, that is initiated or continued without the victim's consent, or that is in disregard of the victim's expressed desire that the contact be avoided or discontinued, including but not limited to being in the physical presence of the victim; appearing within the sight of the victim; approaching or confronting the victim in a public place or on private property; appearing at the workplace or residence of the victim; entering onto or remaining on property owned, leased, or occupied by the victim; or placing an object on, or delivering an object to, property owned, leased, or occupied by the victim.

“Petitioner” means any named petitioner for the stalking no contact order or any named victim of stalking on whose behalf the petition is brought.

“Reasonable person” means a person in the petitioner's circumstances with the petitioner's knowledge of the respondent and the respondent's prior acts.

“Stalking” means engaging in a course of conduct directed at a specific person, and he or she knows or should know that this course of conduct would cause a reasonable person to fear for his or her safety or the safety of a third person or suffer emotional distress. Stalking does not include an exercise of the right to free speech or assembly that is otherwise lawful or picketing occurring at the workplace that is otherwise lawful and arises out of a bona fide labor dispute, including any controversy concerning wages, salaries, hours, working conditions or benefits, including health and welfare, sick leave, insurance, and pension or retirement provisions, the making or maintaining of collective bargaining agreements, and the terms to be included in those agreements.

“Stalking No Contact Order” means an emergency order or plenary order granted under this Act, which includes a remedy authorized by Section 80 of this Act.

3. Persons Protected by This Act

740 ILCS 21/15

A petition for a stalking no contact order may be filed when relief is not available to the petitioner under the Illinois Domestic Violence Act of 1986:

(1) by any person who is a victim of stalking; or

(2) by a person on behalf of a minor child or an adult who is a victim of stalking but, because of age, disability, health, or inaccessibility, cannot file the petition.

4. Commencement of Action; Filing Fees

740 ILCS 21/20

(a) An action for a stalking no contact order is commenced:

(1) independently, by filing a petition for a stalking no contact order in any civil court, unless specific courts are designated by local rule or order; or

(2) in conjunction with a delinquency petition or a criminal prosecution, by filing a petition for a stalking no contact order under the same case number as the delinquency petition or criminal prosecution, to be granted during pre-trial release of a defendant,

with any dispositional order issued under Section 5-710 of the Juvenile Court Act of 1987 or as a condition of release, supervision, conditional discharge, probation, periodic imprisonment, parole, or mandatory supervised release, or in conjunction with imprisonment or a bond forfeiture warrant, provided that (i) the violation is alleged in an information, complaint, indictment, or delinquency petition on file and the alleged victim is a person protected by this Act, and (ii) the petition, which is filed by the State's Attorney, names a victim of the alleged crime as a petitioner.

(b) Withdrawal or dismissal of any petition for a stalking no contact order prior to adjudication where the petitioner is represented by the State shall operate as a dismissal without prejudice. No action for a stalking no contact order shall be dismissed because the respondent is being prosecuted for a crime against the petitioner. For any action commenced under item (2) of subsection (a) of this Section, dismissal of the conjoined case (or a finding of not guilty) shall not require dismissal of the action for a stalking no contact order; instead, it may be treated as an independent action and, if necessary and appropriate, transferred to a different court or division.

(c) No fee shall be charged by the clerk of the court for filing petitions or modifying or certifying orders. No fee shall be charged by the sheriff for service by the sheriff of a petition, rule, motion, or order in an action commenced under this Section.

(d) The court shall provide, through the office of the clerk of the court, simplified forms for filing of a petition under this Section by any person not represented by counsel.

5. Pleading; Non-disclosure of Address

740 ILCS 21/25

(a) A petition for a stalking no contact order shall be in writing and verified or accompanied by affidavit and shall allege that the petitioner has been the victim of stalking by the respondent.

(b) If the petition states that disclosure of the petitioner's address would risk abuse of the petitioner or any member of the petitioner's family or household, that address may be omitted from all documents filed with the court. If the petitioner has not disclosed an address under this subsection, the petitioner shall designate an alternative address at which the respondent may serve notice of any motions.

6. Application of Rules of Civil Procedure; Victim Advocates

740 ILCS 21/30

(a) Any proceeding to obtain, modify, reopen or appeal a stalking no contact order shall be governed by the rules of civil procedure of this State. The standard of proof in such a proceeding is proof by a preponderance of the evidence. The Code of Civil Procedure and Supreme Court and local court rules applicable to civil proceedings shall apply, except as otherwise provided by this Act.

(b) In circuit courts, victim advocates shall be allowed to accompany the petitioner and confer with the petitioner, unless otherwise directed by the court. Court administrators shall allow victim advocates to assist victims of stalking in the preparation of petitions for stalking no contact orders. Victim advocates are not engaged in the unauthorized practice of law when providing assistance of the types specified in this subsection (b).

7. Appointment of Counsel

740 ILCS 21/35

The court may appoint counsel to represent the petitioner if the respondent is represented by counsel.

8. Trial by Jury

740 ILCS 21/40

There shall be no right to trial by jury in any proceeding to obtain, modify, vacate or extend any stalking no contact order under this Act. However, nothing in this Section shall deny any existing right to trial by jury in a criminal proceeding.

9. Subject Matter Jurisdiction

740 ILCS 21/45

Each of the circuit courts has the power to issue stalking no contact orders.

10. Jurisdiction Over Persons

740 ILCS 21/50

The courts of this State have jurisdiction to bind (1) State residents and (2) non-residents having minimum contacts with this State, to the extent permitted by the long-arm statute, Section 2-209 of the Code of Civil Procedure.

11. Venue

740 ILCS 21/55

A petition for a stalking no contact order may be filed in any county where

(1) the petitioner resides,

(2) the respondent resides, or

(3) one or more acts of the alleged stalking occurred.

12. Process

740 ILCS 21/60

(a) Any action for a stalking no contact order requires that a separate summons be issued and served. The summons shall be in the form prescribed by Supreme Court Rule 101(d), except that it shall require the respondent to answer or appear within 7 days. Attachments to the summons or notice shall include the petition for stalking no contact order and supporting affidavits, if any, and any emergency stalking no contact order that has been issued.

(b) The summons shall be served by the sheriff or other law enforcement officer at the earliest time and shall take precedence over other summonses except those of a similar emergency nature. Special process servers may be appointed at any time, and their designation shall not affect the responsibilities and authority of the sheriff or other official process servers.

(c) Service of process on a member of the respondent's household or by publication shall be adequate if: (1) the petitioner has made all reasonable efforts to accomplish actual service of process personally upon the respondent, but the respondent cannot be found to effect such service; and (2) the petitioner files an affidavit or presents sworn testimony as to those efforts.

(d) A plenary stalking no contact order may be entered by default for the remedy sought in the petition, if the respondent has been served or given notice in accordance with subsection (a) and if the respondent then fails to appear as directed or fails to appear on any subsequent appearance or hearing date agreed to by the parties or set by the court.

13. Service of Notice of Hearings

740 ILCS 21/65

Except as provided in Section 60, notice of hearings on petitions or motions shall be served in accordance with Supreme Court Rules 11 and 12, unless notice is excused by Section 100 of this Act or by the Code of Civil Procedure, Supreme Court Rules, or local rules.

14. Hearings

740 ILCS 21/70

A petition for a stalking no contact order shall be treated as an expedited proceeding, and no court may transfer or otherwise decline to decide all or part of such petition. Nothing in this Section shall prevent the court from reserving issues if jurisdiction or notice requirements are not met.

15. Continuances

740 ILCS 21/75

(a) Petitions for emergency remedies shall be granted or denied in accordance with the standards of Section 100, regardless of the respondent's appearance or presence in court.

(b) Any action for a stalking no contact order is an expedited proceeding. Continuances shall be granted only for good cause shown and kept to the minimum reasonable duration, taking into account the reasons for the continuance.

16. Stalking No Contact Orders; Remedies

740 ILCS 21/80

(a) If the court finds that the petitioner has been a victim of stalking, a stalking no contact order shall issue; provided that the petitioner must also satisfy the requirements of Section 95 on emergency orders or Section 100 on plenary orders. The petitioner shall not be denied a stalking no contact order because the petitioner or the respondent is a minor. The court, when determining whether or not to issue a stalking no contact order, may not require physical injury on the person of the petitioner. Modification and extension of prior stalking no contact orders shall be in accordance with this Act.

(b) A stalking no contact order shall order one or more of the following:

(1) prohibit the respondent from threatening to commit or committing stalking;

(2) order the respondent not to have any contact with the petitioner or a third person specifically named by the court;

(3) prohibit the respondent from knowingly coming within, or knowingly remaining within a specified distance of the petitioner or the petitioner's residence, school, daycare, or place of employment, or any specified place frequented by the petitioner; however, the court may order the respondent to stay away from the respondent's own residence, school, or place of employment only if the respondent has been provided actual notice of the opportunity to appear and be heard on the petition;

(4) prohibit the respondent from possessing a Firearm Owners Identification Card, or possessing or buying firearms; and

(5) order other injunctive relief the court determines to be necessary to protect the petitioner or third party specifically named by the court.

(c) The court may award the petitioner costs and attorneys fees if a stalking no contact order is granted.

(d) Monetary damages are not recoverable as a remedy.

17. Mutual Stalking No Contact Orders are Prohibited

740 ILCS 21/85

Correlative separate orders undermine the purposes of this Act. If separate orders are sought, both must comply with all provisions of this Act.

18. Accountability for Actions of Others

740 ILCS 21/90

For the purposes of issuing a stalking no contact order, deciding what remedies should be included and enforcing the order, Article 5 of the Criminal Code of 1961 shall govern whether respondent is legally accountable for the conduct of another person.

19. Emergency Stalking No Contact Order

740 ILCS 21/95

(a) An emergency stalking no contact order shall issue if the petitioner satisfies the requirements of this subsection (a). The petitioner shall establish that:

(1) the court has jurisdiction under Section 50;

(2) the requirements of Section 80 are satisfied; and

(3) there is good cause to grant the remedy, regardless of prior service of process or of notice upon the respondent, because the harm which that remedy is intended to prevent would be likely to occur if the respondent were given any prior notice, or greater notice than was actually given, of the petitioner's efforts to obtain judicial relief.

An emergency stalking no contact order shall be issued by the court if it appears from the contents of the petition and the examination of the petitioner that the averments are sufficient to indicate stalking by the respondent and to support the granting of relief under the issuance of the stalking no contact order.

An emergency stalking no contact order shall be issued if the court finds that items (1), (2), and (3) of this subsection (a) are met.

(b) If the respondent appears in court for this hearing for an emergency order, he or she may elect to file a general appearance and testify. Any resulting order may be an emergency order, governed by this Section. Notwithstanding the requirements of this Section, if all requirements of Section 100 have been met, the court may issue a plenary order.

(c) Emergency orders; court holidays and evenings.

(1) When the court is unavailable at the close of business, the petitioner may file a petition for a 21-day emergency order before any available circuit judge or associate judge who may grant relief under this Act. If the judge finds that there is an immediate and present danger of abuse against the petitioner and that the petitioner has satisfied the prerequisites set forth in subsection (a), that judge may issue an emergency stalking no contact order.

(2) The chief judge of the circuit court may designate for each county in the circuit at least one judge to be reasonably available to issue orally, by telephone, by facsimile, or otherwise, an emergency stalking no contact order at all times, whether or not the court is in session.

(3) Any order issued under this Section and any documentation in support of the order shall be certified on the next court day to the appropriate court. The clerk of that court shall immediately assign a case number, file the petition, order, and other documents with

the court, and enter the order of record and file it with the sheriff for service, in accordance with Section 60. Filing the petition shall commence proceedings for further relief under Section 20. Failure to comply with the requirements of this paragraph (3) does not affect the validity of the order.

20. Plenary Stalking No Contact Order

740 ILCS 21/100

A plenary stalking no contact order shall issue if the petitioner has served notice of the hearing for that order on the respondent, in accordance with Section 65, and satisfies the requirements of this Section. The petitioner must establish that:

(1) the court has jurisdiction under Section 50;

(2) the requirements of Section 80 are satisfied;

(3) a general appearance was made or filed by or for the respondent or process was served on the respondent in the manner required by Section 60; and

(4) the respondent has answered or is in default.

21. Duration and Extension of Orders

740 ILCS 21/105

(a) Unless re-opened or extended or voided by entry of an order of greater duration, an emergency order shall be effective for not less than 14 nor more than 21 days.

(b) Except as otherwise provided in this Section, a plenary stalking no contact order shall be effective for a fixed period of time, not to exceed 2 years. A plenary stalking no contact order entered in conjunction with a criminal prosecution shall remain in effect as follows:

(1) if entered during pre-trial release, until disposition, withdrawal, or dismissal of the underlying charge; if however, the case is continued as an independent cause of action, the order's duration may be for a fixed period of time not to exceed 2 years;

(2) if in effect in conjunction with a bond forfeiture warrant, until final disposition or an additional period of time not exceeding 2 years; no stalking no contact order, however, shall be terminated by a dismissal that is accompanied by the issuance of a bond forfeiture warrant;

(3) permanent if a judgment of conviction for stalking is entered.

(c) Any emergency or plenary order may be extended one or more times, as required, provided that the requirements of Section 95 or 100, as appropriate, are satisfied. If the motion for extension is uncontested and the petitioner seeks no modification of the order, the order may be extended on the basis of the petitioner's motion or affidavit stating that there has been no material change in relevant circumstances since entry of the order and stating the reason for the requested extension. Extensions may be granted only in open court and not under the provisions of subsection (c) of Section 95, which applies only when the court is unavailable at the close of business or on a court holiday.

(d) Any stalking no contact order which would expire on a court holiday shall instead expire at the close of the next court business day.

(e) The practice of dismissing or suspending a criminal prosecution in exchange for the issuance of a stalking no contact order undermines the purposes of this Act. This Section shall not be construed as encouraging that practice.

22. Contents of Orders

740 ILCS 21/110

(a) Any stalking no contact order shall describe each remedy granted by the court, in reasonable detail and not by reference to any other document, so that the respondent may clearly understand what he or she must do or refrain from doing.

(b) A stalking no contact order shall further state the following:

(1) The name of each petitioner that the court finds was the victim of stalking by the respondent.

(2) The date and time the stalking no contact order was issued, whether it is an emergency or plenary order, and the duration of the order.

(3) The date, time, and place for any scheduled hearing for extension of that stalking no contact order or for another order of greater duration or scope.

(4) For each remedy in an emergency stalking no contact order, the reason for entering that remedy without prior notice to the respondent or greater notice than was actually given.

(5) For emergency stalking no contact orders, that the respondent may petition the court, in accordance with Section 120, to reopen the order if he or she did not receive actual prior notice of the hearing as required under Section 65 of this Act and if the respondent alleges that he or she had a meritorious defense to the order or that the order or its remedy is not authorized by this Act.

(c) A stalking no contact order shall include the following notice, printed in conspicuous type: "An initial knowing violation of a stalking no contact order is a Class A misdemeanor. Any second or subsequent knowing violation is a Class 4 felony."

23. Notice of Orders

740 ILCS 21/115

(a) Upon issuance of any stalking no contact order, the clerk shall immediately, or on the next court day if an emergency order is issued in accordance with subsection (c) of Section 95:

(1) enter the order on the record and file it in accordance with the circuit court procedures; and

(2) provide a file stamped copy of the order to the respondent, if present, and to the petitioner.

(b) The clerk of the issuing judge shall, or the petitioner may, on the same day that a stalking no contact order is issued, file a certified copy of that order with the sheriff or other law enforcement officials charged with maintaining Department of State Police records or charged with serving the order upon the respondent. If the order was issued in accordance with subsection (c) of Section 95, the clerk shall, on the next court day, file a certified copy of the order with the sheriff or other law enforcement officials charged with maintaining Department of State Police records.

(c) Unless the respondent was present in court when the order was issued, the sheriff, other law enforcement official, or special process server shall promptly serve that order upon the respondent and file proof of such service in the manner provided for service of process in civil proceedings. If process has not yet been served upon the respondent, it shall be served with the order or short form notification.

(d) If the person against whom the stalking no contact order is issued is arrested and the written order is issued in accordance with subsection (c) of Section 95 and received by the custodial law enforcement agency before the respondent or arrestee is released from custody, the custodial law enforcement agent shall promptly serve the order upon the respondent

or arrestee before the respondent or arrestee is released from custody. In no event shall detention of the respondent or arrestee be extended for hearing on the petition for stalking no contact order or receipt of the order issued under Section 95 of this Act.

(e) Any order extending, modifying, or revoking any stalking no contact order shall be promptly recorded, issued, and served as provided in this Section.

(f) Upon the request of the petitioner, within 24 hours of the issuance of a stalking no contact order, the clerk of the issuing judge shall send written notice of the order along with a certified copy of the order to any school, daycare, college, or university at which the petitioner is enrolled.

24. Modification; Reopening of Orders

740 ILCS 21/120

(a) Except as otherwise provided in this Section, upon motion by the petitioner, the court may modify an emergency or plenary stalking no contact order by altering the remedy, subject to Section 80.

(b) After 30 days following entry of a plenary stalking no contact order, a court may modify that order only when a change in the applicable law or facts since that plenary order was entered warrants a modification of its terms.

(c) Upon 2 days' notice to the petitioner, or such shorter notice as the court may prescribe, a respondent subject to an emergency stalking no contact order issued under this Act may appear and petition the court to rehear the original or amended petition. Any petition to rehear shall be verified and shall allege the following:

(1) that the respondent did not receive prior notice of the initial hearing in which the emergency order was entered under Sections 65 and 95; and

(2) that the respondent had a meritorious defense to the order or any of its remedies or that the order or any of its remedies was not authorized by this Act.

25. Violation

740 ILCS 21/125

An initial knowing violation of a stalking no contact order is a Class A misdemeanor. A second or subsequent knowing violation is a Class 4 felony.

26. Arrest Without Warrant

740 ILCS 21/130

(a) Any law enforcement officer may make an arrest without warrant if the officer has probable cause to believe that the person has committed or is committing a violation of a stalking no contact order.

(b) The law enforcement officer may verify the existence of a stalking no contact order by telephone or radio communication with his or her law enforcement agency or by referring to the copy of the order provided by the petitioner or the respondent.

27. Data Maintenance by Law Enforcement Agencies

740 ILCS 21/135

(a) All sheriffs shall furnish to the Department of State Police, on the same day as received, in the form and detail the Department requires, copies of any recorded emergency or plenary stalking no contact orders issued by the court and transmitted to the sheriff by the clerk of the court in accordance with subsection (b) of Section 115 of this Act. Each stalking no contact order shall be entered in the Law Enforcement Agencies Data System on the same day it is issued by the court. If an emergency stalking no contact order was issued in accordance with subsection (c) of Section 100, the order shall be entered in the Law Enforcement Agencies Data System as soon as possible after receipt from the clerk of the court.

(b) The Department of State Police shall maintain a complete and systematic record and index of all valid and recorded stalking no contact orders issued under this Act. The data shall be used to inform all dispatchers and law enforcement officers at the scene of an alleged incident of stalking or violation of a stalking no contact order of any recorded prior incident of stalking involving the petitioner and the effective dates and terms of any recorded stalking no contact order.

B. Civil No Contact Order Act

740 ILCS 22/101

1. Designation of Parties

740 ILCS 22/101.1

Subsection (e) of Section 2-401 of the Code of Civil Procedure regarding designation of parties applies to petitions under this Act.

2. Purpose

740 ILCS 22/102

Sexual assault is the most heinous crime against another person short of murder. Sexual assault inflicts humiliation, degradation, and terror on victims. According to the FBI, a woman is raped every 6 minutes in the United States. Rape is recognized as the most underreported crime; estimates suggest that only one in seven rapes is reported to authorities. Victims who do not report the crime still desire safety and protection from future interactions with the offender. Some cases in which the rape is reported are not prosecuted. In these situations, the victim should be able to seek a civil remedy requiring only that the offender stay away from the victim.

3. Definitions

740 ILCS 22/103

"Civil no contact order" means an emergency order or plenary order granted under this Act, which includes a remedy authorized by Section 213 of this Act.

"Family or household members" include spouses, parents, children, stepchildren, and persons who share a common dwelling.

"Non-consensual" means a lack of freely given agreement.

"Petitioner" may mean not only any named petitioner for the civil no contact order and any named victim of non-consensual sexual conduct or non-consensual sexual penetration on whose behalf the petition is brought, but also any other person sought to be protected by this Act.

"Respondent" in a petition for a civil no contact order may mean not only the person alleged to have committed an act of non-consensual sexual conduct or non-consensual sexual penetration against the petitioner, but also any other named person alleged to have aided and abetted such an act of non-consensual sexual conduct or non-consensual sexual penetration.

"Sexual conduct" means any intentional or knowing touching or fondling by the petitioner or the respondent, either directly or through clothing, of the sex organs, anus, or breast of the petitioner or the respondent, or any part of the body of a child under 13 years of age, or any transfer or transmission of semen by the respondent upon any part of the clothed or unclothed body of the petitioner, for the purpose of sexual gratification or arousal of the petitioner or the respondent.

"Sexual penetration" means any contact, however slight, between the sex organ or anus of one person by an object, the sex organ, mouth or anus of another person, or any intrusion, however slight, of any part of the body of one person or of any animal or object into the sex organ or anus of another person, including but not

limited to cunnilingus, fellatio or anal penetration. Evidence of emission of semen is not required to prove sexual penetration.

"Stay away" means to refrain from both physical presence and nonphysical contact with the petitioner directly, indirectly, or through third parties who may or may not know of the order. "Nonphysical contact" includes, but is not limited to, telephone calls, mail, e-mail, fax, and written notes.

4. Persons Protected by This Act

740 ILCS 22/201

(a) The following persons are protected by this Act:

(1) any victim of non-consensual sexual conduct or non-consensual sexual penetration on whose behalf the petition is brought;

(2) any family or household member of the named victim; and

(3) any employee of or volunteer at a rape crisis center that is providing services to the petitioner or the petitioner's family or household member.

(b) A petition for a civil no contact order may be filed:

(1) by any person who is a victim of non-consensual sexual conduct or non-consensual sexual penetration, including a single incident of non-consensual sexual conduct or non-consensual sexual penetration; or

(2) by a person on behalf of a minor child or an adult who is a victim of non-consensual sexual conduct or non-consensual sexual penetration but, because of age, disability, health, or inaccessibility, cannot file the petition.

5. Commencement of Action; Filing Fees

740 ILCS 22/202

(a) An action for a civil no contact order is commenced:

(1) independently, by filing a petition for a civil no contact order in any civil court, unless specific courts are designated by local rule or order; or

(2) in conjunction with a delinquency petition or a criminal prosecution, by filing a petition for a civil no contact order under the same case number as the delinquency petition or criminal

prosecution, to be granted during pre-trial release of a defendant, with any dispositional order issued under Section 5-710 of the Juvenile Court Act of 1987 or as a condition of release, supervision, conditional discharge, probation, periodic imprisonment, parole, or mandatory supervised release, or in conjunction with imprisonment or a bond forfeiture warrant, provided that (i) the violation is alleged in an information, complaint, indictment, or delinquency petition on file and the alleged victim is a person protected by this Act, and (ii) the petition, which is filed by the State's Attorney, names a victim of the alleged crime as a petitioner.

(b) Withdrawal or dismissal of any petition for a civil no contact order prior to adjudication where the petitioner is represented by the State shall operate as a dismissal without prejudice. No action for a civil no contact order shall be dismissed because the respondent is being prosecuted for a crime against the petitioner. For any action commenced under item (2) of subsection (a) of this Section, dismissal of the conjoined case (or a finding of not guilty) shall not require dismissal of the action for a civil no contact order; instead, it may be treated as an independent action and, if necessary and appropriate, transferred to a different court or division.

(c) No fee shall be charged by the clerk of the court for filing petitions or modifying or certifying orders. No fee shall be charged by the sheriff for service by the sheriff of a petition, rule, motion, or order in an action commenced under this Section.

(d) The court shall provide, through the office of the clerk of the court, simplified forms for filing of a petition under this Section by any person not represented by counsel.

6. Pleading; Non-Disclosure of Address

740 ILCS 22/203

(a) A petition for a civil no contact order shall be in writing and verified or accompanied by affidavit and shall allege that the petitioner has been the victim of non-consensual sexual conduct or non-consensual sexual penetration by the respondent.

(b) If the petition states that disclosure of the petitioner's address would risk abuse of the petitioner or any member of the petitioner's family or household, that address may be omitted from all documents filed with the court. If the petitioner has not disclosed an address under this subsection, the petitioner shall designate an alternative address at which the respondent may serve notice of any motions.

7. Application of Rules of Civil Procedure; Rape Crisis Advocates

740 ILCS 22/204

(a) Any proceeding to obtain, modify, reopen or appeal a civil no contact order shall be governed by the rules of civil procedure of this State. The standard of proof in such a proceeding is proof by a preponderance of the evidence. The Code of Civil Procedure and Supreme Court and local court rules applicable to civil proceedings shall apply, except as otherwise provided by this Act.

(b) In circuit courts, rape crisis advocates shall be allowed to accompany the victim and confer with the victim, unless otherwise directed by the court. Court administrators shall allow rape crisis advocates to assist victims of non-consensual sexual conduct or non-consensual sexual penetration in the preparation of petitions for civil no contact orders. Rape crisis advocates are not engaged in the unauthorized practice of law when providing assistance of the types specified in this subsection (b). Communications between the petitioner and a rape crisis advocate are protected by the confidentiality of statements made to rape crisis personnel as provided for in Section 8-802.1 of the Code of Civil Procedure.

8. Application of Privileges

740 ILCS 22/204.2

The filing of a petition for a civil no contact order does not in any way constitute a waiver of any privilege that otherwise protects any medical, mental health, or other records of the petitioner, absent a release by the petitioner, pursuant to federal or State Acts including but not limited to: the federal Health Insurance Portability and Accountability Act (HIPAA); Illinois Medical Patient Rights Act; Mental Health and Developmental Disabilities Confidentiality Act; and Sections 8-802 and 8-802.1 of the Code of Civil Procedure.

9. Appointment of Counsel

740 ILCS 22/204.3

Appointment of counsel. The court may appoint counsel to represent the petitioner if the respondent is represented by counsel.

10. Trial by Jury

740 ILCS 22/204.5

There shall be no right to trial by jury in any proceeding to obtain, modify, vacate or extend any civil no contact order under this Act. However, nothing in this Section shall deny any existing right to trial by jury in a criminal proceeding.

11. Subject Matter Jurisdiction

740 ILCS 22/205

Each of the circuit courts has the power to issue civil no contact orders.

12. Jurisdiction Over Persons

740 ILCS 22/206

The courts of this State have jurisdiction to bind

(1) State residents and

(2) non-residents having minimum contacts with this State, to the extent permitted by the long-arm statute, Section 2-209 of the Code of Civil Procedure.

13. Venue

740 ILCS 22/207

A petition for a civil no contact order may be filed in any county where

(1) the petitioner resides,

(2) the respondent resides, or

(3) the alleged non-consensual sexual conduct or non-consensual sexual penetration occurred.

14. Process

740 ILCS 22/208

(a) Any action for a civil no contact order requires that a separate summons be issued and served. The summons shall be in the form prescribed by Supreme Court Rule 101(d), except that it shall require the respondent to answer or appear within 7 days. Attachments to the summons or notice shall include the petition for civil no contact order and supporting affidavits, if any, and any emergency civil no contact order that has been issued.

(b) The summons shall be served by the sheriff or other law enforcement officer at the earliest time and shall take precedence over other summonses except those of a similar emergency nature. Special process servers may be appointed at any time, and their designation shall not affect the responsibilities and authority of the sheriff or other official process servers.

(c) Service of process on a member of the respondent's household or by publication shall be adequate if: (1) the petitioner has made all reasonable efforts to accomplish actual service of process personally upon the respondent, but the respondent cannot be found to effect such service; and (2) the petitioner files an affidavit or presents sworn testimony as to those efforts.

(d) A plenary civil no contact order may be entered by default for the remedy sought in the petition, if the respondent has been served or given notice in accordance with subsection (a) and if the respondent then fails to appear as directed or fails to appear on any subsequent appearance or hearing date agreed to by the parties or set by the court.

15. Service of Notice of Hearings

740 ILCS 22/209

Except as provided in Section 208, notice of hearings on petitions or motions shall be served in accordance with Supreme Court Rules 11 and 12, unless notice is excused by Section 214 of this Act or by the Code of Civil Procedure, Supreme Court Rules, or local rules.

16. Hearings

740 ILCS 22/210

A petition for a civil no contact order shall be treated as an expedited proceeding, and no court may transfer or otherwise decline to decide all or part of such petition. Nothing in this Section shall prevent the court from reserving issues if jurisdiction or notice requirements are not met.

17. Continuances

740 ILCS 22/211

(a) Petitions for emergency remedies shall be granted or denied in accordance with the standards of Section 214, regardless of the respondent's appearance or presence in court.

(b) Any action for a civil no contact order is an expedited proceeding. Continuances shall be granted only for good cause shown and kept to the minimum reasonable duration, taking into account the reasons for the continuance.

18. Remedies

740 ILCS 22/213

(a) If the court finds that the petitioner has been a victim of non-consensual sexual conduct or non-consensual sexual penetration, a civil no contact order shall issue; provided that the petitioner must also satisfy the requirements of Section 214 on emergency orders or Section 215 on plenary orders. The petitioner shall not be denied a civil no contact order because the petitioner or the respondent is a minor. The court, when determining whether or not to issue a civil no contact order, may not require physical injury on the person of the victim. Modification and extension of prior civil no contact orders shall be in accordance with this Act.

(b) (Blank).

(b-5) The court may provide relief as follows:

(1) prohibit the respondent from knowingly coming within, or knowingly remaining within, a specified distance from the petitioner;

(2) restrain the respondent from having any contact, including nonphysical contact, with the petitioner directly, indirectly, or through third parties, regardless of whether those third parties know of the order;

(3) prohibit the respondent from knowingly coming within, or knowingly remaining within, a specified distance from the petitioner's residence, school, day care or other specified location;

(4) order the respondent to stay away from any property or animal owned, possessed, leased, kept, or held by the petitioner and forbid the respondent from taking, transferring, encumbering, concealing, harming, or otherwise disposing of the property or animal; and

(5) order any other injunctive relief as necessary or appropriate for the protection of the petitioner.

(b-6) When the petitioner and the respondent attend the same public or private elementary, middle, or high school, the court when issuing a civil no

contact order and providing relief shall consider, among the other facts of the case, the severity of the act, any continuing physical danger or emotional distress to the petitioner, and the expense, difficulty, and educational disruption that would be caused by a transfer of the respondent to another school. The court may order that the respondent not attend the public or private elementary, middle, or high school attended by the petitioner. In the event the court orders a transfer of the respondent to another school, the parents or legal guardians of the respondent are responsible for transportation and other costs associated with the change of school by the respondent.

(c) Denial of a remedy may not be based, in whole or in part, on evidence that:

(1) the respondent has cause for any use of force, unless that cause satisfies the standards for justifiable use of force provided by Article VII of the Criminal Code of 1961;

(2) the respondent was voluntarily intoxicated;

(3) the petitioner acted in self-defense or defense of another, provided that, if the petitioner utilized force, such force was justifiable under Article VII of the Criminal Code of 1961;

(4) the petitioner did not act in self-defense or defense of another;

(5) the petitioner left the residence or household to avoid further non-consensual sexual conduct or non-consensual sexual penetration by the respondent; or

(6) the petitioner did not leave the residence or household to avoid further non-consensual sexual conduct or non-consensual sexual penetration by the respondent.

(d) Monetary damages are not recoverable as a remedy.

19. Accountability for Actions of Others

740 ILCS 22/213.5

For the purposes of issuing a civil no contact order, deciding what remedies should be included and enforcing the order, Article 5 of the Criminal Code of 1961 shall govern whether respondent is legally accountable for the conduct of another person.

20. Aiding and Abetting Non-consensual Sexual Conduct or Non-consensual Sexual Penetration

740 ILCS 22/213.7

A person aids and abets an act of non-consensual sexual conduct or non-consensual sexual penetration when, before or during the commission of an act of non-consensual sexual conduct or non-consensual sexual penetration as defined in Section 103 and with the intent to promote or facilitate such conduct, he or she intentionally aids or abets another in the planning or commission of non-consensual sexual conduct or non-consensual sexual penetration, unless before the commission of the offense he or she makes proper effort to prevent the commission of the offense.

21. Emergency Civil No Contact Order

740 ILCS 22/214

(a) An emergency civil no contact order shall issue if the petitioner satisfies the requirements of this subsection (a). The petitioner shall establish that:

(1) the court has jurisdiction under Section 206;

(2) the requirements of Section 213 are satisfied; and

(3) there is good cause to grant the remedy, regardless of prior service of process or of notice upon the respondent, because the harm which that remedy is intended to prevent would be likely to occur if the respondent were given any prior notice, or greater notice than was actually given, of the petitioner's efforts to obtain judicial relief.

An emergency civil no contact order shall be issued by the court if it appears from the contents of the petition and the examination of the petitioner that the averments are sufficient to indicate nonconsensual sexual conduct or nonconsensual sexual penetration by the respondent and to support the granting of relief under the issuance of the civil no contact order.

An emergency civil no contact order shall be issued if the court finds that subsections (1), (2), and (3) above are met.

(b) If the respondent appears in court for this hearing for an emergency order, he or she may elect to file a general appearance and testify. Any resulting order may be an emergency order, governed by this Section. Notwithstanding the requirements of this Section, if all requirements of Section 215 have been met, the court may issue a plenary order.

(c) Emergency orders; court holidays and evenings.

(1) When the court is unavailable at the close of business, the petitioner may file a petition for a 21-day emergency order before any available circuit judge or associate judge who may grant relief under this Act. If the judge finds that there is an immediate and present danger of abuse against the petitioner and that the petitioner has satisfied the prerequisites set forth in subsection (a), that judge may issue an emergency civil no contact order.

(2) The chief judge of the circuit court may designate for each county in the circuit at least one judge to be reasonably available to issue orally, by telephone, by facsimile, or otherwise, an emergency civil no contact order at all times, whether or not the court is in session.

(3) Any order issued under this Section and any documentation in support of the order shall be certified on the next court day to the appropriate court. The clerk of that court shall immediately assign a case number, file the petition, order, and other documents with the court, and enter the order of record and file it with the sheriff for service, in accordance with Section 222. Filing the petition shall commence proceedings for further relief under Section 202. Failure to comply with the requirements of this paragraph (3) does not affect the validity of the order.

22. Plenary Civil No Contact Order

740 ILCS 22/215

A plenary civil no contact order shall issue if the petitioner has served notice of the hearing for that order on the respondent, in accordance with Section 209, and satisfies the requirements of this Section. The petitioner must establish that:

(1) the court has jurisdiction under Section 206;

(2) the requirements of Section 213 are satisfied;

(3) a general appearance was made or filed by or for the respondent or process was served on the respondent in the manner required by Section 208; and

(4) the respondent has answered or is in default.

23. Petitioner Testimony at Plenary Civil No Contact Order Hearing

740 ILCS 22/215.5

In a plenary civil no contact order hearing, if a court finds that testimony by the petitioner in the courtroom may result in serious emotional distress to the petitioner, the court may order that the examination of the petitioner be conducted in chambers. Counsel shall be present at the examination unless otherwise agreed upon by the parties. The court shall cause a court reporter to be present who shall make a complete record of the examination instantaneously to be part of the record in the case.

24. Duration and Extension of Orders

740 ILCS 22/216

(a) Unless re-opened or extended or voided by entry of an order of greater duration, an emergency order shall be effective for not less than 14 nor more than 21 days.

(b) Except as otherwise provided in this Section, a plenary civil no contact order shall be effective for a fixed period of time, not to exceed 2 years. A plenary civil no contact order entered in conjunction with a criminal prosecution shall remain in effect as follows:

(1) if entered during pre-trial release, until disposition, withdrawal, or dismissal of the underlying charge; if however, the case is continued as an independent cause of action, the order's duration may be for a fixed period of time not to exceed 2 years;

(2) if in effect in conjunction with a bond forfeiture warrant, until final disposition or an additional period of time not exceeding 2 years; no civil no contact order, however, shall be terminated by a dismissal that is accompanied by the issuance of a bond forfeiture warrant;

(3) until expiration of any supervision, conditional discharge, probation, periodic imprisonment, parole, or mandatory supervised release and for an additional period of time thereafter not exceeding 2 years; or

(4) until the date set by the court for expiration of any sentence of imprisonment and subsequent parole or mandatory supervised release and for an additional period of time thereafter not exceeding 2 years.

(c) Any emergency or plenary order may be extended one or more times, as required, provided that the requirements of Section 214 or 215, as appropriate, are satisfied. If the motion for extension is uncontested and the petitioner seeks no modification of the order, the order may be extended on the basis of the petitioner's motion or affidavit stating that there has been no material change in relevant circumstances since entry of the order and stating the reason for the requested extension. Extensions may be granted only in open court and not under the provisions of subsection (c) of Section 214, which applies only when the court is unavailable at the close of business or on a court holiday.

(d) Any civil no contact order which would expire on a court holiday shall instead expire at the close of the next court business day.

(d-5) An extension of a plenary civil no contact order may be granted, upon good cause shown, to remain in effect until the civil no contact order is vacated or modified.

(e) The practice of dismissing or suspending a criminal prosecution in exchange for the issuance of a civil no contact order undermines the purposes of this Act. This Section shall not be construed as encouraging that practice.

25. Contents of Orders

740 ILCS 22/217

(a) Any civil no contact order shall describe each remedy granted by the court, in reasonable detail and not by reference to any other document, so that the respondent may clearly understand what he or she must do or refrain from doing.

(b) A civil no contact order shall further state the following:

(1) The name of each petitioner that the court finds was the victim of non-consensual sexual conduct or non-consensual sexual penetration by the respondent and the name of each other person protected by the civil no contact order.

(2) The date and time the civil no contact order was issued, whether it is an emergency or plenary order, and the duration of the order.

(3) The date, time, and place for any scheduled hearing for extension of that civil no contact order or for another order of greater duration or scope.

(4) For each remedy in an emergency civil no contact order, the reason for entering that remedy without prior notice to the respondent or greater notice than was actually given.

(5) For emergency civil no contact orders, that the respondent may petition the court, in accordance with Section 218.5, to reopen the order if he or she did not receive actual prior notice of the hearing as required under Section 209 of this Act and if the respondent alleges that he or she had a meritorious defense to the order or that the order or its remedy is not authorized by this Act.

(c) A civil no contact order shall include the following notice, printed in conspicuous type: "Any knowing violation of a civil no contact order is a Class A misdemeanor. Any second or subsequent violation is a Class 4 felony."

(d) A civil no contact order shall state, "This Civil No Contact Order is enforceable, even without registration, in all 50 states, the District of Columbia, tribal lands, and the U.S. territories pursuant to the Violence Against Women Act (18 U.S.C. 2265)."

26. Notice of Orders

740 ILCS 22/218

(a) Upon issuance of any civil no contact order, the clerk shall immediately, or on the next court day if an emergency order is issued in accordance with subsection (c) of Section 214:

(1) enter the order on the record and file it in accordance with the circuit court procedures; and

(2) provide a file stamped copy of the order to the respondent, if present, and to the petitioner.

(b) The clerk of the issuing judge shall, or the petitioner may, on the same day that a civil no contact order is issued, file a certified copy of that order with the sheriff or other law enforcement officials charged with maintaining Department of State Police records or charged with serving the order upon the respondent. If the order was issued in accordance with subsection (c) of Section 214, the clerk shall, on the next court day, file a certified copy of the order with the Sheriff or other law enforcement officials charged with maintaining Department of State Police records.

(c) Unless the respondent was present in court when the order was issued, the sheriff, other law enforcement official, or special process server shall promptly serve that order upon the respondent and file proof of such

service in the manner provided for service of process in civil proceedings. If process has not yet been served upon the respondent, it shall be served with the order or short form notification.

(d) If the person against whom the civil no contact order is issued is arrested and the written order is issued in accordance with subsection (c) of Section 214 and received by the custodial law enforcement agency before the respondent or arrestee is released from custody, the custodial law enforcement agent shall promptly serve the order upon the respondent or arrestee before the respondent or arrestee is released from custody. In no event shall detention of the respondent or arrestee be extended for hearing on the petition for civil no contact order or receipt of the order issued under Section 214 of this Act.

(e) Any order extending, modifying, or revoking any civil no contact order shall be promptly recorded, issued, and served as provided in this Section.

(f) Upon the request of the petitioner, within 24 hours of the issuance of a civil no contact order, the clerk of the issuing judge shall send written notice of the order along with a certified copy of the order to any school, college, or university at which the petitioner is enrolled.

27. Modification; Reopening of Orders

740 ILCS 22/218.5

(a) Except as otherwise provided in this Section, upon motion by the petitioner, the court may modify an emergency or plenary civil no contact order by altering the remedy, subject to Section 213.

(b) After 30 days following entry of a plenary civil no contact order, a court may modify that order only when a change in the applicable law or facts since that plenary order was entered warrants a modification of its terms.

(c) Upon 2 days' notice to the petitioner, or such shorter notice as the court may prescribe, a respondent subject to an emergency civil no contact order issued under this Act may appear and petition the court to rehear the original or amended petition. Any petition to rehear shall be verified and shall allege the following:

(1) that the respondent did not receive prior notice of the initial hearing in which the emergency order was entered under Sections 209 and 214; and

(2) that the respondent had a meritorious defense to the order or any of its remedies or that the order or any of its remedies was not authorized by this Act.

28. Violation

740 ILCS 22/219

A knowing violation of a civil no contact order is a Class A misdemeanor. A second or subsequent violation is a Class 4 felony.

29. Enforcement of a Civil No Contact Order

740 ILCS 22/220

(a) Nothing in this Act shall preclude any Illinois court from enforcing a valid protective order issued in another state.

(b) Illinois courts may enforce civil no contact orders through both criminal proceedings and civil contempt proceedings, unless the action which is second in time is barred by collateral estoppel or the constitutional prohibition against double jeopardy.

(c) Criminal prosecution. A violation of any civil no contact order, whether issued in a civil or criminal proceeding, shall be enforced by a criminal court when the respondent commits the crime of violation of a civil no contact order pursuant to Section 219 by having knowingly violated:

(1) remedies described in Section 213 and included in a civil no contact order; or

(2) a provision of an order, which is substantially similar to provisions of Section 213, in a valid civil no contact order which is authorized under the laws of another state, tribe, or United States territory.

Prosecution for a violation of a civil no contact order shall not bar a concurrent prosecution for any other crime, including any crime that may have been committed at the time of the violation of the civil no contact order.

(d) Contempt of court. A violation of any valid Illinois civil no contact order, whether issued in a civil or criminal proceeding, may be enforced through civil or criminal contempt procedures, as appropriate, by any court with jurisdiction, regardless of where the act or acts which violated the civil no contact order were committed, to the extent consistent with the venue provisions of this Act.

(1) In a contempt proceeding where the petition for a rule to show cause or petition for adjudication of criminal contempt sets forth facts evidencing an immediate danger that the respondent will flee the jurisdiction or inflict physical abuse on the petitioner or minor children or on dependent adults in the petitioner's care, the court may order the attachment of the respondent without prior service of the petition for a rule to show cause, the rule to show cause, the

petition for adjudication of criminal contempt or the adjudication of criminal contempt. Bond shall be set unless specifically denied in writing.

(2) A petition for a rule to show cause or a petition for adjudication of criminal contempt for violation of a civil no contact order shall be treated as an expedited proceeding.

(e) Actual knowledge. A civil no contact order may be enforced pursuant to this Section if the respondent violates the order after the respondent has actual knowledge of its contents as shown through one of the following means:

(1) by service, delivery, or notice under Section 208;

(2) by notice under Section 218;

(3) by service of a civil no contact order under Section 218; or

(4) by other means demonstrating actual knowledge of the contents of the order.

(f) The enforcement of a civil no contact order in civil or criminal court shall not be affected by either of the following:

(1) the existence of a separate, correlative order, entered under Section 202; or

(2) any finding or order entered in a conjoined criminal proceeding.

(g) Circumstances. The court, when determining whether or not a violation of a civil no contact order has occurred, shall not require physical manifestations of abuse on the person of the victim.

(h) Penalties.

(1) Except as provided in paragraph (3) of this subsection, where the court finds the commission of a crime or contempt of court under subsection (a) or (b) of this Section, the penalty shall be the penalty that generally applies in such criminal or contempt proceedings, and may include one or more of the following: incarceration, payment of restitution, a fine, payment of attorneys' fees and costs, or community service.

(2) The court shall hear and take into account evidence of any factors in aggravation or mitigation before deciding an appropriate penalty under paragraph (1) of this subsection.

(3) To the extent permitted by law, the court is encouraged to:

(i) increase the penalty for the knowing violation of any civil no contact order over any penalty previously imposed by any court for respondent's violation of any civil no contact order or penal statute involving petitioner as victim and respondent as defendant;

(ii) impose a minimum penalty of 24 hours imprisonment for respondent's first violation of any civil no contact order; and

(iii) impose a minimum penalty of 48 hours imprisonment for respondent's second or subsequent violation of a civil no contact order unless the court explicitly finds that an increased penalty or that period of imprisonment would be manifestly unjust.

(4) In addition to any other penalties imposed for a violation of a civil no contact order, a criminal court may consider evidence of any previous violations of a civil no contact order:

(i) to increase, revoke or modify the bail bond on an underlying criminal charge pursuant to Section 110-6 of the Code of Criminal Procedure of 1963;

(ii) to revoke or modify an order of probation, conditional discharge or supervision, pursuant to Section 5-6-4 of the Unified Code of Corrections; or

(iii) to revoke or modify a sentence of periodic imprisonment, pursuant to Section 5-7-2 of the Unified Code of Corrections.

30. Arrest Without Warrant

740 ILCS 22/301

(a) Any law enforcement officer may make an arrest without warrant if the officer has probable cause to believe that the person has committed or is committing a violation of a civil no contact order.

(b) The law enforcement officer may verify the existence of a civil no contact order by telephone or radio communication with his or her law enforcement agency or by referring to the copy of the order provided by the petitioner or the respondent.

31. Data Maintenance by Law Enforcement Agencies

740 ILCS 22/302

(a) All sheriffs shall furnish to the Department of State Police, on the same day as received, in the form and detail the Department requires, copies of any recorded emergency or plenary civil no contact orders issued by the court and transmitted to the sheriff by the clerk of the court in accordance with subsection (b) of Section 218 of this Act. Each civil no contact order shall be entered in the Law Enforcement Agencies Data System on the same day it is issued by the court. If an emergency civil no contact order was issued in accordance with subsection (c) of Section 214, the order shall be entered in the Law Enforcement Agencies Data System as soon as possible after receipt from the clerk of the court.

(b) The Department of State Police shall maintain a complete and systematic record and index of all valid and recorded civil no contact orders issued under this Act. The data shall be used to inform all dispatchers and law enforcement officers at the scene of an alleged incident of non-consensual sexual conduct or non-consensual sexual penetration or violation of a civil no contact order of any recorded prior incident of non-consensual sexual conduct or non-consensual sexual penetration involving the victim and the effective dates and terms of any recorded civil no contact order.

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