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**STATE OF ILLINOIS
OFFICE OF THE SECRETARY OF STATE**

The Session Laws of Illinois are compiled, printed and distributed annually by the Secretary of State pursuant to Sections 30 and 31 of an Act entitled, "State Printing Contracts Act", approved April 20, 1967.
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The text of the documents contained in this publication is printed identical to the originals on file in the Office of the Secretary of State. No attempt has been made to correct misspelled words or errors in punctuation, if any.

GEORGE H. RYAN
Secretary of State

(P.O. SX604492-750-7/96)

(Printed by authority of the General Assembly of the State of Illinois.)

State of Illinois from all financial loss, damage or harm arising out of the selling or dispensing of alcoholic liquors.

Nothing in this Act shall prevent a not-for-profit organization or agency of the State from employing the services of a catering establishment for the selling or dispensing of alcoholic liquors at functions authorized by the Department of Central Management Services.

Alcoholic liquors may be sold or delivered in a building that is owned by McLean County, situated on land owned by the county in the City of Bloomington, and used by the McLean County Historical Society if the sale or delivery is approved by an ordinance adopted by the county board, and the municipality in which the building is located may not prohibit that sale or delivery, notwithstanding any other provision of this Section. The regulation of the sale and delivery of alcoholic liquor in a building that is owned by McLean County, situated on land owned by the county, and used by the McLean County Historical Society as provided in this paragraph is an exclusive power and function of the State and is a denial and limitation under Article VII, Section 6, subsection (h) of the Illinois Constitution of the power of a home rule municipality to regulate that sale and delivery.

Alcoholic liquors may be sold or delivered in any building situated on land held in trust for any school district organized under Article 34 of the School Code, if the building is not used for school purposes and if the sale or delivery is approved by the board of education.

(Source: P.A. 87-435; 87-554; 87-710; 87-895; 87-939; 88-652, eff. 9-16-94.)

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

Passed in the General Assembly May 25, 1995.

Approved August 18, 1995.

Effective August 18, 1995.

PUBLIC ACT 89-0377
(House Bill No. 1792)

AN ACT in relation to criminal law, amending named Acts.

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

Section 5. The Firearm Owners Identification Card Act is amended by changing Section 14 as follows:

(430 ILCS 65/14) (from Ch. 38, par. 83-14)

Sec. 14. Sentence.

(a) A violation of paragraph (1) of subsection (a) of Section 2, when the person's Firearm Owner's Identification Card is expired but the person is not otherwise disqualified from renewing the card, is a Class A misdemeanor.

(b) *Except as provided in subsection (a) with respect to an expired card, a violation of paragraph (1) of subsection (a) of Section 2 is a Class A misdemeanor when the person does not possess a currently valid has never previously been issued a Firearm Owner's Identification Card, but is otherwise eligible under this Act*

~~Section 4. A second or subsequent violation is a Class 4 felony.~~

(c) A violation of paragraph (1) of subsection (a) of Section

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2 is a Class 3 felony when:

(1) the person's Firearm Owner's Identification Card is revoked or subject to revocation under Section 8; or

(2) the person's Firearm Owner's Identification Card is expired and not otherwise eligible for renewal under *this Act Section 4*; or

(3) the person *does not possess a currently valid* ~~has never previously been issued a~~ Firearm Owner's Identification Card, and the person is not otherwise eligible under *this Act Section 4*.

(d) A violation of subsection (a) of Section 3 is a Class 4 felony.

(e) Any other violation of this Act is a Class A misdemeanor. (Source: P.A. 88-680, eff. 1-1-95.)

Section 10. The Juvenile Court Act of 1987 is amended by changing Section 1-8 as follows:

(705 ILCS 405/1-8) (from Ch. 37, par. 801-8)

Sec. 1-8. Confidentiality and accessibility of juvenile court records.

(A) Inspection and copying of juvenile court records relating to a minor who is the subject of a proceeding under this Act shall be restricted to the following:

(1) The minor who is the subject of record, his parents, guardian and counsel.

(2) Law enforcement officers and law enforcement agencies when such information is essential to executing an arrest or search warrant or other compulsory process, or to conducting an ongoing investigation or relating to a minor who has been adjudicated delinquent and there has been a previous finding that the act which constitutes the previous offense was committed in furtherance of criminal activities by a criminal street gang.

Before July 1, 1994, for the purposes of this Section, "criminal street gang" means any ongoing organization, association, or group of 3 or more persons, whether formal or informal, having as one of its primary activities the commission of one or more criminal acts and that has a common name or common identifying sign, symbol or specific color apparel displayed, and whose members individually or collectively engage in or have engaged in a pattern of criminal activity.

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

(3) Judges, prosecutors, probation officers, social workers or other individuals assigned by the court to conduct a pre-adjudication or predisposition investigation, and individuals responsible for supervising or providing temporary or permanent care and custody for minors pursuant to the order of the juvenile court when essential to performing their responsibilities.

(4) Judges, prosecutors and probation officers:

(a) in the course of a trial when institution of criminal proceedings has been permitted under Section 5-4 or required under Section 5-4; or

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(b) when criminal proceedings have been permitted under Section 5-4 or required under Section 5-4 and a minor is the subject of a proceeding to determine the amount of bail; or

(c) when criminal proceedings have been permitted under Section 5-4 or required under Section 5-4 and a minor is the subject of a pre-trial investigation, pre-sentence investigation or fitness hearing, or proceedings on an application for probation; or

(d) when a minor becomes 17 years of age or older, and is the subject of criminal proceedings, including a hearing to determine the amount of bail, a pre-trial investigation, a pre-sentence investigation, a fitness hearing, or proceedings on an application for probation.

(5) Adult and Juvenile Prisoner Review Boards.

(6) Authorized military personnel.

(7) Victims, their subrogees and legal representatives; however, such persons shall have access only to the name and address of the minor and information pertaining to the disposition or alternative adjustment plan of the juvenile court.

(8) Persons engaged in bona fide research, with the permission of the presiding judge of the juvenile court and the chief executive of the agency that prepared the particular records; provided that publication of such research results in no disclosure of a minor's identity and protects the confidentiality of the record.

(9) The Secretary of State to whom the Clerk of the Court shall report the disposition of all cases, as required in Section 6-204 of The Illinois Vehicle Code. However, information reported relative to these offenses shall be privileged and available only to the Secretary of State, courts, and police officers.

(10) The administrator of a bonafide substance abuse student assistance program with the permission of the presiding judge of the juvenile court.

(B) A minor who is the victim in a juvenile proceeding shall be provided the same confidentiality regarding disclosure of identity as the minor who is the subject of record.

(C) Except as otherwise provided in this subsection (C), juvenile court records shall not be made available to the general public but may be inspected by representatives of agencies, associations and news media or other properly interested persons by general or special order of the court. The State's Attorney, the minor, his parents, guardian and counsel shall at all times have the right to examine court files and records.

(1) The court shall allow the general public to have access to the name and address of a minor who is adjudicated a delinquent minor under this Act under either of the following circumstances:

(A) The adjudication of delinquency was based upon the minor's commission of first degree murder, attempt to commit first degree murder, aggravated criminal sexual assault, or criminal sexual assault; or

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(B) The court has made a finding that the minor was at least 13 years of age at the time the act was committed and the adjudication of delinquency was based upon the minor's commission of: (i) an act in furtherance of the commission of a felony as a member of or on behalf of a criminal street gang, (ii) an act involving the use of a firearm in the commission of a felony, (iii) an act that would be a Class X felony offense under or the minor's second or subsequent Class 2 or greater felony offense under the Cannabis Control Act if committed by an adult, (iv) an act that would be a second or subsequent offense under Section 402 of the Illinois Controlled Substances Act if committed by an adult, or (v) an act that would be an offense under Section 401 of the Illinois Controlled Substances Act if committed by an adult.

(2) The court shall allow the general public to have access to the name and address of a minor who is at least 13 years of age at the time the offense is committed and who is convicted, in criminal proceedings permitted or required under Section 5-4, under either of the following circumstances:

(A) The minor has been convicted of first degree murder, attempt to commit first degree murder, aggravated criminal sexual assault, or criminal sexual assault,

(B) The court has made a finding that the minor was at least 13 years of age at the time the offense was committed and the conviction was based upon the minor's commission of: (i) an offense in furtherance of the commission of a felony as a member of or on behalf of a criminal street gang, (ii) an offense involving the use of a firearm in the commission of a felony, (iii) a Class X felony offense under or a second or subsequent Class 2 or greater felony offense under the Cannabis Control Act, (iv) a second or subsequent offense under Section 402 of the Illinois Controlled Substances Act, or (v) an offense under Section 401 of the Illinois Controlled Substances Act.

(D) Pending or following any adjudication of delinquency for any offense defined in Sections 12-13 through 12-16 of the Criminal Code of 1961, the victim of any such offense shall receive the rights set out in Sections 4 and 6 of the Bill of Rights for Victims and Witnesses of Violent Crime Act; and the juvenile who is the subject of the adjudication, notwithstanding any other provision of this Act, shall be treated as an adult for the purpose of affording such rights to the victim.

(E) Nothing in this Section shall affect the right of a Civil Service Commission or appointing authority examining the character and fitness of an applicant for a position as a law enforcement officer to ascertain whether that applicant was ever adjudicated to be a delinquent minor and, if so, to examine the records of disposition or evidence which were made in proceedings under this Act.

(F) Following any adjudication of delinquency for a crime which would be a felony if committed by an adult, or following any adjudication of delinquency for a violation of Section 24-1, 24-3,

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24-3.1, or 24-5 of the Criminal Code of 1961, the State's Attorney shall ascertain whether the minor respondent is enrolled in school and, if so, shall provide a copy of the dispositional order to the principal or chief administrative officer of the school. Access to such juvenile records shall be limited to the principal or chief administrative officer of the school and any guidance counselor designated by him.

(G) Nothing contained in this Act prevents the sharing or disclosure of information or records relating or pertaining to juveniles subject to the provisions of the Serious Habitual Offender Comprehensive Action Program when that information is used to assist in the early identification and treatment of habitual juvenile offenders.

(H) When a Court hearing a proceeding under Article II of this Act becomes aware that an earlier proceeding under Article II had been heard in a different county, that Court shall request, and the Court in which the earlier proceedings were initiated shall transmit, an authenticated copy of the Court record, including all documents, petitions, and orders filed therein and the minute orders, transcript of proceedings, and docket entries of the Court.

(I) *The Clerk of the Circuit Court shall report to the Department of State Police, in the form and manner required by the Department of State Police, the final disposition of each minor who has been arrested or taken into custody before his or her 17th birthday for those offenses required to be reported under Section 5 of the Criminal Identification Act. Information reported to the Department under this Section may be maintained with records that the Department files under Section 2.1 of the Criminal Identification Act.*

(Source: P.A. 87-353; 87-614; 87-927; 87-928; 88-45; 88-51; 88-344; 88-467; 88-548, eff. 1-1-95; 88-550, eff. 7-3-94; 88-614, eff. 9-7-94; 88-670, eff. 12-2-94; revised 9-9-94.)

Section 15. The Criminal Code of 1961 is amended by changing Sections 12-7.3, 12-7.4, 16-1, 17B-10, and 32-4 as follows:

(720 ILCS 5/12-7.3) (from Ch. 38, par. 12-7.3)

Sec. 12-7.3. Stalking.

(a) 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 to that person of immediate or future bodily harm, sexual assault, confinement or restraint; or

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

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

(c) Exemption. This Section does not apply to picketing occurring at the workplace that is otherwise lawful and arises out of a bona fide labor dispute, or any exercise of the right of free speech or assembly that is otherwise lawful.

(d) For the purpose of this Section, a defendant "places a person under surveillance" by 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.

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(e) For the purpose of this Section, "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.

(f) For the purposes of this Section and Section 12-7.4, "bona fide labor dispute" means 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.

(Source: P.A. 87-870; 87-871; 88-402; 88-677, eff. 12-15-94.)

(720 ILCS 5/12-7.4) (from Ch. 38, par. 12-7.4)

Sec. 12-7.4. Aggravated stalking.

(a) A person commits aggravated stalking when he or she, in conjunction with committing the offense of stalking, also does any of the following:

- (1) causes bodily harm to the victim;
- (2) confines or restrains the victim; or
- (3) violates a temporary restraining order, an order of protection, 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 for aggravated stalking is a Class 2 felony.

(c) Exemption. This Section does not apply to picketing occurring at the workplace that is otherwise lawful and arises out of a bona fide labor dispute, or any exercise of the right of free speech or assembly that is otherwise lawful.

(d) For purposes of this Section, "bona fide labor dispute" has the meaning ascribed to it in Section 12-7.3.

(Source: P.A. 87-870; 87-871; 88-402; 88-677, eff. 12-15-94.)

(720 ILCS 5/16-1) (from Ch. 38, par. 16-1)

Sec. 16-1. Theft. (a) A person commits theft when he knowingly:

(1) Obtains or exerts unauthorized control over property of the owner; or

(2) Obtains by deception control over property of the owner; or

(3) Obtains by threat control over property of the owner; or

(4) Obtains control over stolen property knowing the property to have been stolen or under such circumstances as would reasonably induce him to believe that the property was stolen; ~~or, and~~

(5) Obtains or exerts control over property in the custody of any law enforcement agency which is explicitly represented to him by any law enforcement officer or any individual acting in behalf of a law enforcement agency as being stolen, and

(A) Intends to deprive the owner permanently of the use or benefit of the property; or

(B) Knowingly uses, conceals or abandons the property in such manner as to deprive the owner permanently of such use or benefit; or

(C) Uses, conceals, or abandons the property knowing such use, concealment or abandonment probably will deprive the owner

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permanently of such use or benefit, ~~or~~

~~(5) Obtains or exerts control over property in the custody of any law enforcement agency which is explicitly represented to him by any law enforcement officer or any individual acting in behalf of a law enforcement agency as being stolen.~~

The term "firearm" for the purposes of this Section has the meaning ascribed to it in Section 1.1 of the *Firearm Owners Identification Card Act* ~~"An Act relating to the acquisition, possession and transfer of firearms and firearm ammunition, to provide a penalty for the violation thereof and to make an appropriation in connection therewith"~~, approved August 3, 1967, as amended.

(b) Sentence.

(1) Theft of property, other than a firearm, not from the person and not exceeding \$300 in value is a Class A misdemeanor.

(2) A person who has been convicted of theft of property not exceeding \$300 in value, other than a firearm and not from the person, who has been previously convicted of any type of theft, robbery, armed robbery, burglary, residential burglary, possession of burglary tools or home invasion is guilty of a Class 4 felony. When a person has any such prior conviction, the information or indictment charging that person shall state such prior conviction so as to give notice of the State's intention to treat the charge as a felony. The fact of such prior conviction is not an element of the offense and may not be disclosed to the jury during trial unless otherwise permitted by issues properly raised during such trial.

(3) Theft of a firearm not from the person regardless of value is a Class 4 felony. A second or subsequent such offense is a Class 3 felony.

(4) Theft of property from the person not exceeding \$300 in value, or theft of property exceeding \$300 and not exceeding \$10,000 in value, is a Class 3 felony.

(5) Theft of property exceeding \$10,000 and not exceeding \$100,000 in value is a Class 2 felony.

(6) Theft of property exceeding \$100,000 in value is a Class 1 felony.

(7) Theft by deception, as described by paragraph (2) of subsection (a) of this Section, in which the offender obtained money or property valued at \$5,000 or more from a victim 60 years of age or older is a Class 2 felony.

(c) When a charge of theft of property exceeding a specified value is brought, the value of the property involved is an element of the offense to be resolved by the trier of fact as either exceeding or not exceeding the specified value.

(Source: P.A. 85-1440.)

(720 ILCS 5/17B-10)

Sec. 17B-10. Administrative malfeasance.

(a) A person who misappropriates, misuses, or unlawfully withholds or converts to his or her own use or to the use of another any public funds made available for the Illinois Department of Public Health Special Supplemental Food Program for Women, Infants and Children (WIC) is guilty of a violation of this Article and shall be punished as provided in Section 17B-20.

(b) An official or employee of a State, county, or unit of local government who *willfully* facilitates, aids, abets, assists, or knowingly participates in ~~or who willfully fails to report~~ a known

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violation of Section 17B-5, 17B-10, ~~or 17B-15 to the designated administrative personnel as identified in the policy and procedures of the Illinois Department or county department, or to the State's Attorney for employees of a unit of local government,~~ is subject to disciplinary proceedings under the rules of the applicable Illinois Department or unit of local government.

(Source: P.A. 88-680, eff. 1-1-95.)

(720 ILCS 5/32-4) (from Ch. 38, par. 32-4)

Sec. 32-4. Communicating with jurors and witnesses.

(a) A person who, with intent to influence any person whom he believes has been summoned as a juror, regarding any matter which is or may be brought before such juror, communicates, directly or indirectly, with such juror otherwise than as authorized by law commits a Class 4 felony.

(b) A person who, with intent to deter any party or witness from testifying freely, fully and truthfully to any matter pending in any court, or before a Grand Jury, Administrative agency or any other State or local governmental unit, forcibly detains such party or witness, or communicates, directly or indirectly, to such party or witness any knowingly false information or a threat of injury or damage to the property or person of any individual or offers or delivers or *threatens to withhold* money or another thing of value to any individual commits a Class 3 felony.

(Source: P.A. 88-680, eff. 1-1-95.)

Section 20. The Code of Criminal Procedure of 1963 is amended by changing Sections 108-3, 110-2, 110-5, and 110-12 as follows:

(725 ILCS 5/108-3) (from Ch. 38, par. 108-3)

Sec. 108-3. Grounds for search warrant.

(a) Except as provided in subsection (b), upon the written complaint of any person under oath or affirmation which states facts sufficient to show probable cause and which particularly describes the place or person, or both, to be searched and the things to be seized, any judge may issue a search warrant for the seizure of the following:

(1) Any instruments, articles or things *designed or intended for use* or which are or have been used in the commission of, or which may constitute evidence of, the offense in connection with which the warrant is issued; or *contraband, the fruits of crime, or things otherwise criminally possessed.*

(2) Any person who has been kidnaped in violation of the laws of this State, or who has been kidnaped in another jurisdiction and is now concealed within this State, or any human fetus or human corpse.

(b) When the things to be seized are the work product of, or used in the ordinary course of business, and in the possession, custody, or control of any person known to be engaged in the gathering or dissemination of news for the print or broadcast media, no judge may issue a search warrant unless the requirements set forth in subsection (a) are satisfied and there is probable cause to believe that:

(1) such person has committed or is committing a criminal offense; or

(2) the things to be seized will be destroyed or removed from the State if the search warrant is not issued.

(Source: P.A. 81-806.)

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(725 ILCS 5/110-2) (from Ch. 38, par. 110-2)

Sec. 110-2. Release on own recognizance. When from all the circumstances the court is of the opinion that the *defendant accused* will appear as required either before or after conviction and the *defendant accused* will not pose a danger to any person or the community and that the *defendant accused* will comply with all conditions of bond, which shall include the defendant's current address with a written admonishment to the defendant that he or she must comply with the provisions of Section 110-12 of this Code regarding any change in his or her address, the defendant *accused* may be released on his or her own recognizance. The defendant's address shall at all times remain a matter of public record with the clerk of the court. A failure to appear as required by such recognizance shall constitute an offense subject to the penalty provided in Section 32-10 of the "Criminal Code of 1961", approved July 28, 1961, as heretofore and hereafter amended, for violation of the bail bond, and any obligated sum fixed in the recognizance shall be forfeited and collected in accordance with subsection (g) of Section 110-7 of this Code.

This Section shall be liberally construed to effectuate the purpose of relying upon contempt of court proceedings or criminal sanctions instead of financial loss to assure the appearance of the *defendant accused*, and that the *defendant accused* will not pose a danger to any person or the community and that the defendant will comply with all conditions of bond. Monetary bail should be set only when it is determined that no other conditions of release will reasonably assure the defendant's appearance in court, that the defendant does not present a danger to any person or the community and that the defendant will comply with all conditions of bond.

The State may appeal any order permitting release by personal recognizance.

(Source: P.A. 86-984.)

(725 ILCS 5/110-5) (from Ch. 38, par. 110-5)

(Text of Section in effect until July 1, 1995)

Sec. 110-5. Determining the amount of bail and conditions of release.

(a) In determining the amount of monetary bail or conditions of release, if any, which will reasonably assure the appearance of a defendant as required or the safety of any other person or the community and the likelihood of compliance by the defendant with all the conditions of bail, the court shall, on the basis of available information, take into account such matters as the nature and circumstances of the offense charged, whether the evidence shows that as part of the offense there was a use of violence or threatened use of violence, whether the offense involved corruption of public officials or employees, whether there was physical harm or threats of physical harm to any public official, public employee, judge, prosecutor, juror or witness, senior citizen, child or handicapped person, whether evidence shows that during the offense or during the arrest the defendant possessed or used a firearm, machine gun, explosive or metal piercing ammunition or explosive bomb device or any military or paramilitary armament, the condition of the victim, any written statement submitted by the victim or proffer or representation by the State regarding the impact which the alleged criminal conduct has had on the victim and the victim's concern, if any, with further contact with the defendant if released

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on bail, whether the offense was based on racial, religious, sexual orientation or ethnic hatred, the likelihood of the filing of a greater charge, the likelihood of conviction, the sentence applicable upon conviction, the weight of the evidence against such defendant, whether there exists motivation or ability to flee, whether there is any verification as to prior residence, education, or family ties in the local jurisdiction, in another county, state or foreign country, the defendant's employment, financial resources, character and mental condition, past conduct, prior use of alias names or dates of birth, and length of residence in the community, the consent of the defendant to periodic drug testing in accordance with Section 110-6.5, whether a foreign national defendant is lawfully admitted in the United States of America, whether the government of the foreign national maintains an extradition treaty with the United States by which the foreign government will extradite to the United States its national for a trial for a crime allegedly committed in the United States, whether the defendant is currently subject to deportation or exclusion under the immigration laws of the United States, whether the defendant, although a United States citizen, is considered under the law of any foreign state a national of that state for the purposes of extradition or non-extradition to the United States, the amount of unrecovered proceeds lost as a result of the alleged offense, the source of bail funds tendered or sought to be tendered for bail, whether from the totality of the court's consideration, the loss of funds posted or sought to be posted for bail will not deter the defendant from flight, whether the evidence shows that the defendant is engaged in significant possession, manufacture, or delivery of a controlled substance or cannabis, either individually or in consort with others, whether at the time of the offense charged he was on bond or pre-trial release pending trial, probation, periodic imprisonment or conditional discharge pursuant to this Code or the comparable Code of any other state or federal jurisdiction, whether the defendant is on bond or pre-trial release pending the imposition or execution of sentence or appeal of sentence for any offense under the laws of Illinois or any other state or federal jurisdiction, whether the defendant is under parole or mandatory supervised release or work release from the Illinois Department of Corrections or any penal institution or corrections department of any state or federal jurisdiction, the defendant's record of convictions, whether the defendant has been convicted of a misdemeanor or ordinance offense in Illinois or similar offense in other state or federal jurisdiction within the 10 years preceding the current charge or convicted of a felony in Illinois, whether the defendant was convicted of an offense in another state or federal jurisdiction that would be a felony if committed in Illinois within the 20 years preceding the current charge or has been convicted of such felony and released from the penitentiary within 20 years preceding the current charge if a penitentiary sentence was imposed in Illinois or other state or federal jurisdiction, the defendant's records of juvenile adjudication of delinquency in any jurisdiction, any record of appearance or failure to appear by the defendant at court proceedings, whether there was flight to avoid arrest or prosecution, whether the defendant escaped or attempted to escape to avoid arrest, whether the defendant refused to identify himself, or whether there was a refusal by the defendant to be fingerprinted

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as required by law. Information used by the court in its findings or stated in or offered in connection with this Section may be by way of proffer based upon reliable information offered by the State or defendant. All evidence shall be admissible if it is relevant and reliable regardless of whether it would be admissible under the rules of evidence applicable at criminal trials.

(b) The amount of bail shall be:

(1) Sufficient to assure compliance with the conditions set forth in the bail bond, *which shall include the defendant's current address with a written admonishment to the defendant that he or she must comply with the provisions of Section 110-12 of this Code regarding any change in his or her address. The defendant's address shall at all times remain a matter of public record with the clerk of the court.*

(2) Not oppressive.

(3) Considerate of the financial ability of the accused.

(4) When a person is charged with a drug related offense involving possession or delivery of cannabis or possession or delivery of a controlled substance as defined in the Cannabis Control Act, as amended, or the Illinois Controlled Substances Act, as amended, the full street value of the drugs seized shall be considered. "Street value" shall be determined by the court on the basis of a proffer by the State based upon reliable information of a law enforcement official contained in a written report as to the amount seized and such proffer may be used by the court as to the current street value of the smallest unit of the drug seized.

(c) When a person is charged with an offense punishable by fine only the amount of the bail shall not exceed double the amount of the maximum penalty.

(d) When a person has been convicted of an offense and only a fine has been imposed the amount of the bail shall not exceed double the amount of the fine.

(e) The State may appeal any order granting bail or setting a given amount for bail.

(Source: P.A. 88-677, eff. 12-15-94.)

(Text of Section taking effect July 1, 1995)

Sec. 110-5. Determining the amount of bail and conditions of release.

(a) In determining the amount of monetary bail or conditions of release, if any, which will reasonably assure the appearance of a defendant as required or the safety of any other person or the community and the likelihood of compliance by the defendant with all the conditions of bail, the court shall, on the basis of available information, take into account such matters as the nature and circumstances of the offense charged, whether the evidence shows that as part of the offense there was a use of violence or threatened use of violence, whether the offense involved corruption of public officials or employees, whether there was physical harm or threats of physical harm to any public official, public employee, judge, prosecutor, juror or witness, senior citizen, child or handicapped person, whether evidence shows that during the offense or during the arrest the defendant possessed or used a firearm, machine gun, explosive or metal piercing ammunition or explosive bomb device or any military or paramilitary armament, whether the evidence shows that the offense committed was related to or in

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furtherance of the criminal activities of an organized gang or was motivated by the defendant's membership in or allegiance to an organized gang, the condition of the victim, any written statement submitted by the victim or proffer or representation by the State regarding the impact which the alleged criminal conduct has had on the victim and the victim's concern, if any, with further contact with the defendant if released on bail, whether the offense was based on racial, religious, sexual orientation or ethnic hatred, the likelihood of the filing of a greater charge, the likelihood of conviction, the sentence applicable upon conviction, the weight of the evidence against such defendant, whether there exists motivation or ability to flee, whether there is any verification as to prior residence, education, or family ties in the local jurisdiction, in another county, state or foreign country, the defendant's employment, financial resources, character and mental condition, past conduct, prior use of alias names or dates of birth, and length of residence in the community, the consent of the defendant to periodic drug testing in accordance with Section 110-6.5, whether a foreign national defendant is lawfully admitted in the United States of America, whether the government of the foreign national maintains an extradition treaty with the United States by which the foreign government will extradite to the United States its national for a trial for a crime allegedly committed in the United States, whether the defendant is currently subject to deportation or exclusion under the immigration laws of the United States, whether the defendant, although a United States citizen, is considered under the law of any foreign state a national of that state for the purposes of extradition or non-extradition to the United States, the amount of unrecovered proceeds lost as a result of the alleged offense, the source of bail funds tendered or sought to be tendered for bail, whether from the totality of the court's consideration, the loss of funds posted or sought to be posted for bail will not deter the defendant from evidence shows that the defendant is engaged in significant possession, manufacture, or delivery of a controlled substance or cannabis, either individually or in consort with others, whether at the time of the offense charged he was on bond or pre-trial release pending trial, probation, periodic imprisonment or conditional discharge pursuant to this Code or the comparable Code of any other state or federal jurisdiction, whether the defendant is on bond or pre-trial release pending the imposition or execution of sentence or appeal of sentence for any offense under the laws of Illinois or any other state or federal jurisdiction, whether the defendant is under parole or mandatory supervised release or work release from the Illinois Department of Corrections or any penal institution or corrections department of any state or federal jurisdiction, the defendant's record of convictions, whether the defendant has been convicted of a misdemeanor or ordinance offense in Illinois or similar offense in other state or federal jurisdiction within the 10 years preceding the current charge or convicted of a felony in Illinois, whether the defendant was convicted of an offense in another state or federal jurisdiction that would be a felony if committed in Illinois within the 20 years preceding the current charge or has been convicted of such felony and released from the penitentiary within 20 years preceding the current charge if a penitentiary sentence was imposed in Illinois or other state or federal jurisdiction, the

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defendant's records of juvenile adjudication of delinquency in any jurisdiction, any record of appearance or failure to appear by the defendant at court proceedings, whether there was flight to avoid arrest or prosecution, whether the defendant escaped or attempted to escape to avoid arrest, whether the defendant refused to identify himself, or whether there was a refusal by the defendant to be fingerprinted as required by law. Information used by the court in its findings or stated in or offered in connection with this Section may be by way of proffer based upon reliable information offered by the State or defendant. All evidence shall be admissible if it is relevant and reliable regardless of whether it would be admissible under the rules of evidence applicable at criminal trials. 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.

(b) The amount of bail shall be:

(1) Sufficient to assure compliance with the conditions set forth in the bail bond, *which shall include the defendant's current address with a written admonishment to the defendant that he or she must comply with the provisions of Section 110-12 regarding any change in his or her address. The defendant's address shall at all times remain a matter of public record with the clerk of the court.*

(2) Not oppressive.

(3) Considerate of the financial ability of the accused.

(4) When a person is charged with a drug related offense involving possession or delivery of cannabis or possession or delivery of a controlled substance as defined in the Cannabis Control Act, as amended, or the Illinois Controlled Substances Act, as amended, the full street value of the drugs seized shall be considered. "Street value" shall be determined by the court on the basis of a proffer by the State based upon reliable information of a law enforcement official contained in a written report as to the amount seized and such proffer may be used by the court as to the current street value of the smallest unit of the drug seized.

(c) When a person is charged with an offense punishable by fine only the amount of the bail shall not exceed double the amount of the maximum penalty.

(d) When a person has been convicted of an offense and only a fine has been imposed the amount of the bail shall not exceed double the amount of the fine.

(e) The State may appeal any order granting bail or setting a given amount for bail.

(Source: P.A. 88-677, eff. 12-15-94; 88-679, eff. 7-1-95; revised 12-30-94.)

(725 ILCS 5/110-12) (from Ch. 38, par. 110-12)

Sec. 110-12. Notice of change of address.

A defendant ~~person~~ who has been admitted to bail shall file a ~~give~~ written notice with ~~to~~ the clerk of the court before which the proceeding is pending of any change in his or her address within 24 hours after such change, *except that a defendant who has been admitted to bail for a forcible felony as defined in Section 2-8 of the Criminal Code of 1961 shall file a written notice with the clerk of the court before which the proceeding is pending and the clerk shall immediately deliver a time stamped copy of the written notice*

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to the State's Attorney charged with the prosecution within 24 hours prior to such change. The address of a defendant who has been admitted to bail shall at all times remain a matter of public record with the clerk of the court.

(Source: Laws 1963, p. 2836.)

Section 25. The Unified Code of Corrections is amended by changing Section 5-5-3.2 as follows:

(730 ILCS 5/5-5-3.2) (from Ch. 38, par. 1005-5-3.2)

(Text of Section in effect until July 1, 1995)

Sec. 5-5-3.2. Factors in aggravation.

(a) The following factors shall be accorded weight in favor of imposing a term of imprisonment or may be considered by the court as reasons to impose a more severe sentence under Section 5-8-1:

(1) the defendant's conduct caused or threatened serious harm;

(2) the defendant received compensation for committing the offense;

(3) the defendant has a history of prior delinquency or criminal activity;

(4) the defendant, by the duties of his office or by his position, was obliged to prevent the particular offense committed or to bring the offenders committing it to justice;

(5) the defendant held public office at the time of the offense, and the offense related to the conduct of that office;

(6) the defendant utilized his professional reputation or position in the community to commit the offense, or to afford him an easier means of committing it;

(7) the sentence is necessary to deter others from committing the same crime;

(8) the defendant committed the offense against a person 60 years of age or older or such person's property;

(9) the defendant committed the offense against a person who is physically handicapped or such person's property;

(10) the defendant committed the offense against a person or a person's property by reason of the person's actual or perceived race, color, creed, religion, ancestry, gender, sexual orientation, physical or mental disability, or national origin. 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, ~~or~~ 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

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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, 12-15 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.

(b) The following factors may be considered by the court as reasons to impose an extended term sentence under Section 5-8-2 upon any offender:

(1) When a defendant is convicted of any felony, after having been previously convicted in Illinois or any other jurisdiction of the same or similar class felony or greater class felony, when such conviction has occurred within 10 years after the previous conviction, excluding time spent in custody, and such charges are separately brought and tried and arise out of different series of acts; or

(2) When a defendant is convicted of any felony and the court finds that the offense was accompanied by exceptionally brutal or heinous behavior indicative of wanton cruelty; or

(3) When a defendant is convicted of voluntary manslaughter, second degree murder, involuntary manslaughter or reckless homicide in which the defendant has been convicted of causing the death of more than one individual; or

(4) When a defendant is convicted of any felony committed against:

(i) a person under 12 years of age at the time of the offense or such person's property;

(ii) a person 60 years of age or older at the time of the offense or such person's property; or

(iii) a person physically handicapped at the time of the offense or such person's property; or

(5) In the case of a defendant convicted of aggravated criminal sexual assault or criminal sexual assault, when the court finds that aggravated criminal sexual assault or criminal sexual assault was also committed on the same victim by one or more other individuals, and the defendant voluntarily participated in the crime with the knowledge of the participation of the others in the crime, and the commission of the crime was part of a single course of conduct during which there was no substantial change in the nature of the criminal objective; or

(6) When a defendant is convicted of any felony and the offense involved any of the following types of specific misconduct committed as part of a ceremony, rite, initiation, observance, performance, practice or activity of any actual or ostensible religious, fraternal, or social group:

(i) the brutalizing or torturing of humans or animals;

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- (ii) the theft of human corpses;
- (iii) the kidnapping of humans;
- (iv) the desecration of any cemetery, religious, fraternal, business, governmental, educational, or other building or property; or
- (v) ritualized abuse of a child; or

(7) When a defendant is convicted of first degree murder, after having been previously convicted in Illinois of any offense listed under paragraph (c)(2) of Section 5-5-3, when such conviction has occurred within 10 years after the previous conviction, excluding time spent in custody, and such charges are separately brought and tried and arise out of different series of acts; or

(8) When a defendant is convicted of a felony other than conspiracy and the court finds that the felony was committed under an agreement with 2 or more other persons to commit that offense and the defendant, with respect to the other individuals, occupied a position of organizer, supervisor, financier, or any other position of management or leadership, and the court further finds that the felony committed was related to or in furtherance of the criminal activities of an organized gang or was motivated by the defendant's leadership in an organized gang.

(b-1) For the purposes of this Section, "organized gang" has the meaning ascribed to it in Section 10 of the Illinois Streetgang Terrorism Omnibus Prevention Act.

(c) The court may impose an extended term sentence under Section 5-8-2 upon any offender who was convicted of aggravated criminal sexual assault where the victim was under 18 years of age at the time of the commission of the offense.

(Source: P.A. 87-440; 87-805; 87-895; 87-921; 87-1067; 87-1167; 88-45; 88-215; 88-659; 88-677, eff. 12-15-94; 88-680, eff. 1-1-95; revised 1-6-95.)

(Text of Section taking effect July 1, 1995)

Sec. 5-5-3.2. Factors in Aggravation.

(a) The following factors shall be accorded weight in favor of imposing a term of imprisonment or may be considered by the court as reasons to impose a more severe sentence under Section 5-8-1:

- (1) the defendant's conduct caused or threatened serious harm;
- (2) the defendant received compensation for committing the offense;
- (3) the defendant has a history of prior delinquency or criminal activity;
- (4) the defendant, by the duties of his office or by his position, was obliged to prevent the particular offense committed or to bring the offenders committing it to justice;
- (5) the defendant held public office at the time of the offense, and the offense related to the conduct of that office;
- (6) the defendant utilized his professional reputation or position in the community to commit the offense, or to afford him an easier means of committing it;
- (7) the sentence is necessary to deter others from committing the same crime;
- (8) the defendant committed the offense against a person

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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) the defendant committed the offense against a person or a person's property by reason of the person's actual or perceived race, color, creed, religion, ancestry, gender, sexual orientation, physical or mental disability, or national origin. 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, ~~or~~ 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, 12-15 or 12-16 of the Criminal Code of 1961 against that victim;

(15) the defendant committed an offense related to the activities of an organized gang. For the purposes of this factor, "organized gang" has the meaning ascribed to it in Section 10 of the Streetgang Terrorism Omnibus Prevention Act;

(16) the defendant committed an offense in violation of one of the following Sections while in a school, regardless of the time of day or time of year; on any conveyance owned, leased, or contracted by a school to transport students to or from school or a school related activity; on the real property of a school; or on a public way within 1,000 feet of the real property comprising any school: Section 10-1, 10-2, 10-5, 11-15.1, 11-17.1, 11-18.1, 11-19.1, 11-19.2, 12-2, 12-4, 12-4.1, 12-4.2, 12-4.3, 12-6, 12-6.1, 12-13, 12-14, 12-15, 12-16, 18-2, or 33A-2 of the Criminal Code of 1961.

For the purposes of this Section, "school" is defined as a public or private elementary or secondary school, community college, college, or university.

(b) The following factors may be considered by the court as reasons to impose an extended term sentence under Section 5-8-2 upon any offender:

(1) When a defendant is convicted of any felony, after

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having been previously convicted in Illinois or any other jurisdiction of the same or similar class felony or greater class felony, when such conviction has occurred within 10 years after the previous conviction, excluding time spent in custody, and such charges are separately brought and tried and arise out of different series of acts; or

(2) When a defendant is convicted of any felony and the court finds that the offense was accompanied by exceptionally brutal or heinous behavior indicative of wanton cruelty; or

(3) When a defendant is convicted of voluntary manslaughter, second degree murder, involuntary manslaughter or reckless homicide in which the defendant has been convicted of causing the death of more than one individual; or

(4) When a defendant is convicted of any felony committed against:

(i) a person under 12 years of age at the time of the offense or such person's property;

(ii) a person 60 years of age or older at the time of the offense or such person's property; or

(iii) a person physically handicapped at the time of the offense or such person's property; or

(5) In the case of a defendant convicted of aggravated criminal sexual assault or criminal sexual assault, when the court finds that aggravated criminal sexual assault or criminal sexual assault was also committed on the same victim by one or more other individuals, and the defendant voluntarily participated in the crime with the knowledge of the participation of the others in the crime, and the commission of the crime was part of a single course of conduct during which there was no substantial change in the nature of the criminal objective; or

(6) When a defendant is convicted of any felony and the offense involved any of the following types of specific misconduct committed as part of a ceremony, rite, initiation, observance, performance, practice or activity of any actual or ostensible religious, fraternal, or social group:

(i) the brutalizing or torturing of humans or animals;

(ii) the theft of human corpses;

(iii) the kidnapping of humans;

(iv) the desecration of any cemetery, religious, fraternal, business, governmental, educational, or other building or property; or

(v) ritualized abuse of a child; or

(7) When a defendant is convicted of first degree murder, after having been previously convicted in Illinois of any offense listed under paragraph (c)(2) of Section 5-5-3, when such conviction has occurred within 10 years after the previous conviction, excluding time spent in custody, and such charges are separately brought and tried and arise out of different series of acts; or

(8) When a defendant is convicted of a felony other than conspiracy and the court finds that the felony was committed under an agreement with 2 or more other persons to commit that offense and the defendant, with respect to the other individuals, occupied a position of organizer, supervisor,

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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.

(b-1) For the purposes of this Section, "organized gang" has the meaning ascribed to it in Section 10 of the Illinois Streetgang Terrorism Omnibus Prevention Act.

(c) The court may impose an extended term sentence under Section 5-8-2 upon any offender who was convicted of aggravated criminal sexual assault where the victim was under 18 years of age at the time of the commission of the offense.

(Source: P.A. 87-440; 87-805; 87-895; 87-921; 87-1067; 87-1167; 88-45; 88-215; 88-659; 88-677, eff. 12-15-94; 88-678, eff. 7-1-95; 88-680, eff. 1-1-95; revised 1-6-95.)

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

Passed in the General Assembly May 26, 1995.

Approved August 18, 1995.

Effective August 18, 1995.

PUBLIC ACT 89-0378
(House Bill No. 1816)

AN ACT to amend the Criminal Code of 1961 by changing Section 17-1a.

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

Section 5. The Criminal Code of 1961 is amended by changing Section 17-1a as follows:

(720 ILCS 5/17-1a) (from Ch. 38, par. 17-1a)

Sec. 17-1a. Civil Liability for Deceptive Practices. A person who issues a check or order to a payee in violation of Section 17-1(B) (d) and who fails to pay the amount of the check or order to the payee within 30 days following either delivery and acceptance by the addressee of a written demand by *both* certified mail *and* by *first class mail* to the person's last know address; or attempted delivery of a written demand sent by *both* certified mail *and* by *first class mail* to the person's last known address and *the demand by certified mail is returned to the sender with a notation that delivery was refused or unclaimed by the person to whom the certified mail was addressed*, shall be liable to the payee or a person subrogated to the rights of the payee for, in addition to the amount owing upon such check or order, damages of treble the amount so owing, but in no case less than \$100 nor more than \$500, plus attorney fees and court costs.

A cause of action under this Section may be brought in small claims court or in any other appropriate court. Prior to the hearing of any action under this Section, the defendant may tender to the plaintiff and the plaintiff shall accept as satisfaction of the claim, an amount of money equal to the sum of the amount of the check and the incurred court costs, and service and attorney fees. (Source: P.A. 86-1012.)

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

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