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**ILLINOIS
REVISED
CRIMINAL
CODE OF
1961**

LEGISLATIVE REFERENCE BUREAU

a reprint

STATE OF HAWAII

**ILLINOIS
REVISED
CRIMINAL
CODE OF
1961**

**Illinois Revised
Statutes 1961
Chapter 38**

LEGISLATIVE REFERENCE BUREAU

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STATE OF HAWAII

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CHAPTER 38

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CRIMINAL CODE OF 1961

TITLE I. GENERAL PROVISIONS

ARTICLE 1. TITLE AND CONSTRUCTION OF ACT; STATE JURISDICTION

- Sec.
- 1-1. Short Title.
- 1-2. General Purposes.
- 1-3. Applicability of Common Law.
- 1-4. Civil Remedies Preserved.
- 1-5. State Criminal Jurisdiction.
- 1-6. Place of Trial.
- 1-7. Judgment, Sentence and Related Provisions.

AN ACT relating to criminal law and to repeal acts and parts of acts herein named. Approved July 28, 1961. L.1961, p. —, H.B.No.342. Eff. Jan. 1, 1962.

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

1-1. § 1-1. Short Title.] This Act shall be known and may be cited as the "Criminal Code of 1961".

1-2. § 1-2. General Purposes.] The provisions of this Code shall be construed in accordance with the general purposes hereof, to:

- (a) Forbid and prevent the commission of offenses;
- (b) Define adequately the act and mental state which constitute each offense, and limit the condemnation of conduct as criminal when it is without fault;
- (c) Prescribe penalties which are proportionate to the seriousness of offenses and

which permit recognition of differences in rehabilitation possibilities among individual offenders;

- (d) Prevent arbitrary or oppressive treatment of persons accused or convicted of offenses.

1-3. § 1-3. Applicability of Common Law.] No conduct constitutes an offense unless it is described as an offense in this Code or in another statute of this State. However, this provision does not affect the power of a court to punish for contempt or to employ any sanction authorized by law for the enforcement of an order, civil judgment, or decree.

1-4. § 1-4. Civil Remedies Preserved.] This Code does not bar, suspend, or otherwise affect any right or liability to damages, penalty, forfeiture, or other remedy authorized by law to be recovered or enforced in a civil action, for any conduct which this Code makes punishable; and the civil injury is not merged in the offense.

1-5. § 1-5. State Criminal Jurisdiction.] (a) A person is subject to prosecution in this State for an offense which he commits, while either within or outside the State, by his own conduct or that of another for which he is legally accountable, if:

- (1) The offense is committed either wholly or partly within the State; or
- (2) The conduct outside the State constitutes an attempt to commit an offense within the State; or
- (3) The conduct outside the State constitutes a conspiracy to commit an offense within the State, and an act in furtherance of the conspiracy occurs in the State; or
- (4) The conduct within the State constitutes an attempt, solicitation or conspiracy to commit in another jurisdiction an offense under the laws of both this State and such other jurisdiction.

(b) An offense is committed partly within this State, if either the conduct which is an element of the offense, or the result which is such an element, occurs within the State. In homicide, the "result" is either the physical contact which causes death, or the death itself; and if the body of a homicide victim is found within the State, the death is presumed to have occurred within the State.

(c) An offense which is based on an omission to perform a duty imposed by the law of this State is committed within the State, regardless of the location of the offender at the time of the omission.

1-6. § 1-6. Place of Trial.] (a) Generally. Criminal actions shall be tried in the county where the offense was committed, except as otherwise provided by law. All objections of improper place of trial are waived by a defendant unless made before trial.

(b) Assailant and Victim in Different Counties.

If a person committing an offense upon the person of another is located in one county and his victim is located in another county at the time of the commission of the offense, trial may be had in either of said counties.

(c) Death and Cause of Death in Different Places.

If cause of death is inflicted in one county and death ensues in another county, the offender may be tried in either county.

(d) Offense Commenced Outside the State.

If the commission of an offense commenced outside the State is consummated within this State,

the offender shall be tried in the county where the offense is consummated.

(e) Offenses Committed in Bordering Navigable Waters.

If an offense is committed on any of the navigable waters bordering on this State, the offender may be tried in any county adjacent to such navigable water.

(f) Offenses Committed while in Transit.

If an offense is committed upon any railroad car, vehicle, watercraft or aircraft passing within this State, and it cannot readily be determined in which county the offense was committed, the offender may be tried in any county through which such railroad car, vehicle, watercraft or aircraft has passed.

(g) Theft.

A person who commits theft of property may be tried in any county in which he exerted control over such property.

(h) Bigamy.

A person who commits the offense of bigamy may be tried in any county where the bigamous marriage or bigamous cohabitation has occurred.

(i) Kidnaping.

A person who commits the offense of kidnaping may be tried in any county in which his victim has traveled or has been confined during the course of the offense.

(j) Pandering.

A person who commits the offense of pandering may be tried in any county in which the prostitution was practiced or in any county in which any act in furtherance of the offense shall have been committed.

(k) Treason.

A person who commits the offense of treason may be tried in any county.

(l) Criminal Defamation.

If criminal defamation is spoken, printed or written in one county and is received or circulated in another or other counties, the offender shall be tried in the county where the defamation is spoken, printed or written. If the defamation is spoken, printed or written outside this state, or the offender resides outside this state, the offender may be tried in any county in this state in which the defamation was circulated or received.

(m) Inchoate Offenses.

A person who commits an inchoate offense may be tried in any county in which any act which is an element of the offense, including the agreement in conspiracy, is committed.

(n) Accountability for Conduct of Another.

Where a person in one county solicits, aids, abets, agrees, or attempts to aid another in the planning or commission of an offense in another county, he may be tried for the offense in either county.

1-7. § 1-7. Judgment, Sentence and Related Provisions.] (a) Conviction and Sentence.

A person convicted of an offense shall be sentenced as provided in this Section.

(b) Determination of Penalty.

Upon conviction, the court shall determine and impose the penalty in the manner and subject to the limitations imposed in this Section.

(c) Capital Offenses.

(1) Where, upon a trial by jury, a person is convicted of an offense which may be punishable by death, the jury may return a verdict of death. Where such verdict is returned by the jury, the court may sentence the offender to death or to imprisonment. Where such verdict is not returned by the jury, the court shall sentence the offender to imprisonment.

(2) Where, upon a finding of guilty by the court in cases where a jury is waived or upon a plea of guilty, a person is convicted of an offense punishable by death or imprisonment, the court shall sentence the offender to death or to imprisonment.

(d) Authorized Penalties.

Except as otherwise provided by law, a person convicted of an offense may be:

- (1) Sentenced to death; or
- (2) Sentenced to imprisonment as authorized by Subsections (e) and (f) of this Section; or
- (3) Ordered to pay a fine authorized by Subsection (i) of this Section; or
- (4) Placed on probation; or
- (5) Ordered to pay a fine and placed on probation; or
- (6) Sentenced to imprisonment and ordered to pay a fine.

(e) Penitentiary Sentences.

All sentences to the penitentiary shall be for an indeterminate term. The court in imposing a sentence of imprisonment in the penitentiary shall determine the minimum and maximum limits of imprisonment. The minimum limit fixed by the court may be greater but shall not be less than the minimum term provided by law for the offense and the maximum limit fixed by the court may be less but shall not be greater than the maximum term provided by law for the offense.

(f) Sentences Other Than to Penitentiary.

All sentences of imprisonment other than to the penitentiary shall be for a definite term which shall not exceed one year.

(g) Mitigation and Aggravation.

For the purpose of determining sentence to be imposed, the court shall, after conviction, consider the evidence, if any, received upon the trial and shall also hear and receive evidence, if any, as to the moral character, life, family, occupation and criminal record of the offender and may consider such evidence in aggravation or mitigation of the offense.

(h) Corporations.

Upon conviction, a fine may be imposed upon a corporation in accordance with Subsection (i) of this Section.

(i) Corporation Fines.

Except where the statute defining the offense authorizes a fine in a different amount, a corporation which has been convicted of an offense may be ordered to pay a fine not exceeding:

- (A) \$10,000 when the conviction is of a felony; or
- (B) \$1,000 when the conviction is of a misdemeanor.

(j) Penalty Where not Otherwise Provided.

The court in imposing sentence upon an offender convicted of an offense for which no penalty is otherwise provided may sentence the offender to a term of imprisonment not to exceed one year or a fine not to exceed \$1,000, or both.

(k) Working out Fines.

A judgment of a fine imposed upon an offender may be enforced in the same manner as a judgment entered in a civil action; Provided, however, that in such judgment imposing the fine the court may further order that upon non-payment of such fine, the offender may be imprisoned until the fine is paid, or satisfied at the rate of \$5.00 per day of imprisonment; Provided, further, however, that no person shall be imprisoned under the first proviso hereof for a longer period than 6 months.

(l) Place of Confinement.

When a statute authorizes imprisonment for its violation but does not prescribe the place of imprisonment, a sentence of more than one year shall be to the penitentiary, and a sentence not to exceed one year shall be to a penal institution other than the penitentiary.

(m) Consecutive and Concurrent Sentences.

When a person shall have been convicted of 2 or more offenses which did not result from the same conduct, either before or after sentence has been pronounced upon him for either, the court in its discretion may order that the term of imprisonment upon any one of the convictions may commence at the expiration of the term of imprisonment upon any other of the offenses.

ARTICLE 2. GENERAL DEFINITIONS

Sec.

2-5. Meanings of words and phrases.

2-1. "Acquittal".

2-2. "Act".

2-3. "Another".

2-4. "Conduct".

2-5. "Conviction".

2-6. "Dwelling".

2-7. "Felony".

2-8. "Forcible felony".

2-9. "Included offense".

2-10. "Includes".

2-11. "Misdemeanor".

2-12. "Offense".

2-13. "Peace officer".

2-14. "Penal institution".

2-15. "Person".

2-16. "Prosecution".

2-17. "Public employee".

2-18. "Public officer".

2-19. "Reasonable belief".

2-20. "Solicit".

2-21. "State".

2-22. "Statute".

2-5. § 2-5. Meanings of words and phrases.]

For the purposes of this Code, the words and phrases described in this Article have the meanings designated in this Article, except when a particular context clearly requires a different meaning.

2-1. § 2-1. "Acquittal".] "Acquittal" means a verdict or finding of not guilty of an offense, rendered by a legally constituted jury or by a court of competent jurisdiction authorized to try the case without a jury.

2-2. § 2-2. "Act".] "Act" includes a failure or omission to take action.

2-3. § 2-3. "Another".] "Another" means a person or persons as defined in this Code other than the offender.

2-4. § 2-4. "Conduct".] "Conduct" means an act or a series of acts, and the accompanying mental state.

2-5. § 2-5. "Conviction".] "Conviction" means a judgment of conviction or sentence entered upon a plea of guilty or upon a verdict or finding of guilty of an offense, rendered by a legally constituted jury or by a court of competent jurisdiction authorized to try the case without a jury.

2-6. § 2-6. "Dwelling".] "Dwelling" means a building or portion thereof, a tent, a vehicle, or

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other enclosed space which is used or intended for use as a human habitation, home or residence.

2-7. § 2-7. "Felony".] "Felony" means an offense punishable with death or by imprisonment in the penitentiary.

2-8. § 2-8. "Forcible felony".] "Forcible felony" means treason, murder, voluntary manslaughter, rape, robbery, burglary, arson, kidnapping, aggravated battery and any other felony which involves the use or threat of physical force or violence against any individual.

2-9. § 2-9. "Included offense".] "Included offense" means an offense which

(a) Is established by proof of the same or less than all of the facts or a less culpable mental state (or both), than that which is required to establish the commission of the offense charged, or

(b) Consists of an attempt to commit the offense charged or an offense included therein.

2-10. § 2-10. "Includes".] "Includes" or "including" means comprehending among other particulars, without limiting the generality of the foregoing word or phrase.

2-11. § 2-11. "Misdemeanor".] "Misdemeanor" means any offense other than a felony, and includes conduct prohibited by a statute which provides no penalty for its violation.

2-12. § 2-12. "Offense".] "Offense" means a violation of any penal statute of this State.

2-13. § 2-13. "Peace officer".] "Peace officer" means any person who by virtue of his office or public employment is vested by law with a duty to maintain public order or to make arrests for offenses, whether that duty extends to all offenses or is limited to specific offenses.

2-14. § 2-14. "Penal institution".] "Penal institution" means a penitentiary, state farm, reformatory, prison, jail, house of correction, or other institution for the incarceration or custody of persons under sentence for offenses or awaiting trial or sentence for offenses.

2-15. § 2-15. "Person".] "Person" means an individual, public or private corporation, government, partnership, or unincorporated association.

2-16. § 2-16. "Prosecution".] "Prosecution" means all legal proceedings by which a person's liability for an offense is determined, commencing with the return of the indictment or the issuance of the information, and including the final disposition of the case upon appeal.

2-17. § 2-17. "Public employee".] "Public employee" means a person, other than a public officer, who is authorized to perform any official function on behalf of, and is paid by, the State or any of its political subdivisions.

2-18. § 2-18. "Public officer".] "Public officer" means a person who is elected to office pursuant to statute, or who is appointed to an office which is established, and the qualifications and duties of which are prescribed, by statute, to discharge a public duty for the State or any of its political subdivisions.

2-19. § 2-19. "Reasonable belief".] "Reasonable belief" or "reasonably believes" means that

the person concerned, acting as a reasonable man, believes that the described facts exist.

2-20. § 2-20. "Solicit".] "Solicit" or "solicitation" means to command, authorize, urge, incite, request, or advise another to commit an offense.

2-21. § 2-21. "State".] "State" or "this State" means the State of Illinois, and all land and water in respect to which the State of Illinois has either exclusive or concurrent jurisdiction, and the air space above such land and water. "Other state" means any state or territory of the United States, the District of Columbia and the Commonwealth of Puerto Rico.

2-22. § 2-22. "Statute".] "Statute" means the Constitution or an Act of the General Assembly of this State.

ARTICLE 3. RIGHTS OF DEFENDANT

Sec.

3-1. Presumption of Innocence and Proof of Guilt.

3-2. Affirmative Defense.

3-3. Multiple Prosecutions for Same Act.

3-4. Effect of Former Prosecution.

3-5. General Limitations.

3-6. Extended Limitations.

3-7. Periods Excluded from Limitations.

3-8. Limitation on Offense Based on Series of Acts.

3-1. § 3-1. Presumption of Innocence and Proof of Guilt.] Every person is presumed innocent until proved guilty. No person shall be convicted of any offense unless his guilt thereof is proved beyond a reasonable doubt.

3-2. § 3-2. Affirmative Defense.] (a) "Affirmative defense" means that unless the State's evidence raises the issue involving the alleged defense, the defendant, to raise the issue, must present some evidence thereon.

(b) If the issue involved in an affirmative defense is raised then the State must sustain the burden of proving the defendant guilty beyond a reasonable doubt as to that issue together with all the other elements of the offense.

3-3. § 3-3. Multiple Prosecutions for Same Act.] (a) When the same conduct of a defendant may establish the commission of more than one offense, the defendant may be prosecuted for each such offense.

(b) If the several offenses are known to the proper prosecuting officer at the time of commencing the prosecution and are within the jurisdiction of a single court, they must be prosecuted in a single prosecution, except as provided in Subsection (c), if they are based on the same act.

(c) When 2 or more offenses are charged as required by Subsection (b), the court in the interest of justice may order that one or more of such charges shall be tried separately.

3-4. § 3-4. Effect of Former Prosecution.] (a) A prosecution is barred if the defendant was

formerly prosecuted for the same offense, based upon the same facts, if such former prosecution:

(1) Resulted in either a conviction or an acquittal or in a determination that the evidence was insufficient to warrant a conviction; or

(2) Was terminated by a final order or judgment, even if entered before trial, which

required a determination inconsistent with any fact or legal proposition necessary to a conviction in the subsequent prosecution; or

- (3) Was terminated improperly after the jury was impaneled and sworn or, in a trial before a court without a jury, after the first witness was sworn but before findings were rendered by the trier of facts, or after a plea of guilty was accepted by the court.

A conviction of an included offense is an acquittal of the offense charged.

(b) A prosecution is barred if the defendant was formerly prosecuted for a different offense, or for the same offense based upon different facts, if such former prosecution:

- (1) Resulted in either a conviction or an acquittal, and the subsequent prosecution is for an offense of which the defendant could have been convicted on the former prosecution; or was for an offense with which the defendant should have been charged on the former prosecution, as provided in Section 3-3 of this Code (unless the court ordered a separate trial of such charge); or was for an offense which involves the same conduct, unless each prosecution requires proof of a fact not required on the other prosecution, or the offense was not consummated when the former trial began; or
- (2) Was terminated by a final order or judgment, even if entered before trial, which required a determination inconsistent with any fact necessary to a conviction in the subsequent prosecution; or
- (3) Was terminated improperly under the circumstances stated in Subsection (a), and the subsequent prosecution is for an offense of which the defendant could have been convicted if the former prosecution had not been terminated improperly.

(c) A prosecution is barred if the defendant was formerly prosecuted in a District Court of the United States or in a sister State for an offense which is within the concurrent jurisdiction of this State, if such former prosecution:

- (1) Resulted in either a conviction or an acquittal, and the subsequent prosecution is for the same conduct, unless each prosecution requires proof of a fact not required in the other prosecution, or the offense was not consummated when the former trial began; or
- (2) Was terminated by a final order or judgment, even if entered before trial, which required a determination inconsistent with any fact necessary to a conviction in the prosecution in this State.

(d) However, a prosecution is not barred within the meaning of this Section 3-4 if the former prosecution:

- (1) Was before a court which lacked jurisdiction over the defendant or the offense; or
- (2) Was procured by the defendant without the knowledge of the proper prosecuting officer, and with the purpose of avoiding the sentence which otherwise might be imposed; or if subsequent proceedings resulted in the invalidation, setting aside,

reversal, or vacating of the conviction, unless the defendant was thereby adjudged not guilty.

3-5. § 3-5. General Limitations.] (a) A prosecution for murder, manslaughter, treason, arson, or forgery may be commenced at any time.

(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.

3-6. § 3-6. Extended Limitations.] 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:

(a) A prosecution for theft involving a breach of a fiduciary obligation to the aggrieved person may be commenced as follows:

- (1) If the aggrieved person is a minor or incompetent, then during the minority or incompetency or within one year after the termination thereof.
- (2) In any other instance, within one year after the discovery of the offense by an aggrieved person, or by a person who has legal capacity to represent an aggrieved person or has a legal duty to report the offense, and is not himself a party to the offense; or in the absence of such discovery, within one year after the proper prosecuting officer becomes aware of the offense. However, in no such case is the period of limitation so extended more than 3 years beyond the expiration of the period otherwise applicable.

(b) A prosecution for any offense based upon misconduct in office by a public officer or employee may be commenced within one year after discovery of the offense by a person having a legal duty to report such offense, or in the absence of such discovery, within one year after the proper prosecuting officer becomes aware of the offense. However, in no such case is the period of limitation so extended more than 3 years beyond the expiration of the period otherwise applicable.

3-7. § 3-7. Periods Excluded from Limitation.] The period within which a prosecution must be commenced does not include any period in which:

- (a) The defendant is not usually and publicly resident within this State; or
- (b) The defendant is a public officer and the offense charged is theft of public funds while in public office; or
- (c) A prosecution is pending against the defendant for the same conduct, even if the indictment or information which commences the prosecution is quashed or the proceedings thereon are set aside, or are reversed on appeal.

3-8. § 3-8. Limitation on Offense Based on Series of Acts.] When an offense is based on a series of acts performed at different times, the period of limitation prescribed by this Article starts at the time when the last such act is committed.

TITLE II. PRINCIPLES OF CRIMINAL LIABILITY

ARTICLE 4. CRIMINAL ACT AND MENTAL STATE

Sec.

- 4-1. Voluntary Act.
- 4-2. Possession as Voluntary Act.
- 4-3. Mental State.
- 4-4. Intent.
- 4-5. Knowledge.
- 4-6. Recklessness.
- 4-7. Negligence.
- 4-8. Ignorance or Mistake.
- 4-9. Absolute Liability.

4-1. § 4-1. Voluntary Act.] A material element of every offense is a voluntary act, which includes an omission to perform a duty which the law imposes on the offender and which he is physically capable of performing.

4-2. § 4-2. Possession as Voluntary Act.] Possession is a voluntary act if the offender knowingly procured or received the thing possessed, or was aware of his control thereof for a sufficient time to have been able to terminate his possession.

4-3. § 4-3. Mental State.] (a) A person is not guilty of an offense, other than an offense which involves absolute liability, unless, with respect to each element described by the statute defining the offense, he acts while having one of the mental states described in Sections 4-4 through 4-7.

(b) If the statute defining an offense prescribed a particular mental state with respect to the offense as a whole, without distinguishing among the elements thereof, the prescribed mental state applies to each such element. If the statute does not prescribe a particular mental state applicable to an element of an offense (other than an offense which involves absolute liability), any mental state defined in Sections 4-4, 4-5 or 4-6 is applicable.

(c) Knowledge that certain conduct constitutes an offense, or knowledge of the existence, meaning, or application of the statute defining an offense, is not an element of the offense unless the statute clearly defines it as such.

4-4. § 4-4. Intent.] A person intends, or acts intentionally or with intent, to accomplish a result or engage in conduct described by the statute defining the offense, when his conscious objective or purpose is to accomplish that result or engage in that conduct.

4-5. § 4-5. Knowledge.] A person knows, or acts knowingly or with knowledge of:

(a) The nature or attendant circumstances of his conduct, described by the statute defining the offense, when he is consciously aware that his conduct is of such nature or that such circumstances exist. Knowledge of a material fact includes awareness of the substantial probability that such fact exists.

(b) The result of his conduct, described by the statute defining the offense, when he is consciously aware that such result is practically certain to be caused by his conduct.

Conduct performed knowingly or with knowledge is performed wilfully, within the meaning of a statute using the latter term, unless the statute clearly requires another meaning.

4-6. § 4-6. Recklessness.] A person is reckless or acts recklessly, when he consciously disregards a substantial and unjustifiable risk that circumstances exist or that a result will follow, described by the statute defining the offense; and such disregard constitutes a gross deviation from the standard of care which a reasonable person would exercise in the situation. An act performed recklessly is performed wantonly, within the meaning of a statute using the latter term, unless the statute clearly requires another meaning.

4-7. § 4-7. Negligence.] A person is negligent, or acts negligently, when he fails to be aware of a substantial and unjustifiable risk that circumstances exist or a result will follow, described by the statute defining the offense; and such failure constitutes a substantial deviation from the standard of care which a reasonable person would exercise in the situation.

4-8. § 4-8. Ignorance or Mistake.] (a) A person's ignorance or mistake as to a matter of either fact or law, except as provided in Section 4-3(c) above, is a defense if it negatives the existence of the mental state which the statute prescribes with respect to an element of the offense.

(b) A person's reasonable belief that his conduct does not constitute an offense is a defense if:

- (1) The offense is defined by an administrative regulation or order which is not known to him and has not been published or otherwise made reasonably available to him, and he could not have acquired such knowledge by the exercise of due diligence pursuant to facts known to him; or
- (2) He acts in reliance upon a statute which later is determined to be invalid; or
- (3) He acts in reliance upon an order or opinion of an Illinois Appellate or Supreme Court, or a United States appellate court later overruled or reversed;
- (4) He acts in reliance upon an official interpretation of the statute, regulation or order defining the offense, made by a public officer or agency legally authorized to interpret such statute.

(c) Although a person's ignorance or mistake of fact or law, or reasonable belief, described in this Section 4-8 is a defense to the offense charged, he may be convicted of an included offense of which he would be guilty if the fact or law were as he believed it to be.

(d) A defense based upon this Section 4-8 is an affirmative defense.

4-9. § 4-9. Absolute Liability.] A person may be guilty of an offense without having, as to each element thereof, one of the mental states described in Sections 4-4 through 4-7 if the offense is a misdemeanor which is not punishable by incarceration or by a fine exceeding \$500, or the statute defining the offense clearly indicates a legislative purpose to impose absolute liability for the conduct described.

ARTICLE 5. PARTIES TO CRIME

Sec.

- 5-1. Accountability for Conduct of Another.
- 5-2. When Accountability Exists.
- 5-3. Separate Conviction of Person Accountable.
- 5-4. Responsibility of Corporation.
- 5-5. Accountability for Conduct of Corporation.

5-1. § 5-1. Accountability for Conduct of Another.] A person is responsible for conduct which

is an element of an offense if the conduct is either that of the person himself, or that of another and he is legally accountable for such conduct as provided in Section 5-2, or both.

5-2. § 5-2. When Accountability Exists.] A person is legally accountable for the conduct of another when:

(a) Having a mental state described by the statute defining the offense, he causes another to perform the conduct, and the other person in fact or by reason of legal incapacity lacks such a mental state; or

(b) The statute defining the offense makes him so accountable; or

(c) Either before or during the commission of an offense, and with the intent to promote or facilitate such commission, he solicits, aids, abets, agrees or attempts to aid, such other person in the planning or commission of the offense. However, a person is not so accountable, unless the statute defining the offense provides otherwise, if:

- (1) He is a victim of the offense committed; or
- (2) The offense is so defined that his conduct was inevitably incident to its commission; or
- (3) Before the commission of the offense, he terminates his effort to promote or facilitate such commission, and does one of the following: wholly deprives his prior efforts of effectiveness in such commission, or gives timely warning to the proper law enforcement authorities, or otherwise makes proper effort to prevent the commission of the offense.

5-3. § 5-3. Separate Conviction of Person Accountable.] A person who is legally accountable for the conduct of another which is an element of an offense may be convicted upon proof that the offense was committed and that he was so accountable, although the other person claimed to have committed the offense has not been prosecuted or convicted, or has been convicted of a different offense or degree of offense, or is not amenable to justice, or has been acquitted.

5-4. § 5-4. Responsibility of Corporation.]

(a) A corporation may be prosecuted for the commission of an offense if, but only if:

- (1) The offense is a misdemeanor, or is defined by Section 24-1 of this Code, or is defined by another statute which clearly indicates a legislative purpose to impose liability on a corporation; and an agent of the corporation performs the conduct which is an element of the offense while acting within the scope of his office or employment and in behalf of the corporation, except that any limitation in the defining statute, concerning the corporation's accountability for certain agents or under certain circumstances, is applicable; or
- (2) The commission of the offense is authorized, requested, commanded, or performed, by the board of directors or by a high managerial agent who is acting within the scope of his employment in behalf of the corporation.

(b) A corporation's proof, by a preponderance of the evidence, that the high managerial agent

having supervisory responsibility over the conduct which is the subject matter of the offense exercised due diligence to prevent the commission of the offense, is a defense to a prosecution for any offense to which Subsection (a) (1) refers, other than an offense for which absolute liability is imposed. This Subsection is inapplicable if the legislative purpose of the statute defining the offense is inconsistent with the provisions of this Subsection.

(c) For the purpose of this Section:

- (1) "Agent" means any director, officer, servant, employee, or other person who is authorized to act in behalf of the corporation.
- (2) "High managerial agent" means an officer of the corporation, or any other agent who has a position of comparable authority for the formulation of corporate policy or the supervision of subordinate employees in a managerial capacity.

5-5. § 5-5. Accountability for Conduct of Corporation.] (a) A person is legally accountable for conduct which is an element of an offense and which, in the name or in behalf of a corporation, he performs or causes to be performed, to the same extent as if the conduct were performed in his own name or behalf.

(b) An individual who has been convicted of an offense by reason of his legal accountability for the conduct of a corporation is subject to the punishment authorized by law for an individual upon conviction of such offense, although only a lesser or different punishment is authorized for the corporation.

ARTICLE 6. RESPONSIBILITY

Sec.

- 6-1. Infancy.
- 6-2. Insanity.
- 6-3. Intoxicated or Drugged Condition.
- 6-4. Affirmative Defense.

6-1. § 6-1. Infancy.] No person shall be convicted of any offense unless he had attained his 13th birthday at the time the offense was committed.

6-2. § 6-2. Insanity.] (a) A person is not criminally responsible for conduct if at the time of such conduct, as a result of mental disease or mental defect, he lacks substantial capacity either to appreciate the criminality of his conduct or to conform his conduct to the requirements of law.

(b) The terms "mental disease or mental defect" do not include an abnormality manifested only by repeated criminal or otherwise anti-social conduct.

6-3. § 6-3. Intoxicated or Drugged Condition.] A person who is in an intoxicated or drugged condition is criminally responsible for conduct unless such condition either:

(a) Negatives the existence of a mental state which is an element of the offense; or

(b) Is involuntarily produced and deprives him of substantial capacity either to appreciate the criminality of his conduct or to conform his conduct to the requirements of law.

6-4. § 6-4. Affirmative Defense.] A defense based upon any of the provisions of Article 6 is an affirmative defense.

ARTICLE 7. JUSTIFIABLE USE OF FORCE; EXONERATION

- Sec.
- 7-1. Use of Force in Defense of Person.
 - 7-2. Use of Force in Defense of Dwelling.
 - 7-3. Use of Force in Defense of Other Property.
 - 7-4. Use of Force by Aggressor.
 - 7-5. Peace Officer's Use of Force in Making Arrest.
 - 7-6. Private Person's Use of Force in Making Arrest.
 - 7-7. Private Person's Use of Force in Resisting Arrest.
 - 7-8. Force Likely to Cause Death or Great Bodily Harm.
 - 7-9. Use of Force to Prevent Escape.
 - 7-10. Execution of Death Sentence.
 - 7-11. Compulsion.
 - 7-12. Entrapment.
 - 7-13. Necessity.
 - 7-14. Affirmative Defense.

7-1. § 7-1. Use of Force in Defense of Person.] A person is justified in the use of force against another when and to the extent that he reasonably believes that such conduct is necessary to defend himself or another against such other's imminent use of unlawful force. However, he is justified in the use of force which is intended or likely to cause death or great bodily harm only if he reasonably believes that such force is necessary to prevent imminent death or great bodily harm to himself or another, or the commission of a forcible felony.

7-2. § 7-2. Use of Force in Defense of Dwelling.] A person is justified in the use of force against another when and to the extent that he reasonably believes that such conduct is necessary to prevent or terminate such other's unlawful entry into or attack upon a dwelling. However, he is justified in the use of force which is intended or likely to cause death or great bodily harm only if:

(a) The entry is made or attempted in a violent, riotous, or tumultuous manner, and he reasonably believes that such force is necessary to prevent an assault upon, or offer of personal violence to, him or another then in the dwelling, or

(b) He reasonably believes that such force is necessary to prevent the commission of a forcible felony in the dwelling.

7-3. § 7-3. Use of Force in Defense of Other Property.] A person is justified in the use of force against another when and to the extent that he reasonably believes that such conduct is necessary to prevent or terminate such other's trespass on or other tortious or criminal interference with either real property (other than a dwelling) or personal property, lawfully in his possession or in the possession of another who is a member of his immediate family or household or of a person whose property he has a legal duty to protect. However, he is justified in the use of force which is intended or likely to cause death or great bodily harm only if he reasonably believes that such force is necessary to prevent the commission of a forcible felony.

7-4. § 7-4. Use of Force by Aggressor.] The justification described in the preceding Sections of this Article is not available to a person who:

(a) Is attempting to commit, committing, or escaping after the commission of, a forcible felony; or

(b) Initially provokes the use of force against himself, with the intent to use such force as an excuse to inflict bodily harm upon the assailant; or

(c) Otherwise initially provokes the use of force against himself, unless:

(1) Such force is so great that he reasonably believes that he is in imminent danger of death or great bodily harm, and that he has exhausted every reasonable means to escape such danger other than the use of force which is likely to cause death or great bodily harm to the assailant; or

(2) In good faith, he withdraws from physical contact with the assailant and indicates clearly to the assailant that he desires to withdraw and terminate the use of force, but the assailant continues or resumes the use of force.

7-5. § 7-5. Peace Officer's Use of Force in Making Arrest.] (a) A peace officer, or any person whom he has summoned or directed to assist him, need not retreat or desist from efforts to make a lawful arrest because of resistance or threatened resistance to the arrest. He is justified in the use of any force which he reasonably believes to be necessary to effect the arrest and of any force which he reasonably believes to be necessary to defend himself or another from bodily harm while making the arrest. However, he is justified in using force likely to cause death or great bodily harm only when he reasonably believes that such force is necessary to prevent death or great bodily harm to himself or such other person, or when he reasonably believes both that:

(1) Such force is necessary to prevent the arrest from being defeated by resistance or escape; and

(2) The person to be arrested has committed or attempted a forcible felony or is attempting to escape by use of a deadly weapon, or otherwise indicates that he will endanger human life or inflict great bodily harm unless arrested without delay.

(b) A peace officer making an arrest pursuant to an invalid warrant is justified in the use of any force which he would be justified in using if the warrant were valid, unless he knows that the warrant is invalid.

7-6. § 7-6. Private Person's Use of Force in Making Arrest.] (a) A private person who makes, or assists another private person in making a lawful arrest is justified in the use of any force which he would be justified in using if he were summoned or directed by a peace officer to make such arrest, except that he is justified in the use of force likely to cause death or great bodily harm only when he reasonably believes that such force is necessary to prevent death or great bodily harm to himself or another.

(b) A private person who is summoned or directed by a peace officer to assist in making an arrest which is unlawful, is justified in the use of any force which he would be justified in using if the arrest were lawful, unless he knows that the arrest is unlawful.

7-7. § 7-7. Private Person's Use of Force in Resisting Arrest.] (a) A person is not authorized to use force to resist an arrest which he knows is being made either by a peace officer or by a private person summoned and directed by a peace officer

to make the arrest, even if he believes that the arrest is unlawful and the arrest in fact is unlawful.

7-8. § 7-8. Force Likely to Cause Death or Great Bodily Harm.] (a) Force which is likely to cause death or great bodily harm, within the meaning of Sections 7-5 and 7-6 includes:

- (1) The firing of a firearm in the direction of the person to be arrested, even though no intent exists to kill or inflict great bodily harm; and
- (2) The firing of a firearm at a vehicle in which the person to be arrested is riding.

7-9. § 7-9. Use of Force to Prevent Escape.] (a) A peace officer or other person who has an arrested person in his custody is justified in the use of such force to prevent the escape of the arrested person from custody as he would be justified in using if he were arresting such person.

(b) A guard or other peace officer is justified in the use of force, including force likely to cause death or great bodily harm, which he reasonably believes to be necessary to prevent the escape from a penal institution of a person whom the officer reasonably believes to be lawfully detained in such institution under sentence for an offense or awaiting trial or commitment for an offense.

7-10. § 7-10. Execution of Death Sentence.] A public officer who, in the exercise of his official duty, puts a person to death pursuant to a sentence of a court of competent jurisdiction, is justified if he acts in accordance with the sentence pronounced and the law prescribing the procedure for execution of a death sentence.

7-11. § 7-11. Compulsion.] (a) A person is not guilty of an offense, other than an offense punishable with death, by reason of conduct which he performs under the compulsion of threat or menace of the imminent infliction of death or great bodily harm, if he reasonably believes death or great bodily harm will be inflicted upon him if he does not perform such conduct.

(b) A married woman is not entitled, by reason of the presence of her husband, to any presumption of compulsion, or to any defense of compulsion except that stated in Subsection (a).

7-12. § 7-12. Entrapment.] A person is not guilty of an offense if his conduct is incited or induced by a public officer or employee, or agent of either, for the purpose of obtaining evidence for the prosecution of such person. However, this Section is inapplicable if a public officer or employee, or agent of either, merely affords to such person the opportunity or facility for committing an offense in furtherance of a criminal purpose which such person has originated.

7-13. § 7-13. Necessity.] Conduct which would otherwise be an offense is justifiable by reason of necessity if the accused was without blame in occasioning or developing the situation and reasonably believed such conduct was necessary to avoid a public or private injury greater than the injury which might reasonably result from his own conduct.

7-14. § 7-14. Affirmative Defense.] A defense of justifiable use of force, or of exoneration, based on the provisions of this Article is an affirmative defense.

TITLE III. SPECIFIC OFFENSES

PART A. INCHOATE OFFENSES

ARTICLE 8. SOLICITATION, CONSPIRACY AND ATTEMPT

Sec.

- 8-1. Solicitation.
- 8-2. Conspiracy.
- 8-3. Defense.
- 8-4. Attempt.
- 8-5. Multiple Convictions.
- 8-6. Offense.

8-1. § 8-1. Solicitation.] (a) Elements of the offense.

A person commits solicitation when, with intent that an offense be committed, he commands, encourages or requests another to commit that offense.

(b) Penalty.

A person convicted of solicitation may be fined or imprisoned or both not to exceed the maximum provided for the offense solicited: Provided, however, that no penalty for solicitation shall exceed imprisonment for one year.

8-2. § 8-2. Conspiracy.] (a) Elements of the offense.

A person commits conspiracy when, with intent that an offense be committed, he agrees with another to the commission of that offense. No person may be convicted of conspiracy to commit an offense unless an act in furtherance of such agreement is alleged and proved to have been committed by him or by a co-conspirator.

(b) Co-conspirators.

It shall not be a defense to conspiracy that the person or persons with whom the accused is alleged to have conspired:

- (1) Has not been prosecuted or convicted, or
- (2) Has been convicted of a different offense, or
- (3) Is not amenable to justice, or
- (4) Has been acquitted, or
- (5) Lacked the capacity to commit an offense.

(c) Penalty.

A person convicted of conspiracy may be fined or imprisoned or both not to exceed the maximum provided for the offense which is the object of the conspiracy: Provided, however, that no penalty for conspiracy to commit treason, murder, or aggravated kidnapping shall exceed imprisonment for 20 years, and no penalty for conspiracy to commit any other offense shall exceed imprisonment for 5 years.

8-3. § 8-3. Defense.] It is a defense to a charge of solicitation or conspiracy that if the criminal object were achieved the accused would not be guilty of an offense.

8-4. § 8-4. Attempt.] (a) Elements of the Offense.

A person commits an attempt when, with intent to commit a specific offense, he does any act which constitutes a substantial step toward the commission of that offense.

(b) Impossibility.

It shall not be a defense to a charge of attempt that because of a misapprehension of the circumstances it would have been impossible for the accused to commit the offense attempted.

(c) Penalty.

A person convicted of an attempt may be fined or imprisoned or both not to exceed the maximum

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provided for the offense attempted: Provided, however,

- (1) that the penalty for attempt to commit treason, murder or aggravated kidnaping shall not exceed imprisonment for 20 years, and
- (2) that the penalty for attempt to commit any other forcible felony shall not exceed imprisonment for 14 years, and
- (3) that the penalty for attempt to commit any offense other than those specified in Subsections (1) and (2) hereof shall not exceed imprisonment for 5 years.

8-5. § 8-5. Multiple Convictions.] No person shall be convicted of both the inchoate and the principal offense.

8-6. § 8-6. Offense.] For the purposes of this Article, "offense" shall include conduct which if performed in another State would be criminal by the laws of that State and which conduct if performed in this State would be an offense under the laws of this State.

PART B. OFFENSES DIRECTED AGAINST THE PERSON

ARTICLE 9. HOMICIDE

Sec.

- 9-1. Murder.
- 9-2. Voluntary Manslaughter.
- 9-3. Involuntary Manslaughter and Reckless Homicide.
- 9-4. Concealing Death of Bastard.

9-1. § 9-1. Murder.] (a) A person who kills an individual without lawful justification commits murder if, in performing the acts which cause the death:

- (1) He either intends to kill or do great bodily harm to that individual or another, or knows that such acts will cause death to that individual or another; or
- (2) He knows that such acts create a strong probability of death or great bodily harm to that individual or another; or
- (3) He is attempting or committing a forcible felony other than voluntary manslaughter.

(b) Penalty.

A person convicted of murder shall be punished by death or imprisonment in the penitentiary for any indeterminate term with a minimum of not less than 14 years. If the accused is found guilty by a jury, a sentence of death shall not be imposed by the court unless the jury's verdict so provides in accordance with Section 1-7(c) (1) of this Code.

9-2. § 9-2. Voluntary Manslaughter.] (a) A person who kills an individual without lawful justification commits voluntary manslaughter if at the time of the killing he is acting under a sudden and intense passion resulting from serious provocation by:

- (1) The individual killed, or
- (2) Another whom the offender endeavors to kill, but he negligently or accidentally causes the death of the individual killed.

Serious provocation is conduct sufficient to excite an intense passion in a reasonable person.

(b) A person who intentionally or knowingly kills an individual commits voluntary manslaughter if at the time of the killing he believes the circumstances to be such that, if they existed, would justify or exonerate the killing under the prin-

ciples stated in Article 7 of this Code, but his belief is unreasonable.

(c) Penalty.

A person convicted of voluntary manslaughter shall be imprisoned in the penitentiary from one to 20 years.

9-3. § 9-3. Involuntary Manslaughter and Reckless Homicide.] (a) A person who kills an individual without lawful justification commits involuntary manslaughter if his acts whether lawful or unlawful which cause the death are such as are likely to cause death or great bodily harm to some individual, and he performs them recklessly.

(b) If the acts which cause the death consist of the driving of a motor vehicle, the person may be prosecuted for reckless homicide or if he is prosecuted for involuntary manslaughter, he may be found guilty of the included offense of reckless homicide.

(c) Penalty.

- (1) A person convicted of involuntary manslaughter shall be imprisoned in the penitentiary from one to 10 years.
- (2) A person convicted of reckless homicide shall be fined not to exceed \$1,000 or imprisoned in a penal institution other than the penitentiary not to exceed one year, or in the penitentiary from one to 5 years, or both fined and imprisoned.

9-4. § 9-4. Concealing Death of Bastard.] (a) A woman commits the offense of concealing the death of a bastard when she conceals the death of any issue of her body which if born alive would be a bastard.

(b) Nothing herein contained shall be so construed as to prevent such mother from being indicted for the murder or manslaughter of such bastard child.

(c) Penalty.

A person convicted of concealing the death of a bastard shall be imprisoned in a penal institution other than the penitentiary not to exceed one year.

ARTICLE 10. KIDNAPING AND RELATED OFFENSES

Sec.

- 10-1. Kidnaping.
- 10-2. Aggravated Kidnaping.
- 10-3. Unlawful Restraint.

10-1. § 10-1. Kidnaping.] (a) Kidnaping occurs when a person knowingly:

- (1) And secretly confines another against his will, or
- (2) By force or threat of imminent force carries another from one place to another with intent secretly to confine him against his will, or
- (3) By deceit or enticement induces another to go from one place to another with intent secretly to confine him against his will.

(b) Confinement of a child under the age of 13 years is against his will within the meaning of this Section if such confinement is without the consent of his parent or legal guardian.

(c) Penalty.

A person convicted of kidnaping shall be imprisoned in a penal institution other than the penitentiary not to exceed one year or in the penitentiary from one to 5 years.

10-2. § 10-2. Aggravated Kidnaping.] (a) A kidnaper within the definition of Section 10-1 (a)

is guilty of the offense of aggravated kidnaping when he:

- (1) Kidnaps for the purpose of obtaining ransom, money, benefit, or other valuable thing or concession from the person kidnaped or from any other person, or
- (2) Takes as his victim a child under the age of 13 years, or
- (3) Inflicts great bodily harm or commits another felony upon his victim, or
- (4) Wears a hood, robe or mask or conceals his identity.

(b) Penalty.

- (1) A person convicted of aggravated kidnaping for ransom shall be punished by death or imprisonment in the penitentiary for any indeterminate term with a minimum of not less than one year. If the accused is found guilty by a jury, a sentence of death shall not be imposed by the court unless the jury's verdict so provides in accordance with Section 1-7 (c) (1) of this Code.

- (2) A person convicted of aggravated kidnaping other than for ransom shall be imprisoned in the penitentiary for any indeterminate term with a minimum of not less than one year.

10-3. § 10-3. Unlawful Restraint.] (a) A person commits the offense of unlawful restraint when he knowingly without legal authority detains another.

(b) Penalty.

A person convicted of unlawful restraint shall be fined not to exceed \$500 or imprisoned in a penal institution other than the penitentiary not to exceed one year, or both.

(c) Any merchant, his agent or employee, who has probable cause to believe that a person has wrongfully taken or has actual possession of and is about to wrongfully take merchandise from a mercantile establishment, may detain such person in a reasonable manner and for a reasonable length of time for the purpose of investigating the ownership of such merchandise. Such reasonable detention shall not constitute an arrest nor an unlawful restraint nor shall it render the merchant, his agent or employee liable to the person detained.

ARTICLE 11. SEX OFFENSES

Sec.	
11-1.	Rape.
11-2.	Deviate Sexual Conduct.
11-3.	Deviate Sexual Assault.
11-4.	Indecent Liberties with a Child.
11-5.	Contributing to the Sexual Delinquency of a Child.
11-6.	Indecent Solicitation of a Child.
11-7.	Adultery.
11-8.	Fornication.
11-9.	Public Indecency.
11-10.	Aggravated Incest.
11-11.	Incest.
11-12.	Bigamy.
11-13.	Marrying a Bigamist.
11-14.	Prostitution.
11-15.	Soliciting for a Prostitute.
11-16.	Pandering.
11-17.	Keeping a Place of Prostitution.
11-18.	Patronizing a Prostitute.
11-19.	Pimping.
11-20.	Obscenity.

11-1. § 11-1. Rape.] (a) A male person of the age of 14 years and upwards who has sexual

intercourse with a female, not his wife, by force and against her will, commits rape. Intercourse by force and against her will includes, but is not limited to, any intercourse which occurs in the following situations:

- (1) Where the female is unconscious; or
- (2) Where the female is so mentally deranged or deficient that she cannot give effective consent to intercourse.

(b) Sexual intercourse occurs when there is any penetration of the female sex organ by the male sex organ.

(c) Penalty.

A person convicted of rape shall be imprisoned in the penitentiary for any indeterminate term with a minimum of not less than one year.

11-2. § 11-2. Deviate Sexual Conduct.] "Deviate sexual conduct", for the purpose of this Article, means any act of sexual gratification involving the sex organs of one person and the mouth or anus of another.

11-3. § 11-3. Deviate Sexual Assault.] (a) Any person of the age of 14 years and upwards who, by force or threat of force, compels any other person to perform or submit to any act of deviate sexual conduct commits deviate sexual assault.

(b) Penalty.

A person convicted of deviate sexual assault shall be imprisoned in the penitentiary from one to 14 years.

11-4. § 11-4. Indecent Liberties with a Child.] (a) Any person of the age of 17 years and upwards who performs or submits to any of the following acts with a child under the age of 16 commits indecent liberties with a child:

- (1) Any act of sexual intercourse; or
- (2) Any act of deviate sexual conduct; or
- (3) Any lewd fondling or touching of either the child or the person done or submitted to with the intent to arouse or to satisfy the sexual desires of either the child or the person or both.

(b) It shall be an affirmative defense to indecent liberties with a child that:

- (1) The accused reasonably believed the child was of the age of 16 or upwards at the time of the act giving rise to the charge; or
- (2) The child is a prostitute; or
- (3) The child has previously been married.

(c) Penalty.

A person convicted of indecent liberties with a child shall be imprisoned in the penitentiary from one to 20 years.

11-5. § 11-5. Contributing to the Sexual Delinquency of a Child.] (a) Any person of the age of 14 years and upwards who performs or submits to any of the following acts with any person under the age of 18 contributes to the sexual delinquency of a child:

- (1) Any act of sexual intercourse; or
- (2) Any act of deviate sexual conduct; or
- (3) Any lewd fondling or touching of either the child or the person done or submitted to with the intent to arouse or to satisfy the sexual desires of either the child or the person or both; or
- (4) Any lewd act done in the presence of the child with the intent to arouse or to satisfy the sexual desires of either the person or the child or both.

(b) It shall not be a defense to contributing to the sexual delinquency of a child that the accused reasonably believed the child to be of the age of 18 or upwards.

(c) Penalty.

A person convicted of contributing to the sexual delinquency of a child shall be fined not to exceed \$1,000 or imprisoned in a penal institution other than the penitentiary not to exceed one year, or both.

11-6. § 11-6. Indecent Solicitation of a Child.] (a) Any person of the age of 17 years and upwards who solicits a child under the age of 13 to do any act, which if done would be an indecent liberty with a child or an act of contributing to the sexual delinquency of a child commits indecent solicitation of a child.

(b) It shall not be a defense to indecent solicitation of a child that the accused reasonably believed the child to be of the age of 18 years and upwards.

(c) Penalty.

A person convicted of indecent solicitation of a child shall be fined not to exceed \$500 or imprisoned in a penal institution other than the penitentiary not to exceed 6 months, or both.

11-7. § 11-7. Adultery.] (a) Any person who cohabits or has sexual intercourse with another not his spouse commits adultery, if the behavior is open and notorious, and

(1) The person is married and the other person involved in such intercourse is not his spouse; or

(2) The person is not married and knows that the other person involved in such intercourse is married.

(b) Penalty.

A person convicted of adultery shall be fined not to exceed \$500 or imprisoned in a penal institution other than the penitentiary not to exceed one year, or both.

11-8. § 11-8. Fornication.] (a) Any person who cohabits or has sexual intercourse with another not his spouse commits fornication if the behavior is open and notorious.

(b) Penalty.

A person convicted of fornication shall be fined not to exceed \$200 or imprisoned in a penal institution other than the penitentiary not to exceed 6 months, or both.

11-9. § 11-9. Public Indecency.] (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 intercourse; or
- (2) An act of deviate sexual conduct; or
- (3) A lewd exposure of the body done with intent to arouse or to satisfy the sexual desire of the person; or
- (4) A lewd fondling or caress of the body of another person of the same sex.

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

(c) Penalty.

A person convicted of public indecency shall be fined not more than \$500 or imprisoned in a penal

institution other than the penitentiary not to exceed 6 months, or both.

11-10. § 11-10. Aggravated Incest.] (a) Any male person who shall perform any of the following acts with a person he knows is his daughter commits aggravated incest:

- (1) Has sexual intercourse; or
- (2) An act of deviate sexual conduct.

(b) "Daughter" for the purposes of this Section means a blood daughter regardless of legitimacy or age; and also means a step-daughter or an adopted daughter under the age of 18.

(c) Penalty.

A person convicted of aggravated incest shall be imprisoned in the penitentiary from one to 20 years.

11-11. § 11-11. Incest.] (a) Any person who has sexual intercourse or performs an act of deviate sexual conduct with another to whom he knows he is related as follows commits incest:

- (1) Mother or son; or
- (2) Brother or sister, either of the whole blood or the half blood.

(b) Penalty.

A person convicted of incest shall be imprisoned in the penitentiary from one to 10 years.

11-12. § 11-12. Bigamy.] (a) Any person having a husband or wife who subsequently marries another or cohabits in this State after such marriage commits bigamy.

(b) It shall be an affirmative defense to bigamy that:

- (1) The prior marriage was dissolved by divorce or annulment; or
- (2) The accused reasonably believed the prior spouse to be dead; or
- (3) The prior spouse had been continually absent for a period of 5 years during which time the accused did not know the prior spouse to be alive; or
- (4) The accused reasonably believed that he was legally eligible to remarry.

(c) Penalty.

A person convicted of bigamy shall be imprisoned in a penal institution other than the penitentiary not to exceed one year or in the penitentiary from one to 5 years.

11-13. § 11-13. Marrying a Bigamist.] (a) Any unmarried person who knowingly marries another under circumstances known to him which would render the other person guilty of bigamy under the laws of this State, or who cohabits in this State after such a marriage, commits the offense of marrying a bigamist.

(b) Penalty.

A person convicted of marrying a bigamist shall be imprisoned in a penal institution other than the penitentiary not to exceed one year.

11-14. § 11-14. Prostitution.] (a) Any person who performs, offers or agrees to perform any of the following acts for money commits an act of prostitution:

- (1) Any act of sexual intercourse; or
- (2) Any act of deviate sexual conduct.

(b) Penalty.

A person convicted of prostitution shall be fined not to exceed \$200 or imprisoned in a penal institution other than the penitentiary not to exceed one year, or both.

11-15. § 11-15. Soliciting for a Prostitute.]
(a) Any person who performs any of the following acts commits soliciting for a prostitute:

- (1) Solicits another for the purpose of prostitution; or
- (2) Arranges or offers to arrange a meeting of persons for the purpose of prostitution; or
- (3) Directs another to a place knowing such direction is for the purpose of prostitution.

(b) Penalty.

A person convicted of soliciting for a prostitute shall be fined not to exceed \$200 or imprisoned in a penal institution other than the penitentiary not to exceed one year, or both.

11-16. § 11-16. Pandering.] (a) Any person who performs any of the following acts for money commits pandering:

- (1) Compels a female to become a prostitute; or
- (2) Arranges or offers to arrange a situation in which a female may practice prostitution.

(b) Penalty.

A person convicted of pandering by compulsion shall be imprisoned in the penitentiary from one to 10 years. A person convicted of pandering other than by compulsion shall be imprisoned in a penal institution other than the penitentiary not to exceed one year or in the penitentiary from one to 6 years.

11-17. § 11-17. Keeping a Place of Prostitution.] (a) Any person who has or exercises control over the use of any place which could offer seclusion or shelter for the practice of prostitution who performs any of the following acts keeps a place of prostitution:

- (1) Knowingly grants or permits the use of such place for the purpose of prostitution; or
- (2) Grants or permits the use of such place under circumstances from which he could reasonably know that the place is used or is to be used for purposes of prostitution; or
- (3) Permits the continued use of a place after becoming aware of facts or circumstances from which he should reasonably know that the place is being used for purposes of prostitution.

(b) Penalty.

A person convicted of keeping a place of prostitution shall be fined not to exceed \$500 or imprisoned in a penal institution other than the penitentiary not to exceed one year, or both.

11-18. § 11-18. Patronizing a Prostitute.]
(a) Any person who performs any of the following acts with a person not his spouse commits the offense of patronizing a prostitute:

- (1) Engages in an act of sexual intercourse or deviate sexual conduct with a prostitute; or
- (2) Enters or remains in a place of prostitution with intent to engage in an act of sexual intercourse or deviate sexual conduct.

(b) Penalty.

A person convicted of patronizing a prostitute shall be fined not to exceed \$200 or imprisoned in a penal institution other than the penitentiary not to exceed 6 months, or both.

11-19. § 11-19. Pimping.] (a) Any person who receives money or other property from a prostitute, not for a lawful consideration, knowing it was earned in whole or in part from the practice of prostitution, commits pimping.

(b) Penalty.

A person convicted of pimping shall be fined not to exceed \$500 or imprisoned in a penal institution other than the penitentiary not to exceed one year, or both.

11-20. § 11-20. Obscenity.] (a) Elements of the offense.

A person commits obscenity when, with knowledge of the nature or content thereof, he:

- (1) Sells, delivers or provides, or offers or agrees to sell, deliver or provide any obscene writing, picture, record or other representation or embodiment of the obscene; or
- (2) Presents or directs an obscene play, dance or other performance or participates directly in that portion thereof which makes it obscene; or
- (3) Publishes, exhibits or otherwise makes available anything obscene; or
- (4) Performs an obscene act or otherwise presents an obscene exhibition of his body for gain; or
- (5) Creates, buys, procures or possesses obscene matter or material with intent to disseminate it in violation of this Section, or of the penal laws or regulations of any other jurisdiction; or
- (6) Advertises or otherwise promotes the sale of material represented or held out by him to be obscene.

(b) Obscene Defined.

A thing is obscene if, considered as a whole, its predominant appeal is to prurient interest, that is, a shameful or morbid interest in nudity, sex or excretion, and if it goes substantially beyond customary limits of candor in description or representation of such matters. A thing is obscene even though the obscenity is latent, as in the case of undeveloped photographs.

(c) Interpretation of Evidence.

Obscenity shall be judged with reference to ordinary adults, except that it shall be judged with reference to children or other specially susceptible audience if it appears from the character of the material or the circumstances of its dissemination to be specially designed for or directed to such an audience. In any prosecution for an offense under this Section evidence shall be admissible to show:

- (1) The character of the audience for which the material was designed or to which it was directed;
- (2) What the predominant appeal of the material would be for ordinary adults or a special audience, and what effect, if any, it would probably have on the behavior of such people;
- (3) The artistic, literary, scientific, educational or other merits of the material, or absence thereof;
- (4) The degree, if any, of public acceptance of the material in this State;
- (5) Appeal to prurient interest, or obscenity thereof, in advertising or other promotion of the material;
- (6) Purpose of the author, creator, publisher or disseminator.

(d) Penalty.

A person convicted of obscenity shall for the first offense be fined not to exceed \$1,000 or im-

prisoned in a penal institution other than the penitentiary not to exceed one year, or both, and for a second or subsequent offense shall be confined in the penitentiary for not less than one year nor more than 3 years, or be fined not less than \$1,000 nor more than \$5,000, or both.

(e) **Prima Facie Evidence.**

The creation, purchase, procurement or possession of a mold, engraved plate or other embodiment of obscenity specially adapted for reproducing multiple copies, or the possession of more than 8 copies of obscene material shall be prima facie evidence of an intent to disseminate.

(f) **Affirmative Defenses.**

It shall be an affirmative defense to obscenity that the dissemination:

- (1) Was not for gain and was made to personal associates other than children under 18 years of age;
- (2) Was to institutions or individuals having scientific or other special justification for possession of such material.

As amended by act approved Aug. 1, 1961. L.1961, p. —, S.B.No.187.

ARTICLE 12. BODILY HARM

Sec.

- 12-1. Assault.
- 12-2. Aggravated Assault.
- 12-3. Battery.
- 12-4. Aggravated Battery.
- 12-5. Reckless Conduct.
- 12-6. Intimidation.
- 12-7. Compelling Confession or Information by Force or Threat.
- 12-8. Dueling.

12-1. § 12-1. Assault.] (a) A person commits an assault when, without lawful authority, he engages in conduct which places another in reasonable apprehension of receiving a battery.

(b) **Penalty.**

A person convicted of assault shall be fined not to exceed \$500.

12-2. § 12-2. Aggravated Assault.] (a) A person commits an aggravated assault, when, in committing an assault, he:

- (1) Uses a deadly weapon; or
- (2) Is hooded, robed or masked, in such manner as to conceal his identity; or
- (3) Knows the individual assaulted to be a teacher or other person employed in any school and such teacher or other employee is upon the grounds of a school or grounds adjacent thereto, or is in any part of a building used for school purposes.
- (4) Knows the individual assaulted to be a supervisor, director, instructor or other person employed in any park district and such supervisor, director, instructor or other employee is upon the grounds of the park or grounds adjacent thereto, or is in any part of a building used for park purposes.

(b) **Penalty.**

A person convicted of aggravated assault shall be fined not to exceed \$1,000 or imprisoned in a penal institution other than the penitentiary not to exceed one year, or both. As amended by act approved Aug. 1, 1961. L.1961, p. —, S.B.No.375.

12-3. § 12-3. Battery.] (a) A person commits battery if he intentionally or knowingly with-

out legal justification and by any means, (1) causes bodily harm to an individual or (2) makes physical contact of an insulting or provoking nature with an individual.

(b) **Penalty.**

A person convicted of battery shall be fined not to exceed \$500 or imprisoned in a penal institution other than the penitentiary not to exceed 6 months, or both.

12-4. § 12-4. Aggravated Battery.] (a) A person who, in committing a battery, intentionally or knowingly causes great bodily harm, or permanent disability or disfigurement commits aggravated battery and shall be imprisoned in a penal institution other than the penitentiary not to exceed one year or in the penitentiary from one to 10 years.

(b) A person who, in committing a battery, either:

- (1) Uses a deadly weapon; or
- (2) Is hooded, robed or masked, in such manner as to conceal his identity; or
- (3) Knows the individual harmed to be a teacher or other person employed in any school and such teacher or other employee is upon the grounds of a school or grounds adjacent thereto, or is in any part of a building used for school purposes; or
- (4) Knows the individual harmed to be a supervisor, director, instructor or other person employed in any park district and such supervisor, director, instructor or other employee is upon the grounds of the park or grounds adjacent thereto, or is in any part of a building used for park purposes; commits aggravated battery and shall be imprisoned in a penal institution other than the penitentiary not to exceed one year or in the penitentiary from one to 5 years.

(c) A person who administers to an individual or causes him to take, without his consent or by threat or deception, and for other than medical purposes, any intoxicating, poisonous, stupefying, narcotic or anesthetic substance commits aggravated battery and shall be imprisoned in a penal institution other than the penitentiary not to exceed one year or in the penitentiary from one to 5 years. As amended by act approved Aug. 1, 1961. L.1961, p. —, S.B.No.375.

12-5. § 12-5. Reckless Conduct.] (a) A person who causes bodily harm to or endangers the bodily safety of an individual by any means, commits reckless conduct if he performs recklessly the acts which cause the harm or endanger safety, whether they otherwise are lawful or unlawful.

(b) **Penalty.**

A person convicted of reckless conduct shall be fined not to exceed \$1,000 or imprisoned in a penal institution other than the penitentiary not to exceed one year, or both.

12-6. § 12-6. Intimidation.] (a) A person commits intimidation when, with intent to cause another to perform or to omit the performance of any act, he communicates to another a threat to perform without lawful authority any of the following acts:

- (1) Inflict physical harm on the person threatened or any other person or on property; or
- (2) Subject any person to physical confinement or restraint; or
- (3) Commit any criminal offense; or
- (4) Accuse any person of an offense; or

- (5) Expose any person to hatred, contempt or ridicule; or
- (6) Take action as a public official against anyone or anything, or withhold official action, or cause such action or withholding; or
- (7) Bring about or continue a strike, boycott or other collective action.

(b) Penalty.

A person convicted of intimidation shall be fined not to exceed \$500 or imprisoned in a penal institution other than the penitentiary not to exceed 6 months, or both.

12-7. § 12-7. Compelling Confession or Information by Force or Threat.] A person who, with intent to obtain a confession, statement or information regarding any offense, inflicts or threatens to inflict physical harm upon the person threatened or upon any other person shall be imprisoned in a penal institution other than the penitentiary not to exceed one year or in the penitentiary from one to 3 years.

12-8. § 12-8. Dueling.] A person who engages in a duel shall be imprisoned in a penal institution other than the penitentiary not to exceed one year or in the penitentiary from one to 5 years.

ARTICLE 13. VIOLATION OF CIVIL RIGHTS

Sec.

- 13-1. Definitions.
- 13-2. Elements of the Offense.
- 13-3. Sanctions.
- 13-4. Enforcement.

13-1. § 13-1. Definitions.] (a) Public Place of Accommodation or Amusement.

A public place of accommodation or amusement includes inns, restaurants, eating houses, hotels, soda fountains, soft drink parlors, taverns, road-houses, barber shops, department stores, clothing stores, hat stores, shoe stores, bathrooms, rest-rooms, theaters, skating rinks, public golf courses, public golf driving ranges, concerts, cafes, bicycle rinks, elevators, ice cream parlors or rooms, railroads, omnibusses, busses, stages, airplanes, street cars, boats, funeral hearses, crematories, cemeteries, and public conveyances on land, water, or air, and all other places of public accommodation and amusement.

(b) Operator of a Public Place of Accommodation or Amusement.

An operator of a public place of accommodation or amusement is any owner, lessee, proprietor, manager, superintendent, agent, or occupant of the public place of accommodation or amusement, or an employee of any such person or persons.

(c) Official.

An official is any officer or employee of the State of Illinois or any agency thereof, including State political divisions, municipal corporations, park districts, forest preserve districts, educational institutions and schools.

13-2. § 13-2. Elements of the Offense.] A person commits a violation of civil rights when:

(a) He denies to another the full and equal enjoyment of the facilities and services of any public place of accommodation or amusement because of race, religion, color or national ancestry; or

(b) He, as the operator of a public place of accommodation or amusement, directly or indirectly, publishes, circulates, displays or mails any written communication, except a private communication sent in response to a specific inquiry, which he

knows is to the effect that any of the facilities of the public place of accommodation or amusement will be denied to any person because of race, religion, color, or national ancestry or that the patronage of a person is unwelcome, objectionable, or unacceptable for any of those reasons; or

(c) He, as an official, refuses to employ, or discriminates in the employment of another for any work relief project because of race, religion, color or national ancestry; or

(d) He, as an official, denies or refuses to any person the full and equal enjoyment of the accommodations, advantages, facilities or privileges of his office or services or of any property under his care because of race, religion, color, or national ancestry.

13-3. § 13-3. Sanctions.] (a) Criminal Penalty.

A person convicted of a violation of civil rights may be fined not to exceed \$1000, or may be imprisoned not more than 6 months, or both.

(b) Suit for Damages.

Any operator of a public place of accommodation or amusement who commits a violation of civil rights shall be liable to the person aggrieved thereby for not less than \$100 nor more than \$1000, to be recovered in an action at law in any court of competent jurisdiction.

(1) Justices of the peace in the county where the offense is committed shall have jurisdiction in all civil actions brought under this Article to recover damages, to the extent of the jurisdiction of justices of the peace to recover a money demand in other actions as fixed by law, and either party shall have the right to have the cause tried by jury and to appeal from the judgment of the justice in the same manner as in other civil suits.

(2) When such action shall be brought originally before a justice of the peace and an appeal taken from the judgment of the justice to the circuit, superior or county court, such court to which the appeal is taken shall upon the trial de novo of such appeal have jurisdiction to render a judgment for a sum exceeding the jurisdiction of the justice in the same manner as though such suit had originally been begun in such circuit, superior or county court: Provided, that the plaintiff shall, within 30 days after the transcript is filed in the court to which the appeal is taken, file his complaint in such cause in the same manner as in original suits, and thereupon process shall issue against the defendant and the cause shall proceed in all respects the same as in original actions brought in such court. Where a complaint is filed the appeal shall not be dismissed without the consent of the plaintiff.

(c) Enjoining as Public Nuisance.

Any public place of accommodation or amusement in which a violation of civil rights occurs is a public nuisance which may be abated in the manner provided by law for the abatement of public nuisances. The operator of any such public place of accommodation or amusement shall be deemed guilty of maintaining a public nuisance and may be enjoined as hereinafter provided.

(1) Proceedings to Enjoin.

Any action to enjoin any nuisance defined in this Article may be brought in the name of the People of the State of Illinois by The Attorney-General of the State or any State's Attorney of the county where a nuisance as here-

in defined exists. Such action shall be brought and tried as an action in equity by the court without a jury. A verified petition shall be filed setting up the essential facts showing that a nuisance as herein defined exists. If it is made to appear by affidavits or otherwise, to the satisfaction of the court or judge in vacation that such nuisance exists, a temporary writ of injunction shall forthwith issue restraining the defendant from conducting or permitting the continuance of such nuisance until the conclusion of the trial: Provided, that no injunction shall issue unless a written notice of the application for the same is served upon the defendant or his agent or some person in charge of the alleged nuisance at least 2 days before such application is made. No bond shall be required in instituting such proceeding. The defendant shall be held to answer the allegations of the petition as in other chancery proceedings. Upon the trial of the cause, on finding that the material allegations of the petition are true, the court shall order such nuisance to be abated, and enjoin all persons from maintaining or permitting such nuisance. When any injunction as herein provided has been granted it shall be binding upon the defendant and shall act as an injunction in personam against the defendant throughout the State.

(2) Violation of Injunction.

In case of the violation of any injunction or order of abatement issued under the provisions of this Article, the court in term time, or a judge in vacation, may summarily try and punish the offender for contempt of court. The hearing may be upon affidavits, or either party may demand the production and oral examination of witnesses.

(d) Discharge of Officials.

Any violation of civil rights by an official may be reported, in writing, to the head of the department or agency in which the official committing said violation is employed. It shall be his duty to investigate the complaint thoroughly. If he determines that a violation has been committed, he shall immediately discharge the guilty official if said official is not employed under Civil Service Law. If said official is employed under Civil Service Law, then the head of the department or agency in which such offending official is employed shall file or cause to be filed with the proper person the proper and necessary papers, charging such official with a violation of civil rights. Said papers filed shall be in conformity with the provisions of the Civil Service Act, under which such official is employed. If the head of the department or agency determines no violation has been committed, he shall so notify the complainant by registered mail.

(1) Petition to Circuit Court.

Where no violation is found by the head of the proper department or agency, the aggrieved party may file a petition in the circuit court of the county wherein the official complained of is employed. Such official and the department agency head shall be named as respondents. The summons, service and return shall be in accordance with the Civil Practice Act.¹ Upon the return day or any day thereafter fixed by the court, the court shall hear and determine the complaint in summary manner, and if the court finds the issues for the complainant it shall order the head of the department or agency to discharge the offending official forthwith; or if such offending official is employed under Civil Service Law,

the court shall order the head of the department or agency in which such employee is employed to file or cause to be filed with the proper person the proper and necessary papers, in conformity with the Civil Service Law under which such official is employed, charging such official with a violation of this Act. The head of the department or agency shall be bound by the court's decision and may be held in contempt for failure to obey the same.

(2) Violation of Court's Order.

Whenever any appointed head of a department or agency violates the provisions of this Section or refuses to abide by the court's decision, he shall be removed from office by the officer who appointed him. As amended by act approved Aug. 1, 1961. L.1961, p. —, H.B.No.99.

¹ Chapter 110, § 1 et seq.

13-4. § 13-4. Enforcement.] (a) Responsibility for Enforcement.

It shall be the duty of all State, county, and municipal officials to cooperate in the enforcement of this Article. If any sheriff, deputy sheriff, chief of police, marshal, policeman, constable, or other peace officer shall have knowledge or information of any violation of any provision of this Article, he shall diligently investigate and secure evidence of the same and shall, before the proper officer, make and sign a complaint against the offending person, anything in the ordinance or by-laws of any municipality to the contrary notwithstanding.

(b) Duty of State's Attorney and Attorney General.

It shall be the duty of the State's Attorney of every county diligently to prosecute any and all persons violating any of the provisions of this Article in his county. He shall be responsible for the proper enforcement of this Article, and whenever he shall have any information or knowledge, or have any reason to believe that any of the provisions of this Article are being violated in his county, he shall use every legitimate means at his command to secure the necessary and proper evidence of such violation, and immediately upon securing evidence he shall file or cause to be filed a complaint, or petition for abatement of nuisance, or both as may be applicable, against any person against whom he shall have any evidence of any such violation, and he shall have said person arrested and shall vigorously prosecute said complaints or petitions on said charges to a speedy disposition.

(1) Disclosure in Criminal Proceeding.

In case the existence of any place where any violations of the provisions of this Article is disclosed in any criminal proceeding, it shall be the duty of the State's Attorney to proceed promptly to enforce the provisions of this Article against such place and its operator.

(2) Investigation of Complaints by Attorney General.

The Attorney General shall seek through his assistants, agents or investigators to obtain evidence of violations of this Article when information in that regard is brought to his notice, and shall make, or cause to be made, complaints against violators whenever such evidence is secured; and he and his assistants are hereby given authority to sign, verify and file any such complaints, petitions and papers required under this Article. But nothing herein shall in any way relieve State, county, municipal or other officers from the responsibility of enforcing the laws relating to civil rights.

(c) Failure of State's Attorney and Attorney General to Enforce.

Whenever a violation of this Article is by affidavit called to the attention of the Attorney General of this State or to the State's Attorney of the county in which the nuisance is alleged to exist, it shall be their duty to proceed to abate the nuisance as provided by this Article. Upon the failure of the Attorney General and State's Attorney to act upon such affidavit within a reasonable time, the circuit court of the county wherein the nuisance is alleged to exist, or the judge thereof in vacation shall upon the sworn petition in writing of the aggrieved person, herein defined, showing facts constituting the nuisance appoint a special assistant Attorney General or special assistant State's Attorney to prosecute said cause. The expenses of such proceedings shall be paid by the county in which the nuisance is alleged to exist.

ARTICLE 14. EAVESDROPPING

Sec.

- 14-1. Definition.
- 14-2. Elements of the Offense.
- 14-3. Exemptions.
- 14-4. Penalty.
- 14-5. Evidence Inadmissible.
- 14-6. Civil Remedies to Injured Parties.
- 14-7. Common Carrier to Aid in Detection.

14-1. § 14-1. Definition.] (a) Eavesdropping device.

An eavesdropping device is any device capable of being used to hear or record oral conversation whether such conversation is conducted in person, by telephone, or by any other means; Provided, however, that this definition shall not include devices used for the restoration of the deaf or hard-of-hearing to normal or partial hearing.

(b) Eavesdropper.

An eavesdropper is any person, including law enforcement officers, who operates or participates in the operation of any eavesdropping device contrary to the provisions of this Article.

(c) Principal.

A principal is any person who:

- (1) Knowingly employs another who illegally uses an eavesdropping device in the course of such employment; or
- (2) Knowingly derives any benefit or information from the illegal use of an eavesdropping device by another; or
- (3) Directs another to use an eavesdropping device illegally on his behalf.

14-2. § 14-2. Elements of the Offense.] A person commits eavesdropping when he:

(a) Uses an eavesdropping device to hear or record all or any part of any oral conversation without the consent of any party thereto; or

(b) Uses or divulges any information which he knows or reasonably should know was obtained through the illegal use of an eavesdropping device.

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

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

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

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

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

14-4. § 14-4. Penalty.] Any person convicted of eavesdropping shall be fined not to exceed 1,000 or imprisoned in a penal institution other than the penitentiary not to exceed one year, or both.

14-5. § 14-5. Evidence Inadmissible.] Any evidence obtained in violation of this Article is not admissible in any civil or criminal trial, or any administrative or legislative inquiry or proceeding, nor in any grand jury proceedings.

14-6. § 14-6. Civil Remedies to Injured Parties.] Any or all parties to any conversation upon which eavesdropping is practiced contrary to this Article shall be entitled to the following remedies:

(a) To an injunction by any court of competent jurisdiction prohibiting further eavesdropping by the eavesdropper and by or on behalf of his principal, or either;

(b) To all actual damages against the eavesdropper or his principal or both;

(c) To any punitive damages which may be awarded by the court or by a jury;

(d) To all actual damages against any landlord, owner or building operator, or any common carrier by wire who aids, abets, or knowingly permits the eavesdropping concerned;

(e) To any punitive damages which may be awarded by the court or by a jury against any landlord, owner or building operator, or common carrier by wire who aids, abets, or knowingly permits the eavesdropping concerned.

14-7. § 14-7. Common Carrier to Aid in Detection.] Subject to regulation by the Illinois Commerce Commission, any common carrier by wire shall, upon request of any subscriber and upon responsible offer to pay the reasonable cost thereof, furnish whatever services may be within its command for the purpose of detecting any eavesdropping involving its wires which are used by said subscriber. All such requests by subscribers shall be kept confidential unless divulgence is authorized in writing by the requesting subscriber.

PART C. OFFENSES DIRECTED AGAINST PROPERTY

ARTICLE 15. DEFINITION

Sec.

- 15-1. Property.
- 15-2. Owner.
- 15-3. Permanent Deprivation.
- 15-4. Deception.
- 15-5. Threat.

Sec.

15-6. Stolen Property.

15-7. Obtain.

15-8. Obtains Control.

15-1. § 15-1. Property.] As used in this Part C, "property" means anything of value. Property includes real estate, money, commercial instruments, admission or transportation tickets, written instruments representing or embodying rights concerning anything of value, labor, or services, or otherwise of value to the owner; things growing on, affixed to, or found on land, or part of or affixed to any building; electricity, gas and water; birds, animals and fish, which ordinarily are kept in a state of confinement; food and drink.

15-2. § 15-2. Owner.] As used in this Part C, "owner" means a person, other than the offender, who has possession of or any other interest in the property involved, even though such interest or possession is unlawful, and without whose consent the offender has no authority to exert control over the property.

15-3. § 15-3. Permanent Deprivation.] As used in this Part C, to "permanently deprive" means to:

- (a) Defeat all recovery of the property by the owner; or
- (b) Deprive the owner permanently of the beneficial use of the property; or
- (c) Retain the property with intent to restore it to the owner only if the owner purchases or leases it back, or pays a reward or other compensation for its return; or
- (d) Sell, give, pledge, or otherwise transfer any interest in the property or subject it to the claim of a person other than the owner.

15-4. § 15-4. Deception.] As used in this Part C "deception" means knowingly to:

- (a) Create or confirm another's impression which is false and which the offender does not believe to be true; or
- (b) Fail to correct a false impression which the offender previously has created or confirmed; or
- (c) Prevent another from acquiring information pertinent to the disposition of the property involved; or
- (d) Sell or otherwise transfer or encumber property, failing to disclose a lien, adverse claim, or other legal impediment to the enjoyment of the property, whether such impediment is or is not valid, or is or is not a matter of official record; or

(e) Promise performance which the offender does not intend to perform or knows will not be performed. Failure to perform standing alone is not evidence that the offender did not intend to perform.

15-5. § 15-5. Threat.] As used in this Part C, "threat" means a menace, however communicated, to:

- (a) Inflict physical harm on the person threatened or any other person or on property; or
- (b) Subject any person to physical confinement or restraint; or
- (c) Commit any criminal offense; or
- (d) Accuse any person of a criminal offense; or
- (e) Expose any person to hatred, contempt or ridicule; or
- (f) Harm the credit or business repute of any person; or

(g) Reveal any information sought to be concealed by the person threatened; or

(h) Take action as an official against anyone or anything, or withhold official action, or cause such action or withholding; or

(i) Bring about or continue a strike, boycott or other similar collective action if the property is not demanded or received for the benefit of the group which he purports to represent; or

(j) Testify or provide information or withhold testimony or information with respect to another's legal claim or defense; or

(k) Inflict any other harm which would not benefit the offender.

15-6. § 15-6. Stolen Property.] As used in this Part C, "stolen property" means property over which control has been obtained by theft.

15-7. § 15-7. Obtain.] As used in this Part C, "obtain" means:

(a) In relation to property, to bring about a transfer of interest or possession, whether to the offender or to another, and

(b) In relation to labor or services, to secure the performance thereof.

15-8. § 15-8. Obtains Control.] As used in this Part C, the phrase "obtains or exerts control" over property, includes but is not limited to the taking, carrying away, or the sale, conveyance, or transfer of title to, or interest in, or possession of property.

ARTICLE 16. THEFT AND RELATED OFFENSES

Sec.

16-1. Theft.

16-2. Theft of Lost or Mislaid Property.

16-3. Theft of Labor or Services or Use of Property.

16-4. Offender's Interest in the Property.

16-1. § 16-1. Theft.] A person commits theft when he knowingly:

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

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

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

(d) Obtains control over stolen property knowing the property to have been stolen by another, and

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

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

(3) Uses, conceals, or abandons the property knowing such use, concealment or abandonment probably will deprive the owner permanently of such use or benefit.

Penalty.

A person first convicted of theft of property not from the person and not exceeding \$150 in value shall be fined not to exceed \$500 or imprisoned in a penal institution other than the penitentiary not to exceed one year, or both. A person convicted of such theft a second or subsequent time, or after a prior conviction of any type of theft, shall be imprisoned in the penitentiary from one to 5 years. A person convicted of theft of property from the person or exceeding \$150 in value shall be imprisoned in the penitentiary from one to 10 years.

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16-2. § 16-2. Theft of Lost or Mislaid Property.] A person who obtains control over lost or mislaid property commits theft when he:

- (a) Knows or learns the identity of the owner or knows, or is aware of, or learns of a reasonable method of identifying the owner, and
- (b) Fails to take reasonable measures to restore the property to the owner, and
- (c) Intends to deprive the owner permanently of the use or benefit of the property.

Penalty.

A person convicted of theft of lost or mislaid property shall be fined not to exceed \$500 or double the value of such property, whichever is greater.

16-3. § 16-3. Theft of Labor or Services or Use of Property.] (a) A person commits theft when he obtains the temporary use of property, labor or services of another which are available only for hire, by means of threat or deception or knowing that such use is without the consent of the person providing the property, labor or services.

(b) Penalty.

A person convicted of theft or labor or services or use of property shall be fined not to exceed \$500 or imprisoned in a penal institution other than the penitentiary not to exceed one year, or both.

16-4. § 16-4. Offender's Interest in the Property.] (a) It is no defense to a charge of theft of property that the offender has an interest therein, when the owner also has an interest to which the offender is not entitled.

(b) Where the property involved is that of the offender's spouse, no prosecution for theft may be maintained unless the parties were not living together as man and wife and were living in separate abodes at the time of the alleged theft.

ARTICLE 17. DECEPTION

Sec.

- 17-1. Deceptive Practices.
- 17-2. Impersonating Member of Fraternal or Veterans' Organization.
- 17-3. Forgery.

17-1. § 17-1. Deceptive Practices.] A person commits a deceptive practice when:

(a) He causes another, by deception or threat to execute a document disposing of property or a document by which a pecuniary obligation is incurred, or

(b) Being an officer, manager or other person participating in the direction of a financial institution, he knowingly receives or permits the receipt of a deposit or other investment, knowing that the institution is insolvent, or

(c) He knowingly makes or directs another to make a false or deceptive statement addressed to the public for the purpose of promoting the sale of property or services, or

(d) With intent to obtain control over property or to pay for property, labor or services of another, he issues or delivers a check or other order upon a real or fictitious depository for the payment of money, knowing that it will not be paid by the depository. Failure to have sufficient funds or credit with the depository when the check or other order is issued or delivered is prima facie evidence that the offender knows that it will not be paid by the depository.

Financial Institution.

A financial institution means a bank, insurance company, credit union, savings and loan association,

investment trust or other depository of money or medium of savings or collective investment.

Penalty.

A person convicted of deceptive practices shall be fined not to exceed \$500 or imprisoned in a penal institution other than the penitentiary not to exceed one year, or both.

17-2. § 17-2. Impersonating Member of Fraternal or Veterans' Organization.] (a) A person commits a false personation when he falsely represents himself to be a member of any fraternal or veteran's organization.

(b) Penalty.

A person convicted of impersonating a member of a fraternal or veteran's organization shall be fined not to exceed \$200.

17-3. § 17-3. Forgery.] (a) A person commits forgery when, with intent to defraud, he knowingly:

- (1) Makes or alters any document apparently capable of defrauding another in such manner that it purports to have been made by another or at another time, or with different provisions, or by authority of one who did not give such authority; or
- (2) Issues or delivers such document knowing it to have been thus made or altered; or
- (3) Possesses, with intent to issue or deliver, any such document knowing it to have been thus made or altered.

(b) An intent to defraud means an intention to cause another to assume, create, transfer, alter or terminate any right, obligation or power with reference to any person or property.

(c) A document apparently capable of defrauding another includes, but is not limited to, one by which any right, obligation or power may be created, transferred, altered or terminated.

(d) Penalty.

A person convicted of forgery shall be fined not to exceed \$1,000 or imprisoned in the penitentiary from one to 14 years, or both.

ARTICLE 18. ROBBERY

Sec.

- 18-1. Robbery.
- 18-2. Armed Robbery.

18-1. § 18-1. Robbery.] (a) A person commits robbery when he takes property from the person or presence of another by the use of force or by threatening the imminent use of force.

(b) Penalty.

A person convicted of robbery shall be imprisoned in the penitentiary from one to 20 years.

18-2. § 18-2. Armed Robbery.] (a) A person commits armed robbery when he violates Section 18-1 while armed with a dangerous weapon.

(b) Penalty.

A person convicted of armed robbery shall be imprisoned in the penitentiary for any indeterminate term with a minimum of not less than one year.

ARTICLE 19. BURGLARY

Sec.

- 19-1. Burglary.
- 19-2. Possession of Burglary Tools.

19-1. § 19-1. Burglary.] (a) A person commits burglary when without authority he knowingly enters into, or without authority remains

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within a building, house trailer, watercraft, aircraft, railroad car, or any part thereof, with intent to commit therein a felony or theft.

(b) Penalty.

A person convicted of burglary shall be imprisoned in the penitentiary for any indeterminate term with a minimum of not less than one year.

19-2. § 19-2. Possession of Burglary Tools.] Whoever possesses any key, tool, instrument, device, or any explosive, suitable for use in breaking into a building, house trailer, watercraft, aircraft, railroad car, or any depository designed for the safekeeping of property, or any part thereof, with intent to enter any such place and with intent to commit therein a felony or theft shall be imprisoned in the penitentiary from one to 2 years.

ARTICLE 20. ARSON

Sec.

20-1. Arson.

20-2. Possession of Explosives.

20-1. § 20-1. Arson.] A person commits arson when:

- (a) By means of fire or explosive, he knowingly:
 - (1) Damages any building of another without his consent; or
 - (2) Damages any vehicle, aircraft, or watercraft of another designed for use as a dwelling without his consent; or
 - (3) With intent to defraud an insurer, damages any building, vehicle, aircraft or watercraft designed for use as a dwelling.

(b) By means of explosives, he knowingly damages any property of another without his consent.

A building or property "of another" means a building or property in which a person other than the offender has an interest which the offender has no authority to defeat or impair, even though the offender may also have an interest in the building or property.

Penalty.

A person convicted of arson shall be imprisoned in the penitentiary for any indeterminate term with a minimum of not less than one year.

20-2. § 20-2. Possession of Explosives.] Whoever possesses, manufactures or transports any explosive compound and either intends to use such explosive to commit any offense or knows that another intends to use such explosive to commit an offense shall be imprisoned in the penitentiary from one to 20 years.

ARTICLE 21. DAMAGE AND TRESPASS TO PROPERTY

Sec.

21-1. Criminal Damage to Property.

21-2. Criminal Trespass to Vehicles.

21-3. Criminal Trespass to Land.

21-1. § 21-1. Criminal Damage to Property.] Whoever commits any of the following acts shall be fined not to exceed \$500 or imprisoned in a penal institution other than the penitentiary not to exceed one year, or both:

- (a) Knowingly damages any property of another without his consent; or
- (b) Recklessly by means of fire or explosive damages property of another; or
- (c) Knowingly starts a fire on the land of another without his consent; or
- (d) Knowingly injures a domestic animal of another without his consent; or

(e) Knowingly deposits on the land or in the building of another, without his consent, any stink bomb or any offensive smelling compound and thereby intends to interfere with the use by another of the land or building.

(f) Damages any property, other than property described in Subsection 20-1(3), with intent to defraud an insurer.

21-2. § 21-2. Criminal Trespass to Vehicles.] Whoever knowingly and without authority enters any vehicle, aircraft or watercraft or any part thereof of another without his consent shall be fined not to exceed \$500 or imprisoned in a penal institution other than the penitentiary not to exceed one year, or both.

21-3. § 21-3. Criminal Trespass to Land.] (a) Whoever enters upon the land or any part thereof of another, after receiving, immediately prior to such entry, notice from the owner or occupant that such entry is forbidden, or remains upon the land of another after receiving notice from the owner or occupant to depart, shall be fined not to exceed \$100 or imprisoned in a penal institution other than the penitentiary not to exceed 10 days.

(b) A person has received notice from the owner or occupant within the meaning of Subsection (a) if he has been notified personally, either orally or in writing, or if a printed or written notice forbidding such entry has been conspicuously posted or exhibited at the main entrance to such land or the forbidden part thereof.

PART D. OFFENSES AFFECTING PUBLIC HEALTH, SAFETY AND DECENCY

ARTICLE 22. NARCOTIC DRUGS

Uniform Narcotic Drug Act

Sec.

22-1.

Title of Act.

22-2.

Meanings of Words.

- (a) Person.
- (b) Physician.
- (c) Dentist.
- (d) Veterinarian.
- (e) Chiropodist.
- (f) Manufacturer.
- (g) Wholesaler.
- (h) Pharmacist.
- (i) Pharmacy.
- (j) Hospital.
- (k) Laboratory.
- (l) Sale.
- (m) Federal Narcotic Law.
- (n) Official written order.
- (o) Dispense.
- (p) Registry number.
- (q) Division.
- (r) Narcotic drugs.
- (s) Oral prescription narcotic drugs.
- (t) Addict.

22-3.

Violation.

22-4.

License necessary for manufacturers and wholesalers.

22-5.

Qualifications of applicant—Fees.

22-6.

Persons to whom drugs may be sold.

22-7.

Other persons to whom drugs may be sold.

22-8.

Official written order—Number of copies—Signature.

22-9.

Lawful possession.

22-10.

Use of drugs by authorized persons.

22-11.

Persons entitled to prescribe and administer drugs—Return of unused drugs.

- Sec.
 22-12. Application of act—Exemptions.
 22-13. Prescription blanks.
 22-14. Only official prescription forms to be used—Exceptions.
 22-15. Prescription books to be kept two years.
 22-16. Duplicate prescription forms to be returned to Division.
 22-17. Responsibility for proper use of drugs.
 22-18. Powers and duties of pharmacists.
 22-19. Records—Form.
 22-20. Order for drugs for use by hospital patients—Exemption from prescription requirements—Records.
 22-21. Labels.
 22-22. Containers.
 22-23. Common carriers, warehousemen, public employees—Application of act.
 22-24. Search and seizure—Access to property—Interference.
 22-25. Search warrants—Prosecution—Arrests without warrant.
 22-26. Confiscation of property.
 22-27. Seizure of property—Use as evidence.
 22-28. Forfeiture proceedings—Notice—Default—Disposition.
 22-29. Forfeiture proceedings—Hearing.
 22-29a. Hearings before division—Examination of books and records—Administration of oaths—Evidence.
 22-29b. Testimony of witnesses—Immunity from prosecution.
 22-29c. Subpoenas—Issuance and service—Fees of witnesses—Power of court to compel attendance—Depositions.
 22-30. Rights of mortgagees and lienholders.
 22-31. Review.
 22-32. Sale of forfeited property.
 22-33. Disposition of proceeds.
 22-34. Time of payment—Release of forfeited property—Use of forfeited property by the Division.
 22-35. Contraband.
 22-36. Forfeiture of illicit drugs—Disposition—Records.
 22-37. Conviction under act, grounds for revocation of license.
 22-38. Records to be inspected only by proper authority.
 22-39. Acquisition of drugs by fraud or deceit, unlawful.
 22-40. Penalties.
 22-41. Probation or parole—Periodic tests.
 22-42. Tests upon consent of arrested persons—Availability of results.
 22-43. Former conviction—Pleading—Consideration by court.
 22-44. Evidence.
 22-45. Duties of Division and its employees—Cooperation with other agencies.
 22-46. Double jeopardy.
 22-47. Constitutionality.
 22-48. Acts repealed.
 22-49. Effective date.

Hypodermic Syringes and Needles Act

- 22-50. Persons permitted to possess instruments adapted for use of narcotic drugs by subcutaneous injection.
 22-51. Sale or exchange of such instruments.
 22-52. Records—Inspection.

Sec.

- 22-53. Violation of Act—Punishment.
 22-54. Written or oral prescriptions by licensed physician—Refills—Certificates.

The Uniform Narcotic Drug Act, derived from act 1957, July 11, Laws 1957, p. 2569, and the Hypodermic Syringes and Needles Act, derived from act 1955, July 11, Laws 1955, p. 1408, set out in Ill.Rev.Stat.1959, ch. 38, as sections 192.28-1 to 192.28-14, and sections 192.33 to 192.37, respectively, have been incorporated in Article 22 of the Revised Criminal Code of 1961 as sections 22-1 to 22-54, by the Publishers, pursuant to request of the Revision Committee as follows: "In view of the extensive and comprehensive nature of the Uniform Narcotic Drug Act adopted by the General Assembly in 1957, effective January 1, 1958, the Committee deemed it unwise to attempt any modifications or amendments to the act in conjunction with the Code as a whole. It seems more appropriate to incorporate the present sections of the act into the format of the Code and then give special attention to any amendments that may seem indicated at a later date. The publisher of the statutes will be requested to incorporate such sections into Article 22 of the Code."

UNIFORM NARCOTIC DRUG ACT

AN ACT defining and relating to narcotic and other dangerous drugs, to make uniform the law with reference thereto and to repeal certain acts therein named. Approved July 11, 1957. L. 1957, p. 2569.

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

22-1. Title of Act.] § 1. This Act shall be known and may be cited as the "Uniform Narcotic Drug Act".

22-2. Meanings of words.] § 2. The following words and phrases shall have the meanings ascribed to them in Sections 2-1 to 2-19, inclusive.¹ As amended by act approved Aug. 1, 1961. L.1961, p. —, H.B.No.1632.

¹ Subsections (a) to (u) of this section.

(a) § 2-1. "Person" means and includes any corporation, association, copartnership or one or more individuals.

(b) § 2-2. "Physician" means any person authorized by law to practice medicine in all of its branches in this State.

(c) § 2-3. "Dentist" means any person authorized by law to practice dentistry in this State.

(d) § 2-4. "Veterinarian" means any person authorized by law to practice veterinary medicine in this State.

(e) § 2-5. "Chiropodist" means any person authorized by law to practice chiropody in this State.

(f) § 2-6. "Manufacturer" means any person who by compounding, mixing, cultivating, growing, or other processes, produces or prepares narcotic drugs, but does not include any pharmacist who compounds narcotic drugs to be sold or dispensed on prescription. As amended by act approved Aug. 1, 1961. L.1961, p. —, H.B.No.1632.

(g) § 2-7. "Wholesaler" means any person who supplies narcotic drugs on official written order, but not on prescription. As amended by act approved July 22, 1959. L.1959, p. 1893.

(h) § 2-8. "Pharmacist" means any person who holds a certificate of registration as a registered pharmacist, a local registered pharmacist, or a registered assistant pharmacist under the Pharmacy Practice Act.¹ As amended by act approved May 1, 1959. L.1959, p. 143.

¹ Chapter 91, §§ 55.1-55.24.

(i) § 2-8a. "Pharmacy" means and includes every store, shop, or other place in which pharmacy is authorized to be practiced under the Pharmacy Practice Act.¹ Added by act approved May 1, 1959. L.1959, p. 143.

¹ Chapter 91, §§ 55.1-55.24.

(j) § 2-9. "Hospital" means an institution for the care and treatment of the sick and injured, approved by the Division to be entrusted with the custody of narcotic drugs and the professional use of narcotic drugs under the direction of a physician, dentist, chiropractist or veterinarian. As amended by act approved July 22, 1959. L.1959, p. 1893.

(k) § 2-10. "Laboratory" means a laboratory approved by the Division as proper to be entrusted with the custody of narcotic drugs and the use of narcotic drugs for scientific and medical purposes and for purposes of instruction.

(l) § 2-11. "Sale" means and includes traffic in, barter, exchange, or gift, or offer therefor, and each such transaction made by any person whether as principal, proprietor, broker, agent, servant or employee.

(m) § 2-12. "Federal narcotic law" means the laws of the United States relating to narcotic drugs. 1957, July 11, Laws 1957, p. 2569, § 2-12.

(n) § 2-13. "Official written order" means an order written on a form provided for that purpose by United States Secretary of the Treasury or his delegate, under any laws of the United States making provisions therefor, if such order forms are authorized and required by federal law, and if no such order form is provided, then on an official form provided for that purpose by the Division. As amended by act approved July 22, 1959. L. 1959, p. 1893.

(o) § 2-14. "Dispense" includes distribute, leave with, give away, dispose of, or deliver.

(p) § 2-15. "Registry Number" means the number assigned to each person under the Federal Narcotic Laws.

(q) § 2-16. "Division" means the Division of Narcotic Control.

(r) "Narcotic Drugs" means any of the following:

- (1) Alpha eucaine
- (2) Beta eucaine
- (3) "Cannabis" includes all parts of the plant *Cannabis Sativa* L. (commonly known as marihuana), whether growing or not; the seeds thereof; the resin extracted from any part of such plant; and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds, or resin; but shall not include the mature stalks of such plant, fiber produced from such stalks, oil or cake made from the seeds of such plant, any other compound, manufacture, salt, derivative, mixture, or preparation of such mature stalks (except the resin extracted therefrom) fiber, oil or cake, or the sterilized seed of such plant which is incapable of germination.
- (4) "Opium" includes morphine, codeine, and heroin, and any compound, manufacture, salt, derivative, mixture, or preparation

of opium, but does not include apomorphine or any of its salts.

- (5) "Coca leaves" includes cocaine, and any compound, manufacture, salt, derivative, mixture, or preparation of coca leaves, except derivatives of coca leaves which do not contain cocaine, ecgonine, or substance from which cocaine or ecgonine may be synthesized or made.
- (6) "Isonipecaïne" means the substance identified chemically as 1-methyl-4-phenyl-piperidine-4-carboxylic acid ethyl ester, or any salt thereof by whatever trade name identified.
- (7) "Methadon" means the substance identified chemically as 4-4-Diphenyl-6-Dimethylamino-Heptanone-3, or any salt thereof by whatever trade name identified.
- (8) All parts of the plant of the genus *Lophophora* whether growing or otherwise; the buttons thereof, the alkaloids extracted from any such plant; and every compound salt, derivative, mixture or preparation of such plant.
- (9) "Dromoran" means any substance identified chemically as dl-3-hydroxy-N-methylmorphinan, 1-3-hydroxy-N-methylmorphinan (except d-3-hydroxy-N-methylmorphinan), dl-3-methoxy-N-methylmorphinan, or 1-3-methoxy-N-methylmorphinan (except d-3-methoxy-N-methylmorphinan), or any salt thereof by whatever trade name designated.
- (10) "Nisentil" means any substance identified chemically as 2-1, 3-dimethyl-4-phenyl-4-propionoxy-piperidine or any salt thereof by whatever trade name designated.
- (11) "Ketobemidone" means any substance identified chemically as 4-(3-hydroxyphenyl)-1-methyl-4-piperidyl ethyl ketone or any salt thereof by whatever trade name designated.
- (12) Any other narcotic drugs added by rule by the Division; provided, however, that such rule shall be drafted in the form of proposed narcotic law for submission to the next succeeding general session of the General Assembly and that no such rule shall remain in effect beyond 30 days after the final adjournment of that session of the General Assembly. As amended by act approved July 22, 1959. L.1959, p. 1893.

(s) § 2-17a. "Oral Prescription Narcotic Drugs" means any of the following:

- (1) Any isoquinoline alkaloid of opium or any salt of any such isoquinoline alkaloid, alone or in combination with other active, non-narcotic medicinal ingredients.
- (2) N-allylnormorphine (Nalorphine, Nal-line) or any salt thereof, alone or in combination with other active, non-narcotic medicinal ingredients.
- (3) Any compound consisting of methylmorphine (codeine) or of any salt thereof with an equal or greater quantity of any isoquinoline opium alkaloid or salt thereof, where the content of methylmorphine or any salt thereof does not exceed eight grains per fluid ounce or one grain per dosage unit of the compound.
- (4) Any compound consisting of methylmorphine (codeine) or of any salt thereof with one or more active, non-narcotic ingredients in recognized therapeutic

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amounts, where the content of methylmorphine or salt thereof does not exceed eight grains per fluid ounce or one grain per dosage unit of the compound.

- (5) Any compound consisting of dihydrocodeinone (Hydrocodone, Diconid, Hycodan) or of any salt thereof with a four-fold or greater quantity of any isoquinoline opium alkaloid or salt thereof, where the content of dihydrocodeinone or any salt thereof does not exceed one and one-third grains per fluid ounce or one-sixth grain per dosage unit of the compound.
- (6) Any compound consisting of dihydrocodeinone (Hydrocodone, Diconid, Hycodan) or any salt thereof with one or more active, non-narcotic ingredients in recognized therapeutic amounts, where the contents of dihydrocodeinone or of any salt thereof does not exceed one and one-third grains per fluid ounce or one-sixth grain per dosage unit of the compound.
- (7) Any compound consisting of dihydrohydroxycodone (Oxycodone, Eucodal) or any salt thereof with one or more active, non-narcotic ingredients in recognized therapeutic amounts, where the content of dihydrohydroxycodone or of any salt thereof does not exceed two-thirds grains per fluid ounce or one-twelfth grain per dosage unit of the compound.
- (8) Any compound consisting of ethylmorphine (Dionin) or of any salt thereof with one or more active, non-narcotic ingredients in recognized therapeutic amounts, where the content of ethylmorphine or any salt thereof does not exceed one and one-third grains per fluid ounce or one-sixth grain per dosage unit of the compound.
- (9) Any compound consisting of dihydrocodeine or any salt thereof with one or more active non-narcotic ingredients in recognized therapeutic amounts, where the content of dihydrocodeine or any salt thereof does not exceed eight grains per fluid ounce or one grain per dosage unit of the compound.
- (10) Other oral prescription narcotic drugs may be added, or any oral prescription narcotic drugs may be deleted by rule by the Division; provided, however, that such rule shall conform to regulations promulgated by the United States Secretary of the Treasury under the Federal narcotic law and shall be drafted in the form of proposed narcotic law for submission to the next succeeding general session of the General Assembly and that no such rule shall remain in effect beyond 30 days after the final adjournment of that session of the General Assembly. Added by act approved May 1, 1959. L.1959, p. 143.

(t) § 2-18. "Addict" means any person who unlawfully uses any narcotic drug or any person who has lost the power of self-control with reference to narcotic drugs and abuses the use of the narcotic drug to such an extent that the person or society is harmed.

(u) § 2-19. "Nurse" means a registered nurse as defined in the Illinois Nursing Act.¹ Added by

act approved Aug. 1, 1961. L.1961, p. —, H.B. No.1632.

¹ Chapter 81, § 35.32 et seq.

22-3. Violation.] § 3. It is unlawful for any person to manufacture, possess, have under his control, sell, prescribe, administer, dispense or compound any narcotic drug, except as authorized in this Act. No person shall unlawfully use, or be under the influence of or be addicted to the unlawful use of narcotic drugs. As amended by act approved July 22, 1959. L.1959, p. 1893.

22-4. License necessary for manufacturers and wholesalers.] § 4. No person shall act as a manufacturer or wholesaler as defined in this Act in this State without having first obtained a license so to do from the Division for each location in which a person acts as a manufacturer or wholesaler. As amended by act approved July 22, 1959. L.1959, p. 1893.

22-5. Qualifications of applicant—Fees.] § 5. No license shall be issued under Section 4,¹ unless and until the applicant therefor has furnished proof satisfactory to the Division:

(a) that the applicant is of good moral character or, if the applicant be an association or corporation, that the managing officers are of good moral character;

(b) that the applicant is equipped as to land, buildings, and paraphernalia properly to carry on the business described in his application;

(c) no license shall be granted to any person who has within 5 years been convicted of a willful violation of any law of the United States or of any State, relating to narcotic drugs or to any person who is an addict;

(d) the Division may suspend or revoke any license for cause.

The license fee for a license as a manufacturer or wholesaler of narcotic drugs shall be \$50.00 per year and the license fee for a license as a manufacturer or wholesaler of only exempt preparations under Section 12 of this Act² shall be \$15.00 per year. Each such license shall expire on the 31st day of December of each year. As amended by act approved Aug. 1, 1961. L.1961, p. —, H.B.No.1632.

¹ Section 22-4 of this chapter.

² Section 22-12 of this chapter.

22-6. Persons to whom drugs may be sold.] § 6. A duly licensed manufacturer or wholesaler may sell and dispense narcotic drugs to any of the following persons, but only on official written orders:

(a) to a manufacturer, wholesaler, or pharmacy;

(b) to a physician, dentist, chiropodist, veterinarian or pharmacist;

(c) to a person in charge of a hospital, but only for use by or in that hospital;

(d) to a person in charge of a laboratory, but only for use in that laboratory for scientific and medical purposes. As amended by act approved May 1, 1959. L.1959, p. 143.

22-7. Other persons to whom drugs may be sold.] § 7. A duly licensed manufacturer or wholesaler may sell narcotic drugs to any of the following persons:

(a) on a special written order accompanied by a certificate of exemption, as required by the Federal Narcotic Laws to a person in the employ of the United States Government or of any State,

territorial, district, county, municipal, or insular government, purchasing, receiving, possessing or dispensing narcotic drugs by reason of his official duties.

(b) to a master of a ship or a person in charge of any aircraft upon which no physician is regularly employed, for the actual medical needs of persons on board such ship or aircraft, when not in port; Provided, such narcotic drugs shall be sold to the master of such ship or person in charge of such aircraft only in pursuance of a special order form approved by a commissioned medical officer or acting assistant surgeon of the United States Public Health Service.

(c) to a person, in a foreign country if the provisions of the Federal Narcotic Laws are complied with.

22-8. Official written order—Number of copies—Signature.] § 8. An official written order for any narcotic drug shall be signed in duplicate by the person giving the order or by his duly authorized agent. The original shall be presented to the person who sells or dispenses the narcotic drug or drugs named therein. In event of the acceptance of such order by said person, each party to the transaction shall preserve his copy of such order for a period of 2 years, in such a way as to be readily accessible for inspection by any public officer or employee engaged in the enforcement of this Act.

This Section is complied with if the parties to the transaction have complied with the Federal Narcotic Laws, respecting the requirements governing the use of order forms, if any.

22-9. Lawful possession.] § 9. Possession of or control of narcotic drugs obtained as authorized by Sections 6, 7 and 8,¹ shall be lawful if in the regular course of business, occupation, profession, employment, or duty of the possessor.

¹ Sections 22-6 to 22-8 of this chapter.

22-10. Use of drugs by authorized persons.] § 10. Any person in charge of a hospital or a laboratory, or in the employ of this State or of any other State, or of any political subdivision thereof, and a master or other proper officer of a ship or aircraft, who obtains narcotic drugs under the provisions of Sections 6, 7 and 8¹ or otherwise, shall not administer nor dispense, nor otherwise use such drugs, within this State, except within the scope of his employment or official duty, and then only for scientific or medical purposes and subject to the provisions of this Act.

¹ Sections 22-6 to 22-8 of this chapter.

22-11. Persons entitled to prescribe and administer drugs—Return of unused drugs.] § 11. A dentist or chiropodist, in good faith and in the course of his professional practice only, may prescribe, administer and dispense narcotic drugs.

A physician may prescribe for, furnish to, or administer narcotic drugs to his patient when the patient is suffering from a disease, ailment, injury or infirmities attendant upon old age, other than for addiction. A physician shall prescribe, furnish or administer narcotic drugs only when in good faith he believes the disease, ailment, injury or infirmity requires such treatment and only in such quantity and for such length of time as are reasonably necessary; provided, however, that a physician may treat any addict who is confined to any city or county jail, penitentiary, or any county, state, or federal hospital or any hospital approved by the Division for the treatment of such addiction.

A physician, dentist or chiropodist may cause narcotic drugs to be administered by a nurse or intern under his direction.

A veterinarian, in good faith and in the course of his professional practice only, and not for use by a human being, may prescribe, administer, and dispense narcotic drugs, and he may cause them to be administered by an assistant or orderly under his direction and supervision.

Any person who has obtained from a physician, dentist, chiropodist, or veterinarian any narcotic drug for administration to a patient during the absence of such physician, dentist, chiropodist or veterinarian, shall return to such physician, dentist, chiropodist or veterinarian, any unused portion of such drug, when it is no longer required by the patient. As amended by act approved July 22, 1959. L.1959, p. 1893.

22-12. Application of act—Exemptions.] § 12. Except as otherwise in this Act specifically provided, this Act shall not apply to the following cases:

(1) Prescribing, administering, dispensing, or selling at retail of any medicinal preparation that contains in one fluid ounce, or if a solid or semi-solid preparation, in one avoirdupois ounce, (a) not more than two grains of opium, (b) not more than one-quarter of a grain of morphine or of any of its salts, (c) not more than one grain of codeine or of any of its salts, and not more than one of the drugs named above in clauses (a), (b) and (c).

(2) Prescribing, administering, dispensing, or selling at retail of liniments, ointments, and other preparations, that are susceptible of external use only and that contain narcotic drugs in such combinations as prevent their being readily extracted from such liniments, ointments, or preparations, except that this Act shall apply to all liniments, ointments, and other preparations, that contain coca leaves in any quantity or combination.

(3) The Division may by regulation exempt from the application of this Act, to such extent as it determines to be consistent with the public welfare, pharmaceutical preparations, except those preparations designated in paragraph (1) of this Section, found by the Division after due notice and opportunity for hearing (a) either to possess no addiction-forming or addiction-sustaining liability, or not to possess an addiction-forming or addiction-sustaining liability sufficient to warrant imposition of all of the requirements of this Act, and (b) does not permit recovery of a narcotic drug having such addiction-forming or addiction-sustaining liability, with such relative technical simplicity and degree of yield as to create a risk of improper use. In exercising the authority granted by this paragraph, the Division by regulation and without hearings and special findings may grant exempt status to such pharmaceutical preparations in accordance with regulation promulgated by the Secretary of Treasury under the Federal narcotic law. At least 10 days prior to the adoption of a regulation exempting such pharmaceutical preparations or the repeal of a regulation exempting such pharmaceutical preparations, the Division shall publish its action and the effective date thereof in the official newspaper selected by the Department of Finance of the State of Illinois, pursuant to Section 28 of "The Civil Administrative Code of Illinois", approved March 7, 1917, as amended.¹ The decision of the Division with reference to any such regulation shall be final.

(4) The exemptions authorized by this Section shall be subject to the following conditions:

(a) No person shall prescribe, administer, dispense, or sell under the exemption of

paragraph (1) of this Section, to any one person, or for the use of any one person or animal, any preparation or preparations included within that paragraph, when he knows, or can by reasonable diligence ascertain, that such prescribing, administering, dispensing, or selling will provide the person to whom or for whose use, or the owner of the animal for the use of which, such preparation is prescribed, administered, dispensed or sold, within any 48 consecutive hours, with more than four grains of opium, or more than one-half grain of morphine or any of its salts, or more than four grains of codeine or of any of its salts, or will provide such person or the owner of such animal, within 48 consecutive hours, with more than one preparation exempted by paragraph (1) of this Section from the operation of this Act.

- (b) The medicinal preparation, or the liniment, ointment, or other preparation susceptible of external use only, prescribed, administered, dispensed, or sold, shall contain, in addition to the narcotic drug in it, some drug or drugs conferring upon it medicinal qualities other than those possessed by the narcotic drug alone.
 - (c) Such preparation shall be prescribed, administered, dispensed, and sold in good faith as a medicine, and not for the purpose of evading the provisions of this Act.
- (5) Nothing in this Section shall be construed to limit the kind and quantity of any narcotic drug that may be prescribed, administered, dispensed, or sold to any person or for the use of any person or animal, when it is prescribed, administered, dispensed, or sold in compliance with the general provisions of this Act. As amended by act approved Aug. 1, 1961. L.1961, p. —, H.B.No.1632.

¹ Chapter 127, § 28.

22-13. Prescription blanks.] § 13. Every physician, dentist, chiroprapist or veterinarian who issues a prescription shall issue such prescription on prescription blanks which shall be issued by the Division, except as provided in Section 14 of the Act.¹ The prescription blanks issued by the Division shall be in serial numbered groups of 100 forms each in triplicate and shall be furnished at the cost of \$1.00 per group to such physician, dentist, chiroprapist or veterinarian, and such prescription blanks shall not be transferable.

The prescription blanks shall be printed on distinctive paper, serial number of the group being shown on each form and also each form being serially numbered. No more than one such prescription group shall in any case be issued or furnished by the Division to the same prescriber at one time. As amended by act approved May 1, 1959. L.1959, p. 143, § 1.

¹ Section 22-14 of this chapter.

22-14. Only official prescription forms to be used—Exception.] § 14. No person shall issue a prescription other than on the official prescription form issued by the Division and no person shall fill any prescription other than on the official prescription form issued by the Division; provided that in the case of an epidemic or a sudden or unforeseen accident or calamity, the prescriber may issue a prescription on a form other than the official prescription form issued by the Division, where failure to issue such a prescription might result in loss of life or intense suffering, but such prescription shall have endorsed thereon by the prescriber a state-

ment concerning the accident, calamity, or circumstance constituting the emergency, the cause of which the unofficial blank was used; and provided further, that in cases in which a prescriber prescribes oral prescription narcotic drugs, such prescriber may issue a prescription on a form other than the official prescription blanks. All prescriptions on the official blanks shall be written in triplicate and all three copies signed by the prescriber. As amended by act approved May 1, 1959. L.1959, p. 143.

22-15. Prescription books to be kept two years.] § 15. The prescription book containing the prescribers copies of prescriptions issued shall be retained by the prescriber which shall be preserved for 2 years and shall at all times be open to inspection by any officer or employee engaged in the enforcement of this Act. If any prescription forms are lost or stolen, such loss shall be reported to the local authorities and the Division as soon as such loss is discovered.

22-16. Duplicate prescription forms to be returned to Division.] § 16. The original and one copy of the prescription shall be delivered to the person filling the prescription. The duplicate shall be properly endorsed by the person filling the prescription at the time such prescription is filled. The original shall be retained by the person filling the prescription and by the 15th of the month following the month in which the prescription was filled, the duplicate shall be returned to the Division.

22-17. Responsibility for proper use of drugs.] § 17. The responsibility for the proper prescribing and dispensing is upon the physician, dentist, chiroprapist or veterinarian, but a corresponding liability rests with the pharmacist who fills the prescription.

22-18. Powers and duties of pharmacists.] § 18. A pharmacist, in good faith, may sell and dispense narcotic drugs to any person upon a written prescription of a physician, dentist, chiroprapist or veterinarian, dated and signed by the person prescribing on the day when issued and bearing the name and address of the patient for whom, or of the owner of the animal for which, the drug is dispensed, and the full name, address and registry number under the Federal Narcotic Laws of the person prescribing, if he is required by those laws to be registered. If the prescription is for an animal it shall state the species of animal for which it is ordered. The pharmacist filling the prescription shall write the date of filling and his own signature on the face of the prescription. The prescription shall be retained on file by the pharmacist who filled it or pharmacy in which the prescription was filled for a period of 2 years, so as to be readily accessible for inspection or removal by any public officer or employee engaged in the enforcement of this Act. Whenever the pharmacist's or pharmacy's copy of the narcotic drug prescription is removed by a public officer or employee engaged in the enforcement of this Act, for the purpose of investigation or as evidence, such officer or employee shall give to the pharmacist or pharmacy a receipt in lieu thereof.

No pharmacist shall refill a narcotic prescription; provided, however, where a prescription was originally issued for a narcotic drug prescription for which a prescription was not by law required, such prescription can be refilled unless the prescriber otherwise directs.

Provided, that in lieu of a written prescription required by this Section, a pharmacist, in good faith, may sell and dispense oral prescription narcotic drugs to any person, upon an oral prescription of a physician, dentist, chiropodist or veterinarian, which oral prescription shall be reduced promptly to writing by the pharmacist and such written memorandum thereof shall be dated on the day when such oral prescription is received by the pharmacist and shall bear the full name and address of the patient for whom, or of the owner of the animal for which, the drug is dispensed, and the full name, address, and registry number under the Federal Narcotic Laws of the person prescribing if he is required by those laws to be so registered, and the person filling such oral prescription shall write the date of filling and his own signature on the face of such written memorandum thereof. The written memorandum of the oral prescription shall be retained on file by the proprietor of the pharmacy in which it is filled for a period of not less than two years, so as to be readily accessible for inspection by any public officer or employee engaged in the enforcement of law, in the same manner as a written prescription signed by the person prescribing; and the oral prescription and the written memorandum thereof shall not be refilled. The Superintendent of the Division may, in his discretion, require a copy of a prescription for oral prescription narcotic drugs written on a form other than the official form and a copy of the written memorandum mailed to the Division by the 15th of the month following the month in which such written or oral prescription was filled.

If the legal owner of any stock of narcotic drugs in a pharmacy discontinues dealing in said drugs, he may sell such stock to a manufacturer, wholesaler or another pharmacist, but only on official written order.

A pharmacist or pharmacy, only on an official written order, may sell to a physician, dentist, chiropodist or veterinarian, in quantities not exceeding one ounce at any one time, aqueous or cleaginous solutions of which the content of narcotic drugs does not exceed a proportion greater than 20% of the complete solution, to be used for medical purposes. As amended by act approved May 1, 1959. L.1959, p. 143.

22-10. Records—Form.] § 19. Every physician, dentist, chiropodist or veterinarian shall keep a record of such drugs received by him and a record of all such drugs administered, dispensed, or professionally used by him otherwise than by prescription. It shall, however, be deemed a sufficient compliance with this paragraph if any such person using small quantities of solutions or other preparations of such drugs for local application, shall keep a record of the quantity, character, and potency of such solutions or other preparations purchased or made by him, and of the dates when purchased or made up, without keeping a record of the amount of such solution or other preparation applied by him to individual patients.

Provided, that no record need be kept of narcotic drugs administered, dispensed, or professionally used in the treatment of any one patient, when the amount administered, dispensed, or professionally used for that purpose does not exceed in any 48 hours, (a) four grains of opium, or (b) one-half of a grain of morphine or of any of its salts, or (c) two grains of codeine or of any of its salts, or (d) a quantity of any other narcotic drugs, or any combination of narcotic drugs that does not exceed in pharmacologic potency any one of the drugs named above in the quantity stated.

Manufacturers and wholesalers, including manufacturers and wholesalers of narcotic drug preparations exempted by Section 12 of this Act,¹ shall keep records of all narcotic drugs compounded, mixed, cultivated, grown, or by any other process produced or prepared, and of all narcotic drugs received and disposed of by them, in accordance with the provisions of this Section.

Pharmacists or pharmacies shall keep records of all narcotic drugs received and disposed of by them, in accordance with the provisions of this Section.

Every person who purchases for resale, or who sells narcotic drug preparations exempted by Section 12 of this Act, shall keep a record showing the quantities and kinds thereof received and sold, or disposed of otherwise, in accordance with the provisions of this Section. Records of such disposition shall be made at the time of each transaction.

The form of records shall be prescribed by the Division. The record of narcotic drugs received shall in every case show the date of receipt, the name and address of the person from whom received, and the kind and quantity of drugs produced or removed from process of manufacture, and the date of such production or removal from process of manufacture; and the record shall in every case show the proportion of morphine, cocaine, or ecgonine contained in or producible from crude opium or coca leaves received or produced and the proportion of resin contained in or producible from the plant *Cannabis Sativa L.* (commonly known as marihuana), received or produced. The record of all narcotic drugs sold, administered, dispensed, or otherwise disposed of, shall show the date of selling, administering, or dispensing, the name and address of the person to whom, or for whose use, or the owner and species of animal for which sold, administered or dispensed, and the kind and quantity of drugs. Every such record shall be kept for a period of two years from the date of the transaction recorded. The keeping of a record required by or under the Federal Narcotic Laws, containing substantially the same information as is specified above, shall constitute compliance with this Section, except that every such record shall contain a detailed list of narcotic drugs lost, destroyed, or stolen, if any, the kind and quantity of such drugs, the date of the discovery of such loss, destruction, or theft; provided, that, any narcotic drugs which are lost or stolen shall be immediately reported to the local authorities and the Division. As amended by act approved July 22, 1959. L. 1959, p. 1893.

¹ Section 22-12 of this chapter.

22-20. Order for drugs for use by hospital patients—Exemption from prescription requirements—Records.] § 19a. An order for narcotic drugs for use by a patient in a hospital shall be exempt from all of the requirements of Sections 13, 14, 15, 16 and 20 of this Act,¹ but shall be in writing on the patient's record, signed by the prescriber, dated, and shall state the name and quantity of narcotic drugs ordered and the quantity actually administered. The records of such orders shall be maintained as a hospital record for two years and shall be available for inspection by officers and employees of the Division. Added by act approved July 29, 1959. L.1959, p. 1893.

¹ Sections 22-13 to 22-16, 22-21 of this chapter.

22-21. Labels.] § 20. Whenever a manufacturer sells or dispenses a narcotic drug, and whenever a wholesaler sells and dispenses a narcotic drug in a package prepared by him, he shall se-

curely affix to each package in which that drug is contained a label showing in legible English the name and address of the vendor and the quantity, kind, and form of narcotic drug contained therein. No person except a pharmacist for the purpose of filling a prescription under this Act, shall alter, deface, or remove any label so affixed.

Whenever a pharmacist sells or dispenses any narcotic drug on a written or oral prescription issued by a physician, dentist, chiroprapist or veterinarian, he shall affix to the container in which such drug is sold or dispensed, a label showing his own name, address, and registry number, of the pharmacist; the name and address of the patient or, if the patient is an animal, the name and address of the owner of the animal and the species of the animal; the name, address, and registry number of the physician, dentist, chiroprapist, or veterinarian, by whom the written or oral prescription was issued; and such directions as may be stated on the written prescription or on the written memorandum of the oral prescription. No person shall alter, deface or remove any label so affixed.

22-22. Containers.] § 21. A person to whom or for whose use any narcotic drug has been prescribed, sold, or dispensed by a physician, dentist, chiroprapist, or other person authorized under the provisions of Sections 6, 7, 8, 9 and 10 of this Act,¹ and the owner of any animal for which such drug has been prescribed, sold, or dispensed by a veterinarian, may lawfully possess it only in the container in which it was delivered to him by the person selling or dispensing the same.

¹ Sections 22-6 to 22-10 of this chapter.

22-23. Common carriers, warehousemen, public employees, application of act.] § 22. The provisions of this Act restricting the possessing and having control of narcotic drugs shall not apply to common carriers or to warehousemen, while engaged in lawfully transporting or storing such drugs, or to any employee of the same acting within the scope of his employment; or to public officers or employees in the performance of their official duties requiring possession or control of narcotic drugs; or to temporary incidental possession by employees or agents of persons lawfully entitled to possession, or by persons whose possession is for the purpose of aiding public officers in performing their official duties.

22-24. Search and seizure—Access to property—Interference.] § 23. Officers and employees of the Division shall have power and authority, without a warrant, to enter and examine all buildings, vessels, cars, conveyances, vehicles or other structures or places, and to open and examine any box, barrel, parcel, package or other receptacle in the possession of any common carrier, which they have reason to believe contains narcotic drugs manufactured, bought, sold, shipped or had in possession contrary to any of the provisions hereof, or that the receptacle containing the same is falsely labeled.

Officers and employees of the Division shall be given free access to and shall not be hindered or interfered with in their examination of buildings, vessels, cars, conveyances, vehicles or other structures or places. As amended by act approved July 22, 1959. L.1959, p. 1893.

22-25. Search warrants — Prosecution — Arrests without warrant.] § 24. Whenever any person shall have reason to believe that any other person has in his possession any narcotic drugs con-

trary to the provisions hereof, he may file, or cause to be filed, his sworn complaint to such effect, before a court of competent jurisdiction and procure a search warrant and the same shall be executed as provided in Sections 3, 4 and 5 of Division VIII of "An Act in relation to criminal jurisprudence", approved March 27, 1874, as amended.¹ Upon the execution of such a search warrant, the officer executing same shall make due return thereof to the court issuing the same, together with an inventory of all narcotic drugs taken hereunder. The court shall thereupon issue process against the person owning or controlling the narcotic drugs, and upon return thereof, it shall proceed to determine whether or not the same were held or possessed in violation of the terms hereof, and in case of a finding to the effect that the drugs were so illegally held or possessed, a judgment shall be entered against the owner, or person found in possession of the same, for the costs of the proceeding and providing for the disposition of the property seized, as provided for by the terms hereof.

Officers and employees of the Division and other law enforcement officers whose duties are to enforce this Act may make arrests without warrants for violations of this Act where the violation is committed in the presence of the person making the arrest or where such person has reasonable grounds to believe that the person to be arrested has committed or is committing such violation. As amended by act approved July 22, 1959. L.1959, p. 1893.

¹ Sections 693-695 of this chapter.

22-26. Confiscation of property.] § 25. Any vehicle, boat or aircraft which is used to unlawfully transport or facilitate the unlawful transportation or unlawful sale of any narcotic drug, or in which any narcotic drug is unlawfully kept, deposited, or concealed or which is used to facilitate the unlawful keeping, depositing, concealing or selling of any narcotic drug or if any narcotic drug is unlawfully possessed by an occupant thereof or which is used to facilitate the unlawful possession or unlawful sale of any narcotic drug by an occupant thereof shall be forfeited to the State, except that any vehicle designed to transport 10 people or more, boat or aircraft being used for public transportation for hire is not subject to forfeiture if it is proven that the owner of the vehicle, boat or aircraft had no knowledge that the occupant thereof had narcotic drugs in his possession and no knowledge that the vehicle, boat or aircraft was being used unlawfully. As amended by act approved Aug. 1, 1961. L.1961, p. —, H.B.No.1650.

22-27. Seizure of property—Use as evidence.] § 26. Any public officer or employee engaged in the enforcement of this Act, upon making or attempting to make an arrest for violation of Section 25,¹ shall seize such vehicle, boat or aircraft used and shall immediately deliver such vehicle, boat or aircraft to the Superintendent of the Division of Narcotic Control to be held as evidence until the forfeiture has been declared or a release ordered, as hereinafter provided.

¹ Section 22-26 of this chapter.

22-28. Forfeiture proceedings—Notice—Default—Disposition.] § 27. Notice of seizure and intended forfeiture proceedings of any vehicle, aircraft or boat taken pursuant to Section 26¹ shall be given to each person according to the following method:

Upon each such person whose right, title or interest is of record in the office of the Secretary of State, the Director of the Department of Aeronautics, the

Director of the Department of Public Works and Buildings, or any other Department of this State, or any other state of the United States if such vehicle, aircraft or boat is required to be so registered, as the case may be, by mailing a copy of the notice by certified mail to the address as given upon the records of the Secretary of State, the Department of Aeronautics, Department of Public Works and Buildings or any other Department of this State or the United States if such vehicle, aircraft or boat is required to be so registered.

Within 20 days after the mailing of the notice, any such person may file a verified answer with the Division to the fact of the use of such vehicle, aircraft or boat alleged in the notice of seizure of the intended forfeiture proceedings. No extensions of time shall be granted for the purpose of filing an answer.

If, at the end of the 20 days after the notice has been mailed, there is no verified answer on file, the Division, after hearing, may declare such vehicle, aircraft or boat forfeited to the State. Notwithstanding any other provision of law, a copy of the forfeiture, duly filed with the Secretary of State, the Director of Aeronautics, Director of Public Works and Buildings, or the officer in charge of any other Department of this State, or the United States if such vehicle, aircraft or boat is required to be so registered, as the case may be, shall constitute authority for the State to convey clear title to such vehicle, aircraft or boat to any purchaser thereof in the manner provided in this Act. As amended by act approved Aug. 1, 1961. L.1961, p. —, H.B.No.1633.

¹ Section 22-27 of this chapter.

Final legislative action, 1961 General Assembly:
H.B.No.1633 — June 29, 1961.
H.B.No.1650 — June 30, 1961.

As to the effect of more than one amendment of a section at the same session of the General Assembly, see P. ex rel. Hines v. Baltimore & O. S. W. R. Co., 366-318, 8 N.E.2d 655; P. ex rel. Martin v. Village of Oak Park, 372-488, 24 N.E.2d 571; S. Buchsbaum & Co. v. Gordon, 389-493, 59 N.E.2d 832; P. ex rel. Schlaeger v. Mattes, 396-348, 71 N.E.2d 690.

*Amendment by Laws 1961, p. —, H.B.No.1650,
see § 22-28, post.*

22-28. Forfeiture proceedings — Notice — Default—Disposition.] § 27. Within 10 days after seizure, notice of seizure and intended forfeiture proceedings of any vehicle, aircraft or boat taken pursuant to Section 26¹ shall be given to each person according to the following method:

Upon each such person whose right, title or interest is of record in the office of the Secretary of State, the Director of the Department of Aeronautics, the Director of the Department of Public Works and Buildings, or any other Department of this State, or any other state or the United States if such vehicle, aircraft or boat is required to be so registered, as the case may be, by mailing a copy of the notice by certified mail to the address as given upon the records of the Secretary of State, the Department of Aeronautics, Department of Public Works and Buildings or any other Department of this State or the United States if such vehicle, aircraft or boat is required to be so registered.

Within 20 days after the mailing of the notice, any such person may file a verified answer with the Division to the fact of the use of such vehicle, aircraft or boat alleged in the notice of seizure of the intended forfeiture proceedings. No extensions of time shall be granted for the purpose of filing an answer.

If, at the end of the 20 days after the notice has been mailed, there is no verified answer on file, the court, upon motion, shall declare such vehicle, aircraft or boat is forfeited to the State. Notwithstanding any other provision of law, a copy of the forfeiture, duly filed with the Secretary of State, the Director of Aeronautics, Director of Public Works and Buildings, or the officer in charge of any other Department of this State or the United States if such vehicle, aircraft or boat is required to be so registered, as the case may be, shall constitute authority for the State to convey clear title to such vehicle, aircraft or boat to any purchaser thereof in the manner provided in this Act. As amended by act approved Aug. 1, 1961. L.1961, p. —, H.B. No.1650.

¹ Section 22-27 of this chapter.

*Amendment by Laws 1961, p. —, H.B.No.1633,
see § 22-28, ante.*

22-29. Forfeiture proceedings — Hearing.] § 28. If a verified answer is filed to the forfeiture proceedings, the forfeiture proceedings shall be set for hearing 30 days after such answer is filed, or within 30 days after the 20 days the notice has been mailed.

Notice of the hearing shall be given in the same manner as provided for service of notice of seizure.

At the hearing, any person who has a verified answer on file may show by competent evidence that such vehicle, boat or aircraft was not used to transport narcotic drugs or to facilitate the unlawful transportation or unlawful sale of narcotic drugs, or that narcotic drugs were not unlawfully possessed by an occupant of the vehicle, boat or aircraft or that the vehicle, boat or aircraft was not used to facilitate the unlawful possession or selling of narcotic drugs by an occupant thereof. As amended by act approved Aug. 1, 1961. L.1961, p. —, H.B.No.1633.

Final legislative action, 1961 General Assembly:
H.B.No.1633 — June 29, 1961.
H.B.No.1650 — June 30, 1961.

As to the effect of more than one amendment of a section at the same session of the General Assembly, see P. ex rel. Hines v. Baltimore & O. S. W. R. Co., 366-318, 8 N.E.2d 655; People ex rel. Martin v. Village of Oak Park, 372-488, 24 N.E.2d 571; S. Buchsbaum & Co. v. Gordon, 389-493, 59 N.E.2d 832; P. ex rel. Schlaeger v. Mattes, 396-348, 71 N.E.2d 690.

*Amendment by Laws 1961, p. —, H.B.No.1650,
see § 22-29, post.*

22-29. Forfeiture proceedings — Hearing.] § 28. If a verified answer is filed to the forfeiture proceedings, the forfeiture proceedings shall be set for hearing on a day not less than 30 days after such answer is filed.

Notice of the hearing shall be given in the same manner as provided for service of notice of seizure.

At the hearing, any person who has a verified answer on file may show by competent evidence that such vehicle, boat or aircraft was not used to transport narcotic drugs or to facilitate the unlawful transportation or unlawful sale of narcotic drugs, or that narcotic drugs were not unlawfully possessed by an occupant of the vehicle, boat or aircraft or that the vehicle, boat or aircraft was not used to facilitate the unlawful possession or selling of narcotic drugs by an occupant thereof, or that the vehicle designed to transport 10 people or more, boat or aircraft was being used for public transportation for hire and that the owner thereof had no knowledge that the occupant thereof had narcotic drugs in his possession and no knowledge that such vehicle, boat or aircraft was being used unlawfully.

Criminal Code 1961, *ET.* Jan. 1, 1962

Crim. Code § 22-31

As amended by act approved Aug. 1, 1961. L.1961, p. —, H.B.No.1650.

Amendment by Laws 1961, p. —, H.B.No.1633, see § 22-29, ante.

22-29a. Hearings before division — Examination of books and records—Administration of oaths—Evidence.] § 28a. For the purpose of administering and enforcing the provisions of this Act, the Division or any officer or employee of the Division designated, in writing, by the Superintendent thereof, may hold hearings concerning any matters covered by Sections 25 through 32, inclusive, of this Act,¹ and may examine any books, papers, records or memoranda concerning the title, lien holders interest or use of any motor vehicle, boat or aircraft, and may require the attendance of any person having knowledge of such interest or use, and may take testimony and require proof for its information. In the conduct of any hearing, the superintendent or any officer or employee of the Division, authorized by the superintendent thereof, has power to administer the oath to any such person. The books, papers, records and memoranda of the Division, or parts thereof, may be proved in any hearing, investigation, or legal proceeding by a photostatic copy thereof under the certificate of the superintendent. Such photostatic copy shall, without further proof, be admitted in evidence before the Division or in any legal proceeding. Added by act approved Aug. 1, 1961. L.1961, p. —, H.B. No.1633.

¹ Sections 22-26 to 22-31 of this chapter.

22-29b. Testimony of witnesses—Immunity from prosecution.] § 28b. No person shall be excused from testifying or from producing any books, papers, records or memoranda upon any hearing, when ordered to do so by the Division or any officer or employee thereof, upon the ground that the testimony or evidence, documentary or otherwise, may tend to incriminate him or subject him to criminal penalty, but no person shall be prosecuted or subjected to any criminal penalty for, or on account of, any transaction made or thing concerning which he may testify or produce evidence, documentary or otherwise, before the Division or any officer or employee thereof when ordered to testify or produce evidence, documentary or otherwise, on behalf of the Division; provided, that such immunity shall extend only to a natural person who, in obedience to a subpoena, gives testimony under oath, or produces evidence, documentary or otherwise, under oath. No person so testifying shall be exempt from prosecution and punishment for perjury committed in so testifying. Added by act approved Aug. 1, 1961. L.1961, p. —, H.B.No.1633.

22-29c. Subpoenas—Issuance and service—Fees of witnesses—Power of court to compel attendance—Depositions.] § 28c. The Division or any officer or employee of the Division, designated in writing by a superintendent thereof, shall, at its or his own instance, or on the written request of any party to the proceeding, issue subpoenas requiring the attendance of and the giving of testimony by witnesses, and subpoenas duces tecum requiring the production of books, papers or memoranda. All subpoenas and subpoenas duces tecum issued under this Act may be served by any person of full age. The fees of witnesses for attendance and travel shall be the same as fees of witnesses before the Circuit Court of this State; such fees should be paid when the witness is excused from further attendance. When the witness is sub-

poenaed at the instance of the Division or any officer or employee thereof, such fees shall be paid in the same manner as other expenses of the Division, and when the witness is subpoenaed at the instance of any party to such proceeding, the Division may require that the cost of service of the subpoena or subpoena duces tecum and the fee of the witness be borne by the party at whose instance the witness is summoned. In such case, the Division, in its discretion, may require a deposit to cover the cost of such service and witness fees. A subpoena issued as aforesaid shall be served in the same manner as a subpoena issued out of a court of record.

Any Circuit Court of this State, or any judge thereof, upon application of the Division or any officer or employee thereof, may, in its or his discretion, compel the attendance of witnesses, the production of books, papers, records or memoranda, and the giving of testimony before the Division or any officer or employee thereof conducting a hearing authorized by this Act; by an attachment for contempt, or otherwise, in the same manner as production of evidence as may be compelled before said court.

The Division, or any officer or employee thereof, or any party in a hearing before the Division, may cause the depositions of witnesses residing within or without the State to be taken in the manner prescribed by law for like depositions in civil actions in courts of this State, and to that end, compel the attendance of witnesses and the production of books, papers, records or memoranda. Added by act approved Aug. 1, 1961. L.1961, p. —, H.B. No.1633.

22-30. Rights of mortgagees and lienholders.] § 29. The claimant of any right, title, or interest in such vehicle, boat or aircraft may prove his lien, mortgage or conditional sales contract to be bona fide and that his right, title or interest was created after a reasonable investigation of the moral responsibility, character and reputation of the purchaser, and without any knowledge that such vehicle, boat or aircraft was being or was to be used for the purpose charged.

In the event of such proof, the Division shall order such vehicle, boat or aircraft released to the bona fide owner, lien holder, mortgagee or vendor if the amount due him is equal to or in excess of the value of such vehicle, boat or aircraft.

If the amount due to such person is less than the value of such vehicle, boat or aircraft, such vehicle, boat or aircraft shall be sold at public auction by the Department of Finance. As amended by act approved July 22, 1959. L.1959, p. 1893.

22-31. Review.] § 29a. The Circuit or Superior Court of the county wherein the hearing is held has power to review all final administrative decisions of the Division in administering the provisions of Section 27, 28 and 29 of this Act.¹ The provisions of the "Administrative Review Act," approved May 8, 1945, as amended,² and the rules adopted pursuant thereto, shall apply to and govern all proceedings for the judicial review of final administrative decisions of the Division hereunder. The term "Administrative Decision" is defined as in Section 1 of said "Administrative Review Act".

Service upon the Superintendent of Narcotic Control of the Division of Narcotic Control issued in any action to review a final administrative decision shall be service upon the Division. The Division shall certify the record of its proceedings if the person appealing such decision shall pay to it the sum of five cents per 100 words of such record. Provided, however, before the delivery of

such record to the person applying for same, that payment therefor shall be made as aforesaid, and in the event of nonpayment for the record as aforesaid within 30 days after notice that such record is available, the complaint may be dismissed by the court upon motion of the Division.

Appeals from all final orders and judgments entered by the Circuit or Superior Court upon review of the Division's determination in any case may be taken directly to the Supreme Court by either party to the proceeding, and shall be governed by the rules applicable to civil cases appealed to said Supreme Court. The remedy herein provided for appeal shall be exclusive.

Whenever any proceeding provided by this Act shall have been begun before the Division, either by the Division or by a person subject to this Act, and such person shall thereafter die or shall become incompetent before said proceeding shall have been concluded, the legal representative of said deceased or incompetent person shall notify the Division of such death or incompetency. Said legal representative, as such, shall then be substituted by the Division in place of and for the said person. If the legal representative fails to notify the Division of his appointment as such legal representative, the Division may, upon its own motion, substitute such legal representative in the proceeding pending before the Division for the person who died or became incompetent. Added by act approved July 22, 1959. L.1959, p. 1893.

¹ Sections 22-28 to 22-30 of this chapter.

² Chapter 110, § 264 et seq.

22-32. Sale of forfeited property.] § 30. The Department of Finance shall publish a notice of the sale by one publication in a newspaper published and circulated in the county where the sale is to take place. Whenever practicable the sale shall take place in the county where such vehicle, boat or aircraft was seized.

22-33. Disposition of proceeds.] § 31. In all cases where such vehicle, boat or aircraft seized by the Division is forfeited to the State and turned over to and sold by the Department of Finance, the proceeds of such sale after all expenditures made and incurred by it in connection with the sale, including expenditures for any necessary repairs, storage or transportation of any such vehicle, boat or aircraft have been deducted, shall be deposited as follows, in the order indicated:

(a) to the bona fide or innocent purchaser, conditional sales vendor or mortgagee of such vehicle, boat or aircraft, if any, up to the amount of his interest in such vehicle, boat or aircraft, when the court or Division, as the case may be, declaring the forfeiture orders a distribution to such persons.

(b) to reimburse the Department of Finance for all expenditures made and incurred by it in connection with the sales, including the expenditures for any necessary repairs, storage or transportation of any such vehicles, boats or aircrafts seized under this Act which such prior sales did not sufficiently reimburse the Department of Finance.

(c) The balance shall be deposited in a special fund in the State Treasury, known as the Narcotic Control Fund and shall be used for costs by the Division for the enforcement of the provisions of this Act. As amended by act approved Aug. 1, 1961. L.1961, p. —, H.B.No.1633.

22-34. Time of payment—Release of forfeited property—Use of forfeited property by the Division.] § 32. In any case the Department of Finance may, within 30 days after judgment of the

court or ruling of the Division, as the case may be, pay the balance due, as determined by the court or Division, to the bona fide or innocent purchaser, lien holder, mortgagee, or vendor and purchase the vehicle, boat or aircraft for the State.

If the court or Division, as the case may be, finds that such vehicle, boat or aircraft was not used to unlawfully transport narcotic drugs, or to facilitate the unlawful transportation or unlawful sale of narcotic drugs, the court or Division, as the case may be, shall order such vehicle, boat or aircraft released to the owner as his right, title or interest appears of record in the office of the Secretary of State, Department of Public Works and Buildings, Department of Aeronautics, or in the office of any other Department of this State, or any other State or the United States, if such vehicle, boat or aircraft is required to be so registered, as the case may be, as of the date of seizure.

When such vehicle, boat or aircraft has been ordered forfeited to the State, it shall be turned over to the Department of Finance which shall deliver to the Division such forfeited vehicle, boat or aircraft as may be needed by the Division to enforce the provisions of this Act. As amended by act approved July 22, 1959. L.1959, p. 1893.

22-35. Contraband.] § 33. All narcotic drugs manufactured, sold, or had in possession contrary to any of the provisions hereof, shall be, and the same are declared to be contraband, and shall be subject to seizure and confiscation by any officer or employee engaged in the enforcement of this Act.

22-36. Forfeiture of illicit drugs—Disposition—Records.] § 34. All narcotic drugs the lawful possession of which is not established or the title to which cannot be ascertained, which have come into the custody of a peace officer, shall be forfeited, and disposed of as follows:

(a) Except as in this Section otherwise provided, the court having jurisdiction shall order such narcotic drugs to be delivered to the Division for destruction or disposition. The Division shall keep a record of the place where said drugs were seized, of the kinds and quantities of drugs so destroyed, and of the time, place, and manner of destruction, and shall make a return under oath, reporting said destruction to the Court and to the United States Commissioner of Narcotics.

(b) Upon written application by the Department of Public Health, the court may order the delivery of such narcotic drugs except heroin and its salts and derivatives, to the Department of Public Health, for distribution or destruction as herein-after provided.

(c) Upon application by any hospital within this State, not operated for private gain, the Department of Public Health may in its discretion deliver any narcotic drugs that have come into its custody by authority of this Section to the applicant for medicinal use. The Department of Public Health may from time to time deliver excess stocks of such narcotic drugs to the United States Commissioner of Narcotics, or shall destroy the same.

(d) The Department of Public Health shall keep a full and complete record of all drugs received and of all drugs disposed of, showing the exact kinds, quantities, and forms of such drugs; the persons from whom received and to whom delivered; by whose authority received, delivered, and destroyed; and the dates of the receipt, disposal, or destruction, which record shall be open to inspection by all Federal and State officers charged

with the enforcement of Federal and State narcotic laws.

22-37. Conviction under act, grounds for revocation of license.] § 35. On the conviction of any person of the violation of any provision of this Act, a copy of the judgment and sentence, and of the opinion of the court, if any opinion be filed, shall be sent by the clerk of the court to the Department of Registration and Education and the Division by whom the convicted defendant has been licensed or registered to practice his profession or to carry on his business. On the conviction of any such person, the Department of Registration and Education or the Division may, in its discretion, suspend or revoke the license or registration of the convicted defendant to practice his profession or to carry on his business. On the application of any person whose license or registration has been suspended or revoked, and upon proper showing and for good cause, the Department of Registration and Education or the Division may reinstate such license or registration.

22-38. Records to be inspected only by proper authority.] § 36. Prescriptions, orders, and records, required by this Act, and stocks of narcotic drugs, shall be open for inspection only to Federal, State, county and municipal officers, whose duty it is to enforce the laws of this State or of the United States relating to narcotic drugs. No officer having knowledge by virtue of his office of any such prescription, order, or record shall divulge such knowledge, except in connection with a prosecution or proceeding in court or before a licensing or registration board or officer, to which prosecution or proceeding the person to whom such prescriptions, orders, or records relate is a party.

22-39. Acquisition of drugs by fraud or deceit, unlawful.] § 37. (1) No person shall obtain or attempt to obtain a narcotic drug, or procure or attempt to procure the administration of a narcotic drug, (a) by fraud, deceit, misrepresentation, or subterfuge; or (b) by the forgery or alteration of a prescription or of any written order; or (c) by the concealment of a material fact; or (d) by the use of a false name or the giving of a false address; or (e) by unlawfully taking of official prescription forms. The possession of blank official prescription forms by any unauthorized person is deemed to be an attempt to procure narcotic drugs.

(2) Information communicated to a physician in an effort unlawfully to procure a narcotic drug, or unlawfully to procure the administration of any such drug, is not a privileged communication.

(3) No person shall wilfully make a false statement in any prescription, order, report, or record, required by this Act.

(4) No person shall, for the purpose of obtaining a narcotic drug, falsely assume the title of, or represent himself to be, a manufacturer, wholesaler, pharmacist, physician, dentist, veterinarian, or other authorized person.

(5) No person shall make or utter any false or forged prescription or false or forged written order.

(6) No person shall affix any false or forged label to a package or receptacle containing narcotic drugs.

(7) The provisions of this Section shall apply to all transactions of Section 12 of this Act,¹ in the same way as they apply to transactions under all other Sections. As amended by act approved July 22, 1959. L. 1959, p. 1893.

¹ Section 22-12 of this chapter.

22-40. Penalties.] § 38. Whoever in any voluntary manner solicits, endorses, encourages, or intimidates any person under 21 years of age with the intent that such person shall violate any provision of this Act shall be imprisoned in the penitentiary for any term from 2 years to 5 years.

Whoever agrees, consents or in any manner offers to unlawfully sell, prescribe, administer, transport, dispense or give any narcotic drugs to any person, or offers, arranges, or negotiates to have any narcotic drugs unlawfully sold, prescribed, administered, transported, dispensed or given, and then sells, prescribes, administers, transports, dispenses or gives, or offers, arranges or negotiates to have sold, delivered, transported, furnished, administered, dispensed or given to any person any non-narcotic liquid, substance or material shall be imprisoned in the penitentiary for any term from 1 year to 10 years.

Whoever violates this Act by traffic in, selling, prescribing, administering, or dispensing any narcotic drugs, shall be imprisoned in the penitentiary for any term from 10 years to life, and for any subsequent offense shall be imprisoned in the penitentiary for life. Any offense under this Act is a subsequent offense if the violator has been previously convicted of an offense under this Act or any previous Act of this State relating to narcotic drugs or of a felony under any law of the United States or of the District of Columbia relating to narcotic drugs. No probation or suspension of sentence shall be granted to any violator convicted under this paragraph.

Whoever violates any of the provisions of Section 37 of this Act¹ shall be imprisoned in the penitentiary for not less than 1 year nor more than 3 years for each offense. Each violation shall constitute a separate offense.

Whoever violates this Act by possessing, having under his control, manufacturing, or compounding any narcotic drug shall be fined for the first offense not more than \$5,000 and be imprisoned in the penitentiary for a period of not less than 2 years or more than 10 years. For any subsequent offense the violator shall be imprisoned in the penitentiary for any term from 5 years to life. Any offense under this Act is a subsequent offense if the violator has been previously convicted of an offense under this Act or any previous Act of this State relating to narcotic drugs or of a felony under any law of the United States or of the District of Columbia relating to narcotic drugs. No probation or suspension of sentence shall be granted to any violator who has been convicted of any subsequent offense.

Any pharmacist, physician, dentist, chiroprapist, veterinarian, wholesaler, manufacturer or any person authorized to handle narcotic drugs in any laboratory or hospital who violates this Act by failing to comply with the provisions prescribed in Sections 4, 5, 13, 14, 15, 16, 18, 19 and 20 of this Act,² for the first offense shall be fined not more than \$1,000 or be imprisoned in the county jail for a term of 1 year, or both; and for any subsequent offense of this paragraph shall be fined not more than \$3,000 or imprisoned in the penitentiary for a term of not more than 5 years, or both.

Whoever violates this Act by unlawfully using, or being under the influence of or being addicted to the unlawful use of narcotic drugs is guilty of a misdemeanor and, upon conviction, shall be imprisoned for a period of not less than 90 days nor more than 1 year. Multiple punctures on body surfaces or scars or abrasions resulting from hypodermic needle punctures, shall be prima facie evidence of the repeated unlawful use of narcotic

drugs. The court may place a person convicted under this paragraph on probation for a period not to exceed 5 years and shall in all cases in which probation is granted require as a condition thereof that such person be confined for at least 90 days. In no event does the court have the power to absolve a violator of this paragraph from the obligation of being confined at least 90 days. As amended by act approved July 22, 1959. L.1959, p. 1893.

¹ Section 22-39 of this chapter.

² Sections 22-4, 22-5, 22-13 to 22-16, 22-18 to 22-21 of this chapter.

22-41. Probation or parole—Periodic tests.] § 38a. Whenever any court in this State grants probation to any person for any violation of this Act or to any person who the court has reason to believe is or has been an unlawful user of narcotic drugs, the court shall require as a condition of probation that the probationer submit to periodic tests by the Division to determine by means of the use of synthetic opiate anti-narcotic in action or other detection tests whether the probationer is using narcotic drugs.

Whenever the Parole and Pardon Board grants parole to a person whom the Board has reason to believe has been an unlawful user of narcotic drugs, the Board shall require as a condition of parole that the parolee submit to periodic tests by the Division to determine by means of the use of synthetic opiate anti-narcotic in action or other detection tests whether the parolee is using narcotic drugs.

In any case provided in this Section, the Division shall report the results of such tests to the probation or parole officer. Added by act approved July 22, 1959. L.1959, p. 1893.

22-42. Tests upon consent of arrested persons—Availability of results.] § 38b. Whenever a person is arrested for unlawfully using, or being under the influence of or being addicted to the unlawful use of narcotic drugs, or is arrested upon another charge and is suspected of violating this Act by unlawfully using, or being under the influence of or being addicted to the unlawful use of narcotic drugs, the officer or person making the arrest, upon the written consent of the arrested person, shall have the Division administer a test to determine by use of an opiate anti-narcotic in action or other detection test whether the arrested person is using or is under the influence of narcotic drugs. Results of the test shall be made available to the person tested and in a subsequent trial of that person, and upon the request of either party, the court may admit the results in evidence. Refusal of the arrested person to consent to the test at the time of his arrest is not admissible evidence. Added by act approved July 22, 1959. L. 1959, p. 1893.

22-43. Former conviction—Pleading—Consideration by court.] § 38c. A former conviction of a subsequent offense shall not be alleged in the information or indictment, as the case may be, and no evidence or other disclosure of such conviction shall be presented to the court or the jury during the trial of the principal offense unless otherwise permitted by the issues properly raised in such trial. After a plea or verdict or finding of guilty and before sentence is imposed, or after sentence is imposed and before the defendant has received his final and unconditional release and discharge from such sentence, the prosecutor may file with the court a written statement concerning any former conviction of a subsequent offense rendered against the defendant. The court then shall cause the defendant to be brought before it; shall in-

form him of the allegations of the statement so filed, and of his right to a hearing before the court on the issue of such former conviction of a subsequent offense and of his right to counsel at such hearing; and unless the defendant admits such conviction, the court shall hear and determine such issue, and shall make a written finding thereon. If a sentence previously has been imposed, the court may vacate such sentence and impose a new sentence in accordance with Section 38 of this Act,¹ crediting the defendant with all time duly served under the sentence originally imposed.

A duly authenticated copy of the record of any alleged former conviction of a subsequent offense shall be prima facie evidence of such 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 such former conviction, shall be prima facie evidence of such release or discharge.

Any claim that a previous conviction offered by the prosecution is not a "former conviction of a subsequent offense" because of the existence of any exceptions described in this Act, is waived unless duly raised at the hearing on such conviction, or unless the prosecution's proof shows the existence of such exception. Added by act approved July 22, 1959. L.1959, p. 1893.

¹ Section 22-40 of this chapter.

22-44. Evidence.] § 39. In any complaint, information, or indictment, and in any action or proceeding brought for the enforcement of any provision of this Act, it shall not be necessary to negative any exception, excuse, proviso, or exemption, contained in this Act, and the burden of proof of any such exception, excuse, proviso, or exemption, shall be upon the defendant.

22-45. Duties of Division and its employees—Cooperation with other agencies.] § 40. It is hereby made the duty of the Division, its officers, agents, inspectors, and representatives, and of all peace officers within the State, and of all State's Attorneys, to enforce all provisions of this Act, except those specifically delegated, and to cooperate with all agencies charged with the enforcement of the laws of the United States, of this State, and of all other States, relating to narcotic drugs.

22-46. Double jeopardy.] § 41. No person shall be prosecuted for a violation of any provision of this Act if such person has been acquitted or convicted under the Federal Narcotic Laws of the same act or omission which, it is alleged, constitutes a violation of this Act.

22-47. Constitutionality.] § 42. If any provision of this Act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable.

22-48. Acts repealed.] § 43.

The "Uniform Narcotic Drug Act", approved July 8, 1935, as amended [sections 192.1-192.28 of this chapter] and "An Act concerning registration of drug addicts and providing a penalty for violation thereof", approved June 16, 1953 [sections 192.29-192.32 of this chapter], are hereby repealed.

22-49. Effective date.] § 44.

This Act shall take effect on January 1, 1958.

HYPODERMIC SYRINGES AND NEEDLES ACT

AN ACT to regulate the possession, delivery, sale or exchange of hypodermic syringes, hypodermic needles, and similar instruments. Approved July 11, 1955. L.1955, p. 1408.

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

22-50. Persons permitted to possess instruments adapted for use of narcotic drugs by subcutaneous injection.] § 1. No person, not being a physician, dentist, chiropodist or veterinarian licensed under the laws of this State or of the state where he resides, or a registered professional nurse, or a registered embalmer, manufacturer or dealer in embalming supplies, wholesale druggist, manufacturing pharmacist, registered pharmacist, manufacturer of surgical instruments, industrial user, official of any government having possession of the articles hereinafter mentioned by reason of his official duties, nurse or a medical laboratory technician acting under the direction of a physician or dentist, employee of an incorporated hospital acting under the direction of its superintendent or officer in immediate charge, or a carrier or messenger engaged in the transportation of such articles, or the holder of a permit issued under Section 5 of this Act,¹ or a farmer engaged in the use of such instruments on livestock, or a person engaged in chemical, clinical, pharmaceutical or other scientific research, shall have in his possession a hypodermic syringe, hypodermic needle, or any instrument adapted for the use of narcotic drugs by subcutaneous injection.

¹ Section 22-54 of this chapter.

22-51. Sale or exchange of such instruments.] § 2. No such syringe, needle or instrument shall be delivered or sold to, or exchanged with, any person except a registered pharmacist, physician, dentist, veterinarian, registered embalmer, manufacturer or dealer in embalming supplies, wholesale druggist, manufacturing pharmacist, industrial user, a nurse upon the written order of a physician or dentist, the holder of a permit issued under Section 5 of this Act,¹ a registered chiropodist, or an employee of an incorporated hospital upon the written order of its superintendent or officer in immediate charge; provided that the provisions of this Act shall not prohibit the sale, possession or use of hypodermic syringes or hypodermic needles for treatment of livestock or poultry by the owner or keeper thereof or a person engaged in chemical, clinical, pharmaceutical or other scientific research.

¹ Section 22-54 of this chapter.

22-52. Records—Inspection.] § 3. A record shall be kept by the person selling such syringe, needle or instrument which shall give the date of the sale, the name and address of the purchaser and a description of the instrument. This record shall at all times be open to inspection by the Division of Narcotic Control, authorized agents of said Division, and police authorities and police officers of cities, villages and towns. As amended by acts approved July 9, 1959. L.1959, p. 724; July 22, 1959. L.1959, p. 1906.

The 1959 amendments were identical.

22-53. Violation of Act—Punishment.] § 4. Whoever violates any provisions of Sections 1, 2, and 3 of this Act¹ shall be punished, for the first such offense, by a fine of not more than \$1,000 or by imprisonment in the county jail for not more than 1 year, or both; for a second offense, by a fine of not more than \$2,000 or by imprisonment

in the county jail for not more than 1 year, or both; and for a third or any succeeding offense, by imprisonment in the penitentiary for not more than 2 years. As amended by act approved July 5, 1957. L.1957, p. 1125.

¹ Sections 22-50, 22-51, 22-52 of this chapter.

22-54. Written or oral prescriptions by licensed physician—Statement of patient—Refills—Certificates.] § 5. A licensed physician may direct a patient under his immediate charge to have in possession any of the instruments specified in Sections 1 and 2 which may be dispensed by a registered pharmacist or assistant registered pharmacist in this state only (1) upon a written prescription of such physician, or (2) upon an oral order of such physician, which order is reduced promptly to writing and filed by the pharmacist, or (3) by refilling any such written or oral prescription if such refilling is authorized by the prescriber either in the original prescription or by oral order which is reduced promptly to writing and filed by the pharmacist in the same manner and under the same conditions as any other prescription issued by a practitioner licensed by law to write prescriptions, or (4) upon a signed statement of the patient, upon proper identification, stating that the prescriptions or instruments specified in Sections 1 and 2 were lost or broken, as the case may be, the name and address of the prescriber, the name and address of the patient and the purpose for which the prescription was ordered; provided, however, that the registered pharmacists or assistant registered pharmacists who deliver or sell any instruments specified in Sections 1 and 2 shall send a copy of such affidavit to the Division of Narcotic Control by the 15th of the month following the month in which such instruments were delivered or sold. Such written or oral prescriptions when reduced to writing for instruments specified in Sections 1 and 2 shall contain the date of such prescription, the name and address of the prescriber, the name and address of the patient, the purpose for which the prescription is ordered, the date when dispensed and by whom dispensed.

Provided, however, that a licensed physician or other allied medical practitioner, authorized by the laws of the State of Illinois to prescribe or administer drugs to humans or animals, may authorize any person or the owner of any animal, to purchase and have in his possession any of the instruments specified in Sections 1 and 2, which may be sold to him without a specific written or oral prescription or order, by any person authorized by the laws of the State of Illinois to sell and dispense drugs, if such authorization is in the form of a certificate giving the name and address of such licensed physician or other allied medical practitioner, the name, address and signature of the person, or of the owner of the animal, so authorized, the purpose or reason of such authorization, and the date of such certificate and in that event, no other prescription, writing or record shall be required to authorize the possession or sale of such instruments. As amended by acts approved July 9, 1959. L.1959, p. 724, § 1; July 22, 1959. L.1959, p. 1906.

¹ Sections 22-50, 22-51 of this chapter.
The 1959 amendments were identical.

ARTICLE 23. ABORTION AND RELATED OFFENSES

- Sec.
23-1. Abortion.
23-2. Distributing Abortifacients.
23-3. Advertising Abortion.

23-1. § 23-1. Abortion.] (a) A person commits abortion when he uses any instrument, medi-

cine, drug or other substance whatever, with the intent to procure a miscarriage of any woman. It shall not be necessary in order to commit abortion that such woman be pregnant or, if pregnant, that a miscarriage be in fact accomplished. A person convicted of abortion shall be imprisoned in the penitentiary from one to 10 years.

(b) It shall be an affirmative defense to abortion that the abortion was performed by a physician licensed to practice medicine and surgery in all its branches and in a licensed hospital or other licensed medical facility because necessary for the preservation of the woman's life.

23-2. § 23-2. Distributing Abortifacients.] Any person who sells or distributes any drug, medicine, instrument or other substance whatever which he knows to be an abortifacient and which is in fact an abortifacient to or for any person other than licensed physicians shall be fined not to exceed \$500 or imprisoned in a penal institution other than the penitentiary not to exceed 6 months, or both.

23-3. § 23-3. Advertising Abortion.] Any person who advertises, prints, publishes, distributes or circulates any communication through print, radio or television media advocating, advising or suggesting any act which would be a violation of any Section in this Article, shall be fined not to exceed \$500 or imprisoned in a penal institution other than the penitentiary not to exceed 6 months, or both.

ARTICLE 24. DEADLY WEAPONS

Sec.

- 24-1. Unlawful Use of Weapons.
- 24-2. Exemptions.
- 24-3. Unlawful Sale of Firearms.
- 24-4. Register of Sales by Dealer.
- 24-5. Defacing Identification Marks of Firearms.
- 24-6. Confiscation and Disposition of Weapons.

24-1. § 24-1. Unlawful Use of Weapons.] (a) A person commits the offense of unlawful use of weapons when he knowingly:

- (1) Sells, manufactures, purchases, possesses or carries any bludgeon, black-jack, slung-shot, sand-club, sand-bag, shotgun with a barrel less than 18 inches in length, metal knuckles or any knife, commonly referred to as a switchblade knife, which has a blade that opens automatically by hand pressure applied to a button, spring or other device in the handle of the knife; or
- (2) Carries or possesses with intent to use the same unlawfully against another, a dagger, dirk, billy, dangerous knife, razor, stiletto or any other dangerous or deadly weapon or instrument of like character; or
- (3) Carries on or about his person or in any vehicle, a tear gas gun projector or bomb or any object containing noxious liquid gas or substance; or
- (4) Carries concealed in any vehicle or concealed on or about his person except when on his land or in his own abode or fixed place of business any pistol, revolver or other firearm; or
- (5) Sets a spring gun; or
- (6) Possesses any device or attachment of any kind designed, used or intended for use in silencing the report of any firearm; or

- (7) Sells, manufactures, purchases, possesses or carries any weapon from which more than 8 shots or bullets may be discharged by a single function of the firing device.

(b) Penalty.

A person convicted of a violation of Subsection 24-1(a) (1) through (6) shall be fined not to exceed \$500 or imprisoned in a penal institution other than the penitentiary not to exceed one year, or both; a person convicted of a violation of Subsection 24-1(a) (7) shall be imprisoned in the penitentiary from one to 5 years. A person convicted of a felony under the laws of this or any other jurisdiction, who, within 5 years of release from penitentiary or within 5 years of conviction if penitentiary sentence has not been imposed, violates any Subsection of this Section shall be imprisoned in the penitentiary from one to 10 years.

24-2. § 24-2. Exemptions.] (a) Subsections 24-1(a) (3) and 24-1(a) (4) shall not apply to or affect any of the following:

- (1) Peace officers or any person summoned by any such officers to assist in making arrests or preserving the peace while he is actually engaged in assisting such officer.
- (2) Warden, superintendents and keepers of prisons, penitentiaries, jails, and other institutions for the detention of persons accused or convicted of an offense.
- (3) Members of the Armed Services or Reserve Forces of the United States or the Illinois National Guard or the Reserve Officers Training Corps, while in the performance of their official duty.
- (4) Watchmen while actually engaged in the performance of the duties of their employment.
- (5) Manufacture, transportation, or sale of weapons to persons authorized under (1) through (4) of this Subsection to possess such.

(b) Subsection 24-1(a) (4) shall not apply to or affect any of the following:

- (1) Members of any club or organization organized for the purpose of practicing shooting at targets upon established target ranges, whether public or private, while such members are using their firearms on such target ranges.
- (2) Duly authorized military or civil organizations while parading, with the special permission of the governor.
- (3) Licensed hunters or fishermen while engaged in hunting or fishing.
- (4) Transportation of weapons broken down in a non-functioning state or not immediately accessible.

(c) Subsection 24-1(a) (7) shall not apply to or affect any of the following:

- (1) Peace officers.
- (2) Wardens, superintendents and keepers of prisons, penitentiaries, jails and other institutions for the detention of persons accused or convicted of an offense.
- (3) Members of the Armed Services or Reserve Forces of the United States or the Illinois National Guard, while in the performance of their official duty.
- (4) Manufacture, transportation, or sale of machine guns to persons authorized under (1) through (3) of this Subsection to possess such, provided said machine guns are broken down in a non-functioning state or not immediately accessible.

(d) An information or indictment based upon a violation of any Subsection of this Article need not negative any exemptions contained in this Article. The defendant shall have the burden of proving such exemptions.

24-3. § 24-3. Unlawful Sale of Firearms.] A person commits the offense of unlawful sale of firearms when he knowingly:

(a) Sells or gives any firearm of a size which may be concealed upon the person to any person under 18 years of age; or

(b) Sells or gives any firearm to any narcotic addict; or

(c) Sells or gives any firearm to any person who has been convicted of a felony under the laws of this or any other jurisdiction within 5 years from release from the penitentiary or within 5 years of conviction if penitentiary sentence has not been imposed.

(d) Penalty.

A person convicted of unlawful sale of firearms shall be fined not to exceed \$500 or imprisoned in a penal institution other than the penitentiary not to exceed one year, or both.

24-4. § 24-4. Register of Sales by Dealer.]

(a) Any seller of firearms of a size which may be concealed upon the person, other than a manufacturer selling to a bona fide wholesaler or retailer or a wholesaler selling to a bona fide retailer, shall keep a register of all firearms sold or given away.

(b) Such register shall contain the date of the sale or gift, the name, address, age and occupation of the person to whom the weapon is sold or given, the price of the weapon, the kind, description and number of the weapon, and the purpose for which it is purchased and obtained.

(c) Such seller on demand of a peace officer shall produce for inspection the register and allow such peace officer to inspect such register and all stock on hand.

(d) Penalty.

A person convicted of violating any Subsection of this Section shall be fined not to exceed \$500 or imprisoned in a penal institution other than the penitentiary not to exceed 6 months. 1961, July 28, Laws 1961, p. —, H.B.No.342, § 24-4.

24-5. § 24-5. Defacing Identification Marks of Firearms.] (a) Any person who shall change, alter, remove or obliterate the name of the maker, model, manufacturer's number or other mark of identification of any firearm shall be fined not to exceed \$500 or imprisoned in a penal institution other than the penitentiary not to exceed one year, or both.

(b) Possession of any firearm upon which any such mark shall have been changed, altered, removed or obliterated shall be prima facie evidence that the possessor has changed, altered, removed or obliterated the same.

24-6. § 24-6. Confiscation and Disposition of Weapons.] (a) Upon conviction of a violation of Section 24-1 of this Article, any weapon seized shall be confiscated by the trial court.

(b) Any stolen weapon so confiscated, when no longer needed for evidentiary purposes, shall be returned to the person entitled to possession if known. All other confiscated weapons when no longer needed for evidentiary purposes, shall in the discretion of the trial court, be destroyed, preserved as county property, delivered to the Armed Forces of the United States or the Illinois National Guard or sold and the proceeds of such sale shall be paid to the county treasurer.

ARTICLE 25. MOB ACTION AND RELATED OFFENSES

Sec.

25-1. Mob Action.

25-2. Removal of Chief of Police or Sheriff.

25-3. Recovery of Damages.

25-1. § 25-1. Mob Action.] (a) Mob action consists of any of the following:

(1) The use of force or violence disturbing the public peace by 2 or more persons acting together and without authority of law; or

(2) The assembly of 2 or more persons to do an unlawful act; or

(3) The assembly of 2 or more persons, without authority of law, for the purpose of doing violence to the person or property of any one supposed to have been guilty of a violation of the law, or for the purpose of exercising correctional powers or regulative powers over any person by violence.

(b) Any person engaged in mob action shall be fined not to exceed \$500 or imprisoned in a penal institution other than the penitentiary not to exceed 30 days, or both.

(c) Any participant in a mob action which shall by violence inflict injury to the person or property of another shall be fined not to exceed \$1,000 or imprisoned in a penal institution other than the penitentiary not to exceed one year, or in the penitentiary from one to 5 years, or both fined and imprisoned.

(d) Any participant in a mob action who does not withdraw on being commanded to do so by any peace officer shall be fined not to exceed \$500 or imprisoned in a penal institution other than the penitentiary not to exceed one year, or both.

25-2. § 25-2. Removal of Chief of Police or Sheriff.] (a) If a prisoner is taken from the custody of any policeman or chief of police of any city, town or village and lynched, it shall be prima facie evidence of wrong-doing on the part of such chief of police and he shall be suspended. The mayor or chief executive of such city, town or village shall appoint an acting chief of police until he has ascertained whether the suspended chief of police has done all in his power to protect the life of the prisoner. If, upon hearing all evidence and argument, the mayor or chief executive finds that the chief of police has done his utmost to protect the prisoner, he may reinstate the chief of police; but, if he finds the chief of police guilty of not properly protecting the prisoner, a new chief of police shall be appointed. Any chief of police replaced shall not be eligible to serve again in such office.

(b) If a prisoner is taken from the custody of any sheriff or his deputy and lynched, it shall be prima facie evidence of wrong-doing on the part of such sheriff and he shall be suspended. The governor shall appoint an acting sheriff until he has ascertained whether the suspended sheriff has done all in his power to protect the life of the prisoner. If, upon hearing all evidence and argument, the governor finds that the sheriff has done his utmost to protect the prisoner, he shall reinstate the sheriff; but, if he finds the sheriff guilty of not properly protecting the prisoner, a new sheriff shall be duly elected or appointed, pursuant to the existing law provided for the filling of vacancies in such office. Any sheriff replaced shall not be eligible to serve again in such office.

(c) If a prisoner is taken from the custody of any peace officer and lynched, it shall be prima facie evidence of wrong-doing on the part of such peace officer and he shall be suspended. The governor shall appoint an acting peace officer until he has ascertained whether the suspended peace officer has done all in his power to protect the life of the prisoner. If, upon hearing all evidence and argument, the governor finds that the peace officer has done his utmost to protect the prisoner, he shall reinstate the peace officer; but, if he finds the peace officer guilty of not properly protecting the prisoner, a new peace officer shall be duly elected or appointed, pursuant to the existing law provided for the filling of vacancies in such office. Any peace officer replaced shall not be eligible to serve again in such office.

25-3. § 25-3. Recovery of Damages.] (a) Any person suffering material damage to property, injury to person or death as a result of any of the

following unlawful activities shall have an action against the county in which such damage or injury is inflicted, or if inflicted in an incorporated city, town or village whose population is in excess of 5,000, then against such city, town or village:

- (1) Mob action by 6 or more persons;
- (2) Lynching; or
- (3) Unlawful taking from the custody of any person legally exercising such custody.

In the event of death of the person injured the action authorized by this Subsection shall survive to a spouse or if there is no surviving spouse then to any person dependent for support upon the victim; Provided that recovery under this Subsection shall be limited to an amount not exceeding \$30,000.

(b) A person may recover under Subsection 25-3 (a) providing:

- (1) He was not a participant in the mob action that produced the harm; and
- (2) Notice of claim for damages is presented to the defendant city, town or village or county within 6 months after such wrong occurs; and
- (3) Suit is filed within 12 months after such wrong occurs.

(c) An action under Subsection 25-3(a) shall not bar any injured party from maintaining an action or actions against any person or persons, participating in such mob action for recovery of damages sustained thereby. Any county, city, town or village which under Subsection 25-3(a) has paid any monies shall have a lien to the amount of such sum on any monies recovered by the Subsection 25-3(a) plaintiff against any persons participating in such mob action. Any county, city, town or village recovered against under Subsection 25-3(a) or voluntarily settling any claim arising under Subsection 25-3(a) shall have an action to recover any such sums with all costs paid by it from any persons participating in such mob action.

ARTICLE 26. DISORDERLY CONDUCT

Sec.

26-1. Elements of the Offense.

26-1. § 26-1. Elements of the Offense.] (a) A person commits disorderly conduct when he knowingly:

- (1) Does any act in such unreasonable manner as to alarm or disturb another and to provoke a breach of the peace; or
- (2) With intent to annoy another, makes a telephone call, whether or not conversation thereby ensues; or
- (3) Transmits in any manner to the fire department of any city, town or village a false alarm of fire, knowing at the time of such transmission that there is no reasonable ground for believing that such fire exists; or
- (4) Transmits in any manner to another a false alarm to the effect that a bomb or other explosive of any nature is concealed in such place that its explosion would endanger human life, knowing at the time of such transmission that there is no reasonable ground for believing that such a bomb or explosive is concealed in such place.

(b) Penalty.

A person convicted of a violation of Subsection 26-1(a) (1) or (a) (2) shall be fined not to exceed \$500. A person convicted of a violation of Subsection 26-1(a) (3) or (a) (4) shall be fined not to exceed \$500 or imprisoned in a penal institution

other than the penitentiary not to exceed 6 months, or both.

ARTICLE 27. CRIMINAL DEFAMATION

Sec.

27-1. Elements of the Offense.

27-2. Justification.

27-1. § 27-1. Elements of the Offense.] (a) A person commits criminal defamation when, with intent to defame another, living or dead, he communicates by any means to any person matter which tends to provoke a breach of the peace.

(b) Penalty.

A person convicted of criminal defamation shall be fined not to exceed \$500 or imprisoned in a penal institution other than the penitentiary not to exceed one year, or both.

27-2. § 27-2. Justification.] In all prosecutions for criminal defamation, the truth, when communicated with good motives, and for justifiable ends, shall be an affirmative defense.

ARTICLE 28. GAMBLING AND RELATED OFFENSES

Sec.

28-1. Gambling.

28-2. Definitions.

28-3. Keeping a Gambling Place.

28-4. Registration of Federal Gambling Stamps.

28-5. Seizure of Gambling Devices.

28-6. Seizure of Gambling Funds.

28-7. Gambling Contracts Void.

28-8. Gambling Losses Recoverable.

28-1. § 28-1. Gambling.] (a) A person commits gambling when he:

- (1) Plays a game of chance or skill for money or other thing of value; or
- (2) Makes a wager upon the result of any game, contest, or any political nomination, appointment or election; or
- (3) Operates, keeps, owns, uses, purchases, exhibits, rents, sells, bargains for the sale or lease of, manufactures or distributes any gambling device; or
- (4) Contracts to have or give himself or another the option to buy or sell, or contracts to buy or sell, at a future time, any grain or other commodity whatsoever, or any stock or security of any company, where it is at the time of making such contract intended by both parties thereto that the contract to buy or sell, or the option, whenever exercised, or the contract resulting therefrom, shall be settled, not by the receipt or delivery of such property, but by the payment only of differences in prices thereof; or
- (5) Uses or keeps any book, instrument or apparatus for the purpose of recording or registering bets or wagers or holds any funds which have been bet or wagered; or
- (6) Sells pools upon the result of any game or contest of skill or chance, political nomination, appointment or election; or
- (7) Sets up or promotes any lottery or sells, offers to sell or transfers any ticket or share for any lottery; or
- (8) Sets up or promotes any policy game or sells, offers to sell or knowingly possesses or transfers any policy ticket, or other similar device; or
- (9) Knowingly advertises any lottery or policy game or drafts, prints or publishes

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- any lottery ticket or share, or any policy ticket or similar device, or any advertisement of any lottery or policy game; or
- (10) Knowingly transmits information as to wagers, betting odds, or changes in betting odds by telephone, telegraph, radio, semaphore or similar means; or knowingly installs or maintains equipment for the transmission or receipt of such information.

(b) Participants in any of the following activities shall not be convicted of gambling:

- (1) Agreements to compensate for loss caused by the happening of chance including without limitation contracts of indemnity or guaranty and life or health or accident insurance; and
- (2) Offers of prizes, award or compensation to the actual contestants in any bona fide contest for the determination of skill, speed, strength or endurance or to the owners of animals or vehicles entered in such contest; and
- (3) Pari-mutuel betting as authorized by the law of this State.

(c) Penalty.

A person convicted of gambling shall be fined not to exceed \$500 or imprisoned in a penal institution other than the penitentiary not to exceed one year, or both. For each subsequent conviction under Subsection 28-1(a) (3) through (10) such person shall be fined not to exceed \$1,000 or imprisoned in a penal institution other than the penitentiary not to exceed one year or in the penitentiary from one to 3 years, or both fined and imprisoned.

28-2. § 28-2. Definitions.] (a) A "gambling device" is any clock, tape machine, slot machine or other machines or device for the reception of money or other thing of value on chance or skill or upon the action of which money or other thing of value is staked, hazarded, bet, won or lost; or any mechanism, furniture, fixture, equipment or other device designed primarily for use in a gambling place. A "gambling device" does not include:

- (1) A coin-in-the-slot operated mechanical device played for amusement which rewards the player with the right to replay such mechanical device, which device is so constructed or devised as to make such result of the operation thereof depend in part upon the skill of the player and which returns to the player thereof no coins, tokens, or merchandise.
- (2) Vending machines by which full and adequate return is made for the money invested and in which there is no element of chance or hazard.

(b) A "lottery" is any scheme or procedure whereby one or more prizes are distributed by chance among persons who have paid or promised consideration for a chance to win such prizes, whether such scheme or procedure is called a lottery, raffle, gift, sale or some other name.

(c) A "policy game" is any scheme or procedure whereby a person promises or guarantees by any instrument, bill, certificate, writing, token or other device that any particular number, character, ticket or certificate shall in the event of any contingency in the nature of a lottery entitle the purchaser or holder to receive money, property or evidence of debt.

28-3. § 28-3. Keeping a Gambling Place.] A "gambling place" is any real estate, vehicle, boat or any other property whatsoever used for the

purposes of gambling. Any person who knowingly permits any premises or property owned or occupied by him or under his control to be used as a gambling place shall be fined not to exceed \$500 or imprisoned in a penal institution other than the penitentiary not to exceed one year, or both. For each subsequent conviction, such person shall be fined not to exceed \$1,000 or imprisoned in the penitentiary from one to 3 years, or both. When any premises is determined by a court having jurisdiction to be a gambling place:

(a) Such premises is a public nuisance and may be proceeded against as such, and

(b) All licenses, permits or certificates issued by the State of Illinois or any subdivision or public agency thereof authorizing the serving of food or liquor on such premises shall be void; and no license, permit or certificate so cancelled shall be reissued for such premises for a period of 60 days thereafter; nor shall any person convicted of keeping a gambling place be reissued such license for one year from his conviction, and

(c) Such premises of any person who knowingly permits thereon a violation of any Section of this Article shall be held liable for, and may be sold to pay any unsatisfied judgment that may be recovered and any unsatisfied fine that may be levied under any Section of this Article.

28-4. § 28-4. Registration of Federal Gambling Stamps.] Every person who has purchased a Federal Wagering Occupational Tax Stamp, as required by the United States under the applicable provisions of the Internal Revenue Code, or a Federal Gaming Device Tax Stamp, as required by the United States under the applicable provisions of the Internal Revenue Code, shall register such stamp or stamps with the county clerk's office in which he resides and the county clerk's office of each and every county in which he conducts any business. Any person who violates this Section shall be fined not to exceed \$200 or imprisoned in a penal institution other than the penitentiary not to exceed 6 months, or both. For each subsequent violation, such person shall be fined not to exceed \$500 or imprisoned in a penal institution other than the penitentiary not to exceed one year, or both.

28-5. § 28-5. Seizure of Gambling Devices.] Every gambling device shall be subject to seizure, confiscation and destruction by any municipal, or other local authority, within whose jurisdiction the same may be found.

28-6. § 28-6. Seizure of Gambling Funds.] Any funds used for purposes of gambling and seized in any gambling place or found in or on any gambling device shall vest in the general fund of the county in which such funds are recovered. No legal action shall be initiated to prove that the seized funds were not used for the purposes of gambling unless such action is initiated within 6 months from the date of the seizure.

28-7. § 28-7. Gambling Contracts Void.] (a) All promises, notes, bills, bonds, covenants, contracts, agreements, judgments, mortgages, or other securities or conveyances made, given, granted, drawn, or entered into, or executed by any person whatsoever, where the whole or any part of the consideration thereof shall be for any money or thing of value, won or obtained in violation of any Section of this Article are null and void.

(b) Any obligation void under this Section may be set aside and vacated by any court of equity, upon a complaint filed for that purpose, by the person so granting, giving, entering into, or exe-

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cuting the same, or by his executors or administrators, or by any creditor, heir, devisee, purchaser or other person interested therein; or if a judgment, the same may be set aside on motion of any person aforesaid, on due notice thereof given.

(c) No assignment of any obligation void under this Section may in any manner affect the defense of the person giving, granting, drawing, entering into or executing such obligation, or the remedies of any person interested therein.

28-8. § 28-8. Gambling Losses Recoverable.]

(a) Any person who by gambling shall lose to any other person, any sum of money or thing of value, amounting to the sum of \$50 or more and shall pay or deliver the same or any part thereof, may sue for and recover the money or other thing of value, so lost and paid or delivered, in a civil action against the winner thereof, with costs, in any court of competent jurisdiction. No person who accepts from another person for transmission, and transmits, either in his own name or in the name of such other person, any order for any transaction to be made upon, or who executes any order given to him by another person, or who executes any transaction for his own account on, any regular board of trade or commercial, commodity or stock exchange, shall, under any circumstances, be deemed a "winner" of any moneys lost by such other person in or through any such transactions.

(b) If within 6 months, such person who under the terms of Subsection 28-8(a) is entitled to initiate action to recover his losses does not in fact pursue his remedy, any person may initiate a civil action against the winner. The court or the jury, as the case may be, shall determine the amount of the loss. After such determination, the court shall enter a judgment of triple the amount so determined.

ARTICLE 29. BRIBERY IN CONTESTS

Sec.

29-1. Offering a Bribe.

29-2. Accepting a Bribe.

29-3. Failure to Report Offer of Bribe.

29-1. § 29-1. Offering a Bribe.] Any person who, with intent to influence any person participating in, officiating or connected with any professional or amateur athletic contest, sporting event or exhibition, gives, offers or promises any money, bribe or other thing of value or advantage to induce such participant, official or other person not to use his best efforts in connection with such contest, event or exhibition shall be fined from \$1,000 to \$5,000 or imprisoned in the penitentiary from one to 5 years, or both.

29-2. § 29-2. Accepting a Bribe.] Any person participating in, officiating or connected with any professional or amateur athletic contest, sporting event or exhibition who accepts or agrees to accept any money, bribe or other thing of value or advantage with the intent, understanding or agreement that he will not use his best efforts in connection with such contest, event or exhibition shall be fined from \$1,000 to \$5,000 or imprisoned in the penitentiary from one to 5 years, or both.

29-3. § 29-3. Failure to Report Offer of Bribe.] Any person participating, officiating or connected with any professional or amateur athletic contest, sporting event or exhibition who fails to report forthwith to his employer, the promoter of such contest, event or exhibition, a peace officer, or the local State's Attorney any offer or prom-

ise made to him in violation of Section 29-1 shall be fined not to exceed \$500 or imprisoned in a penal institution other than the penitentiary not to exceed one year, or both.

PART E. OFFENSES AFFECTING GOVERNMENTAL FUNCTIONS

ARTICLE 30. TREASON AND RELATED OFFENSES

Sec.

30-1. Treason.

30-2. Misprision of Treason.

30-3. Advocating Overthrow of Government.

30-1. § 30-1. Treason.] (a) A person owing allegiance to this State commits treason when he knowingly:

(1) Levies war against this State; or

(2) Adheres to the enemies of this State, giving them aid or comfort.

(b) No person may be convicted of treason except on the testimony of 2 witnesses to the same overt act, or on his confession in open court.

(c) A person convicted of treason shall be punished by death or imprisonment in the penitentiary for any indeterminate term with a minimum of not less than 14 years. If the accused is found guilty by a jury a sentence of death shall not be imposed by the court unless the jury's verdict so provides in accordance with Section 1-7(c) (1) of this Code.

30-2. § 30-2. Misprision of Treason.] (a) A person owing allegiance to this State commits misprision of treason when he conceals or withholds his knowledge that another has committed treason against this State.

(b) A person convicted of misprision of treason shall be imprisoned in the penitentiary from one to 2 years.

30-3. § 30-3. Advocating Overthrow of Government.] A person who advocates, or with knowledge of its contents knowingly publishes, sells or distributes any document which advocates or with knowledge of its purpose, knowingly becomes a member of any organization which advocates the overthrow or reformation of the existing form of government of this State by violence or unlawful means shall be imprisoned in the penitentiary from one to 10 years.

ARTICLE 31. INTERFERENCE WITH PUBLIC OFFICERS

Sec.

31-1. Resisting or Obstructing a Peace Officer.

31-2. Resisting or Obstructing a Peace Officer while Armed.

31-3. Obstructing Service of Process.

31-4. Obstructing Justice.

31-5. Concealing or Aiding a Fugitive.

31-6. Escape.

31-7. Aiding Escape.

31-8. Refusing to Aid an Officer.

31-1. § 31-1. Resisting or Obstructing a Peace Officer.] A person who knowingly resists or obstructs the performance by one known to the person to be a peace officer of any authorized act within his official capacity shall be fined not to exceed \$500 or imprisoned in a penal institution other than the penitentiary not to exceed one year, or both.

31-2. § 31-2. Resisting or Obstructing a Peace Officer while Armed.] Whoever violates Section 31-1 while armed with a dangerous weapon

shall be imprisoned in the penitentiary from one to 2 years.

31-3. § 31-3. Obstructing Service of Process.] Whoever knowingly resists or obstructs the authorized service or execution of any civil or criminal process or order of any court shall be fined not to exceed \$500 or imprisoned in a penal institution other than the penitentiary not to exceed 6 months, or both.

31-4. § 31-4. Obstructing Justice.] A person obstructs justice when, with intent to prevent the apprehension or obstruct the prosecution or defense of any person, he knowingly commits any of the following acts:

(a) Destroys, alters, conceals or disguises physical evidence, plants false evidence, furnishes false information; or

(b) Induces a witness having knowledge material to the subject at issue to leave the State or conceal himself; or

(c) Possessing knowledge material to the subject at issue, he leaves the State or conceals himself.

Penalty.

A person convicted of obstructing justice shall be fined not to exceed \$1,000 or imprisoned in a penal institution other than the penitentiary not to exceed one year or in the penitentiary from one to 3 years, or both fined and imprisoned.

31-5. § 31-5. Concealing or Aiding a Fugitive.] Every person not standing in the relation of husband, wife, parent, child, brother or sister to the offender, who, with intent to prevent the apprehension of the offender, conceals his knowledge that an offense has been committed or harbors, aids or conceals the offender, shall be fined not to exceed \$1,000 or imprisoned in a penal institution other than the penitentiary not to exceed one year or in the penitentiary from one to 2 years, or both fined and imprisoned.

31-6. § 31-6. Escape.] (a) A person convicted of a felony, or charged with the commission of a felony who intentionally escapes from any penal institution or from the custody of an employee of that institution shall be imprisoned in the penitentiary from one to 10 years.

(b) A person convicted of a misdemeanor or charged with the commission of a misdemeanor who intentionally escapes from any penal institution or from the custody of an employee of that institution shall be imprisoned in a penal institution other than the penitentiary not to exceed one year.

(c) A person in the lawful custody of a peace officer who intentionally escapes from custody shall be imprisoned in a penal institution other than the penitentiary not to exceed one year.

(d) A person who violates Subsection (b) or (c) of this Section while armed with a dangerous weapon shall be imprisoned in the penitentiary for one to 5 years.

31-7. § 31-7. Aiding Escape.] (a) Whoever, with intent to aid any prisoner in escaping from any penal institution, conveys into the institution or transfers to the prisoner anything for use in escaping shall be fined not to exceed \$1,000 or imprisoned in a penal institution other than the penitentiary not to exceed one year, or both.

(b) Whoever knowingly aids a person convicted of a felony, or charged with the commission of a felony in escaping from any penal institution or from the custody of any employee of that institu-

tion shall be imprisoned in the penitentiary from one to 10 years.

(c) Whoever knowingly aids a person convicted of a misdemeanor or charged with the commission of a misdemeanor in escaping from any penal institution or from the custody of an employee of that institution shall be imprisoned in a penal institution other than the penitentiary not to exceed one year.

(d) Whoever knowingly aids a person in escaping from any public institution, other than a penal institution, in which he is lawfully detained, or from the custody of an employee of that institution, shall be fined not to exceed \$1,000 or imprisoned in a penal institution other than the penitentiary not to exceed one year, or both.

(e) Whoever knowingly aids a person in the lawful custody of a peace officer in escaping from custody shall be fined not to exceed \$500 and imprisoned in a penal institution other than the penitentiary not to exceed one year, or both.

(f) An officer or employee of any penal institution who recklessly permits any prisoner in his custody to escape shall be fined not to exceed \$500 or imprisoned in a penal institution other than the penitentiary not to exceed 6 months, or both.

(g) A person who violates Subsections (c), (d) or (e) of this Section while armed with a dangerous weapon shall be imprisoned in the penitentiary from one to 5 years.

31-8. § 31-8. Refusing to Aid an Officer.] Whoever upon command refuses or knowingly fails reasonably to aid a person known by him to be a peace officer in:

(a) Apprehending a person whom the officer is authorized to apprehend; or

(b) Preventing the commission by another of any offense, shall be fined not to exceed \$100.

ARTICLE 32. INTERFERENCE WITH JUDICIAL PROCEDURE

Sec.

32-1. Compounding a Crime.

32-2. Perjury.

32-3. Subornation of Perjury.

32-4. Communicating with Jurors.

32-5. False Personation of Judicial or Governmental Officials.

32-6. Performance of Unauthorized Acts.

32-7. Simulating Legal Process.

32-8. Tampering with Public Records.

32-9. Tampering with Public Notice.

32-10. Violation of Bail Bond.

32-1. § 32-1. Compounding a Crime.] (a) A person compounds a crime when he receives or offers to another any consideration for a promise not to prosecute or aid in the prosecution of an offender.

(b) A person convicted of compounding a crime shall be fined not to exceed \$500.

32-2. § 32-2. Perjury.] (a) A person commits perjury when, under oath or affirmation, in a proceeding or in any other matter where by law such oath or affirmation is required, he makes a false statement, material to the issue or point in question, which he does not believe to be true.

(b) Proof of Falsity.

An indictment or information for perjury alleging that the offender, under oath, has made contradictory statements, material to the issue or point in question, in the same or in different proceedings, where such oath or affirmation is required, need not specify which statement is false. At the trial, the prosecution need not establish which statement is false.

(c) Admission of Falsity.

Where the contradictory statements are made in the same continuous trial, an admission by the offender in that same continuous trial of the falsity of a contradictory statement shall bar prosecution therefor under any provisions of this Code.

Penalty.

A person convicted of perjury shall be fined not to exceed \$1,000 or imprisoned in a penal institution other than the penitentiary not to exceed one year or in the penitentiary from one to 14 years, or both fined and imprisoned.

32-3. § 32-3. Subornation of Perjury.] (a)

A person commits subornation of perjury when he procures or induces another to make a statement in violation of Section 32-2 which the person knows to be false.

(b) Penalty.

A person convicted of subornation of perjury shall be fined not to exceed \$1,000 or imprisoned in the penitentiary from one to 5 years, or both.

32-4. § 32-4. Communicating with Jurors.]

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 him communicates with him otherwise than as authorized by law shall be fined not to exceed \$500 or imprisoned in a penal institution other than the penitentiary not to exceed one year, or both.

32-5. § 32-5. False Personation of Judicial or Governmental Officials.] A person who falsely represents himself to be an attorney authorized to practice law or a public officer or a public employee shall be fined not to exceed \$500 or imprisoned in a penal institution other than the penitentiary not to exceed 6 months, or both.

32-6. § 32-6. Performance of Unauthorized Acts.] A person who performs any of the following acts, knowing that his performance is not authorized by law, shall be fined not to exceed \$500 or imprisoned in a penal institution other than the penitentiary not to exceed one year or in the penitentiary from one to 5 years, or both fined and imprisoned.

(a) Conducts a marriage ceremony; or

(b) Acknowledges the execution of any document which by law may be recorded; or

(c) Becomes a surety for any party in any civil or criminal proceeding, before any court or public officer authorized to accept such surety.

32-7. § 32-7. Simulating Legal Process.] A person who issues or delivers any document which he knows falsely purports to be or simulates any civil or criminal process shall be fined not to exceed \$500 or imprisoned in a penal institution other than the penitentiary not to exceed 6 months, or both.

32-8. § 32-8. Tampering with Public Records.] A person who knowingly and without lawful authority alters, destroys, defaces, removes or conceals any public record shall be fined not to exceed \$1,000 or imprisoned in a penal institution other than the penitentiary not to exceed one year or in the penitentiary from one to 5 years, or both fined and imprisoned.

32-9. § 32-9. Tampering with Public Notice.] A person who knowingly and without lawful authority alters, destroys, defaces, removes or conceals any public notice, posted according to law,

during the time for which the notice was to remain posted, shall be fined not to exceed \$200.

32-10. § 32-10. Violation of Bail Bond.] Whoever, having been admitted to bail for appearance before any court of record of this State, incurs a forfeiture of the bail and willfully fails to surrender himself within 30 days following the date of such forfeiture, shall, if the bail was given in connection with a charge of felony or pending appeal or certiorari after conviction of any offense, be fined not more than \$5,000 or imprisoned in the penitentiary not more than five years, or both; or, if the bail was given in connection with a charge of committing a misdemeanor, or for appearance as a witness, be fined not more than \$1,000 or imprisoned in a penal institution other than the penitentiary not more than one year, or both.

Nothing in this section shall interfere with or prevent the exercise by any court of its power to punish for contempt. As amended by act approved Aug. 1, 1961. L.1961, p. —, S.B.No.897.

ARTICLE 33. OFFICIAL MISCONDUCT

Sec.

33-1. Bribery.

33-2. Failure to Report a Bribe.

33-3. Official Misconduct.

33-1. § 33-1. Bribery.] A person commits bribery when:

(a) With intent to influence the performance of any act related to the employment or function of any public officer, public employee or juror, he promises or tenders to that person any property or personal advantage which he is not authorized by law to accept; or

(b) With intent to influence the performance of any act related to the employment or function of any public officer, public employee or juror, he promises or tenders to one whom he believes to be a public officer, public employee or juror, any property or personal advantage which a public officer, public employee or juror would not be authorized by law to accept; or

(c) With intent to cause any person to influence the performance of any act related to the employment or function of any public officer, public employee or juror, he promises or tenders to that person any property or personal advantage which he is not authorized by law to accept; or

(d) He receives, retains or agrees to accept any property or personal advantage which he is not authorized by law to accept knowing that such property or personal advantage was promised or tendered with intent to cause him to influence the performance of any act related to the employment or function of any public officer, public employee or juror; or

(e) He solicits any property or personal advantage which he is not authorized by law to accept pursuant to an understanding that he shall influence the performance of any act related to the employment or function of any public officer, public employee or juror.

Penalty.

A person convicted of bribery shall be fined from \$1,000 to \$5,000 or imprisoned in a penal institution other than the penitentiary not to exceed one year or in the penitentiary from one to 5 years, or both fined and imprisoned.

33-2. § 33-2. Failure to Report a Bribe.] Any public officer, public employee or juror who fails to report forthwith to the local State's Attorney any offer made to him in violation of Section 33-1 shall be fined not to exceed \$1,000 or im-

prisoned in a penal institution other than the penitentiary not to exceed one year, or both.

33-3. § 33-3. Official Misconduct.] A public officer or employee commits misconduct when, in his official capacity, he commits any of the following acts:

(a) Intentionally or recklessly fails to perform any mandatory duty as required by law; or

(b) Knowingly performs an act which he knows he is forbidden by law to perform; or

(c) With intent to obtain a personal advantage for himself or another, he performs an act in excess of his lawful authority; or

(d) Solicits or knowingly accepts for the performance of any act a fee or reward which he knows is not authorized by law.

A public officer or employee convicted of violating any provision of this Section forfeits his office or employment. In addition, he shall be fined not to exceed \$1,000 or imprisoned in a penal institution other than the penitentiary not to exceed one year or in the penitentiary from one to 5 years, or both fined and imprisoned.

TITLE IV. CONSTRUCTION, EFFECTIVE DATE AND REPEAL

ARTICLE 34. CONSTRUCTION AND EFFECTIVE DATE

Sec.

34-1. Effect of Headings.

34-2. Partial Invalidity.

34-3. Savings provisions; Continuation of prior Statutes.

34-4. Effective Date.

34-1. § 34-1. Effect of Headings.] Section, Article and Title headings contained herein shall not be deemed to govern, limit, modify or in any manner affect the scope, meaning or intent of the provisions of any Section, Article or Title hereof.

34-2. § 34-2. Partial Invalidity.] The invalidity of any provision of this Code shall not affect the validity of the remainder of this Code.

34-3. § 34-3. Savings provisions; continuation of prior Statutes.] The provisions of Sections 2, 3 and 4 of "An Act to revise the law in relation to the construction of the Statutes", approved March 5, 1874, as amended,¹ shall apply in all constructions of this Code.

¹ Chapter 131, §§ 2-4.

34-4. § 34-4. Effective Date.] This Code shall take effect January 1, 1962.

ARTICLE 35. REPEAL

Sec.

35-1. Repeal.

35-1. § 35-1. Repeal.] The following Acts and parts of Acts are repealed:

Sections 1, 3, 4, 5, 6, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 21a, 22, 22a, 23, 24, 24a, 25, 25B, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 43, 44, 45, 46, 47, 48, 54, 54a, 55, 55a, 56, 56a, 56a-1, 56c, 57, 57a-1, 58, 59, 60, 61, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 81½, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 92a, 92b, 93, 93a, 95, 96, 97, 97a, 98, 99, 100, 102, 102½, 103, 103a, 104, 104½, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 116a, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 142, 143, 144, 145, 146, 146a, 147, 148,

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"An Act for the protection of school personnel from assault or assault and battery", approved August 3, 1949; ²

"An Act for the protection of bank depositors", approved June 4, 1879, as amended; ³

"An Act prohibiting the influencing the result of sporting events by bribery, and to repeal an act herein named", approved June 6, 1945, as amended; ⁴

"An Act to define and provide a punishment for the crime of burglary with explosives", filed June 26, 1917, as amended; ⁵

"An Act to define and punish the crime of contributing to the delinquency of children", approved June 25, 1915; ⁶

"An Act to define and punish crimes against children", approved May 17, 1907, as amended; ⁷

"An Act to protect all citizens in their civil and legal rights and fixing a penalty for violation of the same", approved June 10, 1885, as amended; ⁸

"An Act in relation to civil and legal rights of persons in this State", approved June 27, 1935; ⁹

"An Act in relation to civil rights", approved July 6, 1937; ¹⁰

"An Act to prohibit the publication and distribution of discriminating matter against any religious sect, creed, class, denomination, or nationality and to punish the same", approved June 28, 1919; ¹¹

"An Act to define and punish conspiracies in the State of Illinois", approved April 19, 1877, as amended; ¹²

"An Act revising the law relating to deadly weapons", filed July 3, 1925, as amended; ¹³

"An Act to amend the criminal laws of the State", approved May 31, 1879; ¹⁴

"An Act to prevent the prostitution of females", approved June 17, 1887, as amended; ¹⁵

"An Act to amend Section 2 and the title of an act in relation to pandering, to define and prohibit the same, to provide for the punishment thereof, for the competency of certain evidence at the trial therefor, and providing what shall not be a defense", approved June 1, 1908, as amended; ¹⁶

"An Act to prevent the detention by debt or otherwise, of female persons in houses of prostitution or other places where prostitution is practiced or allowed, and providing for the punishment thereof", approved June 9, 1909; ¹⁷

"An Act to prevent the playing of cards, dice, balls or other article or device used in gaming, by minors in saloons or places where intoxicating liquors are sold", approved May 20, 1879; ¹⁸

"An Act to prohibit the use of a common drinking cup, glass or other utensil used for public drinking purposes in public and private schools, State

educational institutions, halls used for public meetings or entertainments, hotels, lodging houses, theaters, factories or public or municipal buildings, on railroad trains and stations and in other public places in the State of Illinois", approved June 5, 1911; 19

"An Act to regulate electronic eavesdropping, and to provide for penalties and remedies for the violation thereof", approved July 10, 1957; 20

"An Act concerning larceny and embezzlement of funds and property", approved June 27, 1917; 21

"An Act concerning larceny and embezzlement of funds and property of fraternal beneficiary societies, corporations and associations, and their subordinate lodges, by officers thereof", approved June 9, 1909; 22

"An Act to punish the unlawful or wrongful manufacture, sale or possession of explosives", approved July 16, 1941; 23

"An Act to punish persons for destroying property, or inflicting injury to persons, by means of any bomb, dynamite or other explosives, or by means of any similar instrument or implement", approved June 21, 1921, as amended; 24

"An Act relating to the extortion, or attempted extortion of money, or other property for the purpose of avoiding, settling or terminating demands, claims, disputes or controversies between organizations, associations or groups of workmen or workwomen or their representatives and employers, property owners or property leasees, and to fix the punishment therefor", approved June 28, 1921; 25

"An Act in relation to certain causes of action conducive to extortion and blackmail, and to declare illegal, contracts and Acts made and done in pursuance thereof", filed May 4, 1935; 26

Section 2 of "An Act to prevent untrue, deceptive or fraudulent advertising", approved July 2, 1935, as amended; 27

"An Act in relation to shop lifting", approved June 18, 1957; 28

"An Act to punish the making, drawing, uttering or delivering of checks, drafts or orders for the payment of money with intent to defraud", approved May 26, 1917, as amended; 29

"An Act to prohibit the wearing or using of the insignia or rosette of the military order of the Loyal Legion of the United States by any others than members of the order", approved June 9, 1897; 30

"An Act in relation to wearing the badge or emblems of the Grand Army of the Republic, the United Spanish War Veterans' Association, or the Army of the Philippines, to provide a penalty for a violation thereof, and to repeal a certain act therein named", approved May 20, 1907, as amended; 31

"An Act to prohibit the wearing or using of the insignia or badge or other emblem of the Order of the American Legion or the Women's Auxiliary of the American Legion by any others than members of the orders", approved June 24, 1921, as amended; 32

"An Act to prohibit the wearing or using of the insignia or badge or other emblem of the Order of the Veterans of Foreign Wars of the United States or the Women's Auxiliary of the Veterans of Foreign Wars of the United States by any others than members of the orders", approved June 27, 1923; 33

"An Act to prohibit the wearing or using of the insignia, badge or other emblem of the American Veterans of World War II (AMVETS) or the Women's Auxiliary of American Veterans of World War II (AMVETS) by any persons other than members of such orders or organizations", approved August 8, 1947; 34

"An Act to prohibit the wearing or using of the insignia, badge or other emblem of the Catholic

War Veterans or the Women's Auxiliary of the Catholic War Veterans by any persons other than members of such orders or organizations", approved June 16, 1953; 35

"An Act to regulate the wearing or using of the insignia or badge or other emblem of the Disabled American Veterans or any Auxiliary thereof", approved June 24, 1953; 36

"An Act to prohibit the counterfeiting or use of the insignia or decal or other emblem of the Illinois Police Association or the exhibition of such badge, decal, emblem or insignia upon a motor vehicle by anyone other than members of the Association", approved June 5, 1959; 37

"An Act to prohibit personating officers or members of any grand or subordinate lodge or fraternal society chartered or having grand or subordinate lodges in this state, and to prohibit wearing or using the insignia or badges of any such lodges or societies by other than the members thereof", approved May 11, 1901; 38

"An Act to prohibit fortune-telling and other practices whereby money is obtained in the pretense of the exercise of occult powers", filed June 26, 1917; 39

"An Act to prevent and punish frauds in the practice of law", approved May 16, 1905; 40

"An Act to prevent and punish frauds upon newspaper salesmen under the age of 18 years", approved June 28, 1945; 41

"An Act to define and punish the offense of circulating papers simulating court process", approved June 28, 1919; 42

"An Act to prohibit book-making and pool-selling", approved May 31, 1887; 43

"An Act to suppress bucket-shops and gambling in stocks, bonds, petroleum, cotton, grain, provisions or other produce", approved June 6, 1887; 44

"An Act to prohibit the use of clock, tape, slot or other machines or devices for gambling purposes", approved June 21, 1895, as amended; 45

"An Act to protect all counties in the State of Illinois in which there are United States naval stations, and military posts of the first class from slot machines and other gambling devices", filed July 11, 1919; 46

"An Act to punish persons knowingly and wilfully selling, bartering or furnishing for beverage purposes wood alcohol, compounds or preparations containing wood alcohol, or any poisonous liquor, which causes death, from its use as a beverage", approved June 25, 1923; 47

"An Act to prevent and punish kidnapping for ransom", approved May 11, 1901; 48

"An Act to change the punishment of persons convicted of the crime of petit larceny and misdemeanors", approved May 28, 1879, as amended; 49

"An Act providing for the punishment of bailees for fraudulently taking or converting property bailed and relating to indictments therefor", approved June 19, 1891; 50

"An Act for the prevention of policy-playing", approved April 29, 1905; 51

"An Act to regulate the sale, possession and transportation of machine guns", approved July 2, 1931; 52

"An Act to punish persons for removing waste, lubricated packing or other material from the journal boxes of engines, tenders or cars without authority", approved June 11, 1897; 53

"An Act to prevent injury to levees and embankments", approved June 18, 1891; 54

"An Act to make unlawful the damaging or unauthorized tampering or meddling with a motor

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vehicle or with the motor or other parts thereof, and providing a penalty therefor", approved June 27, 1917; ⁵⁵

"An Act prohibiting the transmission of a false alarm of fire, and providing a penalty therefor", approved June 28, 1921; ⁵⁶

"An Act prohibiting the transmission of a false alarm of a concealed bomb, and providing a penalty therefor", approved July 8, 1950; ⁵⁷

"An Act to prohibit the use of stink bombs and stinking, offensive smelling or injurious bombs or substances, for the purpose of injuring, molesting or coercing another, and prescribing the penalty therefor", approved June 27, 1921; ⁵⁸

"An Act to regulate the distribution and tie-in sales of publications and to provide for penalties for the violation thereof", approved June 29, 1955; ⁵⁹

"An Act to prohibit exhibitions of persons who have attained notoriety through some criminal act, also of persons whose deformity is such as to attract public curiosity and to provide a penalty therefor", approved April 22, 1899; ⁶⁰

"An Act prohibiting the unauthorized performance or representation of any unpublished or undedicated dramatic composition or dramatic musical composition and penalty for the same", approved June 1, 1907; ⁶¹

"An Act to regulate the making, remaking and renovation of mattresses, quilts, or bed comforters, and regulating the sale thereof, and providing a punishment for a violation thereof", approved June 29, 1915; ⁶²

"An Act to suppress mob violence", approved May 16, 1905, as amended; ⁶³

"An Act to indemnify the owners of property for damages occasioned by mobs and riots", approved June 15, 1887, as amended; ⁶⁴

"An Act to secure the peace and good order of society, to quell riots or disturbances, to secure the execution of the laws, and to provide for special deputy sheriffs, and for calling out and using the military force of the state for the preservation of the peace and the protection of property", approved June 16, 1887; ⁶⁵

"An Act to punish the seduction of females", approved April 19, 1899; ⁶⁶

"An Act to license shanty boats and other water craft, fixing the fees therefor and providing penalties", approved June 10, 1897; ⁶⁷

"An Act to protect sidewalks and sidepaths, and to provide a penalty for its violation", approved April 26, 1899; ⁶⁸

"An Act prohibiting the leasing or using of any space or portion of places of public accommodation or public resort for the purpose of accepting, demanding or receiving gratuities or donations, commonly called tips, from the public", approved June 29, 1915; ⁶⁹ and

"An Act to define and punish the crime of destroying food with the intent to influence the market price thereof", approved June 21, 1919, as

amended.⁷⁰ 1961, July 28, Laws 1961, p. —, H.B.No.342, § 35-1.

¹ Chapter 38, §§ 1, 3-6, 46-56, 56a, 57, 57a, 58, 59, 59a, 60, 60a, 75-82, 84-87, 135, 136, 138, 139, 141, 142, 151, 159, 159a, 160, 161, 161a, 161a, 162, 163, 175-178, 193, 198-206, 207-209, 211-217, 219-228, 228a, 228b, 236, 240, 241, 252, 253, 254, 254.1, 256-258, 260-262, 262a, 263, 273, 277-286, 289, 324-335, 354, 355, 358, 360-364, 364a, 365-373, 374-385, 387, 388, 388a, 388b, 393, 394, 396-404, 404.1-404.4, 404a-404c, 406-411, 416, 417, 419-423, 425, 427-430, 432, 433, 433a, 434-436, 436a, 437, 438, 438a, 440, 441, 448, 449, 454, 455, 455a, 456, 456a, 457-464, 468-472, 473-475, 475a, 476, 479, 490-496, 499-501, 503-511, 536, 549, 550, 555-563, 568a, 578, 579, 580, 581-586, 588-591, 594-601, 623-633, 703-707, 707a, 708-710, 754a.

² Chapter 38, § 60b.
³ Chapter 38, §§ 61-64.
⁴ Chapter 38, §§ 83a-83c.
⁵ Chapter 38, § 88.
⁶ Chapter 38, §§ 103-105.
⁷ Chapter 38, § 109.
⁸ Chapter 38, §§ 125-128g.
⁹ Chapter 38, §§ 128h-128j.
¹⁰ Chapter 38, §§ 128k-128n.
¹¹ Chapter 38, § 129-134.
¹² Chapter 38, § 140.
¹³ Chapter 38, §§ 152-158b.
¹⁴ Chapter 38, § 164.
¹⁵ Chapter 38, §§ 165-169.
¹⁶ Chapter 38, §§ 170-173.
¹⁷ Chapter 38, § 174.
¹⁸ Chapter 38, § 179.
¹⁹ Chapter 38, §§ 180-183.
²⁰ Chapter 38, §§ 206.1-206.5.
²¹ Chapter 38, § 210.
²² Chapter 38, § 218.
²³ Chapter 38, § 236a.
²⁴ Chapter 38, §§ 237-239.
²⁵ Chapter 38, §§ 242-246.
²⁶ Chapter 38, §§ 246.1-246.6.
²⁷ Chapter 38, § 249b.
²⁸ Chapter 38, §§ 252.1-252.4.
²⁹ Chapter 38, § 255.
³⁰ Chapter 38, §§ 264, 265.
³¹ Chapter 38, §§ 266, 267.
³² Chapter 38, §§ 268, 269.
³³ Chapter 38, §§ 269a, 269b.
³⁴ Chapter 38, §§ 269c, 269d.
³⁵ Chapter 38, §§ 269e, 269f.
³⁶ Chapter 38, §§ 269g, 269h.
³⁷ Chapter 38, §§ 269i, 269j.
³⁸ Chapter 38, §§ 270-272.
³⁹ Chapter 38, §§ 290, 291.
⁴⁰ Chapter 38, §§ 298, 299.
⁴¹ Chapter 38, § 301a.
⁴² Chapter 38, § 323.
⁴³ Chapter 38, § 336.
⁴⁴ Chapter 38, §§ 337-340.
⁴⁵ Chapter 38, §§ 341-343.
⁴⁶ Chapter 38, §§ 344-348.
⁴⁷ Chapter 38, § 373a.
⁴⁸ Chapter 38, § 386.
⁴⁹ Chapter 38, §§ 389-392.
⁵⁰ Chapter 38, § 395.
⁵¹ Chapter 38, §§ 412-414.
⁵² Chapter 38, §§ 414a-414g.
⁵³ Chapter 38, § 418.
⁵⁴ Chapter 38, § 431.
⁵⁵ Chapter 38, § 439.
⁵⁶ Chapter 38, § 442.
⁵⁷ Chapter 38, § 442.1.
⁵⁸ Chapter 38, §§ 443-445.
⁵⁹ Chapter 38, § 472a.
⁶⁰ Chapter 38, §§ 486-488.
⁶¹ Chapter 38, § 489.
⁶² Chapter 38, §§ 497, 498.
⁶³ Chapter 38, §§ 512-517.
⁶⁴ Chapter 38, §§ 518-524.
⁶⁵ Chapter 38, §§ 525-535.
⁶⁶ Chapter 38, § 537.
⁶⁷ Chapter 38, §§ 538-541.
⁶⁸ Chapter 38, §§ 543-546.
⁶⁹ Chapter 38, §§ 551-553.
⁷⁰ Chapter 38, § 577.

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