

# Table of Contents

## Volume 5

### **CHAPTER 1. INTRODUCTION TO ILLINOIS CRIMINAL PROCEDURE**

- § 1:1 Illinois Criminal Code and Code of Criminal Procedure
- § 1:5 Criminal justice reform *[New]*

### **CHAPTER 2. THE ATTORNEY-CLIENT RELATIONSHIP**

#### **A. INTRODUCTION**

- § 2:1 The right to counsel—Constitutional provisions

#### **B. CONSTITUTIONAL GUARANTEES**

- § 2:10 Invoking the right to counsel
- § 2:11 Right to counsel after arrest
- § 2:12 Interrogation after indictment

#### **C. EFFECTIVE ASSISTANCE OF COUNSEL**

- § 2:20 General principles
- § 2:21 Incompetent counsel—In general
- § 2:22 Incompetent counsel—Failure to engage in adversary contest
- § 2:23 Incompetent counsel—Failure to assert defense or file motions
- § 2:24 Incompetent counsel—Counsel’s strategic decisions and  
defendant’s personal decisions
- § 2:25 Incompetent counsel—Conflict of interest
- § 2:26 Incompetent counsel—Conduct by the attorney

#### **D. APPOINTED COUNSEL**

- § 2:30 Appointment of the public defender
- § 2:31 Appointed counsel—Fees
- § 2:32 Reimbursement by the defendant

#### **G. ETHICAL CONSIDERATIONS**

- § 2:53 Withdrawal and substitution of attorney

#### **H. WAIVER OF COUNSEL**

- § 2:60 Waiver of right to attorney

§ 2:61 Pro se defendant

## **I. CAPITAL LITIGATION TRIAL BAR**

§ 2:65 Capital litigation trial bar—In general *[Deleted]*

## **CHAPTER 3. ARREST PROCEDURE**

### **B. CONSTITUTIONAL ISSUES**

§ 3:7 Probable cause to arrest

§ 3:8 When probable cause is determined

§ 3:9 Experience and expertise of the officer—Defendant's reputation and record

§ 3:10 Information from citizen witnesses

§ 3:12 Information from informants

§ 3:13 Probable cause based on actions and statements of the defendant

### **C. ISSUANCE OF WARRANT**

§ 3:20 Authority to issue warrants

§ 3:21 Application for an arrest warrant

### **E. POWER TO ARREST**

§ 3:30 Authority to arrest

§ 3:31 Authority of officer to arrest—Failure to obtain warrant

§ 3:33 Authority to arrest—Private persons

§ 3:34 Territorial jurisdiction of officers to arrest

§ 3:36 Use of force in effecting an arrest

§ 3:38 Waiver of execution of an arrest warrant *[New]*

### **F. ARREST WITHOUT A WARRANT IN A RESIDENCE**

§ 3:40 Necessity of warrant to arrest in private premises

§ 3:41 Exceptions to necessity of warrant—Exigent circumstances

§ 3:42 Exceptions to necessity of warrant—Consent

### **G. SEARCH INCIDENT TO ARREST**

§ 3:51 Search of premises incident to arrest

### **H. STOP AND FRISK**

§ 3:60 Investigatory stop

§ 3:61 Standard and grounds for stop

§ 3:62 Stop based on police observation or information from others

§ 3:62.50 Stop based on reasonable mistake of law *[New]*

§ 3:62.60 Stops where crime later found unconstitutional *[New]*

§ 3:63 Arrest distinguished

§ 3:64 Permissible activities during detention

## TABLE OF CONTENTS

- § 3:65 Duration and place of detention
- § 3:66 Traffic stops under *Terry v. Ohio*
- § 3:67 Police conduct during traffic stop
- § 3:68 Search for weapons during temporary stop
- § 3:69 Seizure of contraband during temporary stop

### **I. POST-ARREST ISSUES**

- § 3:70 Post-arrest procedure
- § 3:71 Rights of the accused upon arrest

### **J. CHECKLIST AND FORMS**

- § 3:76 Arrest warrant—Form

## **CHAPTER 4. PRETRIAL RELEASE** *[Retitled]*

### **A. INTRODUCTION**

- § 4:1 Constitutional provisions
- § 4:2 Role of the attorney
- § 4:3 Definitions

### **B. TYPES OF RELEASE**

- § 4:4 Release on personal recognizance
- § 4:5 Pretrial release
- § 4:6 Bail for traffic and other petty offenses

### **C. PROCEDURES FOR PRETRIAL RELEASE**

- § 4:7 Setting conditions for pretrial release
- § 4:8 Setting conditions for pretrial release—Special circumstances
- § 4:9 Pretrial release for pregnant pre-trial detainees
- § 4:10 Procedure for denial of pretrial release
- § 4:11 Conduct of the pretrial release hearing
- § 4:12 Factors to be considered in making a determination of dangerousness
- § 4:13 Detention
- § 4:14 Conditions of pretrial release
- § 4:15 Conditions of pretrial release—Sex offenses with minor
- § 4:16 Conditions of pretrial release—Family or household members
- § 4:17 Release after a finding of guilty
- § 4:18 Defendant on parole

### **D. FAILURE TO COMPLY**

- § 4:19 Failure to comply with conditions of pretrial release or recognizance
- § 4:20 Revocation, modification and sanctions for violations of conditions of pretrial release
- § 4:21 Violation of conditions of pretrial release

§ 4:22 Failure to appear on traffic cases

## **E. CHECKLIST AND FORMS**

§ 4:23 Checklist

§ 4:24 Pretrial release—Form

§ 4:25 Rule to show cause—Form

§ 4:26 Motion for revocation or modification of pretrial release or sanctions—Form

§ 4:27 Motion to quash arrest warrant—Form

§ 4:28 Motion to deny pretrial release—Form

§ 4:29 Order denying pretrial release—Form

## **CHAPTER 5. COMMENCEMENT OF PROSECUTION**

### **B. TYPES OF CHARGING DOCUMENTS**

§ 5:5 Complaints

### **C. FORM OF THE CHARGE**

§ 5:10 Sufficiency of the charging document

§ 5:12 Statement of the offense

§ 5:15 Time of offense

§ 5:18 Charges with enhanced penalties

§ 5:19 Charging multiple offenses in one document

§ 5:22 Defects in the charging document

§ 5:24 Amending the charging document

§ 5:25 Mental state allegations

### **D. ARRAIGNMENT**

§ 5:34 Defendant's appearance by closed circuit television and video conference [*New*]

### **F. CHECKLIST AND FORMS**

§ 5:52 Information—Form

§ 5:53 Indictment—Form

## **CHAPTER 6. JURISDICTION AND VENUE**

### **B. VENUE**

§ 6:10 General considerations

§ 6:11 Special rules

TABLE OF CONTENTS

**CHAPTER 7. GRAND JURY**

**A. NATURE AND FUNCTION OF THE GRAND JURY**

- § 7:2 Powers of the grand jury
- § 7:3 Composition of the grand jury

**B. COMPULSORY PROCESS**

- § 7:10 Subpoena power
- § 7:11 Subpoena duces tecum
- § 7:12 Compelling non-testimonial evidence
- § 7:14 Granting immunity to witnesses

**C. CONDUCT OF GRAND JURY PROCEEDINGS**

- § 7:20 Procedure in the grand jury

**D. ATTACKING THE INDICTMENT**

- § 7:35 In general
- § 7:40 Prosecutorial misconduct—In general
- § 7:43 Prosecutorial misconduct—Vindictive prosecution

**CHAPTER 8. PRELIMINARY HEARING**

**A. INTRODUCTION**

- § 8:1 Nature of the preliminary hearing

**B. PROCEDURES AT THE PRELIMINARY HEARING**

- § 8:9 Use of transcripts

**C. SPECIAL ISSUES**

- § 8:16 Holding a witness to bond
- § 8:17 Necessity of or right to a second hearing

**CHAPTER 9. DISCOVERY**

**A. IN GENERAL**

- § 9:2 Purpose of discovery rules
- § 9:5 Custody of discovery materials *[New]*

**B. DEFENSE DISCOVERY**

- § 9:10 Felony rules of discovery
- § 9:11 Misdemeanor rules of discovery
- § 9:14 Scientific examination of state's evidence

- § 9:16 Impeachment evidence
- § 9:17 Work product
- § 9:18 Evidence favorable to the defendant
- § 9:19 Types of exculpatory material
- § 9:21 Informants
- § 9:25 DNA evidence
- § 9:29 Law enforcement body cameras *[New]*
- § 9:30 Law enforcement reports involving mental health incidents  
*[New]*

#### **D. ENFORCING DISCOVERY**

- § 9:40 Sanctions for failure to answer discovery
- § 9:41 Exclusion of defense witnesses
- § 9:42 Exclusion of defendant's defense

#### **E. DEPOSITIONS**

- § 9:45 Taking depositions in criminal cases
- § 9:46 Justification for deposition

#### **G. CHECKLIST AND FORMS**

- § 9:55 Checklist
- § 9:75 Case management checklist in capital case—Form *[Deleted]*

### **CHAPTER 10. RIGHT TO A SPEEDY TRIAL**

#### **A. INTRODUCTION**

- § 10:2 Constitutional right to a speedy trial
- § 10:3 Statutory right to a prompt trial

#### **B. STATUTORY PROCEDURES**

- § 10:10 When does right accrue
- § 10:11 Extending the statutory time for trial
- § 10:13 Multiple offenses pending against the defendant
- § 10:14 Defendant in custody in another county
- § 10:16 Effect of filing additional charges against the defendant
- § 10:17 Effect of dismissal of charges
- § 10:19 Discharge for violation of right to speedy trial
- § 10:22 Speedy trial demand in traffic cases
- § 10:24 Intrastate detainer act
- § 10:25 Interstate detainer act

#### **C. DELAY IN BRINGING THE DEFENDANT TO TRIAL**

- § 10:35 Effect of delay
- § 10:37 Types of delay attributable to the defendant

TABLE OF CONTENTS

**D. DELAY IN BRINGING THE CHARGE**

- § 10:46 Due process and preindictment delay
- § 10:47 Statute of limitations—General considerations
- § 10:48 Statute of limitations—Commission of the offense
- § 10:49 Statute of limitations—Commencement of prosecution
- § 10:50 Extending the period of limitations
- § 10:52 Statute of limitations—Tolling the statute
- § 10:54 Statute of limitations—Pleadings

**E. CHECKLIST AND FORMS**

- § 10:60 Checklist
- § 10:61 Demand for speedy trial—Form

**CHAPTER 11. GUILTY PLEAS AND PLEA  
NEGOTIATIONS**

**B. ROLE OF THE PARTIES**

- § 11:14 Judge’s role in plea negotiations

**C. ISSUES IN PLEA NEGOTIATIONS**

- § 11:20 Inadmissibility of defendant’s statement during plea negotiations
- § 11:21 Breach of the plea agreement
- § 11:24 Right to appeal

**D. TYPES OF PLEAS**

- § 11:42 Reserving appeal rights—Stipulated bench trials

**E. GUILTY PLEA PROCEDURES**

- § 11:50 In general
- § 11:51 Statutory requirements
- § 11:52 Entering the plea of guilty
- § 11:54 Admonitions regarding potential sentence
- § 11:55 Voluntary nature of the plea of guilty
- § 11:56 Substantial compliance
- § 11:57 Right to an attorney during plea

**F. WITHDRAWING A PLEA OF GUILTY**

- § 11:65 In general
- § 11:66 Representation by counsel
- § 11:67 Basis for the motion to withdraw plea

**G. CHECKLIST AND FORMS**

- § 11:80 Certificate of Counsel pursuant to Illinois Supreme Court Rule 604(d) Forms Appendix—Form *[New]*

## CHAPTER 12. MOTIONS TO SUPPRESS

### B. THE EXCLUSIONARY RULE

- § 12:7 Good faith exception to the exclusionary rule
- § 12:9 Standing
- § 12:10 Fruit of the poisonous tree doctrine
- § 12:11 Independent source exception
- § 12:12 Inevitable discovery exception
- § 12:13 Attenuation from the illegal action
- § 12:14 Use of illegally obtained evidence to impeach

### C. SUPPRESSION MOTIONS

- § 12:25 Requirements for motions to suppress confession
- § 12:26 Requirements for motions to suppress evidence
- § 12:27 Hearing requirements
- § 12:28 Strategy at the hearing

## CHAPTER 13. WARRANTLESS SEARCHES

### B. PROTECTED AREAS AND INTERESTS

- § 13:5 Introduction
- § 13:6 Legitimate expectation of privacy
- § 13:7 Limitations as to what may be seized
- § 13:8 Plain view doctrine
- § 13:9 Open or public areas
- § 13:12 Fourth Amendment and new technology [*New*]

### C. CONSTITUTIONAL PREREQUISITES FOR WARRANTLESS SEARCH

- § 13:20 Reasonableness
- § 13:21 Necessity of probable cause
- § 13:26 Justifiable reliance on officer's knowledge in formulating probable cause
- § 13:27 Hearsay information for probable cause
- § 13:31 Veracity—Declaration against interest
- § 13:34 Information from citizen-witnesses

### D. EXCEPTIONS TO THE WARRANT REQUIREMENT

- § 13:51 The exclusionary rule
- § 13:52 Fruit of the poisonous tree
- § 13:53 Standing
- § 13:55 Search by a private party
- § 13:56 Consent searches—In general
- § 13:57 Nature of consent—Burden of proof
- § 13:58 Scope of consent
- § 13:59 Factors bearing on the validity of consent

## TABLE OF CONTENTS

- § 13:61 Third party consent
- § 13:62 Search incident to a lawful arrest
- § 13:63 Vehicle searches
- § 13:64 Search of vehicle incident to arrest
- § 13:65 Scope of search incident to arrest
- § 13:67 Scope of search after probable cause established
- § 13:68 Inventory searches
- § 13:70 Abandoned property
- § 13:71 Exigent circumstances
- § 13:75 Vehicle roadblocks
- § 13:76 Search of parolees *[New]*
- § 13:77 Emergency assistance *[New]*
- § 13:78 Police negligence *[New]*
- § 13:79 Relying on Appellate Law *[New]*

### **E. CHECKLIST AND FORMS**

- § 13:90 Checklist

## **CHAPTER 14. SEARCH WARRANTS**

### **B. ISSUANCE OF SEARCH WARRANTS**

- § 14:10 Application for a warrant
- § 14:11 Content of the complaint for search warrant
- § 14:12 Probable cause requirement
- § 14:13 Reliability of informants
- § 14:14 Time of information in complaint
- § 14:16 Incorporation of affidavit
- § 14:17 Description of property to be seized
- § 14:19 Description of place to be searched
- § 14:23 Anticipatory search warrants
- § 14:24 Warrant upon testimony by simultaneous video and audio transmission *[New]*

### **C. EXECUTION AND RETURN OF THE SEARCH WARRANT**

- § 14:30 In general
- § 14:32 When a search warrant may be executed
- § 14:33 Manner of entry
- § 14:34 Scope and intensity of the search
- § 14:35 Seizing items in plain view
- § 14:36 Search of persons on the premises

### **D. MOTION TO SUPPRESS SEARCH WARRANT**

- § 14:50 Attacking the search warrant
- § 14:51 Good faith exception to the exclusionary rule

### **E. INSPECTIONS AND REGULATORY SEARCHES**

- § 14:61 Fire, health and safety inspections

§ 14:62 Administrative searches in “special needs” situations

## CHAPTER 15. EAVESDROPPING DEVICES

### A. USE OF EAVESDROPPING DEVICES IN ILLINOIS

§ 15:2 Consent by one party

§ 15:3 Statutory authority

### B. STATUTORY PROCEDURES

§ 15:12 Failure to comply with statutory requirements

§ 15:15 Order authorizing use of eavesdropping device

§ 15:19 Retention and review of recordings—Consent

### C. ISSUES IN EAVESDROPPING CASES

§ 15:41 Statutory exceptions

§ 15:42 Federal v. state regulations

## Volume 6

## CHAPTER 16. CONFESSIONS

### A. INTRODUCTION

§ 16:2 Constitutional provisions

§ 16:3 Using a confession at trial

§ 16:4 Using a confession at trial—Mandatory electronic recording

§ 16:5 Minors and interrogation [*New*]

### B. MIRANDA WARNINGS

§ 16:10 In general

§ 16:11 Warning the defendant

§ 16:15 Invoking the right to remain silent

§ 16:16 Custody

§ 16:17 What is “interrogation”

§ 16:18 Waiver of fifth amendment rights

§ 16:19 Waiver after defendant indicates he wishes to remain silent

§ 16:20 Waiver after defendant indicates he wants a lawyer

§ 16:21 Violations of the *Miranda* rule

§ 16:22 Exceptions to *Miranda* requirement

§ 16:23 Comment by prosecutor on defendant’s post-arrest silence

§ 16:25 *Miranda* and incarcerated suspects

§ 16:26 Tacit admission by the defendant

§ 16:27 Interrogation by school personnel [*New*]

§ 16:28 Interrogation of minors on school grounds [*New*]

### C. VOLUNTARINESS

§ 16:35 In general

## TABLE OF CONTENTS

- § 16:36 Test for voluntariness
- § 16:37 Age
- § 16:38 Intelligence
- § 16:39 Education
- § 16:42 Intoxicated or drugged condition
- § 16:43 Physical coercion
- § 16:45 Length of interrogation
- § 16:47 Deception
- § 16:48 Use of polygraph
- § 16:49 Statements given by police during internal investigations  
*[New]*

### **D. RIGHT TO COUNSEL**

- § 16:55 Right to counsel during interrogation
- § 16:56 Waiver of counsel

### **E. USE OF CONFESSION AT TRIAL**

- § 16:65 Motion to suppress confession—Fruit of the poisonous tree
- § 16:67 Introducing a confession at trial
- § 16:68 Corpus delicti

### **F. NON-TESTIMONIAL EVIDENCE**

- § 16:75 In general
- § 16:76 Production of evidence—Non-criminal cases

### **G. CHECKLIST AND FORMS**

- § 16:80 Checklist

## **CHAPTER 17. IDENTIFICATION**

### **A. INTRODUCTION**

- § 17:1 General principles

### **B. DUE PROCESS RULE**

- § 17:11 Tainted identification procedures

### **C. RIGHT TO COUNSEL RULE**

- § 17:20 Sixth amendment right to counsel

### **D. TYPES OF IDENTIFICATION PROCEDURES**

- § 17:35 Showup identifications
- § 17:36 Photographic lineups—In general
- § 17:37 Suggestive procedures during photographic line-ups
- § 17:41 Suggestive lineup procedures
- § 17:43 Lineup and photo spread procedure

## **CHAPTER 18. JOINDER AND SEVERANCE OF OFFENSES AND DEFENDANTS**

### **A. PROCEDURE FOR OBTAINING JOINDER OR SEVERANCE**

§ 18:4 Severance of defendants or offenses by motion of either party

### **B. JOINDER AND SEVERANCE OF DEFENDANTS**

§ 18:22 Severance of defendants due to factual prejudice—  
Antagonistic defense or positions

§ 18:32 Alternatives to severance—Simultaneous jury trials *[New]*

### **C. JOINDER AND SEVERANCE OF OFFENSES**

§ 18:40 In general

§ 18:41 Joinder of offenses of the same acts or transactions connected  
together or constituting a common scheme or plan

§ 18:42 Misjoinder of offenses

## **CHAPTER 19. PRETRIAL MOTIONS**

### **A. PRETRIAL MOTION PROCEDURE**

§ 19:9 Hearing on motion

### **B. MOTION FOR CONTINUANCE**

§ 19:21 Motion for continuance by defendant

§ 19:24 Court's discretion in granting a continuance

§ 19:25 Denial of motion to continue

### **C. MOTIONS TO DISMISS**

§ 19:35 Procedural considerations

§ 19:36 Court's power to dismiss—In general

§ 19:37 Court's power to dismiss—Due process violation

§ 19:48 Selective or vindictive prosecution

§ 19:49 Legal presumptions

### **D. MOTION TO DISMISS— UNCONSTITUTIONALITY OF STATUTE**

§ 19:55 In general

§ 19:57 Vagueness and overbreadth

§ 19:58 Cruel and unusual punishment

§ 19:59 Ex post facto laws

§ 19:60 Burden of proof—Presumptions

§ 19:61 First amendment claims

§ 19:62 Equal protection

§ 19:64 Due process

§ 19:65 Single subject rule

## TABLE OF CONTENTS

- § 19:66 Preemption *[New]*
- § 19:67 Second amendment claims *[New]*

### **E. MOTION TO NOLLE PROS**

- § 19:71 Procedure for entering nolle pros

### **F. MOTION FOR SUBSTITUTION OF JUDGE**

- § 19:82 Substitution for cause
- § 19:83 Procedural requirements
- § 19:84 Grounds for substitution
- § 19:89 Motion for substitution of judge by state

### **G. CHECKLIST AND FORMS**

- § 19:110 Checklist

## **CHAPTER 20. FITNESS TO STAND TRIAL**

### **A. INTRODUCTION**

- § 20:1 General considerations
- § 20:2 Bona fide doubt
- § 20:3 Discretionary appointment of examiner of defendant's fitness
- § 20:4 What is not a bona fide doubt
- § 20:5 Role of defense counsel

### **B. FITNESS EXAMINATION**

- § 20:10 Appointment of experts
- § 20:11 Statements of defendant during fitness examination
- § 20:12 Report of expert after fitness examination

### **C. FITNESS HEARING**

- § 20:20 Time for hearing
- § 20:21 Burden of proof
- § 20:22 Nature of the hearing
- § 20:23 Right to a jury trial

### **D. POST-FITNESS HEARING PROCEDURES**

- § 20:31 Treatment after finding of unfitness
- § 20:32 Reports by persons supervising defendant's treatment
- § 20:33 Hearings after finding of unfitness
- § 20:34 Unfit defendants
- § 20:36 Discharge hearing
- § 20:37 Procedure after retreatment of defendant
- § 20:38 Appeal

### **E. MISCELLANEOUS PROVISIONS**

- § 20:50 Medication

§ 20:51 Assistance to the defendant with special needs at trial

## **CHAPTER 21. DOUBLE JEOPARDY**

### **A. INTRODUCTION**

§ 21:2 Statutory provisions

### **B. DECIDING WHETHER DOUBLE JEOPARDY EXISTS**

- § 21:10 Test for whether double jeopardy exists
- § 21:11 Preserving the issue for appeal
- § 21:12 Dual prosecution by federal and state governments
- § 21:13 Effect of directed verdict
- § 21:14 Retrial of defendant after mistrial
- § 21:15 Prosecutorial misconduct barring retrial
- § 21:17 Attachment of jeopardy
- § 21:18 Collateral estoppel
- § 21:22 Law of the case doctrine
- § 21:23 Retrial after appeal [*New*]

### **C. EXCEPTIONS TO DOUBLE JEOPARDY RULES**

§ 21:30 In general

## **CHAPTER 22. WITNESSES**

### **B. THE SUBPOENA PROCESS**

- § 22:11 Issuance of subpoena
- § 22:16 Subpoena duces tecum

### **C. OUT OF STATE WITNESSES**

§ 22:30 In general

### **D. DEPOSITIONS**

§ 22:41 Preserving testimony of a witness

### **E. COMPETENCY OF WITNESSES**

- § 22:50 Competency to testify
- § 22:51.50 Forensic interviews of children [*New*]
- § 22:52 Special issues in sexual offense cases with child witnesses  
[*Retitled*]
- § 22:53 Special issues in sexual offense cases with child  
witnesses—Hearsay exceptions
- § 22:54 Special issues in sexual offense cases with child  
witnesses—Confrontation clause and closed circuit  
television

## TABLE OF CONTENTS

- § 22:55 Special issues in sexual offense cases with child witnesses—Exclusions from courtroom
- § 22:55.50 Hearsay within hearsay *[New]*
- § 22:56 Hypnotized witnesses

### **F. IMPEACHMENT OF WITNESSES**

- § 22:60 In general
- § 22:62 Hostile and court's witnesses
- § 22:67 "Deals" in exchange for testimony
- § 22:68 Impeachment by prior conviction
- § 22:70 Inconsistent statements
- § 22:71 Impeachment with inconsistent statements—Foundation
- § 22:72 Impeachment with inconsistent statements—Answers of witness
- § 22:74 Prior inconsistent statement as substantive evidence
- § 22:75 Admissibility of prior statements—Witness refuses to testify despite a court order
- § 22:76 Admissibility of testimony from prior hearing
- § 22:77 Rape shield act
- § 22:79 Hearsay exception regarding elder adults *[New]*
- § 22:80 Admissibility of prior statements when the witness is deceased *[New]*
- § 22:81 Admissibility of prior statements of an unavailable witness whose absence was wrongfully procured *[New]*
- § 22:82 Definition of unavailability as a witness *[New]*
- § 22:83 Religious beliefs or opinions *[New]*
- § 22:84 Testimony by informants *[New]*

### **G. EXPERT WITNESSES**

- § 22:90 Need for defense experts
- § 22:92 Court scrutiny of expert witnesses
- § 22:93 Types of experts
- § 22:94 DNA identification procedures

### **H. THE FORGETFUL WITNESS**

- § 22:110 Present memory refreshed
- § 22:111 Past recollection recorded

### **I. CHARACTER WITNESSES**

- § 22:115 Evidence of good character
- § 22:116 Evidence of bad character
- § 22:117 Character evidence under Rule 404 *[New]*
- § 22:118 Evidence of Character Witness under Rule 608 of the Illinois Rules of Evidence *[New]*
- § 22:119 Methods of proving character under Rule 405 *[New]*

### **J. PRIVILEGES AND PRIVILEGED TESTIMONY**

- § 22:125 In general
- § 22:126 Privilege against self-incrimination

- § 22:128 Testimonial privilege—Marital privilege
- § 22:129 Testimonial privilege—Attorney-client privilege
- § 22:130 Testimonial privilege—Medical communications
- § 22:131 Testimonial privilege—Communication to clergy
- § 22:132 Testimonial privilege—Identity of informer
- § 22:133 Testimonial privileges—Other testimonial privileges
- § 22:136 Investigative privilege *[New]*

## **L. CONTEMPT**

- § 22:150 In general

## **M. CHECKLIST AND FORMS**

- § 22:160 Checklist

# **CHAPTER 23. EVIDENCE IN CRIMINAL CASES**

## **A. INTRODUCTION**

- § 23:1 General considerations
- § 23:3 Illinois Rules of Evidence *[New]*

## **B. INTRODUCING EVIDENCE**

- § 23:10.50 Authentication and identification *[New]*
- § 23:11 Introducing physical evidence—Examination and foundation
- § 23:12 Introducing physical evidence—Admissibility
- § 23:13 Chain of custody
- § 23:14 Best evidence rule
- § 23:15 Photographs
- § 23:16 Videotapes, motion pictures and sound recordings
- § 23:17 Laboratory reports *[New]*
- § 23:18 Contents of writings, recordings and photographs *[New]*
- § 23:19 Summaries of writings, recordings and photographs *[New]*
- § 23:20 Testimony or written admission of party *[New]*
- § 23:21 Admissibility of evidence—Functions of court and jury *[New]*

## **D. SPECIAL EVIDENTIARY ISSUES**

- § 23:43 Evidence of other crimes—In general
- § 23:44 Evidence of other crimes—Statutory basis
- § 23:44.05 Evidence of other crimes under Supreme Court Rules of Evidence *[New]*
- § 23:44.50 Preservation of evidence for laboratory testing—Controlled substances *[New]*
- § 23:45 Gang affiliation
- § 23:48 Preserving evidence
- § 23:49 Animal tracking evidence
- § 23:50 Evidence of flight

## TABLE OF CONTENTS

- § 23:51 Habit or routine practice *[New]*
- § 23:52 Submission of evidence—Sexual assaults *[New]*
- § 23:53 Currency used in undercover investigation *[New]*

### **E. HEARSAY**

- § 23:55 In general
- § 23:56 Admissions of defendant exceptions
- § 23:57 Business records exception
- § 23:58 Computer records exception
- § 23:59 Coroner's records exception
- § 23:60 Co-conspirator exception
- § 23:61 Declarations against interest exception
- § 23:62 Dying declaration exception
- § 23:63 Excited utterance exception
- § 23:65 Public records exception
- § 23:66 Prior recorded testimony exception
- § 23:67 State of mind exception
- § 23:69 Statement made for medical diagnosis or treatment
- § 23:70 Investigative procedures
- § 23:71 Doctrine of completeness and curative admissibility doctrine
- § 23:75 Statement of identification
- § 23:76 Tacit admission rule
- § 23:77 Substantive admissibility of prior identification *[New]*
- § 23:78 Forfeiture by misconduct rule *[New]*
- § 23:79 E-mail evidence *[New]*
- § 23:79.50 Evidence in domestic violence cases *[New]*
- § 23:79.55 Miscellaneous records allowed by Illinois Rules of Evidence *[New]*
- § 23:79.60 Judgment of previous conviction *[New]*
- § 23:79.70 Attacking and supporting credibility of declarant *[New]*

### **F. JUDICIAL NOTICE**

- § 23:80 In general
- § 23:81 Judicial notice of scientific facts
- § 23:82 Judicial notice of geographical facts
- § 23:84 Judicial notice of court's acts and records

## **CHAPTER 24. DEFENSES**

### **B. INSANITY**

- § 24:11 Test for insanity
- § 24:14 Burden of proof
- § 24:24 Jury instructions and verdict
- § 24:25 Proceedings after acquittal
- § 24:27 Length of commitment—Inpatient treatment
- § 24:29 Petition for discharge
- § 24:30 Guilty but mentally ill
- § 24:34 Sentencing after a finding of guilty but mentally ill

## **C. VOLUNTARY INTOXICATION AND DRUGGED CONDITION**

- § 24:50 In general
- § 24:51 Involuntary intoxication

## **D. JUSTIFIABLE USE OF FORCE**

- § 24:60 General considerations
- § 24:61 Defense of person
- § 24:62 When the defense may not be used
- § 24:63 Evidence of victim's propensity for violence
- § 24:65 Defense of other persons
- § 24:67 Use of force by aggressor
- § 24:68 Use of force by a peace officer
- § 24:70 Resisting arrest
- § 24:71 Use of force and escape [*New*]

## **E. ENTRAPMENT**

- § 24:80 In general
- § 24:83 Defendant's burden of proof

## **F. MISCELLANEOUS DEFENSES**

- § 24:95 Necessity
- § 24:96 Compulsion

## **G. CHECKLIST AND FORMS**

- § 24:105 Checklist

# **CHAPTER 25. JURY SELECTION**

## **A. CONSTITUTIONAL CONSIDERATIONS**

- § 25:5 Right to trial by jury
- § 25:6 Required number of jurors

## **B. WAIVER OF JURY TRIAL**

- § 25:20 In general

## **C. SELECTING THE JURY PANEL**

- § 25:31 Jury list
- § 25:35 Qualifications of jurors

## **D. SELECTING A JURY**

- § 25:45 In general
- § 25:46 Questioning the jurors—Judge v. attorneys
- § 25:50 Racial discrimination in jury selection
- § 25:51 Death qualified jurors

## TABLE OF CONTENTS

- § 25:52 Peremptory challenges
- § 25:53 Challenges for cause
- § 25:55 What is not grounds for a challenge for cause

### **E. POST-VOIR DIRE PROCEDURE**

- § 25:66 Notetaking by jurors
- § 25:67 Misconduct by Jurors *[New]*

### **F. CHECKLIST AND FORMS**

- § 25:75 Checklist

## **CHAPTER 26. TRIAL PROCEDURE**

### **A. INTRODUCTION**

- § 26:1 General considerations
- § 26:2 Conduct of the trial by the court
- § 26:3 Presence of defendant
- § 26:4 Public trial
- § 26:5 Motion to exclude witnesses
- § 26:6 Motions in limine—In general
- § 26:8 Exclusion of witnesses pursuant to Rule 615 *[New]*
- § 26:9 Disqualification of state's attorney *[New]*

### **B. OPENING STATEMENTS**

- § 26:15 In general

### **C. STATE'S CASE IN CHIEF**

- § 26:33 Cross-examination
- § 26:34 Redirect and recross-examination
- § 26:35 Stipulations to evidence
- § 26:36 Motion for directed verdict

### **D. DEFENDANT'S CASE**

- § 26:45 Testimony by the defendant
- § 26:46 Calling defense witnesses
- § 26:47 Impeachment of the defendant

### **F. JURY INSTRUCTIONS**

- § 26:60 In general
- § 26:61 Illinois pattern instructions
- § 26:63 Disposition of requested instructions
- § 26:64 Instructions on burden of proof
- § 26:65 Instructions on lesser included offense
- § 26:66 Instructions on witnesses
- § 26:67 Instructions on defenses
- § 26:69 Erroneous instructions
- § 26:70 Proceedings when an enhanced sentence is sought *[New]*

## **G. CLOSING ARGUMENT**

- § 26:80 In general
- § 26:81 Conduct by the prosecutor during closing argument—  
    Commenting on defendant's failure to testify
- § 26:82 Comments by prosecutor during closing argument

## **H. ARRIVING AT A VERDICT**

- § 26:91 Verdict
- § 26:92 Jury deliberations
- § 26:93 Deadlocked jury
- § 26:96 Inconsistent verdicts
- § 26:97 Validity of verdict
- § 26:98 Polling the jury

## **I. TRIAL IN ABSENTIA**

- § 26:110 In general
- § 26:111 Procedural requirements
- § 26:112 Motion for a new trial or sentencing hearing

# **CHAPTER 27. POST-TRIAL PROCEDURE**

## **A. POST-TRIAL MOTIONS**

- § 27:5 Motion for a new trial—In general
- § 27:8 Motion for new trial—Newly discovered evidence
- § 27:10 Grounds for a new trial—Right to an attorney
- § 27:15 Motion in arrest of judgment
- § 27:16 Motion for judgment notwithstanding the verdict
- § 27:17 Motion for relief from judgment
- § 27:18 Post-trial motion for fingerprint, integrated ballistic  
    identification system testing or forensic testing *[Retitled]*
- § 27:19 Motion to vacate prostitution convictions for sex trafficking  
    victims *[New]*

## **B. POST-CONVICTIONS PETITIONS**

- § 27:25 In general
- § 27:26 Initial procedure
- § 27:27 Contents of the post-conviction petition
- § 27:28 Basis for the petition
- § 27:30 Dismissal of the petition prior to hearing
- § 27:31 Pauper petitions
- § 27:32 Waiver rule
- § 27:33 Procedure after initial review
- § 27:34 Proof at the hearing
- § 27:35 Duties of appointed counsel
- § 27:37 Petition for a certificate of innocence that the petitioner was  
    innocent of all offenses for which he or she was incarcerated  
    *[New]*

TABLE OF CONTENTS

**C. WRIT OF HABEAS CORPUS**

- § 27:40 In general
- § 27:41 Application for writ of habeas corpus
- § 27:43 Form of return
- § 27:44 Hearing on the writ
- § 27:45 Habeas corpus relief properly granted
- § 27:46 Unavailability of habeas corpus relief

**D. CHECKLIST AND FORMS**

- § 27:55 Checklist

**Volume 6A**

**CHAPTER 28. SENTENCING**

**A. INTRODUCTION**

- § 28:2 Presentence report and investigation
- § 28:4 General sentencing provisions *[New]*
- § 28:5 First degree murder sentence *[New]*
- § 28:6 Class X felony sentencing *[New]*
- § 28:6.10 Class 1 felony sentencing *[New]*
- § 28:6.20 Class 2 felony sentencing *[New]*
- § 28:6.30 Class 3 felony sentencing *[New]*
- § 28:6.40 Class 4 felony sentencing *[New]*
- § 28:6.50 Other felony sentencing provisions *[New]*
- § 28:7 Class A misdemeanor sentencing *[New]*
- § 28:7.10 Class B misdemeanor sentencing *[New]*
- § 28:7.20 Class C misdemeanor sentencing *[New]*
- § 28:7.30 Other misdemeanor sentencing provisions *[New]*
- § 28:7.40 Petty offense sentencing *[New]*
- § 28:7.50 Business offense sentencing *[New]*
- § 28:8 Unclassified offense sentencing *[New]*

**B. TYPES OF DISPOSITIONS**

- § 28:10 Probation and conditional discharge
- § 28:10.50 Second chance probation *[New]*
- § 28:10.60 First time weapon offender program *[New]*
- § 28:10.70 Offender initiative program *[New]*
- § 28:10.80 Sentencing guidelines for individuals with prior felony firearm-related or other specified convictions *[New]*
- § 28:10.90 Mandatory minimum sentencing *[New]*
- § 28:11 First offender probation for drug violations
- § 28:12 Ineligibility for probation or conditional discharge
- § 28:13 Court supervision
- § 28:14 Conditions of probation and conditional discharge
- § 28:14.50 Periodic tests as condition of probation or parole *[New]*
- § 28:15 Conditions of court supervision

- § 28:16 Restitution—In general
- § 28:17 Restitution—Special circumstances
- § 28:18 Imprisonment
- § 28:18.10 Calculation of term of imprisonment *[New]*
- § 28:19 Extended term
- § 28:20 Class X—Enhanced offenses
- § 28:21 Mandatory supervised release
- § 28:23 Fines
- § 28:23.50 Criminal and Traffic Assessment Act *[New]*
- § 28:24 Costs
- § 28:25 Periodic imprisonment
- § 28:26 Submission of specimens by offenders *[Retitled]*
- § 28:27 Electronic home detention
- § 28:28 Proportionate penalties
- § 28:29 Intermediate sanctions
- § 28:29.10 Eligibility for programs restricted by felony background *[New]*
- § 28:29.30 Enhanced offenses *[New]*
- § 28:29.50 Void sentences *[New]*
- § 28:29.70 Restorative justice practice *[New]*

### **C. SENTENCING HEARING**

- § 28:40 In general
- § 28:41 Use of prior convictions and bad acts
- § 28:46 Factors in aggravation
- § 28:47 Rights of victims—Illinois Constitution *[Retitled]*
- § 28:47.10 Rights of victims—Definitions *[New]*
- § 28:47.20 Rights of victims—Statutory rights *[New]*
- § 28:47.30 Procedures to implement the rights of crime victims *[New]*
- § 28:47.40 Victim's right to be heard at sentencing *[New]*
- § 28:47.45 Crime victim rights and the Prisoner Review Board *[New]*
- § 28:47.50 Responsibilities of victims and witnesses *[New]*
- § 28:48 Factors in mitigation
- § 28:49 Arguments to the court and pronouncement of sentence and admonitions
- § 28:51 Sentencing after remand
- § 28:52 Changes in sentencing law
- § 28:53 Credit for time served
- § 28:54 Motion to reduce sentence
- § 28:56 Enhanced sentences—*Apprendi v. New Jersey*
- § 28:58 Sentencing individuals under the age of 18 at the time of the commission of an offense *[New]*
- § 28:59 Death of defendant *[New]*
- § 28:60 Petition by State's Attorney to reduce sentence *[New]*

### **D. SENTENCING FOR MULTIPLE OFFENSES**

- § 28:66 Concurrent v. consecutive sentences
- § 28:67 Mandatory consecutive sentences
- § 28:68 One act—One crime rule
- § 28:69 Merger of sentences

TABLE OF CONTENTS

§ 28:70 Consecutive terms—Manner served *[New]*

**E. SENTENCING IN CAPITAL CASES**

§ 28:75 In general

§ 28:76 Initial procedure

§ 28:77 Second stage hearing

§ 28:78 Rules of evidence

§ 28:81 Death penalty and the insane defendant

**F. HABITUAL CRIMINALS**

§ 28:100 In general

§ 28:101 Statutory procedure

**G. SUBSTANCE USE DISORDER ACT *[Retitled]***

§ 28:106 Eligibility

§ 28:108 Court's exercise of discretion under the act

§ 28:111 Motion to vacate judgment

§ 28:112 Acceptance for treatment as a parole condition

§ 28:113 Drug court treatment act

§ 28:114 Drug School Act *[New]*

§ 28:115 Mental Health Court Treatment Act *[New]*

§ 28:116 First offender felony prostitution *[New]*

§ 28:117 Veterans and Servicemembers Court Treatment Act *[New]*

**H. CHECKLIST AND FORMS**

§ 28:120 Checklist

**CHAPTER 29. VIOLATIONS OF  
SENTENCING ORDER**

**A. INTRODUCTION**

§ 29:2 Default in payment of fine

§ 29:3 Revocation of periodic imprisonment

**B. PROCEDURE PRIOR TO THE REVOCATION  
HEARING**

§ 29:5 Contents of the petition for revocation

§ 29:7 Notice to the defendant

§ 29:8 Tolling the term of the sentence

§ 29:9 Pretrial release in revocation proceedings *[Retitled]*

§ 29:11 Grounds for revocation

**C. REVOCATION HEARING**

§ 29:20 Burden of proof

§ 29:25 The revocation hearing

§ 29:26 Stipulation to the petition and evidence

- § 29:27 Constitutional rights—Admonitions
- § 29:29 Constitutional rights—Exclusionary rule
- § 29:30 Double jeopardy and collateral estoppel

#### **D. POST-HEARING PROCEEDINGS**

- § 29:40 Resentencing
- § 29:43 Credit for time served on probation
- § 29:45 Reversal of underlying conviction
- § 29:46 Modification of sentence

### **CHAPTER 30. APPEALS**

#### **A. PREPARING FOR APPEAL**

- § 30:1 In general
- § 30:2 Determination of indigency status
- § 30:6 Duties of counsel regarding appeal
- § 30:7 Release pending appeal [*Retitled*]
- § 30:8 Perfection of appeal
- § 30:9 Post-trial or post-sentencing motions and perfection of appeal
- § 30:10 Appeals in delinquent minor proceedings
- § 30:12 Mootness [*New*]
- § 30:13 Right to a speedy appeal [*New*]
- § 30:14 Sentences for uncharged offenses by reviewing court [*New*]

#### **B. SUBSEQUENT APPELLATE PROCEDURE**

- § 30:16 Preparing the record
- § 30:17 Time for filing the report of proceedings
- § 30:18 Time for filing briefs
- § 30:20 Oral argument
- § 30:22 Appeal to the Illinois Supreme Court
- § 30:24 Appellate advocacy

#### **C. WAIVER OF ISSUES**

- § 30:29 In general
- § 30:30 Exception to waiver doctrine—Plain error
- § 30:33 Harmless error

#### **D. INTERLOCUTORY APPEAL**

- § 30:40 In general
- § 30:41 Appeal by the state
- § 30:42 Mandamus action

#### **E. CHECKLIST AND FORMS**

- § 30:51 Notice of appeal—Form
- § 30:53 Docketing Statement—Form
- § 30:54 Certificate of counsel under Rule 604(d)—Form [*New*]

## CHAPTER 31. EXPUNGEMENTS AND SEALING RECORDS

### A. EXPUNGEMENTS

- § 31:1 Arrest records
- § 31:2 Expungement—In general
- § 31:3 Expungement procedure *[Retitled]*
- § 31:4 Expungement after identity theft
- § 31:5 Expungement after a pardon
- § 31:6.50 Expungement after honorable discharge *[New]*
- § 31:7 Expungement and sealing—Definitions *[New]*
- § 31:8 Expungement of civil violations *[New]*
- § 31:9 Expungement of minor cannabis offenses *[New]*
- § 31:9.50 Expungement of prostitution offenses *[New]*

### B. SEALING RECORDS

- § 31:10 Sealing records—In general
- § 31:11 Sealing records—Procedure
- § 31:12 Disclosure of information
- § 31:13 Conviction set aside on direct review *[Deleted]*
- § 31:14 Deleting records of innocent arrestee *[New]*
- § 31:15 Immediate sealing *[New]*
- § 31:16 Sealing for trafficking victims *[New]*

### C. FORMS

- § 31:20 Checklist
- § 31:21 Instruction guide
- § 31:22 Getting started request to expunge and impound and/or seal criminal records—Form *[Retitled]*
- § 31:23 Request to expunge and impound and/or seal criminal records—Form *[Retitled]*
- § 31:24 Additional arrests or cases for expungement—Form *[Retitled]*
- § 31:25 Order to expunge and impound and/or seal criminal records—Form *[Retitled]*
- § 31:26 Notice of filing for expungement and/or sealing—Form *[Retitled]*
- § 31:27 Additional notice of filing for expungement and/or sealing—Form *[Retitled]*
- § 31:28 Order denying request to expunge and impound and/or seal criminal records *[Retitled]*
- § 31:29 Additional arrests or cases for sealing *[Retitled]*
- § 31:30 *[Reserved]*
- § 31:31 *[Reserved]*
- § 31:32 Petition to expunge and for judicial determination of factual innocence/identity theft—Form *[New]*
- § 31:33 Order to expunge and for judicial determination of factual innocence/identity theft—Form *[New]*
- § 31:34 Getting started application for waiver of court fees *[New]*

- § 31:35 How to ask the court to participate in a court case for free—  
Form *[New]*
- § 31:36 Application for waiver of court fees—Form *[New]*
- § 31:37 Order for waiver of court fees—Form *[New]*

## CHAPTER 32. SEX OFFENDERS

### A. SEX OFFENDER REGISTRATION

- § 32:1 Duty to register
- § 32:2 Registration
- § 32:3 Definition of sex offender
- § 32:4 Definition of sex offense
- § 32:5 Definition of sexual predator
- § 32:6 Duties of the court
- § 32:8 Duty to report—Sexually dangerous or violent persons
- § 32:9 Duty to register yearly or after change of address
- § 32:10 Out-of-state employee or student
- § 32:11 Duration of registration
- § 32:12 Registration requirements
- § 32:14 Public disclosure
- § 32:15 Failure to register
- § 32:16 Special conditions for parole or mandatory supervised release
- § 32:17 Notification regarding juvenile offenders *[New]*
- § 32:18 Application of act to adjudicated juvenile delinquents *[New]*
- § 32:19 Notification and release or discharge of sex offender or sexual predator upon conviction for a felony offense committed after July 1, 2011 *[New]*

### B. SEXUALLY DANGEROUS PERSONS

- § 32:20 Sexually dangerous persons—In general
- § 32:21 Petition for hearing
- § 32:22 Post-hearing matters
- § 32:23 Discharge and conditional release

### C. SEXUALLY VIOLENT PERSONS

- § 32:30 Sexually violent persons—In general
- § 32:31 Notice to the attorney general and state's attorney
- § 32:32 Sexually violent person petition
- § 32:33 Rights of persons subject to petition
- § 32:34 Detention and probable cause hearing
- § 32:35 Trial
- § 32:36 Commitment
- § 32:39 Periodic reexamination and report
- § 32:40 Petition for conditional release
- § 32:41 Petition for discharge
- § 32:42 Additional discharge petitions
- § 32:44 Appeals *[New]*

### D. SEX OFFENDER MANAGEMENT

- § 32:50 Sex offender management

TABLE OF CONTENTS

**E. CHECKLISTS AND FORMS**

§ 32:55 Checklist—Sexually Violent Person *[Retitled]*

**CHAPTER 33. FORFEITURES**

**A. ARTICLE 36 FORFEITURES**

- § 33:1 General provisions
- § 33:1.10 Seizure *[New]*
- § 33:1.20 Receipt for seized property *[New]*
- § 33:1.30 Safekeeping of seized property pending disposition *[New]*
- § 33:1.40 Notice to State’s Attorney *[New]*
- § 33:2 Preliminary review *[Retitled]*
- § 33:3 Complaint for forfeiture *[Retitled]*
- § 33:4 Notice to owner or interest holder *[Retitled]*
- § 33:4.50 Replevin prohibited: return of personal property inside seized conveyance *[New]*
- § 33:5 Judicial in re procedures *[Retitled]*
- § 33:5.30 Innocent owner hearing *[New]*
- § 33:5.70 Exemptions from forfeiture *[New]*
- § 33:6 Return of property, damages and costs *[Retitled]*
- § 33:7 *[Reserved]*
- § 33:8 Role of the attorney general
- § 33:10 Proportionality, forfeiture of assets and attorneys’ fees *[Retitled]*

**B. DRUG ASSET FORFEITURES**

- § 33:20 Forfeiture of property under act 150
- § 33:21 Drug asset forfeiture procedure act
- § 33:21.10 Seizure *[New]*
- § 33:21.20 Receipt for seized property *[New]*
- § 33:21.30 Safekeeping of seized property pending disposition *[New]*
- § 33:21.40 Preliminary review under Drug Asset Forfeiture Procedure Act *[New]*
- § 33:21.50 Notice to owner or interest holder *[New]*
- § 33:21.60 Notice to State’s Attorney *[New]*
- § 33:21.70 Replevin prohibited: return of personal property inside seized conveyance *[New]*
- § 33:21.80 Non-Judicial Forfeiture *[New]*
- § 33:22 Presumptions and inferences *[Retitled]*
- § 33:23 Exemptions
- § 33:24 Judicial in rem procedures
- § 33:24.50 Innocent owner hearing *[New]*
- § 33:25 Forfeiture of property and the eighth amendment
- § 33:27 Settlement of claims *[Retitled]*
- § 33:28 Judicial review *[New]*
- § 33:29 Return of property, damages and costs *[New]*

**C. CHECKLISTS AND FORMS**

§ 33:30 Checklist—Article 36 forfeitures

- § 33:31 Checklist—Drug asset forfeitures
- § 33:32 Complaint for forfeiture and seizure under 720 ILCS 5/36-1—Form
- § 33:32.10 Order of Court Finding Probable Cause—Form *[New]*
- § 33:32.20 Motion and Affidavit(s) Alleging Substantial Hardship Regarding Seized Conveyance 720 ILCS 5/36-1.4—Form *[New]*
- § 33:32.30 Motion and Affidavit(s) for Innocent Owner Hearing 720 ILCS 5/36-2.7—Form *[New]*
- § 33:32.40 Order of Court (hardship)—Form *[New]*
- § 33:32.50 Order of Court (innocent owner)—Form *[New]*
- § 33:33 Article 36 Forfeitures—Notice of filing—Proof of service—Form *[Retitled]*
- § 33:38 Order of court forfeiting property—form
- § 33:39 Drug Asset Forfeitures—Notice of filing—Proof of service—Form *[Retitled]*
- § 33:40 Complaint for forfeiture and seizure under Drug Asset Forfeiture Procedure Act—Form
- § 33:42.10 Motion and Affidavit(s) for Innocent Owner Hearing 725 ILCS 150/9.1—Form *[New]*
- § 33:42.20 Order of Court Returning Property (innocent owner)—Form *[New]*
- § 33:42.30 Order of Court Finding Probable Cause—Form *[New]*

#### **D. OTHER FORFEITURES *[New]***

- § 33:50 In general *[New]*

### **CHAPTER 34. EXTRADITION AND DETAINERS**

#### **A. EXTRADITION IN GENERAL**

- § 34:3 Extraditable persons

#### **D. DETAINERS**

- § 34:64 Request by inmate for disposition of detainer

### **CHAPTER 35. JUVENILE PROCEEDINGS**

#### **A. GENERAL CONSIDERATIONS**

- § 35:1 Introduction to the Juvenile Court Act
- § 35:2 Terminology
- § 35:3 Exclusive jurisdiction *[New]*

#### **B. RIGHTS OF THE PARTIES**

- § 35:5 Due process rights under the United States Constitution
- § 35:6 Statutory rights
- § 35:7 Admissibility of statements by minors in homicide cases
- § 35:10 Admissibility of statements by minor—Evaluations *[New]*

TABLE OF CONTENTS

**C. PREADJUDICATION PROCEDURES**

- § 35:15 Taking the minor into custody
- § 35:17 Service of summons
- § 35:18 Notice to parties
- § 35:19 Detention hearings
- § 35:20 Pretrial release and pretrial conditions order *[Retitled]*

**D. PROSECUTION OF THE MINOR AS AN ADULT**

- § 35:30 Concurrent jurisdiction
- § 35:31 Excluded jurisdiction—Mandatory prosecution of minors as adults
- § 35:32 Processing of juvenile in possession of a firearm *[Retitled]*
- § 35:33 Transfer of jurisdiction—Presumptive transfers
- § 35:34 Transfer of jurisdiction—Discretionary transfers
- § 35:36 Extended jurisdiction juvenile prosecutions

**E. PROCEDURES PRIOR TO THE TRIAL**

- § 35:42 Admitting the petition
- § 35:43 Right to a speedy hearing

**F. TRIAL STAGE**

- § 35:50 Procedures at the adjudicatory hearing

**G. SENTENCING STAGE**

- § 35:61 Continuance under supervision
- § 35:62 Dispositions available for wards of the court
- § 35:63 Sentencing hearing
- § 35:65 Violation of probation, conditional discharge and supervision
- § 35:66 Juvenile electronic monitoring and home detention law *[New]*
- § 35:67 Aftercare release *[New]*

**H. HABITUAL JUVENILE OFFENDERS**

- § 35:75 General provisions
- § 35:78 Dispositional hearing on prior adjudications

**I. JUVENILE RECORDS**

- § 35:85 Juvenile law enforcement and municipal ordinance violation records *[Retitled]*
- § 35:86 Juvenile court records
- § 35:87 Expungement of juvenile law enforcement and juvenile court records *[Retitled]*

**K. CHECKLIST AND FORMS**

- § 35:105 Checklist
- § 35:113 *[Reserved]*
- § 35:114 *[Reserved]*
- § 35:115 *[Reserved]*

- § 35:116 *[Reserved]*
- § 35:117 *[Reserved]*
- § 35:118 Presumptive transfer motion under 705 ILCS 405/5-805(2)(a)—Form *[Retitled]*
- § 35:127 Petition to expunge juvenile records—705 ILCS 405/5-915(1) and (2)—Form *[Retitled]*
- § 35:128 How to expunge juvenile records *[Retitled]*
- § 35:130 Order of expungement—Form
- § 35:132 Request to expunge juvenile records—Form *[New]*
- § 35:133 Notice of filing for juvenile expungement—Form *[New]*
- § 35:134 Order to expunge juvenile records—Form *[New]*
- § 35:135 Additional juvenile records—Form *[New]*
- § 35:136 Change of address—Form *[New]*
- § 35:137 Additional arresting agencies—Form *[New]*

## **CHAPTER 36. ORDINANCE AND CIVIL VIOLATIONS *[Retitled]***

### **A. ORDINANCE AND CIVIL VIOLATIONS *[Retitled]***

- § 36:1 Municipal ordinances—In general
- § 36:4 Service of process
- § 36:10 Supreme Court Rules in ordinance prosecutions *[New]*
- § 36:11 Civil violations *[New]*
- § 36:12 Civil violations and Illinois Supreme Court rules *[New]*

#### **Table of Laws and Rules**

#### **Table of Cases**

#### **Index**

## Chapter 1

# Introduction To Illinois Criminal Procedure

§ 1:1 Illinois Criminal Code and Code of Criminal Procedure

§ 1:5 Criminal justice reform *[New]*

### § 1:1 Illinois Criminal Code and Code of Criminal Procedure

*[Replace “bail” in the eighth paragraph with:]*

pretrial release

*[Add new text to end of section]*

Whenever there is a reference in any Act to the Criminal Code or Criminal Code of 1961, that reference shall be interpreted to mean the Criminal Code of 2012, unless the context clearly requires otherwise.<sup>50</sup>

---

<sup>50</sup>5 ILCS 70/1.39.

### § 1:5 Criminal justice reform *[New]*

Many states have adopted new legislation seeking to correct the injustices inherent in the criminal justice system. On February 22, 2021, Illinois joined them when Governor J.B. Pritzker signed the criminal justice reform bill, P.A. 101-652. While some provisions of the law take effect July 1, 2021, much of the Act will not go into effect until January 1, 2022, January 1, 2023, and January 1, 2025. It is anticipated that there will be a number of amendments to the Act as the unintended consequences become clear. The law has been titled the SAFE-T Act (Statewide Use of Force Standardization Act). The new provisions cover many aspects of policing, including use of force,<sup>1</sup> and body cameras.<sup>2</sup> Other amendments deal with pretrial release,<sup>3</sup> sentencing,<sup>4</sup> rights of arrestees,<sup>5</sup> execution of search warrants,<sup>6</sup> mandatory supervised release,<sup>7</sup> and corrections.<sup>8</sup>

Whenever there is a reference in any Act to “bail,” “bail bond,” or “conditions of bail,” these terms shall be construed as “pretrial release” or “conditions of pretrial release.”<sup>9</sup>

---

<sup>1</sup>720 ILCS 5/7-5 et seq., and 725 ILCS 5/108-8.

<sup>2</sup>50 ILCS 706/10-15 et seq.

<sup>3</sup>5 ILCS 70/1.43, 725 ILCS

**§ 1:5**

CRIMINAL PRACTICE AND PROCEDURE, 2D

5/102-6, 5/102-7, and 725 ILCS 5/110-1  
et seq.

<sup>4</sup>730 ILCS 5/5-4.5-95, 730 ILCS  
5/5-6-3.8, and 730 ILCS 5/5-4-1(c-1.5).

<sup>5</sup>725 ILCS 5/103-3.

<sup>6</sup>725 ILCS 5/108-8.

<sup>7</sup>730 ILCS 5/5-8-1(d).

<sup>8</sup>730 ILCS 5/5-8-4(a) and 55 ILCS  
5/3-15003.7 et seq.

<sup>9</sup>5 ILCS 70/1.43.