

**NOTICE:**

**DEFINITIONS AND TERMS USED IN CONNECTION WITH THE MEDICAL  
CANNABIS PILOT PROGRAM ACT ADMINISTERED BY THE ILLINOIS  
DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION**

The Illinois Department of Financial and Professional Regulation, Division of Professional Regulation, receives inquiries related to the Compassionate Use of Medical Cannabis Pilot Program Act (the “Act”). (410 ILCS 130). While the Department does not issue “advisory opinions” or dispense legal advice, the public’s interest merits a Notice from the Department. Parties seeking a legal opinion should consult with an attorney. The definitions and terms contained herein are not exhaustive of all definitions and terms used by the Department in furtherance of the Act.

**Terms used in Dispensary Setback Requirement**

**Section 130(d)** of the Act states in pertinent part:

(d) A dispensing organization may not be located within 1,000 feet of the property line of a pre-existing public or private preschool or elementary or secondary school or day care center, day care home, group day care home, or part day child care facility. A registered dispensing organization may not be located in a house, apartment, condominium, or an area zoned for residential use.

**(225 ILCS 10) Child Care Act of 1969 contains the following relevant terms in pertinent part.**

**Sec. 2.09. “Day care center”** means any child care facility which regularly provides day care for less than 24 hours per day for (1) more than 8 children in a family home, or (2) more than 3 children in a facility other than a family home, including senior citizen buildings. The term does not include (a) programs operated by (i) public or private elementary school systems or secondary level school units or institutions of higher learning that serve children who shall have attained the age of 3 years or (ii) private entities on the grounds of public or private elementary or secondary schools and that serve children who have attained the age of 3 years, except that this exception applies only to the facility and not to the private entities' personnel operating the program; (b) programs or that portion of the program which serves children who shall have attained the age of 3 years and which are recognized by the State Board of Education; (c) educational program or programs serving children who shall have attained the age of 3 years and which are operated by a school which is registered with the State Board of Education and which is recognized or accredited by a recognized national or multistate educational organization or association which regularly recognizes or accredits schools; (d) programs which exclusively serve or that portion of the program which serves handicapped children who shall have attained the age of 3 years but are less than 21 years of age and which are registered and approved as meeting standards of the State Board of Education and applicable fire marshal standards; (e) facilities operated in connection with a shopping center or service, religious services, or other similar facility, where transient

children are cared for temporarily while parents or custodians of the children are occupied on the premises and readily available; (f) any type of day care center that is conducted on federal government premises; (g) special activities programs, including athletics, crafts instruction and similar activities conducted on an organized and periodic basis by civic, charitable and governmental organizations; (h) part day child care facilities, as defined in Section 2.10 of this Act; or (i) programs or that portion of the program which (1) serves children who shall have attained the age of 3 years, (2) is operated by churches or religious institutions as described in Section 501 (c) (3) of the federal Internal Revenue Code, (3) receives no governmental aid, (4) is operated as a component of a religious, nonprofit elementary school, (5) operates primarily to provide religious education, and (6) meets appropriate State or local health and fire safety standards. For purposes of (a), (b), (c), (d) and (i) of this Section, "children who shall have attained the age of 3 years" shall mean children who are 3 years of age, but less than 4 years of age, at the time of enrollment in the program. (Source: P.A. 92-659, eff. 7-16-02.)

**Sec. 2.10. "Part day child care facility"** means a facility for which written notification has been filed pursuant to subsection (b) of Section 3 of this Act and which is conducted by a church, religious organization or social service agency in which individual children are provided care, on an intermittent basis, for up to 10 hours per seven day week. Any facility which provides intermittent care for up to 10 hours per 7 day week shall not provide such care for more than 8 hours in any given day during the 7 day week. Any facility which provides intermittent care for up to 10 hours per 7 day week shall provide at least one caregiver per 20 children. Any facility which operates for more than 10 hours per 7 day week or charges a fee for its services shall maintain written records indicating the parent's name, emergency phone numbers and the number of hours each child is served in order to verify that the facility is operating within the bounds set by this definition. (225 ILCS 10/2.10) (from Ch. 23, par. 2212.10).

**Sec. 2.18. "Day care home"** means family homes which receive more than 3 up to a maximum of 12 children for less than 24 hours per day. The number counted includes the family's natural or adopted children and all other persons under the age of 12. The term does not include facilities which receive only children from a single household. (Source: P.A. 87-674.)

**Sec. 2.20. "Group day care home"** means a family home which receives more than 3 up to a maximum of 16 children for less than 24 hours per day. The number counted includes the family's natural or adopted children and all other persons under the age of 12. (225 ILCS 10/2.20) (from Ch. 23, par. 2212.20)

**Sec. 3. (a)** No person, group of persons or corporation may operate or conduct any facility for child care, as defined in this Act, without a license or permit issued by the Department or without being approved by the Department as meeting the standards established for such licensing, with the exception of facilities for whom standards are established by the Department of Corrections under Section 3-15-2 of the Unified Code of Corrections and with the exception of facilities defined in Section 2.10 of this Act, and

with the exception of programs or facilities licensed by the Department of Human Services under the Alcoholism and Other Drug Abuse and Dependency Act

(b) No part day child care facility as described in Section 2.10 may operate without written notification to the Department or without complying with Section 7.1. Notification shall include a notarized statement by the facility that the facility complies with state or local health standards and state fire safety standards, and shall be filed with the department every 2 years. (225 ILCS 10/2.20) (from Ch. 23, par. 2213)

### **Terms used in the Excluded Offense Definition**

**Section 10(p) of the Act states in pertinent Part:** A "Medical cannabis dispensing organization agent" or "dispensing organization agent" means a principal officer, board member, employee, or agent of a registered medical cannabis dispensing organization who is 21 years of age or older and has not been convicted of an excluded offense. 410 ILCS 130/10(p).

**Section 10(l) "Excluded offense" means:**

- (1) a violent crime defined in Section 3 of the Rights of Crime Victims and Witnesses Act or a substantially similar offense that was classified as a felony in the jurisdiction where the person was convicted; or
- (2) a violation of a state or federal controlled substance law that was classified as a felony in the jurisdiction where the person was convicted, except that the registering Department may waive this restriction if the person demonstrates to the registering Department's satisfaction that his or her conviction was for the possession, cultivation, transfer, or delivery of a reasonable amount of cannabis intended for medical use. This exception does not apply if the conviction was under state law and involved a violation of an existing medical cannabis law.

**(725 ILCS 120) Rights of Crime Victims and Witnesses Act contains the following relevant terms in pertinent part.**

Sec. 3. The terms used in this Act, unless the context clearly requires otherwise, shall have the following meanings:

**(a) "Crime victim" and "victim" mean:**

- (1) a person physically injured in this State as a result of a violent crime perpetrated or attempted against that person or
- (2) a person who suffers injury to or loss of property as a result of a violent crime perpetrated or attempted against that person or
- (3) a single representative who may be the spouse, parent, child or sibling of a person killed as a result of a violent crime perpetrated against the person killed or the spouse, parent, child or sibling of any person granted rights under this Act who is physically or mentally incapable of exercising such rights, except where the spouse, parent, child or sibling is also the defendant or prisoner or

- (4) any person against whom a violent crime has been committed or
- (5) any person who has suffered personal injury as a result of a violation of Section 11-501 of the Illinois Vehicle Code, or of a similar provision of a local ordinance, or of Section 9-3 of the Criminal Code of 1961 or the Criminal Code of 2012 or
- (6) in proceedings under the Juvenile Court Act of 1987, both parents, legal guardians, foster parents, or a single adult representative of a minor or disabled person who is a crime victim.

- (b) **"Witness"** means any person who personally observed the commission of a violent crime and who will testify on behalf of the State of Illinois in the criminal prosecution of the violent crime.
- (c) **"Violent Crime"** means any felony in which force or threat of force was used against the victim, or any offense involving sexual exploitation, sexual conduct or sexual penetration, or a violation of Section 11-20.1, 11-20.1B, or 11-20.3 of the Criminal Code of 1961 or the Criminal Code of 2012, domestic battery, violation of an order of protection, stalking, or any misdemeanor which results in death or great bodily harm to the victim or any violation of Section 9-3 of the Criminal Code of 1961 or the Criminal Code of 2012, or Section 11-501 of the Illinois Vehicle Code, or a similar provision of a local ordinance, if the violation resulted in personal injury or death, and includes any action committed by a juvenile that would be a violent crime if committed by an adult. For the purposes of this paragraph, "personal injury" shall include any Type A injury as indicated on the traffic accident report completed by a law enforcement officer that requires immediate professional attention in either a doctor's office or medical facility. A type A injury shall include severely bleeding wounds, distorted extremities, and injuries that require the injured party to be carried from the scene.
- (d) **"Sentencing Hearing"** means any hearing where a sentence is imposed by the court on a convicted defendant and includes hearings conducted pursuant to Sections 5-6-4, 5-6-4.1, 5-7-2 and 5-7-7 of the Unified Code of Corrections.
- (e) **"Court proceedings"** includes the preliminary hearing, any hearing the effect of which may be the release of the defendant from custody or to alter the conditions of bond, the trial, sentencing hearing, notice of appeal, any modification of sentence, probation revocation hearings, aftercare release or parole hearings.
- (f) **"Concerned citizen"** includes relatives of the victim, friends of the victim, witnesses to the crime, or any other person associated with the victim or prisoner.

**(720 ILCS 5) The Criminal Code of 2012 contains the following relevant terms in pertinent part.**

Section 11-20.1, 11-20.1B (Repealed), or 11-20.3(Renumbered to 11-20.1B and Repealed) of the Criminal Code of 1961 or the Criminal Code of 2012.

**Sec. 11-20.1. “Child pornography” is defined as follows.**

- (a) A person commits child pornography who:
- (1) films, videotapes, photographs, or otherwise depicts or portrays by means of any similar visual medium or reproduction or depicts by computer any child whom he or she knows or reasonably should know to be under the age of 18 or any severely or profoundly intellectually disabled person where such child or severely or profoundly intellectually disabled person is:
    - (i) actually or by simulation engaged in any act of sexual penetration or sexual conduct with any person or animal; or
    - (ii) actually or by simulation engaged in any act of sexual penetration or sexual conduct involving the sex organs of the child or severely or profoundly intellectually disabled person and the mouth, anus, or sex organs of another person or animal; or which involves the mouth, anus or sex organs of the child or severely or profoundly intellectually disabled person and the sex organs of another person or animal; or
    - (iii) actually or by simulation engaged in any act of masturbation; or
    - (iv) actually or by simulation portrayed as being the object of, or otherwise engaged in, any act of lewd fondling, touching, or caressing involving another person or animal; or
    - (v) actually or by simulation engaged in any act of excretion or urination within a sexual context; or
    - (vi) actually or by simulation portrayed or depicted as bound, fettered, or subject to sadistic, masochistic, or sadomasochistic abuse in any sexual context; or
    - (vii) depicted or portrayed in any pose, posture or setting involving a lewd exhibition of the unclothed or transparently clothed genitals, pubic area, buttocks, or, if such person is female, a fully or partially developed breast of the child or other person; or
  - (2) with the knowledge of the nature or content thereof, reproduces, disseminates, offers to disseminate, exhibits or possesses with intent to disseminate any film, videotape, photograph or other similar visual reproduction or depiction by computer of any child or severely or profoundly intellectually disabled person whom the person knows or reasonably should know to be under the age of 18 or to be a severely or profoundly intellectually disabled person, engaged in any activity described in subparagraphs (i) through (vii) of paragraph (1) of this subsection; or
  - (3) with knowledge of the subject matter or theme thereof, produces any stage play, live performance, film, videotape or other similar visual portrayal or depiction by computer which includes a child whom the person knows or reasonably should know to be under the age of 18 or a severely or profoundly intellectually disabled person engaged in any activity described in subparagraphs (i) through (vii) of paragraph (1) of this subsection; or
  - (4) solicits, uses, persuades, induces, entices, or coerces any child whom he or she knows or reasonably should know to be under the age of 18 or a severely or profoundly intellectually disabled person to appear in any stage play, live presentation, film, videotape, photograph or other similar visual reproduction or

depiction by computer in which the child or severely or profoundly intellectually disabled person is or will be depicted, actually or by simulation, in any act, pose or setting described in subparagraphs (i) through (vii) of paragraph (1) of this subsection; or

- (5) is a parent, step-parent, legal guardian or other person having care or custody of a child whom the person knows or reasonably should know to be under the age of 18 or a severely or profoundly intellectually disabled person and who knowingly permits, induces, promotes, or arranges for such child or severely or profoundly intellectually disabled person to appear in any stage play, live performance, film, videotape, photograph or other similar visual presentation, portrayal or simulation or depiction by computer of any act or activity described in subparagraphs (i) through (vii) of paragraph (1) of this subsection; or
  - (6) with knowledge of the nature or content thereof, possesses any film, videotape, photograph or other similar visual reproduction or depiction by computer of any child or severely or profoundly intellectually disabled person whom the person knows or reasonably should know to be under the age of 18 or to be a severely or profoundly intellectually disabled person, engaged in any activity described in subparagraphs (i) through (vii) of paragraph (1) of this subsection; or
  - (7) solicits, or knowingly uses, persuades, induces, entices, or coerces, a person to provide a child under the age of 18 or a severely or profoundly intellectually disabled person to appear in any videotape, photograph, film, stage play, live presentation, or other similar visual reproduction or depiction by computer in which the child or severely or profoundly intellectually disabled person will be depicted, actually or by simulation, in any act, pose, or setting described in subparagraphs (i) through (vii) of paragraph (1) of this subsection.
- (a-5) The possession of each individual film, videotape, photograph, or other similar visual reproduction or depiction by computer in violation of this Section constitutes a single and separate violation. This subsection (a-5) does not apply to multiple copies of the same film, videotape, photograph, or other similar visual reproduction or depiction by computer that are identical to each other.
- (b)(1) It shall be an affirmative defense to a charge of child pornography that the defendant reasonably believed, under all of the circumstances, that the child was 18 years of age or older or that the person was not a severely or profoundly intellectually disabled person but only where, prior to the act or acts giving rise to a prosecution under this Section, he or she took some affirmative action or made a bonafide inquiry designed to ascertain whether the child was 18 years of age or older or that the person was not a severely or profoundly intellectually disabled person and his or her reliance upon the information so obtained was clearly reasonable.
- (1.5) Telecommunications carriers, commercial mobile service providers, and providers of information services, including, but not limited to, Internet service providers and hosting service providers, are not liable under this Section by virtue of the transmission, storage, or caching of electronic communications or messages of others or by virtue of the provision of other related telecommunications, commercial mobile services, or information services used by others in violation of this Section

- (3) The charge of child pornography shall not apply to the performance of official duties by law enforcement or prosecuting officers or persons employed by law enforcement or prosecuting agencies, court personnel or attorneys, nor to bonafide treatment or professional education programs conducted by licensed physicians, psychologists or social workers.
  - (4) If the defendant possessed more than one of the same film, videotape or visual reproduction or depiction by computer in which child pornography is depicted, then the trier of fact may infer that the defendant possessed such materials with the intent to disseminate them.
  - (5) The charge of child pornography does not apply to a person who does not voluntarily possess a film, videotape, or visual reproduction or depiction by computer in which child pornography is depicted. Possession is voluntary if the defendant knowingly procures or receives a film, videotape, or visual reproduction or depiction for a sufficient time to be able to terminate his or her possession.
  - (6) Any violation of paragraph (1), (2), (3), (4), (5), or (7) of subsection (a) that includes a child engaged in, solicited for, depicted in, or posed in any act of sexual penetration or bound, fettered, or subject to sadistic, masochistic, or sadomasochistic abuse in a sexual context shall be deemed a crime of violence.
- (c) If the violation does not involve a film, videotape, or other moving depiction, a violation of paragraph (1), (4), (5), or (7) of subsection (a) is a Class 1 felony with a mandatory minimum fine of \$2,000 and a maximum fine of \$100,000. If the violation involves a film, videotape, or other moving depiction, a violation of paragraph (1), (4), (5), or (7) of subsection (a) is a Class X felony with a mandatory minimum fine of \$2,000 and a maximum fine of \$100,000. If the violation does not involve a film, videotape, or other moving depiction, a violation of paragraph (3) of subsection (a) is a Class 1 felony with a mandatory minimum fine of \$1500 and a maximum fine of \$100,000. If the violation involves a film, videotape, or other moving depiction, a violation of paragraph (3) of subsection (a) is a Class X felony with a mandatory minimum fine of \$1500 and a maximum fine of \$100,000. If the violation does not involve a film, videotape, or other moving depiction, a violation of paragraph (2) of subsection (a) is a Class 1 felony with a mandatory minimum fine of \$1000 and a maximum fine of \$100,000. If the violation involves a film, videotape, or other moving depiction, a violation of paragraph (2) of subsection (a) is a Class X felony with a mandatory minimum fine of \$1000 and a maximum fine of \$100,000. If the violation does not involve a film, videotape, or other moving depiction, a violation of paragraph (6) of subsection (a) is a Class 3 felony with a mandatory minimum fine of \$1000 and a maximum fine of \$100,000. If the violation involves a film, videotape, or other moving depiction, a violation of paragraph (6) of subsection (a) is a Class 2 felony with a mandatory minimum fine of \$1000 and a maximum fine of \$100,000.
- (c-5) Where the child depicted is under the age of 13, a violation of paragraph (1), (2), (3), (4), (5), or (7) of subsection (a) is a Class X felony with a mandatory minimum fine of \$2,000 and a maximum fine of \$100,000. Where the child depicted is under the age of 13, a violation of paragraph (6) of subsection (a) is a Class 2 felony with a

mandatory minimum fine of \$1,000 and a maximum fine of \$100,000. Where the child depicted is under the age of 13, a person who commits a violation of paragraph (1), (2), (3), (4), (5), or (7) of subsection (a) where the defendant has previously been convicted under the laws of this State or any other state of the offense of child pornography, aggravated child pornography, aggravated criminal sexual abuse, aggravated criminal sexual assault, predatory criminal sexual assault of a child, or any of the offenses formerly known as rape, deviate sexual assault, indecent liberties with a child, or aggravated indecent liberties with a child where the victim was under the age of 18 years or an offense that is substantially equivalent to those offenses, is guilty of a Class X felony for which the person shall be sentenced to a term of imprisonment of not less than 9 years with a mandatory minimum fine of \$2,000 and a maximum fine of \$100,000. Where the child depicted is under the age of 13, a person who commits a violation of paragraph (6) of subsection (a) where the defendant has previously been convicted under the laws of this State or any other state of the offense of child pornography, aggravated child pornography, aggravated criminal sexual abuse, aggravated criminal sexual assault, predatory criminal sexual assault of a child, or any of the offenses formerly known as rape, deviate sexual assault, indecent liberties with a child, or aggravated indecent liberties with a child where the victim was under the age of 18 years or an offense that is substantially equivalent to those offenses, is guilty of a Class 1 felony with a mandatory minimum fine of \$1,000 and a maximum fine of \$100,000. The issue of whether the child depicted is under the age of 13 is an element of the offense to be resolved by the trier of fact.

- (d) If a person is convicted of a second or subsequent violation of this Section within 10 years of a prior conviction, the court shall order a presentence psychiatric examination of the person. The examiner shall report to the court whether treatment of the person is necessary.
- (e) Any film, videotape, photograph or other similar visual reproduction or depiction by computer which includes a child under the age of 18 or a severely or profoundly intellectually disabled person engaged in any activity described in subparagraphs (i) through (vii) or paragraph 1 of subsection (a), and any material or equipment used or intended for use in photographing, filming, printing, producing, reproducing, manufacturing, projecting, exhibiting, depiction by computer, or disseminating such material shall be seized and forfeited in the manner, method and procedure provided by Section 36-1 of this Code for the seizure and forfeiture of vessels, vehicles and aircraft.

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

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



motion to unseal the evidence. Any person entitled to notice of a hearing under this subsection (e-5) may object to the motion.

(Source: P.A. 97-157, eff. 1-1-12; 97-227, eff. 1-1-12; 97-995, eff. 1-1-13; 97-1109, eff. 1-1-13; 98-437, eff. 1-1-14.

**(720 ILCS 5) The Criminal Code of 2012 contains the following relevant terms in pertinent part.**

**Section. 9-3. “Involuntary Manslaughter and Reckless Homicide”.**

- (a) A person who unintentionally 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, except in cases in which the cause of the death consists of the driving of a motor vehicle or operating a snowmobile, all-terrain vehicle, or watercraft, in which case the person commits reckless homicide. A person commits reckless homicide if he or she unintentionally kills an individual while driving a vehicle and using an incline in a roadway, such as a railroad crossing, bridge approach, or hill, to cause the vehicle to become airborne.

**(625 ILCS 5) Section 11-501 of the Illinois Vehicle Code contains the following relevant terms in pertinent part.**

**Sec. 11-501. Driving while under the influence of alcohol, other drug or drugs, intoxicating compound or compounds or any combination thereof.**

- (a) A person shall not drive or be in actual physical control of any vehicle within this State while:
- (1) the alcohol concentration in the person's blood or breath is 0.08 or more based on the definition of blood and breath units in Section 11-501.2;
  - (2) under the influence of alcohol;
  - (3) under the influence of any intoxicating compound or combination of intoxicating compounds to a degree that renders the person incapable of driving safely;
  - (4) under the influence of any other drug or combination of drugs to a degree that renders the person incapable of safely driving;
  - (5) under the combined influence of alcohol, other drug or drugs, or intoxicating compound or compounds to a degree that renders the person incapable of safely driving; or
  - (6) there is any amount of a drug, substance, or compound in the person's breath, blood, or urine resulting from the unlawful use or consumption of cannabis listed in the Cannabis Control Act, a controlled substance listed in the Illinois Controlled Substances Act, an intoxicating compound listed in the Use of Intoxicating Compounds Act, or methamphetamine as listed in the Methamphetamine Control and Community Protection Act. Subject to all

other requirements and provisions under this Section, this paragraph (6) does not apply to the lawful consumption of cannabis by a qualifying patient licensed under the Compassionate Use of Medical Cannabis Pilot Program Act who is in possession of a valid registry card issued under that Act, unless that person is impaired by the use of cannabis.

(b) The fact that any person charged with violating this Section is or has been legally entitled to use alcohol, cannabis under the Compassionate Use of Medical Cannabis Pilot Program Act, other drug or drugs, or intoxicating compound or compounds, or any combination thereof, shall not constitute a defense against any charge of violating this Section.