



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

HB2628

by Rep. Laura Fine

SYNOPSIS AS INTRODUCED:

705 ILCS 405/1-7	from Ch. 37, par. 801-7
705 ILCS 405/1-8	from Ch. 37, par. 801-8
705 ILCS 405/1-9	from Ch. 37, par. 801-9
705 ILCS 405/2-10	from Ch. 37, par. 802-10
705 ILCS 405/3-12	from Ch. 37, par. 803-12
705 ILCS 405/4-9	from Ch. 37, par. 804-9
705 ILCS 405/5-105	
705 ILCS 405/5-120	
705 ILCS 405/5-130	
705 ILCS 405/5-401.5	
705 ILCS 405/5-410	
705 ILCS 405/5-901	
705 ILCS 405/5-905	
705 ILCS 405/5-915	
730 ILCS 5/3-2-5	from Ch. 38, par. 1003-2-5
730 ILCS 5/5-8-6	from Ch. 38, par. 1005-8-6

Amends the Juvenile Court Act of 1987. Provides that persons under 21 years of age (rather than under 18 years of age) who commit misdemeanor offenses are subject to the proceedings under the Act for delinquent minors. Amends the Unified Code of Corrections to make conforming changes.

LRB100 08062 SLF 18148 b

1 AN ACT in relation to minors.

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

4 Section 5. The Juvenile Court Act of 1987 is amended by
5 changing Sections 1-7, 1-8, 1-9, 2-10, 3-12, 4-9, 5-105, 5-120,
6 5-130, 5-401.5, 5-410, 5-901, 5-905, and 5-915 as follows:

7 (705 ILCS 405/1-7) (from Ch. 37, par. 801-7)

8 Sec. 1-7. Confidentiality of law enforcement records.

9 (A) Inspection and copying of law enforcement records
10 maintained by law enforcement agencies that relate to a minor
11 who has been investigated, arrested, or taken into custody
12 before his or her 21st birthday for a misdemeanor offense or
13 18th birthday for a felony offense shall be restricted to the
14 following:

15 (1) Any local, State or federal law enforcement
16 officers of any jurisdiction or agency when necessary for
17 the discharge of their official duties during the
18 investigation or prosecution of a crime or relating to a
19 minor who has been adjudicated delinquent and there has
20 been a previous finding that the act which constitutes the
21 previous offense was committed in furtherance of criminal
22 activities by a criminal street gang, or, when necessary
23 for the discharge of its official duties in connection with

1 a particular investigation of the conduct of a law
2 enforcement officer, an independent agency or its staff
3 created by ordinance and charged by a unit of local
4 government with the duty of investigating the conduct of
5 law enforcement officers. For purposes of this Section,
6 "criminal street gang" has the meaning ascribed to it in
7 Section 10 of the Illinois Streetgang Terrorism Omnibus
8 Prevention Act.

9 (2) Prosecutors, probation officers, social workers,
10 or other individuals assigned by the court to conduct a
11 pre-adjudication or pre-disposition investigation, and
12 individuals responsible for supervising or providing
13 temporary or permanent care and custody for minors pursuant
14 to the order of the juvenile court, when essential to
15 performing their responsibilities.

16 (3) Prosecutors and probation officers:

17 (a) in the course of a trial when institution of
18 criminal proceedings has been permitted or required
19 under Section 5-805; or

20 (b) when institution of criminal proceedings has
21 been permitted or required under Section 5-805 and such
22 minor is the subject of a proceeding to determine the
23 amount of bail; or

24 (c) when criminal proceedings have been permitted
25 or required under Section 5-805 and such minor is the
26 subject of a pre-trial investigation, pre-sentence

1 investigation, fitness hearing, or proceedings on an
2 application for probation.

3 (4) Adult and Juvenile Prisoner Review Board.

4 (5) Authorized military personnel.

5 (6) Persons engaged in bona fide research, with the
6 permission of the Presiding Judge of the Juvenile Court and
7 the chief executive of the respective law enforcement
8 agency; provided that publication of such research results
9 in no disclosure of a minor's identity and protects the
10 confidentiality of the minor's record.

11 (7) Department of Children and Family Services child
12 protection investigators acting in their official
13 capacity.

14 (8) The appropriate school official only if the agency
15 or officer believes that there is an imminent threat of
16 physical harm to students, school personnel, or others who
17 are present in the school or on school grounds.

18 (A) Inspection and copying shall be limited to law
19 enforcement records transmitted to the appropriate
20 school official or officials whom the school has
21 determined to have a legitimate educational or safety
22 interest by a local law enforcement agency under a
23 reciprocal reporting system established and maintained
24 between the school district and the local law
25 enforcement agency under Section 10-20.14 of the
26 School Code concerning a minor enrolled in a school

1 within the school district who has been arrested or
2 taken into custody for any of the following offenses:

3 (i) any violation of Article 24 of the Criminal
4 Code of 1961 or the Criminal Code of 2012;

5 (ii) a violation of the Illinois Controlled
6 Substances Act;

7 (iii) a violation of the Cannabis Control Act;

8 (iv) a forcible felony as defined in Section
9 2-8 of the Criminal Code of 1961 or the Criminal
10 Code of 2012;

11 (v) a violation of the Methamphetamine Control
12 and Community Protection Act;

13 (vi) a violation of Section 1-2 of the
14 Harassing and Obscene Communications Act;

15 (vii) a violation of the Hazing Act; or

16 (viii) a violation of Section 12-1, 12-2,
17 12-3, 12-3.05, 12-3.1, 12-3.2, 12-3.4, 12-3.5,
18 12-5, 12-7.3, 12-7.4, 12-7.5, 25-1, or 25-5 of the
19 Criminal Code of 1961 or the Criminal Code of 2012.

20 The information derived from the law enforcement
21 records shall be kept separate from and shall not
22 become a part of the official school record of that
23 child and shall not be a public record. The information
24 shall be used solely by the appropriate school official
25 or officials whom the school has determined to have a
26 legitimate educational or safety interest to aid in the

1 proper rehabilitation of the child and to protect the
2 safety of students and employees in the school. If the
3 designated law enforcement and school officials deem
4 it to be in the best interest of the minor, the student
5 may be referred to in-school or community based social
6 services if those services are available.
7 "Rehabilitation services" may include interventions by
8 school support personnel, evaluation for eligibility
9 for special education, referrals to community-based
10 agencies such as youth services, behavioral healthcare
11 service providers, drug and alcohol prevention or
12 treatment programs, and other interventions as deemed
13 appropriate for the student.

14 (B) Any information provided to appropriate school
15 officials whom the school has determined to have a
16 legitimate educational or safety interest by local law
17 enforcement officials about a minor who is the subject
18 of a current police investigation that is directly
19 related to school safety shall consist of oral
20 information only, and not written law enforcement
21 records, and shall be used solely by the appropriate
22 school official or officials to protect the safety of
23 students and employees in the school and aid in the
24 proper rehabilitation of the child. The information
25 derived orally from the local law enforcement
26 officials shall be kept separate from and shall not

1 become a part of the official school record of the
2 child and shall not be a public record. This limitation
3 on the use of information about a minor who is the
4 subject of a current police investigation shall in no
5 way limit the use of this information by prosecutors in
6 pursuing criminal charges arising out of the
7 information disclosed during a police investigation of
8 the minor. For purposes of this paragraph,
9 "investigation" means an official systematic inquiry
10 by a law enforcement agency into actual or suspected
11 criminal activity.

12 (9) Mental health professionals on behalf of the
13 Illinois Department of Corrections or the Department of
14 Human Services or prosecutors who are evaluating,
15 prosecuting, or investigating a potential or actual
16 petition brought under the Sexually Violent Persons
17 Commitment Act relating to a person who is the subject of
18 juvenile law enforcement records or the respondent to a
19 petition brought under the Sexually Violent Persons
20 Commitment Act who is the subject of the juvenile law
21 enforcement records sought. Any records and any
22 information obtained from those records under this
23 paragraph (9) may be used only in sexually violent persons
24 commitment proceedings.

25 (10) The president of a park district. Inspection and
26 copying shall be limited to law enforcement records

1 transmitted to the president of the park district by the
2 Illinois State Police under Section 8-23 of the Park
3 District Code or Section 16a-5 of the Chicago Park District
4 Act concerning a person who is seeking employment with that
5 park district and who has been adjudicated a juvenile
6 delinquent for any of the offenses listed in subsection (c)
7 of Section 8-23 of the Park District Code or subsection (c)
8 of Section 16a-5 of the Chicago Park District Act.

9 (B) (1) Except as provided in paragraph (2), no law
10 enforcement officer or other person or agency may knowingly
11 transmit to the Department of Corrections or the Department
12 of State Police or to the Federal Bureau of Investigation
13 any fingerprint or photograph relating to a minor who has
14 been arrested or taken into custody before his or her 21st
15 birthday for a misdemeanor offense or 18th birthday for a
16 felony offense, unless the court in proceedings under this
17 Act authorizes the transmission or enters an order under
18 Section 5-805 permitting or requiring the institution of
19 criminal proceedings.

20 (2) Law enforcement officers or other persons or
21 agencies shall transmit to the Department of State Police
22 copies of fingerprints and descriptions of all minors who
23 have been arrested or taken into custody before their 21st
24 birthday for a misdemeanor offense or 18th birthday for a
25 felony offense for the offense of unlawful use of weapons
26 under Article 24 of the Criminal Code of 1961 or the

1 Criminal Code of 2012, a Class X or Class 1 felony, a
2 forcible felony as defined in Section 2-8 of the Criminal
3 Code of 1961 or the Criminal Code of 2012, or a Class 2 or
4 greater felony under the Cannabis Control Act, the Illinois
5 Controlled Substances Act, the Methamphetamine Control and
6 Community Protection Act, or Chapter 4 of the Illinois
7 Vehicle Code, pursuant to Section 5 of the Criminal
8 Identification Act. Information reported to the Department
9 pursuant to this Section may be maintained with records
10 that the Department files pursuant to Section 2.1 of the
11 Criminal Identification Act. Nothing in this Act prohibits
12 a law enforcement agency from fingerprinting a minor taken
13 into custody or arrested before his or her 21st birthday
14 for a misdemeanor offense or 18th birthday for a felony
15 offense for an offense other than those listed in this
16 paragraph (2).

17 (C) The records of law enforcement officers, or of an
18 independent agency created by ordinance and charged by a unit
19 of local government with the duty of investigating the conduct
20 of law enforcement officers, concerning all minors under 21
21 years of age for a misdemeanor offense or 18 years of age for a
22 felony offense must be maintained separate from the records of
23 arrests and may not be open to public inspection or their
24 contents disclosed to the public except by order of the court
25 presiding over matters pursuant to this Act or when the
26 institution of criminal proceedings has been permitted or

1 required under Section 5-805 or such a person has been
2 convicted of a crime and is the subject of pre-sentence
3 investigation or proceedings on an application for probation or
4 when provided by law. For purposes of obtaining documents
5 pursuant to this Section, a civil subpoena is not an order of
6 the court.

7 (1) In cases where the law enforcement, or independent
8 agency, records concern a pending juvenile court case, the
9 party seeking to inspect the records shall provide actual
10 notice to the attorney or guardian ad litem of the minor
11 whose records are sought.

12 (2) In cases where the records concern a juvenile court
13 case that is no longer pending, the party seeking to
14 inspect the records shall provide actual notice to the
15 minor or the minor's parent or legal guardian, and the
16 matter shall be referred to the chief judge presiding over
17 matters pursuant to this Act.

18 (3) In determining whether the records should be
19 available for inspection, the court shall consider the
20 minor's interest in confidentiality and rehabilitation
21 over the moving party's interest in obtaining the
22 information. Any records obtained in violation of this
23 subsection (C) shall not be admissible in any criminal or
24 civil proceeding, or operate to disqualify a minor from
25 subsequently holding public office or securing employment,
26 or operate as a forfeiture of any public benefit, right,

1 privilege, or right to receive any license granted by
2 public authority.

3 (D) Nothing contained in subsection (C) of this Section
4 shall prohibit the inspection or disclosure to victims and
5 witnesses of photographs contained in the records of law
6 enforcement agencies when the inspection and disclosure is
7 conducted in the presence of a law enforcement officer for the
8 purpose of the identification or apprehension of any person
9 subject to the provisions of this Act or for the investigation
10 or prosecution of any crime.

11 (E) Law enforcement officers, and personnel of an
12 independent agency created by ordinance and charged by a unit
13 of local government with the duty of investigating the conduct
14 of law enforcement officers, may not disclose the identity of
15 any minor in releasing information to the general public as to
16 the arrest, investigation or disposition of any case involving
17 a minor.

18 (F) Nothing contained in this Section shall prohibit law
19 enforcement agencies from communicating with each other by
20 letter, memorandum, teletype or intelligence alert bulletin or
21 other means the identity or other relevant information
22 pertaining to a person under 21 years of age years of age for a
23 misdemeanor offense or 18 years of age for a felony offense if
24 there are reasonable grounds to believe that the person poses a
25 real and present danger to the safety of the public or law
26 enforcement officers. The information provided under this

1 subsection (F) shall remain confidential and shall not be
2 publicly disclosed, except as otherwise allowed by law.

3 (G) Nothing in this Section shall prohibit the right of a
4 Civil Service Commission or appointing authority of any state,
5 county or municipality examining the character and fitness of
6 an applicant for employment with a law enforcement agency,
7 correctional institution, or fire department from obtaining
8 and examining the records of any law enforcement agency
9 relating to any record of the applicant having been arrested or
10 taken into custody before the applicant's 21st birthday for a
11 misdemeanor offense or 18th birthday for a felony offense.

12 (H) The changes made to this Section by Public Act 98-61
13 apply to law enforcement records of a minor who has been
14 arrested or taken into custody on or after January 1, 2014 (the
15 effective date of Public Act 98-61).

16 (Source: P.A. 98-61, eff. 1-1-14; 98-756, eff. 7-16-14; 99-298,
17 eff. 8-6-15.)

18 (705 ILCS 405/1-8) (from Ch. 37, par. 801-8)

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

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

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

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

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

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

22 (3) Judges, hearing officers, prosecutors, probation
23 officers, social workers or other individuals assigned by
24 the court to conduct a pre-adjudication or predisposition
25 investigation, and individuals responsible for supervising
26 or providing temporary or permanent care and custody for

1 minors pursuant to the order of the juvenile court when
2 essential to performing their responsibilities.

3 (4) Judges, prosecutors and probation officers:

4 (a) in the course of a trial when institution of
5 criminal proceedings has been permitted or required
6 under Section 5-805; or

7 (b) when criminal proceedings have been permitted
8 or required under Section 5-805 and a minor is the
9 subject of a proceeding to determine the amount of
10 bail; or

11 (c) when criminal proceedings have been permitted
12 or required under Section 5-805 and a minor is the
13 subject of a pre-trial investigation, pre-sentence
14 investigation or fitness hearing, or proceedings on an
15 application for probation; or

16 (d) when a minor becomes 21 years of age for a
17 misdemeanor offense or 18 years of age for a felony
18 offense or older, and is the subject of criminal
19 proceedings, including a hearing to determine the
20 amount of bail, a pre-trial investigation, a
21 pre-sentence investigation, a fitness hearing, or
22 proceedings on an application for probation.

23 (5) Adult and Juvenile Prisoner Review Boards.

24 (6) Authorized military personnel.

25 (7) Victims, their subrogees and legal
26 representatives; however, such persons shall have access

1 only to the name and address of the minor and information
2 pertaining to the disposition or alternative adjustment
3 plan of the juvenile court.

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

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

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

19 (11) Mental health professionals on behalf of the
20 Illinois Department of Corrections or the Department of
21 Human Services or prosecutors who are evaluating,
22 prosecuting, or investigating a potential or actual
23 petition brought under the Sexually Violent Persons
24 Commitment Act relating to a person who is the subject of
25 juvenile court records or the respondent to a petition
26 brought under the Sexually Violent Persons Commitment Act,

1 who is the subject of juvenile court records sought. Any
2 records and any information obtained from those records
3 under this paragraph (11) may be used only in sexually
4 violent persons commitment proceedings.

5 (A-1) Findings and exclusions of paternity entered in
6 proceedings occurring under Article II of this Act shall be
7 disclosed, in a manner and form approved by the Presiding Judge
8 of the Juvenile Court, to the Department of Healthcare and
9 Family Services when necessary to discharge the duties of the
10 Department of Healthcare and Family Services under Article X of
11 the Illinois Public Aid Code.

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

16 (C) Except as otherwise provided in this subsection (C),
17 juvenile court records shall not be made available to the
18 general public. Subject to the limitations in paragraphs (0.1)
19 through (0.4) of this subsection (C), the judge presiding over
20 a juvenile court proceeding brought under this Act, in his or
21 her discretion, may order that juvenile court records of an
22 individual case be made available for inspection upon request
23 by a representative of an agency, association, or news media
24 entity or by a properly interested person. For purposes of
25 inspecting documents under this subsection (C), a civil
26 subpoena is not an order of the court.

1 (0.1) In cases where the records concern a pending
2 juvenile court case, the requesting party seeking to
3 inspect the juvenile court records shall provide actual
4 notice to the attorney or guardian ad litem of the minor
5 whose records are sought.

6 (0.2) In cases where the records concern a juvenile
7 court case that is no longer pending, the requesting party
8 seeking to inspect the juvenile court records shall provide
9 actual notice to the minor or the minor's parent or legal
10 guardian, and the matter shall be referred to the chief
11 judge presiding over matters pursuant to this Act.

12 (0.3) In determining whether records should be made
13 available for inspection and whether inspection should be
14 limited to certain parts of the file, the court shall
15 consider the minor's interest in confidentiality and
16 rehabilitation over the requesting party's interest in
17 obtaining the information. The State's Attorney, the
18 minor, and the minor's parents, guardian, and counsel shall
19 at all times have the right to examine court files and
20 records.

21 (0.4) Any records obtained in violation of this
22 subsection (C) shall not be admissible in any criminal or
23 civil proceeding, or operate to disqualify a minor from
24 subsequently holding public office, or operate as a
25 forfeiture of any public benefit, right, privilege, or
26 right to receive any license granted by public authority.

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

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

9 (B) The court has made a finding that the minor was
10 at least 13 years of age at the time the act was
11 committed and the adjudication of delinquency was
12 based upon the minor's commission of: (i) an act in
13 furtherance of the commission of a felony as a member
14 of or on behalf of a criminal street gang, (ii) an act
15 involving the use of a firearm in the commission of a
16 felony, (iii) an act that would be a Class X felony
17 offense under or the minor's second or subsequent Class
18 2 or greater felony offense under the Cannabis Control
19 Act if committed by an adult, (iv) an act that would be
20 a second or subsequent offense under Section 402 of the
21 Illinois Controlled Substances Act if committed by an
22 adult, (v) an act that would be an offense under
23 Section 401 of the Illinois Controlled Substances Act
24 if committed by an adult, (vi) an act that would be a
25 second or subsequent offense under Section 60 of the
26 Methamphetamine Control and Community Protection Act,

1 or (vii) an act that would be an offense under another
2 Section of the Methamphetamine Control and Community
3 Protection Act.

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

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

14 (B) The court has made a finding that the minor was
15 at least 13 years of age at the time the offense was
16 committed and the conviction was based upon the minor's
17 commission of: (i) an offense in furtherance of the
18 commission of a felony as a member of or on behalf of a
19 criminal street gang, (ii) an offense involving the use
20 of a firearm in the commission of a felony, (iii) a
21 Class X felony offense under or a second or subsequent
22 Class 2 or greater felony offense under the Cannabis
23 Control Act, (iv) a second or subsequent offense under
24 Section 402 of the Illinois Controlled Substances Act,
25 (v) an offense under Section 401 of the Illinois
26 Controlled Substances Act, (vi) an act that would be a

1 second or subsequent offense under Section 60 of the
2 Methamphetamine Control and Community Protection Act,
3 or (vii) an act that would be an offense under another
4 Section of the Methamphetamine Control and Community
5 Protection Act.

6 (D) Pending or following any adjudication of delinquency
7 for any offense defined in Sections 11-1.20 through 11-1.60 or
8 12-13 through 12-16 of the Criminal Code of 1961 or the
9 Criminal Code of 2012, the victim of any such offense shall
10 receive the rights set out in Sections 4 and 6 of the Bill of
11 Rights for Victims and Witnesses of Violent Crime Act; and the
12 juvenile who is the subject of the adjudication,
13 notwithstanding any other provision of this Act, shall be
14 treated as an adult for the purpose of affording such rights to
15 the victim.

16 (E) Nothing in this Section shall affect the right of a
17 Civil Service Commission or appointing authority of any state,
18 county or municipality examining the character and fitness of
19 an applicant for employment with a law enforcement agency,
20 correctional institution, or fire department to ascertain
21 whether that applicant was ever adjudicated to be a delinquent
22 minor and, if so, to examine the records of disposition or
23 evidence which were made in proceedings under this Act.

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

1 24-1, 24-3, 24-3.1, or 24-5 of the Criminal Code of 1961 or the
2 Criminal Code of 2012, the State's Attorney shall ascertain
3 whether the minor respondent is enrolled in school and, if so,
4 shall provide a copy of the dispositional order to the
5 principal or chief administrative officer of the school. Access
6 to such juvenile records shall be limited to the principal or
7 chief administrative officer of the school and any guidance
8 counselor designated by him.

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

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

23 (I) The Clerk of the Circuit Court shall report to the
24 Department of State Police, in the form and manner required by
25 the Department of State Police, the final disposition of each
26 minor who has been arrested or taken into custody before his or

1 her 21st birthday for a misdemeanor offense or 18th birthday
2 for a felony offense for those offenses required to be reported
3 under Section 5 of the Criminal Identification Act. Information
4 reported to the Department under this Section may be maintained
5 with records that the Department files under Section 2.1 of the
6 Criminal Identification Act.

7 (J) The changes made to this Section by Public Act 98-61
8 apply to law enforcement records of a minor who has been
9 arrested or taken into custody on or after January 1, 2014 (the
10 effective date of Public Act 98-61).

11 (Source: P.A. 97-813, eff. 7-13-12; 97-1150, eff. 1-25-13;
12 98-61, eff. 1-1-14; 98-552, eff. 8-27-13; 98-756, eff.
13 7-16-14.)

14 (705 ILCS 405/1-9) (from Ch. 37, par. 801-9)

15 Sec. 1-9. Expungement of law enforcement and juvenile court
16 records.

17 (1) Expungement of law enforcement and juvenile court
18 delinquency records shall be governed by Section 5-915.

19 (2) This subsection (2) applies to expungement of law
20 enforcement and juvenile court records other than delinquency
21 proceedings. Whenever any person has attained the age of 21 for
22 a misdemeanor offense or 18 for a felony offense or whenever
23 all juvenile court proceedings relating to that person have
24 been terminated, whichever is later, the person may petition
25 the court to expunge law enforcement records relating to

1 incidents occurring before his 21st birthday for a misdemeanor
2 offense or 18th birthday for a felony offense or his juvenile
3 court records, or both, if the minor was placed under
4 supervision pursuant to Sections 2-20, 3-21, or 4-18, and such
5 order of supervision has since been successfully terminated.

6 (3) The chief judge of the circuit in which an arrest was
7 made or a charge was brought or any judge of that circuit
8 designated by the chief judge may, upon verified petition of a
9 person who is the subject of an arrest or a juvenile court
10 proceeding pursuant to subsection (2) of this Section, order
11 the law enforcement records or juvenile court records, or both,
12 to be expunged from the official records of the arresting
13 authority and the clerk of the circuit court. Notice of the
14 petition shall be served upon the State's Attorney and upon the
15 arresting authority which is the subject of the petition for
16 expungement.

17 (4) The changes made to this Section by this amendatory Act
18 of the 98th General Assembly apply to law enforcement and
19 juvenile court records of a minor who has been arrested or
20 taken into custody on or after the effective date of this
21 amendatory Act.

22 (Source: P.A. 98-61, eff. 1-1-14.)

23 (705 ILCS 405/2-10) (from Ch. 37, par. 802-10)

24 Sec. 2-10. Temporary custody hearing. At the appearance of
25 the minor before the court at the temporary custody hearing,

1 all witnesses present shall be examined before the court in
2 relation to any matter connected with the allegations made in
3 the petition.

4 (1) If the court finds that there is not probable cause to
5 believe that the minor is abused, neglected or dependent it
6 shall release the minor and dismiss the petition.

7 (2) If the court finds that there is probable cause to
8 believe that the minor is abused, neglected or dependent, the
9 court shall state in writing the factual basis supporting its
10 finding and the minor, his or her parent, guardian, custodian
11 and other persons able to give relevant testimony shall be
12 examined before the court. The Department of Children and
13 Family Services shall give testimony concerning indicated
14 reports of abuse and neglect, of which they are aware of
15 through the central registry, involving the minor's parent,
16 guardian or custodian. After such testimony, the court may,
17 consistent with the health, safety and best interests of the
18 minor, enter an order that the minor shall be released upon the
19 request of parent, guardian or custodian if the parent,
20 guardian or custodian appears to take custody. If it is
21 determined that a parent's, guardian's, or custodian's
22 compliance with critical services mitigates the necessity for
23 removal of the minor from his or her home, the court may enter
24 an Order of Protection setting forth reasonable conditions of
25 behavior that a parent, guardian, or custodian must observe for
26 a specified period of time, not to exceed 12 months, without a

1 violation; provided, however, that the 12-month period shall
2 begin anew after any violation. Custodian shall include any
3 agency of the State which has been given custody or wardship of
4 the child. If it is consistent with the health, safety and best
5 interests of the minor, the court may also prescribe shelter
6 care and order that the minor be kept in a suitable place
7 designated by the court or in a shelter care facility
8 designated by the Department of Children and Family Services or
9 a licensed child welfare agency; however, on and after January
10 1, 2015 (the effective date of Public Act 98-803) and before
11 January 1, 2017, a minor charged with a criminal offense under
12 the Criminal Code of 1961 or the Criminal Code of 2012 or
13 adjudicated delinquent shall not be placed in the custody of or
14 committed to the Department of Children and Family Services by
15 any court, except a minor less than 16 years of age and
16 committed to the Department of Children and Family Services
17 under Section 5-710 of this Act or a minor for whom an
18 independent basis of abuse, neglect, or dependency exists; and
19 on and after January 1, 2017, a minor charged with a criminal
20 offense under the Criminal Code of 1961 or the Criminal Code of
21 2012 or adjudicated delinquent shall not be placed in the
22 custody of or committed to the Department of Children and
23 Family Services by any court, except a minor less than 15 years
24 of age and committed to the Department of Children and Family
25 Services under Section 5-710 of this Act or a minor for whom an
26 independent basis of abuse, neglect, or dependency exists. An

1 independent basis exists when the allegations or adjudication
2 of abuse, neglect, or dependency do not arise from the same
3 facts, incident, or circumstances which give rise to a charge
4 or adjudication of delinquency.

5 In placing the minor, the Department or other agency shall,
6 to the extent compatible with the court's order, comply with
7 Section 7 of the Children and Family Services Act. In
8 determining the health, safety and best interests of the minor
9 to prescribe shelter care, the court must find that it is a
10 matter of immediate and urgent necessity for the safety and
11 protection of the minor or of the person or property of another
12 that the minor be placed in a shelter care facility or that he
13 or she is likely to flee the jurisdiction of the court, and
14 must further find that reasonable efforts have been made or
15 that, consistent with the health, safety and best interests of
16 the minor, no efforts reasonably can be made to prevent or
17 eliminate the necessity of removal of the minor from his or her
18 home. The court shall require documentation from the Department
19 of Children and Family Services as to the reasonable efforts
20 that were made to prevent or eliminate the necessity of removal
21 of the minor from his or her home or the reasons why no efforts
22 reasonably could be made to prevent or eliminate the necessity
23 of removal. When a minor is placed in the home of a relative,
24 the Department of Children and Family Services shall complete a
25 preliminary background review of the members of the minor's
26 custodian's household in accordance with Section 4.3 of the

1 Child Care Act of 1969 within 90 days of that placement. If the
2 minor is ordered placed in a shelter care facility of the
3 Department of Children and Family Services or a licensed child
4 welfare agency, the court shall, upon request of the
5 appropriate Department or other agency, appoint the Department
6 of Children and Family Services Guardianship Administrator or
7 other appropriate agency executive temporary custodian of the
8 minor and the court may enter such other orders related to the
9 temporary custody as it deems fit and proper, including the
10 provision of services to the minor or his family to ameliorate
11 the causes contributing to the finding of probable cause or to
12 the finding of the existence of immediate and urgent necessity.

13 Where the Department of Children and Family Services
14 Guardianship Administrator is appointed as the executive
15 temporary custodian, the Department of Children and Family
16 Services shall file with the court and serve on the parties a
17 parent-child visiting plan, within 10 days, excluding weekends
18 and holidays, after the appointment. The parent-child visiting
19 plan shall set out the time and place of visits, the frequency
20 of visits, the length of visits, who shall be present at the
21 visits, and where appropriate, the minor's opportunities to
22 have telephone and mail communication with the parents.

23 Where the Department of Children and Family Services
24 Guardianship Administrator is appointed as the executive
25 temporary custodian, and when the child has siblings in care,
26 the Department of Children and Family Services shall file with

1 the court and serve on the parties a sibling placement and
2 contact plan within 10 days, excluding weekends and holidays,
3 after the appointment. The sibling placement and contact plan
4 shall set forth whether the siblings are placed together, and
5 if they are not placed together, what, if any, efforts are
6 being made to place them together. If the Department has
7 determined that it is not in a child's best interest to be
8 placed with a sibling, the Department shall document in the
9 sibling placement and contact plan the basis for its
10 determination. For siblings placed separately, the sibling
11 placement and contact plan shall set the time and place for
12 visits, the frequency of the visits, the length of visits, who
13 shall be present for the visits, and where appropriate, the
14 child's opportunities to have contact with their siblings in
15 addition to in person contact. If the Department determines it
16 is not in the best interest of a sibling to have contact with a
17 sibling, the Department shall document in the sibling placement
18 and contact plan the basis for its determination. The sibling
19 placement and contact plan shall specify a date for development
20 of the Sibling Contact Support Plan, under subsection (f) of
21 Section 7.4 of the Children and Family Services Act, and shall
22 remain in effect until the Sibling Contact Support Plan is
23 developed.

24 For good cause, the court may waive the requirement to file
25 the parent-child visiting plan or the sibling placement and
26 contact plan, or extend the time for filing either plan. Any

1 party may, by motion, request the court to review the
2 parent-child visiting plan to determine whether it is
3 reasonably calculated to expeditiously facilitate the
4 achievement of the permanency goal. A party may, by motion,
5 request the court to review the parent-child visiting plan or
6 the sibling placement and contact plan to determine whether it
7 is consistent with the minor's best interest. The court may
8 refer the parties to mediation where available. The frequency,
9 duration, and locations of visitation shall be measured by the
10 needs of the child and family, and not by the convenience of
11 Department personnel. Child development principles shall be
12 considered by the court in its analysis of how frequent
13 visitation should be, how long it should last, where it should
14 take place, and who should be present. If upon motion of the
15 party to review either plan and after receiving evidence, the
16 court determines that the parent-child visiting plan is not
17 reasonably calculated to expeditiously facilitate the
18 achievement of the permanency goal or that the restrictions
19 placed on parent-child contact or sibling placement or contact
20 are contrary to the child's best interests, the court shall put
21 in writing the factual basis supporting the determination and
22 enter specific findings based on the evidence. The court shall
23 enter an order for the Department to implement changes to the
24 parent-child visiting plan or sibling placement or contact
25 plan, consistent with the court's findings. At any stage of
26 proceeding, any party may by motion request the court to enter

1 any orders necessary to implement the parent-child visiting
2 plan, sibling placement or contact plan or subsequently
3 developed Sibling Contact Support Plan. Nothing under this
4 subsection (2) shall restrict the court from granting
5 discretionary authority to the Department to increase
6 opportunities for additional parent-child contacts or sibling
7 contacts, without further court orders. Nothing in this
8 subsection (2) shall restrict the Department from immediately
9 restricting or terminating parent-child contact or sibling
10 contacts, without either amending the parent-child visiting
11 plan or the sibling contact plan or obtaining a court order,
12 where the Department or its assigns reasonably believe that
13 continuation of the contact, as set out in the plan, would be
14 contrary to the child's health, safety, and welfare. The
15 Department shall file with the court and serve on the parties
16 any amendments to the plan within 10 days, excluding weekends
17 and holidays, of the change of the visitation.

18 Acceptance of services shall not be considered an admission
19 of any allegation in a petition made pursuant to this Act, nor
20 may a referral of services be considered as evidence in any
21 proceeding pursuant to this Act, except where the issue is
22 whether the Department has made reasonable efforts to reunite
23 the family. In making its findings that it is consistent with
24 the health, safety and best interests of the minor to prescribe
25 shelter care, the court shall state in writing (i) the factual
26 basis supporting its findings concerning the immediate and

1 urgent necessity for the protection of the minor or of the
2 person or property of another and (ii) the factual basis
3 supporting its findings that reasonable efforts were made to
4 prevent or eliminate the removal of the minor from his or her
5 home or that no efforts reasonably could be made to prevent or
6 eliminate the removal of the minor from his or her home. The
7 parents, guardian, custodian, temporary custodian and minor
8 shall each be furnished a copy of such written findings. The
9 temporary custodian shall maintain a copy of the court order
10 and written findings in the case record for the child. The
11 order together with the court's findings of fact in support
12 thereof shall be entered of record in the court.

13 Once the court finds that it is a matter of immediate and
14 urgent necessity for the protection of the minor that the minor
15 be placed in a shelter care facility, the minor shall not be
16 returned to the parent, custodian or guardian until the court
17 finds that such placement is no longer necessary for the
18 protection of the minor.

19 If the child is placed in the temporary custody of the
20 Department of Children and Family Services for his or her
21 protection, the court shall admonish the parents, guardian,
22 custodian or responsible relative that the parents must
23 cooperate with the Department of Children and Family Services,
24 comply with the terms of the service plans, and correct the
25 conditions which require the child to be in care, or risk
26 termination of their parental rights. The court shall ensure,

1 by inquiring in open court of each parent, guardian, custodian
2 or responsible relative, that the parent, guardian, custodian
3 or responsible relative has had the opportunity to provide the
4 Department with all known names, addresses, and telephone
5 numbers of each of the minor's living maternal and paternal
6 adult relatives, including, but not limited to, grandparents,
7 aunts, uncles, and siblings. The court shall advise the
8 parents, guardian, custodian or responsible relative to inform
9 the Department if additional information regarding the minor's
10 adult relatives becomes available.

11 (3) If prior to the shelter care hearing for a minor
12 described in Sections 2-3, 2-4, 3-3 and 4-3 the moving party is
13 unable to serve notice on the party respondent, the shelter
14 care hearing may proceed ex parte. A shelter care order from an
15 ex parte hearing shall be endorsed with the date and hour of
16 issuance and shall be filed with the clerk's office and entered
17 of record. The order shall expire after 10 days from the time
18 it is issued unless before its expiration it is renewed, at a
19 hearing upon appearance of the party respondent, or upon an
20 affidavit of the moving party as to all diligent efforts to
21 notify the party respondent by notice as herein prescribed. The
22 notice prescribed shall be in writing and shall be personally
23 delivered to the minor or the minor's attorney and to the last
24 known address of the other person or persons entitled to
25 notice. The notice shall also state the nature of the
26 allegations, the nature of the order sought by the State,

1 including whether temporary custody is sought, and the
 2 consequences of failure to appear and shall contain a notice
 3 that the parties will not be entitled to further written
 4 notices or publication notices of proceedings in this case,
 5 including the filing of an amended petition or a motion to
 6 terminate parental rights, except as required by Supreme Court
 7 Rule 11; and shall explain the right of the parties and the
 8 procedures to vacate or modify a shelter care order as provided
 9 in this Section. The notice for a shelter care hearing shall be
 10 substantially as follows:

11 NOTICE TO PARENTS AND CHILDREN
 12 OF SHELTER CARE HEARING

13 On at, before the Honorable
 14, (address:), the State
 15 of Illinois will present evidence (1) that (name of child
 16 or children) are abused, neglected
 17 or dependent for the following reasons:
 18 and (2)
 19 whether there is "immediate and urgent necessity" to remove
 20 the child or children from the responsible relative.

21 YOUR FAILURE TO APPEAR AT THE HEARING MAY RESULT IN
 22 PLACEMENT of the child or children in foster care until a
 23 trial can be held. A trial may not be held for up to 90
 24 days. You will not be entitled to further notices of
 25 proceedings in this case, including the filing of an
 26 amended petition or a motion to terminate parental rights.

1 At the shelter care hearing, parents have the following
2 rights:

3 1. To ask the court to appoint a lawyer if they
4 cannot afford one.

5 2. To ask the court to continue the hearing to
6 allow them time to prepare.

7 3. To present evidence concerning:

8 a. Whether or not the child or children were
9 abused, neglected or dependent.

10 b. Whether or not there is "immediate and
11 urgent necessity" to remove the child from home
12 (including: their ability to care for the child,
13 conditions in the home, alternative means of
14 protecting the child other than removal).

15 c. The best interests of the child.

16 4. To cross examine the State's witnesses.

17 The Notice for rehearings shall be substantially as
18 follows:

19 NOTICE OF PARENT'S AND CHILDREN'S RIGHTS

20 TO REHEARING ON TEMPORARY CUSTODY

21 If you were not present at and did not have adequate
22 notice of the Shelter Care Hearing at which temporary
23 custody of was awarded to
24, you have the right to request a full
25 rehearing on whether the State should have temporary

1 custody of To request this rehearing,
 2 you must file with the Clerk of the Juvenile Court
 3 (address):, in person or by
 4 mailing a statement (affidavit) setting forth the
 5 following:

- 6 1. That you were not present at the shelter care
- 7 hearing.
- 8 2. That you did not get adequate notice (explaining
- 9 how the notice was inadequate).
- 10 3. Your signature.
- 11 4. Signature must be notarized.

12 The rehearing should be scheduled within 48 hours of
 13 your filing this affidavit.

14 At the rehearing, your rights are the same as at the
 15 initial shelter care hearing. The enclosed notice explains
 16 those rights.

17 At the Shelter Care Hearing, children have the
 18 following rights:

- 19 1. To have a guardian ad litem appointed.
- 20 2. To be declared competent as a witness and to
- 21 present testimony concerning:
 - 22 a. Whether they are abused, neglected or
 - 23 dependent.
 - 24 b. Whether there is "immediate and urgent
 - 25 necessity" to be removed from home.
 - 26 c. Their best interests.

1 3. To cross examine witnesses for other parties.

2 4. To obtain an explanation of any proceedings and
3 orders of the court.

4 (4) If the parent, guardian, legal custodian, responsible
5 relative, minor age 8 or over, or counsel of the minor did not
6 have actual notice of or was not present at the shelter care
7 hearing, he or she may file an affidavit setting forth these
8 facts, and the clerk shall set the matter for rehearing not
9 later than 48 hours, excluding Sundays and legal holidays,
10 after the filing of the affidavit. At the rehearing, the court
11 shall proceed in the same manner as upon the original hearing.

12 (5) Only when there is reasonable cause to believe that the
13 minor taken into custody is a person described in subsection
14 (3) of Section 5-105 may the minor be kept or detained in a
15 detention home or county or municipal jail. This Section shall
16 in no way be construed to limit subsection (6).

17 (6) No minor under 16 years of age may be confined in a
18 jail or place ordinarily used for the confinement of prisoners
19 in a police station. Minors under 21 years of age for a
20 misdemeanor offense or 18 years of age for a felony offense
21 must be kept separate from confined adults and may not at any
22 time be kept in the same cell, room, or yard with adults
23 confined pursuant to the criminal law.

24 (7) If the minor is not brought before a judicial officer
25 within the time period as specified in Section 2-9, the minor
26 must immediately be released from custody.

1 (8) If neither the parent, guardian or custodian appears
2 within 24 hours to take custody of a minor released upon
3 request pursuant to subsection (2) of this Section, then the
4 clerk of the court shall set the matter for rehearing not later
5 than 7 days after the original order and shall issue a summons
6 directed to the parent, guardian or custodian to appear. At the
7 same time the probation department shall prepare a report on
8 the minor. If a parent, guardian or custodian does not appear
9 at such rehearing, the judge may enter an order prescribing
10 that the minor be kept in a suitable place designated by the
11 Department of Children and Family Services or a licensed child
12 welfare agency.

13 (9) Notwithstanding any other provision of this Section any
14 interested party, including the State, the temporary
15 custodian, an agency providing services to the minor or family
16 under a service plan pursuant to Section 8.2 of the Abused and
17 Neglected Child Reporting Act, foster parent, or any of their
18 representatives, on notice to all parties entitled to notice,
19 may file a motion that it is in the best interests of the minor
20 to modify or vacate a temporary custody order on any of the
21 following grounds:

22 (a) It is no longer a matter of immediate and urgent
23 necessity that the minor remain in shelter care; or

24 (b) There is a material change in the circumstances of
25 the natural family from which the minor was removed and the
26 child can be cared for at home without endangering the

1 child's health or safety; or

2 (c) A person not a party to the alleged abuse, neglect
3 or dependency, including a parent, relative or legal
4 guardian, is capable of assuming temporary custody of the
5 minor; or

6 (d) Services provided by the Department of Children and
7 Family Services or a child welfare agency or other service
8 provider have been successful in eliminating the need for
9 temporary custody and the child can be cared for at home
10 without endangering the child's health or safety.

11 In ruling on the motion, the court shall determine whether
12 it is consistent with the health, safety and best interests of
13 the minor to modify or vacate a temporary custody order.

14 The clerk shall set the matter for hearing not later than
15 14 days after such motion is filed. In the event that the court
16 modifies or vacates a temporary custody order but does not
17 vacate its finding of probable cause, the court may order that
18 appropriate services be continued or initiated in behalf of the
19 minor and his or her family.

20 (10) When the court finds or has found that there is
21 probable cause to believe a minor is an abused minor as
22 described in subsection (2) of Section 2-3 and that there is an
23 immediate and urgent necessity for the abused minor to be
24 placed in shelter care, immediate and urgent necessity shall be
25 presumed for any other minor residing in the same household as
26 the abused minor provided:

1 (a) Such other minor is the subject of an abuse or
2 neglect petition pending before the court; and

3 (b) A party to the petition is seeking shelter care for
4 such other minor.

5 Once the presumption of immediate and urgent necessity has
6 been raised, the burden of demonstrating the lack of immediate
7 and urgent necessity shall be on any party that is opposing
8 shelter care for the other minor.

9 (11) The changes made to this Section by Public Act 98-61
10 apply to a minor who has been arrested or taken into custody on
11 or after January 1, 2014 (the effective date of Public Act
12 98-61).

13 (Source: P.A. 98-61, eff. 1-1-14; 98-756, eff. 7-16-14; 98-803,
14 eff. 1-1-15; 99-625, eff. 1-1-17; 99-642, eff. 7-28-16.)

15 (705 ILCS 405/3-12) (from Ch. 37, par. 803-12)

16 Sec. 3-12. Shelter care hearing. At the appearance of the
17 minor before the court at the shelter care hearing, all
18 witnesses present shall be examined before the court in
19 relation to any matter connected with the allegations made in
20 the petition.

21 (1) If the court finds that there is not probable cause to
22 believe that the minor is a person requiring authoritative
23 intervention, it shall release the minor and dismiss the
24 petition.

25 (2) If the court finds that there is probable cause to

1 believe that the minor is a person requiring authoritative
2 intervention, the minor, his or her parent, guardian, custodian
3 and other persons able to give relevant testimony shall be
4 examined before the court. After such testimony, the court may
5 enter an order that the minor shall be released upon the
6 request of a parent, guardian or custodian if the parent,
7 guardian or custodian appears to take custody. Custodian shall
8 include any agency of the State which has been given custody or
9 wardship of the child. The Court shall require documentation by
10 representatives of the Department of Children and Family
11 Services or the probation department as to the reasonable
12 efforts that were made to prevent or eliminate the necessity of
13 removal of the minor from his or her home, and shall consider
14 the testimony of any person as to those reasonable efforts. If
15 the court finds that it is a matter of immediate and urgent
16 necessity for the protection of the minor or of the person or
17 property of another that the minor be placed in a shelter care
18 facility, or that he or she is likely to flee the jurisdiction
19 of the court, and further finds that reasonable efforts have
20 been made or good cause has been shown why reasonable efforts
21 cannot prevent or eliminate the necessity of removal of the
22 minor from his or her home, the court may prescribe shelter
23 care and order that the minor be kept in a suitable place
24 designated by the court or in a shelter care facility
25 designated by the Department of Children and Family Services or
26 a licensed child welfare agency; otherwise it shall release the

1 minor from custody. If the court prescribes shelter care, then
2 in placing the minor, the Department or other agency shall, to
3 the extent compatible with the court's order, comply with
4 Section 7 of the Children and Family Services Act. If the minor
5 is ordered placed in a shelter care facility of the Department
6 of Children and Family Services or a licensed child welfare
7 agency, the court shall, upon request of the Department or
8 other agency, appoint the Department of Children and Family
9 Services Guardianship Administrator or other appropriate
10 agency executive temporary custodian of the minor and the court
11 may enter such other orders related to the temporary custody as
12 it deems fit and proper, including the provision of services to
13 the minor or his family to ameliorate the causes contributing
14 to the finding of probable cause or to the finding of the
15 existence of immediate and urgent necessity. Acceptance of
16 services shall not be considered an admission of any allegation
17 in a petition made pursuant to this Act, nor may a referral of
18 services be considered as evidence in any proceeding pursuant
19 to this Act, except where the issue is whether the Department
20 has made reasonable efforts to reunite the family. In making
21 its findings that reasonable efforts have been made or that
22 good cause has been shown why reasonable efforts cannot prevent
23 or eliminate the necessity of removal of the minor from his or
24 her home, the court shall state in writing its findings
25 concerning the nature of the services that were offered or the
26 efforts that were made to prevent removal of the child and the

1 apparent reasons that such services or efforts could not
2 prevent the need for removal. The parents, guardian, custodian,
3 temporary custodian and minor shall each be furnished a copy of
4 such written findings. The temporary custodian shall maintain a
5 copy of the court order and written findings in the case record
6 for the child.

7 The order together with the court's findings of fact and
8 support thereof shall be entered of record in the court.

9 Once the court finds that it is a matter of immediate and
10 urgent necessity for the protection of the minor that the minor
11 be placed in a shelter care facility, the minor shall not be
12 returned to the parent, custodian or guardian until the court
13 finds that such placement is no longer necessary for the
14 protection of the minor.

15 (3) If prior to the shelter care hearing for a minor
16 described in Sections 2-3, 2-4, 3-3, and 4-3 the petitioner is
17 unable to serve notice on the party respondent, the shelter
18 care hearing may proceed ex parte. A shelter care order from an
19 ex parte hearing shall be endorsed with the date and hour of
20 issuance and shall be filed with the clerk's office and entered
21 of record. The order shall expire after 10 days from the time
22 it is issued unless before its expiration it is renewed, at a
23 hearing upon appearance of the party respondent, or upon an
24 affidavit of the moving party as to all diligent efforts to
25 notify the party respondent by notice as herein prescribed. The
26 notice prescribed shall be in writing and shall be personally

1 delivered to the minor or the minor's attorney and to the last
 2 known address of the other person or persons entitled to
 3 notice. The notice shall also state the nature of the
 4 allegations, the nature of the order sought by the State,
 5 including whether temporary custody is sought, and the
 6 consequences of failure to appear; and shall explain the right
 7 of the parties and the procedures to vacate or modify a shelter
 8 care order as provided in this Section. The notice for a
 9 shelter care hearing shall be substantially as follows:

10 NOTICE TO PARENTS AND CHILDREN OF SHELTER CARE HEARING

11 On at, before the Honorable
 12, (address:), the State of
 13 Illinois will present evidence (1) that (name of child or
 14 children) are abused, neglected or
 15 dependent for the following reasons:

16
 17 and (2) that there is "immediate and urgent necessity" to
 18 remove the child or children from the responsible relative.

19 YOUR FAILURE TO APPEAR AT THE HEARING MAY RESULT IN
 20 PLACEMENT of the child or children in foster care until a trial
 21 can be held. A trial may not be held for up to 90 days.

22 At the shelter care hearing, parents have the following
 23 rights:

- 24 1. To ask the court to appoint a lawyer if they cannot
- 25 afford one.
- 26 2. To ask the court to continue the hearing to allow

1 them time to prepare.

2 3. To present evidence concerning:

3 a. Whether or not the child or children were
4 abused, neglected or dependent.

5 b. Whether or not there is "immediate and urgent
6 necessity" to remove the child from home (including:
7 their ability to care for the child, conditions in the
8 home, alternative means of protecting the child other
9 than removal).

10 c. The best interests of the child.

11 4. To cross examine the State's witnesses.

12 The Notice for rehearings shall be substantially as
13 follows:

14 NOTICE OF PARENT'S AND CHILDREN'S RIGHTS
15 TO REHEARING ON TEMPORARY CUSTODY

16 If you were not present at and did not have adequate notice
17 of the Shelter Care Hearing at which temporary custody of
18 was awarded to, you have the
19 right to request a full rehearing on whether the State should
20 have temporary custody of To request this
21 rehearing, you must file with the Clerk of the Juvenile Court
22 (address):, in person or by mailing a
23 statement (affidavit) setting forth the following:

24 1. That you were not present at the shelter care
25 hearing.

26 2. That you did not get adequate notice (explaining how

1 the notice was inadequate).

2 3. Your signature.

3 4. Signature must be notarized.

4 The rehearing should be scheduled within one day of your
5 filing this affidavit.

6 At the rehearing, your rights are the same as at the
7 initial shelter care hearing. The enclosed notice explains
8 those rights.

9 At the Shelter Care Hearing, children have the following
10 rights:

11 1. To have a guardian ad litem appointed.

12 2. To be declared competent as a witness and to present
13 testimony concerning:

14 a. Whether they are abused, neglected or
15 dependent.

16 b. Whether there is "immediate and urgent
17 necessity" to be removed from home.

18 c. Their best interests.

19 3. To cross examine witnesses for other parties.

20 4. To obtain an explanation of any proceedings and
21 orders of the court.

22 (4) If the parent, guardian, legal custodian, responsible
23 relative, or counsel of the minor did not have actual notice of
24 or was not present at the shelter care hearing, he or she may
25 file an affidavit setting forth these facts, and the clerk
26 shall set the matter for rehearing not later than 48 hours,

1 excluding Sundays and legal holidays, after the filing of the
2 affidavit. At the rehearing, the court shall proceed in the
3 same manner as upon the original hearing.

4 (5) Only when there is reasonable cause to believe that the
5 minor taken into custody is a person described in subsection
6 (3) of Section 5-105 may the minor be kept or detained in a
7 detention home or county or municipal jail. This Section shall
8 in no way be construed to limit subsection (6).

9 (6) No minor under 16 years of age may be confined in a
10 jail or place ordinarily used for the confinement of prisoners
11 in a police station. Minors under 21 years of age for a
12 misdemeanor offense, or 18 years of age for a felony offense
13 must be kept separate from confined adults and may not at any
14 time be kept in the same cell, room, or yard with adults
15 confined pursuant to the criminal law.

16 (7) If the minor is not brought before a judicial officer
17 within the time period specified in Section 3-11, the minor
18 must immediately be released from custody.

19 (8) If neither the parent, guardian or custodian appears
20 within 24 hours to take custody of a minor released upon
21 request pursuant to subsection (2) of this Section, then the
22 clerk of the court shall set the matter for rehearing not later
23 than 7 days after the original order and shall issue a summons
24 directed to the parent, guardian or custodian to appear. At the
25 same time the probation department shall prepare a report on
26 the minor. If a parent, guardian or custodian does not appear

1 at such rehearing, the judge may enter an order prescribing
2 that the minor be kept in a suitable place designated by the
3 Department of Children and Family Services or a licensed child
4 welfare agency.

5 (9) Notwithstanding any other provision of this Section,
6 any interested party, including the State, the temporary
7 custodian, an agency providing services to the minor or family
8 under a service plan pursuant to Section 8.2 of the Abused and
9 Neglected Child Reporting Act, foster parent, or any of their
10 representatives, on notice to all parties entitled to notice,
11 may file a motion to modify or vacate a temporary custody order
12 on any of the following grounds:

13 (a) It is no longer a matter of immediate and urgent
14 necessity that the minor remain in shelter care; or

15 (b) There is a material change in the circumstances of
16 the natural family from which the minor was removed; or

17 (c) A person, including a parent, relative or legal
18 guardian, is capable of assuming temporary custody of the
19 minor; or

20 (d) Services provided by the Department of Children and
21 Family Services or a child welfare agency or other service
22 provider have been successful in eliminating the need for
23 temporary custody.

24 The clerk shall set the matter for hearing not later than
25 14 days after such motion is filed. In the event that the court
26 modifies or vacates a temporary custody order but does not

1 vacate its finding of probable cause, the court may order that
2 appropriate services be continued or initiated in behalf of the
3 minor and his or her family.

4 (10) The changes made to this Section by Public Act 98-61
5 apply to a minor who has been arrested or taken into custody on
6 or after January 1, 2014 (the effective date of Public Act
7 98-61).

8 (Source: P.A. 98-61, eff. 1-1-14; 98-756, eff. 7-16-14; 99-642,
9 eff. 7-28-16.)

10 (705 ILCS 405/4-9) (from Ch. 37, par. 804-9)

11 Sec. 4-9. Shelter care hearing. At the appearance of the
12 minor before the court at the shelter care hearing, all
13 witnesses present shall be examined before the court in
14 relation to any matter connected with the allegations made in
15 the petition.

16 (1) If the court finds that there is not probable cause to
17 believe that the minor is addicted, it shall release the minor
18 and dismiss the petition.

19 (2) If the court finds that there is probable cause to
20 believe that the minor is addicted, the minor, his or her
21 parent, guardian, custodian and other persons able to give
22 relevant testimony shall be examined before the court. After
23 such testimony, the court may enter an order that the minor
24 shall be released upon the request of a parent, guardian or
25 custodian if the parent, guardian or custodian appears to take

1 custody and agrees to abide by a court order which requires the
2 minor and his or her parent, guardian, or legal custodian to
3 complete an evaluation by an entity licensed by the Department
4 of Human Services, as the successor to the Department of
5 Alcoholism and Substance Abuse, and complete any treatment
6 recommendations indicated by the assessment. Custodian shall
7 include any agency of the State which has been given custody or
8 wardship of the child.

9 The Court shall require documentation by representatives
10 of the Department of Children and Family Services or the
11 probation department as to the reasonable efforts that were
12 made to prevent or eliminate the necessity of removal of the
13 minor from his or her home, and shall consider the testimony of
14 any person as to those reasonable efforts. If the court finds
15 that it is a matter of immediate and urgent necessity for the
16 protection of the minor or of the person or property of another
17 that the minor be ~~or~~ placed in a shelter care facility or that
18 he or she is likely to flee the jurisdiction of the court, and
19 further, finds that reasonable efforts have been made or good
20 cause has been shown why reasonable efforts cannot prevent or
21 eliminate the necessity of removal of the minor from his or her
22 home, the court may prescribe shelter care and order that the
23 minor be kept in a suitable place designated by the court or in
24 a shelter care facility designated by the Department of
25 Children and Family Services or a licensed child welfare
26 agency, or in a facility or program licensed by the Department

1 of Human Services for shelter and treatment services; otherwise
2 it shall release the minor from custody. If the court
3 prescribes shelter care, then in placing the minor, the
4 Department or other agency shall, to the extent compatible with
5 the court's order, comply with Section 7 of the Children and
6 Family Services Act. If the minor is ordered placed in a
7 shelter care facility of the Department of Children and Family
8 Services or a licensed child welfare agency, or in a facility
9 or program licensed by the Department of Human Services for
10 shelter and treatment services, the court shall, upon request
11 of the appropriate Department or other agency, appoint the
12 Department of Children and Family Services Guardianship
13 Administrator or other appropriate agency executive temporary
14 custodian of the minor and the court may enter such other
15 orders related to the temporary custody as it deems fit and
16 proper, including the provision of services to the minor or his
17 family to ameliorate the causes contributing to the finding of
18 probable cause or to the finding of the existence of immediate
19 and urgent necessity. Acceptance of services shall not be
20 considered an admission of any allegation in a petition made
21 pursuant to this Act, nor may a referral of services be
22 considered as evidence in any proceeding pursuant to this Act,
23 except where the issue is whether the Department has made
24 reasonable efforts to reunite the family. In making its
25 findings that reasonable efforts have been made or that good
26 cause has been shown why reasonable efforts cannot prevent or

1 eliminate the necessity of removal of the minor from his or her
2 home, the court shall state in writing its findings concerning
3 the nature of the services that were offered or the efforts
4 that were made to prevent removal of the child and the apparent
5 reasons that such services or efforts could not prevent the
6 need for removal. The parents, guardian, custodian, temporary
7 custodian and minor shall each be furnished a copy of such
8 written findings. The temporary custodian shall maintain a copy
9 of the court order and written findings in the case record for
10 the child. The order together with the court's findings of fact
11 in support thereof shall be entered of record in the court.

12 Once the court finds that it is a matter of immediate and
13 urgent necessity for the protection of the minor that the minor
14 be placed in a shelter care facility, the minor shall not be
15 returned to the parent, custodian or guardian until the court
16 finds that such placement is no longer necessary for the
17 protection of the minor.

18 (3) If neither the parent, guardian, legal custodian,
19 responsible relative nor counsel of the minor has had actual
20 notice of or is present at the shelter care hearing, he or she
21 may file his or her affidavit setting forth these facts, and
22 the clerk shall set the matter for rehearing not later than 24
23 hours, excluding Sundays and legal holidays, after the filing
24 of the affidavit. At the rehearing, the court shall proceed in
25 the same manner as upon the original hearing.

26 (4) If the minor is not brought before a judicial officer

1 within the time period as specified in Section 4-8, the minor
2 must immediately be released from custody.

3 (5) Only when there is reasonable cause to believe that the
4 minor taken into custody is a person described in subsection
5 (3) of Section 5-105 may the minor be kept or detained in a
6 detention home or county or municipal jail. This Section shall
7 in no way be construed to limit subsection (6).

8 (6) No minor under 16 years of age may be confined in a
9 jail or place ordinarily used for the confinement of prisoners
10 in a police station. Minors under 21 years of age for a
11 misdemeanor offense or 18 years of age for a felony offense
12 must be kept separate from confined adults and may not at any
13 time be kept in the same cell, room or yard with adults
14 confined pursuant to the criminal law.

15 (7) If neither the parent, guardian or custodian appears
16 within 24 hours to take custody of a minor released upon
17 request pursuant to subsection (2) of this Section, then the
18 clerk of the court shall set the matter for rehearing not later
19 than 7 days after the original order and shall issue a summons
20 directed to the parent, guardian or custodian to appear. At the
21 same time the probation department shall prepare a report on
22 the minor. If a parent, guardian or custodian does not appear
23 at such rehearing, the judge may enter an order prescribing
24 that the minor be kept in a suitable place designated by the
25 Department of Children and Family Services or a licensed child
26 welfare agency.

1 (8) Any interested party, including the State, the
2 temporary custodian, an agency providing services to the minor
3 or family under a service plan pursuant to Section 8.2 of the
4 Abused and Neglected Child Reporting Act, foster parent, or any
5 of their representatives, may file a motion to modify or vacate
6 a temporary custody order on any of the following grounds:

7 (a) It is no longer a matter of immediate and urgent
8 necessity that the minor remain in shelter care; or

9 (b) There is a material change in the circumstances of
10 the natural family from which the minor was removed; or

11 (c) A person, including a parent, relative or legal
12 guardian, is capable of assuming temporary custody of the
13 minor; or

14 (d) Services provided by the Department of Children and
15 Family Services or a child welfare agency or other service
16 provider have been successful in eliminating the need for
17 temporary custody.

18 The clerk shall set the matter for hearing not later than
19 14 days after such motion is filed. In the event that the court
20 modifies or vacates a temporary custody order but does not
21 vacate its finding of probable cause, the court may order that
22 appropriate services be continued or initiated in behalf of the
23 minor and his or her family.

24 (9) The changes made to this Section by Public Act 98-61
25 apply to a minor who has been arrested or taken into custody on
26 or after January 1, 2014 (the effective date of Public Act

1 98-61).

2 (Source: P.A. 98-61, eff. 1-1-14; 98-756, eff. 7-16-14; revised
3 10-6-16.)

4 (705 ILCS 405/5-105)

5 Sec. 5-105. Definitions. As used in this Article:

6 (1) "Aftercare release" means the conditional and
7 revocable release of an adjudicated delinquent juvenile
8 committed to the Department of Juvenile Justice under the
9 supervision of the Department of Juvenile Justice.

10 (1.5) "Court" means the circuit court in a session or
11 division assigned to hear proceedings under this Act, and
12 includes the term Juvenile Court.

13 (2) "Community service" means uncompensated labor for
14 a community service agency as hereinafter defined.

15 (2.5) "Community service agency" means a
16 not-for-profit organization, community organization,
17 church, charitable organization, individual, public
18 office, or other public body whose purpose is to enhance
19 the physical or mental health of a delinquent minor or to
20 rehabilitate the minor, or to improve the environmental
21 quality or social welfare of the community which agrees to
22 accept community service from juvenile delinquents and to
23 report on the progress of the community service to the
24 State's Attorney pursuant to an agreement or to the court
25 or to any agency designated by the court or to the

1 authorized diversion program that has referred the
2 delinquent minor for community service.

3 (3) "Delinquent minor" means any minor who prior to his
4 or her 21st birthday for a misdemeanor offense or 18th
5 birthday for a felony offense who has violated or attempted
6 to violate, regardless of where the act occurred, any
7 federal, State, county or municipal law or ordinance.

8 (4) "Department" means the Department of Human
9 Services unless specifically referenced as another
10 department.

11 (5) "Detention" means the temporary care of a minor who
12 is alleged to be or has been adjudicated delinquent and who
13 requires secure custody for the minor's own protection or
14 the community's protection in a facility designed to
15 physically restrict the minor's movements, pending
16 disposition by the court or execution of an order of the
17 court for placement or commitment. Design features that
18 physically restrict movement include, but are not limited
19 to, locked rooms and the secure handcuffing of a minor to a
20 rail or other stationary object. In addition, "detention"
21 includes the court ordered care of an alleged or
22 adjudicated delinquent minor who requires secure custody
23 pursuant to Section 5-125 of this Act.

24 (6) "Diversion" means the referral of a juvenile,
25 without court intervention, into a program that provides
26 services designed to educate the juvenile and develop a

1 productive and responsible approach to living in the
2 community.

3 (7) "Juvenile detention home" means a public facility
4 with specially trained staff that conforms to the county
5 juvenile detention standards adopted by the Department of
6 Juvenile Justice.

7 (8) "Juvenile justice continuum" means a set of
8 delinquency prevention programs and services designed for
9 the purpose of preventing or reducing delinquent acts,
10 including criminal activity by youth gangs, as well as
11 intervention, rehabilitation, and prevention services
12 targeted at minors who have committed delinquent acts, and
13 minors who have previously been committed to residential
14 treatment programs for delinquents. The term includes
15 children-in-need-of-services and
16 families-in-need-of-services programs; aftercare and
17 reentry services; substance abuse and mental health
18 programs; community service programs; community service
19 work programs; and alternative-dispute resolution programs
20 serving youth-at-risk of delinquency and their families,
21 whether offered or delivered by State or local governmental
22 entities, public or private for-profit or not-for-profit
23 organizations, or religious or charitable organizations.
24 This term would also encompass any program or service
25 consistent with the purpose of those programs and services
26 enumerated in this subsection.

1 (9) "Juvenile police officer" means a sworn police
2 officer who has completed a Basic Recruit Training Course,
3 has been assigned to the position of juvenile police
4 officer by his or her chief law enforcement officer and has
5 completed the necessary juvenile officers training as
6 prescribed by the Illinois Law Enforcement Training
7 Standards Board, or in the case of a State police officer,
8 juvenile officer training approved by the Director of State
9 Police.

10 (10) "Minor" means a person under the age of 21 years
11 subject to this Act.

12 (11) "Non-secure custody" means confinement where the
13 minor is not physically restricted by being placed in a
14 locked cell or room, by being handcuffed to a rail or other
15 stationary object, or by other means. Non-secure custody
16 may include, but is not limited to, electronic monitoring,
17 foster home placement, home confinement, group home
18 placement, or physical restriction of movement or activity
19 solely through facility staff.

20 (12) "Public or community service" means uncompensated
21 labor for a not-for-profit organization or public body
22 whose purpose is to enhance physical or mental stability of
23 the offender, environmental quality or the social welfare
24 and which agrees to accept public or community service from
25 offenders and to report on the progress of the offender and
26 the public or community service to the court or to the

1 authorized diversion program that has referred the
2 offender for public or community service. "Public or
3 community service" does not include blood donation or
4 assignment to labor at a blood bank. For the purposes of
5 this Act, "blood bank" has the meaning ascribed to the term
6 in Section 2-124 of the Illinois Clinical Laboratory and
7 Blood Bank Act.

8 (13) "Sentencing hearing" means a hearing to determine
9 whether a minor should be adjudged a ward of the court, and
10 to determine what sentence should be imposed on the minor.
11 It is the intent of the General Assembly that the term
12 "sentencing hearing" replace the term "dispositional
13 hearing" and be synonymous with that definition as it was
14 used in the Juvenile Court Act of 1987.

15 (14) "Shelter" means the temporary care of a minor in
16 physically unrestricting facilities pending court
17 disposition or execution of court order for placement.

18 (15) "Site" means a not-for-profit organization,
19 public body, church, charitable organization, or
20 individual agreeing to accept community service from
21 offenders and to report on the progress of ordered or
22 required public or community service to the court or to the
23 authorized diversion program that has referred the
24 offender for public or community service.

25 (16) "Station adjustment" means the informal or formal
26 handling of an alleged offender by a juvenile police

1 officer.

2 (17) "Trial" means a hearing to determine whether the
3 allegations of a petition under Section 5-520 that a minor
4 is delinquent are proved beyond a reasonable doubt. It is
5 the intent of the General Assembly that the term "trial"
6 replace the term "adjudicatory hearing" and be synonymous
7 with that definition as it was used in the Juvenile Court
8 Act of 1987.

9 The changes made to this Section by Public Act 98-61 apply
10 to violations or attempted violations committed on or after
11 January 1, 2014 (the effective date of Public Act 98-61).

12 (Source: P.A. 98-61, eff. 1-1-14; 98-558, eff. 1-1-14; 98-685,
13 eff. 1-1-15; 98-756, eff. 7-16-14; 98-824, eff. 1-1-15; 99-78,
14 eff. 7-20-15.)

15 (705 ILCS 405/5-120)

16 Sec. 5-120. Exclusive jurisdiction. Proceedings may be
17 instituted under the provisions of this Article concerning any
18 minor who prior to his or her 21st birthday for a misdemeanor
19 offense or 18th birthday for a felony offense who has violated
20 or attempted to violate, regardless of where the act occurred,
21 any federal, State, county or municipal law or ordinance.
22 Except as provided in Sections 5-125, 5-130, 5-805, and 5-810
23 of this Article, no minor who was under 21 years of age for a
24 misdemeanor offense or 18 years of age for a felony offense at
25 the time of the alleged offense may be prosecuted under the

1 criminal laws of this State.

2 The changes made to this Section by this amendatory Act of
3 the 98th General Assembly apply to violations or attempted
4 violations committed on or after the effective date of this
5 amendatory Act.

6 The changes made to this Section by this amendatory Act of
7 the 100th General Assembly apply to violations or attempted
8 violations committed on or after the effective date of this
9 amendatory Act.

10 (Source: P.A. 98-61, eff. 1-1-14.)

11 (705 ILCS 405/5-130)

12 Sec. 5-130. Excluded jurisdiction.

13 (1)(a) The definition of delinquent minor under Section
14 5-120 of this Article shall not apply to any minor who at the
15 time of an offense was at least 16 years of age and who is
16 charged with: (i) first degree murder, (ii) aggravated criminal
17 sexual assault, or (iii) aggravated battery with a firearm as
18 described in Section 12-4.2 or subdivision (e)(1), (e)(2),
19 (e)(3), or (e)(4) of Section 12-3.05 where the minor personally
20 discharged a firearm as defined in Section 2-15.5 of the
21 Criminal Code of 1961 or the Criminal Code of 2012.

22 These charges and all other charges arising out of the same
23 incident shall be prosecuted under the criminal laws of this
24 State.

25 (b)(i) If before trial or plea an information or indictment

1 is filed that does not charge an offense specified in paragraph
2 (a) of this subsection (1) the State's Attorney may proceed on
3 any lesser charge or charges, but only in Juvenile Court under
4 the provisions of this Article. The State's Attorney may
5 proceed on a lesser charge if before trial the minor defendant
6 knowingly and with advice of counsel waives, in writing, his or
7 her right to have the matter proceed in Juvenile Court.

8 (ii) If before trial or plea an information or indictment
9 is filed that includes one or more charges specified in
10 paragraph (a) of this subsection (1) and additional charges
11 that are not specified in that paragraph, all of the charges
12 arising out of the same incident shall be prosecuted under the
13 Criminal Code of 1961 or the Criminal Code of 2012.

14 (c) (i) If after trial or plea the minor is convicted of any
15 offense covered by paragraph (a) of this subsection (1), then,
16 in sentencing the minor, the court shall sentence the minor
17 under Section 5-4.5-105 of the Unified Code of Corrections.

18 (ii) If after trial or plea the court finds that the minor
19 committed an offense not covered by paragraph (a) of this
20 subsection (1), that finding shall not invalidate the verdict
21 or the prosecution of the minor under the criminal laws of the
22 State; however, unless the State requests a hearing for the
23 purpose of sentencing the minor under Chapter V of the Unified
24 Code of Corrections, the Court must proceed under Sections
25 5-705 and 5-710 of this Article. To request a hearing, the
26 State must file a written motion within 10 days following the

1 entry of a finding or the return of a verdict. Reasonable
2 notice of the motion shall be given to the minor or his or her
3 counsel. If the motion is made by the State, the court shall
4 conduct a hearing to determine if the minor should be sentenced
5 under Chapter V of the Unified Code of Corrections. In making
6 its determination, the court shall consider among other
7 matters: (a) whether there is evidence that the offense was
8 committed in an aggressive and premeditated manner; (b) the age
9 of the minor; (c) the previous history of the minor; (d)
10 whether there are facilities particularly available to the
11 Juvenile Court or the Department of Juvenile Justice for the
12 treatment and rehabilitation of the minor; (e) whether the
13 security of the public requires sentencing under Chapter V of
14 the Unified Code of Corrections; and (f) whether the minor
15 possessed a deadly weapon when committing the offense. The
16 rules of evidence shall be the same as if at trial. If after
17 the hearing the court finds that the minor should be sentenced
18 under Chapter V of the Unified Code of Corrections, then the
19 court shall sentence the minor under Section 5-4.5-105 of the
20 Unified Code of Corrections.

21 (2) (Blank).

22 (3) (Blank).

23 (4) (Blank).

24 (5) (Blank).

25 (6) (Blank).

26 (7) The procedures set out in this Article for the

1 investigation, arrest and prosecution of juvenile offenders
2 shall not apply to minors who are excluded from jurisdiction of
3 the Juvenile Court, except that minors under 21 years of age
4 for a misdemeanor offense or 18 years of age for a felony
5 offense shall be kept separate from confined adults.

6 (8) Nothing in this Act prohibits or limits the prosecution
7 of any minor for an offense committed on or after his or her
8 21st birthday for a misdemeanor offense or 18th birthday for a
9 felony offense even though he or she is at the time of the
10 offense a ward of the court.

11 (9) If an original petition for adjudication of wardship
12 alleges the commission by a minor 13 years of age or over of an
13 act that constitutes a crime under the laws of this State, the
14 minor, with the consent of his or her counsel, may, at any time
15 before commencement of the adjudicatory hearing, file with the
16 court a motion that criminal prosecution be ordered and that
17 the petition be dismissed insofar as the act or acts involved
18 in the criminal proceedings are concerned. If such a motion is
19 filed as herein provided, the court shall enter its order
20 accordingly.

21 (10) If, prior to August 12, 2005 (the effective date of
22 Public Act 94-574), a minor is charged with a violation of
23 Section 401 of the Illinois Controlled Substances Act under the
24 criminal laws of this State, other than a minor charged with a
25 Class X felony violation of the Illinois Controlled Substances
26 Act or the Methamphetamine Control and Community Protection

1 Act, any party including the minor or the court sua sponte may,
2 before trial, move for a hearing for the purpose of trying and
3 sentencing the minor as a delinquent minor. To request a
4 hearing, the party must file a motion prior to trial.
5 Reasonable notice of the motion shall be given to all parties.
6 On its own motion or upon the filing of a motion by one of the
7 parties including the minor, the court shall conduct a hearing
8 to determine whether the minor should be tried and sentenced as
9 a delinquent minor under this Article. In making its
10 determination, the court shall consider among other matters:

11 (a) The age of the minor;

12 (b) Any previous delinquent or criminal history of the
13 minor;

14 (c) Any previous abuse or neglect history of the minor;

15 (d) Any mental health or educational history of the
16 minor, or both; and

17 (e) Whether there is probable cause to support the
18 charge, whether the minor is charged through
19 accountability, and whether there is evidence the minor
20 possessed a deadly weapon or caused serious bodily harm
21 during the offense.

22 Any material that is relevant and reliable shall be
23 admissible at the hearing. In all cases, the judge shall enter
24 an order permitting prosecution under the criminal laws of
25 Illinois unless the judge makes a finding based on a
26 preponderance of the evidence that the minor would be amenable

1 to the care, treatment, and training programs available through
2 the facilities of the juvenile court based on an evaluation of
3 the factors listed in this subsection (10).

4 (11) The changes made to this Section by Public Act 98-61
5 apply to a minor who has been arrested or taken into custody on
6 or after January 1, 2014 (the effective date of Public Act
7 98-61).

8 (Source: P.A. 98-61, eff. 1-1-14; 98-756, eff. 7-16-14; 99-258,
9 eff. 1-1-16.)

10 (705 ILCS 405/5-401.5)

11 Sec. 5-401.5. When statements by minor may be used.

12 (a) In this Section, "custodial interrogation" means any
13 interrogation (i) during which a reasonable person in the
14 subject's position would consider himself or herself to be in
15 custody and (ii) during which a question is asked that is
16 reasonably likely to elicit an incriminating response.

17 In this Section, "electronic recording" includes motion
18 picture, audiotape, videotape, or digital recording.

19 In this Section, "place of detention" means a building or a
20 police station that is a place of operation for a municipal
21 police department or county sheriff department or other law
22 enforcement agency at which persons are or may be held in
23 detention in connection with criminal charges against those
24 persons or allegations that those persons are delinquent
25 minors.

1 (a-5) An oral, written, or sign language statement of a
2 minor, who at the time of the commission of the offense was
3 under 21 years of age for a misdemeanor offense or 18 years of
4 age for a felony offense, is presumed to be inadmissible when
5 the statement is obtained from the minor while the minor is
6 subject to custodial interrogation by a law enforcement
7 officer, State's Attorney, juvenile officer, or other public
8 official or employee prior to the officer, State's Attorney,
9 public official, or employee:

10 (1) continuously reads to the minor, in its entirety
11 and without stopping for purposes of a response from the
12 minor or verifying comprehension, the following statement:

13 "You have the right to remain silent. That means you do not
14 have to say anything. Anything you do say can be used
15 against you in court. You have the right to get help from a
16 lawyer. If you cannot pay for a lawyer, the court will get
17 you one for free. You can ask for a lawyer at any time. You
18 have the right to stop this interview at any time."; and

19 (2) after reading the statement required by paragraph
20 (1) of this subsection (a-5), the public official or
21 employee shall ask the minor the following questions and
22 wait for the minor's response to each question:

23 (A) "Do you want to have a lawyer?"

24 (B) "Do you want to talk to me?"

25 (b) An oral, written, or sign language statement of a minor
26 who, at the time of the commission of the offense was under the

1 age of 21 for a misdemeanor offense or 18 years for a felony
2 offense, made as a result of a custodial interrogation
3 conducted at a police station or other place of detention on or
4 after the effective date of this amendatory Act of the 99th
5 General Assembly and on or after the effective date of this
6 amendatory Act of the 100th General Assembly shall be presumed
7 to be inadmissible as evidence against the minor in any
8 criminal proceeding or juvenile court proceeding, for an act
9 that if committed by an adult would be a misdemeanor offense
10 under Article 11 of the Criminal Code of 2012 or any felony
11 offense unless:

12 (1) an electronic recording is made of the custodial
13 interrogation; and

14 (2) the recording is substantially accurate and not
15 intentionally altered.

16 (b-5) (Blank).

17 (b-10) If, during the course of an electronically recorded
18 custodial interrogation conducted under this Section of a minor
19 who, at the time of the commission of the offense was under the
20 age of 21 years for a misdemeanor offense or 18 years for a
21 felony offense, the minor makes a statement that creates a
22 reasonable suspicion to believe the minor has committed an act
23 that if committed by an adult would be an offense other than an
24 offense required to be recorded under subsection (b), the
25 interrogators may, without the minor's consent, continue to
26 record the interrogation as it relates to the other offense

1 notwithstanding any provision of law to the contrary. Any oral,
2 written, or sign language statement of a minor made as a result
3 of an interrogation under this subsection shall be presumed to
4 be inadmissible as evidence against the minor in any criminal
5 proceeding or juvenile court proceeding, unless the recording
6 is substantially accurate and not intentionally altered.

7 (c) Every electronic recording made under this Section must
8 be preserved until such time as the minor's adjudication for
9 any offense relating to the statement is final and all direct
10 and habeas corpus appeals are exhausted, or the prosecution of
11 such offenses is barred by law.

12 (d) If the court finds, by a preponderance of the evidence,
13 that the minor was subjected to a custodial interrogation in
14 violation of this Section, then any statements made by the
15 minor during or following that non-recorded custodial
16 interrogation, even if otherwise in compliance with this
17 Section, are presumed to be inadmissible in any criminal
18 proceeding or juvenile court proceeding against the minor
19 except for the purposes of impeachment.

20 (e) Nothing in this Section precludes the admission (i) of
21 a statement made by the minor in open court in any criminal
22 proceeding or juvenile court proceeding, before a grand jury,
23 or at a preliminary hearing, (ii) of a statement made during a
24 custodial interrogation that was not recorded as required by
25 this Section because electronic recording was not feasible,
26 (iii) of a voluntary statement, whether or not the result of a

1 custodial interrogation, that has a bearing on the credibility
2 of the accused as a witness, (iv) of a spontaneous statement
3 that is not made in response to a question, (v) of a statement
4 made after questioning that is routinely asked during the
5 processing of the arrest of the suspect, (vi) of a statement
6 made during a custodial interrogation by a suspect who
7 requests, prior to making the statement, to respond to the
8 interrogator's questions only if an electronic recording is not
9 made of the statement, provided that an electronic recording is
10 made of the statement of agreeing to respond to the
11 interrogator's question, only if a recording is not made of the
12 statement, (vii) of a statement made during a custodial
13 interrogation that is conducted out-of-state, (viii) of a
14 statement given in violation of subsection (b) at a time when
15 the interrogators are unaware that a death has in fact
16 occurred, (ix) (blank), or (x) of any other statement that may
17 be admissible under law. The State shall bear the burden of
18 proving, by a preponderance of the evidence, that one of the
19 exceptions described in this subsection (e) is applicable.
20 Nothing in this Section precludes the admission of a statement,
21 otherwise inadmissible under this Section, that is used only
22 for impeachment and not as substantive evidence.

23 (f) The presumption of inadmissibility of a statement made
24 by a suspect at a custodial interrogation at a police station
25 or other place of detention may be overcome by a preponderance
26 of the evidence that the statement was voluntarily given and is

1 reliable, based on the totality of the circumstances.

2 (g) Any electronic recording of any statement made by a
3 minor during a custodial interrogation that is compiled by any
4 law enforcement agency as required by this Section for the
5 purposes of fulfilling the requirements of this Section shall
6 be confidential and exempt from public inspection and copying,
7 as provided under Section 7 of the Freedom of Information Act,
8 and the information shall not be transmitted to anyone except
9 as needed to comply with this Section.

10 (h) A statement, admission, confession, or incriminating
11 information made by or obtained from a minor related to the
12 instant offense, as part of any behavioral health screening,
13 assessment, evaluation, or treatment, whether or not
14 court-ordered, shall not be admissible as evidence against the
15 minor on the issue of guilt only in the instant juvenile court
16 proceeding. The provisions of this subsection (h) are in
17 addition to and do not override any existing statutory and
18 constitutional prohibition on the admission into evidence in
19 delinquency proceedings of information obtained during
20 screening, assessment, or treatment.

21 (i) The changes made to this Section by Public Act 98-61
22 apply to statements of a minor made on or after January 1, 2014
23 (the effective date of Public Act 98-61).

24 (Source: P.A. 98-61, eff. 1-1-14; 98-547, eff. 1-1-14; 98-756,
25 eff. 7-16-14; 99-882, eff. 1-1-17.)

1 (705 ILCS 405/5-410)

2 Sec. 5-410. Non-secure custody or detention.

3 (1) Any minor arrested or taken into custody pursuant to
4 this Act who requires care away from his or her home but who
5 does not require physical restriction shall be given temporary
6 care in a foster family home or other shelter facility
7 designated by the court.

8 (2) (a) Any minor 10 years of age or older arrested
9 pursuant to this Act where there is probable cause to believe
10 that the minor is a delinquent minor and that (i) secured
11 custody is a matter of immediate and urgent necessity for the
12 protection of the minor or of the person or property of
13 another, (ii) the minor is likely to flee the jurisdiction of
14 the court, or (iii) the minor was taken into custody under a
15 warrant, may be kept or detained in an authorized detention
16 facility. A minor under 13 years of age shall not be admitted,
17 kept, or detained in a detention facility unless a local youth
18 service provider, including a provider through the
19 Comprehensive Community Based Youth Services network, has been
20 contacted and has not been able to accept the minor. No minor
21 under 12 years of age shall be detained in a county jail or a
22 municipal lockup for more than 6 hours.

23 (b) The written authorization of the probation officer or
24 detention officer (or other public officer designated by the
25 court in a county having 3,000,000 or more inhabitants)
26 constitutes authority for the superintendent of any juvenile

1 detention home to detain and keep a minor for up to 40 hours,
2 excluding Saturdays, Sundays and court-designated holidays.
3 These records shall be available to the same persons and
4 pursuant to the same conditions as are law enforcement records
5 as provided in Section 5-905.

6 (b-4) The consultation required by subsection (b-5) shall
7 not be applicable if the probation officer or detention officer
8 (or other public officer designated by the court in a county
9 having 3,000,000 or more inhabitants) utilizes a scorable
10 detention screening instrument, which has been developed with
11 input by the State's Attorney, to determine whether a minor
12 should be detained, however, subsection (b-5) shall still be
13 applicable where no such screening instrument is used or where
14 the probation officer, detention officer (or other public
15 officer designated by the court in a county having 3,000,000 or
16 more inhabitants) deviates from the screening instrument.

17 (b-5) Subject to the provisions of subsection (b-4), if a
18 probation officer or detention officer (or other public officer
19 designated by the court in a county having 3,000,000 or more
20 inhabitants) does not intend to detain a minor for an offense
21 which constitutes one of the following offenses he or she shall
22 consult with the State's Attorney's Office prior to the release
23 of the minor: first degree murder, second degree murder,
24 involuntary manslaughter, criminal sexual assault, aggravated
25 criminal sexual assault, aggravated battery with a firearm as
26 described in Section 12-4.2 or subdivision (e)(1), (e)(2),

1 (e) (3), or (e) (4) of Section 12-3.05, aggravated or heinous
2 battery involving permanent disability or disfigurement or
3 great bodily harm, robbery, aggravated robbery, armed robbery,
4 vehicular hijacking, aggravated vehicular hijacking, vehicular
5 invasion, arson, aggravated arson, kidnapping, aggravated
6 kidnapping, home invasion, burglary, or residential burglary.

7 (c) Except as otherwise provided in paragraph (a), (d), or
8 (e), no minor shall be detained in a county jail or municipal
9 lockup for more than 12 hours, unless the offense is a crime of
10 violence in which case the minor may be detained up to 24
11 hours. For the purpose of this paragraph, "crime of violence"
12 has the meaning ascribed to it in Section 1-10 of the
13 Alcoholism and Other Drug Abuse and Dependency Act.

14 (i) The period of detention is deemed to have begun
15 once the minor has been placed in a locked room or cell or
16 handcuffed to a stationary object in a building housing a
17 county jail or municipal lockup. Time spent transporting a
18 minor is not considered to be time in detention or secure
19 custody.

20 (ii) Any minor so confined shall be under periodic
21 supervision and shall not be permitted to come into or
22 remain in contact with adults in custody in the building.

23 (iii) Upon placement in secure custody in a jail or
24 lockup, the minor shall be informed of the purpose of the
25 detention, the time it is expected to last and the fact
26 that it cannot exceed the time specified under this Act.

1 (iv) A log shall be kept which shows the offense which
2 is the basis for the detention, the reasons and
3 circumstances for the decision to detain and the length of
4 time the minor was in detention.

5 (v) Violation of the time limit on detention in a
6 county jail or municipal lockup shall not, in and of
7 itself, render inadmissible evidence obtained as a result
8 of the violation of this time limit. Minors under 21 years
9 of age for a misdemeanor offense or 18 years of age for a
10 felony offense shall be kept separate from confined adults
11 and may not at any time be kept in the same cell, room or
12 yard with adults confined pursuant to criminal law. Persons
13 18 years of age and older who have a petition of
14 delinquency filed against them for a felony offense may be
15 confined in an adult detention facility. In making a
16 determination whether to confine a person 18 years of age
17 or older who has a petition of delinquency filed against
18 the person, these factors, among other matters, shall be
19 considered:

20 (A) The age of the person;

21 (B) Any previous delinquent or criminal history of
22 the person;

23 (C) Any previous abuse or neglect history of the
24 person; and

25 (D) Any mental health or educational history of the
26 person, or both.

1 (d) (i) If a minor 12 years of age or older is confined in a
2 county jail in a county with a population below 3,000,000
3 inhabitants, then the minor's confinement shall be implemented
4 in such a manner that there will be no contact by sight, sound
5 or otherwise between the minor and adult prisoners. Minors 12
6 years of age or older must be kept separate from confined
7 adults and may not at any time be kept in the same cell, room,
8 or yard with confined adults. This paragraph (d) (i) shall only
9 apply to confinement pending an adjudicatory hearing and shall
10 not exceed 40 hours, excluding Saturdays, Sundays and court
11 designated holidays. To accept or hold minors during this time
12 period, county jails shall comply with all monitoring standards
13 adopted by the Department of Corrections and training standards
14 approved by the Illinois Law Enforcement Training Standards
15 Board.

16 (ii) To accept or hold minors, 12 years of age or older,
17 after the time period prescribed in paragraph (d) (i) of this
18 subsection (2) of this Section but not exceeding 7 days
19 including Saturdays, Sundays and holidays pending an
20 adjudicatory hearing, county jails shall comply with all
21 temporary detention standards adopted by the Department of
22 Corrections and training standards approved by the Illinois Law
23 Enforcement Training Standards Board.

24 (iii) To accept or hold minors 12 years of age or older,
25 after the time period prescribed in paragraphs (d) (i) and
26 (d) (ii) of this subsection (2) of this Section, county jails

1 shall comply with all county juvenile detention standards
2 adopted by the Department of Juvenile Justice.

3 (e) When a minor who is at least 15 years of age is
4 prosecuted under the criminal laws of this State, the court may
5 enter an order directing that the juvenile be confined in the
6 county jail. However, any juvenile confined in the county jail
7 under this provision shall be separated from adults who are
8 confined in the county jail in such a manner that there will be
9 no contact by sight, sound or otherwise between the juvenile
10 and adult prisoners.

11 (f) For purposes of appearing in a physical lineup, the
12 minor may be taken to a county jail or municipal lockup under
13 the direct and constant supervision of a juvenile police
14 officer. During such time as is necessary to conduct a lineup,
15 and while supervised by a juvenile police officer, the sight
16 and sound separation provisions shall not apply.

17 (g) For purposes of processing a minor, the minor may be
18 taken to a County Jail or municipal lockup under the direct and
19 constant supervision of a law enforcement officer or
20 correctional officer. During such time as is necessary to
21 process the minor, and while supervised by a law enforcement
22 officer or correctional officer, the sight and sound separation
23 provisions shall not apply.

24 (3) If the probation officer or State's Attorney (or such
25 other public officer designated by the court in a county having
26 3,000,000 or more inhabitants) determines that the minor may be

1 a delinquent minor as described in subsection (3) of Section
2 5-105, and should be retained in custody but does not require
3 physical restriction, the minor may be placed in non-secure
4 custody for up to 40 hours pending a detention hearing.

5 (4) Any minor taken into temporary custody, not requiring
6 secure detention, may, however, be detained in the home of his
7 or her parent or guardian subject to such conditions as the
8 court may impose.

9 (5) The changes made to this Section by Public Act 98-61
10 apply to a minor who has been arrested or taken into custody on
11 or after January 1, 2014 (the effective date of Public Act
12 98-61).

13 (Source: P.A. 98-61, eff. 1-1-14; 98-685, eff. 1-1-15; 98-756,
14 eff. 7-16-14; 99-254, eff. 1-1-16.)

15 (705 ILCS 405/5-901)

16 Sec. 5-901. Court file.

17 (1) The Court file with respect to proceedings under this
18 Article shall consist of the petitions, pleadings, victim
19 impact statements, process, service of process, orders, writs
20 and docket entries reflecting hearings held and judgments and
21 decrees entered by the court. The court file shall be kept
22 separate from other records of the court.

23 (a) The file, including information identifying the
24 victim or alleged victim of any sex offense, shall be
25 disclosed only to the following parties when necessary for

1 discharge of their official duties:

2 (i) A judge of the circuit court and members of the
3 staff of the court designated by the judge;

4 (ii) Parties to the proceedings and their
5 attorneys;

6 (iii) Victims and their attorneys, except in cases
7 of multiple victims of sex offenses in which case the
8 information identifying the nonrequesting victims
9 shall be redacted;

10 (iv) Probation officers, law enforcement officers
11 or prosecutors or their staff;

12 (v) Adult and juvenile Prisoner Review Boards.

13 (b) The Court file redacted to remove any information
14 identifying the victim or alleged victim of any sex offense
15 shall be disclosed only to the following parties when
16 necessary for discharge of their official duties:

17 (i) Authorized military personnel;

18 (ii) Persons engaged in bona fide research, with
19 the permission of the judge of the juvenile court and
20 the chief executive of the agency that prepared the
21 particular recording: provided that publication of
22 such research results in no disclosure of a minor's
23 identity and protects the confidentiality of the
24 record;

25 (iii) The Secretary of State to whom the Clerk of
26 the Court shall report the disposition of all cases, as

1 required in Section 6-204 or Section 6-205.1 of the
2 Illinois Vehicle Code. However, information reported
3 relative to these offenses shall be privileged and
4 available only to the Secretary of State, courts, and
5 police officers;

6 (iv) The administrator of a bonafide substance
7 abuse student assistance program with the permission
8 of the presiding judge of the juvenile court;

9 (v) Any individual, or any public or private agency
10 or institution, having custody of the juvenile under
11 court order or providing educational, medical or
12 mental health services to the juvenile or a
13 court-approved advocate for the juvenile or any
14 placement provider or potential placement provider as
15 determined by the court.

16 (3) A minor who is the victim or alleged victim in a
17 juvenile proceeding shall be provided the same confidentiality
18 regarding disclosure of identity as the minor who is the
19 subject of record. Information identifying victims and alleged
20 victims of sex offenses, shall not be disclosed or open to
21 public inspection under any circumstances. Nothing in this
22 Section shall prohibit the victim or alleged victim of any sex
23 offense from voluntarily disclosing his or her identity.

24 (4) Relevant information, reports and records shall be made
25 available to the Department of Juvenile Justice when a juvenile
26 offender has been placed in the custody of the Department of

1 Juvenile Justice.

2 (5) Except as otherwise provided in this subsection (5),
3 juvenile court records shall not be made available to the
4 general public but may be inspected by representatives of
5 agencies, associations and news media or other properly
6 interested persons by general or special order of the court.
7 The State's Attorney, the minor, his or her parents, guardian
8 and counsel shall at all times have the right to examine court
9 files and records.

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

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

18 (ii) The court has made a finding that the minor
19 was at least 13 years of age at the time the act was
20 committed and the adjudication of delinquency was
21 based upon the minor's commission of: (A) an act in
22 furtherance of the commission of a felony as a member
23 of or on behalf of a criminal street gang, (B) an act
24 involving the use of a firearm in the commission of a
25 felony, (C) an act that would be a Class X felony
26 offense under or the minor's second or subsequent Class

1 2 or greater felony offense under the Cannabis Control
2 Act if committed by an adult, (D) an act that would be
3 a second or subsequent offense under Section 402 of the
4 Illinois Controlled Substances Act if committed by an
5 adult, (E) an act that would be an offense under
6 Section 401 of the Illinois Controlled Substances Act
7 if committed by an adult, or (F) an act that would be
8 an offense under the Methamphetamine Control and
9 Community Protection Act if committed by an adult.

10 (b) The court shall allow the general public to have
11 access to the name, address, and offense of a minor who is
12 at least 13 years of age at the time the offense is
13 committed and who is convicted, in criminal proceedings
14 permitted or required under Section 5-805, under either of
15 the following circumstances:

16 (i) The minor has been convicted of first degree
17 murder, attempt to commit first degree murder,
18 aggravated criminal sexual assault, or criminal sexual
19 assault,

20 (ii) The court has made a finding that the minor
21 was at least 13 years of age at the time the offense
22 was committed and the conviction was based upon the
23 minor's commission of: (A) an offense in furtherance of
24 the commission of a felony as a member of or on behalf
25 of a criminal street gang, (B) an offense involving the
26 use of a firearm in the commission of a felony, (C) a

1 Class X felony offense under the Cannabis Control Act
2 or a second or subsequent Class 2 or greater felony
3 offense under the Cannabis Control Act, (D) a second or
4 subsequent offense under Section 402 of the Illinois
5 Controlled Substances Act, (E) an offense under
6 Section 401 of the Illinois Controlled Substances Act,
7 or (F) an offense under the Methamphetamine Control and
8 Community Protection Act.

9 (6) Nothing in this Section shall be construed to limit the
10 use of a adjudication of delinquency as evidence in any
11 juvenile or criminal proceeding, where it would otherwise be
12 admissible under the rules of evidence, including but not
13 limited to, use as impeachment evidence against any witness,
14 including the minor if he or she testifies.

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

22 (8) Following any adjudication of delinquency for a crime
23 which would be a felony if committed by an adult, or following
24 any adjudication of delinquency for a violation of Section
25 24-1, 24-3, 24-3.1, or 24-5 of the Criminal Code of 1961 or the
26 Criminal Code of 2012, the State's Attorney shall ascertain

1 whether the minor respondent is enrolled in school and, if so,
2 shall provide a copy of the sentencing order to the principal
3 or chief administrative officer of the school. Access to such
4 juvenile records shall be limited to the principal or chief
5 administrative officer of the school and any guidance counselor
6 designated by him or her.

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

13 (11) The Clerk of the Circuit Court shall report to the
14 Department of State Police, in the form and manner required by
15 the Department of State Police, the final disposition of each
16 minor who has been arrested or taken into custody before his or
17 her 21st birthday for a misdemeanor offense or 18th birthday
18 for a felony offense for those offenses required to be reported
19 under Section 5 of the Criminal Identification Act. Information
20 reported to the Department under this Section may be maintained
21 with records that the Department files under Section 2.1 of the
22 Criminal Identification Act.

23 (12) Information or records may be disclosed to the general
24 public when the court is conducting hearings under Section
25 5-805 or 5-810.

26 (13) The changes made to this Section by Public Act 98-61

1 apply to juvenile court records of a minor who has been
2 arrested or taken into custody on or after January 1, 2014 (the
3 effective date of Public Act 98-61).

4 (Source: P.A. 97-1150, eff. 1-25-13; 98-61, eff. 1-1-14;
5 98-756, eff. 7-16-14.)

6 (705 ILCS 405/5-905)

7 Sec. 5-905. Law enforcement records.

8 (1) Law Enforcement Records. Inspection and copying of law
9 enforcement records maintained by law enforcement agencies
10 that relate to a minor who has been investigated, arrested, or
11 taken into custody before his or her 21st birthday for a
12 misdemeanor offense or 18th birthday for a felony offense shall
13 be restricted to the following and when necessary for the
14 discharge of their official duties:

15 (a) A judge of the circuit court and members of the
16 staff of the court designated by the judge;

17 (b) Law enforcement officers, probation officers or
18 prosecutors or their staff, or, when necessary for the
19 discharge of its official duties in connection with a
20 particular investigation of the conduct of a law
21 enforcement officer, an independent agency or its staff
22 created by ordinance and charged by a unit of local
23 government with the duty of investigating the conduct of
24 law enforcement officers;

25 (c) The minor, the minor's parents or legal guardian

1 and their attorneys, but only when the juvenile has been
2 charged with an offense;

3 (d) Adult and Juvenile Prisoner Review Boards;

4 (e) Authorized military personnel;

5 (f) Persons engaged in bona fide research, with the
6 permission of the judge of juvenile court and the chief
7 executive of the agency that prepared the particular
8 recording: provided that publication of such research
9 results in no disclosure of a minor's identity and protects
10 the confidentiality of the record;

11 (g) Individuals responsible for supervising or
12 providing temporary or permanent care and custody of minors
13 pursuant to orders of the juvenile court or directives from
14 officials of the Department of Children and Family Services
15 or the Department of Human Services who certify in writing
16 that the information will not be disclosed to any other
17 party except as provided under law or order of court;

18 (h) The appropriate school official only if the agency
19 or officer believes that there is an imminent threat of
20 physical harm to students, school personnel, or others who
21 are present in the school or on school grounds.

22 (A) Inspection and copying shall be limited to law
23 enforcement records transmitted to the appropriate
24 school official or officials whom the school has
25 determined to have a legitimate educational or safety
26 interest by a local law enforcement agency under a

1 reciprocal reporting system established and maintained
2 between the school district and the local law
3 enforcement agency under Section 10-20.14 of the
4 School Code concerning a minor enrolled in a school
5 within the school district who has been arrested or
6 taken into custody for any of the following offenses:

7 (i) any violation of Article 24 of the Criminal
8 Code of 1961 or the Criminal Code of 2012;

9 (ii) a violation of the Illinois Controlled
10 Substances Act;

11 (iii) a violation of the Cannabis Control Act;

12 (iv) a forcible felony as defined in Section
13 2-8 of the Criminal Code of 1961 or the Criminal
14 Code of 2012;

15 (v) a violation of the Methamphetamine Control
16 and Community Protection Act;

17 (vi) a violation of Section 1-2 of the
18 Harassing and Obscene Communications Act;

19 (vii) a violation of the Hazing Act; or

20 (viii) a violation of Section 12-1, 12-2,
21 12-3, 12-3.05, 12-3.1, 12-3.2, 12-3.4, 12-3.5,
22 12-5, 12-7.3, 12-7.4, 12-7.5, 25-1, or 25-5 of the
23 Criminal Code of 1961 or the Criminal Code of 2012.

24 The information derived from the law enforcement
25 records shall be kept separate from and shall not
26 become a part of the official school record of that

1 child and shall not be a public record. The information
2 shall be used solely by the appropriate school official
3 or officials whom the school has determined to have a
4 legitimate educational or safety interest to aid in the
5 proper rehabilitation of the child and to protect the
6 safety of students and employees in the school. If the
7 designated law enforcement and school officials deem
8 it to be in the best interest of the minor, the student
9 may be referred to in-school or community based social
10 services if those services are available.
11 "Rehabilitation services" may include interventions by
12 school support personnel, evaluation for eligibility
13 for special education, referrals to community-based
14 agencies such as youth services, behavioral healthcare
15 service providers, drug and alcohol prevention or
16 treatment programs, and other interventions as deemed
17 appropriate for the student.

18 (B) Any information provided to appropriate school
19 officials whom the school has determined to have a
20 legitimate educational or safety interest by local law
21 enforcement officials about a minor who is the subject
22 of a current police investigation that is directly
23 related to school safety shall consist of oral
24 information only, and not written law enforcement
25 records, and shall be used solely by the appropriate
26 school official or officials to protect the safety of

1 students and employees in the school and aid in the
2 proper rehabilitation of the child. The information
3 derived orally from the local law enforcement
4 officials shall be kept separate from and shall not
5 become a part of the official school record of the
6 child and shall not be a public record. This limitation
7 on the use of information about a minor who is the
8 subject of a current police investigation shall in no
9 way limit the use of this information by prosecutors in
10 pursuing criminal charges arising out of the
11 information disclosed during a police investigation of
12 the minor. For purposes of this paragraph,
13 "investigation" means an official systematic inquiry
14 by a law enforcement agency into actual or suspected
15 criminal activity;

16 (i) The president of a park district. Inspection and
17 copying shall be limited to law enforcement records
18 transmitted to the president of the park district by the
19 Illinois State Police under Section 8-23 of the Park
20 District Code or Section 16a-5 of the Chicago Park District
21 Act concerning a person who is seeking employment with that
22 park district and who has been adjudicated a juvenile
23 delinquent for any of the offenses listed in subsection (c)
24 of Section 8-23 of the Park District Code or subsection (c)
25 of Section 16a-5 of the Chicago Park District Act.

26 (2) Information identifying victims and alleged victims of

1 sex offenses, shall not be disclosed or open to public
2 inspection under any circumstances. Nothing in this Section
3 shall prohibit the victim or alleged victim of any sex offense
4 from voluntarily disclosing his or her identity.

5 (2.5) If the minor is a victim of aggravated battery,
6 battery, attempted first degree murder, or other non-sexual
7 violent offense, the identity of the victim may be disclosed to
8 appropriate school officials, for the purpose of preventing
9 foreseeable future violence involving minors, by a local law
10 enforcement agency pursuant to an agreement established
11 between the school district and a local law enforcement agency
12 subject to the approval by the presiding judge of the juvenile
13 court.

14 (3) Relevant information, reports and records shall be made
15 available to the Department of Juvenile Justice when a juvenile
16 offender has been placed in the custody of the Department of
17 Juvenile Justice.

18 (4) Nothing in this Section shall prohibit the inspection
19 or disclosure to victims and witnesses of photographs contained
20 in the records of law enforcement agencies when the inspection
21 or disclosure is conducted in the presence of a law enforcement
22 officer for purposes of identification or apprehension of any
23 person in the course of any criminal investigation or
24 prosecution.

25 (5) The records of law enforcement officers, or of an
26 independent agency created by ordinance and charged by a unit

1 of local government with the duty of investigating the conduct
2 of law enforcement officers, concerning all minors under 21 ~~18~~
3 years of age must be maintained separate from the records of
4 adults and may not be open to public inspection or their
5 contents disclosed to the public except by order of the court
6 or when the institution of criminal proceedings has been
7 permitted under Section 5-130 or 5-805 or required under
8 Section 5-130 or 5-805 or such a person has been convicted of a
9 crime and is the subject of pre-sentence investigation or when
10 provided by law.

11 (6) Except as otherwise provided in this subsection (6),
12 law enforcement officers, and personnel of an independent
13 agency created by ordinance and charged by a unit of local
14 government with the duty of investigating the conduct of law
15 enforcement officers, may not disclose the identity of any
16 minor in releasing information to the general public as to the
17 arrest, investigation or disposition of any case involving a
18 minor. Any victim or parent or legal guardian of a victim may
19 petition the court to disclose the name and address of the
20 minor and the minor's parents or legal guardian, or both. Upon
21 a finding by clear and convincing evidence that the disclosure
22 is either necessary for the victim to pursue a civil remedy
23 against the minor or the minor's parents or legal guardian, or
24 both, or to protect the victim's person or property from the
25 minor, then the court may order the disclosure of the
26 information to the victim or to the parent or legal guardian of

1 the victim only for the purpose of the victim pursuing a civil
2 remedy against the minor or the minor's parents or legal
3 guardian, or both, or to protect the victim's person or
4 property from the minor.

5 (7) Nothing contained in this Section shall prohibit law
6 enforcement agencies when acting in their official capacity
7 from communicating with each other by letter, memorandum,
8 teletype or intelligence alert bulletin or other means the
9 identity or other relevant information pertaining to a person
10 under 21 years of age for a misdemeanor offense or 18 years of
11 age for a felony offense. The information provided under this
12 subsection (7) shall remain confidential and shall not be
13 publicly disclosed, except as otherwise allowed by law.

14 (8) No person shall disclose information under this Section
15 except when acting in his or her official capacity and as
16 provided by law or order of court.

17 (9) The changes made to this Section by Public Act 98-61
18 apply to law enforcement records of a minor who has been
19 arrested or taken into custody on or after January 1, 2014 (the
20 effective date of Public Act 98-61).

21 (Source: P.A. 98-61, eff. 1-1-14; 98-756, eff. 7-16-14; 99-298,
22 eff. 8-6-15.)

23 (705 ILCS 405/5-915)

24 Sec. 5-915. Expungement of juvenile law enforcement and
25 court records.

1 (0.05) For purposes of this Section and Section 5-622:

2 "Expunge" means to physically destroy the records and
3 to obliterate the minor's name from any official index or
4 public record, or both. Nothing in this Act shall require
5 the physical destruction of the internal office records,
6 files, or databases maintained by a State's Attorney's
7 Office or other prosecutor.

8 "Law enforcement record" includes but is not limited to
9 records of arrest, station adjustments, fingerprints,
10 probation adjustments, the issuance of a notice to appear,
11 or any other records maintained by a law enforcement agency
12 relating to a minor suspected of committing an offense.

13 (1) Whenever a person has been arrested, charged, or
14 adjudicated delinquent for an incident under this Act ~~occurring~~
15 ~~before his or her 18th birthday~~ that if committed by an adult
16 would be an offense, the person may petition the court at any
17 time for expungement of law enforcement records and juvenile
18 court records relating to the incident and, upon termination of
19 all juvenile court proceedings relating to that incident, the
20 court shall order the expungement of all records in the
21 possession of the Department of State Police, the clerk of the
22 circuit court, and law enforcement agencies relating to the
23 incident, but only in any of the following circumstances:

24 (a) the minor was arrested and no petition for
25 delinquency was filed with the clerk of the circuit court;

26 (a-5) the minor was charged with an offense and the

1 petition or petitions were dismissed without a finding of
2 delinquency;

3 (b) the minor was charged with an offense and was found
4 not delinquent of that offense;

5 (c) the minor was placed under supervision pursuant to
6 Section 5-615, and the order of supervision has since been
7 successfully terminated; or

8 (d) the minor was adjudicated for an offense which
9 would be a Class B misdemeanor, Class C misdemeanor, or a
10 petty or business offense if committed by an adult.

11 (1.5) Commencing 180 days after January 1, 2015 (the
12 effective date of Public Act 98-637) ~~this amendatory Act of the~~
13 ~~98th General Assembly~~, the Department of State Police shall
14 automatically expunge, on or before January 1 of each year, a
15 person's law enforcement records which are not subject to
16 subsection (1) relating to incidents occurring before his or
17 her 21st birthday for a misdemeanor offense or 18th birthday
18 for a felony offense in the Department's possession or control
19 and which contains the final disposition which pertain to the
20 person when arrested as a minor if:

21 (a) the minor was arrested for an eligible offense and
22 no petition for delinquency was filed with the clerk of the
23 circuit court; and

24 (b) the person attained the age of 21 years for a
25 misdemeanor offense or 18 years for a felony offense during
26 the last calendar year; and

1 (c) since the date of the minor's most recent arrest,
2 at least 6 months have elapsed without an additional
3 arrest, filing of a petition for delinquency whether
4 related or not to a previous arrest, or filing of charges
5 not initiated by arrest.

6 The Department of State Police shall allow a person to use
7 the Access and Review process, established in the Department of
8 State Police, for verifying that his or her law enforcement
9 records relating to incidents occurring before his or her 18th
10 birthday eligible under this subsection have been expunged as
11 provided in this subsection.

12 The Department of State Police shall provide by rule the
13 process for access, review, and automatic expungement.

14 (1.6) Commencing on January 1, 2015 (the effective date of
15 Public Act 98-637) ~~this amendatory Act of the 98th General~~
16 ~~Assembly~~, a person whose law enforcement records are not
17 subject to subsection (1) or (1.5) of this Section and who has
18 attained the age of 21 years for a misdemeanor offense or 18
19 years for a felony offense may use the Access and Review
20 process, established in the Department of State Police, for
21 verifying his or her law enforcement records relating to
22 incidents occurring before his or her 18th birthday in the
23 Department's possession or control which pertain to the person
24 when arrested as a minor, if the incident occurred no earlier
25 than 30 years before January 1, 2015 (the effective date of
26 Public Act 98-637) ~~this amendatory Act of the 98th General~~

1 ~~Assembly~~. If the person identifies a law enforcement record of
2 an eligible offense that meets the requirements of this
3 subsection, paragraphs (a) and (c) of subsection (1.5) of this
4 Section, and all juvenile court proceedings related to the
5 person have been terminated, the person may file a Request for
6 Expungement of Juvenile Law Enforcement Records, in the form
7 and manner prescribed by the Department of State Police, with
8 the Department and the Department shall consider expungement of
9 the record as otherwise provided for automatic expungement
10 under subsection (1.5) of this Section. The person shall
11 provide notice and a copy of the Request for Expungement of
12 Juvenile Law Enforcement Records to the arresting agency,
13 prosecutor charged with the prosecution of the minor, or the
14 State's Attorney of the county that prosecuted the minor. The
15 Department of State Police shall provide by rule the process
16 for access, review, and Request for Expungement of Juvenile Law
17 Enforcement Records.

18 (1.7) Nothing in subsections (1.5) and (1.6) of this
19 Section precludes a person from filing a petition under
20 subsection (1) for expungement of records subject to automatic
21 expungement under that subsection (1) or subsection (1.5) or
22 (1.6) of this Section.

23 (1.8) For the purposes of subsections (1.5) and (1.6) of
24 this Section, "eligible offense" means records relating to an
25 arrest or incident occurring before the person's 21st birthday
26 for a misdemeanor offense or 18th birthday for a felony offense

1 that if committed by an adult is not an offense classified as a
2 Class 2 felony or higher offense, an offense under Article 11
3 of the Criminal Code of 1961 or the Criminal Code of 2012, or
4 an offense under Section 12-13, 12-14, 12-14.1, 12-15, or 12-16
5 of the Criminal Code of 1961.

6 (2) Any person may petition the court to expunge all law
7 enforcement records relating to any incidents occurring before
8 his or her 21st birthday for a misdemeanor offense or 18th
9 birthday for a felony offense which did not result in
10 proceedings in criminal court and all juvenile court records
11 with respect to any adjudications except those based upon first
12 degree murder and sex offenses which would be felonies if
13 committed by an adult, if the person for whom expungement is
14 sought has had no convictions for any crime since his or her
15 21st birthday for a misdemeanor offense or 18th birthday for a
16 felony offense and:

17 (a) has attained the age of 21 years; or

18 (b) 5 years have elapsed since all juvenile court
19 proceedings relating to him or her have been terminated or
20 his or her commitment to the Department of Juvenile Justice
21 pursuant to this Act has been terminated;

22 whichever is later of (a) or (b). Nothing in this Section 5-915
23 precludes a minor from obtaining expungement under Section
24 5-622.

25 (2.5) If a minor is arrested and no petition for
26 delinquency is filed with the clerk of the circuit court as

1 provided in paragraph (a) of subsection (1) at the time the
2 minor is released from custody, the youth officer, if
3 applicable, or other designated person from the arresting
4 agency, shall notify verbally and in writing to the minor or
5 the minor's parents or guardians that the minor has a right to
6 petition to have his or her arrest record expunged when all
7 juvenile court proceedings relating to that minor have been
8 terminated and that unless a petition to expunge is filed, the
9 minor shall have an arrest record and shall provide the minor
10 and the minor's parents or guardians with an expungement
11 information packet, including a petition to expunge juvenile
12 records obtained from the clerk of the circuit court.

13 (2.6) If a minor is charged with an offense and is found
14 not delinquent of that offense; or if a minor is placed under
15 supervision under Section 5-615, and the order of supervision
16 is successfully terminated; or if a minor is adjudicated for an
17 offense that would be a Class B misdemeanor, a Class C
18 misdemeanor, or a business or petty offense if committed by an
19 adult; or if a minor has incidents occurring before his or her
20 21st birthday for a misdemeanor offense or 18th birthday for a
21 felony offense that have not resulted in proceedings in
22 criminal court, or resulted in proceedings in juvenile court,
23 and the adjudications were not based upon first degree murder
24 or sex offenses that would be felonies if committed by an
25 adult; then at the time of sentencing or dismissal of the case,
26 the judge shall inform the delinquent minor of his or her right

1 to petition for expungement as provided by law, and the clerk
2 of the circuit court shall provide an expungement information
3 packet to the delinquent minor, written in plain language,
4 including a petition for expungement, a sample of a completed
5 petition, expungement instructions that shall include
6 information informing the minor that (i) once the case is
7 expunged, it shall be treated as if it never occurred, (ii) he
8 or she may apply to have petition fees waived, (iii) once he or
9 she obtains an expungement, he or she may not be required to
10 disclose that he or she had a juvenile record, and (iv) he or
11 she may file the petition on his or her own or with the
12 assistance of an attorney. The failure of the judge to inform
13 the delinquent minor of his or her right to petition for
14 expungement as provided by law does not create a substantive
15 right, nor is that failure grounds for: (i) a reversal of an
16 adjudication of delinquency, (ii) a new trial; or (iii) an
17 appeal.

18 (2.7) For counties with a population over 3,000,000, the
19 clerk of the circuit court shall send a "Notification of a
20 Possible Right to Expungement" post card to the minor at the
21 address last received by the clerk of the circuit court on the
22 date that the minor attains the age of 21 for a misdemeanor
23 offense or 18 for a felony offense based on the birthdate
24 provided to the court by the minor or his or her guardian in
25 cases under paragraphs (b), (c), and (d) of subsection (1); and
26 when the minor attains the age of 21 based on the birthdate

1 provided to the court by the minor or his or her guardian in
2 cases under subsection (2).

3 (2.8) The petition for expungement for subsection (1) may
4 include multiple offenses on the same petition and shall be
5 substantially in the following form:

6 IN THE CIRCUIT COURT OF, ILLINOIS
7 JUDICIAL CIRCUIT

8 IN THE INTEREST OF) NO.
9)
10)
11)
12 (Name of Petitioner)

13 PETITION TO EXPUNGE JUVENILE RECORDS
14 (705 ILCS 405/5-915 (SUBSECTION 1))

15 Now comes, petitioner, and respectfully requests
16 that this Honorable Court enter an order expunging all juvenile
17 law enforcement and court records of petitioner and in support
18 thereof states that: Petitioner has attained the age of,
19 his/her birth date being, or all Juvenile Court
20 proceedings terminated as of, whichever occurred later.
21 Petitioner was arrested on by the Police
22 Department for the offense or offenses of, and:

23 (Check All That Apply:)

24 () a. no petition or petitions were filed with the Clerk of

1 the Circuit Court.

2 () b. was charged with and was found not delinquent of
3 the offense or offenses.

4 () c. a petition or petitions were filed and the petition or
5 petitions were dismissed without a finding of delinquency on
6

7 () d. on placed under supervision pursuant to Section
8 5-615 of the Juvenile Court Act of 1987 and such order of
9 supervision successfully terminated on

10 () e. was adjudicated for the offense or offenses, which would
11 have been a Class B misdemeanor, a Class C misdemeanor, or a
12 petty offense or business offense if committed by an adult.

13 Petitioner has has not been arrested on charges in
14 this or any county other than the charges listed above. If
15 petitioner has been arrested on additional charges, please list
16 the charges below:

17 Charge(s):

18 Arresting Agency or Agencies:

19 Disposition/Result: (choose from a. through e., above):

20 WHEREFORE, the petitioner respectfully requests this Honorable
21 Court to (1) order all law enforcement agencies to expunge all
22 records of petitioner to this incident or incidents, and (2) to
23 order the Clerk of the Court to expunge all records concerning
24 the petitioner regarding this incident or incidents.

25

1)
 2)
 3 (Name of Petitioner)

4 PETITION TO EXPUNGE JUVENILE RECORDS
 5 (705 ILCS 405/5-915 (SUBSECTION 2))

6 (Please prepare a separate petition for each offense)

7 Now comes, petitioner, and respectfully requests
 8 that this Honorable Court enter an order expunging all Juvenile
 9 Law Enforcement and Court records of petitioner and in support
 10 thereof states that:

11 The incident for which the Petitioner seeks expungement
 12 occurred before the Petitioner's 21st birthday for a
 13 misdemeanor offense or 18th birthday for a felony offense and
 14 did not result in proceedings in criminal court and the
 15 Petitioner has not had any convictions for any crime since his
 16 or her 21st birthday for a misdemeanor offense or his/her 18th
 17 birthday for a felony offense; and

18 The incident for which the Petitioner seeks expungement
 19 occurred before the Petitioner's 21st birthday for a
 20 misdemeanor offense or 18th birthday for a felony offense and
 21 the adjudication was not based upon first degree ~~first degree~~
 22 murder or sex offenses which would be felonies if committed by
 23 an adult, and the Petitioner has not had any convictions for
 24 any crime since his or her 21st birthday for a misdemeanor
 25 offense or his/her 18th birthday for a felony offense.

1 Petitioner was arrested on by the Police
2 Department for the offense of, and:

3 (Check whichever one occurred the latest:)

4 () a. The Petitioner has attained the age of 21 years, his/her
5 birthday being; or

6 () b. 5 years have elapsed since all juvenile court
7 proceedings relating to the Petitioner have been terminated; or
8 the Petitioner's commitment to the Department of Juvenile
9 Justice pursuant to the expungement of juvenile law enforcement
10 and court records provisions of the Juvenile Court Act of 1987
11 has been terminated. Petitioner ...has ...has not been arrested
12 on charges in this or any other county other than the charge
13 listed above. If petitioner has been arrested on additional
14 charges, please list the charges below:

15 Charge(s):

16 Arresting Agency or Agencies:

17 Disposition/Result: (choose from a or b, above):

18 WHEREFORE, the petitioner respectfully requests this Honorable
19 Court to (1) order all law enforcement agencies to expunge all
20 records of petitioner related to this incident, and (2) to
21 order the Clerk of the Court to expunge all records concerning
22 the petitioner regarding this incident.

23

24 Petitioner (Signature)

1
2

Petitioner's Street Address

3
4

City, State, Zip Code

5
6

Petitioner's Telephone Number

7 Pursuant to the penalties of perjury under the Code of Civil
8 Procedure, 735 ILCS 5/1-109, I hereby certify that the
9 statements in this petition are true and correct, or on
10 information and belief I believe the same to be true.

11
12

Petitioner (Signature)

13 (3) The chief judge of the circuit in which an arrest was
14 made or a charge was brought or any judge of that circuit
15 designated by the chief judge may, upon verified petition of a
16 person who is the subject of an arrest or a juvenile court
17 proceeding under subsection (1) or (2) of this Section, order
18 the law enforcement records or official court file, or both, to
19 be expunged from the official records of the arresting
20 authority, the clerk of the circuit court and the Department of
21 State Police. The person whose records are to be expunged shall
22 petition the court using the appropriate form containing his or
23 her current address and shall promptly notify the clerk of the
24 circuit court of any change of address. Notice of the petition

1 shall be served upon the State's Attorney or prosecutor charged
 2 with the duty of prosecuting the offense, the Department of
 3 State Police, and the arresting agency or agencies by the clerk
 4 of the circuit court. If an objection is filed within 45 days
 5 of the notice of the petition, the clerk of the circuit court
 6 shall set a date for hearing after the 45-day ~~45-day~~ objection
 7 period. At the hearing the court shall hear evidence on whether
 8 the expungement should or should not be granted. Unless the
 9 State's Attorney or prosecutor, the Department of State Police,
 10 or an arresting agency objects to the expungement within 45
 11 days of the notice, the court may enter an order granting
 12 expungement. The clerk shall forward a certified copy of the
 13 order to the Department of State Police and deliver a certified
 14 copy of the order to the arresting agency.

15 (3.1) The Notice of Expungement shall be in substantially
 16 the following form:

17 IN THE CIRCUIT COURT OF, ILLINOIS
 18 JUDICIAL CIRCUIT

19 IN THE INTEREST OF) NO.
 20)
 21)
 22)
 23 (Name of Petitioner)

1 TO: State's Attorney

2 TO: Arresting Agency

3
4

5

6
7

8

9 TO: Illinois State Police

10
11

12
13

14 ATTENTION: Expungement

15 You are hereby notified that on, at, in courtroom
16 ..., located at ..., before the Honorable ..., Judge, or any
17 judge sitting in his/her stead, I shall then and there present
18 a Petition to Expunge Juvenile records in the above-entitled
19 matter, at which time and place you may appear.

20
21 Petitioner's Signature

22
23 Petitioner's Street Address

24
25 City, State, Zip Code

26

1)
 2)
 3)
 4 (Name of Petitioner)

5 DOB

6 Arresting Agency/Agencies

7 ORDER OF EXPUNGEMENT

8 (705 ILCS 405/5-915 (SUBSECTION 3))

9 This matter having been heard on the petitioner's motion and
 10 the court being fully advised in the premises does find that
 11 the petitioner is indigent or has presented reasonable cause to
 12 waive all costs in this matter, IT IS HEREBY ORDERED that:

13 () 1. Clerk of Court and Department of State Police costs
 14 are hereby waived in this matter.

15 () 2. The Illinois State Police Bureau of Identification
 16 and the following law enforcement agencies expunge all records
 17 of petitioner relating to an arrest dated for the
 18 offense of

19 Law Enforcement Agencies:

20

21

22 () 3. IT IS FURTHER ORDERED that the Clerk of the Circuit
 23 Court expunge all records regarding the above-captioned case.

24 ENTER:

25

1 JUDGE

2 DATED:

3 Name:

4 Attorney for:

5 Address: City/State/Zip:

6 Attorney Number:

7 (3.3) The Notice of Objection shall be in substantially the
8 following form:

9 IN THE CIRCUIT COURT OF, ILLINOIS

10 JUDICIAL CIRCUIT

11 IN THE INTEREST OF) NO.

12)

13)

14)

15 (Name of Petitioner)

16 NOTICE OF OBJECTION

17 TO:(Attorney, Public Defender, Minor)

18

19

20 TO:(Illinois State Police)

21

22

23 TO:(Clerk of the Court)

24

1
2

TO: (Judge)

3
4

TO: (Arresting Agency/Agencies)

6
7

8 ATTENTION: You are hereby notified that an objection has been
9 filed by the following entity regarding the above-named minor's
10 petition for expungement of juvenile records:

- 11 () State's Attorney's Office;
- 12 () Prosecutor (other than State's Attorney's Office) charged
- 13 with the duty of prosecuting the offense sought to be expunged;
- 14 () Department of Illinois State Police; or
- 15 () Arresting Agency or Agencies.

16 The agency checked above respectfully requests that this case
17 be continued and set for hearing on whether the expungement
18 should or should not be granted.

19 DATED:

20 Name:

21 Attorney For:

22 Address:

23 City/State/Zip:

24 Telephone:

25 Attorney No.:

1 This matter has been set for hearing on the foregoing
2 objection, on in room, located at, before the
3 Honorable, Judge, or any judge sitting in his/her stead.
4 (Only one hearing shall be set, regardless of the number of
5 Notices of Objection received on the same case).

6 A copy of this completed Notice of Objection containing the
7 court date, time, and location, has been sent via regular U.S.
8 Mail to the following entities. (If more than one Notice of
9 Objection is received on the same case, each one must be
10 completed with the court date, time and location and mailed to
11 the following entities):

- 12 () Attorney, Public Defender or Minor;
13 () State's Attorney's Office;
14 () Prosecutor (other than State's Attorney's Office) charged
15 with the duty of prosecuting the offense sought to be expunged;
16 () Department of Illinois State Police; and
17 () Arresting agency or agencies.

18 Date:

19 Initials of Clerk completing this section:

20 (4) Upon entry of an order expunging records or files, the
21 offense, which the records or files concern shall be treated as
22 if it never occurred. Law enforcement officers and other public
23 offices and agencies shall properly reply on inquiry that no
24 record or file exists with respect to the person.

25 (5) Records which have not been expunged are sealed, and
26 may be obtained only under the provisions of Sections 5-901,

1 5-905, and 5-915.

2 (6) Nothing in this Section shall be construed to prohibit
3 the maintenance of information relating to an offense after
4 records or files concerning the offense have been expunged if
5 the information is kept in a manner that does not enable
6 identification of the offender. This information may only be
7 used for statistical and bona fide research purposes.

8 (6.5) The Department of State Police or any employee of the
9 Department shall be immune from civil or criminal liability for
10 failure to expunge any records of arrest that are subject to
11 expungement under subsection (1.5) or (1.6) of this Section
12 because of inability to verify a record. Nothing in subsection
13 (1.5) or (1.6) of this Section shall create Department of State
14 Police liability or responsibility for the expungement of law
15 enforcement records it does not possess.

16 (7) (a) The State Appellate Defender shall establish,
17 maintain, and carry out, by December 31, 2004, a juvenile
18 expungement program to provide information and assistance to
19 minors eligible to have their juvenile records expunged.

20 (b) The State Appellate Defender shall develop brochures,
21 pamphlets, and other materials in printed form and through the
22 agency's World Wide Web site. The pamphlets and other materials
23 shall include at a minimum the following information:

24 (i) An explanation of the State's juvenile expungement
25 process;

26 (ii) The circumstances under which juvenile

1 expungement may occur;

2 (iii) The juvenile offenses that may be expunged;

3 (iv) The steps necessary to initiate and complete the
4 juvenile expungement process; and

5 (v) Directions on how to contact the State Appellate
6 Defender.

7 (c) The State Appellate Defender shall establish and
8 maintain a statewide toll-free telephone number that a person
9 may use to receive information or assistance concerning the
10 expungement of juvenile records. The State Appellate Defender
11 shall advertise the toll-free telephone number statewide. The
12 State Appellate Defender shall develop an expungement
13 information packet that may be sent to eligible persons seeking
14 expungement of their juvenile records, which may include, but
15 is not limited to, a pre-printed expungement petition with
16 instructions on how to complete the petition and a pamphlet
17 containing information that would assist individuals through
18 the juvenile expungement process.

19 (d) The State Appellate Defender shall compile a statewide
20 list of volunteer attorneys willing to assist eligible
21 individuals through the juvenile expungement process.

22 (e) This Section shall be implemented from funds
23 appropriated by the General Assembly to the State Appellate
24 Defender for this purpose. The State Appellate Defender shall
25 employ the necessary staff and adopt the necessary rules for
26 implementation of this Section.

1 (8) (a) Except with respect to law enforcement agencies, the
2 Department of Corrections, State's Attorneys, or other
3 prosecutors, an expunged juvenile record may not be considered
4 by any private or public entity in employment matters,
5 certification, licensing, revocation of certification or
6 licensure, or registration. Applications for employment must
7 contain specific language that states that the applicant is not
8 obligated to disclose expunged juvenile records of conviction
9 or arrest. Employers may not ask if an applicant has had a
10 juvenile record expunged. Effective January 1, 2005, the
11 Department of Labor shall develop a link on the Department's
12 website to inform employers that employers may not ask if an
13 applicant had a juvenile record expunged and that application
14 for employment must contain specific language that states that
15 the applicant is not obligated to disclose expunged juvenile
16 records of arrest or conviction.

17 (b) A person whose juvenile records have been expunged is
18 not entitled to remission of any fines, costs, or other money
19 paid as a consequence of expungement. Public Act 93-912 ~~This~~
20 ~~amendatory Act of the 93rd General Assembly~~ does not affect the
21 right of the victim of a crime to prosecute or defend a civil
22 action for damages.

23 (c) The expungement of juvenile records under Section 5-622
24 shall be funded by the additional fine imposed under Section
25 5-9-1.17 of the Unified Code of Corrections and additional
26 appropriations made by the General Assembly for such purpose.

1 (9) The changes made to this Section by Public Act 98-61
2 apply to law enforcement records of a minor who has been
3 arrested or taken into custody on or after January 1, 2014 (the
4 effective date of Public Act 98-61).

5 (10) The changes made in subsection (1.5) of this Section
6 by Public Act 98-637 ~~this amendatory Act of the 98th General~~
7 ~~Assembly~~ apply to law enforcement records of a minor who has
8 been arrested or taken into custody on or after January 1,
9 2015. The changes made in subsection (1.6) of this Section by
10 Public Act 98-637 ~~this amendatory Act of the 98th General~~
11 ~~Assembly~~ apply to law enforcement records of a minor who has
12 been arrested or taken into custody before January 1, 2015.

13 (Source: P.A. 98-61, eff. 1-1-14; 98-637, eff. 1-1-15; 98-756,
14 eff. 7-16-14; 99-835, eff. 1-1-17; 99-881, eff. 1-1-17; revised
15 9-2-16.)

16 Section 10. The Unified Code of Corrections is amended by
17 changing Sections 3-2-5 and 5-8-6 as follows:

18 (730 ILCS 5/3-2-5) (from Ch. 38, par. 1003-2-5)

19 Sec. 3-2-5. Organization of the Department of Corrections
20 and the Department of Juvenile Justice.

21 (a) There shall be a Department of Corrections which shall
22 be administered by a Director and an Assistant Director
23 appointed by the Governor under the Civil Administrative Code
24 of Illinois. The Assistant Director shall be under the

1 direction of the Director. The Department of Corrections shall
2 be responsible for all persons committed or transferred to the
3 Department under Sections 3-10-7 or 5-8-6 of this Code.

4 (b) There shall be a Department of Juvenile Justice which
5 shall be administered by a Director appointed by the Governor
6 under the Civil Administrative Code of Illinois. The Department
7 of Juvenile Justice shall be responsible for all persons under
8 21 years of age for a misdemeanor offense or under 18 years of
9 age for a felony offense when sentenced to imprisonment and
10 committed to the Department under subsection (c) of Section
11 5-8-6 of this Code, Section 5-10 of the Juvenile Court Act, or
12 Section 5-750 of the Juvenile Court Act of 1987. Persons under
13 21 years of age for a misdemeanor offense or under 18 years of
14 age for a felony offense committed to the Department of
15 Juvenile Justice pursuant to this Code shall be sight and sound
16 separate from adult offenders committed to the Department of
17 Corrections.

18 (c) The Department shall create a gang intelligence unit
19 under the supervision of the Director. The unit shall be
20 specifically designed to gather information regarding the
21 inmate gang population, monitor the activities of gangs, and
22 prevent the furtherance of gang activities through the
23 development and implementation of policies aimed at deterring
24 gang activity. The Director shall appoint a Corrections
25 Intelligence Coordinator.

26 All information collected and maintained by the unit shall

1 be highly confidential, and access to that information shall be
2 restricted by the Department. The information shall be used to
3 control and limit the activities of gangs within correctional
4 institutions under the jurisdiction of the Illinois Department
5 of Corrections and may be shared with other law enforcement
6 agencies in order to curb gang activities outside of
7 correctional institutions under the jurisdiction of the
8 Department and to assist in the investigations and prosecutions
9 of gang activity. The Department shall establish and promulgate
10 rules governing the release of information to outside law
11 enforcement agencies. Due to the highly sensitive nature of the
12 information, the information is exempt from requests for
13 disclosure under the Freedom of Information Act as the
14 information contained is highly confidential and may be harmful
15 if disclosed.

16 (Source: P.A. 98-463, eff. 8-16-13; 99-628, eff. 1-1-17.)

17 (730 ILCS 5/5-8-6) (from Ch. 38, par. 1005-8-6)

18 Sec. 5-8-6. Place of confinement.

19 (a) Offenders sentenced to a term of imprisonment for a
20 felony shall be committed to the penitentiary system of the
21 Department of Corrections. However, such sentence shall not
22 limit the powers of the Department of Children and Family
23 Services in relation to any child under the age of one year in
24 the sole custody of a person so sentenced, nor in relation to
25 any child delivered by a female so sentenced while she is so

1 confined as a consequence of such sentence. A person sentenced
2 for a felony may be assigned by the Department of Corrections
3 to any of its institutions, facilities or programs.

4 (b) Offenders sentenced to a term of imprisonment for less
5 than one year shall be committed to the custody of the sheriff.
6 A person committed to the Department of Corrections, prior to
7 July 14, 1983, for less than one year may be assigned by the
8 Department to any of its institutions, facilities or programs.

9 (c) All offenders under 21 ~~18~~ years of age for a
10 misdemeanor offense or 18 years of age for a felony offense
11 when sentenced to imprisonment shall be committed to the
12 Department of Juvenile Justice and the court in its order of
13 commitment shall set a definite term. The provisions of Section
14 3-3-3 shall be a part of such commitment as fully as though
15 written in the order of commitment. The place of confinement
16 for sentences imposed before the effective date of this
17 amendatory Act of the 99th General Assembly are not affected or
18 abated by this amendatory Act of the 99th General Assembly.

19 (d) No defendant shall be committed to the Department of
20 Corrections for the recovery of a fine or costs.

21 (e) When a court sentences a defendant to a term of
22 imprisonment concurrent with a previous and unexpired sentence
23 of imprisonment imposed by any district court of the United
24 States, it may commit the offender to the custody of the
25 Attorney General of the United States. The Attorney General of
26 the United States, or the authorized representative of the

1 Attorney General of the United States, shall be furnished with
2 the warrant of commitment from the court imposing sentence,
3 which warrant of commitment shall provide that, when the
4 offender is released from federal confinement, whether by
5 parole or by termination of sentence, the offender shall be
6 transferred by the Sheriff of the committing county to the
7 Department of Corrections. The court shall cause the Department
8 to be notified of such sentence at the time of commitment and
9 to be provided with copies of all records regarding the
10 sentence.

11 (Source: P.A. 99-628, eff. 1-1-17.)