



Rep. Mary E. Flowers

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1 AMENDMENT TO HOUSE BILL 4495

2 AMENDMENT NO. _____. Amend House Bill 4495, AS AMENDED, by
3 replacing everything after the enacting clause with the
4 following:

5 "Section 5. The Children and Family Services Act is amended
6 by changing Section 5 as follows:

7 (20 ILCS 505/5) (from Ch. 23, par. 5005)

8 Sec. 5. Direct child welfare services; Department of
9 Children and Family Services. To provide direct child welfare
10 services when not available through other public or private
11 child care or program facilities.

12 (a) For purposes of this Section:

13 (1) "Children" means persons found within the State who
14 are under the age of 18 years. The term also includes
15 persons under age 21 who:

16 (A) were committed to the Department pursuant to

1 the Juvenile Court Act or the Juvenile Court Act of
2 1987, as amended, prior to the age of 18 and who
3 continue under the jurisdiction of the court; or

4 (B) were accepted for care, service and training by
5 the Department prior to the age of 18 and whose best
6 interest in the discretion of the Department would be
7 served by continuing that care, service and training
8 because of severe emotional disturbances, physical
9 disability, social adjustment or any combination
10 thereof, or because of the need to complete an
11 educational or vocational training program.

12 (2) "Homeless youth" means persons found within the
13 State who are under the age of 19, are not in a safe and
14 stable living situation and cannot be reunited with their
15 families.

16 (3) "Child welfare services" means public social
17 services which are directed toward the accomplishment of
18 the following purposes:

19 (A) protecting and promoting the health, safety
20 and welfare of children, including homeless, dependent
21 or neglected children;

22 (B) remedying, or assisting in the solution of
23 problems which may result in, the neglect, abuse,
24 exploitation or delinquency of children;

25 (C) preventing the unnecessary separation of
26 children from their families by identifying family

1 problems, assisting families in resolving their
2 problems, and preventing the breakup of the family
3 where the prevention of child removal is desirable and
4 possible when the child can be cared for at home
5 without endangering the child's health and safety;

6 (D) restoring to their families children who have
7 been removed, by the provision of services to the child
8 and the families when the child can be cared for at
9 home without endangering the child's health and
10 safety;

11 (E) placing children in suitable adoptive homes,
12 in cases where restoration to the biological family is
13 not safe, possible or appropriate;

14 (F) assuring safe and adequate care of children
15 away from their homes, in cases where the child cannot
16 be returned home or cannot be placed for adoption. At
17 the time of placement, the Department shall consider
18 concurrent planning, as described in subsection (1-1)
19 of this Section so that permanency may occur at the
20 earliest opportunity. Consideration should be given so
21 that if reunification fails or is delayed, the
22 placement made is the best available placement to
23 provide permanency for the child;

24 (G) (blank);

25 (H) (blank); and

26 (I) placing and maintaining children in facilities

1 that provide separate living quarters for children
2 under the age of 18 and for children 18 years of age
3 and older, unless a child 18 years of age is in the
4 last year of high school education or vocational
5 training, in an approved individual or group treatment
6 program, in a licensed shelter facility, or secure
7 child care facility. The Department is not required to
8 place or maintain children:

9 (i) who are in a foster home, or

10 (ii) who are persons with a developmental
11 disability, as defined in the Mental Health and
12 Developmental Disabilities Code, or

13 (iii) who are female children who are
14 pregnant, pregnant and parenting or parenting, or

15 (iv) who are siblings, in facilities that
16 provide separate living quarters for children 18
17 years of age and older and for children under 18
18 years of age.

19 (b) Nothing in this Section shall be construed to authorize
20 the expenditure of public funds for the purpose of performing
21 abortions.

22 (c) The Department shall establish and maintain
23 tax-supported child welfare services and extend and seek to
24 improve voluntary services throughout the State, to the end
25 that services and care shall be available on an equal basis
26 throughout the State to children requiring such services.

1 (d) The Director may authorize advance disbursements for
2 any new program initiative to any agency contracting with the
3 Department. As a prerequisite for an advance disbursement, the
4 contractor must post a surety bond in the amount of the advance
5 disbursement and have a purchase of service contract approved
6 by the Department. The Department may pay up to 2 months
7 operational expenses in advance. The amount of the advance
8 disbursement shall be prorated over the life of the contract or
9 the remaining months of the fiscal year, whichever is less, and
10 the installment amount shall then be deducted from future
11 bills. Advance disbursement authorizations for new initiatives
12 shall not be made to any agency after that agency has operated
13 during 2 consecutive fiscal years. The requirements of this
14 Section concerning advance disbursements shall not apply with
15 respect to the following: payments to local public agencies for
16 child day care services as authorized by Section 5a of this
17 Act; and youth service programs receiving grant funds under
18 Section 17a-4.

19 (e) (Blank).

20 (f) (Blank).

21 (g) The Department shall establish rules and regulations
22 concerning its operation of programs designed to meet the goals
23 of child safety and protection, family preservation, family
24 reunification, and adoption, including but not limited to:

25 (1) adoption;

26 (2) foster care;

- 1 (3) family counseling;
- 2 (4) protective services;
- 3 (5) (blank);
- 4 (6) homemaker service;
- 5 (7) return of runaway children;
- 6 (8) (blank);
- 7 (9) placement under Section 5-7 of the Juvenile Court
- 8 Act or Section 2-27, 3-28, 4-25 or 5-740 of the Juvenile
- 9 Court Act of 1987 in accordance with the federal Adoption
- 10 Assistance and Child Welfare Act of 1980; and
- 11 (10) interstate services.

12 Rules and regulations established by the Department shall
13 include provisions for training Department staff and the staff
14 of Department grantees, through contracts with other agencies
15 or resources, in alcohol and drug abuse screening techniques
16 approved by the Department of Human Services, as a successor to
17 the Department of Alcoholism and Substance Abuse, for the
18 purpose of identifying children and adults who should be
19 referred to an alcohol and drug abuse treatment program for
20 professional evaluation.

21 (h) If the Department finds that there is no appropriate
22 program or facility within or available to the Department for a
23 ward and that no licensed private facility has an adequate and
24 appropriate program or none agrees to accept the ward, the
25 Department shall create an appropriate individualized,
26 program-oriented plan for such ward. The plan may be developed

1 within the Department or through purchase of services by the
2 Department to the extent that it is within its statutory
3 authority to do.

4 (i) Service programs shall be available throughout the
5 State and shall include but not be limited to the following
6 services:

7 (1) case management;

8 (2) homemakers;

9 (3) counseling;

10 (4) parent education;

11 (5) day care; and

12 (6) emergency assistance and advocacy.

13 In addition, the following services may be made available
14 to assess and meet the needs of children and families:

15 (1) comprehensive family-based services;

16 (2) assessments;

17 (3) respite care; and

18 (4) in-home health services.

19 The Department shall provide transportation for any of the
20 services it makes available to children or families or for
21 which it refers children or families.

22 (j) The Department may provide categories of financial
23 assistance and education assistance grants, and shall
24 establish rules and regulations concerning the assistance and
25 grants, to persons who adopt physically or mentally
26 handicapped, older and other hard-to-place children who (i)

1 immediately prior to their adoption were legal wards of the
2 Department or (ii) were determined eligible for financial
3 assistance with respect to a prior adoption and who become
4 available for adoption because the prior adoption has been
5 dissolved and the parental rights of the adoptive parents have
6 been terminated or because the child's adoptive parents have
7 died. The Department may continue to provide financial
8 assistance and education assistance grants for a child who was
9 determined eligible for financial assistance under this
10 subsection (j) in the interim period beginning when the child's
11 adoptive parents died and ending with the finalization of the
12 new adoption of the child by another adoptive parent or
13 parents. The Department may also provide categories of
14 financial assistance and education assistance grants, and
15 shall establish rules and regulations for the assistance and
16 grants, to persons appointed guardian of the person under
17 Section 5-7 of the Juvenile Court Act or Section 2-27, 3-28,
18 4-25 or 5-740 of the Juvenile Court Act of 1987 for children
19 who were wards of the Department for 12 months immediately
20 prior to the appointment of the guardian.

21 The amount of assistance may vary, depending upon the needs
22 of the child and the adoptive parents, as set forth in the
23 annual assistance agreement. Special purpose grants are
24 allowed where the child requires special service but such costs
25 may not exceed the amounts which similar services would cost
26 the Department if it were to provide or secure them as guardian

1 of the child.

2 Any financial assistance provided under this subsection is
3 inalienable by assignment, sale, execution, attachment,
4 garnishment, or any other remedy for recovery or collection of
5 a judgment or debt.

6 (j-5) The Department shall not deny or delay the placement
7 of a child for adoption if an approved family is available
8 either outside of the Department region handling the case, or
9 outside of the State of Illinois.

10 (k) The Department shall accept for care and training any
11 child who has been adjudicated neglected or abused, or
12 dependent committed to it pursuant to the Juvenile Court Act or
13 the Juvenile Court Act of 1987.

14 (l) The Department shall offer family preservation
15 services, as defined in Section 8.2 of the Abused and Neglected
16 Child Reporting Act, to help families, including adoptive and
17 extended families. Family preservation services shall be
18 offered (i) to prevent the placement of children in substitute
19 care when the children can be cared for at home or in the
20 custody of the person responsible for the children's welfare,
21 (ii) to reunite children with their families, or (iii) to
22 maintain an adoptive placement. Family preservation services
23 shall only be offered when doing so will not endanger the
24 children's health or safety. With respect to children who are
25 in substitute care pursuant to the Juvenile Court Act of 1987,
26 family preservation services shall not be offered if a goal

1 other than those of subdivisions (A), (B), or (B-1) of
2 subsection (2) of Section 2-28 of that Act has been set.
3 Nothing in this paragraph shall be construed to create a
4 private right of action or claim on the part of any individual
5 or child welfare agency, except that when a child is the
6 subject of an action under Article II of the Juvenile Court Act
7 of 1987 and the child's service plan calls for services to
8 facilitate achievement of the permanency goal, the court
9 hearing the action under Article II of the Juvenile Court Act
10 of 1987 may order the Department to provide the services set
11 out in the plan, if those services are not provided with
12 reasonable promptness and if those services are available.

13 The Department shall notify the child and his family of the
14 Department's responsibility to offer and provide family
15 preservation services as identified in the service plan. The
16 child and his family shall be eligible for services as soon as
17 the report is determined to be "indicated". The Department may
18 offer services to any child or family with respect to whom a
19 report of suspected child abuse or neglect has been filed,
20 prior to concluding its investigation under Section 7.12 of the
21 Abused and Neglected Child Reporting Act. However, the child's
22 or family's willingness to accept services shall not be
23 considered in the investigation. The Department may also
24 provide services to any child or family who is the subject of
25 any report of suspected child abuse or neglect or may refer
26 such child or family to services available from other agencies

1 in the community, even if the report is determined to be
2 unfounded, if the conditions in the child's or family's home
3 are reasonably likely to subject the child or family to future
4 reports of suspected child abuse or neglect. Acceptance of such
5 services shall be voluntary. The Department may also provide
6 services to any child or family after completion of a family
7 assessment, as an alternative to an investigation, as provided
8 under the "differential response program" provided for in
9 subsection (a-5) of Section 7.4 of the Abused and Neglected
10 Child Reporting Act.

11 The Department may, at its discretion except for those
12 children also adjudicated neglected or dependent, accept for
13 care and training any child who has been adjudicated addicted,
14 as a truant minor in need of supervision or as a minor
15 requiring authoritative intervention, under the Juvenile Court
16 Act or the Juvenile Court Act of 1987, but no such child shall
17 be committed to the Department by any court without the
18 approval of the Department. On and after the effective date of
19 this amendatory Act of the 98th General Assembly and before
20 January 1, 2017, a ~~A~~ minor charged with a criminal offense
21 under the Criminal Code of 1961 or the Criminal Code of 2012 or
22 adjudicated delinquent shall not be placed in the custody of or
23 committed to the Department by any court, except (i) a minor
24 less than 16 ~~15~~ years of age committed to the Department under
25 Section 5-710 of the Juvenile Court Act of 1987, (ii) a minor
26 for whom an independent basis of abuse, neglect, or dependency

1 exists, which must be defined by departmental rule, or (iii) a
2 minor for whom the court has granted a supplemental petition to
3 reinstate wardship pursuant to subsection (2) of Section 2-33
4 of the Juvenile Court Act of 1987. On and after January 1,
5 2017, a minor charged with a criminal offense under the
6 Criminal Code of 1961 or the Criminal Code of 2012 or
7 adjudicated delinquent shall not be placed in the custody of or
8 committed to the Department by any court, except (i) a minor
9 less than 15 years of age committed to the Department under
10 Section 5-710 of the Juvenile Court Act of 1987, ii) a minor
11 for whom an independent basis of abuse, neglect, or dependency
12 exists, which must be defined by departmental rule, or (iii) a
13 minor for whom the court has granted a supplemental petition to
14 reinstate wardship pursuant to subsection (2) of Section 2-33
15 of the Juvenile Court Act of 1987. An independent basis exists
16 when the allegations or adjudication of abuse, neglect, or
17 dependency do not arise from the same facts, incident, or
18 circumstances which give rise to a charge or adjudication of
19 delinquency.

20 As soon as is possible after August 7, 2009 (the effective
21 date of Public Act 96-134), the Department shall develop and
22 implement a special program of family preservation services to
23 support intact, foster, and adoptive families who are
24 experiencing extreme hardships due to the difficulty and stress
25 of caring for a child who has been diagnosed with a pervasive
26 developmental disorder if the Department determines that those

1 services are necessary to ensure the health and safety of the
2 child. The Department may offer services to any family whether
3 or not a report has been filed under the Abused and Neglected
4 Child Reporting Act. The Department may refer the child or
5 family to services available from other agencies in the
6 community if the conditions in the child's or family's home are
7 reasonably likely to subject the child or family to future
8 reports of suspected child abuse or neglect. Acceptance of
9 these services shall be voluntary. The Department shall develop
10 and implement a public information campaign to alert health and
11 social service providers and the general public about these
12 special family preservation services. The nature and scope of
13 the services offered and the number of families served under
14 the special program implemented under this paragraph shall be
15 determined by the level of funding that the Department annually
16 allocates for this purpose. The term "pervasive developmental
17 disorder" under this paragraph means a neurological condition,
18 including but not limited to, Asperger's Syndrome and autism,
19 as defined in the most recent edition of the Diagnostic and
20 Statistical Manual of Mental Disorders of the American
21 Psychiatric Association.

22 (1-1) The legislature recognizes that the best interests of
23 the child require that the child be placed in the most
24 permanent living arrangement as soon as is practically
25 possible. To achieve this goal, the legislature directs the
26 Department of Children and Family Services to conduct

1 concurrent planning so that permanency may occur at the
2 earliest opportunity. Permanent living arrangements may
3 include prevention of placement of a child outside the home of
4 the family when the child can be cared for at home without
5 endangering the child's health or safety; reunification with
6 the family, when safe and appropriate, if temporary placement
7 is necessary; or movement of the child toward the most
8 permanent living arrangement and permanent legal status.

9 When determining reasonable efforts to be made with respect
10 to a child, as described in this subsection, and in making such
11 reasonable efforts, the child's health and safety shall be the
12 paramount concern.

13 When a child is placed in foster care, the Department shall
14 ensure and document that reasonable efforts were made to
15 prevent or eliminate the need to remove the child from the
16 child's home. The Department must make reasonable efforts to
17 reunify the family when temporary placement of the child occurs
18 unless otherwise required, pursuant to the Juvenile Court Act
19 of 1987. At any time after the dispositional hearing where the
20 Department believes that further reunification services would
21 be ineffective, it may request a finding from the court that
22 reasonable efforts are no longer appropriate. The Department is
23 not required to provide further reunification services after
24 such a finding.

25 A decision to place a child in substitute care shall be
26 made with considerations of the child's health, safety, and

1 best interests. At the time of placement, consideration should
2 also be given so that if reunification fails or is delayed, the
3 placement made is the best available placement to provide
4 permanency for the child.

5 The Department shall adopt rules addressing concurrent
6 planning for reunification and permanency. The Department
7 shall consider the following factors when determining
8 appropriateness of concurrent planning:

9 (1) the likelihood of prompt reunification;

10 (2) the past history of the family;

11 (3) the barriers to reunification being addressed by
12 the family;

13 (4) the level of cooperation of the family;

14 (5) the foster parents' willingness to work with the
15 family to reunite;

16 (6) the willingness and ability of the foster family to
17 provide an adoptive home or long-term placement;

18 (7) the age of the child;

19 (8) placement of siblings.

20 (m) The Department may assume temporary custody of any
21 child if:

22 (1) it has received a written consent to such temporary
23 custody signed by the parents of the child or by the parent
24 having custody of the child if the parents are not living
25 together or by the guardian or custodian of the child if
26 the child is not in the custody of either parent, or

1 (2) the child is found in the State and neither a
2 parent, guardian nor custodian of the child can be located.
3 If the child is found in his or her residence without a parent,
4 guardian, custodian or responsible caretaker, the Department
5 may, instead of removing the child and assuming temporary
6 custody, place an authorized representative of the Department
7 in that residence until such time as a parent, guardian or
8 custodian enters the home and expresses a willingness and
9 apparent ability to ensure the child's health and safety and
10 resume permanent charge of the child, or until a relative
11 enters the home and is willing and able to ensure the child's
12 health and safety and assume charge of the child until a
13 parent, guardian or custodian enters the home and expresses
14 such willingness and ability to ensure the child's safety and
15 resume permanent charge. After a caretaker has remained in the
16 home for a period not to exceed 12 hours, the Department must
17 follow those procedures outlined in Section 2-9, 3-11, 4-8, or
18 5-415 of the Juvenile Court Act of 1987.

19 The Department shall have the authority, responsibilities
20 and duties that a legal custodian of the child would have
21 pursuant to subsection (9) of Section 1-3 of the Juvenile Court
22 Act of 1987. Whenever a child is taken into temporary custody
23 pursuant to an investigation under the Abused and Neglected
24 Child Reporting Act, or pursuant to a referral and acceptance
25 under the Juvenile Court Act of 1987 of a minor in limited
26 custody, the Department, during the period of temporary custody

1 and before the child is brought before a judicial officer as
2 required by Section 2-9, 3-11, 4-8, or 5-415 of the Juvenile
3 Court Act of 1987, shall have the authority, responsibilities
4 and duties that a legal custodian of the child would have under
5 subsection (9) of Section 1-3 of the Juvenile Court Act of
6 1987.

7 The Department shall ensure that any child taken into
8 custody is scheduled for an appointment for a medical
9 examination.

10 A parent, guardian or custodian of a child in the temporary
11 custody of the Department who would have custody of the child
12 if he were not in the temporary custody of the Department may
13 deliver to the Department a signed request that the Department
14 surrender the temporary custody of the child. The Department
15 may retain temporary custody of the child for 10 days after the
16 receipt of the request, during which period the Department may
17 cause to be filed a petition pursuant to the Juvenile Court Act
18 of 1987. If a petition is so filed, the Department shall retain
19 temporary custody of the child until the court orders
20 otherwise. If a petition is not filed within the 10 day period,
21 the child shall be surrendered to the custody of the requesting
22 parent, guardian or custodian not later than the expiration of
23 the 10 day period, at which time the authority and duties of
24 the Department with respect to the temporary custody of the
25 child shall terminate.

26 (m-1) The Department may place children under 18 years of

1 age in a secure child care facility licensed by the Department
2 that cares for children who are in need of secure living
3 arrangements for their health, safety, and well-being after a
4 determination is made by the facility director and the Director
5 or the Director's designate prior to admission to the facility
6 subject to Section 2-27.1 of the Juvenile Court Act of 1987.
7 This subsection (m-1) does not apply to a child who is subject
8 to placement in a correctional facility operated pursuant to
9 Section 3-15-2 of the Unified Code of Corrections, unless the
10 child is a ward who was placed under the care of the Department
11 before being subject to placement in a correctional facility
12 and a court of competent jurisdiction has ordered placement of
13 the child in a secure care facility.

14 (n) The Department may place children under 18 years of age
15 in licensed child care facilities when in the opinion of the
16 Department, appropriate services aimed at family preservation
17 have been unsuccessful and cannot ensure the child's health and
18 safety or are unavailable and such placement would be for their
19 best interest. Payment for board, clothing, care, training and
20 supervision of any child placed in a licensed child care
21 facility may be made by the Department, by the parents or
22 guardians of the estates of those children, or by both the
23 Department and the parents or guardians, except that no
24 payments shall be made by the Department for any child placed
25 in a licensed child care facility for board, clothing, care,
26 training and supervision of such a child that exceed the

1 average per capita cost of maintaining and of caring for a
2 child in institutions for dependent or neglected children
3 operated by the Department. However, such restriction on
4 payments does not apply in cases where children require
5 specialized care and treatment for problems of severe emotional
6 disturbance, physical disability, social adjustment, or any
7 combination thereof and suitable facilities for the placement
8 of such children are not available at payment rates within the
9 limitations set forth in this Section. All reimbursements for
10 services delivered shall be absolutely inalienable by
11 assignment, sale, attachment, garnishment or otherwise.

12 (n-1) The Department shall provide or authorize child
13 welfare services, aimed at assisting minors to achieve
14 sustainable self-sufficiency as independent adults, for any
15 minor eligible for the reinstatement of wardship pursuant to
16 subsection (2) of Section 2-33 of the Juvenile Court Act of
17 1987, whether or not such reinstatement is sought or allowed,
18 provided that the minor consents to such services and has not
19 yet attained the age of 21. The Department shall have
20 responsibility for the development and delivery of services
21 under this Section. An eligible youth may access services under
22 this Section through the Department of Children and Family
23 Services or by referral from the Department of Human Services.
24 Youth participating in services under this Section shall
25 cooperate with the assigned case manager in developing an
26 agreement identifying the services to be provided and how the

1 youth will increase skills to achieve self-sufficiency. A
2 homeless shelter is not considered appropriate housing for any
3 youth receiving child welfare services under this Section. The
4 Department shall continue child welfare services under this
5 Section to any eligible minor until the minor becomes 21 years
6 of age, no longer consents to participate, or achieves
7 self-sufficiency as identified in the minor's service plan. The
8 Department of Children and Family Services shall create clear,
9 readable notice of the rights of former foster youth to child
10 welfare services under this Section and how such services may
11 be obtained. The Department of Children and Family Services and
12 the Department of Human Services shall disseminate this
13 information statewide. The Department shall adopt regulations
14 describing services intended to assist minors in achieving
15 sustainable self-sufficiency as independent adults.

16 (o) The Department shall establish an administrative
17 review and appeal process for children and families who request
18 or receive child welfare services from the Department. Children
19 who are wards of the Department and are placed by private child
20 welfare agencies, and foster families with whom those children
21 are placed, shall be afforded the same procedural and appeal
22 rights as children and families in the case of placement by the
23 Department, including the right to an initial review of a
24 private agency decision by that agency. The Department shall
25 insure that any private child welfare agency, which accepts
26 wards of the Department for placement, affords those rights to

1 children and foster families. The Department shall accept for
2 administrative review and an appeal hearing a complaint made by
3 (i) a child or foster family concerning a decision following an
4 initial review by a private child welfare agency or (ii) a
5 prospective adoptive parent who alleges a violation of
6 subsection (j-5) of this Section. An appeal of a decision
7 concerning a change in the placement of a child shall be
8 conducted in an expedited manner. A court determination that a
9 current foster home placement is necessary and appropriate
10 under Section 2-28 of the Juvenile Court Act of 1987 does not
11 constitute a judicial determination on the merits of an
12 administrative appeal, filed by a former foster parent,
13 involving a change of placement decision.

14 (p) There is hereby created the Department of Children and
15 Family Services Emergency Assistance Fund from which the
16 Department may provide special financial assistance to
17 families which are in economic crisis when such assistance is
18 not available through other public or private sources and the
19 assistance is deemed necessary to prevent dissolution of the
20 family unit or to reunite families which have been separated
21 due to child abuse and neglect. The Department shall establish
22 administrative rules specifying the criteria for determining
23 eligibility for and the amount and nature of assistance to be
24 provided. The Department may also enter into written agreements
25 with private and public social service agencies to provide
26 emergency financial services to families referred by the

1 Department. Special financial assistance payments shall be
2 available to a family no more than once during each fiscal year
3 and the total payments to a family may not exceed \$500 during a
4 fiscal year.

5 (q) The Department may receive and use, in their entirety,
6 for the benefit of children any gift, donation or bequest of
7 money or other property which is received on behalf of such
8 children, or any financial benefits to which such children are
9 or may become entitled while under the jurisdiction or care of
10 the Department.

11 The Department shall set up and administer no-cost,
12 interest-bearing accounts in appropriate financial
13 institutions for children for whom the Department is legally
14 responsible and who have been determined eligible for Veterans'
15 Benefits, Social Security benefits, assistance allotments from
16 the armed forces, court ordered payments, parental voluntary
17 payments, Supplemental Security Income, Railroad Retirement
18 payments, Black Lung benefits, or other miscellaneous
19 payments. Interest earned by each account shall be credited to
20 the account, unless disbursed in accordance with this
21 subsection.

22 In disbursing funds from children's accounts, the
23 Department shall:

24 (1) Establish standards in accordance with State and
25 federal laws for disbursing money from children's
26 accounts. In all circumstances, the Department's

1 "Guardianship Administrator" or his or her designee must
2 approve disbursements from children's accounts. The
3 Department shall be responsible for keeping complete
4 records of all disbursements for each account for any
5 purpose.

6 (2) Calculate on a monthly basis the amounts paid from
7 State funds for the child's board and care, medical care
8 not covered under Medicaid, and social services; and
9 utilize funds from the child's account, as covered by
10 regulation, to reimburse those costs. Monthly,
11 disbursements from all children's accounts, up to 1/12 of
12 \$13,000,000, shall be deposited by the Department into the
13 General Revenue Fund and the balance over 1/12 of
14 \$13,000,000 into the DCFS Children's Services Fund.

15 (3) Maintain any balance remaining after reimbursing
16 for the child's costs of care, as specified in item (2).
17 The balance shall accumulate in accordance with relevant
18 State and federal laws and shall be disbursed to the child
19 or his or her guardian, or to the issuing agency.

20 (r) The Department shall promulgate regulations
21 encouraging all adoption agencies to voluntarily forward to the
22 Department or its agent names and addresses of all persons who
23 have applied for and have been approved for adoption of a
24 hard-to-place or handicapped child and the names of such
25 children who have not been placed for adoption. A list of such
26 names and addresses shall be maintained by the Department or

1 its agent, and coded lists which maintain the confidentiality
2 of the person seeking to adopt the child and of the child shall
3 be made available, without charge, to every adoption agency in
4 the State to assist the agencies in placing such children for
5 adoption. The Department may delegate to an agent its duty to
6 maintain and make available such lists. The Department shall
7 ensure that such agent maintains the confidentiality of the
8 person seeking to adopt the child and of the child.

9 (s) The Department of Children and Family Services may
10 establish and implement a program to reimburse Department and
11 private child welfare agency foster parents licensed by the
12 Department of Children and Family Services for damages
13 sustained by the foster parents as a result of the malicious or
14 negligent acts of foster children, as well as providing third
15 party coverage for such foster parents with regard to actions
16 of foster children to other individuals. Such coverage will be
17 secondary to the foster parent liability insurance policy, if
18 applicable. The program shall be funded through appropriations
19 from the General Revenue Fund, specifically designated for such
20 purposes.

21 (t) The Department shall perform home studies and
22 investigations and shall exercise supervision over visitation
23 as ordered by a court pursuant to the Illinois Marriage and
24 Dissolution of Marriage Act or the Adoption Act only if:

25 (1) an order entered by an Illinois court specifically
26 directs the Department to perform such services; and

1 (2) the court has ordered one or both of the parties to
2 the proceeding to reimburse the Department for its
3 reasonable costs for providing such services in accordance
4 with Department rules, or has determined that neither party
5 is financially able to pay.

6 The Department shall provide written notification to the
7 court of the specific arrangements for supervised visitation
8 and projected monthly costs within 60 days of the court order.
9 The Department shall send to the court information related to
10 the costs incurred except in cases where the court has
11 determined the parties are financially unable to pay. The court
12 may order additional periodic reports as appropriate.

13 (u) In addition to other information that must be provided,
14 whenever the Department places a child with a prospective
15 adoptive parent or parents or in a licensed foster home, group
16 home, child care institution, or in a relative home, the
17 Department shall provide to the prospective adoptive parent or
18 parents or other caretaker:

19 (1) available detailed information concerning the
20 child's educational and health history, copies of
21 immunization records (including insurance and medical card
22 information), a history of the child's previous
23 placements, if any, and reasons for placement changes
24 excluding any information that identifies or reveals the
25 location of any previous caretaker;

26 (2) a copy of the child's portion of the client service

1 plan, including any visitation arrangement, and all
2 amendments or revisions to it as related to the child; and

3 (3) information containing details of the child's
4 individualized educational plan when the child is
5 receiving special education services.

6 The caretaker shall be informed of any known social or
7 behavioral information (including, but not limited to,
8 criminal background, fire setting, perpetuation of sexual
9 abuse, destructive behavior, and substance abuse) necessary to
10 care for and safeguard the children to be placed or currently
11 in the home. The Department may prepare a written summary of
12 the information required by this paragraph, which may be
13 provided to the foster or prospective adoptive parent in
14 advance of a placement. The foster or prospective adoptive
15 parent may review the supporting documents in the child's file
16 in the presence of casework staff. In the case of an emergency
17 placement, casework staff shall at least provide known
18 information verbally, if necessary, and must subsequently
19 provide the information in writing as required by this
20 subsection.

21 The information described in this subsection shall be
22 provided in writing. In the case of emergency placements when
23 time does not allow prior review, preparation, and collection
24 of written information, the Department shall provide such
25 information as it becomes available. Within 10 business days
26 after placement, the Department shall obtain from the

1 prospective adoptive parent or parents or other caretaker a
2 signed verification of receipt of the information provided.
3 Within 10 business days after placement, the Department shall
4 provide to the child's guardian ad litem a copy of the
5 information provided to the prospective adoptive parent or
6 parents or other caretaker. The information provided to the
7 prospective adoptive parent or parents or other caretaker shall
8 be reviewed and approved regarding accuracy at the supervisory
9 level.

10 (u-5) Effective July 1, 1995, only foster care placements
11 licensed as foster family homes pursuant to the Child Care Act
12 of 1969 shall be eligible to receive foster care payments from
13 the Department. Relative caregivers who, as of July 1, 1995,
14 were approved pursuant to approved relative placement rules
15 previously promulgated by the Department at 89 Ill. Adm. Code
16 335 and had submitted an application for licensure as a foster
17 family home may continue to receive foster care payments only
18 until the Department determines that they may be licensed as a
19 foster family home or that their application for licensure is
20 denied or until September 30, 1995, whichever occurs first.

21 (v) The Department shall access criminal history record
22 information as defined in the Illinois Uniform Conviction
23 Information Act and information maintained in the adjudicatory
24 and dispositional record system as defined in Section 2605-355
25 of the Department of State Police Law (20 ILCS 2605/2605-355)
26 if the Department determines the information is necessary to

1 perform its duties under the Abused and Neglected Child
2 Reporting Act, the Child Care Act of 1969, and the Children and
3 Family Services Act. The Department shall provide for
4 interactive computerized communication and processing
5 equipment that permits direct on-line communication with the
6 Department of State Police's central criminal history data
7 repository. The Department shall comply with all certification
8 requirements and provide certified operators who have been
9 trained by personnel from the Department of State Police. In
10 addition, one Office of the Inspector General investigator
11 shall have training in the use of the criminal history
12 information access system and have access to the terminal. The
13 Department of Children and Family Services and its employees
14 shall abide by rules and regulations established by the
15 Department of State Police relating to the access and
16 dissemination of this information.

17 (v-1) Prior to final approval for placement of a child, the
18 Department shall conduct a criminal records background check of
19 the prospective foster or adoptive parent, including
20 fingerprint-based checks of national crime information
21 databases. Final approval for placement shall not be granted if
22 the record check reveals a felony conviction for child abuse or
23 neglect, for spousal abuse, for a crime against children, or
24 for a crime involving violence, including rape, sexual assault,
25 or homicide, but not including other physical assault or
26 battery, or if there is a felony conviction for physical

1 assault, battery, or a drug-related offense committed within
2 the past 5 years.

3 (v-2) Prior to final approval for placement of a child, the
4 Department shall check its child abuse and neglect registry for
5 information concerning prospective foster and adoptive
6 parents, and any adult living in the home. If any prospective
7 foster or adoptive parent or other adult living in the home has
8 resided in another state in the preceding 5 years, the
9 Department shall request a check of that other state's child
10 abuse and neglect registry.

11 (w) Within 120 days of August 20, 1995 (the effective date
12 of Public Act 89-392), the Department shall prepare and submit
13 to the Governor and the General Assembly, a written plan for
14 the development of in-state licensed secure child care
15 facilities that care for children who are in need of secure
16 living arrangements for their health, safety, and well-being.
17 For purposes of this subsection, secure care facility shall
18 mean a facility that is designed and operated to ensure that
19 all entrances and exits from the facility, a building or a
20 distinct part of the building, are under the exclusive control
21 of the staff of the facility, whether or not the child has the
22 freedom of movement within the perimeter of the facility,
23 building, or distinct part of the building. The plan shall
24 include descriptions of the types of facilities that are needed
25 in Illinois; the cost of developing these secure care
26 facilities; the estimated number of placements; the potential

1 cost savings resulting from the movement of children currently
2 out-of-state who are projected to be returned to Illinois; the
3 necessary geographic distribution of these facilities in
4 Illinois; and a proposed timetable for development of such
5 facilities.

6 (x) The Department shall conduct annual credit history
7 checks to determine the financial history of children placed
8 under its guardianship pursuant to the Juvenile Court Act of
9 1987. The Department shall conduct such credit checks starting
10 when a ward turns 12 years old and each year thereafter for the
11 duration of the guardianship as terminated pursuant to the
12 Juvenile Court Act of 1987. The Department shall determine if
13 financial exploitation of the child's personal information has
14 occurred. If financial exploitation appears to have taken place
15 or is presently ongoing, the Department shall notify the proper
16 law enforcement agency, the proper State's Attorney, or the
17 Attorney General.

18 (y) Beginning on the effective date of this amendatory Act
19 of the 96th General Assembly, a child with a disability who
20 receives residential and educational services from the
21 Department shall be eligible to receive transition services in
22 accordance with Article 14 of the School Code from the age of
23 14.5 through age 21, inclusive, notwithstanding the child's
24 residential services arrangement. For purposes of this
25 subsection, "child with a disability" means a child with a
26 disability as defined by the federal Individuals with

1 Disabilities Education Improvement Act of 2004.

2 (z) The Department shall access criminal history record
3 information as defined as "background information" in this
4 subsection and criminal history record information as defined
5 in the Illinois Uniform Conviction Information Act for each
6 Department employee or Department applicant. Each Department
7 employee or Department applicant shall submit his or her
8 fingerprints to the Department of State Police in the form and
9 manner prescribed by the Department of State Police. These
10 fingerprints shall be checked against the fingerprint records
11 now and hereafter filed in the Department of State Police and
12 the Federal Bureau of Investigation criminal history records
13 databases. The Department of State Police shall charge a fee
14 for conducting the criminal history record check, which shall
15 be deposited into the State Police Services Fund and shall not
16 exceed the actual cost of the record check. The Department of
17 State Police shall furnish, pursuant to positive
18 identification, all Illinois conviction information to the
19 Department of Children and Family Services.

20 For purposes of this subsection:

21 "Background information" means all of the following:

22 (i) Upon the request of the Department of Children and
23 Family Services, conviction information obtained from the
24 Department of State Police as a result of a
25 fingerprint-based criminal history records check of the
26 Illinois criminal history records database and the Federal

1 Bureau of Investigation criminal history records database
2 concerning a Department employee or Department applicant.

3 (ii) Information obtained by the Department of
4 Children and Family Services after performing a check of
5 the Department of State Police's Sex Offender Database, as
6 authorized by Section 120 of the Sex Offender Community
7 Notification Law, concerning a Department employee or
8 Department applicant.

9 (iii) Information obtained by the Department of
10 Children and Family Services after performing a check of
11 the Child Abuse and Neglect Tracking System (CANTS)
12 operated and maintained by the Department.

13 "Department employee" means a full-time or temporary
14 employee coded or certified within the State of Illinois
15 Personnel System.

16 "Department applicant" means an individual who has
17 conditional Department full-time or part-time work, a
18 contractor, an individual used to replace or supplement staff,
19 an academic intern, a volunteer in Department offices or on
20 Department contracts, a work-study student, an individual or
21 entity licensed by the Department, or an unlicensed service
22 provider who works as a condition of a contract or an agreement
23 and whose work may bring the unlicensed service provider into
24 contact with Department clients or client records.

25 (Source: P.A. 97-1150, eff. 1-25-13; 98-249, eff. 1-1-14;
26 98-570, eff. 8-27-13; revised 9-4-13.)

1 Section 10. The Juvenile Court Act of 1987 is amended by
2 changing Sections 2-10, 2-27, and 5-710 as follows:

3 (705 ILCS 405/2-10) (from Ch. 37, par. 802-10)

4 Sec. 2-10. Temporary custody hearing. At the appearance of
5 the minor before the court at the temporary custody hearing,
6 all witnesses present shall be examined before the court in
7 relation to any matter connected with the allegations made in
8 the petition.

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

12 (2) If the court finds that there is probable cause to
13 believe that the minor is abused, neglected or dependent, the
14 court shall state in writing the factual basis supporting its
15 finding and the minor, his or her parent, guardian, custodian
16 and other persons able to give relevant testimony shall be
17 examined before the court. The Department of Children and
18 Family Services shall give testimony concerning indicated
19 reports of abuse and neglect, of which they are aware of
20 through the central registry, involving the minor's parent,
21 guardian or custodian. After such testimony, the court may,
22 consistent with the health, safety and best interests of the
23 minor, enter an order that the minor shall be released upon the
24 request of parent, guardian or custodian if the parent,

1 guardian or custodian appears to take custody. If it is
2 determined that a parent's, guardian's, or custodian's
3 compliance with critical services mitigates the necessity for
4 removal of the minor from his or her home, the court may enter
5 an Order of Protection setting forth reasonable conditions of
6 behavior that a parent, guardian, or custodian must observe for
7 a specified period of time, not to exceed 12 months, without a
8 violation; provided, however, that the 12-month period shall
9 begin anew after any violation. Custodian shall include any
10 agency of the State which has been given custody or wardship of
11 the child. If it is consistent with the health, safety and best
12 interests of the minor, the court may also prescribe shelter
13 care and order that the minor be kept in a suitable place
14 designated by the court or in a shelter care facility
15 designated by the Department of Children and Family Services or
16 a licensed child welfare agency; however, on and after the
17 effective date of this amendatory Act of the 98th General
18 Assembly and before January 1, 2017, a minor charged with a
19 criminal offense under the Criminal Code of 1961 or the
20 Criminal Code of 2012 or adjudicated delinquent shall not be
21 placed in the custody of or committed to the Department of
22 Children and Family Services by any court, except a minor less
23 than 16 ~~15~~ years of age and committed to the Department of
24 Children and Family Services under Section 5-710 of this Act or
25 a minor for whom an independent basis of abuse, neglect, or
26 dependency exists; and on and after January 1, 2017, a minor

1 charged with a criminal offense under the Criminal Code of 1961
2 or the Criminal Code of 2012 or adjudicated delinquent shall
3 not be placed in the custody of or committed to the Department
4 of Children and Family Services by any court, except a minor
5 less than 15 years of age and committed to the Department of
6 Children and Family Services under Section 5-710 of this Act or
7 a minor for whom an independent basis of abuse, neglect, or
8 dependency exists. An independent basis exists when the
9 allegations or adjudication of abuse, neglect, or dependency do
10 not arise from the same facts, incident, or circumstances which
11 give rise to a charge or adjudication of delinquency.

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

1 that were made to prevent or eliminate the necessity of removal
2 of the minor from his or her home or the reasons why no efforts
3 reasonably could be made to prevent or eliminate the necessity
4 of removal. When a minor is placed in the home of a relative,
5 the Department of Children and Family Services shall complete a
6 preliminary background review of the members of the minor's
7 custodian's household in accordance with Section 4.3 of the
8 Child Care Act of 1969 within 90 days of that placement. If the
9 minor is ordered placed in a shelter care facility of the
10 Department of Children and Family Services or a licensed child
11 welfare agency, the court shall, upon request of the
12 appropriate Department or other agency, appoint the Department
13 of Children and Family Services Guardianship Administrator or
14 other appropriate agency executive temporary custodian of the
15 minor and the court may enter such other orders related to the
16 temporary custody as it deems fit and proper, including the
17 provision of services to the minor or his family to ameliorate
18 the causes contributing to the finding of probable cause or to
19 the finding of the existence of immediate and urgent necessity.

20 Where the Department of Children and Family Services
21 Guardianship Administrator is appointed as the executive
22 temporary custodian, the Department of Children and Family
23 Services shall file with the court and serve on the parties a
24 parent-child visiting plan, within 10 days, excluding weekends
25 and holidays, after the appointment. The parent-child visiting
26 plan shall set out the time and place of visits, the frequency

1 of visits, the length of visits, who shall be present at the
2 visits, and where appropriate, the minor's opportunities to
3 have telephone and mail communication with the parents.

4 Where the Department of Children and Family Services
5 Guardianship Administrator is appointed as the executive
6 temporary custodian, and when the child has siblings in care,
7 the Department of Children and Family Services shall file with
8 the court and serve on the parties a sibling placement and
9 contact plan within 10 days, excluding weekends and holidays,
10 after the appointment. The sibling placement and contact plan
11 shall set forth whether the siblings are placed together, and
12 if they are not placed together, what, if any, efforts are
13 being made to place them together. If the Department has
14 determined that it is not in a child's best interest to be
15 placed with a sibling, the Department shall document in the
16 sibling placement and contact plan the basis for its
17 determination. For siblings placed separately, the sibling
18 placement and contact plan shall set the time and place for
19 visits, the frequency of the visits, the length of visits, who
20 shall be present for the visits, and where appropriate, the
21 child's opportunities to have contact with their siblings in
22 addition to in person contact. If the Department determines it
23 is not in the best interest of a sibling to have contact with a
24 sibling, the Department shall document in the sibling placement
25 and contact plan the basis for its determination. The sibling
26 placement and contact plan shall specify a date for development

1 of the Sibling Contact Support Plan, under subsection (f) of
2 Section 7.4 of the Children and Family Services Act, and shall
3 remain in effect until the Sibling Contact Support Plan is
4 developed.

5 For good cause, the court may waive the requirement to
6 file the parent-child visiting plan or the sibling placement
7 and contact plan, or extend the time for filing either plan.
8 Any party may, by motion, request the court to review the
9 parent-child visiting plan to determine whether it is
10 reasonably calculated to expeditiously facilitate the
11 achievement of the permanency goal. A party may, by motion,
12 request the court to review the parent-child visiting plan or
13 the sibling placement and contact plan to determine whether it
14 is consistent with the minor's best interest. The court may
15 refer the parties to mediation where available. The frequency,
16 duration, and locations of visitation shall be measured by the
17 needs of the child and family, and not by the convenience of
18 Department personnel. Child development principles shall be
19 considered by the court in its analysis of how frequent
20 visitation should be, how long it should last, where it should
21 take place, and who should be present. If upon motion of the
22 party to review either plan and after receiving evidence, the
23 court determines that the parent-child visiting plan is not
24 reasonably calculated to expeditiously facilitate the
25 achievement of the permanency goal or that the restrictions
26 placed on parent-child contact or sibling placement or contact

1 are contrary to the child's best interests, the court shall put
2 in writing the factual basis supporting the determination and
3 enter specific findings based on the evidence. The court shall
4 enter an order for the Department to implement changes to the
5 parent-child visiting plan or sibling placement or contact
6 plan, consistent with the court's findings. At any stage of
7 proceeding, any party may by motion request the court to enter
8 any orders necessary to implement the parent-child visiting
9 plan, sibling placement or contact plan or subsequently
10 developed Sibling Contact Support Plan. Nothing under this
11 subsection (2) shall restrict the court from granting
12 discretionary authority to the Department to increase
13 opportunities for additional parent-child contacts or sibling
14 contacts, without further court orders. Nothing in this
15 subsection (2) shall restrict the Department from immediately
16 restricting or terminating parent-child contact or sibling
17 contacts, without either amending the parent-child visiting
18 plan or the sibling contact plan or obtaining a court order,
19 where the Department or its assigns reasonably believe that
20 continuation of the contact, as set out in the plan, would be
21 contrary to the child's health, safety, and welfare. The
22 Department shall file with the court and serve on the parties
23 any amendments to the plan within 10 days, excluding weekends
24 and holidays, of the change of the visitation.

25 Acceptance of services shall not be considered an admission
26 of any allegation in a petition made pursuant to this Act, nor

1 may a referral of services be considered as evidence in any
2 proceeding pursuant to this Act, except where the issue is
3 whether the Department has made reasonable efforts to reunite
4 the family. In making its findings that it is consistent with
5 the health, safety and best interests of the minor to prescribe
6 shelter care, the court shall state in writing (i) the factual
7 basis supporting its findings concerning the immediate and
8 urgent necessity for the protection of the minor or of the
9 person or property of another and (ii) the factual basis
10 supporting its findings that reasonable efforts were made to
11 prevent or eliminate the removal of the minor from his or her
12 home or that no efforts reasonably could be made to prevent or
13 eliminate the removal of the minor from his or her home. The
14 parents, guardian, custodian, temporary custodian and minor
15 shall each be furnished a copy of such written findings. The
16 temporary custodian shall maintain a copy of the court order
17 and written findings in the case record for the child. The
18 order together with the court's findings of fact in support
19 thereof shall be entered of record in the court.

20 Once the court finds that it is a matter of immediate and
21 urgent necessity for the protection of the minor that the minor
22 be placed in a shelter care facility, the minor shall not be
23 returned to the parent, custodian or guardian until the court
24 finds that such placement is no longer necessary for the
25 protection of the minor.

26 If the child is placed in the temporary custody of the

1 Department of Children and Family Services for his or her
2 protection, the court shall admonish the parents, guardian,
3 custodian or responsible relative that the parents must
4 cooperate with the Department of Children and Family Services,
5 comply with the terms of the service plans, and correct the
6 conditions which require the child to be in care, or risk
7 termination of their parental rights.

8 (3) If prior to the shelter care hearing for a minor
9 described in Sections 2-3, 2-4, 3-3 and 4-3 the moving party is
10 unable to serve notice on the party respondent, the shelter
11 care hearing may proceed ex-parte. A shelter care order from an
12 ex-parte hearing shall be endorsed with the date and hour of
13 issuance and shall be filed with the clerk's office and entered
14 of record. The order shall expire after 10 days from the time
15 it is issued unless before its expiration it is renewed, at a
16 hearing upon appearance of the party respondent, or upon an
17 affidavit of the moving party as to all diligent efforts to
18 notify the party respondent by notice as herein prescribed. The
19 notice prescribed shall be in writing and shall be personally
20 delivered to the minor or the minor's attorney and to the last
21 known address of the other person or persons entitled to
22 notice. The notice shall also state the nature of the
23 allegations, the nature of the order sought by the State,
24 including whether temporary custody is sought, and the
25 consequences of failure to appear and shall contain a notice
26 that the parties will not be entitled to further written

1 notices or publication notices of proceedings in this case,
 2 including the filing of an amended petition or a motion to
 3 terminate parental rights, except as required by Supreme Court
 4 Rule 11; and shall explain the right of the parties and the
 5 procedures to vacate or modify a shelter care order as provided
 6 in this Section. The notice for a shelter care hearing shall be
 7 substantially as follows:

8 NOTICE TO PARENTS AND CHILDREN
 9 OF SHELTER CARE HEARING

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

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

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

24 At the shelter care hearing, parents have the following
 25 rights:

- 26 1. To ask the court to appoint a lawyer if they

1 cannot afford one.

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

4 3. To present evidence concerning:

5 a. Whether or not the child or children were
6 abused, neglected or dependent.

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

12 c. The best interests of the child.

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

14 The Notice for rehearings shall be substantially as
15 follows:

16 NOTICE OF PARENT'S AND CHILDREN'S RIGHTS

17 TO REHEARING ON TEMPORARY CUSTODY

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

1 mailing a statement (affidavit) setting forth the
2 following:

3 1. That you were not present at the shelter care
4 hearing.

5 2. That you did not get adequate notice (explaining
6 how the notice was inadequate).

7 3. Your signature.

8 4. Signature must be notarized.

9 The rehearing should be scheduled within 48 hours of
10 your filing this affidavit.

11 At the rehearing, your rights are the same as at the
12 initial shelter care hearing. The enclosed notice explains
13 those rights.

14 At the Shelter Care Hearing, children have the
15 following rights:

16 1. To have a guardian ad litem appointed.

17 2. To be declared competent as a witness and to
18 present testimony concerning:

19 a. Whether they are abused, neglected or
20 dependent.

21 b. Whether there is "immediate and urgent
22 necessity" to be removed from home.

23 c. Their best interests.

24 3. To cross examine witnesses for other parties.

25 4. To obtain an explanation of any proceedings and
26 orders of the court.

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

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

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

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

23 (8) If neither the parent, guardian or custodian appears
24 within 24 hours to take custody of a minor released upon
25 request pursuant to subsection (2) of this Section, then the
26 clerk of the court shall set the matter for rehearing not later

1 than 7 days after the original order and shall issue a summons
2 directed to the parent, guardian or custodian to appear. At the
3 same time the probation department shall prepare a report on
4 the minor. If a parent, guardian or custodian does not appear
5 at such rehearing, the judge may enter an order prescribing
6 that the minor be kept in a suitable place designated by the
7 Department of Children and Family Services or a licensed child
8 welfare agency.

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

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

20 (b) There is a material change in the circumstances of
21 the natural family from which the minor was removed and the
22 child can be cared for at home without endangering the
23 child's health or safety; or

24 (c) A person not a party to the alleged abuse, neglect
25 or dependency, including a parent, relative or legal
26 guardian, is capable of assuming temporary custody of the

1 minor; or

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

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

10 The clerk shall set the matter for hearing not later than
11 14 days after such motion is filed. In the event that the court
12 modifies or vacates a temporary custody order but does not
13 vacate its finding of probable cause, the court may order that
14 appropriate services be continued or initiated in behalf of the
15 minor and his or her family.

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

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

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

1 Once the presumption of immediate and urgent necessity has
2 been raised, the burden of demonstrating the lack of immediate
3 and urgent necessity shall be on any party that is opposing
4 shelter care for the other minor.

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

10 (Source: P.A. 97-1076, eff. 8-24-12; 97-1150, eff. 1-25-13;
11 98-61, eff. 1-1-14; revised 11-22-13.)

12 (705 ILCS 405/2-27) (from Ch. 37, par. 802-27)

13 Sec. 2-27. Placement; legal custody or guardianship.

14 (1) If the court determines and puts in writing the factual
15 basis supporting the determination of whether the parents,
16 guardian, or legal custodian of a minor adjudged a ward of the
17 court are unfit or are unable, for some reason other than
18 financial circumstances alone, to care for, protect, train or
19 discipline the minor or are unwilling to do so, and that the
20 health, safety, and best interest of the minor will be
21 jeopardized if the minor remains in the custody of his or her
22 parents, guardian or custodian, the court may at this hearing
23 and at any later point:

24 (a) place the minor in the custody of a suitable
25 relative or other person as legal custodian or guardian;

1 (a-5) with the approval of the Department of Children
2 and Family Services, place the minor in the subsidized
3 guardianship of a suitable relative or other person as
4 legal guardian; "subsidized guardianship" means a private
5 guardianship arrangement for children for whom the
6 permanency goals of return home and adoption have been
7 ruled out and who meet the qualifications for subsidized
8 guardianship as defined by the Department of Children and
9 Family Services in administrative rules;

10 (b) place the minor under the guardianship of a
11 probation officer;

12 (c) commit the minor to an agency for care or
13 placement, except an institution under the authority of the
14 Department of Corrections or of the Department of Children
15 and Family Services;

16 (d) on and after the effective date of this amendatory
17 Act of the 98th General Assembly and before January 1,
18 2017, commit the minor to the Department of Children and
19 Family Services for care and service; however, a minor
20 charged with a criminal offense under the Criminal Code of
21 1961 or the Criminal Code of 2012 or adjudicated delinquent
22 shall not be placed in the custody of or committed to the
23 Department of Children and Family Services by any court,
24 except (i) a minor less than 16 ~~15~~ years of age and
25 committed to the Department of Children and Family Services
26 under Section 5-710 of this Act, (ii) a minor for whom an

1 independent basis of abuse, neglect, or dependency exists,
2 or (iii) a minor for whom the court has granted a
3 supplemental petition to reinstate wardship pursuant to
4 subsection (2) of Section 2-33 of this Act. On and after
5 January 1, 2017, commit the minor to the Department of
6 Children and Family Services for care and service; however,
7 a minor charged with a criminal offense under the Criminal
8 Code of 1961 or the Criminal Code of 2012 or adjudicated
9 delinquent shall not be placed in the custody of or
10 committed to the Department of Children and Family Services
11 by any court, except (i) a minor less than 15 years of age
12 and committed to the Department of Children and Family
13 Services under Section 5-710 of this Act, (ii) a minor for
14 whom an independent basis of abuse, neglect, or dependency
15 exists, or (iii) a minor for whom the court has granted a
16 supplemental petition to reinstate wardship pursuant to
17 subsection (2) of Section 2-33 of this Act. An independent
18 basis exists when the allegations or adjudication of abuse,
19 neglect, or dependency do not arise from the same facts,
20 incident, or circumstances which give rise to a charge or
21 adjudication of delinquency. The Department shall be given
22 due notice of the pendency of the action and the
23 Guardianship Administrator of the Department of Children
24 and Family Services shall be appointed guardian of the
25 person of the minor. Whenever the Department seeks to
26 discharge a minor from its care and service, the

1 Guardianship Administrator shall petition the court for an
2 order terminating guardianship. The Guardianship
3 Administrator may designate one or more other officers of
4 the Department, appointed as Department officers by
5 administrative order of the Department Director,
6 authorized to affix the signature of the Guardianship
7 Administrator to documents affecting the guardian-ward
8 relationship of children for whom he or she has been
9 appointed guardian at such times as he or she is unable to
10 perform the duties of his or her office. The signature
11 authorization shall include but not be limited to matters
12 of consent of marriage, enlistment in the armed forces,
13 legal proceedings, adoption, major medical and surgical
14 treatment and application for driver's license. Signature
15 authorizations made pursuant to the provisions of this
16 paragraph shall be filed with the Secretary of State and
17 the Secretary of State shall provide upon payment of the
18 customary fee, certified copies of the authorization to any
19 court or individual who requests a copy.

20 (1.5) In making a determination under this Section, the
21 court shall also consider whether, based on health, safety, and
22 the best interests of the minor,

23 (a) appropriate services aimed at family preservation
24 and family reunification have been unsuccessful in
25 rectifying the conditions that have led to a finding of
26 unfitness or inability to care for, protect, train, or

1 discipline the minor, or

2 (b) no family preservation or family reunification
3 services would be appropriate,

4 and if the petition or amended petition contained an allegation
5 that the parent is an unfit person as defined in subdivision
6 (D) of Section 1 of the Adoption Act, and the order of
7 adjudication recites that parental unfitness was established
8 by clear and convincing evidence, the court shall, when
9 appropriate and in the best interest of the minor, enter an
10 order terminating parental rights and appointing a guardian
11 with power to consent to adoption in accordance with Section
12 2-29.

13 When making a placement, the court, wherever possible,
14 shall require the Department of Children and Family Services to
15 select a person holding the same religious belief as that of
16 the minor or a private agency controlled by persons of like
17 religious faith of the minor and shall require the Department
18 to otherwise comply with Section 7 of the Children and Family
19 Services Act in placing the child. In addition, whenever
20 alternative plans for placement are available, the court shall
21 ascertain and consider, to the extent appropriate in the
22 particular case, the views and preferences of the minor.

23 (2) When a minor is placed with a suitable relative or
24 other person pursuant to item (a) of subsection (1), the court
25 shall appoint him or her the legal custodian or guardian of the
26 person of the minor. When a minor is committed to any agency,

1 the court shall appoint the proper officer or representative
2 thereof as legal custodian or guardian of the person of the
3 minor. Legal custodians and guardians of the person of the
4 minor have the respective rights and duties set forth in
5 subsection (9) of Section 1-3 except as otherwise provided by
6 order of court; but no guardian of the person may consent to
7 adoption of the minor unless that authority is conferred upon
8 him or her in accordance with Section 2-29. An agency whose
9 representative is appointed guardian of the person or legal
10 custodian of the minor may place the minor in any child care
11 facility, but the facility must be licensed under the Child
12 Care Act of 1969 or have been approved by the Department of
13 Children and Family Services as meeting the standards
14 established for such licensing. No agency may place a minor
15 adjudicated under Sections 2-3 or 2-4 in a child care facility
16 unless the placement is in compliance with the rules and
17 regulations for placement under this Section promulgated by the
18 Department of Children and Family Services under Section 5 of
19 the Children and Family Services Act. Like authority and
20 restrictions shall be conferred by the court upon any probation
21 officer who has been appointed guardian of the person of a
22 minor.

23 (3) No placement by any probation officer or agency whose
24 representative is appointed guardian of the person or legal
25 custodian of a minor may be made in any out of State child care
26 facility unless it complies with the Interstate Compact on the

1 Placement of Children. Placement with a parent, however, is not
2 subject to that Interstate Compact.

3 (4) The clerk of the court shall issue to the legal
4 custodian or guardian of the person a certified copy of the
5 order of court, as proof of his authority. No other process is
6 necessary as authority for the keeping of the minor.

7 (5) Custody or guardianship granted under this Section
8 continues until the court otherwise directs, but not after the
9 minor reaches the age of 19 years except as set forth in
10 Section 2-31, or if the minor was previously committed to the
11 Department of Children and Family Services for care and service
12 and the court has granted a supplemental petition to reinstate
13 wardship pursuant to subsection (2) of Section 2-33.

14 (6) (Blank).

15 (Source: P.A. 96-581, eff. 1-1-10; 97-1150, eff. 1-25-13.)

16 (705 ILCS 405/5-710)

17 Sec. 5-710. Kinds of sentencing orders.

18 (1) The following kinds of sentencing orders may be made in
19 respect of wards of the court:

20 (a) Except as provided in Sections 5-805, 5-810, 5-815,
21 a minor who is found guilty under Section 5-620 may be:

22 (i) put on probation or conditional discharge and
23 released to his or her parents, guardian or legal
24 custodian, provided, however, that any such minor who
25 is not committed to the Department of Juvenile Justice

1 under this subsection and who is found to be a
2 delinquent for an offense which is first degree murder,
3 a Class X felony, or a forcible felony shall be placed
4 on probation;

5 (ii) placed in accordance with Section 5-740, with
6 or without also being put on probation or conditional
7 discharge;

8 (iii) required to undergo a substance abuse
9 assessment conducted by a licensed provider and
10 participate in the indicated clinical level of care;

11 (iv) on and after the effective date of this
12 amendatory Act of the 98th General Assembly and before
13 January 1, 2017, placed in the guardianship of the
14 Department of Children and Family Services, but only if
15 the delinquent minor is under 16 ~~15~~ years of age or,
16 pursuant to Article II of this Act, a minor for whom an
17 independent basis of abuse, neglect, or dependency
18 exists. On and after January 1, 2017, placed in the
19 guardianship of the Department of Children and Family
20 Services, but only if the delinquent minor is under 15
21 years of age or, pursuant to Article II of this Act, a
22 minor for whom an independent basis of abuse, neglect,
23 or dependency exists. An independent basis exists when
24 the allegations or adjudication of abuse, neglect, or
25 dependency do not arise from the same facts, incident,
26 or circumstances which give rise to a charge or

1 adjudication of delinquency;

2 (v) placed in detention for a period not to exceed
3 30 days, either as the exclusive order of disposition
4 or, where appropriate, in conjunction with any other
5 order of disposition issued under this paragraph,
6 provided that any such detention shall be in a juvenile
7 detention home and the minor so detained shall be 10
8 years of age or older. However, the 30-day limitation
9 may be extended by further order of the court for a
10 minor under age 15 committed to the Department of
11 Children and Family Services if the court finds that
12 the minor is a danger to himself or others. The minor
13 shall be given credit on the sentencing order of
14 detention for time spent in detention under Sections
15 5-501, 5-601, 5-710, or 5-720 of this Article as a
16 result of the offense for which the sentencing order
17 was imposed. The court may grant credit on a sentencing
18 order of detention entered under a violation of
19 probation or violation of conditional discharge under
20 Section 5-720 of this Article for time spent in
21 detention before the filing of the petition alleging
22 the violation. A minor shall not be deprived of credit
23 for time spent in detention before the filing of a
24 violation of probation or conditional discharge
25 alleging the same or related act or acts. The
26 limitation that the minor shall only be placed in a

1 juvenile detention home does not apply as follows:

2 Persons 18 years of age and older who have a
3 petition of delinquency filed against them may be
4 confined in an adult detention facility. In making a
5 determination whether to confine a person 18 years of
6 age or older who has a petition of delinquency filed
7 against the person, these factors, among other
8 matters, shall be considered:

9 (A) the age of the person;

10 (B) any previous delinquent or criminal
11 history of the person;

12 (C) any previous abuse or neglect history of
13 the person;

14 (D) any mental health history of the person;
15 and

16 (E) any educational history of the person;

17 (vi) ordered partially or completely emancipated
18 in accordance with the provisions of the Emancipation
19 of Minors Act;

20 (vii) subject to having his or her driver's license
21 or driving privileges suspended for such time as
22 determined by the court but only until he or she
23 attains 18 years of age;

24 (viii) put on probation or conditional discharge
25 and placed in detention under Section 3-6039 of the
26 Counties Code for a period not to exceed the period of

1 incarceration permitted by law for adults found guilty
2 of the same offense or offenses for which the minor was
3 adjudicated delinquent, and in any event no longer than
4 upon attainment of age 21; this subdivision (viii)
5 notwithstanding any contrary provision of the law;

6 (ix) ordered to undergo a medical or other
7 procedure to have a tattoo symbolizing allegiance to a
8 street gang removed from his or her body; or

9 (x) placed in electronic home detention under Part
10 7A of this Article.

11 (b) A minor found to be guilty may be committed to the
12 Department of Juvenile Justice under Section 5-750 if the
13 minor is 13 years of age or older, provided that the
14 commitment to the Department of Juvenile Justice shall be
15 made only if a term of incarceration is permitted by law
16 for adults found guilty of the offense for which the minor
17 was adjudicated delinquent. The time during which a minor
18 is in custody before being released upon the request of a
19 parent, guardian or legal custodian shall be considered as
20 time spent in detention.

21 (c) When a minor is found to be guilty for an offense
22 which is a violation of the Illinois Controlled Substances
23 Act, the Cannabis Control Act, or the Methamphetamine
24 Control and Community Protection Act and made a ward of the
25 court, the court may enter a disposition order requiring
26 the minor to undergo assessment, counseling or treatment in

1 a substance abuse program approved by the Department of
2 Human Services.

3 (2) Any sentencing order other than commitment to the
4 Department of Juvenile Justice may provide for protective
5 supervision under Section 5-725 and may include an order of
6 protection under Section 5-730.

7 (3) Unless the sentencing order expressly so provides, it
8 does not operate to close proceedings on the pending petition,
9 but is subject to modification until final closing and
10 discharge of the proceedings under Section 5-750.

11 (4) In addition to any other sentence, the court may order
12 any minor found to be delinquent to make restitution, in
13 monetary or non-monetary form, under the terms and conditions
14 of Section 5-5-6 of the Unified Code of Corrections, except
15 that the "presentencing hearing" referred to in that Section
16 shall be the sentencing hearing for purposes of this Section.
17 The parent, guardian or legal custodian of the minor may be
18 ordered by the court to pay some or all of the restitution on
19 the minor's behalf, pursuant to the Parental Responsibility
20 Law. The State's Attorney is authorized to act on behalf of any
21 victim in seeking restitution in proceedings under this
22 Section, up to the maximum amount allowed in Section 5 of the
23 Parental Responsibility Law.

24 (5) Any sentencing order where the minor is committed or
25 placed in accordance with Section 5-740 shall provide for the
26 parents or guardian of the estate of the minor to pay to the

1 legal custodian or guardian of the person of the minor such
2 sums as are determined by the custodian or guardian of the
3 person of the minor as necessary for the minor's needs. The
4 payments may not exceed the maximum amounts provided for by
5 Section 9.1 of the Children and Family Services Act.

6 (6) Whenever the sentencing order requires the minor to
7 attend school or participate in a program of training, the
8 truant officer or designated school official shall regularly
9 report to the court if the minor is a chronic or habitual
10 truant under Section 26-2a of the School Code. Notwithstanding
11 any other provision of this Act, in instances in which
12 educational services are to be provided to a minor in a
13 residential facility where the minor has been placed by the
14 court, costs incurred in the provision of those educational
15 services must be allocated based on the requirements of the
16 School Code.

17 (7) In no event shall a guilty minor be committed to the
18 Department of Juvenile Justice for a period of time in excess
19 of that period for which an adult could be committed for the
20 same act.

21 (8) A minor found to be guilty for reasons that include a
22 violation of Section 21-1.3 of the Criminal Code of 1961 or the
23 Criminal Code of 2012 shall be ordered to perform community
24 service for not less than 30 and not more than 120 hours, if
25 community service is available in the jurisdiction. The
26 community service shall include, but need not be limited to,

1 the cleanup and repair of the damage that was caused by the
2 violation or similar damage to property located in the
3 municipality or county in which the violation occurred. The
4 order may be in addition to any other order authorized by this
5 Section.

6 (8.5) A minor found to be guilty for reasons that include a
7 violation of Section 3.02 or Section 3.03 of the Humane Care
8 for Animals Act or paragraph (d) of subsection (1) of Section
9 21-1 of the Criminal Code of 1961 or paragraph (4) of
10 subsection (a) of Section 21-1 of the Criminal Code of 2012
11 shall be ordered to undergo medical or psychiatric treatment
12 rendered by a psychiatrist or psychological treatment rendered
13 by a clinical psychologist. The order may be in addition to any
14 other order authorized by this Section.

15 (9) In addition to any other sentencing order, the court
16 shall order any minor found to be guilty for an act which would
17 constitute, predatory criminal sexual assault of a child,
18 aggravated criminal sexual assault, criminal sexual assault,
19 aggravated criminal sexual abuse, or criminal sexual abuse if
20 committed by an adult to undergo medical testing to determine
21 whether the defendant has any sexually transmissible disease
22 including a test for infection with human immunodeficiency
23 virus (HIV) or any other identified causative agency of
24 acquired immunodeficiency syndrome (AIDS). Any medical test
25 shall be performed only by appropriately licensed medical
26 practitioners and may include an analysis of any bodily fluids

1 as well as an examination of the minor's person. Except as
2 otherwise provided by law, the results of the test shall be
3 kept strictly confidential by all medical personnel involved in
4 the testing and must be personally delivered in a sealed
5 envelope to the judge of the court in which the sentencing
6 order was entered for the judge's inspection in camera. Acting
7 in accordance with the best interests of the victim and the
8 public, the judge shall have the discretion to determine to
9 whom the results of the testing may be revealed. The court
10 shall notify the minor of the results of the test for infection
11 with the human immunodeficiency virus (HIV). The court shall
12 also notify the victim if requested by the victim, and if the
13 victim is under the age of 15 and if requested by the victim's
14 parents or legal guardian, the court shall notify the victim's
15 parents or the legal guardian, of the results of the test for
16 infection with the human immunodeficiency virus (HIV). The
17 court shall provide information on the availability of HIV
18 testing and counseling at the Department of Public Health
19 facilities to all parties to whom the results of the testing
20 are revealed. The court shall order that the cost of any test
21 shall be paid by the county and may be taxed as costs against
22 the minor.

23 (10) When a court finds a minor to be guilty the court
24 shall, before entering a sentencing order under this Section,
25 make a finding whether the offense committed either: (a) was
26 related to or in furtherance of the criminal activities of an

1 organized gang or was motivated by the minor's membership in or
2 allegiance to an organized gang, or (b) involved a violation of
3 subsection (a) of Section 12-7.1 of the Criminal Code of 1961
4 or the Criminal Code of 2012, a violation of any Section of
5 Article 24 of the Criminal Code of 1961 or the Criminal Code of
6 2012, or a violation of any statute that involved the wrongful
7 use of a firearm. If the court determines the question in the
8 affirmative, and the court does not commit the minor to the
9 Department of Juvenile Justice, the court shall order the minor
10 to perform community service for not less than 30 hours nor
11 more than 120 hours, provided that community service is
12 available in the jurisdiction and is funded and approved by the
13 county board of the county where the offense was committed. The
14 community service shall include, but need not be limited to,
15 the cleanup and repair of any damage caused by a violation of
16 Section 21-1.3 of the Criminal Code of 1961 or the Criminal
17 Code of 2012 and similar damage to property located in the
18 municipality or county in which the violation occurred. When
19 possible and reasonable, the community service shall be
20 performed in the minor's neighborhood. This order shall be in
21 addition to any other order authorized by this Section except
22 for an order to place the minor in the custody of the
23 Department of Juvenile Justice. For the purposes of this
24 Section, "organized gang" has the meaning ascribed to it in
25 Section 10 of the Illinois Streetgang Terrorism Omnibus
26 Prevention Act.

1 (11) If the court determines that the offense was committed
2 in furtherance of the criminal activities of an organized gang,
3 as provided in subsection (10), and that the offense involved
4 the operation or use of a motor vehicle or the use of a
5 driver's license or permit, the court shall notify the
6 Secretary of State of that determination and of the period for
7 which the minor shall be denied driving privileges. If, at the
8 time of the determination, the minor does not hold a driver's
9 license or permit, the court shall provide that the minor shall
10 not be issued a driver's license or permit until his or her
11 18th birthday. If the minor holds a driver's license or permit
12 at the time of the determination, the court shall provide that
13 the minor's driver's license or permit shall be revoked until
14 his or her 21st birthday, or until a later date or occurrence
15 determined by the court. If the minor holds a driver's license
16 at the time of the determination, the court may direct the
17 Secretary of State to issue the minor a judicial driving
18 permit, also known as a JDP. The JDP shall be subject to the
19 same terms as a JDP issued under Section 6-206.1 of the
20 Illinois Vehicle Code, except that the court may direct that
21 the JDP be effective immediately.

22 (12) If a minor is found to be guilty of a violation of
23 subsection (a-7) of Section 1 of the Prevention of Tobacco Use
24 by Minors Act, the court may, in its discretion, and upon
25 recommendation by the State's Attorney, order that minor and
26 his or her parents or legal guardian to attend a smoker's

1 education or youth diversion program as defined in that Act if
2 that program is available in the jurisdiction where the
3 offender resides. Attendance at a smoker's education or youth
4 diversion program shall be time-credited against any community
5 service time imposed for any first violation of subsection
6 (a-7) of Section 1 of that Act. In addition to any other
7 penalty that the court may impose for a violation of subsection
8 (a-7) of Section 1 of that Act, the court, upon request by the
9 State's Attorney, may in its discretion require the offender to
10 remit a fee for his or her attendance at a smoker's education
11 or youth diversion program.

12 For purposes of this Section, "smoker's education program"
13 or "youth diversion program" includes, but is not limited to, a
14 seminar designed to educate a person on the physical and
15 psychological effects of smoking tobacco products and the
16 health consequences of smoking tobacco products that can be
17 conducted with a locality's youth diversion program.

18 In addition to any other penalty that the court may impose
19 under this subsection (12):

20 (a) If a minor violates subsection (a-7) of Section 1
21 of the Prevention of Tobacco Use by Minors Act, the court
22 may impose a sentence of 15 hours of community service or a
23 fine of \$25 for a first violation.

24 (b) A second violation by a minor of subsection (a-7)
25 of Section 1 of that Act that occurs within 12 months after
26 the first violation is punishable by a fine of \$50 and 25

1 hours of community service.

2 (c) A third or subsequent violation by a minor of
3 subsection (a-7) of Section 1 of that Act that occurs
4 within 12 months after the first violation is punishable by
5 a \$100 fine and 30 hours of community service.

6 (d) Any second or subsequent violation not within the
7 12-month time period after the first violation is
8 punishable as provided for a first violation.

9 (Source: P.A. 97-1150, eff. 1-25-13; 98-536, eff. 8-23-13.)".