

1 AN ACT in relation to minors.

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

4 Section 5. The Juvenile Court Act of 1987 is amended by
5 changing Sections 1-7, 1-8, 1-9, 2-10, 3-12, 4-9, 5-105,
6 5-120, 5-407, 5-410, 5-805, 5-901, 5-905, and 5-915 as
7 follows:

8 (705 ILCS 405/1-7) (from Ch. 37, par. 801-7)

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

10 (A) Inspection and copying of law enforcement records
11 maintained by law enforcement agencies that relate to a minor
12 who has been arrested or taken into custody before his or her
13 18th ~~17th~~ birthday shall be restricted to the following:

14 (1) Any local, State or federal law enforcement
15 officers of any jurisdiction or agency when necessary for
16 the discharge of their official duties during the
17 investigation or prosecution of a crime or relating to a
18 minor who has been adjudicated delinquent and there has
19 been a previous finding that the act which constitutes
20 the previous offense was committed in furtherance of
21 criminal activities by a criminal street gang. For
22 purposes of this Section, "criminal street gang" has the
23 meaning ascribed to it in Section 10 of the Illinois
24 Streetgang Terrorism Omnibus Prevention Act.

25 (2) Prosecutors, probation officers, social
26 workers, or other individuals assigned by the court to
27 conduct a pre-adjudication or pre-disposition
28 investigation, and individuals responsible for
29 supervising or providing temporary or permanent care and
30 custody for minors pursuant to the order of the juvenile
31 court, when essential to performing their

1 responsibilities.

2 (3) Prosecutors and probation officers:

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

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

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

15 (4) Adult and Juvenile Prisoner Review Board.

16 (5) Authorized military personnel.

17 (6) Persons engaged in bona fide research, with the
18 permission of the Presiding Judge of the Juvenile Court
19 and the chief executive of the respective law enforcement
20 agency; provided that publication of such research
21 results in no disclosure of a minor's identity and
22 protects the confidentiality of the minor's record.

23 (7) Department of Children and Family Services
24 child protection investigators acting in their official
25 capacity.

26 (8) The appropriate school official. Inspection
27 and copying shall be limited to law enforcement records
28 transmitted to the appropriate school official by a local
29 law enforcement agency under a reciprocal reporting
30 system established and maintained between the school
31 district and the local law enforcement agency under
32 Section 10-20.14 of the School Code concerning a minor
33 enrolled in a school within the school district who has
34 been arrested or taken into custody for any of the

1 following offenses:

2 (i) unlawful use of weapons under Section 24-1
3 of the Criminal Code of 1961;

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

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

8 (iv) a forcible felony as defined in Section
9 2-8 of the Criminal Code of 1961.

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

23 (B) (1) Except as provided in paragraph (2), no law
24 enforcement officer or other person or agency may
25 knowingly transmit to the Department of Corrections,
26 Adult Division or the Department of State Police or to
27 the Federal Bureau of Investigation any fingerprint or
28 photograph relating to a minor who has been arrested or
29 taken into custody before his or her ~~18th~~ 17th birthday,
30 unless the court in proceedings under this Act authorizes
31 the transmission or enters an order under Section 5-805
32 permitting ~~or~~ requiring the institution of criminal
33 proceedings.

34 (2) Law enforcement officers or other persons or

1 agencies shall transmit to the Department of State
2 Police copies of fingerprints and descriptions of all
3 minors who have been arrested or taken into custody
4 before their 18th ~~17th~~ birthday for the offense of
5 unlawful use of weapons under Article 24 of the Criminal
6 Code of 1961, a Class X or Class 1 felony, a forcible
7 felony as defined in Section 2-8 of the Criminal Code of
8 1961, or a Class 2 or greater felony under the Cannabis
9 Control Act, the Illinois Controlled Substances Act, or
10 Chapter 4 of the Illinois Vehicle Code, pursuant to
11 Section 5 of the Criminal Identification Act.
12 Information reported to the Department pursuant to this
13 Section may be maintained with records that the
14 Department files pursuant to Section 2.1 of the Criminal
15 Identification Act. Nothing in this Act prohibits a law
16 enforcement agency from fingerprinting a minor taken into
17 custody or arrested before his or her 18th ~~17th~~ birthday
18 for an offense other than those listed in this paragraph
19 (2).

20 (C) The records of law enforcement officers concerning
21 all minors under 18 ~~17~~ years of age must be maintained
22 separate from the records of arrests and may not be open to
23 public inspection or their contents disclosed to the public
24 except by order of the court or when the institution of
25 criminal proceedings has been permitted ~~or~~ required under
26 Section 5-805 or such a person has been convicted of a crime
27 and is the subject of pre-sentence investigation or
28 proceedings on an application for probation or when provided
29 by law.

30 (D) Nothing contained in subsection (C) of this Section
31 shall prohibit the inspection or disclosure to victims and
32 witnesses of photographs contained in the records of law
33 enforcement agencies when the inspection and disclosure is
34 conducted in the presence of a law enforcement officer for

1 the purpose of the identification or apprehension of any
2 person subject to the provisions of this Act or for the
3 investigation or prosecution of any crime.

4 (E) Law enforcement officers may not disclose the
5 identity of any minor in releasing information to the general
6 public as to the arrest, investigation or disposition of any
7 case involving a minor.

8 (F) Nothing contained in this Section shall prohibit law
9 enforcement agencies from communicating with each other by
10 letter, memorandum, teletype or intelligence alert bulletin
11 or other means the identity or other relevant information
12 pertaining to a person under 18 ~~17~~ years of age if there are
13 reasonable grounds to believe that the person poses a real
14 and present danger to the safety of the public or law
15 enforcement officers. The information provided under this
16 subsection (F) shall remain confidential and shall not be
17 publicly disclosed, except as otherwise allowed by law.

18 (G) Nothing in this Section shall prohibit the right of
19 a Civil Service Commission or appointing authority of any
20 state, county or municipality examining the character and
21 fitness of an applicant for employment with a law enforcement
22 agency, correctional institution, or fire department from
23 obtaining and examining the records of any law enforcement
24 agency relating to any record of the applicant having been
25 arrested or taken into custody before the applicant's 18th
26 ~~17th~~ birthday.

27 (Source: P.A. 91-357, eff. 7-29-99; 91-368, eff. 1-1-00;
28 92-415, eff. 8-17-01.)

29 (705 ILCS 405/1-8) (from Ch. 37, par. 801-8)

30 Sec. 1-8. Confidentiality and accessibility of juvenile
31 court records.

32 (A) Inspection and copying of juvenile court records
33 relating to a minor who is the subject of a proceeding under

1 this Act shall be restricted to the following:

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

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

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

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

25 (3) Judges, hearing officers, prosecutors,
26 probation officers, social workers or other individuals
27 assigned by the court to conduct a pre-adjudication or
28 predisposition investigation, and individuals responsible
29 for supervising or providing temporary or permanent care
30 and custody for minors pursuant to the order of the
31 juvenile court when essential to performing their
32 responsibilities.

33 (4) Judges, prosecutors and probation officers:

34 (a) in the course of a trial when institution

1 of criminal proceedings has been permitted or
2 required under Section 5-805; or

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

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

12 (d) when a minor becomes 18 17 years of age or
13 older, and is the subject of criminal proceedings,
14 including a hearing to determine the amount of bail,
15 a pre-trial investigation, a pre-sentence
16 investigation, a fitness hearing, or proceedings on
17 an application for probation.

18 (5) Adult and Juvenile Prisoner Review Boards.

19 (6) Authorized military personnel.

20 (7) Victims, their subrogees and legal
21 representatives; however, such persons shall have access
22 only to the name and address of the minor and information
23 pertaining to the disposition or alternative adjustment
24 plan of the juvenile court.

25 (8) Persons engaged in bona fide research, with the
26 permission of the presiding judge of the juvenile court
27 and the chief executive of the agency that prepared the
28 particular records; provided that publication of such
29 research results in no disclosure of a minor's identity
30 and protects the confidentiality of the record.

31 (9) The Secretary of State to whom the Clerk of the
32 Court shall report the disposition of all cases, as
33 required in Section 6-204 of the Illinois Vehicle Code.
34 However, information reported relative to these offenses

1 shall be privileged and available only to the Secretary
2 of State, courts, and police officers.

3 (10) The administrator of a bonafide substance
4 abuse student assistance program with the permission of
5 the presiding judge of the juvenile court.

6 (11) Mental health professionals on behalf of the
7 Illinois Department of Corrections or the Department of
8 Human Services or prosecutors who are evaluating,
9 prosecuting, or investigating a potential or actual
10 petition brought under the Sexually Persons Commitment
11 Act relating to a person who is the subject of juvenile
12 court records or the respondent to a petition brought
13 under the Sexually Violent Persons Commitment Act, who is
14 the subject of juvenile court records sought. Any
15 records and any information obtained from those records
16 under this paragraph (11) may be used only in sexually
17 violent persons commitment proceedings.

18 (B) A minor who is the victim in a juvenile proceeding
19 shall be provided the same confidentiality regarding
20 disclosure of identity as the minor who is the subject of
21 record.

22 (C) Except as otherwise provided in this subsection (C),
23 juvenile court records shall not be made available to the
24 general public but may be inspected by representatives of
25 agencies, associations and news media or other properly
26 interested persons by general or special order of the court.
27 The State's Attorney, the minor, his parents, guardian and
28 counsel shall at all times have the right to examine court
29 files and records.

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

34 (A) The adjudication of delinquency was based

1 upon the minor's commission of first degree murder,
2 attempt to commit first degree murder, aggravated
3 criminal sexual assault, or criminal sexual assault;
4 or

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

22 (2) The court shall allow the general public to
23 have access to the name, address, and offense of a minor
24 who is at least 13 years of age at the time the offense
25 is committed and who is convicted, in criminal
26 proceedings permitted ~~or~~ required under Section 5-805
27 5-4, under either of the following circumstances:

28 (A) The minor has been convicted of first
29 degree murder, attempt to commit first degree
30 murder, aggravated criminal sexual assault, or
31 criminal sexual assault,

32 (B) The court has made a finding that the
33 minor was at least 13 years of age at the time the
34 offense was committed and the conviction was based

1 upon the minor's commission of: (i) an offense in
2 furtherance of the commission of a felony as a
3 member of or on behalf of a criminal street gang,
4 (ii) an offense involving the use of a firearm in
5 the commission of a felony, (iii) a Class X felony
6 offense under or a second or subsequent Class 2 or
7 greater felony offense under the Cannabis Control
8 Act, (iv) a second or subsequent offense under
9 Section 402 of the Illinois Controlled Substances
10 Act, or (v) an offense under Section 401 of the
11 Illinois Controlled Substances Act.

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

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

30 (F) Following any adjudication of delinquency for a
31 crime which would be a felony if committed by an adult, or
32 following any adjudication of delinquency for a violation of
33 Section 24-1, 24-3, 24-3.1, or 24-5 of the Criminal Code of
34 1961, the State's Attorney shall ascertain whether the minor

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

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

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

21 (I) The Clerk of the Circuit Court shall report to the
22 Department of State Police, in the form and manner required
23 by the Department of State Police, the final disposition of
24 each minor who has been arrested or taken into custody before
25 his or her ~~18th~~ 17th birthday for those offenses required to
26 be reported under Section 5 of the Criminal Identification
27 Act. Information reported to the Department under this
28 Section may be maintained with records that the Department
29 files under Section 2.1 of the Criminal Identification Act.

30 (Source: P.A. 91-357, eff. 7-29-99; 91-368, eff. 1-1-00,
31 92-415, eff. 8-17-01.)

32 (705 ILCS 405/1-9) (from Ch. 37, par. 801-9)

33 Sec. 1-9. Expungement of law enforcement and juvenile

1 court records.

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

4 (2) This subsection (2) applies to expungement of law
5 enforcement and juvenile court records other than delinquency
6 proceedings. Whenever any person has attained the age of 18
7 ~~17~~ or whenever all juvenile court proceedings relating to
8 that person have been terminated, whichever is later, the
9 person may petition the court to expunge law enforcement
10 records relating to incidents occurring before his 18th ~~17th~~
11 birthday or his juvenile court records, or both, if the
12 minor was placed under supervision pursuant to Sections 2-20,
13 3-21, or 4-18, and such order of supervision has since been
14 successfully terminated.

15 (3) The chief judge of the circuit in which an arrest
16 was made or a charge was brought or any judge of that circuit
17 designated by the chief judge may, upon verified petition of
18 a person who is the subject of an arrest or a juvenile court
19 proceeding pursuant to subsection (2) of this Section, order
20 the law enforcement records or juvenile court records, or
21 both, to be expunged from the official records of the
22 arresting authority and the clerk of the circuit court.
23 Notice of the petition shall be served upon the State's
24 Attorney and upon the arresting authority which is the
25 subject of the petition for expungement.

26 (Source: P.A. 90-590, eff. 1-1-99.)

27 (705 ILCS 405/2-10) (from Ch. 37, par. 802-10)

28 Sec. 2-10. Temporary custody hearing. At the appearance
29 of the minor before the court at the temporary custody
30 hearing, all witnesses present shall be examined before the
31 court in relation to any matter connected with the
32 allegations made in the petition.

33 (1) If the court finds that there is not probable cause

1 to believe that the minor is abused, neglected or dependent
2 it shall release the minor and dismiss the petition.

3 (2) If the court finds that there is probable cause to
4 believe that the minor is abused, neglected or dependent, the
5 court shall state in writing the factual basis supporting its
6 finding and the minor, his or her parent, guardian, custodian
7 and other persons able to give relevant testimony shall be
8 examined before the court. The Department of Children and
9 Family Services shall give testimony concerning indicated
10 reports of abuse and neglect, of which they are aware of
11 through the central registry, involving the minor's parent,
12 guardian or custodian. After such testimony, the court may,
13 consistent with the health, safety and best interests of the
14 minor, enter an order that the minor shall be released upon
15 the request of parent, guardian or custodian if the parent,
16 guardian or custodian appears to take custody. Custodian
17 shall include any agency of the State which has been given
18 custody or wardship of the child. If it is consistent with
19 the health, safety and best interests of the minor, the court
20 may also prescribe shelter care and order that the minor be
21 kept in a suitable place designated by the court or in a
22 shelter care facility designated by the Department of
23 Children and Family Services or a licensed child welfare
24 agency; however, a minor charged with a criminal offense
25 under the Criminal Code of 1961 or adjudicated delinquent
26 shall not be placed in the custody of or committed to the
27 Department of Children and Family Services by any court,
28 except a minor less than 13 years of age and committed to the
29 Department of Children and Family Services under Section
30 5-710 of this Act or a minor for whom an independent basis of
31 abuse, neglect, or dependency exists, which must be defined
32 by departmental rule. In placing the minor, the Department or
33 other agency shall, to the extent compatible with the court's
34 order, comply with Section 7 of the Children and Family

1 Services Act. In determining the health, safety and best
2 interests of the minor to prescribe shelter care, the court
3 must find that it is a matter of immediate and urgent
4 necessity for the safety and protection of the minor or of
5 the person or property of another that the minor be placed in
6 a shelter care facility or that he or she is likely to flee
7 the jurisdiction of the court, and must further find that
8 reasonable efforts have been made or that, consistent with
9 the health, safety and best interests of the minor, no
10 efforts reasonably can be made to prevent or eliminate the
11 necessity of removal of the minor from his or her home. The
12 court shall require documentation from the Department of
13 Children and Family Services as to the reasonable efforts
14 that were made to prevent or eliminate the necessity of
15 removal of the minor from his or her home or the reasons why
16 no efforts reasonably could be made to prevent or eliminate
17 the necessity of removal. When a minor is placed in the home
18 of a relative, the Department of Children and Family Services
19 shall complete a preliminary background review of the members
20 of the minor's custodian's household in accordance with
21 Section 4.3 of the Child Care Act of 1969 within 90 days of
22 that placement. If the minor is ordered placed in a shelter
23 care facility of the Department of Children and Family
24 Services or a licensed child welfare agency, the court shall,
25 upon request of the appropriate Department or other agency,
26 appoint the Department of Children and Family Services
27 Guardianship Administrator or other appropriate agency
28 executive temporary custodian of the minor and the court may
29 enter such other orders related to the temporary custody as
30 it deems fit and proper, including the provision of services
31 to the minor or his family to ameliorate the causes
32 contributing to the finding of probable cause or to the
33 finding of the existence of immediate and urgent necessity.
34 Acceptance of services shall not be considered an admission

1 of any allegation in a petition made pursuant to this Act,
2 nor may a referral of services be considered as evidence in
3 any proceeding pursuant to this Act, except where the issue
4 is whether the Department has made reasonable efforts to
5 reunite the family. In making its findings that it is
6 consistent with the health, safety and best interests of the
7 minor to prescribe shelter care, the court shall state in
8 writing (i) the factual basis supporting its findings
9 concerning the immediate and urgent necessity for the
10 protection of the minor or of the person or property of
11 another and (ii) the factual basis supporting its findings
12 that reasonable efforts were made to prevent or eliminate the
13 removal of the minor from his or her home or that no efforts
14 reasonably could be made to prevent or eliminate the removal
15 of the minor from his or her home. The parents, guardian,
16 custodian, temporary custodian and minor shall each be
17 furnished a copy of such written findings. The temporary
18 custodian shall maintain a copy of the court order and
19 written findings in the case record for the child. The order
20 together with the court's findings of fact in support thereof
21 shall be entered of record in the court.

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

28 If the child is placed in the temporary custody of the
29 Department of Children and Family Services for his or her
30 protection, the court shall admonish the parents, guardian,
31 custodian or responsible relative that the parents must
32 cooperate with the Department of Children and Family
33 Services, comply with the terms of the service plans, and
34 correct the conditions which require the child to be in care,

1 or risk termination of their parental rights.

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

28 NOTICE TO PARENTS AND CHILDREN
29 OF SHELTER CARE HEARING

30 On at, before the
31 Honorable, (address:),
32 the State of Illinois will present evidence (1) that
33 (name of child or children) are
34 abused, neglected or dependent for the following reasons:

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

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

11 At the shelter care hearing, parents have the
12 following rights:

- 13 1. To ask the court to appoint a lawyer if
- 14 they cannot afford one.
- 15 2. To ask the court to continue the hearing to
- 16 allow them time to prepare.
- 17 3. To present evidence concerning:
 - 18 a. Whether or not the child or children
 - 19 were abused, neglected or dependent.
 - 20 b. Whether or not there is "immediate and
 - 21 urgent necessity" to remove the child from home
 - 22 (including: their ability to care for the
 - 23 child, conditions in the home, alternative
 - 24 means of protecting the child other than
 - 25 removal).
 - 26 c. The best interests of the child.
- 27 4. To cross examine the State's witnesses.

28 The Notice for rehearings shall be substantially as
29 follows:

30 NOTICE OF PARENT'S AND CHILDREN'S RIGHTS
31 TO REHEARING ON TEMPORARY CUSTODY

32 If you were not present at and did not have adequate
33 notice of the Shelter Care Hearing at which temporary
34 custody of was awarded to

1 , you have the right to request a full
2 rehearing on whether the State should have temporary
3 custody of To request this rehearing,
4 you must file with the Clerk of the Juvenile Court
5 (address): , in person or by
6 mailing a statement (affidavit) setting forth the
7 following:

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

14 The rehearing should be scheduled within 48 hours of
15 your filing this affidavit.

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

19 At the Shelter Care Hearing, children have the
20 following rights:

- 21 1. To have a guardian ad litem appointed.
- 22 2. To be declared competent as a witness and
- 23 to present testimony concerning:
 - 24 a. Whether they are abused, neglected or
 - 25 dependent.
 - 26 b. Whether there is "immediate and urgent
 - 27 necessity" to be removed from home.
 - 28 c. Their best interests.
- 29 3. To cross examine witnesses for other
- 30 parties.
- 31 4. To obtain an explanation of any proceedings
- 32 and orders of the court.

33 (4) If the parent, guardian, legal custodian,
34 responsible relative, minor age 8 or over, or counsel of the

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

8 (5) Only when there is reasonable cause to believe that
9 the minor taken into custody is a person described in
10 subsection (3) of Section 5-105 may the minor be kept or
11 detained in a detention home or county or municipal jail.
12 This Section shall in no way be construed to limit subsection
13 (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
16 prisoners in a police station. Minors under 18 17 years of
17 age must be kept separate from confined adults and may not at
18 any time be kept in the same cell, room, or yard with adults
19 confined pursuant to the criminal law.

20 (7) If the minor is not brought before a judicial
21 officer within the time period as specified in Section 2-9,
22 the minor 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
27 later than 7 days after the original order and shall issue a
28 summons directed to the parent, guardian or custodian to
29 appear. At the same time the probation department shall
30 prepare a report on the minor. If a parent, guardian or
31 custodian does not appear at such rehearing, the judge may
32 enter an order prescribing that the minor be kept in a
33 suitable place designated by the Department of Children and
34 Family Services or a licensed child welfare agency.

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

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

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

17 (c) A person not a party to the alleged abuse,
18 neglect or dependency, including a parent, relative or
19 legal guardian, is capable of assuming temporary custody
20 of the minor; or

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

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

30 The clerk shall set the matter for hearing not later than
31 14 days after such motion is filed. In the event that the
32 court modifies or vacates a temporary custody order but does
33 not vacate its finding of probable cause, the court may order
34 that appropriate services be continued or initiated in behalf

1 of the minor and his or her family.

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

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

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

13 Once the presumption of immediate and urgent necessity
14 has been raised, the burden of demonstrating the lack of
15 immediate and urgent necessity shall be on any party that is
16 opposing shelter care for the other minor.

17 (Source: P.A. 89-21, eff. 7-1-95; 89-422; 89-582, eff.
18 1-1-97; 89-626, eff. 8-9-96; 90-28, eff. 1-1-98; 90-87, eff.
19 9-1-97; 90-590, eff. 1-1-99; 90-655, eff. 7-30-98.)

20 (705 ILCS 405/3-12) (from Ch. 37, par. 803-12)

21 Sec. 3-12. Shelter care hearing. At the appearance of
22 the minor before the court at the shelter care hearing, all
23 witnesses present shall be examined before the court in
24 relation to any matter connected with the allegations made in
25 the petition.

26 (1) If the court finds that there is not probable cause
27 to believe that the minor is a person requiring authoritative
28 intervention, it shall release the minor and dismiss the
29 petition.

30 (2) If the court finds that there is probable cause to
31 believe that the minor is a person requiring authoritative
32 intervention, the minor, his or her parent, guardian,
33 custodian and other persons able to give relevant testimony

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

1 court may enter such other orders related to the temporary
2 custody as it deems fit and proper, including the provision
3 of services to the minor or his family to ameliorate the
4 causes contributing to the finding of probable cause or to
5 the finding of the existence of immediate and urgent
6 necessity. Acceptance of services shall not be considered an
7 admission of any allegation in a petition made pursuant to
8 this Act, nor may a referral of services be considered as
9 evidence in any proceeding pursuant to this Act, except where
10 the issue is whether the Department has made reasonable
11 efforts to reunite the family. In making its findings that
12 reasonable efforts have been made or that good cause has been
13 shown why reasonable efforts cannot prevent or eliminate the
14 necessity of removal of the minor from his or her home, the
15 court shall state in writing its findings concerning the
16 nature of the services that were offered or the efforts that
17 were made to prevent removal of the child and the apparent
18 reasons that such services or efforts could not prevent the
19 need for removal. The parents, guardian, custodian,
20 temporary custodian and minor shall each be furnished a copy
21 of such written findings. The temporary custodian shall
22 maintain a copy of the court order and written findings in
23 the case record for the child.

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

26 Once the court finds that it is a matter of immediate and
27 urgent necessity for the protection of the minor that the
28 minor be placed in a shelter care facility, the minor shall
29 not be returned to the parent, custodian or guardian until
30 the court finds that such placement is no longer necessary
31 for the protection of the minor.

32 (3) If prior to the shelter care hearing for a minor
33 described in Sections 2-3, 2-4, 3-3 and 4-3 the petitioner is
34 unable to serve notice on the party respondent, the shelter

1 care hearing may proceed ex-parte. A shelter care order from
 2 an ex-parte hearing shall be endorsed with the date and hour
 3 of issuance and shall be filed with the clerk's office and
 4 entered of record. The order shall expire after 10 days from
 5 the time it is issued unless before its expiration it is
 6 renewed, at a hearing upon appearance of the party
 7 respondent, or upon an affidavit of the moving party as to
 8 all diligent efforts to notify the party respondent by notice
 9 as herein prescribed. The notice prescribed shall be in
 10 writing and shall be personally delivered to the minor or the
 11 minor's attorney and to the last known address of the other
 12 person or persons entitled to notice. The notice shall also
 13 state the nature of the allegations, the nature of the order
 14 sought by the State, including whether temporary custody is
 15 sought, and the consequences of failure to appear; and shall
 16 explain the right of the parties and the procedures to vacate
 17 or modify a shelter care order as provided in this Section.
 18 The notice for a shelter care hearing shall be substantially
 19 as follows:

20 NOTICE TO PARENTS AND CHILDREN OF SHELTER CARE HEARING

21 On at, before the Honorable
 22, (address:), the State of
 23 Illinois will present evidence (1) that (name of child or
 24 children) are abused, neglected or
 25 dependent for the following reasons:

26
 27 and (2) that there is "immediate and urgent necessity" to
 28 remove the child or children from the responsible relative.

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

33 At the shelter care hearing, parents have the following
 34 rights:

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

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

5 3. To present evidence concerning:

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

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

13 c. The best interests of the child.

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

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

17 NOTICE OF PARENT'S AND CHILDREN'S RIGHTS
18 TO REHEARING ON TEMPORARY CUSTODY

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

28 1. That you were not present at the shelter care
29 hearing.

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

32 3. Your signature.

33 4. Signature must be notarized.

34 The rehearing should be scheduled within one day of your

1 filing this affidavit.

2 At the rehearing, your rights are the same as at the
3 initial shelter care hearing. The enclosed notice explains
4 those rights.

5 At the Shelter Care Hearing, children have the following
6 rights:

- 7 1. To have a guardian ad litem appointed.
- 8 2. To be declared competent as a witness and to
9 present testimony concerning:
 - 10 a. Whether they are abused, neglected or
11 dependent.
 - 12 b. Whether there is "immediate and urgent
13 necessity" to be removed from home.
 - 14 c. Their best interests.
- 15 3. To cross examine witnesses for other parties.
- 16 4. To obtain an explanation of any proceedings and
17 orders of the court.

18 (4) If the parent, guardian, legal custodian,
19 responsible relative, or counsel of the minor did not have
20 actual notice of or was not present at the shelter care
21 hearing, he or she may file an affidavit setting forth these
22 facts, and the clerk shall set the matter for rehearing not
23 later than 48 hours, excluding Sundays and legal holidays,
24 after the filing of the affidavit. At the rehearing, the
25 court shall proceed in the same manner as upon the original
26 hearing.

27 (5) Only when there is reasonable cause to believe that
28 the minor taken into custody is a person described in
29 subsection (3) of Section 5-105 may the minor be kept or
30 detained in a detention home or county or municipal jail.
31 This Section shall in no way be construed to limit subsection
32 (6).

33 (6) No minor under 16 years of age may be confined in a
34 jail or place ordinarily used for the confinement of

1 prisoners in a police station. Minors under 18 17 years of
2 age must be kept separate from confined adults and may not at
3 any time be kept in the same cell, room, or yard with adults
4 confined pursuant to the criminal law.

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

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

20 (9) Notwithstanding any other provision of this Section,
21 any interested party, including the State, the temporary
22 custodian, an agency providing services to the minor or
23 family under a service plan pursuant to Section 8.2 of the
24 Abused and Neglected Child Reporting Act, foster parent, or
25 any of their representatives, on notice to all parties
26 entitled to notice, may file a motion to modify or vacate a
27 temporary custody order on any of the following grounds:

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

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

34 (c) A person, including a parent, relative or legal

1 guardian, is capable of assuming temporary custody of the
2 minor; or

3 (d) Services provided by the Department of Children
4 and Family Services or a child welfare agency or other
5 service provider have been successful in eliminating the
6 need for temporary custody.

7 The clerk shall set the matter for hearing not later than
8 14 days after such motion is filed. In the event that the
9 court modifies or vacates a temporary custody order but does
10 not vacate its finding of probable cause, the court may order
11 that appropriate services be continued or initiated in behalf
12 of the minor and his or her family.

13 (Source: P.A. 90-590, eff. 1-1-99.)

14 (705 ILCS 405/4-9) (from Ch. 37, par. 804-9)

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

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

23 (2) If the court finds that there is probable cause to
24 believe that the minor is addicted, the minor, his or her
25 parent, guardian, custodian and other persons able to give
26 relevant testimony shall be examined before the court. After
27 such testimony, the court may enter an order that the minor
28 shall be released upon the request of a parent, guardian or
29 custodian if the parent, guardian or custodian appears to
30 take custody and agrees to abide by a court order which
31 requires the minor and his or her parent, guardian, or legal
32 custodian to complete an evaluation by an entity licensed by
33 the Department of Human Services, as the successor to the

1 Department of Alcoholism and Substance Abuse, and complete
2 any treatment recommendations indicated by the assessment.
3 Custodian shall include any agency of the State which has
4 been given custody or wardship of the child.

5 The Court shall require documentation by representatives
6 of the Department of Children and Family Services or the
7 probation department as to the reasonable efforts that were
8 made to prevent or eliminate the necessity of removal of the
9 minor from his or her home, and shall consider the testimony
10 of any person as to those reasonable efforts. If the court
11 finds that it is a matter of immediate and urgent necessity
12 for the protection of the minor or of the person or property
13 of another that the minor be or placed in a shelter care
14 facility or that he or she is likely to flee the jurisdiction
15 of the court, and further, finds that reasonable efforts have
16 been made or good cause has been shown why reasonable efforts
17 cannot prevent or eliminate the necessity of removal of the
18 minor from his or her home, the court may prescribe shelter
19 care and order that the minor be kept in a suitable place
20 designated by the court or in a shelter care facility
21 designated by the Department of Children and Family Services
22 or a licensed child welfare agency, or in a facility or
23 program licensed by the Department of Human Services for
24 shelter and treatment services; otherwise it shall release
25 the minor from custody. If the court prescribes shelter
26 care, then in placing the minor, the Department or other
27 agency shall, to the extent compatible with the court's
28 order, comply with Section 7 of the Children and Family
29 Services Act. If the minor is ordered placed in a shelter
30 care facility of the Department of Children and Family
31 Services or a licensed child welfare agency, or in a facility
32 or program licensed by the Department of Human Services for
33 shelter and treatment services, the court shall, upon request
34 of the appropriate Department or other agency, appoint the

1 Department of Children and Family Services Guardianship
2 Administrator or other appropriate agency executive temporary
3 custodian of the minor and the court may enter such other
4 orders related to the temporary custody as it deems fit and
5 proper, including the provision of services to the minor or
6 his family to ameliorate the causes contributing to the
7 finding of probable cause or to the finding of the existence
8 of immediate and urgent necessity. Acceptance of services
9 shall not be considered an admission of any allegation in a
10 petition made pursuant to this Act, nor may a referral of
11 services be considered as evidence in any proceeding pursuant
12 to this Act, except where the issue is whether the Department
13 has made reasonable efforts to reunite the family. In making
14 its findings that reasonable efforts have been made or that
15 good cause has been shown why reasonable efforts cannot
16 prevent or eliminate the necessity of removal of the minor
17 from his or her home, the court shall state in writing its
18 findings concerning the nature of the services that were
19 offered or the efforts that were made to prevent removal of
20 the child and the apparent reasons that such services or
21 efforts could not prevent the need for removal. The parents,
22 guardian, custodian, temporary custodian and minor shall each
23 be furnished a copy of such written findings. The temporary
24 custodian shall maintain a copy of the court order and
25 written findings in the case record for the child. The order
26 together with the court's findings of fact in support thereof
27 shall be entered of record in the court.

28 Once the court finds that it is a matter of immediate and
29 urgent necessity for the protection of the minor that the
30 minor be placed in a shelter care facility, the minor shall
31 not be returned to the parent, custodian or guardian until
32 the court finds that such placement is no longer necessary
33 for the protection of the minor.

34 (3) If neither the parent, guardian, legal custodian,

1 responsible relative nor counsel of the minor has had actual
2 notice of or is present at the shelter care hearing, he or
3 she may file his or her affidavit setting forth these facts,
4 and the clerk shall set the matter for rehearing not later
5 than 24 hours, excluding Sundays and legal holidays, after
6 the filing of the affidavit. At the rehearing, the court
7 shall proceed in the same manner as upon the original
8 hearing.

9 (4) If the minor is not brought before a judicial
10 officer within the time period as specified in Section 4-8,
11 the minor must immediately be released from custody.

12 (5) Only when there is reasonable cause to believe that
13 the minor taken into custody is a person described in
14 subsection (3) of Section 5-105 may the minor be kept or
15 detained in a detention home or county or municipal jail.
16 This Section shall in no way be construed to limit subsection
17 (6).

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

24 (7) If neither the parent, guardian or custodian appears
25 within 24 hours to take custody of a minor released upon
26 request pursuant to subsection (2) of this Section, then the
27 clerk of the court shall set the matter for rehearing not
28 later than 7 days after the original order and shall issue a
29 summons directed to the parent, guardian or custodian to
30 appear. At the same time the probation department shall
31 prepare a report on the minor. If a parent, guardian or
32 custodian does not appear at such rehearing, the judge may
33 enter an order prescribing that the minor be kept in a
34 suitable place designated by the Department of Children and

1 Family Services or a licensed child welfare agency.

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

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

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

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

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

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

28 (Source: P.A. 89-422; 89-507, eff. 7-1-97; 90-590, eff.
29 1-1-99.)

30 (705 ILCS 405/5-105)

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

32 (1) "Court" means the circuit court in a session or
33 division assigned to hear proceedings under this Act, and

1 includes the term Juvenile Court.

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

4 (2.5) "Community service agency" means a not-for-profit
5 organization, community organization, church, charitable
6 organization, individual, public office, or other public body
7 whose purpose is to enhance the physical or mental health of
8 a delinquent minor or to rehabilitate the minor, or to
9 improve the environmental quality or social welfare of the
10 community which agrees to accept community service from
11 juvenile delinquents and to report on the progress of the
12 community service to the State's Attorney pursuant to an
13 agreement or to the court or to any agency designated by the
14 court or to the authorized diversion program that has
15 referred the delinquent minor for community service.

16 (3) "Delinquent minor" means any minor who prior to his
17 or her 18th ~~17th~~ birthday has violated or attempted to
18 violate, regardless of where the act occurred, any federal or
19 State law, county or municipal ordinance.

20 (4) "Department" means the Department of Human Services
21 unless specifically referenced as another department.

22 (5) "Detention" means the temporary care of a minor who
23 is alleged to be or has been adjudicated delinquent and who
24 requires secure custody for the minor's own protection or the
25 community's protection in a facility designed to physically
26 restrict the minor's movements, pending disposition by the
27 court or execution of an order of the court for placement or
28 commitment. Design features that physically restrict
29 movement include, but are not limited to, locked rooms and
30 the secure handcuffing of a minor to a rail or other
31 stationary object. In addition, "detention" includes the
32 court ordered care of an alleged or adjudicated delinquent
33 minor who requires secure custody pursuant to Section 5-125
34 of this Act.

1 (6) "Diversion" means the referral of a juvenile,
2 without court intervention, into a program that provides
3 services designed to educate the juvenile and develop a
4 productive and responsible approach to living in the
5 community.

6 (7) "Juvenile detention home" means a public facility
7 with specially trained staff that conforms to the county
8 juvenile detention standards promulgated by the Department of
9 Corrections.

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

29 (9) "Juvenile police officer" means a sworn police
30 officer who has completed a Basic Recruit Training Course,
31 has been assigned to the position of juvenile police officer
32 by his or her chief law enforcement officer and has completed
33 the necessary juvenile officers training as prescribed by the
34 Illinois Law Enforcement Training Standards Board, or in the

1 case of a State police officer, juvenile officer training
2 approved by the Director of State Police.

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

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

13 (12) "Public or community service" means uncompensated
14 labor for a not-for-profit organization or public body whose
15 purpose is to enhance physical or mental stability of the
16 offender, environmental quality or the social welfare and
17 which agrees to accept public or community service from
18 offenders and to report on the progress of the offender and
19 the public or community service to the court or to the
20 authorized diversion program that has referred the offender
21 for public or community service.

22 (13) "Sentencing hearing" means a hearing to determine
23 whether a minor should be adjudged a ward of the court, and
24 to determine what sentence should be imposed on the minor.
25 It is the intent of the General Assembly that the term
26 "sentencing hearing" replace the term "dispositional hearing"
27 and be synonymous with that definition as it was used in the
28 Juvenile Court Act of 1987.

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

32 (15) "Site" means a not-for-profit organization, public
33 body, church, charitable organization, or individual agreeing
34 to accept community service from offenders and to report on

1 the progress of ordered or required public or community
2 service to the court or to the authorized diversion program
3 that has referred the offender for public or community
4 service.

5 (16) "Station adjustment" means the informal or formal
6 handling of an alleged offender by a juvenile police officer.

7 (17) "Trial" means a hearing to determine whether the
8 allegations of a petition under Section 5-520 that a minor is
9 delinquent are proved beyond a reasonable doubt. It is the
10 intent of the General Assembly that the term "trial" replace
11 the term "adjudicatory hearing" and be synonymous with that
12 definition as it was used in the Juvenile Court Act of 1987.
13 (Source: P.A. 90-590, eff. 1-1-99; 91-820, eff. 6-13-00.)

14 (705 ILCS 405/5-120)

15 Sec. 5-120. Exclusive jurisdiction. Proceedings may be
16 instituted under the provisions of this Article concerning
17 any minor who prior to the minor's 18th ~~17th~~ birthday has
18 violated or attempted to violate, regardless of where the act
19 occurred, any federal or State law or municipal or county
20 ordinance. Except as provided in Sections 5-125, 5-~~130~~₇,
21 5-805, and 5-810 of this Article, no minor who was under 18
22 ~~17~~ years of age at the time of the alleged offense may be
23 prosecuted under the criminal laws of this State.

24 (Source: P.A. 90-590, eff. 1-1-99.)

25 (705 ILCS 405/5-407)

26 Sec. 5-407. Processing of juvenile in possession of a
27 firearm.

28 (a) If a law enforcement officer detains a minor
29 pursuant to Section 10-27.1A of the School Code, the officer
30 shall deliver the minor to the nearest juvenile officer, in
31 the manner prescribed by subsection (2) of Section 5-405 of
32 this Act. The juvenile officer shall deliver the minor

1 without unnecessary delay to the court or to the place
2 designated by rule or order of court for the reception of
3 minors. In no event shall the minor be eligible for any
4 other disposition by the juvenile police officer,
5 notwithstanding the provisions of subsection (3) of Section
6 5-405 of this Act.

7 (b) Minors ~~not--excluded--from--this-Act's-jurisdiction~~
8 ~~under-subsection-(3)(a)-of-Section-5-130-of-this-Act~~ shall be
9 brought before a judicial officer within 40 hours, exclusive
10 of Saturdays, Sundays, and court-designated holidays, for a
11 detention hearing to determine whether he or she shall be
12 further held in custody. If the court finds that there is
13 probable cause to believe that the minor is a delinquent
14 minor by virtue of his or her violation of item (4) of
15 subsection (a) of Section 24-1 of the Criminal Code of 1961
16 while on school grounds, that finding shall create a
17 presumption that immediate and urgent necessity exists under
18 subdivision (2) of Section 5-501 of this Act. Once the
19 presumption of immediate and urgent necessity has been
20 raised, the burden of demonstrating the lack of immediate and
21 urgent necessity shall be on any party that is opposing
22 detention for the minor. Should the court order detention
23 pursuant to this Section, the minor shall be detained,
24 pending the results of a court-ordered psychological
25 evaluation to determine if the minor is a risk to himself,
26 herself, or others. Upon receipt of the psychological
27 evaluation, the court shall review the determination
28 regarding the existence of urgent and immediate necessity.
29 The court shall consider the psychological evaluation in
30 conjunction with the other factors identified in subdivision
31 (2) of Section 5-501 of this Act in order to make a de novo
32 determination regarding whether it is a matter of immediate
33 and urgent necessity for the protection of the minor or of
34 the person or property of another that the minor be detained

1 or placed in a shelter care facility. In addition to the
2 pre-trial conditions found in Section 5-505 of this Act, the
3 court may order the minor to receive counseling and any other
4 services recommended by the psychological evaluation as a
5 condition for release of the minor.

6 (c) Upon making a determination that the student
7 presents a risk to himself, herself, or others, the court
8 shall issue an order restraining the student from entering
9 the property of the school if he or she has been suspended or
10 expelled from the school as a result of possessing a firearm.
11 The order shall restrain the student from entering the school
12 and school owned or leased property, including any conveyance
13 owned, leased, or contracted by the school to transport
14 students to or from school or a school-related activity. The
15 order shall remain in effect until such time as the court
16 determines that the student no longer presents a risk to
17 himself, herself, or others.

18 (d) Psychological evaluations ordered pursuant to
19 subsection (b) of this Section and statements made by the
20 minor during the course of these evaluations, shall not be
21 admissible on the issue of delinquency during the course of
22 any adjudicatory hearing held under this Act.

23 (e) In this Section:

24 "School" means any public or private elementary or
25 secondary school.

26 "School grounds" includes the real property comprising
27 any school, any conveyance owned, leased, or contracted by a
28 school to transport students to or from school or a
29 school-related activity, or any public way within 1,000 feet
30 of the real property comprising any school.

31 (Source: P.A. 91-11, eff. 6-4-99.)

32 (705 ILCS 405/5-410)

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

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

6 (2) (a) Any minor 10 years of age or older arrested
7 pursuant to this Act where there is probable cause to believe
8 that the minor is a delinquent minor and that (i) secured
9 custody is a matter of immediate and urgent necessity for the
10 protection of the minor or of the person or property of
11 another, (ii) the minor is likely to flee the jurisdiction of
12 the court, or (iii) the minor was taken into custody under a
13 warrant, may be kept or detained in an authorized detention
14 facility. No minor under 12 years of age shall be detained
15 in a county jail or a municipal lockup for more than 6 hours.

16 (b) The written authorization of the probation officer
17 or detention officer (or other public officer designated by
18 the court in a county having 3,000,000 or more inhabitants)
19 constitutes authority for the superintendent of any juvenile
20 detention home to detain and keep a minor for up to 40 hours,
21 excluding Saturdays, Sundays and court-designated holidays.
22 These records shall be available to the same persons and
23 pursuant to the same conditions as are law enforcement
24 records as provided in Section 5-905.

25 (b-4) The consultation required by subsection (b-5)
26 shall not be applicable if the probation officer or detention
27 officer (or other public officer designated by the court in a
28 county having 3,000,000 or more inhabitants) utilizes a
29 scorable detention screening instrument, which has been
30 developed with input by the State's Attorney, to determine
31 whether a minor should be detained, however, subsection (b-5)
32 shall still be applicable where no such screening instrument
33 is used or where the probation officer, detention officer (or
34 other public officer designated by the court in a county

1 having 3,000,000 or more inhabitants) deviates from the
2 screening instrument.

3 (b-5) Subject to the provisions of subsection (b-4), if
4 a probation officer or detention officer (or other public
5 officer designated by the court in a county having 3,000,000
6 or more inhabitants) does not intend to detain a minor for an
7 offense which constitutes one of the following offenses he or
8 she shall consult with the State's Attorney's Office prior to
9 the release of the minor: first degree murder, second degree
10 murder, involuntary manslaughter, criminal sexual assault,
11 aggravated criminal sexual assault, aggravated battery with a
12 firearm, aggravated or heinous battery involving permanent
13 disability or disfigurement or great bodily harm, robbery,
14 aggravated robbery, armed robbery, vehicular hijacking,
15 aggravated vehicular hijacking, vehicular invasion, arson,
16 aggravated arson, kidnapping, aggravated kidnapping, home
17 invasion, burglary, or residential burglary.

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

26 (i) The period of detention is deemed to have begun once
27 the minor has been placed in a locked room or cell or
28 handcuffed to a stationary object in a building housing a
29 county jail or municipal lockup. Time spent transporting a
30 minor is not considered to be time in detention or secure
31 custody.

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

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

5 (iv) A log shall be kept which shows the offense which
6 is the basis for the detention, the reasons and circumstances
7 for the decision to detain and the length of time the minor
8 was in detention.

9 (v) Violation of the time limit on detention in a county
10 jail or municipal lockup shall not, in and of itself, render
11 inadmissible evidence obtained as a result of the violation
12 of this time limit. Minors under 18 17 years of age shall be
13 kept separate from confined adults and may not at any time be
14 kept in the same cell, room or yard with adults confined
15 pursuant to criminal law. Persons 18 17 years of age and
16 older who have a petition of delinquency filed against them
17 shall be confined in an adult detention facility.

18 (d) (i) If a minor 12 years of age or older is confined
19 in a county jail in a county with a population below
20 3,000,000 inhabitants, then the minor's confinement shall be
21 implemented in such a manner that there will be no contact by
22 sight, sound or otherwise between the minor and adult
23 prisoners. Minors 12 years of age or older must be kept
24 separate from confined adults and may not at any time be kept
25 in the same cell, room, or yard with confined adults. This
26 paragraph (d)(i) shall only apply to confinement pending an
27 adjudicatory hearing and shall not exceed 40 hours, excluding
28 Saturdays, Sundays and court designated holidays. To accept
29 or hold minors during this time period, county jails shall
30 comply with all monitoring standards promulgated by the
31 Department of Corrections and training standards approved by
32 the Illinois Law Enforcement Training Standards Board.

33 (ii) To accept or hold minors, 12 years of age or older,
34 after the time period prescribed in paragraph (d)(i) of this

1 subsection (2) of this Section but not exceeding 7 days
2 including Saturdays, Sundays and holidays pending an
3 adjudicatory hearing, county jails shall comply with all
4 temporary detention standards promulgated by the Department
5 of Corrections and training standards approved by the
6 Illinois Law Enforcement Training Standards Board.

7 (iii) To accept or hold minors 12 years of age or older,
8 after the time period prescribed in paragraphs (d)(i) and
9 (d)(ii) of this subsection (2) of this Section, county jails
10 shall comply with all programmatic and training standards for
11 juvenile detention homes promulgated by the Department of
12 Corrections.

13 (e) When a minor who is at least 15 years of age is
14 prosecuted under the criminal laws of this State, the court
15 may enter an order directing that the juvenile be confined in
16 the county jail. However, any juvenile confined in the
17 county jail under this provision shall be separated from
18 adults who are confined in the county jail in such a manner
19 that there will be no contact by sight, sound or otherwise
20 between the juvenile and adult prisoners.

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

27 (g) For purposes of processing a minor, the minor may be
28 taken to a County Jail or municipal lockup under the direct
29 and constant supervision of a law enforcement officer or
30 correctional officer. During such time as is necessary to
31 process the minor, and while supervised by a law enforcement
32 officer or correctional officer, the sight and sound
33 separation provisions shall not apply.

34 (3) If the probation officer or State's Attorney (or

1 such other public officer designated by the court in a county
 2 having 3,000,000 or more inhabitants) determines that the
 3 minor may be a delinquent minor as described in subsection
 4 (3) of Section 5-105, and should be retained in custody but
 5 does not require physical restriction, the minor may be
 6 placed in non-secure custody for up to 40 hours pending a
 7 detention hearing.

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

12 (Source: P.A. 90-590, eff. 1-1-99.)

13 (705 ILCS 405/5-805)

14 Sec. 5-805. Transfer of jurisdiction.

15 (1) (Blank) Mandatory transfers.

16 (a) --If--a--petition--alleges--commission--by--a--minor--15
 17 years--of--age--or--older--of--an--act--that--constitutes--a
 18 forcible--felony--under--the--laws--of--this--State,--and--if--a
 19 motion--by--the--State's--Attorney--to--prosecute--the--minor
 20 under--the--criminal--laws--of--Illinois--for--the--alleged
 21 forcible--felony--alleges--that--(i)--the--minor--has--previously
 22 been--adjudicated--delinquent---or---found---guilty---for
 23 commission--of--an--act--that--constitutes--a--felony--under--the
 24 laws--of--this--State--or--any--other--state--and--(ii)--the--act
 25 that--constitutes--the--offense--was--committed--in--furtherance
 26 of--criminal--activity--by--an--organized--gang,--the--Juvenile
 27 Judge--assigned--to--hear--and--determine--those--motions--shall,
 28 upon--determining--that--there--is--probable--cause--that--both
 29 allegations---are---true,---enter---an--order--permitting
 30 prosecution--under--the--criminal--laws--of--Illinois.

31 (b) --If--a--petition--alleges--commission--by--a--minor--15
 32 years--of--age--or--older--of--an--act--that--constitutes--a--felony
 33 under--the--laws--of--this--State,--and--if--a--motion--by--a

1 State's Attorney to prosecute the minor under the
2 criminal laws of Illinois for the alleged felony alleges
3 that (i) the minor has previously been adjudicated
4 delinquent or found guilty for commission of an act that
5 constitutes a forcible felony under the laws of this
6 State or any other state and (ii) the act that
7 constitutes the offense was committed in furtherance of
8 criminal activities by an organized gang, the Juvenile
9 Judge assigned to hear and determine those motions shall,
10 upon determining that there is probable cause that both
11 allegations are true, enter an order permitting
12 prosecution under the criminal laws of Illinois.

13 (c) If a petition alleges commission by a minor 15
14 years of age or older of (i) an act that constitutes an
15 offense enumerated in the presumptive transfer provisions
16 of subsection (2); and (ii) the minor has previously been
17 adjudicated delinquent or found guilty of a forcible
18 felony, the Juvenile Judge designated to hear and
19 determine those motions shall, upon determining that
20 there is probable cause that both allegations are true,
21 enter an order permitting prosecution under the criminal
22 laws of Illinois.

23 (d) If a petition alleges commission by a minor 15
24 years of age or older of an act that constitutes the
25 offense of aggravated discharge of a firearm committed in
26 a school, on the real property comprising a school,
27 within 1,000 feet of the real property comprising a
28 school, at a school-related activity, or on, boarding, or
29 departing from any conveyance owned, leased, or
30 contracted by a school or school district to transport
31 students to or from school or a school-related activity,
32 regardless of the time of day or the time of year, the
33 juvenile judge designated to hear and determine those
34 motions shall, upon determining that there is probable

1 cause-that-the--allegations--are--true,--enter--an--order
2 permitting---prosecution---under--the--criminal--laws--of
3 Illinois.

4 For purposes of this--paragraph--(d)--of--subsection
5 (1):

6 "School"--means--a--public--or--private--elementary--or
7 secondary--school,---community---college,---college,---or
8 university.

9 "School---related---activity"--means--any--sporting,
10 social,--academic,--or--other--activity--for--which--students'
11 attendance--or--participation--is--sponsored,--organized,--or
12 funded--in--whole--or--in--part--by--a--school--or--school
13 district.

14 (2) Presumptive transfer.

15 (a) If the State's Attorney files a petition, at
16 any time prior to commencement of the minor's trial, to
17 permit prosecution under the criminal laws and the
18 petition alleges the commission by a minor 15 years of
19 age or older of: (i) a Class X felony other than armed
20 violence; (ii) aggravated discharge of a firearm; (iii)
21 armed violence with a firearm when the predicate offense
22 is a Class 1 or Class 2 felony and the State's Attorney's
23 motion to transfer the case alleges that the offense
24 committed is in furtherance of the criminal activities of
25 an organized gang; (iv) armed violence with a firearm
26 when the predicate offense is a violation of the Illinois
27 Controlled Substances Act or a violation of the Cannabis
28 Control Act; (v) armed violence when the weapon involved
29 was a machine gun or other weapon described in subsection
30 (a)(7) of Section 24-1 of the Criminal Code of 1961, and,
31 if the juvenile judge assigned to hear and determine
32 motions to transfer a case for prosecution in the
33 criminal court determines that there is probable cause to
34 believe that the allegations in the petition and motion

1 are true, there is a rebuttable presumption that the
2 minor is not a fit and proper subject to be dealt with
3 under the Juvenile Justice Reform Provisions of 1998
4 (Public Act 90-590), and that, except as provided in
5 paragraph (b), the case should be transferred to the
6 criminal court.

7 (b) The judge shall enter an order permitting
8 prosecution under the criminal laws of Illinois unless
9 the judge makes a finding based on clear and convincing
10 evidence that the minor would be amenable to the care,
11 treatment, and training programs available through the
12 facilities of the juvenile court based on an evaluation
13 of the following:

14 (i) The seriousness of the alleged offense;

15 (ii) The minor's history of delinquency;

16 (iii) The age of the minor;

17 (iv) The culpability of the minor in committing
18 the alleged offense;

19 (v) Whether the offense was committed in an
20 aggressive or premeditated manner;

21 (vi) Whether the minor used or possessed a deadly
22 weapon when committing the alleged offense;

23 (vii) The minor's history of services, including
24 the minor's willingness to participate meaningfully in
25 available services;

26 (viii) Whether there is a reasonable likelihood that
27 the minor can be rehabilitated before the expiration of
28 the juvenile court's jurisdiction;

29 (ix) The adequacy of the punishment or services
30 available in the juvenile justice system.

31 In considering these factors, the court shall give
32 greater weight to the seriousness of the alleged offense and
33 the minor's prior record of delinquency than to the other
34 factors listed in this subsection.

1 (3) Discretionary transfer.

2 (a) If a petition alleges commission by a minor 13
3 years of age or over of an act that constitutes a crime
4 under the laws of this State and, on motion of the
5 State's Attorney to permit prosecution of the minor under
6 the criminal laws, a Juvenile Judge assigned by the Chief
7 Judge of the Circuit to hear and determine those motions,
8 after hearing but before commencement of the trial, finds
9 that there is probable cause to believe that the
10 allegations in the motion are true and that it is not in
11 the best interests of the public to proceed under this
12 Act, the court may enter an order permitting prosecution
13 under the criminal laws.

14 (b) In making its determination on the motion to
15 permit prosecution under the criminal laws, the court
16 shall consider among other matters:

17 (i) The seriousness of the alleged offense;

18 (ii) The minor's history of delinquency;

19 (iii) The age of the minor;

20 (iv) The culpability of the minor in committing the
21 alleged offense;

22 (v) Whether the offense was committed in an
23 aggressive or premeditated manner;

24 (vi) Whether the minor used or possessed a deadly
25 weapon when committing the alleged offense;

26 (vii) The minor's history of services, including
27 the minor's willingness to participate meaningfully in
28 available services;

29 (viii) The adequacy of the punishment or services
30 available in the juvenile justice system.

31 In considering these factors, the court shall give
32 greater weight to the seriousness of the alleged offense and
33 the minor's prior record of delinquency than to the other
34 factors listed in this subsection.

1 (4) The rules of evidence for this hearing shall be the
2 same as under Section 5-705 of this Act. A minor must be
3 represented in court by counsel before the hearing may be
4 commenced.

5 (5) If criminal proceedings are instituted, the petition
6 for adjudication of wardship shall be dismissed insofar as
7 the act or acts involved in the criminal proceedings. Taking
8 of evidence in a trial on petition for adjudication of
9 wardship is a bar to criminal proceedings based upon the
10 conduct alleged in the petition.

11 (Source: P.A. 90-590, eff. 1-1-99; 91-15, eff. 1-1-00;
12 91-357, eff. 7-29-99.)

13 (705 ILCS 405/5-901)

14 Sec. 5-901. Court file.

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

21 (a) The file, including information identifying the
22 victim or alleged victim of any sex offense, shall be
23 disclosed only to the following parties when necessary
24 for discharge of their official duties:

25 (i) A judge of the circuit court and members
26 of the staff of the court designated by the judge;

27 (ii) Parties to the proceedings and their
28 attorneys;

29 (iii) Victims and their attorneys, except in
30 cases of multiple victims of sex offenses in which
31 case the information identifying the nonrequesting
32 victims shall be redacted;

33 (iv) Probation officers, law enforcement

1 officers or prosecutors or their staff;

2 (v) Adult and juvenile Prisoner Review Boards.

3 (b) The Court file redacted to remove any
4 information identifying the victim or alleged victim of
5 any sex offense shall be disclosed only to the following
6 parties when necessary for discharge of their official
7 duties:

8 (i) Authorized military personnel;

9 (ii) Persons engaged in bona fide research,
10 with the permission of the judge of the juvenile
11 court and the chief executive of the agency that
12 prepared the particular recording: provided that
13 publication of such research results in no
14 disclosure of a minor's identity and protects the
15 confidentiality of the record;

16 (iii) The Secretary of State to whom the Clerk
17 of the Court shall report the disposition of all
18 cases, as required in Section 6-204 or Section
19 6-205.1 of the Illinois Vehicle Code. However,
20 information reported relative to these offenses
21 shall be privileged and available only to the
22 Secretary of State, courts, and police officers;

23 (iv) The administrator of a bonafide substance
24 abuse student assistance program with the permission
25 of the presiding judge of the juvenile court;

26 (v) Any individual, or any public or private
27 agency or institution, having custody of the
28 juvenile under court order or providing educational,
29 medical or mental health services to the juvenile or
30 a court-approved advocate for the juvenile or any
31 placement provider or potential placement provider
32 as determined by the court.

33 (3) A minor who is the victim or alleged victim in a
34 juvenile proceeding shall be provided the same

1 confidentiality regarding disclosure of identity as the minor
2 who is the subject of record. Information identifying victims
3 and alleged victims of sex offenses, shall not be disclosed
4 or open to public inspection under any circumstances. Nothing
5 in this Section shall prohibit the victim or alleged victim
6 of any sex offense from voluntarily disclosing his or her
7 identity.

8 (4) Relevant information, reports and records shall be
9 made available to the Department of Corrections when a
10 juvenile offender has been placed in the custody of the
11 Department of Corrections, Juvenile Division.

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

20 (a) The court shall allow the general public to
21 have access to the name, address, and offense of a minor
22 who is adjudicated a delinquent minor under this Act
23 under either of the following circumstances:

24 (i) The adjudication of delinquency was based
25 upon the minor's commission of first degree murder,
26 attempt to commit first degree murder, aggravated
27 criminal sexual assault, or criminal sexual assault;
28 or

29 (ii) The court has made a finding that the
30 minor was at least 13 years of age at the time the
31 act was committed and the adjudication of
32 delinquency was based upon the minor's commission
33 of: (A) an act in furtherance of the commission of a
34 felony as a member of or on behalf of a criminal

1 street gang, (B) an act involving the use of a
2 firearm in the commission of a felony, (C) an act
3 that would be a Class X felony offense under or the
4 minor's second or subsequent Class 2 or greater
5 felony offense under the Cannabis Control Act if
6 committed by an adult, (D) an act that would be a
7 second or subsequent offense under Section 402 of
8 the Illinois Controlled Substances Act if committed
9 by an adult, or (E) an act that would be an offense
10 under Section 401 of the Illinois Controlled
11 Substances Act if committed by an adult.

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

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

22 (ii) The court has made a finding that the
23 minor was at least 13 years of age at the time the
24 offense was committed and the conviction was based
25 upon the minor's commission of: (A) an offense in
26 furtherance of the commission of a felony as a
27 member of or on behalf of a criminal street gang,
28 (B) an offense involving the use of a firearm in the
29 commission of a felony, (C) a Class X felony offense
30 under the Cannabis Control Act or a second or
31 subsequent Class 2 or greater felony offense under
32 the Cannabis Control Act, (D) a second or subsequent
33 offense under Section 402 of the Illinois Controlled
34 Substances Act, or (E) an offense under Section 401

1 of the Illinois Controlled Substances Act.

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

8 (7) Nothing in this Section shall affect the right of a
9 Civil Service Commission or appointing authority examining
10 the character and fitness of an applicant for a position as a
11 law enforcement officer to ascertain whether that applicant
12 was ever adjudicated to be a delinquent minor and, if so, to
13 examine the records or evidence which were made in
14 proceedings under this Act.

15 (8) Following any adjudication of delinquency for a
16 crime which would be a felony if committed by an adult, or
17 following any adjudication of delinquency for a violation of
18 Section 24-1, 24-3, 24-3.1, or 24-5 of the Criminal Code of
19 1961, the State's Attorney shall ascertain whether the minor
20 respondent is enrolled in school and, if so, shall provide a
21 copy of the sentencing order to the principal or chief
22 administrative officer of the school. Access to such
23 juvenile records shall be limited to the principal or chief
24 administrative officer of the school and any guidance
25 counselor designated by him or her.

26 (9) Nothing contained in this Act prevents the sharing
27 or disclosure of information or records relating or
28 pertaining to juveniles subject to the provisions of the
29 Serious Habitual Offender Comprehensive Action Program when
30 that information is used to assist in the early
31 identification and treatment of habitual juvenile offenders.

32 (11) The Clerk of the Circuit Court shall report to the
33 Department of State Police, in the form and manner required
34 by the Department of State Police, the final disposition of

1 each minor who has been arrested or taken into custody before
2 his or her 18th ~~17th~~ birthday for those offenses required to
3 be reported under Section 5 of the Criminal Identification
4 Act. Information reported to the Department under this
5 Section may be maintained with records that the Department
6 files under Section 2.1 of the Criminal Identification Act.

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

10 (Source: P.A. 90-590, eff. 1-1-99.)

11 (705 ILCS 405/5-905)

12 Sec. 5-905. Law enforcement records.

13 (1) Law Enforcement Records. Inspection and copying of
14 law enforcement records maintained by law enforcement
15 agencies that relate to a minor who has been arrested or
16 taken into custody before his or her 18th ~~17th~~ birthday shall
17 be restricted to the following and when necessary for the
18 discharge of their official duties:

19 (a) A judge of the circuit court and members of the
20 staff of the court designated by the judge;

21 (b) Law enforcement officers, probation officers or
22 prosecutors or their staff;

23 (c) The minor, the minor's parents or legal
24 guardian and their attorneys, but only when the juvenile
25 has been charged with an offense;

26 (d) Adult and Juvenile Prisoner Review Boards;

27 (e) Authorized military personnel;

28 (f) Persons engaged in bona fide research, with the
29 permission of the judge of juvenile court and the chief
30 executive of the agency that prepared the particular
31 recording: provided that publication of such research
32 results in no disclosure of a minor's identity and
33 protects the confidentiality of the record;

1 (g) Individuals responsible for supervising or
2 providing temporary or permanent care and custody of
3 minors pursuant to orders of the juvenile court or
4 directives from officials of the Department of Children
5 and Family Services or the Department of Human Services
6 who certify in writing that the information will not be
7 disclosed to any other party except as provided under law
8 or order of court;

9 (h) The appropriate school official. Inspection
10 and copying shall be limited to law enforcement records
11 transmitted to the appropriate school official by a local
12 law enforcement agency under a reciprocal reporting
13 system established and maintained between the school
14 district and the local law enforcement agency under
15 Section 10-20.14 of the School Code concerning a minor
16 enrolled in a school within the school district who has
17 been arrested for any offense classified as a felony or a
18 Class A or B misdemeanor.

19 (2) Information identifying victims and alleged victims
20 of sex offenses, shall not be disclosed or open to public
21 inspection under any circumstances. Nothing in this Section
22 shall prohibit the victim or alleged victim of any sex
23 offense from voluntarily disclosing his or her identity.

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

28 (4) Nothing in this Section shall prohibit the
29 inspection or disclosure to victims and witnesses of
30 photographs contained in the records of law enforcement
31 agencies when the inspection or disclosure is conducted in
32 the presence of a law enforcement officer for purposes of
33 identification or apprehension of any person in the course of
34 any criminal investigation or prosecution.

1 (5) The records of law enforcement officers concerning
2 all minors under 18 17 years of age must be maintained
3 separate from the records of adults and may not be open to
4 public inspection or their contents disclosed to the public
5 except by order of the court or when the institution of
6 criminal proceedings has been permitted under Section 5-130
7 ~~or 5-805 or required under Section 5-130 or 5-805~~ or such a
8 person has been convicted of a crime and is the subject of
9 pre-sentence investigation or when provided by law.

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

27 (7) Nothing contained in this Section shall prohibit law
28 enforcement agencies when acting in their official capacity
29 from communicating with each other by letter, memorandum,
30 teletype or intelligence alert bulletin or other means the
31 identity or other relevant information pertaining to a person
32 under 18 17 years of age. The information provided under
33 this subsection (7) shall remain confidential and shall not
34 be publicly disclosed, except as otherwise allowed by law.

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

4 (Source: P.A. 90-590, eff. 1-1-99; 91-479, eff. 1-1-00.)

5 (705 ILCS 405/5-915)

6 Sec. 5-915. Expungement of law enforcement and juvenile
7 court records.

8 (1) Whenever any person has attained the age of 18 ~~17~~ or
9 whenever all juvenile court proceedings relating to that
10 person have been terminated, whichever is later, the person
11 may petition the court to expunge law enforcement records
12 relating to incidents occurring before his or her 18th ~~17th~~
13 birthday or his or her juvenile court records, or both, but
14 only in the following circumstances:

15 (a) the minor was arrested and no petition for
16 delinquency was filed with the clerk of the circuit
17 court; or

18 (b) the minor was charged with an offense and was
19 found not delinquent of that offense; or

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

23 (d) the minor was adjudicated for an offense which
24 would be a Class B misdemeanor if committed by an adult.

25 (2) Any person may petition the court to expunge all law
26 enforcement records relating to any incidents occurring
27 before his or her 18th ~~17th~~ birthday which did not result in
28 proceedings in criminal court and all juvenile court records
29 with respect to any adjudications except those based upon
30 first degree murder and sex offenses which would be felonies
31 if committed by an adult, if the person for whom expungement
32 is sought has had no convictions for any crime since his or
33 her 18th ~~17th~~ birthday and:

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

2 (b) 5 years have elapsed since all juvenile court
3 proceedings relating to him or her have been terminated
4 or his or her commitment to the Department of
5 Corrections, Juvenile Division pursuant to this Act has
6 been terminated;

7 whichever is later of (a) or (b).

8 (3) The chief judge of the circuit in which an arrest
9 was made or a charge was brought or any judge of that circuit
10 designated by the chief judge may, upon verified petition of
11 a person who is the subject of an arrest or a juvenile court
12 proceeding under subsection (1) or (2) of this Section, order
13 the law enforcement records or official court file, or both,
14 to be expunged from the official records of the arresting
15 authority, the clerk of the circuit court and the Department
16 of State Police. Notice of the petition shall be served upon
17 the State's Attorney and upon the arresting authority which
18 is the subject of the petition for expungement.

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

25 (5) Records which have not been expunged are sealed, and
26 may be obtained only under the provisions of Sections 5-901,
27 5-905 and 5-915.

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

1 (Source: P.A. 90-590, eff. 1-1-99.)

2 (705 ILCS 405/5-130 rep.)

3 Section 10. The Juvenile Court Act of 1987 is amended by
4 repealing Section 5-130.

5 Section 15. The Code of Criminal Procedure of 1963 is
6 amended by changing Section 115-10.5 as follows:

7 (725 ILCS 5/115-10.5)

8 Sec. 115-10.5. Hearsay exception regarding safe zone
9 testimony.

10 (a) In any prosecution for any offense charged as a
11 violation of Section 407 of the Illinois Controlled
12 Substances Act ~~or Section 5-130 of the Juvenile Court Act of~~
13 ~~1987~~ the following evidence shall be admitted as an exception
14 to the hearsay rule any testimony by any qualified individual
15 regarding the status of any property as:

16 (1) a truck stop or safety rest area, or

17 (2) a school or conveyance owned, leased or
18 contracted by a school to transport students to or from
19 school, or

20 (3) residential property owned, operated, and
21 managed by a public housing agency, or

22 (4) a public park, or

23 (5) the real property comprising any church,
24 synagogue, or other building, structure, or place used
25 primarily for religious worship, or

26 (6) the real property comprising any of the
27 following places, buildings, or structures used primarily
28 for housing or providing space for activities for senior
29 citizens: nursing homes, assisted-living centers, senior
30 citizen housing complexes, or senior centers oriented
31 toward daytime activities.

1 (b) As used in this Section, "qualified individual"
 2 means any person who (i) lived or worked within the
 3 territorial jurisdiction where the offense took place when
 4 the offense took place; and (ii) is familiar with various
 5 public places within the territorial jurisdiction where the
 6 offense took place when the offense took place.

7 (c) For the purposes of this Section, "qualified
 8 individual" includes any peace officer, or any member of any
 9 duly organized State, county, or municipal peace unit,
 10 assigned to the territorial jurisdiction where the offense
 11 took place when the offense took place.

12 (d) This Section applies to all prosecutions pending at
 13 the time this amendatory Act of the 91st General Assembly
 14 takes effect and to all prosecutions commencing on or after
 15 its effective date.

16 (Source: P.A. 91-899, eff. 1-1-01.)

17 Section 20. The Unified Code of Corrections is amended
 18 by changing Section 3-2-2 as follows:

19 (730 ILCS 5/3-2-2) (from Ch. 38, par. 1003-2-2)

20 Sec. 3-2-2. Powers and Duties of the Department.

21 (1) In addition to the powers, duties and
 22 responsibilities which are otherwise provided by law, the
 23 Department shall have the following powers:

24 (a) To accept persons committed to it by the courts
 25 of this State for care, custody, treatment and
 26 rehabilitation.

27 (b) To develop and maintain reception and
 28 evaluation units for purposes of analyzing the custody
 29 and rehabilitation needs of persons committed to it and
 30 to assign such persons to institutions and programs under
 31 its control or transfer them to other appropriate
 32 agencies. In consultation with the Department of

1 Alcoholism and Substance Abuse (now the Department of
2 Human Services), the Department of Corrections shall
3 develop a master plan for the screening and evaluation of
4 persons committed to its custody who have alcohol or drug
5 abuse problems, and for making appropriate treatment
6 available to such persons; the Department shall report to
7 the General Assembly on such plan not later than April 1,
8 1987. The maintenance and implementation of such plan
9 shall be contingent upon the availability of funds.

10 (b-1) To create and implement, on January 1, 2002,
11 a pilot program to establish the effectiveness of
12 pupillometer technology (the measurement of the pupil's
13 reaction to light) as an alternative to a urine test for
14 purposes of screening and evaluating persons committed to
15 its custody who have alcohol or drug problems. The pilot
16 program shall require the pupillometer technology to be
17 used in at least one Department of Corrections facility.
18 The Director may expand the pilot program to include an
19 additional facility or facilities as he or she deems
20 appropriate. A minimum of 4,000 tests shall be included
21 in the pilot program. The Department must report to the
22 General Assembly on the effectiveness of the program by
23 January 1, 2003.

24 (b-5) To develop, in consultation with the
25 Department of State Police, a program for tracking and
26 evaluating each inmate from commitment through release
27 for recording his or her gang affiliations, activities,
28 or ranks.

29 (c) To maintain and administer all State
30 correctional institutions and facilities under its
31 control and to establish new ones as needed. Pursuant to
32 its power to establish new institutions and facilities,
33 the Department may, with the written approval of the
34 Governor, authorize the Department of Central Management

1 Services to enter into an agreement of the type described
2 in subsection (d) of Section 405-300 of the Department of
3 Central Management Services Law (20 ILCS 405/405-300).
4 The Department shall designate those institutions which
5 shall constitute the State Penitentiary System.

6 Pursuant to its power to establish new institutions
7 and facilities, the Department may authorize the
8 Department of Central Management Services to accept bids
9 from counties and municipalities for the construction,
10 remodeling or conversion of a structure to be leased to
11 the Department of Corrections for the purposes of its
12 serving as a correctional institution or facility. Such
13 construction, remodeling or conversion may be financed
14 with revenue bonds issued pursuant to the Industrial
15 Building Revenue Bond Act by the municipality or county.
16 The lease specified in a bid shall be for a term of not
17 less than the time needed to retire any revenue bonds
18 used to finance the project, but not to exceed 40 years.
19 The lease may grant to the State the option to purchase
20 the structure outright.

21 Upon receipt of the bids, the Department may certify
22 one or more of the bids and shall submit any such bids to
23 the General Assembly for approval. Upon approval of a bid
24 by a constitutional majority of both houses of the
25 General Assembly, pursuant to joint resolution, the
26 Department of Central Management Services may enter into
27 an agreement with the county or municipality pursuant to
28 such bid.

29 (c-5) To build and maintain regional juvenile
30 detention centers and to charge a per diem to the
31 counties as established by the Department to defray the
32 costs of housing each minor in a center. In this
33 subsection (c-5), "juvenile detention center" means a
34 facility to house minors during pendency of trial who

1 have been transferred from proceedings under the Juvenile
2 Court Act of 1987 to prosecutions under the criminal laws
3 of this State in accordance with Section 5-805 of the
4 Juvenile Court Act of 1987, whether the transfer was by
5 operation of law before the effective date of this
6 amendatory Act of the 93rd General Assembly or
7 permissive under that Section. The Department shall
8 designate the counties to be served by each regional
9 juvenile detention center.

10 (d) To develop and maintain programs of control,
11 rehabilitation and employment of committed persons within
12 its institutions.

13 (e) To establish a system of supervision and
14 guidance of committed persons in the community.

15 (f) To establish in cooperation with the Department
16 of Transportation to supply a sufficient number of
17 prisoners for use by the Department of Transportation to
18 clean up the trash and garbage along State, county,
19 township, or municipal highways as designated by the
20 Department of Transportation. The Department of
21 Corrections, at the request of the Department of
22 Transportation, shall furnish such prisoners at least
23 annually for a period to be agreed upon between the
24 Director of Corrections and the Director of
25 Transportation. The prisoners used on this program shall
26 be selected by the Director of Corrections on whatever
27 basis he deems proper in consideration of their term,
28 behavior and earned eligibility to participate in such
29 program - where they will be outside of the prison
30 facility but still in the custody of the Department of
31 Corrections. Prisoners convicted of first degree murder,
32 or a Class X felony, or armed violence, or aggravated
33 kidnapping, or criminal sexual assault, aggravated
34 criminal sexual abuse or a subsequent conviction for

1 criminal sexual abuse, or forcible detention, or arson,
2 or a prisoner adjudged a Habitual Criminal shall not be
3 eligible for selection to participate in such program.
4 The prisoners shall remain as prisoners in the custody of
5 the Department of Corrections and such Department shall
6 furnish whatever security is necessary. The Department of
7 Transportation shall furnish trucks and equipment for the
8 highway cleanup program and personnel to supervise and
9 direct the program. Neither the Department of Corrections
10 nor the Department of Transportation shall replace any
11 regular employee with a prisoner.

12 (g) To maintain records of persons committed to it
13 and to establish programs of research, statistics and
14 planning.

15 (h) To investigate the grievances of any person
16 committed to the Department, to inquire into any alleged
17 misconduct by employees or committed persons, and to
18 investigate the assets of committed persons to implement
19 Section 3-7-6 of this Code; and for these purposes it may
20 issue subpoenas and compel the attendance of witnesses
21 and the production of writings and papers, and may
22 examine under oath any witnesses who may appear before
23 it; to also investigate alleged violations of a parolee's
24 or releasee's conditions of parole or release; and for
25 this purpose it may issue subpoenas and compel the
26 attendance of witnesses and the production of documents
27 only if there is reason to believe that such procedures
28 would provide evidence that such violations have
29 occurred.

30 If any person fails to obey a subpoena issued under
31 this subsection, the Director may apply to any circuit
32 court to secure compliance with the subpoena. The
33 failure to comply with the order of the court issued in
34 response thereto shall be punishable as contempt of

1 court.

2 (i) To appoint and remove the chief administrative
3 officers, and administer programs of training and
4 development of personnel of the Department. Personnel
5 assigned by the Department to be responsible for the
6 custody and control of committed persons or to
7 investigate the alleged misconduct of committed persons
8 or employees or alleged violations of a parolee's or
9 releasee's conditions of parole shall be conservators of
10 the peace for those purposes, and shall have the full
11 power of peace officers outside of the facilities of the
12 Department in the protection, arrest, retaking and
13 reconfining of committed persons or where the exercise of
14 such power is necessary to the investigation of such
15 misconduct or violations.

16 (j) To cooperate with other departments and
17 agencies and with local communities for the development
18 of standards and programs for better correctional
19 services in this State.

20 (k) To administer all moneys and properties of the
21 Department.

22 (l) To report annually to the Governor on the
23 committed persons, institutions and programs of the
24 Department.

25 (l-5) In a confidential annual report to the
26 Governor, the Department shall identify all inmate gangs
27 by specifying each current gang's name, population and
28 allied gangs. The Department shall further specify the
29 number of top leaders identified by the Department for
30 each gang during the past year, and the measures taken by
31 the Department to segregate each leader from his or her
32 gang and allied gangs. The Department shall further
33 report the current status of leaders identified and
34 segregated in previous years. All leaders described in

1 the report shall be identified by inmate number or other
2 designation to enable tracking, auditing, and
3 verification without revealing the names of the leaders.
4 Because this report contains law enforcement intelligence
5 information collected by the Department, the report is
6 confidential and not subject to public disclosure.

7 (m) To make all rules and regulations and exercise
8 all powers and duties vested by law in the Department.

9 (n) To establish rules and regulations for
10 administering a system of good conduct credits,
11 established in accordance with Section 3-6-3, subject to
12 review by the Prisoner Review Board.

13 (o) To administer the distribution of funds from
14 the State Treasury to reimburse counties where State
15 penal institutions are located for the payment of
16 assistant state's attorneys' salaries under Section
17 4-2001 of the Counties Code.

18 (p) To exchange information with the Department of
19 Human Services and the Illinois Department of Public Aid
20 for the purpose of verifying living arrangements and for
21 other purposes directly connected with the administration
22 of this Code and the Illinois Public Aid Code.

23 (q) To establish a diversion program.

24 The program shall provide a structured environment
25 for selected technical parole or mandatory supervised
26 release violators and committed persons who have violated
27 the rules governing their conduct while in work release.
28 This program shall not apply to those persons who have
29 committed a new offense while serving on parole or
30 mandatory supervised release or while committed to work
31 release.

32 Elements of the program shall include, but shall not
33 be limited to, the following:

34 (1) The staff of a diversion facility shall

1 provide supervision in accordance with required
2 objectives set by the facility.

3 (2) Participants shall be required to maintain
4 employment.

5 (3) Each participant shall pay for room and
6 board at the facility on a sliding-scale basis
7 according to the participant's income.

8 (4) Each participant shall:

9 (A) provide restitution to victims in
10 accordance with any court order;

11 (B) provide financial support to his
12 dependents; and

13 (C) make appropriate payments toward any
14 other court-ordered obligations.

15 (5) Each participant shall complete community
16 service in addition to employment.

17 (6) Participants shall take part in such
18 counseling, educational and other programs as the
19 Department may deem appropriate.

20 (7) Participants shall submit to drug and
21 alcohol screening.

22 (8) The Department shall promulgate rules
23 governing the administration of the program.

24 (r) To enter into intergovernmental cooperation
25 agreements under which persons in the custody of the
26 Department may participate in a county impact
27 incarceration program established under Section 3-6038 or
28 3-15003.5 of the Counties Code.

29 (r-5) To enter into intergovernmental cooperation
30 agreements under which minors adjudicated delinquent and
31 committed to the Department of Corrections, Juvenile
32 Division, may participate in a county juvenile impact
33 incarceration program established under Section 3-6039 of
34 the Counties Code.

1 (r-10) To systematically and routinely identify
2 with respect to each streetgang active within the
3 correctional system: (1) each active gang; (2) every
4 existing inter-gang affiliation or alliance; and (3) the
5 current leaders in each gang. The Department shall
6 promptly segregate leaders from inmates who belong to
7 their gangs and allied gangs. "Segregate" means no
8 physical contact and, to the extent possible under the
9 conditions and space available at the correctional
10 facility, prohibition of visual and sound communication.
11 For the purposes of this paragraph (r-10), "leaders"
12 means persons who:

13 (i) are members of a criminal streetgang;

14 (ii) with respect to other individuals within
15 the streetgang, occupy a position of organizer,
16 supervisor, or other position of management or
17 leadership; and

18 (iii) are actively and personally engaged in
19 directing, ordering, authorizing, or requesting
20 commission of criminal acts by others, which are
21 punishable as a felony, in furtherance of streetgang
22 related activity both within and outside of the
23 Department of Corrections.

24 "Streetgang", "gang", and "streetgang related" have the
25 meanings ascribed to them in Section 10 of the Illinois
26 Streetgang Terrorism Omnibus Prevention Act.

27 (s) To operate a super-maximum security
28 institution, in order to manage and supervise inmates who
29 are disruptive or dangerous and provide for the safety
30 and security of the staff and the other inmates.

31 (t) To monitor any unprivileged conversation or any
32 unprivileged communication, whether in person or by
33 mail, telephone, or other means, between an inmate who,
34 before commitment to the Department, was a member of an

1 organized gang and any other person without the need to
2 show cause or satisfy any other requirement of law before
3 beginning the monitoring, except as constitutionally
4 required. The monitoring may be by video, voice, or other
5 method of recording or by any other means. As used in
6 this subdivision (1)(t), "organized gang" has the meaning
7 ascribed to it in Section 10 of the Illinois Streetgang
8 Terrorism Omnibus Prevention Act.

9 As used in this subdivision (1)(t), "unprivileged
10 conversation" or "unprivileged communication" means a
11 conversation or communication that is not protected by
12 any privilege recognized by law or by decision, rule, or
13 order of the Illinois Supreme Court.

14 (u) To establish a Women's and Children's
15 Pre-release Community Supervision Program for the purpose
16 of providing housing and services to eligible female
17 inmates, as determined by the Department, and their
18 newborn and young children.

19 (v) To do all other acts necessary to carry out the
20 provisions of this Chapter.

21 (2) The Department of Corrections shall by January 1,
22 1998, consider building and operating a correctional facility
23 within 100 miles of a county of over 2,000,000 inhabitants,
24 especially a facility designed to house juvenile participants
25 in the impact incarceration program.

26 (3) When the Department lets bids for contracts for
27 medical services to be provided to persons committed to
28 Department facilities by a health maintenance organization,
29 medical service corporation, or other health care provider,
30 the bid may only be let to a health care provider that has
31 obtained an irrevocable letter of credit or performance bond
32 issued by a company whose bonds are rated AAA by a bond
33 rating organization.

34 (4) When the Department lets bids for contracts for food

1 or commissary services to be provided to Department
2 facilities, the bid may only be let to a food or commissary
3 services provider that has obtained an irrevocable letter of
4 credit or performance bond issued by a company whose bonds
5 are rated AAA by a bond rating organization.

6 (Source: P.A. 91-239, eff. 1-1-00; 91-357, eff. 7-29-99;
7 92-444, eff. 1-1-02; 92-712, eff. 1-1-03.)