

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, 5-130, 5-410, 5-901, 5-905, and 5-915 as follows:

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

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

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

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

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

1 (3) Prosecutors and probation officers:

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

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

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

14 (4) Adult and Juvenile Prisoner Review Board.

15 (5) Authorized military personnel.

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

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

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

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

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

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

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

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

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

33 (2) Law enforcement officers or other persons or
34 agencies shall transmit to the Department of State

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

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

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

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

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

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

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

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

28 (705 ILCS 405/1-8) (from Ch. 37, par. 801-8)

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

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

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

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

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

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

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

32 (4) Judges, prosecutors and probation officers:

33 (a) in the course of a trial when institution
34 of criminal proceedings has been permitted or

1 required under Section 5-805; or

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

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

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

17 (5) Adult and Juvenile Prisoner Review Boards.

18 (6) Authorized military personnel.

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

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

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

1 of State, courts, and police officers.

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

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

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

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

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

33 (A) The adjudication of delinquency was based
34 upon the minor's commission of first degree murder,

1 attempt to commit first degree murder, aggravated
2 criminal sexual assault, or criminal sexual assault;
3 or

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

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

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

31 (B) The court has made a finding that the
32 minor was at least 13 years of age at the time the
33 offense was committed and the conviction was based
34 upon the minor's commission of: (i) an offense in

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

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

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

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

1 copy of the dispositional order to the principal or chief
2 administrative officer of the school. Access to such
3 juvenile records shall be limited to the principal or chief
4 administrative officer of the school and any guidance
5 counselor designated by him.

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

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

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

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

31 (705 ILCS 405/1-9) (from Ch. 37, par. 801-9)

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

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

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

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

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

26 (705 ILCS 405/2-10) (from Ch. 37, par. 802-10)

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

32 (1) If the court finds that there is not probable cause
33 to believe that the minor is abused, neglected or dependent

1 it shall release the minor and dismiss the petition.

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

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

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

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

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

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

27 NOTICE TO PARENTS AND CHILDREN
 28 OF SHELTER CARE HEARING

29 On at, before the
 30 Honorable, (address:),
 31 the State of Illinois will present evidence (1) that
 32 (name of child or children) are
 33 abused, neglected or dependent for the following reasons:
 34 and (2)

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

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

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

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

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

16 3. To present evidence concerning:

17 a. Whether or not the child or children
18 were abused, neglected or dependent.

19 b. Whether or not there is "immediate and
20 urgent necessity" to remove the child from home
21 (including: their ability to care for the
22 child, conditions in the home, alternative
23 means of protecting the child other than
24 removal).

25 c. The best interests of the child.

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

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

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

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

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

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

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

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

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

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

32 (4) If the parent, guardian, legal custodian,
 33 responsible relative, minor age 8 or over, or counsel of the
 34 minor did not have actual notice of or was not present at the

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

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

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

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

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

34 (9) Notwithstanding any other provision of this Section

1 any interested party, including the State, the temporary
2 custodian, an agency providing services to the minor or
3 family under a service plan pursuant to Section 8.2 of the
4 Abused and Neglected Child Reporting Act, foster parent, or
5 any of their representatives, on notice to all parties
6 entitled to notice, may file a motion that it is in the best
7 interests of the minor to modify or vacate a temporary
8 custody order on any of the 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 and the child can be cared for at home without
15 endangering the child's health or safety; or

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

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

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

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

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

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

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

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

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

19 (705 ILCS 405/3-12) (from Ch. 37, par. 803-12)

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

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

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

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

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

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

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

31 (3) If prior to the shelter care hearing for a minor
32 described in Sections 2-3, 2-4, 3-3 and 4-3 the petitioner is
33 unable to serve notice on the party respondent, the shelter
34 care hearing may proceed ex-parte. A shelter care order from

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

19 NOTICE TO PARENTS AND CHILDREN OF SHELTER CARE HEARING

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

25
 26 and (2) that there is "immediate and urgent necessity" to
 27 remove the child or children from the responsible relative.

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

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

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

1 cannot afford one.

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

4 3. To present evidence concerning:

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

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

12 c. The best interests of the child.

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

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

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

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

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

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

31 3. Your signature.

32 4. Signature must be notarized.

33 The rehearing should be scheduled within one day of your
34 filing this affidavit.

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

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

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

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

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

32 (6) No minor under 16 years of age may be confined in a
33 jail or place ordinarily used for the confinement of
34 prisoners in a police station. Minors under 18 17 years of

1 age must be kept separate from confined adults and may not at
2 any time be kept in the same cell, room, or yard with adults
3 confined pursuant to the criminal law.

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

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

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

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

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

33 (c) A person, including a parent, relative or legal
34 guardian, is capable of assuming temporary custody of the

1 minor; or

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

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

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

13 (705 ILCS 405/4-9) (from Ch. 37, par. 804-9)

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

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

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

1 any treatment recommendations indicated by the assessment.
2 Custodian shall include any agency of the State which has
3 been given custody or wardship of the child.

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

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

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

33 (3) If neither the parent, guardian, legal custodian,
34 responsible relative nor counsel of the minor has had actual

1 notice of or is present at the shelter care hearing, he or
2 she may file his or her affidavit setting forth these facts,
3 and the clerk shall set the matter for rehearing not later
4 than 24 hours, excluding Sundays and legal holidays, after
5 the filing of the affidavit. At the rehearing, the court
6 shall proceed in the same manner as upon the original
7 hearing.

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

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

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

23 (7) 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 (8) Any interested party, including the State, the
 2 temporary custodian, an agency providing services to the
 3 minor or family under a service plan pursuant to Section 8.2
 4 of the Abused and Neglected Child Reporting Act, foster
 5 parent, or any of their representatives, may file a motion to
 6 modify or vacate a temporary custody order on any of the
 7 following grounds:

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

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

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

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

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

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

29 (705 ILCS 405/5-105)

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

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

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

3 (2.5) "Community service agency" means a not-for-profit
4 organization, community organization, church, charitable
5 organization, individual, public office, or other public body
6 whose purpose is to enhance the physical or mental health of
7 a delinquent minor or to rehabilitate the minor, or to
8 improve the environmental quality or social welfare of the
9 community which agrees to accept community service from
10 juvenile delinquents and to report on the progress of the
11 community service to the State's Attorney pursuant to an
12 agreement or to the court or to any agency designated by the
13 court or to the authorized diversion program that has
14 referred the delinquent minor for community service.

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

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

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

34 (6) "Diversion" means the referral of a juvenile,

1 without court intervention, into a program that provides
2 services designed to educate the juvenile and develop a
3 productive and responsible approach to living in the
4 community.

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

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

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

1 approved by the Director of State Police.

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

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

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

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

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

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

1 service to the court or to the authorized diversion program
2 that has referred the offender for public or community
3 service.

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

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

12 (Source: P.A. 90-590, eff. 1-1-99; 91-820, eff. 6-13-00.)

13 (705 ILCS 405/5-120)

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

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

24 (705 ILCS 405/5-130)

25 Sec. 5-130. Excluded jurisdiction.

26 (1) (a) The definition of delinquent minor under Section
27 5-120 of this Article shall not apply to any minor who at the
28 time of an offense was at least 15 years of age and who is
29 charged with first degree murder, aggravated criminal sexual
30 assault, aggravated battery with a firearm committed in a
31 school, on the real property comprising a school, within
32 1,000 feet of the real property comprising a school, at a

1 school related activity, or on, boarding, or departing from
2 any conveyance owned, leased, or contracted by a school or
3 school district to transport students to or from school or a
4 school related activity regardless of the time of day or time
5 of year that the offense was committed, armed robbery when
6 the armed robbery was committed with a firearm, or aggravated
7 vehicular hijacking when the hijacking was committed with a
8 firearm.

9 These charges and all other charges arising out of the
10 same incident shall be prosecuted under the criminal laws of
11 this State.

12 For purposes of this paragraph (a) of subsection (1):

13 "School" means a public or private elementary or
14 secondary school, community college, college, or university.

15 "School related activity" means any sporting, social,
16 academic or other activity for which students' attendance or
17 participation is sponsored, organized, or funded in whole or
18 in part by a school or school district.

19 (b) (i) If before trial or plea an information or
20 indictment is filed that does not charge an offense specified
21 in paragraph (a) of this subsection (1) the State's Attorney
22 may proceed on any lesser charge or charges, but only in
23 Juvenile Court under the provisions of this Article. The
24 State's Attorney may proceed under the Criminal Code of 1961
25 on a lesser charge if before trial the minor defendant
26 knowingly and with advice of counsel waives, in writing, his
27 or her right to have the matter proceed in Juvenile Court.

28 (ii) If before trial or plea an information or
29 indictment is filed that includes one or more charges
30 specified in paragraph (a) of this subsection (1) and
31 additional charges that are not specified in that paragraph,
32 all of the charges arising out of the same incident shall be
33 prosecuted under the Criminal Code of 1961.

34 (c) (i) If after trial or plea the minor is convicted of

1 any offense covered by paragraph (a) of this subsection (1),
2 then, in sentencing the minor, the court shall have available
3 any or all dispositions prescribed for that offense under
4 Chapter V of the Unified Code of Corrections.

5 (ii) If after trial or plea the court finds that the
6 minor committed an offense not covered by paragraph (a) of
7 this subsection (1), that finding shall not invalidate the
8 verdict or the prosecution of the minor under the criminal
9 laws of the State; however, unless the State requests a
10 hearing for the purpose of sentencing the minor under Chapter
11 V of the Unified Code of Corrections, the Court must proceed
12 under Sections 5-705 and 5-710 of this Article. To request a
13 hearing, the State must file a written motion within 10 days
14 following the entry of a finding or the return of a verdict.
15 Reasonable notice of the motion shall be given to the minor
16 or his or her counsel. If the motion is made by the State,
17 the court shall conduct a hearing to determine if the minor
18 should be sentenced under Chapter V of the Unified Code of
19 Corrections. In making its determination, the court shall
20 consider among other matters: (a) whether there is evidence
21 that the offense was committed in an aggressive and
22 premeditated manner; (b) the age of the minor; (c) the
23 previous history of the minor; (d) whether there are
24 facilities particularly available to the Juvenile Court or
25 the Department of Corrections, Juvenile Division, for the
26 treatment and rehabilitation of the minor; (e) whether the
27 security of the public requires sentencing under Chapter V of
28 the Unified Code of Corrections; and (f) whether the minor
29 possessed a deadly weapon when committing the offense. The
30 rules of evidence shall be the same as if at trial. If after
31 the hearing the court finds that the minor should be
32 sentenced under Chapter V of the Unified Code of Corrections,
33 then the court shall sentence the minor accordingly having
34 available to it any or all dispositions so prescribed.

1 (2) (a) The definition of a delinquent minor under
2 Section 5-120 of this Article shall not apply to any minor
3 who at the time of the offense was at least 15 years of age
4 and who is charged with an offense under Section 401 of the
5 Illinois Controlled Substances Act, while in a school,
6 regardless of the time of day or the time of year, or any
7 conveyance owned, leased or contracted by a school to
8 transport students to or from school or a school related
9 activity, or residential property owned, operated or managed
10 by a public housing agency or leased by a public housing
11 agency as part of a scattered site or mixed-income
12 development, on the real property comprising any school,
13 regardless of the time of day or the time of year, or
14 residential property owned, operated or managed by a public
15 housing agency or leased by a public housing agency as part
16 of a scattered site or mixed-income development, or on a
17 public way within 1,000 feet of the real property comprising
18 any school, regardless of the time of day or the time of
19 year, or residential property owned, operated or managed by a
20 public housing agency or leased by a public housing agency as
21 part of a scattered site or mixed-income development. School
22 is defined, for the purposes of this Section, as any public
23 or private elementary or secondary school, community college,
24 college, or university. These charges and all other charges
25 arising out of the same incident shall be prosecuted under
26 the criminal laws of this State.

27 (b) (i) If before trial or plea an information or
28 indictment is filed that does not charge an offense specified
29 in paragraph (a) of this subsection (2) the State's Attorney
30 may proceed on any lesser charge or charges, but only in
31 Juvenile Court under the provisions of this Article. The
32 State's Attorney may proceed under the criminal laws of this
33 State on a lesser charge if before trial the minor defendant
34 knowingly and with advice of counsel waives, in writing, his

1 or her right to have the matter proceed in Juvenile Court.

2 (ii) If before trial or plea an information or
3 indictment is filed that includes one or more charges
4 specified in paragraph (a) of this subsection (2) and
5 additional charges that are not specified in that paragraph,
6 all of the charges arising out of the same incident shall be
7 prosecuted under the criminal laws of this State.

8 (c) (i) If after trial or plea the minor is convicted of
9 any offense covered by paragraph (a) of this subsection (2),
10 then, in sentencing the minor, the court shall have available
11 any or all dispositions prescribed for that offense under
12 Chapter V of the Unified Code of Corrections.

13 (ii) If after trial or plea the court finds that the
14 minor committed an offense not covered by paragraph (a) of
15 this subsection (2), that finding shall not invalidate the
16 verdict or the prosecution of the minor under the criminal
17 laws of the State; however, unless the State requests a
18 hearing for the purpose of sentencing the minor under Chapter
19 V of the Unified Code of Corrections, the Court must proceed
20 under Sections 5-705 and 5-710 of this Article. To request a
21 hearing, the State must file a written motion within 10 days
22 following the entry of a finding or the return of a verdict.
23 Reasonable notice of the motion shall be given to the minor
24 or his or her counsel. If the motion is made by the State,
25 the court shall conduct a hearing to determine if the minor
26 should be sentenced under Chapter V of the Unified Code of
27 Corrections. In making its determination, the court shall
28 consider among other matters: (a) whether there is evidence
29 that the offense was committed in an aggressive and
30 premeditated manner; (b) the age of the minor; (c) the
31 previous history of the minor; (d) whether there are
32 facilities particularly available to the Juvenile Court or
33 the Department of Corrections, Juvenile Division, for the
34 treatment and rehabilitation of the minor; (e) whether the

1 security of the public requires sentencing under Chapter V of
2 the Unified Code of Corrections; and (f) whether the minor
3 possessed a deadly weapon when committing the offense. The
4 rules of evidence shall be the same as if at trial. If after
5 the hearing the court finds that the minor should be
6 sentenced under Chapter V of the Unified Code of Corrections,
7 then the court shall sentence the minor accordingly having
8 available to it any or all dispositions so prescribed.

9 (3) (a) The definition of delinquent minor under Section
10 5-120 of this Article shall not apply to any minor who at the
11 time of the offense was at least 15 years of age and who is
12 charged with a violation of the provisions of paragraph (1),
13 (3), (4), or (10) of subsection (a) of Section 24-1 of the
14 Criminal Code of 1961 while in school, regardless of the time
15 of day or the time of year, or on the real property
16 comprising any school, regardless of the time of day or the
17 time of year. School is defined, for purposes of this
18 Section as any public or private elementary or secondary
19 school, community college, college, or university. These
20 charges and all other charges arising out of the same
21 incident shall be prosecuted under the criminal laws of this
22 State.

23 (b) (i) If before trial or plea an information or
24 indictment is filed that does not charge an offense specified
25 in paragraph (a) of this subsection (3) the State's Attorney
26 may proceed on any lesser charge or charges, but only in
27 Juvenile Court under the provisions of this Article. The
28 State's Attorney may proceed under the criminal laws of this
29 State on a lesser charge if before trial the minor defendant
30 knowingly and with advice of counsel waives, in writing, his
31 or her right to have the matter proceed in Juvenile Court.

32 (ii) If before trial or plea an information or
33 indictment is filed that includes one or more charges
34 specified in paragraph (a) of this subsection (3) and

1 additional charges that are not specified in that paragraph,
2 all of the charges arising out of the same incident shall be
3 prosecuted under the criminal laws of this State.

4 (c) (i) If after trial or plea the minor is convicted of
5 any offense covered by paragraph (a) of this subsection (3),
6 then, in sentencing the minor, the court shall have available
7 any or all dispositions prescribed for that offense under
8 Chapter V of the Unified Code of Corrections.

9 (ii) If after trial or plea the court finds that the
10 minor committed an offense not covered by paragraph (a) of
11 this subsection (3), that finding shall not invalidate the
12 verdict or the prosecution of the minor under the criminal
13 laws of the State; however, unless the State requests a
14 hearing for the purpose of sentencing the minor under Chapter
15 V of the Unified Code of Corrections, the Court must proceed
16 under Sections 5-705 and 5-710 of this Article. To request a
17 hearing, the State must file a written motion within 10 days
18 following the entry of a finding or the return of a verdict.
19 Reasonable notice of the motion shall be given to the minor
20 or his or her counsel. If the motion is made by the State,
21 the court shall conduct a hearing to determine if the minor
22 should be sentenced under Chapter V of the Unified Code of
23 Corrections. In making its determination, the court shall
24 consider among other matters: (a) whether there is evidence
25 that the offense was committed in an aggressive and
26 premeditated manner; (b) the age of the minor; (c) the
27 previous history of the minor; (d) whether there are
28 facilities particularly available to the Juvenile Court or
29 the Department of Corrections, Juvenile Division, for the
30 treatment and rehabilitation of the minor; (e) whether the
31 security of the public requires sentencing under Chapter V of
32 the Unified Code of Corrections; and (f) whether the minor
33 possessed a deadly weapon when committing the offense. The
34 rules of evidence shall be the same as if at trial. If after

1 the hearing the court finds that the minor should be
2 sentenced under Chapter V of the Unified Code of Corrections,
3 then the court shall sentence the minor accordingly having
4 available to it any or all dispositions so prescribed.

5 (4) (a) The definition of delinquent minor under Section
6 5-120 of this Article shall not apply to any minor who at the
7 time of an offense was at least 13 years of age and who is
8 charged with first degree murder committed during the course
9 of either aggravated criminal sexual assault, criminal sexual
10 assault, or aggravated kidnaping. However, this subsection
11 (4) does not include a minor charged with first degree murder
12 based exclusively upon the accountability provisions of the
13 Criminal Code of 1961.

14 (b) (i) If before trial or plea an information or
15 indictment is filed that does not charge first degree murder
16 committed during the course of aggravated criminal sexual
17 assault, criminal sexual assault, or aggravated kidnaping,
18 the State's Attorney may proceed on any lesser charge or
19 charges, but only in Juvenile Court under the provisions of
20 this Article. The State's Attorney may proceed under the
21 criminal laws of this State on a lesser charge if before
22 trial the minor defendant knowingly and with advice of
23 counsel waives, in writing, his or her right to have the
24 matter proceed in Juvenile Court.

25 (ii) If before trial or plea an information or
26 indictment is filed that includes first degree murder
27 committed during the course of aggravated criminal sexual
28 assault, criminal sexual assault, or aggravated kidnaping,
29 and additional charges that are not specified in paragraph
30 (a) of this subsection, all of the charges arising out of the
31 same incident shall be prosecuted under the criminal laws of
32 this State.

33 (c) (i) If after trial or plea the minor is convicted of
34 first degree murder committed during the course of aggravated

1 criminal sexual assault, criminal sexual assault, or
2 aggravated kidnaping, in sentencing the minor, the court
3 shall have available any or all dispositions prescribed for
4 that offense under Chapter V of the Unified Code of
5 Corrections.

6 (ii) If the minor was not yet 15 years of age at the
7 time of the offense, and if after trial or plea the court
8 finds that the minor committed an offense other than first
9 degree murder committed during the course of either
10 aggravated criminal sexual assault, criminal sexual assault,
11 or aggravated kidnaping, the finding shall not invalidate
12 the verdict or the prosecution of the minor under the
13 criminal laws of the State; however, unless the State
14 requests a hearing for the purpose of sentencing the minor
15 under Chapter V of the Unified Code of Corrections, the Court
16 must proceed under Sections 5-705 and 5-710 of this Article.
17 To request a hearing, the State must file a written motion
18 within 10 days following the entry of a finding or the return
19 of a verdict. Reasonable notice of the motion shall be given
20 to the minor or his or her counsel. If the motion is made by
21 the State, the court shall conduct a hearing to determine
22 whether the minor should be sentenced under Chapter V of the
23 Unified Code of Corrections. In making its determination,
24 the court shall consider among other matters: (a) whether
25 there is evidence that the offense was committed in an
26 aggressive and premeditated manner; (b) the age of the
27 minor; (c) the previous delinquent history of the minor;
28 (d) whether there are facilities particularly available to
29 the Juvenile Court or the Department of Corrections, Juvenile
30 Division, for the treatment and rehabilitation of the minor;
31 (e) whether the best interest of the minor and the security
32 of the public require sentencing under Chapter V of the
33 Unified Code of Corrections; and (f) whether the minor
34 possessed a deadly weapon when committing the offense. The

1 rules of evidence shall be the same as if at trial. If after
2 the hearing the court finds that the minor should be
3 sentenced under Chapter V of the Unified Code of Corrections,
4 then the court shall sentence the minor accordingly having
5 available to it any or all dispositions so prescribed.

6 (5) (a) The definition of delinquent minor under Section
7 5-120 of this Article shall not apply to any minor who is
8 charged with a violation of subsection (a) of Section 31-6 or
9 Section 32-10 of the Criminal Code of 1961 when the minor is
10 subject to prosecution under the criminal laws of this State
11 as a result of the application of the provisions of Section
12 5-125, or subsection (1) or (2) of this Section. These
13 charges and all other charges arising out of the same
14 incident shall be prosecuted under the criminal laws of this
15 State.

16 (b) (i) If before trial or plea an information or
17 indictment is filed that does not charge an offense specified
18 in paragraph (a) of this subsection (5), the State's Attorney
19 may proceed on any lesser charge or charges, but only in
20 Juvenile Court under the provisions of this Article. The
21 State's Attorney may proceed under the criminal laws of this
22 State on a lesser charge if before trial the minor defendant
23 knowingly and with advice of counsel waives, in writing, his
24 or her right to have the matter proceed in Juvenile Court.

25 (ii) If before trial or plea an information or
26 indictment is filed that includes one or more charges
27 specified in paragraph (a) of this subsection (5) and
28 additional charges that are not specified in that paragraph,
29 all of the charges arising out of the same incident shall be
30 prosecuted under the criminal laws of this State.

31 (c) (i) If after trial or plea the minor is convicted of
32 any offense covered by paragraph (a) of this subsection (5),
33 then, in sentencing the minor, the court shall have available
34 any or all dispositions prescribed for that offense under

1 Chapter V of the Unified Code of Corrections.

2 (ii) If after trial or plea the court finds that the
3 minor committed an offense not covered by paragraph (a) of
4 this subsection (5), the conviction shall not invalidate the
5 verdict or the prosecution of the minor under the criminal
6 laws of this State; however, unless the State requests a
7 hearing for the purpose of sentencing the minor under Chapter
8 V of the Unified Code of Corrections, the Court must proceed
9 under Sections 5-705 and 5-710 of this Article. To request a
10 hearing, the State must file a written motion within 10 days
11 following the entry of a finding or the return of a verdict.
12 Reasonable notice of the motion shall be given to the minor
13 or his or her counsel. If the motion is made by the State,
14 the court shall conduct a hearing to determine if whether the
15 minor should be sentenced under Chapter V of the Unified Code
16 of Corrections. In making its determination, the court shall
17 consider among other matters: (a) whether there is evidence
18 that the offense was committed in an aggressive and
19 premeditated manner; (b) the age of the minor; (c) the
20 previous delinquent history of the minor; (d) whether there
21 are facilities particularly available to the Juvenile Court
22 or the Department of Corrections, Juvenile Division, for the
23 treatment and rehabilitation of the minor; (e) whether the
24 security of the public requires sentencing under Chapter V of
25 the Unified Code of Corrections; and (f) whether the minor
26 possessed a deadly weapon when committing the offense. The
27 rules of evidence shall be the same as if at trial. If after
28 the hearing the court finds that the minor should be
29 sentenced under Chapter V of the Unified Code of Corrections,
30 then the court shall sentence the minor accordingly having
31 available to it any or all dispositions so prescribed.

32 (6) The definition of delinquent minor under Section
33 5-120 of this Article shall not apply to any minor who,
34 pursuant to subsection (1), (2), or (3) or Section 5-805, or

1 5-810, has previously been placed under the jurisdiction of
 2 the criminal court and has been convicted of a crime under an
 3 adult criminal or penal statute. Such a minor shall be
 4 subject to prosecution under the criminal laws of this State.

5 (7) The procedures set out in this Article for the
 6 investigation, arrest and prosecution of juvenile offenders
 7 shall not apply to minors who are excluded from jurisdiction
 8 of the Juvenile Court, except that minors under 18 ~~17~~ years
 9 of age shall be kept separate from confined adults.

10 (8) Nothing in this Act prohibits or limits the
 11 prosecution of any minor for an offense committed on or after
 12 his or her 18th ~~17th~~ birthday even though he or she is at the
 13 time of the offense a ward of the court.

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

24 (10) If a minor is subject to any of the provisions of
 25 ~~subsection--(2)--of this Section, other than a minor charged~~
 26 ~~with a Class X felony violation of the Illinois Controlled~~
 27 ~~Substances Act,~~ any party including the minor or the court
 28 sua sponte may, before trial, move for a hearing for the
 29 purpose of trying and sentencing the minor as a delinquent
 30 minor. To request a hearing, the party must file a motion
 31 prior to trial. Reasonable notice of the motion shall be
 32 given to all parties. On its own motion or upon the filing of
 33 a motion by one of the parties including the minor, the court
 34 shall conduct a hearing to determine whether the minor should

1 be tried and sentenced as a delinquent minor under this
2 Article. In making its determination, the court shall
3 consider among other matters:

4 (a) The age of the minor;

5 (b) Any previous delinquent or criminal history of the
6 minor;

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

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

10 (e) Whether there is probable cause to support the
11 charge, whether the minor is charged through accountability,
12 and whether there is evidence the minor possessed a deadly
13 weapon or caused serious bodily harm during the offense.

14 Any material that is relevant and reliable shall be
15 admissible at the hearing. In all cases, the judge shall
16 enter an order permitting prosecution under the criminal laws
17 of Illinois unless the judge makes a finding based on a
18 preponderance of the evidence that the minor would be
19 amenable to the care, treatment, and training programs
20 available through the facilities of the juvenile court based
21 on an evaluation of the factors listed in this subsection
22 (10).

23 (Source: P.A. 91-15, eff. 1-1-00; 91-673, eff. 12-22-99;
24 92-16, eff. 6-28-01; 92-665, eff. 1-1-03.)

25 (705 ILCS 405/5-410)

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

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

32 (2) (a) Any minor 10 years of age or older arrested
33 pursuant to this Act where there is probable cause to believe

1 that the minor is a delinquent minor and that (i) secured
2 custody is a matter of immediate and urgent necessity for the
3 protection of the minor or of the person or property of
4 another, (ii) the minor is likely to flee the jurisdiction of
5 the court, or (iii) the minor was taken into custody under a
6 warrant, may be kept or detained in an authorized detention
7 facility. No minor under 12 years of age shall be detained
8 in a county jail or a municipal lockup for more than 6 hours.

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

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

30 (b-5) Subject to the provisions of subsection (b-4), if
31 a probation officer or detention officer (or other public
32 officer designated by the court in a county having 3,000,000
33 or more inhabitants) does not intend to detain a minor for an
34 offense which constitutes one of the following offenses he or

1 she shall consult with the State's Attorney's Office prior to
2 the release of the minor: first degree murder, second degree
3 murder, involuntary manslaughter, criminal sexual assault,
4 aggravated criminal sexual assault, aggravated battery with a
5 firearm, aggravated or heinous battery involving permanent
6 disability or disfigurement or great bodily harm, robbery,
7 aggravated robbery, armed robbery, vehicular hijacking,
8 aggravated vehicular hijacking, vehicular invasion, arson,
9 aggravated arson, kidnapping, aggravated kidnapping, home
10 invasion, burglary, or residential burglary.

11 (c) Except as otherwise provided in paragraph (a), (d),
12 or (e), no minor shall be detained in a county jail or
13 municipal lockup for more than 12 hours, unless the offense
14 is a crime of violence in which case the minor may be
15 detained up to 24 hours. For the purpose of this paragraph,
16 "crime of violence" has the meaning ascribed to it in Section
17 1-10 of the Alcoholism and Other Drug Abuse and Dependency
18 Act.

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

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

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

32 (iv) A log shall be kept which shows the offense which
33 is the basis for the detention, the reasons and circumstances
34 for the decision to detain and the length of time the minor

1 was in detention.

2 (v) Violation of the time limit on detention in a county
3 jail or municipal lockup shall not, in and of itself, render
4 inadmissible evidence obtained as a result of the violation
5 of this time limit. Minors under 18 ±7 years of age shall be
6 kept separate from confined adults and may not at any time be
7 kept in the same cell, room or yard with adults confined
8 pursuant to criminal law. Persons 18 ±7 years of age and
9 older who have a petition of delinquency filed against them
10 shall be confined in an adult detention facility.

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

26 (ii) To accept or hold minors, 12 years of age or older,
27 after the time period prescribed in paragraph (d)(i) of this
28 subsection (2) of this Section but not exceeding 7 days
29 including Saturdays, Sundays and holidays pending an
30 adjudicatory hearing, county jails shall comply with all
31 temporary detention standards promulgated by the Department
32 of Corrections and training standards approved by the
33 Illinois Law Enforcement Training Standards Board.

34 (iii) To accept or hold minors 12 years of age or older,

1 after the time period prescribed in paragraphs (d)(i) and
2 (d)(ii) of this subsection (2) of this Section, county jails
3 shall comply with all programmatic and training standards for
4 juvenile detention homes promulgated by the Department of
5 Corrections.

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

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

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

27 (3) If the probation officer or State's Attorney (or
28 such other public officer designated by the court in a county
29 having 3,000,000 or more inhabitants) determines that the
30 minor may be a delinquent minor as described in subsection
31 (3) of Section 5-105, and should be retained in custody but
32 does not require physical restriction, the minor may be
33 placed in non-secure custody for up to 40 hours pending a
34 detention hearing.

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

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

6 (705 ILCS 405/5-901)

7 Sec. 5-901. Court file.

8 (1) The Court file with respect to proceedings under
9 this Article shall consist of the petitions, pleadings,
10 victim impact statements, process, service of process,
11 orders, writs and docket entries reflecting hearings held and
12 judgments and decrees entered by the court. The court file
13 shall be kept separate from other records of the court.

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

18 (i) A judge of the circuit court and members
19 of the staff of the court designated by the judge;

20 (ii) Parties to the proceedings and their
21 attorneys;

22 (iii) Victims and their attorneys, except in
23 cases of multiple victims of sex offenses in which
24 case the information identifying the nonrequesting
25 victims shall be redacted;

26 (iv) Probation officers, law enforcement
27 officers or prosecutors or their staff;

28 (v) Adult and juvenile Prisoner Review Boards.

29 (b) The Court file redacted to remove any
30 information identifying the victim or alleged victim of
31 any sex offense shall be disclosed only to the following
32 parties when necessary for discharge of their official
33 duties:

- 1 (i) Authorized military personnel;
 - 2 (ii) Persons engaged in bona fide research,
3 with the permission of the judge of the juvenile
4 court and the chief executive of the agency that
5 prepared the particular recording: provided that
6 publication of such research results in no
7 disclosure of a minor's identity and protects the
8 confidentiality of the record;
 - 9 (iii) The Secretary of State to whom the Clerk
10 of the Court shall report the disposition of all
11 cases, as required in Section 6-204 or Section
12 6-205.1 of the Illinois Vehicle Code. However,
13 information reported relative to these offenses
14 shall be privileged and available only to the
15 Secretary of State, courts, and police officers;
 - 16 (iv) The administrator of a bonafide substance
17 abuse student assistance program with the permission
18 of the presiding judge of the juvenile court;
 - 19 (v) Any individual, or any public or private
20 agency or institution, having custody of the
21 juvenile under court order or providing educational,
22 medical or mental health services to the juvenile or
23 a court-approved advocate for the juvenile or any
24 placement provider or potential placement provider
25 as determined by the court.
- 26 (3) A minor who is the victim or alleged victim in a
27 juvenile proceeding shall be provided the same
28 confidentiality regarding disclosure of identity as the minor
29 who is the subject of record. Information identifying victims
30 and alleged victims of sex offenses, shall not be disclosed
31 or open to public inspection under any circumstances. Nothing
32 in this Section shall prohibit the victim or alleged victim
33 of any sex offense from voluntarily disclosing his or her
34 identity.

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

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

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

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

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

1 the Illinois Controlled Substances Act if committed
2 by an adult, or (E) an act that would be an offense
3 under Section 401 of the Illinois Controlled
4 Substances Act if committed by an adult.

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

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

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

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

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

8 (8) Following any adjudication of delinquency for a
9 crime which would be a felony if committed by an adult, or
10 following any adjudication of delinquency for a violation of
11 Section 24-1, 24-3, 24-3.1, or 24-5 of the Criminal Code of
12 1961, the State's Attorney shall ascertain whether the minor
13 respondent is enrolled in school and, if so, shall provide a
14 copy of the sentencing order to the principal or chief
15 administrative officer of the school. Access to such
16 juvenile records shall be limited to the principal or chief
17 administrative officer of the school and any guidance
18 counselor designated by him or her.

19 (9) Nothing contained in this Act prevents the sharing
20 or disclosure of information or records relating or
21 pertaining to juveniles subject to the provisions of the
22 Serious Habitual Offender Comprehensive Action Program when
23 that information is used to assist in the early
24 identification and treatment of habitual juvenile offenders.

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

34 (12) Information or records may be disclosed to the

1 general public when the court is conducting hearings under
2 Section 5-805 or 5-810.

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

4 (705 ILCS 405/5-905)

5 Sec. 5-905. Law enforcement records.

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

12 (a) A judge of the circuit court and members of the
13 staff of the court designated by the judge;

14 (b) Law enforcement officers, probation officers or
15 prosecutors or their staff;

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

19 (d) Adult and Juvenile Prisoner Review Boards;

20 (e) Authorized military personnel;

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

27 (g) Individuals responsible for supervising or
28 providing temporary or permanent care and custody of
29 minors pursuant to orders of the juvenile court or
30 directives from officials of the Department of Children
31 and Family Services or the Department of Human Services
32 who certify in writing that the information will not be
33 disclosed to any other party except as provided under law

1 or order of court;

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

12 (2) Information identifying victims and alleged victims
13 of sex offenses, shall not be disclosed or open to public
14 inspection under any circumstances. Nothing in this Section
15 shall prohibit the victim or alleged victim of any sex
16 offense from voluntarily disclosing his or her identity.

17 (3) Relevant information, reports and records shall be
18 made available to the Department of Corrections when a
19 juvenile offender has been placed in the custody of the
20 Department of Corrections, Juvenile Division.

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

28 (5) The records of law enforcement officers concerning
29 all minors under 18 17 years of age must be maintained
30 separate from the records of adults and may not be open to
31 public inspection or their contents disclosed to the public
32 except by order of the court or when the institution of
33 criminal proceedings has been permitted under Section 5-130
34 or 5-805 or required under Section 5-130 or 5-805 or such a

1 person has been convicted of a crime and is the subject of
2 pre-sentence investigation or when provided by law.

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

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

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

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

32 (705 ILCS 405/5-915)

33 Sec. 5-915. Expungement of law enforcement and juvenile

1 court records.

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

9 (a) the minor was arrested and no petition for
10 delinquency was filed with the clerk of the circuit
11 court; or

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

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

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

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

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

29 (b) 5 years have elapsed since all juvenile court
30 proceedings relating to him or her have been terminated
31 or his or her commitment to the Department of
32 Corrections, Juvenile Division pursuant to this Act has
33 been terminated;

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

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

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

18 (5) Records which have not been expunged are sealed, and
19 may be obtained only under the provisions of Sections 5-901,
20 5-905 and 5-915.

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

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