



Adopted in House Comm. on Mar 04, 2004

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LRB093 19450 RLC 47444 a

1 AMENDMENT TO HOUSE BILL 4610

2 AMENDMENT NO. _____. Amend House Bill 4610 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Juvenile Court Act of 1987 is amended by
5 changing Sections 1-7, 1-8, 1-9, 2-10, 3-12, 4-9, 5-105, 5-120,
6 5-130, 5-410, 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 the
19 previous offense was committed in furtherance of criminal
20 activities by a criminal street gang. For purposes of this
21 Section, "criminal street gang" has the meaning ascribed to
22 it in Section 10 of the Illinois Streetgang Terrorism
23 Omnibus Prevention Act.

1 (2) Prosecutors, probation officers, social workers,
2 or other individuals assigned by the court to conduct a
3 pre-adjudication or pre-disposition investigation, and
4 individuals responsible for supervising or providing
5 temporary or permanent care and custody for minors pursuant
6 to the order of the juvenile court, when essential to
7 performing their responsibilities.

8 (3) Prosecutors and probation officers:

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

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

16 (c) when criminal proceedings have been permitted
17 or required under Section 5-805 and such minor is the
18 subject of a pre-trial investigation, pre-sentence
19 investigation, fitness hearing, or proceedings on an
20 application for probation.

21 (4) Adult and Juvenile Prisoner Review Board.

22 (5) Authorized military personnel.

23 (6) Persons engaged in bona fide research, with the
24 permission of the Presiding Judge of the Juvenile Court and
25 the chief executive of the respective law enforcement
26 agency; provided that publication of such research results
27 in no disclosure of a minor's identity and protects the
28 confidentiality of the minor's record.

29 (7) Department of Children and Family Services child
30 protection investigators acting in their official
31 capacity.

32 (8) The appropriate school official. Inspection and
33 copying shall be limited to law enforcement records
34 transmitted to the appropriate school official by a local

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

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

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

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

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

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

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

1 enters an order under Section 5-805 permitting or requiring
2 the institution of criminal proceedings.

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

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

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

1 conducted in the presence of a law enforcement officer for the
2 purpose of the identification or apprehension of any person
3 subject to the provisions of this Act or for the investigation
4 or prosecution of any crime.

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

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

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

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

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

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

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

1 this Act shall be restricted to the following:

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

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

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

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

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

32 (4) Judges, prosecutors and probation officers:

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

1 under Section 5-805; or

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

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

1 State, courts, and police officers.

2 (10) The administrator of a bonafide substance abuse
3 student assistance program with the permission of the
4 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 Act
10 relating to a person who is the subject of juvenile court
11 records or the respondent to a petition brought under the
12 Sexually Violent Persons Commitment Act, who is the subject
13 of juvenile court records sought. Any records and any
14 information obtained from those records under this
15 paragraph (11) may be used only in sexually violent persons
16 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 have
30 access to the name, address, and offense of a minor who is
31 adjudicated a delinquent minor under this Act under either
32 of the following circumstances:

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

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

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

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

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

29 (B) The court has made a finding that the minor was
30 at least 13 years of age at the time the offense was
31 committed and the conviction was based upon the minor's
32 commission of: (i) an offense in furtherance of the
33 commission of a felony as a member of or on behalf of a
34 criminal street gang, (ii) an offense involving the use

1 of a firearm in the commission of a felony, (iii) a
2 Class X felony offense under or a second or subsequent
3 Class 2 or greater felony offense under the Cannabis
4 Control Act, (iv) a second or subsequent offense under
5 Section 402 of the Illinois Controlled Substances Act,
6 or (v) an offense under Section 401 of the Illinois
7 Controlled Substances Act.

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

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

25 (F) Following any adjudication of delinquency for a crime
26 which would be a felony if committed by an adult, or following
27 any adjudication of delinquency for a violation of Section
28 24-1, 24-3, 24-3.1, or 24-5 of the Criminal Code of 1961, the
29 State's Attorney shall ascertain whether the minor respondent
30 is enrolled in school and, if so, shall provide a copy of the
31 dispositional order to the principal or chief administrative
32 officer of the school. Access to such juvenile records shall be
33 limited to the principal or chief administrative officer of the
34 school and any guidance counselor designated by him.

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

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

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

24 (Source: P.A. 91-357, eff. 7-29-99; 91-368, eff. 1-1-00,
25 92-415, eff. 8-17-01.)

26 (705 ILCS 405/1-9) (from Ch. 37, par. 801-9)

27 Sec. 1-9. Expungement of law enforcement and juvenile court
28 records.

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

31 (2) This subsection (2) applies to expungement of law
32 enforcement and juvenile court records other than delinquency
33 proceedings. Whenever any person has attained the age of 18 ~~17~~

1 or whenever all juvenile court proceedings relating to that
2 person have been terminated, whichever is later, the person may
3 petition the court to expunge law enforcement records relating
4 to incidents occurring before his 18th ~~17th~~ birthday or his
5 juvenile court records, or both, if the minor was placed under
6 supervision pursuant to Sections 2-20, 3-21, or 4-18, and such
7 order of supervision has since been successfully terminated.

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

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

20 (705 ILCS 405/2-10) (from Ch. 37, par. 802-10)

21 Sec. 2-10. Temporary custody hearing. At the appearance of
22 the minor before the court at the temporary custody hearing,
23 all witnesses present shall be examined before the court in
24 relation to any matter connected with the allegations made in
25 the petition.

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

29 (2) If the court finds that there is probable cause to
30 believe that the minor is abused, neglected or dependent, the
31 court shall state in writing the factual basis supporting its
32 finding and the minor, his or her parent, guardian, custodian
33 and other persons able to give relevant testimony shall be

1 examined before the court. The Department of Children and
2 Family Services shall give testimony concerning indicated
3 reports of abuse and neglect, of which they are aware of
4 through the central registry, involving the minor's parent,
5 guardian or custodian. After such testimony, the court may,
6 consistent with the health, safety and best interests of the
7 minor, enter an order that the minor shall be released upon the
8 request of parent, guardian or custodian if the parent,
9 guardian or custodian appears to take custody. Custodian shall
10 include any agency of the State which has been given custody or
11 wardship of the child. If it is consistent with the health,
12 safety and best interests of the minor, the court may also
13 prescribe shelter care and order that the minor be kept in a
14 suitable place designated by the court or in a shelter care
15 facility designated by the Department of Children and Family
16 Services or a licensed child welfare agency; however, a minor
17 charged with a criminal offense under the Criminal Code of 1961
18 or adjudicated delinquent shall not be placed in the custody of
19 or committed to the Department of Children and Family Services
20 by any court, except a minor less than 13 years of age and
21 committed to the Department of Children and Family Services
22 under Section 5-710 of this Act or a minor for whom an
23 independent basis of abuse, neglect, or dependency exists,
24 which must be defined by departmental rule. In placing the
25 minor, the Department or other agency shall, to the extent
26 compatible with the court's order, comply with Section 7 of the
27 Children and Family Services Act. In determining the health,
28 safety and best interests of the minor to prescribe shelter
29 care, the court must find that it is a matter of immediate and
30 urgent necessity for the safety and protection of the minor or
31 of the person or property of another that the minor be placed
32 in a shelter care facility or that he or she is likely to flee
33 the jurisdiction of the court, and must further find that
34 reasonable efforts have been made or that, consistent with the

1 health, safety and best interests of the minor, no efforts
2 reasonably can be made to prevent or eliminate the necessity of
3 removal of the minor from his or her home. The court shall
4 require documentation from the Department of Children and
5 Family Services as to the reasonable efforts that were made to
6 prevent or eliminate the necessity of removal of the minor from
7 his or her home or the reasons why no efforts reasonably could
8 be made to prevent or eliminate the necessity of removal. When
9 a minor is placed in the home of a relative, the Department of
10 Children and Family Services shall complete a preliminary
11 background review of the members of the minor's custodian's
12 household in accordance with Section 4.3 of the Child Care Act
13 of 1969 within 90 days of that placement. If the minor is
14 ordered placed in a shelter care facility of the Department of
15 Children and Family Services or a licensed child welfare
16 agency, the court shall, upon request of the appropriate
17 Department or other agency, appoint the Department of Children
18 and Family Services Guardianship Administrator or other
19 appropriate agency executive temporary custodian of the minor
20 and the court may enter such other orders related to the
21 temporary custody as it deems fit and proper, including the
22 provision of services to the minor or his family to ameliorate
23 the causes contributing to the finding of probable cause or to
24 the finding of the existence of immediate and urgent necessity.
25 Acceptance of services shall not be considered an admission of
26 any allegation in a petition made pursuant to this Act, nor may
27 a referral of services be considered as evidence in any
28 proceeding pursuant to this Act, except where the issue is
29 whether the Department has made reasonable efforts to reunite
30 the family. In making its findings that it is consistent with
31 the health, safety and best interests of the minor to prescribe
32 shelter care, the court shall state in writing (i) the factual
33 basis supporting its findings concerning the immediate and
34 urgent necessity for the protection of the minor or of the

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

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

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

26 (3) If prior to the shelter care hearing for a minor
27 described in Sections 2-3, 2-4, 3-3 and 4-3 the moving party is
28 unable to serve notice on the party respondent, the shelter
29 care hearing may proceed ex-parte. A shelter care order from an
30 ex-parte hearing shall be endorsed with the date and hour of
31 issuance and shall be filed with the clerk's office and entered
32 of record. The order shall expire after 10 days from the time
33 it is issued unless before its expiration it is renewed, at a
34 hearing upon appearance of the party respondent, or upon an

1 affidavit of the moving party as to all diligent efforts to
 2 notify the party respondent by notice as herein prescribed. The
 3 notice prescribed shall be in writing and shall be personally
 4 delivered to the minor or the minor's attorney and to the last
 5 known address of the other person or persons entitled to
 6 notice. The notice shall also state the nature of the
 7 allegations, the nature of the order sought by the State,
 8 including whether temporary custody is sought, and the
 9 consequences of failure to appear and shall contain a notice
 10 that the parties will not be entitled to further written
 11 notices or publication notices of proceedings in this case,
 12 including the filing of an amended petition or a motion to
 13 terminate parental rights, except as required by Supreme Court
 14 Rule 11; and shall explain the right of the parties and the
 15 procedures to vacate or modify a shelter care order as provided
 16 in this Section. The notice for a shelter care hearing shall be
 17 substantially as follows:

18 NOTICE TO PARENTS AND CHILDREN
 19 OF SHELTER CARE HEARING

20 On at, before the Honorable
 21, (address:), the State
 22 of Illinois will present evidence (1) that (name of child
 23 or children) are abused, neglected
 24 or dependent for the following reasons:
 25 and (2)
 26 that there is "immediate and urgent necessity" to remove
 27 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. You will not be entitled to further notices of
 32 proceedings in this case, including the filing of an
 33 amended petition or a motion to terminate parental rights.

34 At the shelter care hearing, parents have the following

1 rights:

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

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

6 3. To present evidence concerning:

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

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

14 c. The best interests of the child.

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

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

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

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

30 1. That you were not present at the shelter care
31 hearing.

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

1 3. Your signature.

2 4. Signature must be notarized.

3 The rehearing should be scheduled within 48 hours of
4 your filing this affidavit.

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

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

10 1. To have a guardian ad litem appointed.

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

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

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

17 c. Their best interests.

18 3. To cross examine witnesses for other parties.

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

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

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

34 (6) No minor under 16 years of age may be confined in a

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

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

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

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

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

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

1 child's health or safety; or

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

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

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

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

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

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

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

31 Once the presumption of immediate and urgent necessity has
32 been raised, the burden of demonstrating the lack of immediate
33 and urgent necessity shall be on any party that is opposing
34 shelter care for the other minor.

1 (Source: P.A. 89-21, eff. 7-1-95; 89-422; 89-582, eff. 1-1-97;
2 89-626, eff. 8-9-96; 90-28, eff. 1-1-98; 90-87, eff. 9-1-97;
3 90-590, eff. 1-1-99; 90-655, eff. 7-30-98.)

4 (705 ILCS 405/3-12) (from Ch. 37, par. 803-12)

5 Sec. 3-12. Shelter care hearing. At the appearance of the
6 minor before the court at the shelter care hearing, all
7 witnesses present shall be examined before the court in
8 relation to any matter connected with the allegations made in
9 the petition.

10 (1) If the court finds that there is not probable cause to
11 believe that the minor is a person requiring authoritative
12 intervention, it shall release the minor and dismiss the
13 petition.

14 (2) If the court finds that there is probable cause to
15 believe that the minor is a person requiring authoritative
16 intervention, the minor, his or her parent, guardian, custodian
17 and other persons able to give relevant testimony shall be
18 examined before the court. After such testimony, the court may
19 enter an order that the minor shall be released upon the
20 request of a parent, guardian or custodian if the parent,
21 guardian or custodian appears to take custody. Custodian shall
22 include any agency of the State which has been given custody or
23 wardship of the child. The Court shall require documentation by
24 representatives of the Department of Children and Family
25 Services or the probation department as to the reasonable
26 efforts that were made to prevent or eliminate the necessity of
27 removal of the minor from his or her home, and shall consider
28 the testimony of any person as to those reasonable efforts. If
29 the court finds that it is a matter of immediate and urgent
30 necessity for the protection of the minor or of the person or
31 property of another that the minor be placed in a shelter care
32 facility, or that he or she is likely to flee the jurisdiction
33 of the court, and further finds that reasonable efforts have

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

1 prevent the need for removal. The parents, guardian, custodian,
2 temporary custodian and minor shall each be furnished a copy of
3 such written findings. The temporary custodian shall maintain a
4 copy of the court order and written findings in the case record
5 for the child.

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

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

14 (3) If prior to the shelter care hearing for a minor
15 described in Sections 2-3, 2-4, 3-3 and 4-3 the petitioner is
16 unable to serve notice on the party respondent, the shelter
17 care hearing may proceed ex-parte. A shelter care order from an
18 ex-parte hearing shall be endorsed with the date and hour of
19 issuance and shall be filed with the clerk's office and entered
20 of record. The order shall expire after 10 days from the time
21 it is issued unless before its expiration it is renewed, at a
22 hearing upon appearance of the party respondent, or upon an
23 affidavit of the moving party as to all diligent efforts to
24 notify the party respondent by notice as herein prescribed. The
25 notice prescribed shall be in writing and shall be personally
26 delivered to the minor or the minor's attorney and to the last
27 known address of the other person or persons entitled to
28 notice. The notice shall also state the nature of the
29 allegations, the nature of the order sought by the State,
30 including whether temporary custody is sought, and the
31 consequences of failure to appear; and shall explain the right
32 of the parties and the procedures to vacate or modify a shelter
33 care order as provided in this Section. The notice for a
34 shelter care hearing shall be substantially as follows:

1 NOTICE TO PARENTS AND CHILDREN OF SHELTER CARE HEARING

2 On at, before the Honorable
3, (address:), the State of
4 Illinois will present evidence (1) that (name of child or
5 children) are abused, neglected or
6 dependent for the following reasons:

7
8 and (2) that there is "immediate and urgent necessity" to
9 remove the child or children from the responsible relative.

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

13 At the shelter care hearing, parents have the following
14 rights:

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

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

19 3. To present evidence concerning:

20 a. Whether or not the child or children were
21 abused, neglected or dependent.

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

27 c. The best interests of the child.

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

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

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

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

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

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

13 The rehearing should be scheduled within one day of your
 14 filing this affidavit.

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

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

- 20 1. To have a guardian ad litem appointed.
- 21 2. To be declared competent as a witness and to present
- 22 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 parties.
- 29 4. To obtain an explanation of any proceedings and
- 30 orders of the court.

31 (4) If the parent, guardian, legal custodian, responsible
 32 relative, or counsel of the minor did not have actual notice of
 33 or was not present at the shelter care hearing, he or she may
 34 file an affidavit setting forth these facts, and the clerk

1 shall set the matter for rehearing not later than 48 hours,
2 excluding Sundays and legal holidays, after the filing of the
3 affidavit. At the rehearing, the court shall proceed in the
4 same manner as upon the original hearing.

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

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

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

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

31 (9) Notwithstanding any other provision of this Section,
32 any interested party, including the State, the temporary
33 custodian, an agency providing services to the minor or family
34 under a service plan pursuant to Section 8.2 of the Abused and

1 Neglected Child Reporting Act, foster parent, or any of their
2 representatives, on notice to all parties entitled to notice,
3 may file a motion to modify or vacate a temporary custody order
4 on any of the following grounds:

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

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

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

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

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

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

23 (705 ILCS 405/4-9) (from Ch. 37, par. 804-9)

24 Sec. 4-9. Shelter care hearing. At the appearance of the
25 minor before the court at the shelter care hearing, all
26 witnesses present shall be examined before the court in
27 relation to any matter connected with the allegations made in
28 the petition.

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

32 (2) If the court finds that there is probable cause to
33 believe that the minor is addicted, the minor, his or her

1 parent, guardian, custodian and other persons able to give
2 relevant testimony shall be examined before the court. After
3 such testimony, the court may enter an order that the minor
4 shall be released upon the request of a parent, guardian or
5 custodian if the parent, guardian or custodian appears to take
6 custody and agrees to abide by a court order which requires the
7 minor and his or her parent, guardian, or legal custodian to
8 complete an evaluation by an entity licensed by the Department
9 of Human Services, as the successor to the Department of
10 Alcoholism and Substance Abuse, and complete any treatment
11 recommendations indicated by the assessment. Custodian shall
12 include any agency of the State which has been given custody or
13 wardship of the child.

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

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

1 Once the court finds that it is a matter of immediate and
2 urgent necessity for the protection of the minor that the minor
3 be placed in a shelter care facility, the minor shall not be
4 returned to the parent, custodian or guardian until the court
5 finds that such placement is no longer necessary for the
6 protection of the minor.

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

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

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

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

29 (7) If neither the parent, guardian or custodian appears
30 within 24 hours to take custody of a minor released upon
31 request pursuant to subsection (2) of this Section, then the
32 clerk of the court shall set the matter for rehearing not later
33 than 7 days after the original order and shall issue a summons
34 directed to the parent, guardian or custodian to appear. At the

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

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

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

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

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

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

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

30 (Source: P.A. 89-422; 89-507, eff. 7-1-97; 90-590, eff.
31 1-1-99.)

32 (705 ILCS 405/5-105)

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

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

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

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

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

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

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

1 custody pursuant to Section 5-125 of this Act.

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

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

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

28 (9) "Juvenile police officer" means a sworn police officer
29 who has completed a Basic Recruit Training Course, has been
30 assigned to the position of juvenile police officer by his or
31 her chief law enforcement officer and has completed the
32 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 locked
6 cell or room, by being handcuffed to a rail or other stationary
7 object, or by other means. Non-secure custody may include, but
8 is not limited to, electronic monitoring, foster home
9 placement, home confinement, group home placement, or physical
10 restriction of movement or activity solely through facility
11 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 which
16 agrees to accept public or community service from offenders and
17 to report on the progress of the offender and the public or
18 community service to the court or to the authorized diversion
19 program that has referred the offender for public or community
20 service.

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

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

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

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

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

12 (705 ILCS 405/5-120)

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

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

23 (705 ILCS 405/5-130)

24 Sec. 5-130. Excluded jurisdiction.

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

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

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

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

11 "School" means a public or private elementary or secondary
12 school, community college, college, or university.

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

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

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

32 (c) (i) If after trial or plea the minor is convicted of
33 any offense covered by paragraph (a) of this subsection (1),
34 then, in sentencing the minor, the court shall have available

1 any or all dispositions prescribed for that offense under
2 Chapter V of the Unified Code of Corrections.

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

33 (2) (a) The definition of a delinquent minor under Section
34 5-120 of this Article shall not apply to any minor who at the

1 time of the offense was at least 15 years of age and who is
2 charged with an offense under Section 401 of the Illinois
3 Controlled Substances Act, while in a school, regardless of the
4 time of day or the time of year, or any conveyance owned,
5 leased or contracted by a school to transport students to or
6 from school or a school related activity, or residential
7 property owned, operated or managed by a public housing agency
8 or leased by a public housing agency as part of a scattered
9 site or mixed-income development, on the real property
10 comprising any school, regardless of the time of day or the
11 time of year, or residential property owned, operated or
12 managed by a public housing agency or leased by a public
13 housing agency as part of a scattered site or mixed-income
14 development, or on a public way within 1,000 feet of the real
15 property comprising any school, regardless of the time of day
16 or the time of year, or residential property owned, operated or
17 managed by a public housing agency or leased by a public
18 housing agency as part of a scattered site or mixed-income
19 development. School is defined, for the purposes of this
20 Section, as any public or private elementary or secondary
21 school, community college, college, or university. These
22 charges and all other charges arising out of the same incident
23 shall be prosecuted under the criminal laws of this State.

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

33 (ii) If before trial or plea an information or indictment
34 is filed that includes one or more charges specified in

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

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

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

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

6 (3) (a) The definition of delinquent minor under Section
7 5-120 of this Article shall not apply to any minor who at the
8 time of the offense was at least 15 years of age and who is
9 charged with a violation of the provisions of paragraph (1),
10 (3), (4), or (10) of subsection (a) of Section 24-1 of the
11 Criminal Code of 1961 while in school, regardless of the time
12 of day or the time of year, or on the real property comprising
13 any school, regardless of the time of day or the time of year.
14 School is defined, for purposes of this Section as any public
15 or private elementary or secondary school, community college,
16 college, or university. These charges and all other charges
17 arising out of the same incident shall be prosecuted under the
18 criminal laws of this State.

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 (3) 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 laws of this
25 State on a lesser charge if before trial the minor defendant
26 knowingly and with advice of counsel waives, in writing, his or
27 her right to have the matter proceed in Juvenile Court.

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

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

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

1 (4) (a) The definition of delinquent minor under Section
2 5-120 of this Article shall not apply to any minor who at the
3 time of an offense was at least 13 years of age and who is
4 charged with first degree murder committed during the course of
5 either aggravated criminal sexual assault, criminal sexual
6 assault, or aggravated kidnaping. However, this subsection (4)
7 does not include a minor charged with first degree murder based
8 exclusively upon the accountability provisions of the Criminal
9 Code of 1961.

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

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

28 (c) (i) If after trial or plea the minor is convicted of
29 first degree murder committed during the course of aggravated
30 criminal sexual assault, criminal sexual assault, or
31 aggravated kidnaping, in sentencing the minor, the court shall
32 have available any or all dispositions prescribed for that
33 offense under Chapter V of the Unified Code of Corrections.

34 (ii) If the minor was not yet 15 years of age at the time of

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

33 (5) (a) The definition of delinquent minor under Section
34 5-120 of this Article shall not apply to any minor who is

1 charged with a violation of subsection (a) of Section 31-6 or
2 Section 32-10 of the Criminal Code of 1961 when the minor is
3 subject to prosecution under the criminal laws of this State as
4 a result of the application of the provisions of Section 5-125,
5 or subsection (1) or (2) of this Section. These charges and all
6 other charges arising out of the same incident shall be
7 prosecuted under the criminal laws of this State.

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

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

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

28 (ii) If after trial or plea the court finds that the minor
29 committed an offense not covered by paragraph (a) of this
30 subsection (5), the conviction shall not invalidate the verdict
31 or the prosecution of the minor under the criminal laws of this
32 State; however, unless the State requests a hearing for the
33 purpose of sentencing the minor under Chapter V of the Unified
34 Code of Corrections, the Court must proceed under Sections

1 5-705 and 5-710 of this Article. To request a hearing, the
2 State must file a written motion within 10 days following the
3 entry of a finding or the return of a verdict. Reasonable
4 notice of the motion shall be given to the minor or his or her
5 counsel. If the motion is made by the State, the court shall
6 conduct a hearing to determine if whether the minor should be
7 sentenced under Chapter V of the Unified Code of Corrections.
8 In making its determination, the court shall consider among
9 other matters: (a) whether there is evidence that the offense
10 was committed in an aggressive and premeditated manner; (b) the
11 age of the minor; (c) the previous delinquent history of the
12 minor; (d) whether there are facilities particularly available
13 to the Juvenile Court or the Department of Corrections,
14 Juvenile Division, for the treatment and rehabilitation of the
15 minor; (e) whether the security of the public requires
16 sentencing under Chapter V of the Unified Code of Corrections;
17 and (f) whether the minor possessed a deadly weapon when
18 committing the offense. The rules of evidence shall be the same
19 as if at trial. If after the hearing the court finds that the
20 minor should be sentenced under Chapter V of the Unified Code
21 of Corrections, then the court shall sentence the minor
22 accordingly having available to it any or all dispositions so
23 prescribed.

24 (6) The definition of delinquent minor under Section 5-120
25 of this Article shall not apply to any minor who, pursuant to
26 subsection (1), (2), or (3) or Section 5-805, or 5-810, has
27 previously been placed under the jurisdiction of the criminal
28 court and has been convicted of a crime under an adult criminal
29 or penal statute. Such a minor shall be subject to prosecution
30 under the criminal laws of this State.

31 (7) The procedures set out in this Article for the
32 investigation, arrest and prosecution of juvenile offenders
33 shall not apply to minors who are excluded from jurisdiction of
34 the Juvenile Court, except that minors under 18 ~~17~~ years of age

1 shall be kept separate from confined adults.

2 (8) Nothing in this Act prohibits or limits the prosecution
3 of any minor for an offense committed on or after his or her
4 18th ~~17th~~ birthday even though he or she is at the time of the
5 offense a ward of the court.

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

16 (10) If a minor is subject to the provisions of subsection
17 (2) of this Section, other than a minor charged with a Class X
18 felony violation of the Illinois Controlled Substances Act, any
19 party including the minor or the court sua sponte may, before
20 trial, move for a hearing for the purpose of trying and
21 sentencing the minor as a delinquent minor. To request a
22 hearing, the party must file a motion prior to trial.
23 Reasonable notice of the motion shall be given to all parties.
24 On its own motion or upon the filing of a motion by one of the
25 parties including the minor, the court shall conduct a hearing
26 to determine whether the minor should be tried and sentenced as
27 a delinquent minor under this Article. In making its
28 determination, the court shall consider among other matters:

29 (a) The age of the minor;

30 (b) Any previous delinquent or criminal history of the
31 minor;

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

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

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

5 Any material that is relevant and reliable shall be
6 admissible at the hearing. In all cases, the judge shall enter
7 an order permitting prosecution under the criminal laws of
8 Illinois unless the judge makes a finding based on a
9 preponderance of the evidence that the minor would be amenable
10 to the care, treatment, and training programs available through
11 the facilities of the juvenile court based on an evaluation of
12 the factors listed in this subsection (10).

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

15 (705 ILCS 405/5-410)

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

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

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

32 (b) The written authorization of the probation officer or
33 detention officer (or other public officer designated by the

1 court in a county having 3,000,000 or more inhabitants)
2 constitutes authority for the superintendent of any juvenile
3 detention home to detain and keep a minor for up to 40 hours,
4 excluding Saturdays, Sundays and court-designated holidays.
5 These records shall be available to the same persons and
6 pursuant to the same conditions as are law enforcement records
7 as provided in Section 5-905.

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

19 (b-5) Subject to the provisions of subsection (b-4), if a
20 probation officer or detention officer (or other public officer
21 designated by the court in a county having 3,000,000 or more
22 inhabitants) does not intend to detain a minor for an offense
23 which constitutes one of the following offenses he or she shall
24 consult with the State's Attorney's Office prior to the release
25 of the minor: first degree murder, second degree murder,
26 involuntary manslaughter, criminal sexual assault, aggravated
27 criminal sexual assault, aggravated battery with a firearm,
28 aggravated or heinous battery involving permanent disability
29 or disfigurement or great bodily harm, robbery, aggravated
30 robbery, armed robbery, vehicular hijacking, aggravated
31 vehicular hijacking, vehicular invasion, arson, aggravated
32 arson, kidnapping, aggravated kidnapping, home invasion,
33 burglary, or residential burglary.

34 (c) Except as otherwise provided in paragraph (a), (d), or

1 (e), no minor shall be detained in a county jail or municipal
2 lockup for more than 12 hours, unless the offense is a crime of
3 violence in which case the minor may be detained up to 24
4 hours. For the purpose of this paragraph, "crime of violence"
5 has the meaning ascribed to it in Section 1-10 of the
6 Alcoholism and Other Drug Abuse and Dependency Act.

7 (i) The period of detention is deemed to have begun
8 once the minor has been placed in a locked room or cell or
9 handcuffed to a stationary object in a building housing a
10 county jail or municipal lockup. Time spent transporting a
11 minor is not considered to be time in detention or secure
12 custody.

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

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

20 (iv) A log shall be kept which shows the offense which
21 is the basis for the detention, the reasons and
22 circumstances for the decision to detain and the length of
23 time the minor was in detention.

24 (v) Violation of the time limit on detention in a
25 county jail or municipal lockup shall not, in and of
26 itself, render inadmissible evidence obtained as a result
27 of the violation of this time limit. Minors under 18 ~~17~~
28 years of age shall be kept separate from confined adults
29 and may not at any time be kept in the same cell, room or
30 yard with adults confined pursuant to criminal law. Persons
31 18 ~~17~~ years of age and older who have a petition of
32 delinquency filed against them may be confined in an adult
33 detention facility. In making a determination whether to
34 confine a person 18 ~~17~~ years of age or older who has a

1 petition of delinquency filed against the person, these
2 factors, among other matters, shall be considered:

3 (A) The age of the person;

4 (B) Any previous delinquent or criminal history of
5 the person;

6 (C) Any previous abuse or neglect history of the
7 person; and

8 (D) Any mental health or educational history of the
9 person, or both.

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

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

33 (iii) To accept or hold minors 12 years of age or older,
34 after the time period prescribed in paragraphs (d) (i) and

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

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

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

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

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

33 (4) Any minor taken into temporary custody, not requiring
34 secure detention, may, however, be detained in the home of his

1 or her parent or guardian subject to such conditions as the
2 court may impose.

3 (Source: P.A. 93-255, eff. 1-1-04.)

4 (705 ILCS 405/5-901)

5 Sec. 5-901. Court file.

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

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

16 (i) A judge of the circuit court and members of the
17 staff of the court designated by the judge;

18 (ii) Parties to the proceedings and their
19 attorneys;

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

24 (iv) Probation officers, law enforcement officers
25 or prosecutors or their staff;

26 (v) Adult and juvenile Prisoner Review Boards.

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

31 (i) Authorized military personnel;

32 (ii) Persons engaged in bona fide research, with
33 the permission of the judge of the juvenile court and

1 the chief executive of the agency that prepared the
2 particular recording: provided that publication of
3 such research results in no disclosure of a minor's
4 identity and protects the confidentiality of the
5 record;

6 (iii) The Secretary of State to whom the Clerk of
7 the Court shall report the disposition of all cases, as
8 required in Section 6-204 or Section 6-205.1 of the
9 Illinois Vehicle Code. However, information reported
10 relative to these offenses shall be privileged and
11 available only to the Secretary of State, courts, and
12 police officers;

13 (iv) The administrator of a bonafide substance
14 abuse student assistance program with the permission
15 of the presiding judge of the juvenile court;

16 (v) Any individual, or any public or private agency
17 or institution, having custody of the juvenile under
18 court order or providing educational, medical or
19 mental health services to the juvenile or a
20 court-approved advocate for the juvenile or any
21 placement provider or potential placement provider as
22 determined by the court.

23 (3) A minor who is the victim or alleged victim in a
24 juvenile proceeding shall be provided the same confidentiality
25 regarding disclosure of identity as the minor who is the
26 subject of record. Information identifying victims and alleged
27 victims of sex offenses, shall not be disclosed or open to
28 public inspection under any circumstances. Nothing in this
29 Section shall prohibit the victim or alleged victim of any sex
30 offense from voluntarily disclosing his or her identity.

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

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

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

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

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

33 (b) The court shall allow the general public to have
34 access to the name, address, and offense of a minor who is

1 at least 13 years of age at the time the offense is
2 committed and who is convicted, in criminal proceedings
3 permitted or required under Section 5-805, under either of
4 the following circumstances:

5 (i) The minor has been convicted of first degree
6 murder, attempt to commit first degree murder,
7 aggravated criminal sexual assault, or criminal sexual
8 assault,

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

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

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

1 (8) Following any adjudication of delinquency for a crime
2 which would be a felony if committed by an adult, or following
3 any adjudication of delinquency for a violation of Section
4 24-1, 24-3, 24-3.1, or 24-5 of the Criminal Code of 1961, the
5 State's Attorney shall ascertain whether the minor respondent
6 is enrolled in school and, if so, shall provide a copy of the
7 sentencing order to the principal or chief administrative
8 officer of the school. Access to such juvenile records shall be
9 limited to the principal or chief administrative officer of the
10 school and any guidance counselor designated by him or her.

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

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

26 (12) Information or records may be disclosed to the general
27 public when the court is conducting hearings under Section
28 5-805 or 5-810.

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

30 (705 ILCS 405/5-905)

31 Sec. 5-905. Law enforcement records.

32 (1) Law Enforcement Records. Inspection and copying of law
33 enforcement records maintained by law enforcement agencies

1 that relate to a minor who has been arrested or taken into
2 custody before his or her 18th ~~17th~~ birthday shall be
3 restricted to the following and when necessary for the
4 discharge of their official duties:

5 (a) A judge of the circuit court and members of the
6 staff of the court designated by the judge;

7 (b) Law enforcement officers, probation officers or
8 prosecutors or their staff;

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

12 (d) Adult and Juvenile Prisoner Review Boards;

13 (e) Authorized military personnel;

14 (f) Persons engaged in bona fide research, with the
15 permission of the judge of juvenile court and the chief
16 executive of the agency that prepared the particular
17 recording: provided that publication of such research
18 results in no disclosure of a minor's identity and protects
19 the confidentiality of the record;

20 (g) Individuals responsible for supervising or
21 providing temporary or permanent care and custody of minors
22 pursuant to orders of the juvenile court or directives from
23 officials of the Department of Children and Family Services
24 or the Department of Human Services who certify in writing
25 that the information will not be disclosed to any other
26 party except as provided under law or order of court;

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

1 offense classified as a felony or a Class A or B
2 misdemeanor.

3 (2) Information identifying victims and alleged victims of
4 sex offenses, shall not be disclosed or open to public
5 inspection under any circumstances. Nothing in this Section
6 shall prohibit the victim or alleged victim of any sex offense
7 from voluntarily disclosing his or her identity.

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

12 (4) Nothing in this Section shall prohibit the inspection
13 or disclosure to victims and witnesses of photographs contained
14 in the records of law enforcement agencies when the inspection
15 or disclosure is conducted in the presence of a law enforcement
16 officer for purposes of identification or apprehension of any
17 person in the course of any criminal investigation or
18 prosecution.

19 (5) The records of law enforcement officers concerning all
20 minors under 18 ~~17~~ years of age must be maintained separate
21 from the records of adults and may not be open to public
22 inspection or their contents disclosed to the public except by
23 order of the court or when the institution of criminal
24 proceedings has been permitted under Section 5-130 or 5-805 or
25 required under Section 5-130 or 5-805 or such a person has been
26 convicted of a crime and is the subject of pre-sentence
27 investigation or when provided by law.

28 (6) Except as otherwise provided in this subsection (6),
29 law enforcement officers may not disclose the identity of any
30 minor in releasing information to the general public as to the
31 arrest, investigation or disposition of any case involving a
32 minor. Any victim or parent or legal guardian of a victim may
33 petition the court to disclose the name and address of the
34 minor and the minor's parents or legal guardian, or both. Upon

1 a finding by clear and convincing evidence that the disclosure
2 is either necessary for the victim to pursue a civil remedy
3 against the minor or the minor's parents or legal guardian, or
4 both, or to protect the victim's person or property from the
5 minor, then the court may order the disclosure of the
6 information to the victim or to the parent or legal guardian of
7 the victim only for the purpose of the victim pursuing a civil
8 remedy against the minor or the minor's parents or legal
9 guardian, or both, or to protect the victim's person or
10 property from the minor.

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

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

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

23 (705 ILCS 405/5-915)

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

26 (1) Whenever any person has attained the age of 18 ~~17~~ or
27 whenever all juvenile court proceedings relating to that person
28 have been terminated, whichever is later, the person may
29 petition the court to expunge law enforcement records relating
30 to incidents occurring before his or her 18th ~~17th~~ birthday or
31 his or her juvenile court records, or both, but only in the
32 following circumstances:

33 (a) the minor was arrested and no petition for

1 delinquency was filed with the clerk of the circuit court;
2 or

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

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

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

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

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

20 (b) 5 years have elapsed since all juvenile court
21 proceedings relating to him or her have been terminated or
22 his or her commitment to the Department of Corrections,
23 Juvenile Division pursuant to this Act has been terminated;
24 whichever is later of (a) or (b).

25 (3) The chief judge of the circuit in which an arrest was
26 made or a charge was brought or any judge of that circuit
27 designated by the chief judge may, upon verified petition of a
28 person who is the subject of an arrest or a juvenile court
29 proceeding under subsection (1) or (2) of this Section, order
30 the law enforcement records or official court file, or both, to
31 be expunged from the official records of the arresting
32 authority, the clerk of the circuit court and the Department of
33 State Police. Notice of the petition shall be served upon the
34 State's Attorney and upon the arresting authority which is the

1 subject of the petition for expungement.

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

7 (5) Records which have not been expunged are sealed, and
8 may be obtained only under the provisions of Sections 5-901,
9 5-905 and 5-915.

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

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

17 Section 10. The Unified Code of Corrections is amended by
18 changing Sections 3-10-7 and 5-8-6 as follows:

19 (730 ILCS 5/3-10-7) (from Ch. 38, par. 1003-10-7)

20 Sec. 3-10-7. Interdivisional Transfers. (a) In any case
21 where a minor was originally prosecuted under the provisions of
22 the Criminal Code of 1961, as amended, and sentenced under the
23 provisions of this Act pursuant to Section 2-7 of the Juvenile
24 Court Act or Section 5-805 of the Juvenile Court Act of 1987
25 and committed to the Juvenile Division under Section 5-8-6, the
26 Department of Corrections shall, within 30 days of the date
27 that the minor reaches the age of 18 ~~17~~, send formal
28 notification to the sentencing court and the State's Attorney
29 of the county from which the minor was sentenced indicating the
30 day upon which the minor offender will achieve the age of 18
31 ~~17~~. Within 90 days of receipt of that notice, the sentencing
32 court shall conduct a hearing, pursuant to the provisions of

1 subsection (c) of this Section to determine whether or not the
2 minor shall continue to remain under the auspices of the
3 Juvenile Division or be transferred to the Adult Division of
4 the Department of Corrections.

5 The minor shall be served with notice of the date of the
6 hearing, shall be present at the hearing, and has the right to
7 counsel at the hearing. The minor, with the consent of his or
8 her counsel or guardian may waive his presence at hearing.

9 (b) Unless sooner paroled under Section 3-3-3, the
10 confinement of a minor person committed for an indeterminate
11 sentence in a criminal proceeding shall terminate at the
12 expiration of the maximum term of imprisonment, and he shall
13 thereupon be released to serve a period of parole under Section
14 5-8-1, but if the maximum term of imprisonment does not expire
15 until after his 21st birthday, he shall continue to be subject
16 to the control and custody of the Department, and on his 21st
17 birthday, he shall be transferred to the Adult Division. If
18 such person is on parole on his 21st birthday, his parole
19 supervision may be transferred to the Adult Division.

20 (c) Any interdivisional transfer hearing conducted
21 pursuant to subsection (a) of this Section shall consider all
22 available information which may bear upon the issue of
23 transfer. All evidence helpful to the court in determining the
24 question of transfer, including oral and written reports
25 containing hearsay, may be relied upon to the extent of its
26 probative value, even though not competent for the purposes of
27 an adjudicatory hearing. The court shall consider, along with
28 any other relevant matter, the following:

29 1. The nature of the offense for which the minor was found
30 guilty and the length of the sentence the minor has to serve
31 and the record and previous history of the minor.

32 2. The record of the minor's adjustment within the
33 Department of Corrections' Juvenile Division, including, but
34 not limited to, reports from the minor's counselor, any

1 escapes, attempted escapes or violent or disruptive conduct on
2 the part of the minor, any tickets received by the minor,
3 summaries of classes attended by the minor, and any record of
4 work performed by the minor while in the institution.

5 3. The relative maturity of the minor based upon the
6 physical, psychological and emotional development of the
7 minor.

8 4. The record of the rehabilitative progress of the minor
9 and an assessment of the vocational potential of the minor.

10 5. An assessment of the necessity for transfer of the
11 minor, including, but not limited to, the availability of space
12 within the Department of Corrections, the disciplinary and
13 security problem which the minor has presented to the Juvenile
14 Division and the practicability of maintaining the minor in a
15 juvenile facility, whether resources have been exhausted
16 within the Juvenile Division of the Department of Corrections,
17 the availability of rehabilitative and vocational programs
18 within the Department of Corrections, and the anticipated
19 ability of the minor to adjust to confinement within an adult
20 institution based upon the minor's physical size and maturity.

21 All relevant factors considered under this subsection need
22 not be resolved against the juvenile in order to justify such
23 transfer. Access to social records, probation reports or any
24 other reports which are considered by the court for the purpose
25 of transfer shall be made available to counsel for the juvenile
26 at least 30 days prior to the date of the transfer hearing. The
27 Sentencing Court, upon granting a transfer order, shall
28 accompany such order with a statement of reasons.

29 (d) Whenever the Director or his designee determines that
30 the interests of safety, security and discipline require the
31 transfer to the Adult Division of a person 18 ~~17~~ years or older
32 who was prosecuted under the provisions of the Criminal Code of
33 1961, as amended, and sentenced under the provisions of this
34 Act pursuant to Section 2-7 of the Juvenile Court Act or

1 Section 5-805 of the Juvenile Court Act of 1987 and committed
2 to the Juvenile Division under Section 5-8-6, the Director or
3 his designee may authorize the emergency transfer of such
4 person, unless the transfer of the person is governed by
5 subsection (e) of this Section. The sentencing court shall be
6 provided notice of any emergency transfer no later than 3 days
7 after the emergency transfer. Upon motion brought within 60
8 days of the emergency transfer by the sentencing court or any
9 party, the sentencing court may conduct a hearing pursuant to
10 the provisions of subsection (c) of this Section in order to
11 determine whether the person shall remain confined in the Adult
12 Division.

13 (e) The Director or his designee may authorize the
14 permanent transfer to the Adult Division of any person 18 years
15 or older who was prosecuted under the provisions of the
16 Criminal Code of 1961, as amended, and sentenced under the
17 provisions of this Act pursuant to Section 2-7 of the Juvenile
18 Court Act or Section 5-805 of the Juvenile Court Act of 1987
19 and committed to the Juvenile Division under Section 5-8-6 of
20 this Act. The Director or his designee shall be governed by the
21 following factors in determining whether to authorize the
22 permanent transfer of the person to the Adult Division:

23 1. The nature of the offense for which the person was found
24 guilty and the length of the sentence the person has to serve
25 and the record and previous history of the person.

26 2. The record of the person's adjustment within the
27 Department of Corrections' Juvenile Division, including, but
28 not limited to, reports from the person's counselor, any
29 escapes, attempted escapes or violent or disruptive conduct on
30 the part of the person, any tickets received by the person,
31 summaries of classes attended by the person, and any record of
32 work performed by the person while in the institution.

33 3. The relative maturity of the person based upon the
34 physical, psychological and emotional development of the

1 person.

2 4. The record of the rehabilitative progress of the person
3 and an assessment of the vocational potential of the person.

4 5. An assessment of the necessity for transfer of the
5 person, including, but not limited to, the availability of
6 space within the Department of Corrections, the disciplinary
7 and security problem which the person has presented to the
8 Juvenile Division and the practicability of maintaining the
9 person in a juvenile facility, whether resources have been
10 exhausted within the Juvenile Division of the Department of
11 Corrections, the availability of rehabilitative and vocational
12 programs within the Department of Corrections, and the
13 anticipated ability of the person to adjust to confinement
14 within an adult institution based upon the person's physical
15 size and maturity.

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

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

18 Sec. 5-8-6. Place of Confinement. (a) Offenders sentenced
19 to a term of imprisonment for a felony shall be committed to
20 the penitentiary system of the Department of Corrections.
21 However, such sentence shall not limit the powers of the
22 Department of Children and Family Services in relation to any
23 child under the age of one year in the sole custody of a person
24 so sentenced, nor in relation to any child delivered by a
25 female so sentenced while she is so confined as a consequence
26 of such sentence. A person sentenced for a felony may be
27 assigned by the Department of Corrections to any of its
28 institutions, facilities or programs.

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

1 (c) All offenders under 18 ~~17~~ years of age when sentenced
2 to imprisonment shall be committed to the Juvenile Division of
3 the Department of Corrections and the court in its order of
4 commitment shall set a definite term. Such order of commitment
5 shall be the sentence of the court which may be amended by the
6 court while jurisdiction is retained; and such sentence shall
7 apply whenever the offender sentenced is in the control and
8 custody of the Adult Division of the Department of Corrections.
9 The provisions of Section 3-3-3 shall be a part of such
10 commitment as fully as though written in the order of
11 commitment. The committing court shall retain jurisdiction of
12 the subject matter and the person until he or she reaches the
13 age of 21 unless earlier discharged. However, the Juvenile
14 Division of the Department of Corrections shall, after a
15 juvenile has reached 18 ~~17~~ years of age, petition the court to
16 conduct a hearing pursuant to subsection (c) of Section 3-10-7
17 of this Code.

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

20 (e) When a court sentences a defendant to a term of
21 imprisonment concurrent with a previous and unexpired sentence
22 of imprisonment imposed by any district court of the United
23 States, it may commit the offender to the custody of the
24 Attorney General of the United States. The Attorney General of
25 the United States, or the authorized representative of the
26 Attorney General of the United States, shall be furnished with
27 the warrant of commitment from the court imposing sentence,
28 which warrant of commitment shall provide that, when the
29 offender is released from federal confinement, whether by
30 parole or by termination of sentence, the offender shall be
31 transferred by the Sheriff of the committing county to the
32 Department of Corrections. The court shall cause the Department
33 to be notified of such sentence at the time of commitment and
34 to be provided with copies of all records regarding the

1 sentence.

2 (Source: P.A. 83-1362.)".