

1 AN ACT in relation to minors.

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

4 Section 5. The Juvenile Court Act of 1987 is amended by
5 changing Sections 1-7, 1-8, 1-9, 2-10, 3-12, 4-9, 5-105, 5-120,
6 5-130, 5-410, 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.

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

31 (3) Prosecutors and probation officers:

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

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

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

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

12 (4) Adult and Juvenile Prisoner Review Board.

13 (5) Authorized military personnel.

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

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

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

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

34 (ii) a violation of the Illinois Controlled
35 Substances Act;

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

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

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

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

26 (2) Law enforcement officers or other persons or
27 agencies shall transmit to the Department of State Police
28 copies of fingerprints and descriptions of all minors who
29 have been arrested or taken into custody before their 18th
30 ~~17th~~ birthday for the offense of unlawful use of weapons
31 under Article 24 of the Criminal Code of 1961, a Class X or
32 Class 1 felony, a forcible felony as defined in Section 2-8
33 of the Criminal Code of 1961, or a Class 2 or greater
34 felony under the Cannabis Control Act, the Illinois
35 Controlled Substances Act, or Chapter 4 of the Illinois
36 Vehicle Code, pursuant to Section 5 of the Criminal

1 Identification Act. Information reported to the Department
2 pursuant to this Section may be maintained with records
3 that the Department files pursuant to Section 2.1 of the
4 Criminal Identification Act. Nothing in this Act prohibits
5 a law enforcement agency from fingerprinting a minor taken
6 into custody or arrested before his or her 18th ~~17th~~
7 birthday for an offense other than those listed in this
8 paragraph (2).

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

18 (D) Nothing contained in subsection (C) of this Section
19 shall prohibit the inspection or disclosure to victims and
20 witnesses of photographs contained in the records of law
21 enforcement agencies when the inspection and disclosure is
22 conducted in the presence of a law enforcement officer for the
23 purpose of the identification or apprehension of any person
24 subject to the provisions of this Act or for the investigation
25 or prosecution of any crime.

26 (E) Law enforcement officers may not disclose the identity
27 of any minor in releasing information to the general public as
28 to the arrest, investigation or disposition of any case
29 involving a minor.

30 (F) Nothing contained in this Section shall prohibit law
31 enforcement agencies from communicating with each other by
32 letter, memorandum, teletype or intelligence alert bulletin or
33 other means the identity or other relevant information
34 pertaining to a person under 18 ~~17~~ years of age if there are
35 reasonable grounds to believe that the person poses a real and
36 present danger to the safety of the public or law enforcement

1 officers. The information provided under this subsection (F)
2 shall remain confidential and shall not be publicly disclosed,
3 except as otherwise allowed by law.

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

12 (Source: P.A. 91-357, eff. 7-29-99; 91-368, eff. 1-1-00;
13 92-415, eff. 8-17-01.)

14 (705 ILCS 405/1-8) (from Ch. 37, par. 801-8)

15 Sec. 1-8. Confidentiality and accessibility of juvenile
16 court records.

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

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

22 (2) Law enforcement officers and law enforcement
23 agencies when such information is essential to executing an
24 arrest or search warrant or other compulsory process, or to
25 conducting an ongoing investigation or relating to a minor
26 who has been adjudicated delinquent and there has been a
27 previous finding that the act which constitutes the
28 previous offense was committed in furtherance of criminal
29 activities by a criminal street gang.

30 Before July 1, 1994, for the purposes of this Section,
31 "criminal street gang" means any ongoing organization,
32 association, or group of 3 or more persons, whether formal
33 or informal, having as one of its primary activities the
34 commission of one or more criminal acts and that has a
35 common name or common identifying sign, symbol or specific

1 color apparel displayed, and whose members individually or
2 collectively engage in or have engaged in a pattern of
3 criminal activity.

4 Beginning July 1, 1994, for purposes of this Section,
5 "criminal street gang" has the meaning ascribed to it in
6 Section 10 of the Illinois Streetgang Terrorism Omnibus
7 Prevention Act.

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

15 (4) Judges, prosecutors and probation officers:

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

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

23 (c) when criminal proceedings have been permitted
24 or required under Section 5-805 and a minor is the
25 subject of a pre-trial investigation, pre-sentence
26 investigation or fitness hearing, or proceedings on an
27 application for probation; or

28 (d) when a minor becomes 18 ~~17~~ years of age or
29 older, and is the subject of criminal proceedings,
30 including a hearing to determine the amount of bail, a
31 pre-trial investigation, a pre-sentence investigation,
32 a fitness hearing, or proceedings on an application for
33 probation.

34 (5) Adult and Juvenile Prisoner Review Boards.

35 (6) Authorized military personnel.

36 (7) Victims, their subrogees and legal

1 representatives; however, such persons shall have access
2 only to the name and address of the minor and information
3 pertaining to the disposition or alternative adjustment
4 plan of the juvenile court.

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

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

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

20 (11) Mental health professionals on behalf of the
21 Illinois Department of Corrections or the Department of
22 Human Services or prosecutors who are evaluating,
23 prosecuting, or investigating a potential or actual
24 petition brought under the Sexually Persons Commitment Act
25 relating to a person who is the subject of juvenile court
26 records or the respondent to a petition brought under the
27 Sexually Violent Persons Commitment Act, who is the subject
28 of juvenile court records sought. Any records and any
29 information obtained from those records under this
30 paragraph (11) may be used only in sexually violent persons
31 commitment proceedings.

32 (B) A minor who is the victim in a juvenile proceeding
33 shall be provided the same confidentiality regarding
34 disclosure of identity as the minor who is the subject of
35 record.

36 (C) Except as otherwise provided in this subsection (C),

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

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

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

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

32 (2) The court shall allow the general public to have
33 access to the name, address, and offense of a minor who is
34 at least 13 years of age at the time the offense is
35 committed and who is convicted, in criminal proceedings
36 permitted or required under Section 5-805 ~~5-4~~, under either

1 of the following circumstances:

2 (A) The minor has been convicted of first degree
3 murder, attempt to commit first degree murder,
4 aggravated criminal sexual assault, or criminal sexual
5 assault,

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

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

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

36 (F) Following any adjudication of delinquency for a crime

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

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

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

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

33 (Source: P.A. 91-357, eff. 7-29-99; 91-368, eff. 1-1-00,
34 92-415, eff. 8-17-01.)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

17 NOTICE TO PARENTS AND CHILDREN
 18 OF SHELTER CARE HEARING

19 On at, before the Honorable
 20, (address:), the State
 21 of Illinois will present evidence (1) that (name of child
 22 or children) are abused, neglected
 23 or dependent for the following reasons:
 24 and (2)
 25 that there is "immediate and urgent necessity" to remove
 26 the child or children from the responsible relative.

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

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

- 35 1. To ask the court to appoint a lawyer if they
 36 cannot afford one.

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

3 3. To present evidence concerning:

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

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

11 c. The best interests of the child.

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

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

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

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

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

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

31 3. Your signature.

32 4. Signature must be notarized.

33 The rehearing should be scheduled within 48 hours of
34 your filing this affidavit.

35 At the rehearing, your rights are the same as at the

1 initial shelter care hearing. The enclosed notice explains
2 those rights.

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

5 1. To have a guardian ad litem appointed.

6 2. To be declared competent as a witness and to
7 present testimony concerning:

8 a. Whether they are abused, neglected or
9 dependent.

10 b. Whether there is "immediate and urgent
11 necessity" to be removed from home.

12 c. Their best interests.

13 3. To cross examine witnesses for other parties.

14 4. To obtain an explanation of any proceedings and
15 orders of the court.

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

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

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

35 (7) If the minor is not brought before a judicial officer
36 within the time period as specified in Section 2-9, the minor

1 must immediately be released from custody.

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

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

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

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

29 (c) A person not a party to the alleged abuse, neglect
30 or dependency, including a parent, relative or legal
31 guardian, is capable of assuming temporary custody of the
32 minor; or

33 (d) Services provided by the Department of Children and
34 Family Services or a child welfare agency or other service
35 provider have been successful in eliminating the need for
36 temporary custody and the child can be cared for at home

1 without endangering the child's health or safety.

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

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

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

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

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

22 Once the presumption of immediate and urgent necessity has
23 been raised, the burden of demonstrating the lack of immediate
24 and urgent necessity shall be on any party that is opposing
25 shelter care for the other minor.

26 (Source: P.A. 89-21, eff. 7-1-95; 89-422; 89-582, eff. 1-1-97;
27 89-626, eff. 8-9-96; 90-28, eff. 1-1-98; 90-87, eff. 9-1-97;
28 90-590, eff. 1-1-99; 90-655, eff. 7-30-98.)

29 (705 ILCS 405/3-12) (from Ch. 37, par. 803-12)

30 Sec. 3-12. Shelter care hearing. At the appearance of the
31 minor before the court at the shelter care hearing, all
32 witnesses present shall be examined before the court in
33 relation to any matter connected with the allegations made in
34 the petition.

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

1 believe that the minor is a person requiring authoritative
2 intervention, it shall release the minor and dismiss the
3 petition.

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

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

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

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

35 (3) If prior to the shelter care hearing for a minor
36 described in Sections 2-3, 2-4, 3-3 and 4-3 the petitioner is

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

20 NOTICE TO PARENTS AND CHILDREN OF SHELTER CARE HEARING

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

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

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

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

- 34 1. To ask the court to appoint a lawyer if they cannot
- 35 afford one.
- 36 2. To ask the court to continue the hearing to allow

1 them time to prepare.

2 3. To present evidence concerning:

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

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

10 c. The best interests of the child.

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

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

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

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

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

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

28 3. Your signature.

29 4. Signature must be notarized.

30 The rehearing should be scheduled within one day of your
31 filing this affidavit.

32 At the rehearing, your rights are the same as at the
33 initial shelter care hearing. The enclosed notice explains
34 those rights.

35 At the Shelter Care Hearing, children have the following
36 rights:

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

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

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

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

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

34 (8) If neither the parent, guardian or custodian appears
35 within 24 hours to take custody of a minor released upon
36 request pursuant to subsection (2) of this Section, then the

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

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

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

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

22 (c) A person, including a parent, relative or legal
23 guardian, is capable of assuming temporary custody of the
24 minor; or

25 (d) Services provided by the Department of Children and
26 Family Services or a child welfare agency or other service
27 provider have been successful in eliminating the need for
28 temporary custody.

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

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

1 (705 ILCS 405/4-9) (from Ch. 37, par. 804-9)

2 Sec. 4-9. Shelter care hearing. At the appearance of the
3 minor before the court at the shelter care hearing, all
4 witnesses present shall be examined before the court in
5 relation to any matter connected with the allegations made in
6 the petition.

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

10 (2) If the court finds that there is probable cause to
11 believe that the minor is addicted, the minor, his or her
12 parent, guardian, custodian and other persons able to give
13 relevant testimony shall be examined before the court. After
14 such testimony, the court may enter an order that the minor
15 shall be released upon the request of a parent, guardian or
16 custodian if the parent, guardian or custodian appears to take
17 custody and agrees to abide by a court order which requires the
18 minor and his or her parent, guardian, or legal custodian to
19 complete an evaluation by an entity licensed by the Department
20 of Human Services, as the successor to the Department of
21 Alcoholism and Substance Abuse, and complete any treatment
22 recommendations indicated by the assessment. Custodian shall
23 include any agency of the State which has been given custody or
24 wardship of the child.

25 The Court shall require documentation by representatives
26 of the Department of Children and Family Services or the
27 probation department as to the reasonable efforts that were
28 made to prevent or eliminate the necessity of removal of the
29 minor from his or her home, and shall consider the testimony of
30 any person as to those reasonable efforts. If the court finds
31 that it is a matter of immediate and urgent necessity for the
32 protection of the minor or of the person or property of another
33 that the minor be or placed in a shelter care facility or that
34 he or she is likely to flee the jurisdiction of the court, and
35 further, finds that reasonable efforts have been made or good
36 cause has been shown why reasonable efforts cannot prevent or

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

1 reasons that such services or efforts could not prevent the
2 need for removal. The parents, guardian, custodian, temporary
3 custodian and minor shall each be furnished a copy of such
4 written findings. The temporary custodian shall maintain a copy
5 of the court order and written findings in the case record for
6 the child. The order together with the court's findings of fact
7 in 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 neither the parent, guardian, legal custodian,
15 responsible relative nor counsel of the minor has had actual
16 notice of or is present at the shelter care hearing, he or she
17 may file his or her affidavit setting forth these facts, and
18 the clerk shall set the matter for rehearing not later than 24
19 hours, excluding Sundays and legal holidays, after the filing
20 of the affidavit. At the rehearing, the court shall proceed in
21 the same manner as upon the original hearing.

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

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

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

36 (7) If neither the parent, guardian or custodian appears

1 within 24 hours to take custody of a minor released upon
2 request pursuant to subsection (2) of this Section, then the
3 clerk of the court shall set the matter for rehearing not later
4 than 7 days after the original order and shall issue a summons
5 directed to the parent, guardian or custodian to appear. At the
6 same time the probation department shall prepare a report on
7 the minor. If a parent, guardian or custodian does not appear
8 at such rehearing, the judge may enter an order prescribing
9 that the minor be kept in a suitable place designated by the
10 Department of Children and Family Services or a licensed child
11 welfare agency.

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

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

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

22 (c) A person, including a parent, relative or legal
23 guardian, is capable of assuming temporary custody of the
24 minor; or

25 (d) Services provided by the Department of Children and
26 Family Services or a child welfare agency or other service
27 provider have been successful in eliminating the need for
28 temporary custody.

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

35 (Source: P.A. 89-422; 89-507, eff. 7-1-97; 90-590, eff.
36 1-1-99.)

1 (705 ILCS 405/5-105)

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

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

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

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

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

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

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

1 alleged or adjudicated delinquent minor who requires secure
2 custody pursuant to Section 5-125 of this Act.

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

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

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

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

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

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

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

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

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

30 (15) "Site" means a not-for-profit organization, public
31 body, church, charitable organization, or individual agreeing
32 to accept community service from offenders and to report on the
33 progress of ordered or required public or community service to
34 the court or to the authorized diversion program that has
35 referred the offender for public or community service.

36 (16) "Station adjustment" means the informal or formal

1 handling of an alleged offender by a juvenile police officer.

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

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

9 (705 ILCS 405/5-120)

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

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

20 (705 ILCS 405/5-130)

21 Sec. 5-130. Excluded jurisdiction.

22 (1) (a) The definition of delinquent minor under Section
23 5-120 of this Article shall not apply to any minor who at the
24 time of an offense was at least 15 years of age and who is
25 charged with first degree murder, aggravated criminal sexual
26 assault, aggravated battery with a firearm committed in a
27 school, on the real property comprising a school, within 1,000
28 feet of the real property comprising a school, at a school
29 related activity, or on, boarding, or departing from any
30 conveyance owned, leased, or contracted by a school or school
31 district to transport students to or from school or a school
32 related activity regardless of the time of day or time of year
33 that the offense was committed, armed robbery when the armed
34 robbery was committed with a firearm, or aggravated vehicular

1 hijacking when the hijacking was committed with a firearm.

2 These charges and all other charges arising out of the same
3 incident shall be prosecuted under the criminal laws of this
4 State.

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

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

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

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

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

27 (c) (i) If after trial or plea the minor is convicted of
28 any offense covered by paragraph (a) of this subsection (1),
29 then, in sentencing the minor, the court shall have available
30 any or all dispositions prescribed for that offense under
31 Chapter V of the Unified Code of Corrections.

32 (ii) If after trial or plea the court finds that the minor
33 committed an offense not covered by paragraph (a) of this
34 subsection (1), that finding shall not invalidate the verdict
35 or the prosecution of the minor under the criminal laws of the
36 State; however, unless the State requests a hearing for the

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

26 (2) (a) The definition of a delinquent minor under Section
27 5-120 of this Article shall not apply to any minor who at the
28 time of the offense was at least 15 years of age and who is
29 charged with an offense under Section 401 of the Illinois
30 Controlled Substances Act, while in a school, regardless of the
31 time of day or the time of year, or any conveyance owned,
32 leased or contracted by a school to transport students to or
33 from school or a school related activity, or residential
34 property owned, operated or managed by a public housing agency
35 or leased by a public housing agency as part of a scattered
36 site or mixed-income development, on the real property

1 comprising any school, regardless of the time of day or the
2 time of year, or residential property owned, operated or
3 managed by a public housing agency or leased by a public
4 housing agency as part of a scattered site or mixed-income
5 development, or on a public way within 1,000 feet of the real
6 property comprising any school, regardless of the time of day
7 or the time of year, or residential property owned, operated or
8 managed by a public housing agency or leased by a public
9 housing agency as part of a scattered site or mixed-income
10 development. School is defined, for the purposes of this
11 Section, as any public or private elementary or secondary
12 school, community college, college, or university. These
13 charges and all other charges arising out of the same incident
14 shall be prosecuted under the criminal laws of this State.

15 (b) (i) If before trial or plea an information or
16 indictment is filed that does not charge an offense specified
17 in paragraph (a) of this subsection (2) the State's Attorney
18 may proceed on any lesser charge or charges, but only in
19 Juvenile Court under the provisions of this Article. The
20 State's Attorney may proceed under the criminal laws of this
21 State on a lesser charge if before trial the minor defendant
22 knowingly and with advice of counsel waives, in writing, his or
23 her right to have the matter proceed in Juvenile Court.

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

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

35 (ii) If after trial or plea the court finds that the minor
36 committed an offense not covered by paragraph (a) of this

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

29 (3) (a) The definition of delinquent minor under Section
30 5-120 of this Article shall not apply to any minor who at the
31 time of the offense was at least 15 years of age and who is
32 charged with a violation of the provisions of paragraph (1),
33 (3), (4), or (10) of subsection (a) of Section 24-1 of the
34 Criminal Code of 1961 while in school, regardless of the time
35 of day or the time of year, or on the real property comprising
36 any school, regardless of the time of day or the time of year.

1 School is defined, for purposes of this Section as any public
2 or private elementary or secondary school, community college,
3 college, or university. These charges and all other charges
4 arising out of the same incident shall be prosecuted under the
5 criminal laws of this State.

6 (b) (i) If before trial or plea an information or
7 indictment is filed that does not charge an offense specified
8 in paragraph (a) of this subsection (3) the State's Attorney
9 may proceed on any lesser charge or charges, but only in
10 Juvenile Court under the provisions of this Article. The
11 State's Attorney may proceed under the criminal laws of this
12 State on a lesser charge if before trial the minor defendant
13 knowingly and with advice of counsel waives, in writing, his or
14 her right to have the matter proceed in Juvenile Court.

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

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

26 (ii) If after trial or plea the court finds that the minor
27 committed an offense not covered by paragraph (a) of this
28 subsection (3), that finding shall not invalidate the verdict
29 or the prosecution of the minor under the criminal laws of the
30 State; however, unless the State requests a hearing for the
31 purpose of sentencing the minor under Chapter V of the Unified
32 Code of Corrections, the Court must proceed under Sections
33 5-705 and 5-710 of this Article. To request a hearing, the
34 State must file a written motion within 10 days following the
35 entry of a finding or the return of a verdict. Reasonable
36 notice of the motion shall be given to the minor or his or her

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

20 (4) (a) The definition of delinquent minor under Section
21 5-120 of this Article shall not apply to any minor who at the
22 time of an offense was at least 13 years of age and who is
23 charged with first degree murder committed during the course of
24 either aggravated criminal sexual assault, criminal sexual
25 assault, or aggravated kidnaping. However, this subsection (4)
26 does not include a minor charged with first degree murder based
27 exclusively upon the accountability provisions of the Criminal
28 Code of 1961.

29 (b) (i) If before trial or plea an information or
30 indictment is filed that does not charge first degree murder
31 committed during the course of aggravated criminal sexual
32 assault, criminal sexual assault, or aggravated kidnaping, the
33 State's Attorney may proceed on any lesser charge or charges,
34 but only in Juvenile Court under the provisions of this
35 Article. The State's Attorney may proceed under the criminal
36 laws of this State on a lesser charge if before trial the minor

1 defendant knowingly and with advice of counsel waives, in
2 writing, his or her right to have the matter proceed in
3 Juvenile Court.

4 (ii) If before trial or plea an information or indictment
5 is filed that includes first degree murder committed during the
6 course of aggravated criminal sexual assault, criminal sexual
7 assault, or aggravated kidnaping, and additional charges that
8 are not specified in paragraph (a) of this subsection, all of
9 the charges arising out of the same incident shall be
10 prosecuted under the criminal laws of this State.

11 (c) (i) If after trial or plea the minor is convicted of
12 first degree murder committed during the course of aggravated
13 criminal sexual assault, criminal sexual assault, or
14 aggravated kidnaping, in sentencing the minor, the court shall
15 have available any or all dispositions prescribed for that
16 offense under Chapter V of the Unified Code of Corrections.

17 (ii) If the minor was not yet 15 years of age at the time of
18 the offense, and if after trial or plea the court finds that
19 the minor committed an offense other than first degree murder
20 committed during the course of either aggravated criminal
21 sexual assault, criminal sexual assault, or aggravated
22 kidnaping, the finding shall not invalidate the verdict or the
23 prosecution of the minor under the criminal laws of the State;
24 however, unless the State requests a hearing for the purpose of
25 sentencing the minor under Chapter V of the Unified Code of
26 Corrections, the Court must proceed under Sections 5-705 and
27 5-710 of this Article. To request a hearing, the State must
28 file a written motion within 10 days following the entry of a
29 finding or the return of a verdict. Reasonable notice of the
30 motion shall be given to the minor or his or her counsel. If
31 the motion is made by the State, the court shall conduct a
32 hearing to determine whether the minor should be sentenced
33 under Chapter V of the Unified Code of Corrections. In making
34 its determination, the court shall consider among other
35 matters: (a) whether there is evidence that the offense was
36 committed in an aggressive and premeditated manner; (b) the age

1 of the minor; (c) the previous delinquent history of the minor;
2 (d) whether there are facilities particularly available to the
3 Juvenile Court or the Department of Corrections, Juvenile
4 Division, for the treatment and rehabilitation of the minor;
5 (e) whether the best interest of the minor and the security of
6 the public require sentencing under Chapter V of the Unified
7 Code of Corrections; and (f) whether the minor possessed a
8 deadly weapon when committing the offense. The rules of
9 evidence shall be the same as if at trial. If after the hearing
10 the court finds that the minor should be sentenced under
11 Chapter V of the Unified Code of Corrections, then the court
12 shall sentence the minor accordingly having available to it any
13 or all dispositions so prescribed.

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

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

32 (ii) If before trial or plea an information or indictment
33 is filed that includes one or more charges specified in
34 paragraph (a) of this subsection (5) and additional charges
35 that are not specified in that paragraph, all of the charges
36 arising out of the same incident shall be prosecuted under the

1 criminal laws of this State.

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

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

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

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

13 (8) Nothing in this Act prohibits or limits the prosecution
14 of any minor for an offense committed on or after his or her
15 18th ~~17th~~ birthday even though he or she is at the time of the
16 offense a ward of the court.

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

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

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

4 (a) The age of the minor;

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

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

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

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

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

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

24 (705 ILCS 405/5-410)

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

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

31 (2) (a) Any minor 10 years of age or older arrested
32 pursuant to this Act where there is probable cause to believe
33 that the minor is a delinquent minor and that (i) secured
34 custody is a matter of immediate and urgent necessity for the
35 protection of the minor or of the person or property of

1 another, (ii) the minor is likely to flee the jurisdiction of
2 the court, or (iii) the minor was taken into custody under a
3 warrant, may be kept or detained in an authorized detention
4 facility. No minor under 12 years of age shall be detained in a
5 county jail or a municipal lockup for more than 6 hours.

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

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

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

1 robbery, armed robbery, vehicular hijacking, aggravated
2 vehicular hijacking, vehicular invasion, arson, aggravated
3 arson, kidnapping, aggravated kidnapping, home invasion,
4 burglary, or residential burglary.

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

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

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

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

25 (iv) A log shall be kept which shows the offense which
26 is the basis for the detention, the reasons and
27 circumstances for the decision to detain and the length of
28 time the minor was in detention.

29 (v) Violation of the time limit on detention in a
30 county jail or municipal lockup shall not, in and of
31 itself, render inadmissible evidence obtained as a result
32 of the violation of this time limit. Minors under 18 ~~17~~
33 years of age shall be kept separate from confined adults
34 and may not at any time be kept in the same cell, room or
35 yard with adults confined pursuant to criminal law. Persons
36 18 ~~17~~ years of age and older who have a petition of

1 delinquency filed against them may be confined in an adult
2 detention facility. In making a determination whether to
3 confine a person 18 ~~17~~ years of age or older who has a
4 petition of delinquency filed against the person, these
5 factors, among other matters, shall be considered:

6 (A) The age of the person;

7 (B) Any previous delinquent or criminal history of
8 the person;

9 (C) Any previous abuse or neglect history of the
10 person; and

11 (D) Any mental health or educational history of the
12 person, or both.

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

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

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

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

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

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

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

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

34 (4) Any minor taken into temporary custody, not requiring
35 secure detention, may, however, be detained in the home of his
36 or her parent or guardian subject to such conditions as the

1 court may impose.

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

3 (705 ILCS 405/5-901)

4 Sec. 5-901. Court file.

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

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

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

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

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

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

25 (v) Adult and juvenile Prisoner Review Boards.

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

30 (i) Authorized military personnel;

31 (ii) Persons engaged in bona fide research, with
32 the permission of the judge of the juvenile court and
33 the chief executive of the agency that prepared the
34 particular recording: provided that publication of
35 such research results in no disclosure of a minor's

1 identity and protects the confidentiality of the
2 record;

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

10 (iv) The administrator of a bonafide substance
11 abuse student assistance program with the permission
12 of the presiding judge of the juvenile court;

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

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

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

32 (5) Except as otherwise provided in this subsection (5),
33 juvenile court records shall not be made available to the
34 general public but may be inspected by representatives of
35 agencies, associations and news media or other properly
36 interested persons by general or special order of the court.

1 The State's Attorney, the minor, his or her parents, guardian
2 and counsel shall at all times have the right to examine court
3 files and records.

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

8 (i) The adjudication of delinquency was based upon
9 the minor's commission of first degree murder, attempt
10 to commit first degree murder, aggravated criminal
11 sexual assault, or criminal sexual assault; or

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

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

34 (i) The minor has been convicted of first degree
35 murder, attempt to commit first degree murder,
36 aggravated criminal sexual assault, or criminal sexual

1 assault,

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

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

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

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

1 school and any guidance counselor designated by him or her.

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

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

17 (12) Information or records may be disclosed to the general
18 public when the court is conducting hearings under Section
19 5-805 or 5-810.

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

21 (705 ILCS 405/5-905)

22 Sec. 5-905. Law enforcement records.

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

29 (a) A judge of the circuit court and members of the
30 staff of the court designated by the judge;

31 (b) Law enforcement officers, probation officers or
32 prosecutors or their staff;

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

1 (d) Adult and Juvenile Prisoner Review Boards;

2 (e) Authorized military personnel;

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

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

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

26 (2) Information identifying victims and alleged victims of
27 sex offenses, shall not be disclosed or open to public
28 inspection under any circumstances. Nothing in this Section
29 shall prohibit the victim or alleged victim of any sex offense
30 from voluntarily disclosing his or her identity.

31 (3) 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.

35 (4) Nothing in this Section shall prohibit the inspection
36 or disclosure to victims and witnesses of photographs contained

1 in the records of law enforcement agencies when the inspection
2 or disclosure is conducted in the presence of a law enforcement
3 officer for purposes of identification or apprehension of any
4 person in the course of any criminal investigation or
5 prosecution.

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

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

32 (7) Nothing contained in this Section shall prohibit law
33 enforcement agencies when acting in their official capacity
34 from communicating with each other by letter, memorandum,
35 teletype or intelligence alert bulletin or other means the
36 identity or other relevant information pertaining to a person

1 under 18 ~~17~~ years of age. The information provided under this
2 subsection (7) shall remain confidential and shall not be
3 publicly disclosed, except as otherwise allowed by law.

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

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

8 (705 ILCS 405/5-915)

9 Sec. 5-915. Expungement of law enforcement and juvenile
10 court records.

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

18 (a) the minor was arrested and no petition for
19 delinquency was filed with the clerk of the circuit court;
20 or

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

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

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

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

1 18th ~~17th~~ birthday and:

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

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

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 under subsection (1) or (2) of this Section, order
13 the law enforcement records or official court file, or both, to
14 be expunged from the official records of the arresting
15 authority, the clerk of the circuit court and the Department of
16 State Police. Notice of the petition shall be served upon the
17 State's Attorney and upon the arresting authority which is the
18 subject of the petition for expungement.

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

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

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

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

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

1 (730 ILCS 5/3-10-7) (from Ch. 38, par. 1003-10-7)

2 Sec. 3-10-7. Interdivisional Transfers. (a) In any case
3 where a minor was originally prosecuted under the provisions of
4 the Criminal Code of 1961, as amended, and sentenced under the
5 provisions of this Act pursuant to Section 2-7 of the Juvenile
6 Court Act or Section 5-805 of the Juvenile Court Act of 1987
7 and committed to the Juvenile Division under Section 5-8-6, the
8 Department of Corrections shall, within 30 days of the date
9 that the minor reaches the age of 18 ~~17~~, send formal
10 notification to the sentencing court and the State's Attorney
11 of the county from which the minor was sentenced indicating the
12 day upon which the minor offender will achieve the age of 18
13 ~~17~~. Within 90 days of receipt of that notice, the sentencing
14 court shall conduct a hearing, pursuant to the provisions of
15 subsection (c) of this Section to determine whether or not the
16 minor shall continue to remain under the auspices of the
17 Juvenile Division or be transferred to the Adult Division of
18 the Department of Corrections.

19 The minor shall be served with notice of the date of the
20 hearing, shall be present at the hearing, and has the right to
21 counsel at the hearing. The minor, with the consent of his or
22 her counsel or guardian may waive his presence at hearing.

23 (b) Unless sooner paroled under Section 3-3-3, the
24 confinement of a minor person committed for an indeterminate
25 sentence in a criminal proceeding shall terminate at the
26 expiration of the maximum term of imprisonment, and he shall
27 thereupon be released to serve a period of parole under Section
28 5-8-1, but if the maximum term of imprisonment does not expire
29 until after his 21st birthday, he shall continue to be subject
30 to the control and custody of the Department, and on his 21st
31 birthday, he shall be transferred to the Adult Division. If
32 such person is on parole on his 21st birthday, his parole
33 supervision may be transferred to the Adult Division.

34 (c) Any interdivisional transfer hearing conducted
35 pursuant to subsection (a) of this Section shall consider all

1 available information which may bear upon the issue of
2 transfer. All evidence helpful to the court in determining the
3 question of transfer, including oral and written reports
4 containing hearsay, may be relied upon to the extent of its
5 probative value, even though not competent for the purposes of
6 an adjudicatory hearing. The court shall consider, along with
7 any other relevant matter, the following:

8 1. The nature of the offense for which the minor was found
9 guilty and the length of the sentence the minor has to serve
10 and the record and previous history of the minor.

11 2. The record of the minor's adjustment within the
12 Department of Corrections' Juvenile Division, including, but
13 not limited to, reports from the minor's counselor, any
14 escapes, attempted escapes or violent or disruptive conduct on
15 the part of the minor, any tickets received by the minor,
16 summaries of classes attended by the minor, and any record of
17 work performed by the minor while in the institution.

18 3. The relative maturity of the minor based upon the
19 physical, psychological and emotional development of the
20 minor.

21 4. The record of the rehabilitative progress of the minor
22 and an assessment of the vocational potential of the minor.

23 5. An assessment of the necessity for transfer of the
24 minor, including, but not limited to, the availability of space
25 within the Department of Corrections, the disciplinary and
26 security problem which the minor has presented to the Juvenile
27 Division and the practicability of maintaining the minor in a
28 juvenile facility, whether resources have been exhausted
29 within the Juvenile Division of the Department of Corrections,
30 the availability of rehabilitative and vocational programs
31 within the Department of Corrections, and the anticipated
32 ability of the minor to adjust to confinement within an adult
33 institution based upon the minor's physical size and maturity.

34 All relevant factors considered under this subsection need
35 not be resolved against the juvenile in order to justify such
36 transfer. Access to social records, probation reports or any

1 other reports which are considered by the court for the purpose
2 of transfer shall be made available to counsel for the juvenile
3 at least 30 days prior to the date of the transfer hearing. The
4 Sentencing Court, upon granting a transfer order, shall
5 accompany such order with a statement of reasons.

6 (d) Whenever the Director or his designee determines that
7 the interests of safety, security and discipline require the
8 transfer to the Adult Division of a person 18 ~~17~~ years or older
9 who was prosecuted under the provisions of the Criminal Code of
10 1961, as amended, and sentenced under the provisions of this
11 Act pursuant to Section 2-7 of the Juvenile Court Act or
12 Section 5-805 of the Juvenile Court Act of 1987 and committed
13 to the Juvenile Division under Section 5-8-6, the Director or
14 his designee may authorize the emergency transfer of such
15 person, unless the transfer of the person is governed by
16 subsection (e) of this Section. The sentencing court shall be
17 provided notice of any emergency transfer no later than 3 days
18 after the emergency transfer. Upon motion brought within 60
19 days of the emergency transfer by the sentencing court or any
20 party, the sentencing court may conduct a hearing pursuant to
21 the provisions of subsection (c) of this Section in order to
22 determine whether the person shall remain confined in the Adult
23 Division.

24 (e) The Director or his designee may authorize the
25 permanent transfer to the Adult Division of any person 18 years
26 or older who was prosecuted under the provisions of the
27 Criminal Code of 1961, as amended, and sentenced under the
28 provisions of this Act pursuant to Section 2-7 of the Juvenile
29 Court Act or Section 5-805 of the Juvenile Court Act of 1987
30 and committed to the Juvenile Division under Section 5-8-6 of
31 this Act. The Director or his designee shall be governed by the
32 following factors in determining whether to authorize the
33 permanent transfer of the person to the Adult Division:

34 1. The nature of the offense for which the person was found
35 guilty and the length of the sentence the person has to serve
36 and the record and previous history of the person.

1 2. The record of the person's adjustment within the
2 Department of Corrections' Juvenile Division, including, but
3 not limited to, reports from the person's counselor, any
4 escapes, attempted escapes or violent or disruptive conduct on
5 the part of the person, any tickets received by the person,
6 summaries of classes attended by the person, and any record of
7 work performed by the person while in the institution.

8 3. The relative maturity of the person based upon the
9 physical, psychological and emotional development of the
10 person.

11 4. The record of the rehabilitative progress of the person
12 and an assessment of the vocational potential of the person.

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

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

26 (730 ILCS 5/5-8-6) (from Ch. 38, par. 1005-8-6)

27 Sec. 5-8-6. Place of Confinement. (a) Offenders sentenced
28 to a term of imprisonment for a felony shall be committed to
29 the penitentiary system of the Department of Corrections.
30 However, such sentence shall not limit the powers of the
31 Department of Children and Family Services in relation to any
32 child under the age of one year in the sole custody of a person
33 so sentenced, nor in relation to any child delivered by a
34 female so sentenced while she is so confined as a consequence
35 of such sentence. A person sentenced for a felony may be

1 assigned by the Department of Corrections to any of its
2 institutions, facilities or programs.

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

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

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

27 (e) When a court sentences a defendant to a term of
28 imprisonment concurrent with a previous and unexpired sentence
29 of imprisonment imposed by any district court of the United
30 States, it may commit the offender to the custody of the
31 Attorney General of the United States. The Attorney General of
32 the United States, or the authorized representative of the
33 Attorney General of the United States, shall be furnished with
34 the warrant of commitment from the court imposing sentence,
35 which warrant of commitment shall provide that, when the
36 offender is released from federal confinement, whether by

1 parole or by termination of sentence, the offender shall be
2 transferred by the Sheriff of the committing county to the
3 Department of Corrections. The court shall cause the Department
4 to be notified of such sentence at the time of commitment and
5 to be provided with copies of all records regarding the
6 sentence.

7 (Source: P.A. 83-1362.)