

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 Children and Family Services Act is  
5 amended by changing Section 5 as follows:

6 (20 ILCS 505/5) (from Ch. 23, par. 5005)

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

11 (a) For purposes of this Section:

12 (1) "Children" means persons found within the State  
13 who are under the age of 18 years. The term also  
14 includes persons under age 19 who:

15 (A) were committed to the Department pursuant  
16 to the Juvenile Court Act or the Juvenile Court Act  
17 of 1987, as amended, prior to the age of 18 and who  
18 continue under the jurisdiction of the court; or

19 (B) were accepted for care, service and  
20 training by the Department prior to the age of 18  
21 and whose best interest in the discretion of the  
22 Department would be served by continuing that care,  
23 service and training because of severe emotional  
24 disturbances, physical disability, social adjustment  
25 or any combination thereof, or because of the need  
26 to complete an educational or vocational training  
27 program.

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

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

4           (A) protecting and promoting the health,  
5 safety and welfare of children, including homeless,  
6 dependent or neglected children;

7           (B) remedying, or assisting in the solution of  
8 problems which may result in, the neglect, abuse,  
9 exploitation or delinquency of children;

10           (C) preventing the unnecessary separation of  
11 children from their families by identifying family  
12 problems, assisting families in resolving their  
13 problems, and preventing the breakup of the family  
14 where the prevention of child removal is desirable  
15 and possible when the child can be cared for at home  
16 without endangering the child's health and safety;

17           (D) restoring to their families children who  
18 have been removed, by the provision of services to  
19 the child and the families when the child can be  
20 cared for at home without endangering the child's  
21 health and safety;

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

25           (F) assuring safe and adequate care of  
26 children away from their homes, in cases where the  
27 child cannot be returned home or cannot be placed  
28 for adoption. At the time of placement, the  
29 Department shall consider concurrent planning, as  
30 described in subsection (1-1) of this Section so  
31 that permanency may occur at the earliest  
32 opportunity. Consideration should be given so that  
33 if reunification fails or is delayed, the placement  
34 made is the best available placement to provide

1 permanency for the child;

2 (G) (blank);

3 (H) (blank); and

4 (I) placing and maintaining children in  
5 facilities that provide separate living quarters for  
6 children under the age of 18 and for children 18  
7 years of age and older, unless a child 18 years of  
8 age is in the last year of high school education or  
9 vocational training, in an approved individual or  
10 group treatment program, in a licensed shelter  
11 facility, or secure child care facility. The  
12 Department is not required to place or maintain  
13 children:

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

15 (ii) who are persons with a developmental  
16 disability, as defined in the Mental Health and  
17 Developmental Disabilities Code, or

18 (iii) who are female children who are  
19 pregnant, pregnant and parenting or parenting,  
20 or

21 (iv) who are siblings,

22 in facilities that provide separate living quarters  
23 for children 18 years of age and older and for  
24 children under 18 years of age.

25 (b) Nothing in this Section shall be construed to  
26 authorize the expenditure of public funds for the purpose of  
27 performing abortions.

28 (c) The Department shall establish and maintain  
29 tax-supported child welfare services and extend and seek to  
30 improve voluntary services throughout the State, to the end  
31 that services and care shall be available on an equal basis  
32 throughout the State to children requiring such services.

33 (d) The Director may authorize advance disbursements for  
34 any new program initiative to any agency contracting with the

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

18 (e) (Blank).

19 (f) (Blank).

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

- 25 (1) adoption;
- 26 (2) foster care;
- 27 (3) family counseling;
- 28 (4) protective services;
- 29 (5) (blank);
- 30 (6) homemaker service;
- 31 (7) return of runaway children;
- 32 (8) (blank);
- 33 (9) placement under Section 5-7 of the Juvenile  
 34 Court Act or Section 2-27, 3-28, 4-25 or 5-740 of the

1 Juvenile Court Act of 1987 in accordance with the federal  
2 Adoption Assistance and Child Welfare Act of 1980; and  
3 (10) interstate services.

4 Rules and regulations established by the Department shall  
5 include provisions for training Department staff and the  
6 staff of Department grantees, through contracts with other  
7 agencies or resources, in alcohol and drug abuse screening  
8 techniques approved by the Department of Human Services, as a  
9 successor to the Department of Alcoholism and Substance  
10 Abuse, for the purpose of identifying children and adults who  
11 should be referred to an alcohol and drug abuse treatment  
12 program for professional evaluation.

13 (h) If the Department finds that there is no appropriate  
14 program or facility within or available to the Department for  
15 a ward and that no licensed private facility has an adequate  
16 and appropriate program or none agrees to accept the ward,  
17 the Department shall create an appropriate individualized,  
18 program-oriented plan for such ward. The plan may be  
19 developed within the Department or through purchase of  
20 services by the Department to the extent that it is within  
21 its statutory authority to do.

22 (i) Service programs shall be available throughout the  
23 State and shall include but not be limited to the following  
24 services:

- 25 (1) case management;
- 26 (2) homemakers;
- 27 (3) counseling;
- 28 (4) parent education;
- 29 (5) day care; and
- 30 (6) emergency assistance and advocacy.

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

- 33 (1) comprehensive family-based services;
- 34 (2) assessments;

- 1           (3) respite care; and
- 2           (4) in-home health services.

3           The Department shall provide transportation for any of  
4 the services it makes available to children or families or  
5 for which it refers children or families.

6           (j) The Department may provide categories of financial  
7 assistance and education assistance grants, and shall  
8 establish rules and regulations concerning the assistance and  
9 grants, to persons who adopt physically or mentally  
10 handicapped, older and other hard-to-place children who (i)  
11 immediately prior to their adoption were legal wards of the  
12 Department or (ii) were determined eligible for financial  
13 assistance with respect to a prior adoption and who become  
14 available for adoption because the prior adoption has been  
15 dissolved and the parental rights of the adoptive parents  
16 have been terminated or because the child's adoptive parents  
17 have died. The Department may also provide categories of  
18 financial assistance and education assistance grants, and  
19 shall establish rules and regulations for the assistance and  
20 grants, to persons appointed guardian of the person under  
21 Section 5-7 of the Juvenile Court Act or Section 2-27, 3-28,  
22 4-25 or 5-740 of the Juvenile Court Act of 1987 for children  
23 who were wards of the Department for 12 months immediately  
24 prior to the appointment of the guardian.

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

32           Any financial assistance provided under this subsection  
33 is inalienable by assignment, sale, execution, attachment,  
34 garnishment, or any other remedy for recovery or collection

1 of a judgment or debt.

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

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

10 (l) Before July 1, 2000, the Department may provide, and  
11 beginning July 1, 2000, the Department shall offer family  
12 preservation services, as defined in Section 8.2 of the  
13 Abused and Neglected Child Reporting Act, to help families,  
14 including adoptive and extended families. Family preservation  
15 services shall be offered (i) to prevent the placement of  
16 children in substitute care when the children can be cared  
17 for at home or in the custody of the person responsible for  
18 the children's welfare, (ii) to reunite children with their  
19 families, or (iii) to maintain an adoptive placement. Family  
20 preservation services shall only be offered when doing so  
21 will not endanger the children's health or safety. With  
22 respect to children who are in substitute care pursuant to  
23 the Juvenile Court Act of 1987, family preservation services  
24 shall not be offered if a goal other than those of  
25 subdivisions (A), (B), or (B-1) of subsection (2) of Section  
26 2-28 of that Act has been set. Nothing in this paragraph  
27 shall be construed to create a private right of action or  
28 claim on the part of any individual or child welfare agency.

29 The Department shall notify the child and his family of  
30 the Department's responsibility to offer and provide family  
31 preservation services as identified in the service plan. The  
32 child and his family shall be eligible for services as soon  
33 as the report is determined to be "indicated". The  
34 Department may offer services to any child or family with

1 respect to whom a report of suspected child abuse or neglect  
2 has been filed, prior to concluding its investigation under  
3 Section 7.12 of the Abused and Neglected Child Reporting Act.  
4 However, the child's or family's willingness to accept  
5 services shall not be considered in the investigation. The  
6 Department may also provide services to any child or family  
7 who is the subject of any report of suspected child abuse or  
8 neglect or may refer such child or family to services  
9 available from other agencies in the community, even if the  
10 report is determined to be unfounded, if the conditions in  
11 the child's or family's home are reasonably likely to subject  
12 the child or family to future reports of suspected child  
13 abuse or neglect. Acceptance of such services shall be  
14 voluntary.

15 The Department may, at its discretion except for those  
16 children also adjudicated neglected or dependent, accept for  
17 care and training any child who has been adjudicated  
18 addicted, as a truant minor in need of supervision or as a  
19 minor requiring authoritative intervention, under the  
20 Juvenile Court Act or the Juvenile Court Act of 1987, but no  
21 such child shall be committed to the Department by any court  
22 without the approval of the Department. A minor charged with  
23 a criminal offense under the Criminal Code of 1961 or  
24 adjudicated delinquent shall not be placed in the custody of  
25 or committed to the Department by any court solely based on  
26 the minor's charges or adjudication unless the existence of  
27 circumstances indicating abuse, neglect, or dependency are  
28 established by the court, except a minor less than 13 years  
29 of age committed to the Department under Section 5-710 of the  
30 Juvenile Court Act of 1987.

31 (1-1) The legislature recognizes that the best interests  
32 of the child require that the child be placed in the most  
33 permanent living arrangement as soon as is practically  
34 possible. To achieve this goal, the legislature directs the



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

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

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

26 A decision to place a child in substitute care shall be  
27 made with considerations of the child's health, safety, and  
28 best interests. At the time of placement, consideration  
29 should also be given so that if reunification fails or is  
30 delayed, the placement made is the best available placement  
31 to provide permanency for the child.

32 The Department shall adopt rules addressing concurrent  
33 planning for reunification and permanency. The Department  
34 shall consider the following factors when determining

1 appropriateness of concurrent planning:

2 (1) the likelihood of prompt reunification;

3 (2) the past history of the family;

4 (3) the barriers to reunification being addressed  
5 by the family;

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

7 (5) the foster parents' willingness to work with  
8 the family to reunite;

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

12 (7) the age of the child;

13 (8) placement of siblings.

14 (m) The Department may assume temporary custody of any  
15 child if:

16 (1) it has received a written consent to such  
17 temporary custody signed by the parents of the child or  
18 by the parent having custody of the child if the parents  
19 are not living together or by the guardian or custodian  
20 of the child if the child is not in the custody of either  
21 parent, or

22 (2) the child is found in the State and neither a  
23 parent, guardian nor custodian of the child can be  
24 located.

25 If the child is found in his or her residence without a  
26 parent, guardian, custodian or responsible caretaker, the  
27 Department may, instead of removing the child and assuming  
28 temporary custody, place an authorized representative of the  
29 Department in that residence until such time as a parent,  
30 guardian or custodian enters the home and expresses a  
31 willingness and apparent ability to ensure the child's health  
32 and safety and resume permanent charge of the child, or until  
33 a relative enters the home and is willing and able to ensure  
34 the child's health and safety and assume charge of the child

1 until a parent, guardian or custodian enters the home and  
2 expresses such willingness and ability to ensure the child's  
3 safety and resume permanent charge. After a caretaker has  
4 remained in the home for a period not to exceed 12 hours, the  
5 Department must follow those procedures outlined in Section  
6 2-9, 3-11, 4-8, or 5-415 of the Juvenile Court Act of 1987.

7 The Department shall have the authority, responsibilities  
8 and duties that a legal custodian of the child would have  
9 pursuant to subsection (9) of Section 1-3 of the Juvenile  
10 Court Act of 1987. Whenever a child is taken into temporary  
11 custody pursuant to an investigation under the Abused and  
12 Neglected Child Reporting Act, or pursuant to a referral and  
13 acceptance under the Juvenile Court Act of 1987 of a minor in  
14 limited custody, the Department, during the period of  
15 temporary custody and before the child is brought before a  
16 judicial officer as required by Section 2-9, 3-11, 4-8, or  
17 5-415 of the Juvenile Court Act of 1987, shall have the  
18 authority, responsibilities and duties that a legal custodian  
19 of the child would have under subsection (9) of Section 1-3  
20 of the Juvenile Court Act of 1987.

21 The Department shall ensure that any child taken into  
22 custody is scheduled for an appointment for a medical  
23 examination.

24 A parent, guardian or custodian of a child in the  
25 temporary custody of the Department who would have custody of  
26 the child if he were not in the temporary custody of the  
27 Department may deliver to the Department a signed request  
28 that the Department surrender the temporary custody of the  
29 child. The Department may retain temporary custody of the  
30 child for 10 days after the receipt of the request, during  
31 which period the Department may cause to be filed a petition  
32 pursuant to the Juvenile Court Act of 1987. If a petition is  
33 so filed, the Department shall retain temporary custody of  
34 the child until the court orders otherwise. If a petition is

1 not filed within the 10 day period, the child shall be  
2 surrendered to the custody of the requesting parent, guardian  
3 or custodian not later than the expiration of the 10 day  
4 period, at which time the authority and duties of the  
5 Department with respect to the temporary custody of the child  
6 shall terminate.

7 (m-1) The Department may place children under 18 years  
8 of age in a secure child care facility licensed by the  
9 Department that cares for children who are in need of secure  
10 living arrangements for their health, safety, and well-being  
11 after a determination is made by the facility director and  
12 the Director or the Director's designate prior to admission  
13 to the facility subject to Section 2-27.1 of the Juvenile  
14 Court Act of 1987. This subsection (m-1) does not apply to a  
15 child who is subject to placement in a correctional facility  
16 operated pursuant to Section 3-15-2 of the Unified Code of  
17 Corrections, unless the child is a ward who was placed under  
18 the care of the Department before being subject to placement  
19 in a correctional facility and a court of competent  
20 jurisdiction has ordered placement of the child in a secure  
21 care facility.

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

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

13 (o) The Department shall establish an administrative  
14 review and appeal process for children and families who  
15 request or receive child welfare services from the  
16 Department. Children who are wards of the Department and are  
17 placed by private child welfare agencies, and foster families  
18 with whom those children are placed, shall be afforded the  
19 same procedural and appeal rights as children and families in  
20 the case of placement by the Department, including the right  
21 to an initial review of a private agency decision by that  
22 agency. The Department shall insure that any private child  
23 welfare agency, which accepts wards of the Department for  
24 placement, affords those rights to children and foster  
25 families. The Department shall accept for administrative  
26 review and an appeal hearing a complaint made by (i) a child  
27 or foster family concerning a decision following an initial  
28 review by a private child welfare agency or (ii) a  
29 prospective adoptive parent who alleges a violation of  
30 subsection (j-5) of this Section. An appeal of a decision  
31 concerning a change in the placement of a child shall be  
32 conducted in an expedited manner.

33 (p) There is hereby created the Department of Children  
34 and Family Services Emergency Assistance Fund from which the

1 Department may provide special financial assistance to  
2 families which are in economic crisis when such assistance is  
3 not available through other public or private sources and the  
4 assistance is deemed necessary to prevent dissolution of the  
5 family unit or to reunite families which have been separated  
6 due to child abuse and neglect. The Department shall  
7 establish administrative rules specifying the criteria for  
8 determining eligibility for and the amount and nature of  
9 assistance to be provided. The Department may also enter  
10 into written agreements with private and public social  
11 service agencies to provide emergency financial services to  
12 families referred by the Department. Special financial  
13 assistance payments shall be available to a family no more  
14 than once during each fiscal year and the total payments to a  
15 family may not exceed \$500 during a fiscal year.

16 (q) The Department may receive and use, in their  
17 entirety, for the benefit of children any gift, donation or  
18 bequest of money or other property which is received on  
19 behalf of such children, or any financial benefits to which  
20 such children are or may become entitled while under the  
21 jurisdiction or care of the Department.

22 The Department shall set up and administer no-cost,  
23 interest-bearing accounts in appropriate financial  
24 institutions for children for whom the Department is legally  
25 responsible and who have been determined eligible for  
26 Veterans' Benefits, Social Security benefits, assistance  
27 allotments from the armed forces, court ordered payments,  
28 parental voluntary payments, Supplemental Security Income,  
29 Railroad Retirement payments, Black Lung benefits, or other  
30 miscellaneous payments. Interest earned by each account  
31 shall be credited to the account, unless disbursed in  
32 accordance with this subsection.

33 In disbursing funds from children's accounts, the  
34 Department shall:

1           (1) Establish standards in accordance with State  
2 and federal laws for disbursing money from children's  
3 accounts. In all circumstances, the Department's  
4 "Guardianship Administrator" or his or her designee must  
5 approve disbursements from children's accounts. The  
6 Department shall be responsible for keeping complete  
7 records of all disbursements for each account for any  
8 purpose.

9           (2) Calculate on a monthly basis the amounts paid  
10 from State funds for the child's board and care, medical  
11 care not covered under Medicaid, and social services; and  
12 utilize funds from the child's account, as covered by  
13 regulation, to reimburse those costs. Monthly,  
14 disbursements from all children's accounts, up to 1/12 of  
15 \$13,000,000, shall be deposited by the Department into  
16 the General Revenue Fund and the balance over 1/12 of  
17 \$13,000,000 into the DCFS Children's Services Fund.

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

24           (r) The Department shall promulgate regulations  
25 encouraging all adoption agencies to voluntarily forward to  
26 the Department or its agent names and addresses of all  
27 persons who have applied for and have been approved for  
28 adoption of a hard-to-place or handicapped child and the  
29 names of such children who have not been placed for adoption.  
30 A list of such names and addresses shall be maintained by the  
31 Department or its agent, and coded lists which maintain the  
32 confidentiality of the person seeking to adopt the child and  
33 of the child shall be made available, without charge, to  
34 every adoption agency in the State to assist the agencies in

1 placing such children for adoption. The Department may  
2 delegate to an agent its duty to maintain and make available  
3 such lists. The Department shall ensure that such agent  
4 maintains the confidentiality of the person seeking to adopt  
5 the child and of the child.

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

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

22 (1) an order entered by an Illinois court  
23 specifically directs the Department to perform such  
24 services; and

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

30 The Department shall provide written notification to the  
31 court of the specific arrangements for supervised visitation  
32 and projected monthly costs within 60 days of the court  
33 order. The Department shall send to the court information  
34 related to the costs incurred except in cases where the court



1 has determined the parties are financially unable to pay. The  
2 court may order additional periodic reports as appropriate.

3 (u) Whenever the Department places a child in a licensed  
4 foster home, group home, child care institution, or in a  
5 relative home, the Department shall provide to the caretaker:

6 (1) available detailed information concerning the  
7 child's educational and health history, copies of  
8 immunization records (including insurance and medical  
9 card information), a history of the child's previous  
10 placements, if any, and reasons for placement changes  
11 excluding any information that identifies or reveals the  
12 location of any previous caretaker;

13 (2) a copy of the child's portion of the client  
14 service plan, including any visitation arrangement, and  
15 all amendments or revisions to it as related to the  
16 child; and

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

20 The caretaker shall be informed of any known social or  
21 behavioral information (including, but not limited to,  
22 criminal background, fire setting, perpetuation of sexual  
23 abuse, destructive behavior, and substance abuse) necessary  
24 to care for and safeguard the child.

25 (u-5) Effective July 1, 1995, only foster care  
26 placements licensed as foster family homes pursuant to the  
27 Child Care Act of 1969 shall be eligible to receive foster  
28 care payments from the Department. Relative caregivers who,  
29 as of July 1, 1995, were approved pursuant to approved  
30 relative placement rules previously promulgated by the  
31 Department at 89 Ill. Adm. Code 335 and had submitted an  
32 application for licensure as a foster family home may  
33 continue to receive foster care payments only until the  
34 Department determines that they may be licensed as a foster

1 family home or that their application for licensure is denied  
2 or until September 30, 1995, whichever occurs first.

3 (v) The Department shall access criminal history record  
4 information as defined in the Illinois Uniform Conviction  
5 Information Act and information maintained in the  
6 adjudicatory and dispositional record system as defined in  
7 Section 2605-355 of the Department of State Police Law (20  
8 ILCS 2605/2605-355) if the Department determines the  
9 information is necessary to perform its duties under the  
10 Abused and Neglected Child Reporting Act, the Child Care Act  
11 of 1969, and the Children and Family Services Act. The  
12 Department shall provide for interactive computerized  
13 communication and processing equipment that permits direct  
14 on-line communication with the Department of State Police's  
15 central criminal history data repository. The Department  
16 shall comply with all certification requirements and provide  
17 certified operators who have been trained by personnel from  
18 the Department of State Police. In addition, one Office of  
19 the Inspector General investigator shall have training in the  
20 use of the criminal history information access system and  
21 have access to the terminal. The Department of Children and  
22 Family Services and its employees shall abide by rules and  
23 regulations established by the Department of State Police  
24 relating to the access and dissemination of this information.

25 (w) Within 120 days of August 20, 1995 (the effective  
26 date of Public Act 89-392), the Department shall prepare and  
27 submit to the Governor and the General Assembly, a written  
28 plan for the development of in-state licensed secure child  
29 care facilities that care for children who are in need of  
30 secure living arrangements for their health, safety, and  
31 well-being. For purposes of this subsection, secure care  
32 facility shall mean a facility that is designed and operated  
33 to ensure that all entrances and exits from the facility, a  
34 building or a distinct part of the building, are under the

1 exclusive control of the staff of the facility, whether or  
2 not the child has the freedom of movement within the  
3 perimeter of the facility, building, or distinct part of the  
4 building. The plan shall include descriptions of the types  
5 of facilities that are needed in Illinois; the cost of  
6 developing these secure care facilities; the estimated number  
7 of placements; the potential cost savings resulting from the  
8 movement of children currently out-of-state who are projected  
9 to be returned to Illinois; the necessary geographic  
10 distribution of these facilities in Illinois; and a proposed  
11 timetable for development of such facilities.

12 (Source: P.A. 91-239, eff. 1-1-00; 91-357, eff. 7-29-99;  
13 91-812, eff. 6-13-00; 92-154, eff. 1-1-02.)

14 Section 10. The Juvenile Court Act of 1987 is amended  
15 by changing Section 5-710 as follows:

16 (705 ILCS 405/5-710)

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

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

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

23 (i) put on probation or conditional discharge  
24 and released to his or her parents, guardian or  
25 legal custodian, provided, however, that any such  
26 minor who is not committed to the Department of  
27 Corrections, Juvenile Division under this subsection  
28 and who is found to be a delinquent for an offense  
29 which is first degree murder, a Class X felony, or a  
30 forcible felony shall be placed on probation;

31 (ii) placed in accordance with Section 5-740,  
32 with or without also being put on probation or

1 conditional discharge;

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

5 (iv) placed in the guardianship of the  
6 Department of Children and Family Services, but only  
7 if the delinquent minor is under 13 years of age,  
8 unless the existence of circumstances indicating  
9 abuse, neglect, or dependency are established by the  
10 court with respect to minors 13 years of age or  
11 older;

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

1 before the filing of a violation of probation or  
2 conditional discharge alleging the same or related  
3 act or acts;

4 (vi) ordered partially or completely  
5 emancipated in accordance with the provisions of the  
6 Emancipation of Mature Minors Act;

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

11 (viii) put on probation or conditional  
12 discharge and placed in detention under Section  
13 3-6039 of the Counties Code for a period not to  
14 exceed the period of incarceration permitted by law  
15 for adults found guilty of the same offense or  
16 offenses for which the minor was adjudicated  
17 delinquent, and in any event no longer than upon  
18 attainment of age 21; this subdivision (viii)  
19 notwithstanding any contrary provision of the law;  
20 or

21 (ix) ordered to undergo a medical or other  
22 procedure to have a tattoo symbolizing allegiance to  
23 a street gang removed from his or her body.

24 (b) A minor found to be guilty may be committed to  
25 the Department of Corrections, Juvenile Division, under  
26 Section 5-750 if the minor is 13 years of age or older,  
27 provided that the commitment to the Department of  
28 Corrections, Juvenile Division, shall be made only if a  
29 term of incarceration is permitted by law for adults  
30 found guilty of the offense for which the minor was  
31 adjudicated delinquent. The time during which a minor is  
32 in custody before being released upon the request of a  
33 parent, guardian or legal custodian shall be considered  
34 as time spent in detention.

1           (c) When a minor is found to be guilty for an  
2 offense which is a violation of the Illinois Controlled  
3 Substances Act or the Cannabis Control Act and made a  
4 ward of the court, the court may enter a disposition  
5 order requiring the minor to undergo assessment,  
6 counseling or treatment in a substance abuse program  
7 approved by the Department of Human Services.

8           (2) Any sentencing order other than commitment to the  
9 Department of Corrections, Juvenile Division, may provide for  
10 protective supervision under Section 5-725 and may include an  
11 order of protection under Section 5-730.

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

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

30           (5) Any sentencing order where the minor is committed or  
31 placed in accordance with Section 5-740 shall provide for the  
32 parents or guardian of the estate of the minor to pay to the  
33 legal custodian or guardian of the person of the minor such  
34 sums as are determined by the custodian or guardian of the

1 person of the minor as necessary for the minor's needs. The  
2 payments may not exceed the maximum amounts provided for by  
3 Section 9.1 of the Children and Family Services Act.

4 (6) Whenever the sentencing order requires the minor to  
5 attend school or participate in a program of training, the  
6 truant officer or designated school official shall regularly  
7 report to the court if the minor is a chronic or habitual  
8 truant under Section 26-2a of the School Code.

9 (7) In no event shall a guilty minor be committed to the  
10 Department of Corrections, Juvenile Division for a period of  
11 time in excess of that period for which an adult could be  
12 committed for the same act.

13 (8) A minor found to be guilty for reasons that include  
14 a violation of Section 21-1.3 of the Criminal Code of 1961  
15 shall be ordered to perform community service for not less  
16 than 30 and not more than 120 hours, if community service is  
17 available in the jurisdiction. The community service shall  
18 include, but need not be limited to, the cleanup and repair  
19 of the damage that was caused by the violation or similar  
20 damage to property located in the municipality or county in  
21 which the violation occurred. The order may be in addition  
22 to any other order authorized by this Section.

23 (8.5) A minor found to be guilty for reasons that  
24 include a violation of Section 3.02 or Section 3.03 of the  
25 Humane Care for Animals Act or paragraph (d) of subsection  
26 (1) of Section 21-1 of the Criminal Code of 1961 shall be  
27 ordered to undergo medical or psychiatric treatment rendered  
28 by a psychiatrist or psychological treatment rendered by a  
29 clinical psychologist. The order may be in addition to any  
30 other order authorized by this Section.

31 (9) In addition to any other sentencing order, the court  
32 shall order any minor found to be guilty for an act which  
33 would constitute, predatory criminal sexual assault of a  
34 child, aggravated criminal sexual assault, criminal sexual

1 assault, aggravated criminal sexual abuse, or criminal sexual  
2 abuse if committed by an adult to undergo medical testing to  
3 determine whether the defendant has any sexually  
4 transmissible disease including a test for infection with  
5 human immunodeficiency virus (HIV) or any other identified  
6 causative agency of acquired immunodeficiency syndrome  
7 (AIDS). Any medical test shall be performed only by  
8 appropriately licensed medical practitioners and may include  
9 an analysis of any bodily fluids as well as an examination of  
10 the minor's person. Except as otherwise provided by law, the  
11 results of the test shall be kept strictly confidential by  
12 all medical personnel involved in the testing and must be  
13 personally delivered in a sealed envelope to the judge of the  
14 court in which the sentencing order was entered for the  
15 judge's inspection in camera. Acting in accordance with the  
16 best interests of the victim and the public, the judge shall  
17 have the discretion to determine to whom the results of the  
18 testing may be revealed. The court shall notify the minor of  
19 the results of the test for infection with the human  
20 immunodeficiency virus (HIV). The court shall also notify  
21 the victim if requested by the victim, and if the victim is  
22 under the age of 15 and if requested by the victim's parents  
23 or legal guardian, the court shall notify the victim's  
24 parents or the legal guardian, of the results of the test for  
25 infection with the human immunodeficiency virus (HIV). The  
26 court shall provide information on the availability of HIV  
27 testing and counseling at the Department of Public Health  
28 facilities to all parties to whom the results of the testing  
29 are revealed. The court shall order that the cost of any  
30 test shall be paid by the county and may be taxed as costs  
31 against the minor.

32 (10) When a court finds a minor to be guilty the court  
33 shall, before entering a sentencing order under this Section,  
34 make a finding whether the offense committed either: (a) was



1 related to or in furtherance of the criminal activities of an  
2 organized gang or was motivated by the minor's membership in  
3 or allegiance to an organized gang, or (b) involved a  
4 violation of subsection (a) of Section 12-7.1 of the Criminal  
5 Code of 1961, a violation of any Section of Article 24 of the  
6 Criminal Code of 1961, or a violation of any statute that  
7 involved the wrongful use of a firearm. If the court  
8 determines the question in the affirmative, and the court  
9 does not commit the minor to the Department of Corrections,  
10 Juvenile Division, the court shall order the minor to perform  
11 community service for not less than 30 hours nor more than  
12 120 hours, provided that community service is available in  
13 the jurisdiction and is funded and approved by the county  
14 board of the county where the offense was committed. The  
15 community service shall include, but need not be limited to,  
16 the cleanup and repair of any damage caused by a violation of  
17 Section 21-1.3 of the Criminal Code of 1961 and similar  
18 damage to property located in the municipality or county in  
19 which the violation occurred. When possible and reasonable,  
20 the community service shall be performed in the minor's  
21 neighborhood. This order shall be in addition to any other  
22 order authorized by this Section except for an order to place  
23 the minor in the custody of the Department of Corrections,  
24 Juvenile Division. For the purposes of this Section,  
25 "organized gang" has the meaning ascribed to it in Section 10  
26 of the Illinois Streetgang Terrorism Omnibus Prevention Act.  
27 (Source: P.A. 91-98, eff. 1-1-00; 92-454, eff. 1-1-02.)

28 Section 99. Effective date. This Act takes effect upon  
29 becoming law.