



94TH GENERAL ASSEMBLY

State of Illinois

2005 and 2006

HB0560

Introduced 1/27/2005, by Rep. Annazette Collins

SYNOPSIS AS INTRODUCED:

705 ILCS 405/1-7	from Ch. 37, par. 801-7
705 ILCS 405/1-8	from Ch. 37, par. 801-8
705 ILCS 405/1-9	from Ch. 37, par. 801-9
705 ILCS 405/2-10	from Ch. 37, par. 802-10
705 ILCS 405/3-12	from Ch. 37, par. 803-12
705 ILCS 405/4-9	from Ch. 37, par. 804-9
705 ILCS 405/5-105	
705 ILCS 405/5-120	
705 ILCS 405/5-130	
705 ILCS 405/5-401.5	
705 ILCS 405/5-410	
705 ILCS 405/5-901	
705 ILCS 405/5-905	
705 ILCS 405/5-915	
730 ILCS 5/3-10-7	from Ch. 38, par. 1003-10-7
730 ILCS 5/5-5-3	from Ch. 38, par. 1005-5-3
730 ILCS 5/5-6-3	from Ch. 38, par. 1005-6-3
730 ILCS 5/5-6-3.1	from Ch. 38, par. 1005-6-3.1
730 ILCS 5/5-7-1	from Ch. 38, par. 1005-7-1
730 ILCS 5/5-8-1.1	from Ch. 38, par. 1005-8-1.1
730 ILCS 5/5-8-1.2	
730 ILCS 5/5-8-6	from Ch. 38, par. 1005-8-6

Amends the Juvenile Court Act of 1987 and the Unified Code of Corrections. Provides that persons under 18 years of age (rather than under 17 years of age) who commit offenses, other than traffic, boating, or fish and game law offenses, or violations of municipal or county ordinances, are subject to the proceedings under the Juvenile Court Act of 1987 for delinquent minors.

LRB094 06935 RLC 37050 b

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, 5-401.5, 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 405/5-401.5)

25 (This Section may contain text from a Public Act with a
26 delayed effective date)

27 Sec. 5-401.5. When statements by minor may be used.

28 (a) In this Section, "custodial interrogation" means any
29 interrogation (i) during which a reasonable person in the
30 subject's position would consider himself or herself to be in
31 custody and (ii) during which a question is asked that is
32 reasonably likely to elicit an incriminating response.

33 In this Section, "electronic recording" includes motion
34 picture, audiotape, videotape, or digital recording.

35 In this Section, "place of detention" means a building or a

1 police station that is a place of operation for a municipal
2 police department or county sheriff department or other law
3 enforcement agency at which persons are or may be held in
4 detention in connection with criminal charges against those
5 persons or allegations that those persons are delinquent
6 minors.

7 (b) An oral, written, or sign language statement of a minor
8 who, at the time of the commission of the offense was under the
9 age of 18 ~~17~~ years, made as a result of a custodial
10 interrogation conducted at a police station or other place of
11 detention on or after the effective date of this amendatory Act
12 of the 93rd General Assembly shall be presumed to be
13 inadmissible as evidence against the minor in any criminal
14 proceeding or juvenile court proceeding, for an act that if
15 committed by an adult would be brought under Section 9-1,
16 9-1.2, 9-2, 9-2.1, 9-3, 9-3.2, or 9-3.3, of the Criminal Code
17 of 1961 unless:

18 (1) an electronic recording is made of the custodial
19 interrogation; and

20 (2) the recording is substantially accurate and not
21 intentionally altered.

22 (c) Every electronic recording required under this Section
23 must be preserved until such time as the minor's adjudication
24 for any offense relating to the statement is final and all
25 direct and habeas corpus appeals are exhausted, or the
26 prosecution of such offenses is barred by law.

27 (d) If the court finds, by a preponderance of the evidence,
28 that the minor was subjected to a custodial interrogation in
29 violation of this Section, then any statements made by the
30 minor during or following that non-recorded custodial
31 interrogation, even if otherwise in compliance with this
32 Section, are presumed to be inadmissible in any criminal
33 proceeding or juvenile court proceeding against the minor
34 except for the purposes of impeachment.

35 (e) Nothing in this Section precludes the admission (i) of
36 a statement made by the minor in open court in any criminal

1 proceeding or juvenile court proceeding, before a grand jury,
2 or at a preliminary hearing, (ii) of a statement made during a
3 custodial interrogation that was not recorded as required by
4 this Section because electronic recording was not feasible,
5 (iii) of a voluntary statement, whether or not the result of a
6 custodial interrogation, that has a bearing on the credibility
7 of the accused as a witness, (iv) of a spontaneous statement
8 that is not made in response to a question, (v) of a statement
9 made after questioning that is routinely asked during the
10 processing of the arrest of the suspect, (vi) of a statement
11 made during a custodial interrogation by a suspect who
12 requests, prior to making the statement, to respond to the
13 interrogator's questions only if an electronic recording is not
14 made of the statement, provided that an electronic recording is
15 made of the statement of agreeing to respond to the
16 interrogator's question, only if a recording is not made of the
17 statement, (vii) of a statement made during a custodial
18 interrogation that is conducted out-of-state, (viii) of a
19 statement given at a time when the interrogators are unaware
20 that a death has in fact occurred, or (ix) of any other
21 statement that may be admissible under law. The State shall
22 bear the burden of proving, by a preponderance of the evidence,
23 that one of the exceptions described in this subsection (e) is
24 applicable. Nothing in this Section precludes the admission of
25 a statement, otherwise inadmissible under this Section, that is
26 used only for impeachment and not as substantive evidence.

27 (f) The presumption of inadmissibility of a statement made
28 by a suspect at a custodial interrogation at a police station
29 or other place of detention may be overcome by a preponderance
30 of the evidence that the statement was voluntarily given and is
31 reliable, based on the totality of the circumstances.

32 (g) Any electronic recording of any statement made by a
33 minor during a custodial interrogation that is compiled by any
34 law enforcement agency as required by this Section for the
35 purposes of fulfilling the requirements of this Section shall
36 be confidential and exempt from public inspection and copying,

1 as provided under Section 7 of the Freedom of Information Act,
2 and the information shall not be transmitted to anyone except
3 as needed to comply with this Section.

4 (Source: P.A. 93-206, eff. 7-18-05; 93-517, eff. 8-6-05.)

5 (705 ILCS 405/5-410)

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

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

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

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

31 (b-4) The consultation required by subsection (b-5) shall
32 not be applicable if the probation officer or detention officer
33 (or other public officer designated by the court in a county
34 having 3,000,000 or more inhabitants) utilizes a scorable
35 detention screening instrument, which has been developed with

1 input by the State's Attorney, to determine whether a minor
2 should be detained, however, subsection (b-5) shall still be
3 applicable where no such screening instrument is used or where
4 the probation officer, detention officer (or other public
5 officer designated by the court in a county having 3,000,000 or
6 more inhabitants) deviates from the screening instrument.

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

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

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

35 (ii) Any minor so confined shall be under periodic
36 supervision and shall not be permitted to come into or

1 remain in contact with adults in custody in the building.

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

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

10 (v) Violation of the time limit on detention in a
11 county jail or municipal lockup shall not, in and of
12 itself, render inadmissible evidence obtained as a result
13 of the violation of this time limit. Minors under 18 ~~17~~
14 years of age shall be kept separate from confined adults
15 and may not at any time be kept in the same cell, room or
16 yard with adults confined pursuant to criminal law. Persons
17 18 ~~17~~ years of age and older who have a petition of
18 delinquency filed against them may be confined in an adult
19 detention facility. In making a determination whether to
20 confine a person 18 ~~17~~ years of age or older who has a
21 petition of delinquency filed against the person, these
22 factors, among other matters, shall be considered:

23 (A) The age of the person;

24 (B) Any previous delinquent or criminal history of
25 the person;

26 (C) Any previous abuse or neglect history of the
27 person; and

28 (D) Any mental health or educational history of the
29 person, or both.

30 (d) (i) If a minor 12 years of age or older is confined in a
31 county jail in a county with a population below 3,000,000
32 inhabitants, then the minor's confinement shall be implemented
33 in such a manner that there will be no contact by sight, sound
34 or otherwise between the minor and adult prisoners. Minors 12
35 years of age or older must be kept separate from confined
36 adults and may not at any time be kept in the same cell, room,

1 or yard with confined adults. This paragraph (d)(i) shall only
2 apply to confinement pending an adjudicatory hearing and shall
3 not exceed 40 hours, excluding Saturdays, Sundays and court
4 designated holidays. To accept or hold minors during this time
5 period, county jails shall comply with all monitoring standards
6 promulgated by the Department of Corrections and training
7 standards approved by the Illinois Law Enforcement Training
8 Standards Board.

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

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

23 (e) When a minor who is at least 15 years of age is
24 prosecuted under the criminal laws of this State, the court may
25 enter an order directing that the juvenile be confined in the
26 county jail. However, any juvenile confined in the county jail
27 under this provision shall be separated from adults who are
28 confined in the county jail in such a manner that there will be
29 no contact by sight, sound or otherwise between the juvenile
30 and adult prisoners.

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

1 (g) For purposes of processing a minor, the minor may be
2 taken to a County Jail or municipal lockup under the direct and
3 constant supervision of a law enforcement officer or
4 correctional officer. During such time as is necessary to
5 process the minor, and while supervised by a law enforcement
6 officer or correctional officer, the sight and sound separation
7 provisions shall not apply.

8 (3) If the probation officer or State's Attorney (or such
9 other public officer designated by the court in a county having
10 3,000,000 or more inhabitants) determines that the minor may be
11 a delinquent minor as described in subsection (3) of Section
12 5-105, and should be retained in custody but does not require
13 physical restriction, the minor may be placed in non-secure
14 custody for up to 40 hours pending a detention hearing.

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

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

20 (705 ILCS 405/5-901)

21 Sec. 5-901. Court file.

22 (1) The Court file with respect to proceedings under this
23 Article shall consist of the petitions, pleadings, victim
24 impact statements, process, service of process, orders, writs
25 and docket entries reflecting hearings held and judgments and
26 decrees entered by the court. The court file shall be kept
27 separate from other records of the court.

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

32 (i) A judge of the circuit court and members of the
33 staff of the court designated by the judge;

34 (ii) Parties to the proceedings and their
35 attorneys;

1 (iii) Victims and their attorneys, except in cases
2 of multiple victims of sex offenses in which case the
3 information identifying the nonrequesting victims
4 shall be redacted;

5 (iv) Probation officers, law enforcement officers
6 or prosecutors or their staff;

7 (v) Adult and juvenile Prisoner Review Boards.

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

12 (i) Authorized military personnel;

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

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

27 (iv) The administrator of a bonafide substance
28 abuse student assistance program with the permission
29 of the presiding judge of the juvenile court;

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

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

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

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

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

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

29 (ii) The court has made a finding that the minor
30 was at least 13 years of age at the time the act was
31 committed and the adjudication of delinquency was
32 based upon the minor's commission of: (A) an act in
33 furtherance of the commission of a felony as a member
34 of or on behalf of a criminal street gang, (B) an act
35 involving the use of a firearm in the commission of a
36 felony, (C) an act that would be a Class X felony

1 offense under or the minor's second or subsequent Class
2 2 or greater felony offense under the Cannabis Control
3 Act if committed by an adult, (D) an act that would be
4 a second or subsequent offense under Section 402 of the
5 Illinois Controlled Substances Act if committed by an
6 adult, or (E) an act that would be an offense under
7 Section 401 of the Illinois Controlled Substances Act
8 if committed by an adult.

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

15 (i) The minor has been convicted of first degree
16 murder, attempt to commit first degree murder,
17 aggravated criminal sexual assault, or criminal sexual
18 assault,

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

32 (6) Nothing in this Section shall be construed to limit the
33 use of a adjudication of delinquency as evidence in any
34 juvenile or criminal proceeding, where it would otherwise be
35 admissible under the rules of evidence, including but not
36 limited to, use as impeachment evidence against any witness,

1 including the minor if he or she testifies.

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

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

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

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

34 (12) Information or records may be disclosed to the general
35 public when the court is conducting hearings under Section
36 5-805 or 5-810.

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

2 (705 ILCS 405/5-905)

3 Sec. 5-905. Law enforcement records.

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

10 (a) A judge of the circuit court and members of the
11 staff of the court designated by the judge;

12 (b) Law enforcement officers, probation officers or
13 prosecutors or their staff;

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

17 (d) Adult and Juvenile Prisoner Review Boards;

18 (e) Authorized military personnel;

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

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

32 (h) The appropriate school official. Inspection and
33 copying shall be limited to law enforcement records
34 transmitted to the appropriate school official by a local
35 law enforcement agency under a reciprocal reporting system

1 established and maintained between the school district and
2 the local law enforcement agency under Section 10-20.14 of
3 the School Code concerning a minor enrolled in a school
4 within the school district who has been arrested for any
5 offense classified as a felony or a Class A or B
6 misdemeanor.

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

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

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

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

32 (6) Except as otherwise provided in this subsection (6),
33 law enforcement officers may not disclose the identity of any
34 minor in releasing information to the general public as to the
35 arrest, investigation or disposition of any case involving a
36 minor. Any victim or parent or legal guardian of a victim may

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

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

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

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

25 (705 ILCS 405/5-915)

26 Sec. 5-915. Expungement of juvenile law enforcement and
27 court records.

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

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

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

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

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

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

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

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

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

26 (2.5) If a minor is arrested and no petition for
27 delinquency is filed with the clerk of the circuit court as
28 provided in paragraph (a) of subsection (1) at the time the
29 minor is released from custody, the youth officer, if
30 applicable, or other designated person from the arresting
31 agency, shall notify verbally and in writing to the minor or
32 the minor's parents or guardians that if the State's Attorney
33 does not file a petition for delinquency, the minor has a right
34 to petition to have his or her arrest record expunged when the
35 minor attains the age of 18 ~~17~~ or when all juvenile court
36 proceedings relating to that minor have been terminated and

1 that unless a petition to expunge is filed, the minor shall
2 have an arrest record and shall provide the minor and the
3 minor's parents or guardians with an expungement information
4 packet, including a petition to expunge juvenile records
5 obtained from the clerk of the circuit court.

6 (2.6) If a minor is charged with an offense and is found
7 not delinquent of that offense; or if a minor is placed under
8 supervision under Section 5-615, and the order of supervision
9 is successfully terminated; or if a minor is adjudicated for an
10 offense that would be a Class B misdemeanor, a Class C
11 misdemeanor, or a business or petty offense if committed by an
12 adult; or if a minor has incidents occurring before his or her
13 18th ~~17th~~ birthday that have not resulted in proceedings in
14 criminal court, or resulted in proceedings in juvenile court,
15 and the adjudications were not based upon first degree murder
16 or sex offenses that would be felonies if committed by an
17 adult; then at the time of sentencing or dismissal of the case,
18 the judge shall inform the delinquent minor of his or her right
19 to petition for expungement as provided by law, and the clerk
20 of the circuit court shall provide an expungement information
21 packet to the delinquent minor, written in plain language,
22 including a petition for expungement, a sample of a completed
23 petition, expungement instructions that shall include
24 information informing the minor that (i) once the case is
25 expunged, it shall be treated as if it never occurred, (ii) he
26 or she may apply to have petition fees waived, (iii) once he or
27 she obtains an expungement, he or she may not be required to
28 disclose that he or she had a juvenile record, and (iv) he or
29 she may file the petition on his or her own or with the
30 assistance of an attorney. The failure of the judge to inform
31 the delinquent minor of his or her right to petition for
32 expungement as provided by law does not create a substantive
33 right, nor is that failure grounds for: (i) a reversal of an
34 adjudication of delinquency, (ii) a new trial; or (iii) an
35 appeal.

36 (2.7) For counties with a population over 3,000,000, the

1 clerk of the circuit court shall send a "Notification of a
 2 Possible Right to Expungement" post card to the minor at the
 3 address last received by the clerk of the circuit court on the
 4 date that the minor attains the age of 18 ~~17~~ based on the
 5 birthdate provided to the court by the minor or his or her
 6 guardian in cases under paragraphs (b), (c), and (d) of
 7 subsection (1); and when the minor attains the age of 21 based
 8 on the birthdate provided to the court by the minor or his or
 9 her guardian in cases under subsection (2).

10 (2.8) The petition for expungement for subsection (1) shall
 11 be substantially in the following form:

12 IN THE CIRCUIT COURT OF, ILLINOIS
 13 JUDICIAL CIRCUIT

14 IN THE INTEREST OF) NO.
 15)
 16)
 17)
 18 (Name of Petitioner)

19 PETITION TO EXPUNGE JUVENILE RECORDS
 20 (705 ILCS 405/5-915 (SUBSECTION 1))

21 (Please prepare a separate petition for each offense)

22 Now comes, petitioner, and respectfully requests
 23 that this Honorable Court enter an order expunging all juvenile
 24 law enforcement and court records of petitioner and in support
 25 thereof states that: Petitioner has attained the age of 18 ~~17~~,
 26 his/her birth date being, or all Juvenile Court
 27 proceedings terminated as of, whichever occurred later.
 28 Petitioner was arrested on by the Police
 29 Department for the offense of, and:

30 (Check One:)

31 () a. no petition was filed with the Clerk of the Circuit
 32 Court.

33 () b. was charged with and was found not delinquent of
 34 the offense.

1 () c. a petition was filed and the petition was dismissed
2 without a finding of delinquency on

3 () d. on placed under supervision pursuant to Section
4 5-615 of the Juvenile Court Act of 1987 and such order of
5 supervision successfully terminated on

6 () e. was adjudicated for the offense, which would have been a
7 Class B misdemeanor, a Class C misdemeanor, or a petty offense
8 or business offense if committed by an adult.

9 Petitioner has has not been arrested on charges in
10 this or any county other than the charges listed above. If
11 petitioner has been arrested on additional charges, please list
12 the charges below:

13 Charge(s):

14 Arresting Agency or Agencies:

15 Disposition/Result: (choose from a. through e., above):

16 WHEREFORE, the petitioner respectfully requests this Honorable
17 Court to (1) order all law enforcement agencies to expunge all
18 records of petitioner to this incident, and (2) to order the
19 Clerk of the Court to expunge all records concerning the
20 petitioner regarding this incident.

21
22 Petitioner (Signature)

23
24 Petitioner's Street Address

25
26 City, State, Zip Code

27
28 Petitioner's Telephone Number

29 Pursuant to the penalties of perjury under the Code of Civil
30 Procedure, 735 ILCS 5/1-109, I hereby certify that the
31 statements in this petition are true and correct, or on

1 information and belief I believe the same to be true.

2
3 Petitioner (Signature)

4 The Petition for Expungement for subsection (2) shall be
5 substantially in the following form:

6 IN THE CIRCUIT COURT OF, ILLINOIS
7 JUDICIAL CIRCUIT

8 IN THE INTEREST OF) NO.
9)
10)
11)
12 (Name of Petitioner)

13 PETITION TO EXPUNGE JUVENILE RECORDS
14 (705 ILCS 405/5-915 (SUBSECTION 2))

15 (Please prepare a separate petition for each offense)

16 Now comes, petitioner, and respectfully requests
17 that this Honorable Court enter an order expunging all Juvenile
18 Law Enforcement and Court records of petitioner and in support
19 thereof states that:

20 The incident for which the Petitioner seeks expungement
21 occurred before the Petitioner's 18th ~~17th~~ birthday and did not
22 result in proceedings in criminal court and the Petitioner has
23 not had any convictions for any crime since his/her 18th ~~17th~~
24 birthday; and

25 The incident for which the Petitioner seeks expungement
26 occurred before the Petitioner's 18th ~~17th~~ birthday and the
27 adjudication was not based upon first-degree murder or sex
28 offenses which would be felonies if committed by an adult, and
29 the Petitioner has not had any convictions for any crime since
30 his/her 18th ~~17th~~ birthday.

31 Petitioner was arrested on by the Police
32 Department for the offense of, and:

1 (Check whichever one occurred the latest:)

2 () a. The Petitioner has attained the age of 21 years, his/her
3 birthday being; or

4 () b. 5 years have elapsed since all juvenile court
5 proceedings relating to the Petitioner have been terminated; or
6 the Petitioner's commitment to the Department of Corrections,
7 Juvenile Division, pursuant to the expungement of juvenile law
8 enforcement and court records provisions of the Juvenile Court
9 Act of 1987 has been terminated. Petitioner ...has ...has not
10 been arrested on charges in this or any other county other than
11 the charge listed above. If petitioner has been arrested on
12 additional charges, please list the charges below:

13 Charge(s):

14 Arresting Agency or Agencies:

15 Disposition/Result: (choose from a or b, above):

16 WHEREFORE, the petitioner respectfully requests this Honorable
17 Court to (1) order all law enforcement agencies to expunge all
18 records of petitioner related to this incident, and (2) to
19 order the Clerk of the Court to expunge all records concerning
20 the petitioner regarding this incident.

21
22 Petitioner (Signature)

23
24 Petitioner's Street Address

25
26 City, State, Zip Code

27
28 Petitioner's Telephone Number

29 Pursuant to the penalties of perjury under the Code of Civil
30 Procedure, 735 ILCS 5/1-109, I hereby certify that the
31 statements in this petition are true and correct, or on
32 information and belief I believe the same to be true.

1
2 Petitioner (Signature)

3 (3) The chief judge of the circuit in which an arrest was
4 made or a charge was brought or any judge of that circuit
5 designated by the chief judge may, upon verified petition of a
6 person who is the subject of an arrest or a juvenile court
7 proceeding under subsection (1) or (2) of this Section, order
8 the law enforcement records or official court file, or both, to
9 be expunged from the official records of the arresting
10 authority, the clerk of the circuit court and the Department of
11 State Police. The person whose records are to be expunged shall
12 petition the court using the appropriate form containing his or
13 her current address and shall promptly notify the clerk of the
14 circuit court of any change of address. Notice of the petition
15 shall be served upon the State's Attorney or prosecutor charged
16 with the duty of prosecuting the offense, the Department of
17 State Police, and the arresting agency or agencies by the clerk
18 of the circuit court. If an objection is filed within 90 days
19 of the notice of the petition, the clerk of the circuit court
20 shall set a date for hearing after the 90 day objection period.
21 At the hearing the court shall hear evidence on whether the
22 expungement should or should not be granted. Unless the State's
23 Attorney or prosecutor, the Department of State Police, or an
24 arresting agency objects to the expungement within 90 days of
25 the notice, the court may enter an order granting expungement.
26 The person whose records are to be expunged shall pay the clerk
27 of the circuit court a fee equivalent to the cost associated
28 with expungement of records by the clerk and the Department of
29 State Police. The clerk shall forward a certified copy of the
30 order to the Department of State Police, the appropriate
31 portion of the fee to the Department of State Police for
32 processing, and deliver a certified copy of the order to the
33 arresting agency. ▸

34 (3.1) The Notice of Expungement shall be in substantially
35 the following form:

36 IN THE CIRCUIT COURT OF, ILLINOIS

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PROOF OF SERVICE

On the day of, 20..., I on oath state that I served this notice and true and correct copies of the above-checked documents by:

(Check One:)

delivering copies personally to each entity to whom they are directed;

or

by mailing copies to each entity to whom they are directed by depositing the same in the U.S. Mail, proper postage fully prepaid, before the hour of 5:00 p.m., at the United States Postal Depository located at

.....

Signature

Clerk of the Circuit Court or Deputy Clerk

Printed Name of Delinquent Minor/Petitioner:

Address:

Telephone Number:

(3.2) The Order of Expungement shall be in substantially the following form:

IN THE CIRCUIT COURT OF, ILLINOIS

..... JUDICIAL CIRCUIT

IN THE INTEREST OF) NO.

)

)

.....)

(Name of Petitioner)

DOB

Arresting Agency/Agencies

ORDER OF EXPUNGEMENT

(705 ILCS 405/5-915 (SUBSECTION 3))

This matter having been heard on the petitioner's motion and the court being fully advised in the premises does find that

1 the petitioner is indigent or has presented reasonable cause to
2 waive all costs in this matter, IT IS HEREBY ORDERED that:

3 () 1. Clerk of Court and Department of State Police costs
4 are hereby waived in this matter.

5 () 2. The Illinois State Police Bureau of Identification
6 and the following law enforcement agencies expunge all records
7 of petitioner relating to an arrest dated for the
8 offense of

9 Law Enforcement Agencies:

10

11

12 () 3. IT IS FURTHER ORDERED that the Clerk of the Circuit
13 Court expunge all records regarding the above-captioned case.

14 ENTER:

15
16 JUDGE

17 DATED:

18 Name:

19 Attorney for:

20 Address: City/State/Zip:

21 Attorney Number:

22 (3.3) The Notice of Objection shall be in substantially the
23 following form:

24 IN THE CIRCUIT COURT OF, ILLINOIS

25 JUDICIAL CIRCUIT

26 IN THE INTEREST OF) NO.

27)

28)

29)

30 (Name of Petitioner)

31 NOTICE OF OBJECTION

32 TO: (Attorney, Public Defender, Minor)

33

34

1 TO:(Illinois State Police)
2

3

4 TO:(Clerk of the Court)
5

6

7 TO:(Judge)
8

9

10 TO:(Arresting Agency/Agencies)
11

12

13 ATTENTION: You are hereby notified that an objection has been
14 filed by the following entity regarding the above-named minor's
15 petition for expungement of juvenile records:

- 16 () State's Attorney's Office;
- 17 () Prosecutor (other than State's Attorney's Office) charged
- 18 with the duty of prosecuting the offense sought to be expunged;
- 19 () Department of Illinois State Police; or
- 20 () Arresting Agency or Agencies.

21 The agency checked above respectfully requests that this case
22 be continued and set for hearing on whether the expungement
23 should or should not be granted.

24 DATED:

25 Name:

26 Attorney For:

27 Address:

28 City/State/Zip:

29 Telephone:

30 Attorney No.:

31 FOR USE BY CLERK OF THE COURT PERSONNEL ONLY

32 This matter has been set for hearing on the foregoing
33 objection, on in room, located at, before the
34 Honorable, Judge, or any judge sitting in his/her stead.

35 (Only one hearing shall be set, regardless of the number of
36 Notices of Objection received on the same case).

1 A copy of this completed Notice of Objection containing the
2 court date, time, and location, has been sent via regular U.S.
3 Mail to the following entities. (If more than one Notice of
4 Objection is received on the same case, each one must be
5 completed with the court date, time and location and mailed to
6 the following entities):

7 () Attorney, Public Defender or Minor;

8 () State's Attorney's Office;

9 () Prosecutor (other than State's Attorney's Office) charged
10 with the duty of prosecuting the offense sought to be expunged;

11 () Department of Illinois State Police; and

12 () Arresting agency or agencies.

13 Date:

14 Initials of Clerk completing this section:

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

20 (5) Records which have not been expunged are sealed, and
21 may be obtained only under the provisions of Sections 5-901,
22 5-905 and 5-915.

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

29 (7) (a) The State Appellate Defender shall establish,
30 maintain, and carry out, by December 31, 2004, a juvenile
31 expungement program to provide information and assistance to
32 minors eligible to have their juvenile records expunged.

33 (b) The State Appellate Defender shall develop brochures,
34 pamphlets, and other materials in printed form and through the
35 agency's World Wide Web site. The pamphlets and other materials
36 shall include at a minimum the following information:

1 (i) An explanation of the State's juvenile expungement
2 process;

3 (ii) The circumstances under which juvenile
4 expungement may occur;

5 (iii) The juvenile offenses that may be expunged;

6 (iv) The steps necessary to initiate and complete the
7 juvenile expungement process; and

8 (v) Directions on how to contact the State Appellate
9 Defender.

10 (c) The State Appellate Defender shall establish and
11 maintain a statewide toll-free telephone number that a person
12 may use to receive information or assistance concerning the
13 expungement of juvenile records. The State Appellate Defender
14 shall advertise the toll-free telephone number statewide. The
15 State Appellate Defender shall develop an expungement
16 information packet that may be sent to eligible persons seeking
17 expungement of their juvenile records, which may include, but
18 is not limited to, a pre-printed expungement petition with
19 instructions on how to complete the petition and a pamphlet
20 containing information that would assist individuals through
21 the juvenile expungement process.

22 (d) The State Appellate Defender shall compile a statewide
23 list of volunteer attorneys willing to assist eligible
24 individuals through the juvenile expungement process.

25 (e) This Section shall be implemented from funds
26 appropriated by the General Assembly to the State Appellate
27 Defender for this purpose. The State Appellate Defender shall
28 employ the necessary staff and adopt the necessary rules for
29 implementation of this Section.

30 (8) (a) Except with respect to law enforcement agencies, the
31 Department of Corrections, State's Attorneys, or other
32 prosecutors, an expunged juvenile record may not be considered
33 by any private or public entity in employment matters,
34 certification, licensing, revocation of certification or
35 licensure, or registration. Applications for employment must
36 contain specific language that states that the applicant is not

1 obligated to disclose expunged juvenile records of conviction
2 or arrest. Employers may not ask if an applicant has had a
3 juvenile record expunged. Effective January 1, 2005, the
4 Department of Labor shall develop a link on the Department's
5 website to inform employers that employers may not ask if an
6 applicant had a juvenile record expunged and that application
7 for employment must contain specific language that states that
8 the applicant is not obligated to disclose expunged juvenile
9 records of arrest or conviction.

10 (b) A person whose juvenile records have been expunged is
11 not entitled to remission of any fines, costs, or other money
12 paid as a consequence of expungement. This amendatory Act of
13 the 93rd General Assembly does not affect the right of the
14 victim of a crime to prosecute or defend a civil action for
15 damages.

16 (Source: P.A. 93-912, eff. 8-12-04; revised 10-14-04.)

17 Section 10. The Unified Code of Corrections is amended by
18 changing Sections 3-10-7, 5-5-3, 5-6-3, 5-6-3.1, 5-7-1,
19 5-8-1.1, 5-8-1.2, and 5-8-6 as follows:

20 (730 ILCS 5/3-10-7) (from Ch. 38, par. 1003-10-7)

21 Sec. 3-10-7. Interdivisional Transfers. (a) In any case
22 where a minor was originally prosecuted under the provisions of
23 the Criminal Code of 1961, as amended, and sentenced under the
24 provisions of this Act pursuant to Section 2-7 of the Juvenile
25 Court Act or Section 5-805 of the Juvenile Court Act of 1987
26 and committed to the Juvenile Division under Section 5-8-6, the
27 Department of Corrections shall, within 30 days of the date
28 that the minor reaches the age of 18 ~~17~~, send formal
29 notification to the sentencing court and the State's Attorney
30 of the county from which the minor was sentenced indicating the
31 day upon which the minor offender will achieve the age of 18
32 ~~17~~. Within 90 days of receipt of that notice, the sentencing
33 court shall conduct a hearing, pursuant to the provisions of
34 subsection (c) of this Section to determine whether or not the

1 minor shall continue to remain under the auspices of the
2 Juvenile Division or be transferred to the Adult Division of
3 the Department of Corrections.

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

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

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

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

31 2. The record of the minor's adjustment within the
32 Department of Corrections' Juvenile Division, including, but
33 not limited to, reports from the minor's counselor, any
34 escapes, attempted escapes or violent or disruptive conduct on
35 the part of the minor, any tickets received by the minor,
36 summaries of classes attended by the minor, and any record of

1 work performed by the minor while in the institution.

2 3. The relative maturity of the minor based upon the
3 physical, psychological and emotional development of the
4 minor.

5 4. The record of the rehabilitative progress of the minor
6 and an assessment of the vocational potential of the minor.

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

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

26 (d) Whenever the Director or his designee determines that
27 the interests of safety, security and discipline require the
28 transfer to the Adult Division of a person 18 ~~17~~ years or older
29 who was prosecuted under the provisions of the Criminal Code of
30 1961, as amended, and sentenced under the provisions of this
31 Act pursuant to Section 2-7 of the Juvenile Court Act or
32 Section 5-805 of the Juvenile Court Act of 1987 and committed
33 to the Juvenile Division under Section 5-8-6, the Director or
34 his designee may authorize the emergency transfer of such
35 person, unless the transfer of the person is governed by
36 subsection (e) of this Section. The sentencing court shall be

1 provided notice of any emergency transfer no later than 3 days
2 after the emergency transfer. Upon motion brought within 60
3 days of the emergency transfer by the sentencing court or any
4 party, the sentencing court may conduct a hearing pursuant to
5 the provisions of subsection (c) of this Section in order to
6 determine whether the person shall remain confined in the Adult
7 Division.

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

18 1. The nature of the offense for which the person was found
19 guilty and the length of the sentence the person has to serve
20 and the record and previous history of the person.

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

28 3. The relative maturity of the person based upon the
29 physical, psychological and emotional development of the
30 person.

31 4. The record of the rehabilitative progress of the person
32 and an assessment of the vocational potential of the person.

33 5. An assessment of the necessity for transfer of the
34 person, including, but not limited to, the availability of
35 space within the Department of Corrections, the disciplinary
36 and security problem which the person has presented to the

1 Juvenile Division and the practicability of maintaining the
2 person in a juvenile facility, whether resources have been
3 exhausted within the Juvenile Division of the Department of
4 Corrections, the availability of rehabilitative and vocational
5 programs within the Department of Corrections, and the
6 anticipated ability of the person to adjust to confinement
7 within an adult institution based upon the person's physical
8 size and maturity.

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

10 (730 ILCS 5/5-5-3) (from Ch. 38, par. 1005-5-3)

11 Sec. 5-5-3. Disposition.

12 (a) Except as provided in Section 11-501 of the Illinois
13 Vehicle Code, every person convicted of an offense shall be
14 sentenced as provided in this Section.

15 (b) The following options shall be appropriate
16 dispositions, alone or in combination, for all felonies and
17 misdemeanors other than those identified in subsection (c) of
18 this Section:

19 (1) A period of probation.

20 (2) A term of periodic imprisonment.

21 (3) A term of conditional discharge.

22 (4) A term of imprisonment.

23 (5) An order directing the offender to clean up and
24 repair the damage, if the offender was convicted under
25 paragraph (h) of Section 21-1 of the Criminal Code of 1961
26 (now repealed).

27 (6) A fine.

28 (7) An order directing the offender to make restitution
29 to the victim under Section 5-5-6 of this Code.

30 (8) A sentence of participation in a county impact
31 incarceration program under Section 5-8-1.2 of this Code.

32 (9) A term of imprisonment in combination with a term
33 of probation when the offender has been admitted into a
34 drug court program under Section 20 of the Drug Court
35 Treatment Act.

1 Neither a fine nor restitution shall be the sole
2 disposition for a felony and either or both may be imposed only
3 in conjunction with another disposition.

4 (c) (1) When a defendant is found guilty of first degree
5 murder the State may either seek a sentence of imprisonment
6 under Section 5-8-1 of this Code, or where appropriate seek
7 a sentence of death under Section 9-1 of the Criminal Code
8 of 1961.

9 (2) A period of probation, a term of periodic
10 imprisonment or conditional discharge shall not be imposed
11 for the following offenses. The court shall sentence the
12 offender to not less than the minimum term of imprisonment
13 set forth in this Code for the following offenses, and may
14 order a fine or restitution or both in conjunction with
15 such term of imprisonment:

16 (A) First degree murder where the death penalty is
17 not imposed.

18 (B) Attempted first degree murder.

19 (C) A Class X felony.

20 (D) A violation of Section 401.1 or 407 of the
21 Illinois Controlled Substances Act, or a violation of
22 subdivision (c) (1) or (c) (2) of Section 401 of that Act
23 which relates to more than 5 grams of a substance
24 containing heroin or cocaine or an analog thereof.

25 (E) A violation of Section 5.1 or 9 of the Cannabis
26 Control Act.

27 (F) A Class 2 or greater felony if the offender had
28 been convicted of a Class 2 or greater felony within 10
29 years of the date on which the offender committed the
30 offense for which he or she is being sentenced, except
31 as otherwise provided in Section 40-10 of the
32 Alcoholism and Other Drug Abuse and Dependency Act.

33 (G) Residential burglary, except as otherwise
34 provided in Section 40-10 of the Alcoholism and Other
35 Drug Abuse and Dependency Act.

36 (H) Criminal sexual assault.

1 (I) Aggravated battery of a senior citizen.

2 (J) A forcible felony if the offense was related to
3 the activities of an organized gang.

4 Before July 1, 1994, for the purposes of this
5 paragraph, "organized gang" means an association of 5
6 or more persons, with an established hierarchy, that
7 encourages members of the association to perpetrate
8 crimes or provides support to the members of the
9 association who do commit crimes.

10 Beginning July 1, 1994, for the purposes of this
11 paragraph, "organized gang" has the meaning ascribed
12 to it in Section 10 of the Illinois Streetgang
13 Terrorism Omnibus Prevention Act.

14 (K) Vehicular hijacking.

15 (L) A second or subsequent conviction for the
16 offense of hate crime when the underlying offense upon
17 which the hate crime is based is felony aggravated
18 assault or felony mob action.

19 (M) A second or subsequent conviction for the
20 offense of institutional vandalism if the damage to the
21 property exceeds \$300.

22 (N) A Class 3 felony violation of paragraph (1) of
23 subsection (a) of Section 2 of the Firearm Owners
24 Identification Card Act.

25 (O) A violation of Section 12-6.1 of the Criminal
26 Code of 1961.

27 (P) A violation of paragraph (1), (2), (3), (4),
28 (5), or (7) of subsection (a) of Section 11-20.1 of the
29 Criminal Code of 1961.

30 (Q) A violation of Section 20-1.2 or 20-1.3 of the
31 Criminal Code of 1961.

32 (R) A violation of Section 24-3A of the Criminal
33 Code of 1961.

34 (S) (Blank).

35 (T) A second or subsequent violation of paragraph
36 (6.6) of subsection (a), subsection (c-5), or

1 subsection (d-5) of Section 401 of the Illinois
2 Controlled Substances Act.

3 (3) (Blank).

4 (4) A minimum term of imprisonment of not less than 10
5 consecutive days or 30 days of community service shall be
6 imposed for a violation of paragraph (c) of Section 6-303
7 of the Illinois Vehicle Code.

8 (4.1) (Blank).

9 (4.2) Except as provided in paragraph (4.3) of this
10 subsection (c), a minimum of 100 hours of community service
11 shall be imposed for a second violation of Section 6-303 of
12 the Illinois Vehicle Code.

13 (4.3) A minimum term of imprisonment of 30 days or 300
14 hours of community service, as determined by the court,
15 shall be imposed for a second violation of subsection (c)
16 of Section 6-303 of the Illinois Vehicle Code.

17 (4.4) Except as provided in paragraph (4.5) and
18 paragraph (4.6) of this subsection (c), a minimum term of
19 imprisonment of 30 days or 300 hours of community service,
20 as determined by the court, shall be imposed for a third or
21 subsequent violation of Section 6-303 of the Illinois
22 Vehicle Code.

23 (4.5) A minimum term of imprisonment of 30 days shall
24 be imposed for a third violation of subsection (c) of
25 Section 6-303 of the Illinois Vehicle Code.

26 (4.6) A minimum term of imprisonment of 180 days shall
27 be imposed for a fourth or subsequent violation of
28 subsection (c) of Section 6-303 of the Illinois Vehicle
29 Code.

30 (5) The court may sentence an offender convicted of a
31 business offense or a petty offense or a corporation or
32 unincorporated association convicted of any offense to:

33 (A) a period of conditional discharge;

34 (B) a fine;

35 (C) make restitution to the victim under Section
36 5-5-6 of this Code.

1 (5.1) In addition to any penalties imposed under
2 paragraph (5) of this subsection (c), and except as
3 provided in paragraph (5.2) or (5.3), a person convicted of
4 violating subsection (c) of Section 11-907 of the Illinois
5 Vehicle Code shall have his or her driver's license,
6 permit, or privileges suspended for at least 90 days but
7 not more than one year, if the violation resulted in damage
8 to the property of another person.

9 (5.2) In addition to any penalties imposed under
10 paragraph (5) of this subsection (c), and except as
11 provided in paragraph (5.3), a person convicted of
12 violating subsection (c) of Section 11-907 of the Illinois
13 Vehicle Code shall have his or her driver's license,
14 permit, or privileges suspended for at least 180 days but
15 not more than 2 years, if the violation resulted in injury
16 to another person.

17 (5.3) In addition to any penalties imposed under
18 paragraph (5) of this subsection (c), a person convicted of
19 violating subsection (c) of Section 11-907 of the Illinois
20 Vehicle Code shall have his or her driver's license,
21 permit, or privileges suspended for 2 years, if the
22 violation resulted in the death of another person.

23 (6) In no case shall an offender be eligible for a
24 disposition of probation or conditional discharge for a
25 Class 1 felony committed while he was serving a term of
26 probation or conditional discharge for a felony.

27 (7) When a defendant is adjudged a habitual criminal
28 under Article 33B of the Criminal Code of 1961, the court
29 shall sentence the defendant to a term of natural life
30 imprisonment.

31 (8) When a defendant, over the age of 21 years, is
32 convicted of a Class 1 or Class 2 felony, after having
33 twice been convicted in any state or federal court of an
34 offense that contains the same elements as an offense now
35 classified in Illinois as a Class 2 or greater Class felony
36 and such charges are separately brought and tried and arise

1 out of different series of acts, such defendant shall be
2 sentenced as a Class X offender. This paragraph shall not
3 apply unless (1) the first felony was committed after the
4 effective date of this amendatory Act of 1977; and (2) the
5 second felony was committed after conviction on the first;
6 and (3) the third felony was committed after conviction on
7 the second. A person sentenced as a Class X offender under
8 this paragraph is not eligible to apply for treatment as a
9 condition of probation as provided by Section 40-10 of the
10 Alcoholism and Other Drug Abuse and Dependency Act.

11 (9) A defendant convicted of a second or subsequent
12 offense of ritualized abuse of a child may be sentenced to
13 a term of natural life imprisonment.

14 (10) (Blank).

15 (11) The court shall impose a minimum fine of \$1,000
16 for a first offense and \$2,000 for a second or subsequent
17 offense upon a person convicted of or placed on supervision
18 for battery when the individual harmed was a sports
19 official or coach at any level of competition and the act
20 causing harm to the sports official or coach occurred
21 within an athletic facility or within the immediate
22 vicinity of the athletic facility at which the sports
23 official or coach was an active participant of the athletic
24 contest held at the athletic facility. For the purposes of
25 this paragraph (11), "sports official" means a person at an
26 athletic contest who enforces the rules of the contest,
27 such as an umpire or referee; "athletic facility" means an
28 indoor or outdoor playing field or recreational area where
29 sports activities are conducted; and "coach" means a person
30 recognized as a coach by the sanctioning authority that
31 conducted the sporting event.

32 (12) ~~(11)~~ A person may not receive a disposition of
33 court supervision for a violation of Section 5-16 of the
34 Boat Registration and Safety Act if that person has
35 previously received a disposition of court supervision for
36 a violation of that Section.

1 (d) In any case in which a sentence originally imposed is
2 vacated, the case shall be remanded to the trial court. The
3 trial court shall hold a hearing under Section 5-4-1 of the
4 Unified Code of Corrections which may include evidence of the
5 defendant's life, moral character and occupation during the
6 time since the original sentence was passed. The trial court
7 shall then impose sentence upon the defendant. The trial court
8 may impose any sentence which could have been imposed at the
9 original trial subject to Section 5-5-4 of the Unified Code of
10 Corrections. If a sentence is vacated on appeal or on
11 collateral attack due to the failure of the trier of fact at
12 trial to determine beyond a reasonable doubt the existence of a
13 fact (other than a prior conviction) necessary to increase the
14 punishment for the offense beyond the statutory maximum
15 otherwise applicable, either the defendant may be re-sentenced
16 to a term within the range otherwise provided or, if the State
17 files notice of its intention to again seek the extended
18 sentence, the defendant shall be afforded a new trial.

19 (e) In cases where prosecution for aggravated criminal
20 sexual abuse under Section 12-16 of the Criminal Code of 1961
21 results in conviction of a defendant who was a family member of
22 the victim at the time of the commission of the offense, the
23 court shall consider the safety and welfare of the victim and
24 may impose a sentence of probation only where:

25 (1) the court finds (A) or (B) or both are appropriate:

26 (A) the defendant is willing to undergo a court
27 approved counseling program for a minimum duration of 2
28 years; or

29 (B) the defendant is willing to participate in a
30 court approved plan including but not limited to the
31 defendant's:

32 (i) removal from the household;

33 (ii) restricted contact with the victim;

34 (iii) continued financial support of the
35 family;

36 (iv) restitution for harm done to the victim;

1 and

2 (v) compliance with any other measures that
3 the court may deem appropriate; and

4 (2) the court orders the defendant to pay for the
5 victim's counseling services, to the extent that the court
6 finds, after considering the defendant's income and
7 assets, that the defendant is financially capable of paying
8 for such services, if the victim was under 18 years of age
9 at the time the offense was committed and requires
10 counseling as a result of the offense.

11 Probation may be revoked or modified pursuant to Section
12 5-6-4; except where the court determines at the hearing that
13 the defendant violated a condition of his or her probation
14 restricting contact with the victim or other family members or
15 commits another offense with the victim or other family
16 members, the court shall revoke the defendant's probation and
17 impose a term of imprisonment.

18 For the purposes of this Section, "family member" and
19 "victim" shall have the meanings ascribed to them in Section
20 12-12 of the Criminal Code of 1961.

21 (f) This Article shall not deprive a court in other
22 proceedings to order a forfeiture of property, to suspend or
23 cancel a license, to remove a person from office, or to impose
24 any other civil penalty.

25 (g) Whenever a defendant is convicted of an offense under
26 Sections 11-14, 11-15, 11-15.1, 11-16, 11-17, 11-18, 11-18.1,
27 11-19, 11-19.1, 11-19.2, 12-13, 12-14, 12-14.1, 12-15 or 12-16
28 of the Criminal Code of 1961, the defendant shall undergo
29 medical testing to determine whether the defendant has any
30 sexually transmissible disease, including a test for infection
31 with human immunodeficiency virus (HIV) or any other identified
32 causative agent of acquired immunodeficiency syndrome (AIDS).
33 Any such medical test shall be performed only by appropriately
34 licensed medical practitioners and may include an analysis of
35 any bodily fluids as well as an examination of the defendant's
36 person. Except as otherwise provided by law, the results of

1 such test shall be kept strictly confidential by all medical
2 personnel involved in the testing and must be personally
3 delivered in a sealed envelope to the judge of the court in
4 which the conviction was entered for the judge's inspection in
5 camera. Acting in accordance with the best interests of the
6 victim and the public, the judge shall have the discretion to
7 determine to whom, if anyone, the results of the testing may be
8 revealed. The court shall notify the defendant of the test
9 results. The court shall also notify the victim if requested by
10 the victim, and if the victim is under the age of 15 and if
11 requested by the victim's parents or legal guardian, the court
12 shall notify the victim's parents or legal guardian of the test
13 results. The court shall provide information on the
14 availability of HIV testing and counseling at Department of
15 Public Health facilities to all parties to whom the results of
16 the testing are revealed and shall direct the State's Attorney
17 to provide the information to the victim when possible. A
18 State's Attorney may petition the court to obtain the results
19 of any HIV test administered under this Section, and the court
20 shall grant the disclosure if the State's Attorney shows it is
21 relevant in order to prosecute a charge of criminal
22 transmission of HIV under Section 12-16.2 of the Criminal Code
23 of 1961 against the defendant. The court shall order that the
24 cost of any such test shall be paid by the county and may be
25 taxed as costs against the convicted defendant.

26 (g-5) When an inmate is tested for an airborne communicable
27 disease, as determined by the Illinois Department of Public
28 Health including but not limited to tuberculosis, the results
29 of the test shall be personally delivered by the warden or his
30 or her designee in a sealed envelope to the judge of the court
31 in which the inmate must appear for the judge's inspection in
32 camera if requested by the judge. Acting in accordance with the
33 best interests of those in the courtroom, the judge shall have
34 the discretion to determine what if any precautions need to be
35 taken to prevent transmission of the disease in the courtroom.

36 (h) Whenever a defendant is convicted of an offense under

1 Section 1 or 2 of the Hypodermic Syringes and Needles Act, the
2 defendant shall undergo medical testing to determine whether
3 the defendant has been exposed to human immunodeficiency virus
4 (HIV) or any other identified causative agent of acquired
5 immunodeficiency syndrome (AIDS). Except as otherwise provided
6 by law, the results of such test shall be kept strictly
7 confidential by all medical personnel involved in the testing
8 and must be personally delivered in a sealed envelope to the
9 judge of the court in which the conviction was entered for the
10 judge's inspection in camera. Acting in accordance with the
11 best interests of the public, the judge shall have the
12 discretion to determine to whom, if anyone, the results of the
13 testing may be revealed. The court shall notify the defendant
14 of a positive test showing an infection with the human
15 immunodeficiency virus (HIV). The court shall provide
16 information on the availability of HIV testing and counseling
17 at Department of Public Health facilities to all parties to
18 whom the results of the testing are revealed and shall direct
19 the State's Attorney to provide the information to the victim
20 when possible. A State's Attorney may petition the court to
21 obtain the results of any HIV test administered under this
22 Section, and the court shall grant the disclosure if the
23 State's Attorney shows it is relevant in order to prosecute a
24 charge of criminal transmission of HIV under Section 12-16.2 of
25 the Criminal Code of 1961 against the defendant. The court
26 shall order that the cost of any such test shall be paid by the
27 county and may be taxed as costs against the convicted
28 defendant.

29 (i) All fines and penalties imposed under this Section for
30 any violation of Chapters 3, 4, 6, and 11 of the Illinois
31 Vehicle Code, or a similar provision of a local ordinance, and
32 any violation of the Child Passenger Protection Act, or a
33 similar provision of a local ordinance, shall be collected and
34 disbursed by the circuit clerk as provided under Section 27.5
35 of the Clerks of Courts Act.

36 (j) In cases when prosecution for any violation of Section

1 11-6, 11-8, 11-9, 11-11, 11-14, 11-15, 11-15.1, 11-16, 11-17,
2 11-17.1, 11-18, 11-18.1, 11-19, 11-19.1, 11-19.2, 11-20.1,
3 11-21, 12-13, 12-14, 12-14.1, 12-15, or 12-16 of the Criminal
4 Code of 1961, any violation of the Illinois Controlled
5 Substances Act, or any violation of the Cannabis Control Act
6 results in conviction, a disposition of court supervision, or
7 an order of probation granted under Section 10 of the Cannabis
8 Control Act or Section 410 of the Illinois Controlled Substance
9 Act of a defendant, the court shall determine whether the
10 defendant is employed by a facility or center as defined under
11 the Child Care Act of 1969, a public or private elementary or
12 secondary school, or otherwise works with children under 18
13 years of age on a daily basis. When a defendant is so employed,
14 the court shall order the Clerk of the Court to send a copy of
15 the judgment of conviction or order of supervision or probation
16 to the defendant's employer by certified mail. If the employer
17 of the defendant is a school, the Clerk of the Court shall
18 direct the mailing of a copy of the judgment of conviction or
19 order of supervision or probation to the appropriate regional
20 superintendent of schools. The regional superintendent of
21 schools shall notify the State Board of Education of any
22 notification under this subsection.

23 (j-5) A defendant at least 18 ~~17~~ years of age who is
24 convicted of a felony and who has not been previously convicted
25 of a misdemeanor or felony and who is sentenced to a term of
26 imprisonment in the Illinois Department of Corrections shall as
27 a condition of his or her sentence be required by the court to
28 attend educational courses designed to prepare the defendant
29 for a high school diploma and to work toward a high school
30 diploma or to work toward passing the high school level Test of
31 General Educational Development (GED) or to work toward
32 completing a vocational training program offered by the
33 Department of Corrections. If a defendant fails to complete the
34 educational training required by his or her sentence during the
35 term of incarceration, the Prisoner Review Board shall, as a
36 condition of mandatory supervised release, require the

1 defendant, at his or her own expense, to pursue a course of
2 study toward a high school diploma or passage of the GED test.
3 The Prisoner Review Board shall revoke the mandatory supervised
4 release of a defendant who wilfully fails to comply with this
5 subsection (j-5) upon his or her release from confinement in a
6 penal institution while serving a mandatory supervised release
7 term; however, the inability of the defendant after making a
8 good faith effort to obtain financial aid or pay for the
9 educational training shall not be deemed a wilful failure to
10 comply. The Prisoner Review Board shall recommit the defendant
11 whose mandatory supervised release term has been revoked under
12 this subsection (j-5) as provided in Section 3-3-9. This
13 subsection (j-5) does not apply to a defendant who has a high
14 school diploma or has successfully passed the GED test. This
15 subsection (j-5) does not apply to a defendant who is
16 determined by the court to be developmentally disabled or
17 otherwise mentally incapable of completing the educational or
18 vocational program.

19 (k) A court may not impose a sentence or disposition for a
20 felony or misdemeanor that requires the defendant to be
21 implanted or injected with or to use any form of birth control.

22 (l) (A) Except as provided in paragraph (C) of subsection
23 (l), whenever a defendant, who is an alien as defined by
24 the Immigration and Nationality Act, is convicted of any
25 felony or misdemeanor offense, the court after sentencing
26 the defendant may, upon motion of the State's Attorney,
27 hold sentence in abeyance and remand the defendant to the
28 custody of the Attorney General of the United States or his
29 or her designated agent to be deported when:

30 (1) a final order of deportation has been issued
31 against the defendant pursuant to proceedings under
32 the Immigration and Nationality Act, and

33 (2) the deportation of the defendant would not
34 deprecate the seriousness of the defendant's conduct
35 and would not be inconsistent with the ends of justice.
36 Otherwise, the defendant shall be sentenced as

1 provided in this Chapter V.

2 (B) If the defendant has already been sentenced for a
3 felony or misdemeanor offense, or has been placed on
4 probation under Section 10 of the Cannabis Control Act or
5 Section 410 of the Illinois Controlled Substances Act, the
6 court may, upon motion of the State's Attorney to suspend
7 the sentence imposed, commit the defendant to the custody
8 of the Attorney General of the United States or his or her
9 designated agent when:

10 (1) a final order of deportation has been issued
11 against the defendant pursuant to proceedings under
12 the Immigration and Nationality Act, and

13 (2) the deportation of the defendant would not
14 deprecate the seriousness of the defendant's conduct
15 and would not be inconsistent with the ends of justice.

16 (C) This subsection (1) does not apply to offenders who
17 are subject to the provisions of paragraph (2) of
18 subsection (a) of Section 3-6-3.

19 (D) Upon motion of the State's Attorney, if a defendant
20 sentenced under this Section returns to the jurisdiction of
21 the United States, the defendant shall be recommitted to
22 the custody of the county from which he or she was
23 sentenced. Thereafter, the defendant shall be brought
24 before the sentencing court, which may impose any sentence
25 that was available under Section 5-5-3 at the time of
26 initial sentencing. In addition, the defendant shall not be
27 eligible for additional good conduct credit for
28 meritorious service as provided under Section 3-6-6.

29 (m) A person convicted of criminal defacement of property
30 under Section 21-1.3 of the Criminal Code of 1961, in which the
31 property damage exceeds \$300 and the property damaged is a
32 school building, shall be ordered to perform community service
33 that may include cleanup, removal, or painting over the
34 defacement.

35 (n) The court may sentence a person convicted of a
36 violation of Section 12-19, 12-21, or 16-1.3 of the Criminal

1 Code of 1961 (i) to an impact incarceration program if the
2 person is otherwise eligible for that program under Section
3 5-8-1.1, (ii) to community service, or (iii) if the person is
4 an addict or alcoholic, as defined in the Alcoholism and Other
5 Drug Abuse and Dependency Act, to a substance or alcohol abuse
6 program licensed under that Act.

7 (Source: P.A. 92-183, eff. 7-27-01; 92-248, eff. 8-3-01;
8 92-283, eff. 1-1-02; 92-340, eff. 8-10-01; 92-418, eff.
9 8-17-01; 92-422, eff. 8-17-01; 92-651, eff. 7-11-02; 92-698,
10 eff. 7-19-02; 93-44, eff. 7-1-03; 93-156, eff. 1-1-04; 93-169,
11 eff. 7-10-03; 93-301, eff. 1-1-04; 93-419, eff. 1-1-04; 93-546,
12 eff. 1-1-04; 93-694, eff. 7-9-04; 93-782, eff. 1-1-05; 93-800,
13 eff. 1-1-05; 93-1014, eff. 1-1-05; revised 10-25-04.)

14 (730 ILCS 5/5-6-3) (from Ch. 38, par. 1005-6-3)

15 Sec. 5-6-3. Conditions of Probation and of Conditional
16 Discharge.

17 (a) The conditions of probation and of conditional
18 discharge shall be that the person:

19 (1) not violate any criminal statute of any
20 jurisdiction;

21 (2) report to or appear in person before such person or
22 agency as directed by the court;

23 (3) refrain from possessing a firearm or other
24 dangerous weapon;

25 (4) not leave the State without the consent of the
26 court or, in circumstances in which the reason for the
27 absence is of such an emergency nature that prior consent
28 by the court is not possible, without the prior
29 notification and approval of the person's probation
30 officer. Transfer of a person's probation or conditional
31 discharge supervision to another state is subject to
32 acceptance by the other state pursuant to the Interstate
33 Compact for Adult Offender Supervision;

34 (5) permit the probation officer to visit him at his
35 home or elsewhere to the extent necessary to discharge his

1 duties;

2 (6) perform no less than 30 hours of community service
3 and not more than 120 hours of community service, if
4 community service is available in the jurisdiction and is
5 funded and approved by the county board where the offense
6 was committed, where the offense was related to or in
7 furtherance of the criminal activities of an organized gang
8 and was motivated by the offender's membership in or
9 allegiance to an organized gang. The community service
10 shall include, but not be limited to, the cleanup and
11 repair of any damage caused by a violation of Section
12 21-1.3 of the Criminal Code of 1961 and similar damage to
13 property located within the municipality or county in which
14 the violation occurred. When possible and reasonable, the
15 community service should be performed in the offender's
16 neighborhood. For purposes of this Section, "organized
17 gang" has the meaning ascribed to it in Section 10 of the
18 Illinois Streetgang Terrorism Omnibus Prevention Act;

19 (7) if he or she is at least 18 ~~17~~ years of age and has
20 been sentenced to probation or conditional discharge for a
21 misdemeanor or felony in a county of 3,000,000 or more
22 inhabitants and has not been previously convicted of a
23 misdemeanor or felony, may be required by the sentencing
24 court to attend educational courses designed to prepare the
25 defendant for a high school diploma and to work toward a
26 high school diploma or to work toward passing the high
27 school level Test of General Educational Development (GED)
28 or to work toward completing a vocational training program
29 approved by the court. The person on probation or
30 conditional discharge must attend a public institution of
31 education to obtain the educational or vocational training
32 required by this clause (7). The court shall revoke the
33 probation or conditional discharge of a person who wilfully
34 fails to comply with this clause (7). The person on
35 probation or conditional discharge shall be required to pay
36 for the cost of the educational courses or GED test, if a

1 fee is charged for those courses or test. The court shall
2 resentence the offender whose probation or conditional
3 discharge has been revoked as provided in Section 5-6-4.
4 This clause (7) does not apply to a person who has a high
5 school diploma or has successfully passed the GED test.
6 This clause (7) does not apply to a person who is
7 determined by the court to be developmentally disabled or
8 otherwise mentally incapable of completing the educational
9 or vocational program;

10 (8) if convicted of possession of a substance
11 prohibited by the Cannabis Control Act or Illinois
12 Controlled Substances Act after a previous conviction or
13 disposition of supervision for possession of a substance
14 prohibited by the Cannabis Control Act or Illinois
15 Controlled Substances Act or after a sentence of probation
16 under Section 10 of the Cannabis Control Act or Section 410
17 of the Illinois Controlled Substances Act and upon a
18 finding by the court that the person is addicted, undergo
19 treatment at a substance abuse program approved by the
20 court;

21 (8.5) if convicted of a felony sex offense as defined
22 in the Sex Offender Management Board Act, the person shall
23 undergo and successfully complete sex offender treatment
24 by a treatment provider approved by the Board and conducted
25 in conformance with the standards developed under the Sex
26 Offender Management Board Act; and

27 (9) if convicted of a felony, physically surrender at a
28 time and place designated by the court, his or her Firearm
29 Owner's Identification Card and any and all firearms in his
30 or her possession.

31 (b) The Court may in addition to other reasonable
32 conditions relating to the nature of the offense or the
33 rehabilitation of the defendant as determined for each
34 defendant in the proper discretion of the Court require that
35 the person:

36 (1) serve a term of periodic imprisonment under Article

1 7 for a period not to exceed that specified in paragraph
2 (d) of Section 5-7-1;

3 (2) pay a fine and costs;

4 (3) work or pursue a course of study or vocational
5 training;

6 (4) undergo medical, psychological or psychiatric
7 treatment; or treatment for drug addiction or alcoholism;

8 (5) attend or reside in a facility established for the
9 instruction or residence of defendants on probation;

10 (6) support his dependents;

11 (7) and in addition, if a minor:

12 (i) reside with his parents or in a foster home;

13 (ii) attend school;

14 (iii) attend a non-residential program for youth;

15 (iv) contribute to his own support at home or in a
16 foster home;

17 (v) with the consent of the superintendent of the
18 facility, attend an educational program at a facility
19 other than the school in which the offense was
20 committed if he or she is convicted of a crime of
21 violence as defined in Section 2 of the Crime Victims
22 Compensation Act committed in a school, on the real
23 property comprising a school, or within 1,000 feet of
24 the real property comprising a school;

25 (8) make restitution as provided in Section 5-5-6 of
26 this Code;

27 (9) perform some reasonable public or community
28 service;

29 (10) serve a term of home confinement. In addition to
30 any other applicable condition of probation or conditional
31 discharge, the conditions of home confinement shall be that
32 the offender:

33 (i) remain within the interior premises of the
34 place designated for his confinement during the hours
35 designated by the court;

36 (ii) admit any person or agent designated by the

1 court into the offender's place of confinement at any
2 time for purposes of verifying the offender's
3 compliance with the conditions of his confinement; and

4 (iii) if further deemed necessary by the court or
5 the Probation or Court Services Department, be placed
6 on an approved electronic monitoring device, subject
7 to Article 8A of Chapter V;

8 (iv) for persons convicted of any alcohol,
9 cannabis or controlled substance violation who are
10 placed on an approved monitoring device as a condition
11 of probation or conditional discharge, the court shall
12 impose a reasonable fee for each day of the use of the
13 device, as established by the county board in
14 subsection (g) of this Section, unless after
15 determining the inability of the offender to pay the
16 fee, the court assesses a lesser fee or no fee as the
17 case may be. This fee shall be imposed in addition to
18 the fees imposed under subsections (g) and (i) of this
19 Section. The fee shall be collected by the clerk of the
20 circuit court. The clerk of the circuit court shall pay
21 all monies collected from this fee to the county
22 treasurer for deposit in the substance abuse services
23 fund under Section 5-1086.1 of the Counties Code; and

24 (v) for persons convicted of offenses other than
25 those referenced in clause (iv) above and who are
26 placed on an approved monitoring device as a condition
27 of probation or conditional discharge, the court shall
28 impose a reasonable fee for each day of the use of the
29 device, as established by the county board in
30 subsection (g) of this Section, unless after
31 determining the inability of the defendant to pay the
32 fee, the court assesses a lesser fee or no fee as the
33 case may be. This fee shall be imposed in addition to
34 the fees imposed under subsections (g) and (i) of this
35 Section. The fee shall be collected by the clerk of the
36 circuit court. The clerk of the circuit court shall pay

1 all monies collected from this fee to the county
2 treasurer who shall use the monies collected to defray
3 the costs of corrections. The county treasurer shall
4 deposit the fee collected in the county working cash
5 fund under Section 6-27001 or Section 6-29002 of the
6 Counties Code, as the case may be.

7 (11) comply with the terms and conditions of an order
8 of protection issued by the court pursuant to the Illinois
9 Domestic Violence Act of 1986, as now or hereafter amended,
10 or an order of protection issued by the court of another
11 state, tribe, or United States territory. A copy of the
12 order of protection shall be transmitted to the probation
13 officer or agency having responsibility for the case;

14 (12) reimburse any "local anti-crime program" as
15 defined in Section 7 of the Anti-Crime Advisory Council Act
16 for any reasonable expenses incurred by the program on the
17 offender's case, not to exceed the maximum amount of the
18 fine authorized for the offense for which the defendant was
19 sentenced;

20 (13) contribute a reasonable sum of money, not to
21 exceed the maximum amount of the fine authorized for the
22 offense for which the defendant was sentenced, to a "local
23 anti-crime program", as defined in Section 7 of the
24 Anti-Crime Advisory Council Act;

25 (14) refrain from entering into a designated
26 geographic area except upon such terms as the court finds
27 appropriate. Such terms may include consideration of the
28 purpose of the entry, the time of day, other persons
29 accompanying the defendant, and advance approval by a
30 probation officer, if the defendant has been placed on
31 probation or advance approval by the court, if the
32 defendant was placed on conditional discharge;

33 (15) refrain from having any contact, directly or
34 indirectly, with certain specified persons or particular
35 types of persons, including but not limited to members of
36 street gangs and drug users or dealers;

1 (16) refrain from having in his or her body the
2 presence of any illicit drug prohibited by the Cannabis
3 Control Act or the Illinois Controlled Substances Act,
4 unless prescribed by a physician, and submit samples of his
5 or her blood or urine or both for tests to determine the
6 presence of any illicit drug.

7 (c) The court may as a condition of probation or of
8 conditional discharge require that a person under 18 years of
9 age found guilty of any alcohol, cannabis or controlled
10 substance violation, refrain from acquiring a driver's license
11 during the period of probation or conditional discharge. If
12 such person is in possession of a permit or license, the court
13 may require that the minor refrain from driving or operating
14 any motor vehicle during the period of probation or conditional
15 discharge, except as may be necessary in the course of the
16 minor's lawful employment.

17 (d) An offender sentenced to probation or to conditional
18 discharge shall be given a certificate setting forth the
19 conditions thereof.

20 (e) Except where the offender has committed a fourth or
21 subsequent violation of subsection (c) of Section 6-303 of the
22 Illinois Vehicle Code, the court shall not require as a
23 condition of the sentence of probation or conditional discharge
24 that the offender be committed to a period of imprisonment in
25 excess of 6 months. This 6 month limit shall not include
26 periods of confinement given pursuant to a sentence of county
27 impact incarceration under Section 5-8-1.2. This 6 month limit
28 does not apply to a person sentenced to probation as a result
29 of a conviction of a fourth or subsequent violation of
30 subsection (c-4) of Section 11-501 of the Illinois Vehicle Code
31 or a similar provision of a local ordinance.

32 Persons committed to imprisonment as a condition of
33 probation or conditional discharge shall not be committed to
34 the Department of Corrections.

35 (f) The court may combine a sentence of periodic
36 imprisonment under Article 7 or a sentence to a county impact

1 incarceration program under Article 8 with a sentence of
2 probation or conditional discharge.

3 (g) An offender sentenced to probation or to conditional
4 discharge and who during the term of either undergoes mandatory
5 drug or alcohol testing, or both, or is assigned to be placed
6 on an approved electronic monitoring device, shall be ordered
7 to pay all costs incidental to such mandatory drug or alcohol
8 testing, or both, and all costs incidental to such approved
9 electronic monitoring in accordance with the defendant's
10 ability to pay those costs. The county board with the
11 concurrence of the Chief Judge of the judicial circuit in which
12 the county is located shall establish reasonable fees for the
13 cost of maintenance, testing, and incidental expenses related
14 to the mandatory drug or alcohol testing, or both, and all
15 costs incidental to approved electronic monitoring, involved
16 in a successful probation program for the county. The
17 concurrence of the Chief Judge shall be in the form of an
18 administrative order. The fees shall be collected by the clerk
19 of the circuit court. The clerk of the circuit court shall pay
20 all moneys collected from these fees to the county treasurer
21 who shall use the moneys collected to defray the costs of drug
22 testing, alcohol testing, and electronic monitoring. The
23 county treasurer shall deposit the fees collected in the county
24 working cash fund under Section 6-27001 or Section 6-29002 of
25 the Counties Code, as the case may be.

26 (h) Jurisdiction over an offender may be transferred from
27 the sentencing court to the court of another circuit with the
28 concurrence of both courts. Further transfers or retransfers of
29 jurisdiction are also authorized in the same manner. The court
30 to which jurisdiction has been transferred shall have the same
31 powers as the sentencing court.

32 (i) The court shall impose upon an offender sentenced to
33 probation after January 1, 1989 or to conditional discharge
34 after January 1, 1992 or to community service under the
35 supervision of a probation or court services department after
36 January 1, 2004, as a condition of such probation or

1 conditional discharge or supervised community service, a fee of
2 \$50 for each month of probation or conditional discharge
3 supervision or supervised community service ordered by the
4 court, unless after determining the inability of the person
5 sentenced to probation or conditional discharge or supervised
6 community service to pay the fee, the court assesses a lesser
7 fee. The court may not impose the fee on a minor who is made a
8 ward of the State under the Juvenile Court Act of 1987 while
9 the minor is in placement. The fee shall be imposed only upon
10 an offender who is actively supervised by the probation and
11 court services department. The fee shall be collected by the
12 clerk of the circuit court. The clerk of the circuit court
13 shall pay all monies collected from this fee to the county
14 treasurer for deposit in the probation and court services fund
15 under Section 15.1 of the Probation and Probation Officers Act.

16 A circuit court may not impose a probation fee under this
17 subsection (i) in excess of \$25 per month unless: (1) the
18 circuit court has adopted, by administrative order issued by
19 the chief judge, a standard probation fee guide determining an
20 offender's ability to pay, under guidelines developed by the
21 Administrative Office of the Illinois Courts; and (2) the
22 circuit court has authorized, by administrative order issued by
23 the chief judge, the creation of a Crime Victim's Services
24 Fund, to be administered by the Chief Judge or his or her
25 designee, for services to crime victims and their families. Of
26 the amount collected as a probation fee, up to \$5 of that fee
27 collected per month may be used to provide services to crime
28 victims and their families.

29 This amendatory Act of the 93rd General Assembly deletes
30 the \$10 increase in the fee under this subsection that was
31 imposed by Public Act 93-616. This deletion is intended to
32 control over any other Act of the 93rd General Assembly that
33 retains or incorporates that fee increase.

34 (i-5) In addition to the fees imposed under subsection (i)
35 of this Section, in the case of an offender convicted of a
36 felony sex offense (as defined in the Sex Offender Management

1 Board Act) or an offense that the court or probation department
2 has determined to be sexually motivated (as defined in the Sex
3 Offender Management Board Act), the court or the probation
4 department shall assess additional fees to pay for all costs of
5 treatment, assessment, evaluation for risk and treatment, and
6 monitoring the offender, based on that offender's ability to
7 pay those costs either as they occur or under a payment plan.

8 (j) All fines and costs imposed under this Section for any
9 violation of Chapters 3, 4, 6, and 11 of the Illinois Vehicle
10 Code, or a similar provision of a local ordinance, and any
11 violation of the Child Passenger Protection Act, or a similar
12 provision of a local ordinance, shall be collected and
13 disbursed by the circuit clerk as provided under Section 27.5
14 of the Clerks of Courts Act.

15 (k) Any offender who is sentenced to probation or
16 conditional discharge for a felony sex offense as defined in
17 the Sex Offender Management Board Act or any offense that the
18 court or probation department has determined to be sexually
19 motivated as defined in the Sex Offender Management Board Act
20 shall be required to refrain from any contact, directly or
21 indirectly, with any persons specified by the court and shall
22 be available for all evaluations and treatment programs
23 required by the court or the probation department.

24 (Source: P.A. 92-282, eff. 8-7-01; 92-340, eff. 8-10-01;
25 92-418, eff. 8-17-01; 92-442, eff. 8-17-01; 92-571, eff.
26 6-26-02; 92-651, eff. 7-11-02; 93-475, eff. 8-8-03; 93-616,
27 eff. 1-1-04; 93-970, eff. 8-20-04.)

28 (730 ILCS 5/5-6-3.1) (from Ch. 38, par. 1005-6-3.1)

29 Sec. 5-6-3.1. Incidents and Conditions of Supervision.

30 (a) When a defendant is placed on supervision, the court
31 shall enter an order for supervision specifying the period of
32 such supervision, and shall defer further proceedings in the
33 case until the conclusion of the period.

34 (b) The period of supervision shall be reasonable under all
35 of the circumstances of the case, but may not be longer than 2

1 years, unless the defendant has failed to pay the assessment
2 required by Section 10.3 of the Cannabis Control Act or Section
3 411.2 of the Illinois Controlled Substances Act, in which case
4 the court may extend supervision beyond 2 years. Additionally,
5 the court shall order the defendant to perform no less than 30
6 hours of community service and not more than 120 hours of
7 community service, if community service is available in the
8 jurisdiction and is funded and approved by the county board
9 where the offense was committed, when the offense (1) was
10 related to or in furtherance of the criminal activities of an
11 organized gang or was motivated by the defendant's membership
12 in or allegiance to an organized gang; or (2) is a violation of
13 any Section of Article 24 of the Criminal Code of 1961 where a
14 disposition of supervision is not prohibited by Section 5-6-1
15 of this Code. The community service shall include, but not be
16 limited to, the cleanup and repair of any damage caused by
17 violation of Section 21-1.3 of the Criminal Code of 1961 and
18 similar damages to property located within the municipality or
19 county in which the violation occurred. Where possible and
20 reasonable, the community service should be performed in the
21 offender's neighborhood.

22 For the purposes of this Section, "organized gang" has the
23 meaning ascribed to it in Section 10 of the Illinois Streetgang
24 Terrorism Omnibus Prevention Act.

25 (c) The court may in addition to other reasonable
26 conditions relating to the nature of the offense or the
27 rehabilitation of the defendant as determined for each
28 defendant in the proper discretion of the court require that
29 the person:

30 (1) make a report to and appear in person before or
31 participate with the court or such courts, person, or
32 social service agency as directed by the court in the order
33 of supervision;

34 (2) pay a fine and costs;

35 (3) work or pursue a course of study or vocational
36 training;

1 (4) undergo medical, psychological or psychiatric
2 treatment; or treatment for drug addiction or alcoholism;

3 (5) attend or reside in a facility established for the
4 instruction or residence of defendants on probation;

5 (6) support his dependents;

6 (7) refrain from possessing a firearm or other
7 dangerous weapon;

8 (8) and in addition, if a minor:

9 (i) reside with his parents or in a foster home;

10 (ii) attend school;

11 (iii) attend a non-residential program for youth;

12 (iv) contribute to his own support at home or in a
13 foster home; or

14 (v) with the consent of the superintendent of the
15 facility, attend an educational program at a facility
16 other than the school in which the offense was
17 committed if he or she is placed on supervision for a
18 crime of violence as defined in Section 2 of the Crime
19 Victims Compensation Act committed in a school, on the
20 real property comprising a school, or within 1,000 feet
21 of the real property comprising a school;

22 (9) make restitution or reparation in an amount not to
23 exceed actual loss or damage to property and pecuniary loss
24 or make restitution under Section 5-5-6 to a domestic
25 violence shelter. The court shall determine the amount and
26 conditions of payment;

27 (10) perform some reasonable public or community
28 service;

29 (11) comply with the terms and conditions of an order
30 of protection issued by the court pursuant to the Illinois
31 Domestic Violence Act of 1986 or an order of protection
32 issued by the court of another state, tribe, or United
33 States territory. If the court has ordered the defendant to
34 make a report and appear in person under paragraph (1) of
35 this subsection, a copy of the order of protection shall be
36 transmitted to the person or agency so designated by the

1 court;

2 (12) reimburse any "local anti-crime program" as
3 defined in Section 7 of the Anti-Crime Advisory Council Act
4 for any reasonable expenses incurred by the program on the
5 offender's case, not to exceed the maximum amount of the
6 fine authorized for the offense for which the defendant was
7 sentenced;

8 (13) contribute a reasonable sum of money, not to
9 exceed the maximum amount of the fine authorized for the
10 offense for which the defendant was sentenced, to a "local
11 anti-crime program", as defined in Section 7 of the
12 Anti-Crime Advisory Council Act;

13 (14) refrain from entering into a designated
14 geographic area except upon such terms as the court finds
15 appropriate. Such terms may include consideration of the
16 purpose of the entry, the time of day, other persons
17 accompanying the defendant, and advance approval by a
18 probation officer;

19 (15) refrain from having any contact, directly or
20 indirectly, with certain specified persons or particular
21 types of person, including but not limited to members of
22 street gangs and drug users or dealers;

23 (16) refrain from having in his or her body the
24 presence of any illicit drug prohibited by the Cannabis
25 Control Act or the Illinois Controlled Substances Act,
26 unless prescribed by a physician, and submit samples of his
27 or her blood or urine or both for tests to determine the
28 presence of any illicit drug;

29 (17) refrain from operating any motor vehicle not
30 equipped with an ignition interlock device as defined in
31 Section 1-129.1 of the Illinois Vehicle Code. Under this
32 condition the court may allow a defendant who is not
33 self-employed to operate a vehicle owned by the defendant's
34 employer that is not equipped with an ignition interlock
35 device in the course and scope of the defendant's
36 employment.

1 (d) The court shall defer entering any judgment on the
2 charges until the conclusion of the supervision.

3 (e) At the conclusion of the period of supervision, if the
4 court determines that the defendant has successfully complied
5 with all of the conditions of supervision, the court shall
6 discharge the defendant and enter a judgment dismissing the
7 charges.

8 (f) Discharge and dismissal upon a successful conclusion of
9 a disposition of supervision shall be deemed without
10 adjudication of guilt and shall not be termed a conviction for
11 purposes of disqualification or disabilities imposed by law
12 upon conviction of a crime. Two years after the discharge and
13 dismissal under this Section, unless the disposition of
14 supervision was for a violation of Sections 3-707, 3-708,
15 3-710, 5-401.3, or 11-503 of the Illinois Vehicle Code or a
16 similar provision of a local ordinance, or for a violation of
17 Sections 12-3.2 or 16A-3 of the Criminal Code of 1961, in which
18 case it shall be 5 years after discharge and dismissal, a
19 person may have his record of arrest sealed or expunged as may
20 be provided by law. However, any defendant placed on
21 supervision before January 1, 1980, may move for sealing or
22 expungement of his arrest record, as provided by law, at any
23 time after discharge and dismissal under this Section. A person
24 placed on supervision for a sexual offense committed against a
25 minor as defined in subsection (g) of Section 5 of the Criminal
26 Identification Act or for a violation of Section 11-501 of the
27 Illinois Vehicle Code or a similar provision of a local
28 ordinance shall not have his or her record of arrest sealed or
29 expunged.

30 (g) A defendant placed on supervision and who during the
31 period of supervision undergoes mandatory drug or alcohol
32 testing, or both, or is assigned to be placed on an approved
33 electronic monitoring device, shall be ordered to pay the costs
34 incidental to such mandatory drug or alcohol testing, or both,
35 and costs incidental to such approved electronic monitoring in
36 accordance with the defendant's ability to pay those costs. The

1 county board with the concurrence of the Chief Judge of the
2 judicial circuit in which the county is located shall establish
3 reasonable fees for the cost of maintenance, testing, and
4 incidental expenses related to the mandatory drug or alcohol
5 testing, or both, and all costs incidental to approved
6 electronic monitoring, of all defendants placed on
7 supervision. The concurrence of the Chief Judge shall be in the
8 form of an administrative order. The fees shall be collected by
9 the clerk of the circuit court. The clerk of the circuit court
10 shall pay all moneys collected from these fees to the county
11 treasurer who shall use the moneys collected to defray the
12 costs of drug testing, alcohol testing, and electronic
13 monitoring. The county treasurer shall deposit the fees
14 collected in the county working cash fund under Section 6-27001
15 or Section 6-29002 of the Counties Code, as the case may be.

16 (h) A disposition of supervision is a final order for the
17 purposes of appeal.

18 (i) The court shall impose upon a defendant placed on
19 supervision after January 1, 1992 or to community service under
20 the supervision of a probation or court services department
21 after January 1, 2004, as a condition of supervision or
22 supervised community service, a fee of \$50 for each month of
23 supervision or supervised community service ordered by the
24 court, unless after determining the inability of the person
25 placed on supervision or supervised community service to pay
26 the fee, the court assesses a lesser fee. The court may not
27 impose the fee on a minor who is made a ward of the State under
28 the Juvenile Court Act of 1987 while the minor is in placement.
29 The fee shall be imposed only upon a defendant who is actively
30 supervised by the probation and court services department. The
31 fee shall be collected by the clerk of the circuit court. The
32 clerk of the circuit court shall pay all monies collected from
33 this fee to the county treasurer for deposit in the probation
34 and court services fund pursuant to Section 15.1 of the
35 Probation and Probation Officers Act.

36 A circuit court may not impose a probation fee in excess of

1 \$25 per month unless: (1) the circuit court has adopted, by
2 administrative order issued by the chief judge, a standard
3 probation fee guide determining an offender's ability to pay,
4 under guidelines developed by the Administrative Office of the
5 Illinois Courts; and (2) the circuit court has authorized, by
6 administrative order issued by the chief judge, the creation of
7 a Crime Victim's Services Fund, to be administered by the Chief
8 Judge or his or her designee, for services to crime victims and
9 their families. Of the amount collected as a probation fee, not
10 to exceed \$5 of that fee collected per month may be used to
11 provide services to crime victims and their families.

12 (j) All fines and costs imposed under this Section for any
13 violation of Chapters 3, 4, 6, and 11 of the Illinois Vehicle
14 Code, or a similar provision of a local ordinance, and any
15 violation of the Child Passenger Protection Act, or a similar
16 provision of a local ordinance, shall be collected and
17 disbursed by the circuit clerk as provided under Section 27.5
18 of the Clerks of Courts Act.

19 (k) A defendant at least 18 ~~17~~ years of age who is placed
20 on supervision for a misdemeanor in a county of 3,000,000 or
21 more inhabitants and who has not been previously convicted of a
22 misdemeanor or felony may as a condition of his or her
23 supervision be required by the court to attend educational
24 courses designed to prepare the defendant for a high school
25 diploma and to work toward a high school diploma or to work
26 toward passing the high school level Test of General
27 Educational Development (GED) or to work toward completing a
28 vocational training program approved by the court. The
29 defendant placed on supervision must attend a public
30 institution of education to obtain the educational or
31 vocational training required by this subsection (k). The
32 defendant placed on supervision shall be required to pay for
33 the cost of the educational courses or GED test, if a fee is
34 charged for those courses or test. The court shall revoke the
35 supervision of a person who wilfully fails to comply with this
36 subsection (k). The court shall resentence the defendant upon

1 revocation of supervision as provided in Section 5-6-4. This
2 subsection (k) does not apply to a defendant who has a high
3 school diploma or has successfully passed the GED test. This
4 subsection (k) does not apply to a defendant who is determined
5 by the court to be developmentally disabled or otherwise
6 mentally incapable of completing the educational or vocational
7 program.

8 (l) The court shall require a defendant placed on
9 supervision for possession of a substance prohibited by the
10 Cannabis Control Act or Illinois Controlled Substances Act
11 after a previous conviction or disposition of supervision for
12 possession of a substance prohibited by the Cannabis Control
13 Act or Illinois Controlled Substances Act or a sentence of
14 probation under Section 10 of the Cannabis Control Act or
15 Section 410 of the Illinois Controlled Substances Act and after
16 a finding by the court that the person is addicted, to undergo
17 treatment at a substance abuse program approved by the court.

18 (m) The Secretary of State shall require anyone placed on
19 court supervision for a violation of Section 3-707 of the
20 Illinois Vehicle Code or a similar provision of a local
21 ordinance to give proof of his or her financial responsibility
22 as defined in Section 7-315 of the Illinois Vehicle Code. The
23 proof shall be maintained by the individual in a manner
24 satisfactory to the Secretary of State for a minimum period of
25 one year after the date the proof is first filed. The proof
26 shall be limited to a single action per arrest and may not be
27 affected by any post-sentence disposition. The Secretary of
28 State shall suspend the driver's license of any person
29 determined by the Secretary to be in violation of this
30 subsection.

31 (n) Any offender placed on supervision for any offense that
32 the court or probation department has determined to be sexually
33 motivated as defined in the Sex Offender Management Board Act
34 shall be required to refrain from any contact, directly or
35 indirectly, with any persons specified by the court and shall
36 be available for all evaluations and treatment programs

1 required by the court or the probation department.

2 (Source: P.A. 92-282, eff. 8-7-01; 92-458, eff. 8-22-01;
3 92-651, eff. 7-11-02; 93-475, eff. 8-8-03; 93-970, eff.
4 8-20-04.)

5 (730 ILCS 5/5-7-1) (from Ch. 38, par. 1005-7-1)

6 Sec. 5-7-1. Sentence of Periodic Imprisonment.

7 (a) A sentence of periodic imprisonment is a sentence of
8 imprisonment during which the committed person may be released
9 for periods of time during the day or night or for periods of
10 days, or both, or if convicted of a felony, other than first
11 degree murder, a Class X or Class 1 felony, committed to any
12 county, municipal, or regional correctional or detention
13 institution or facility in this State for such periods of time
14 as the court may direct. Unless the court orders otherwise, the
15 particular times and conditions of release shall be determined
16 by the Department of Corrections, the sheriff, or the
17 Superintendent of the house of corrections, who is
18 administering the program.

19 (b) A sentence of periodic imprisonment may be imposed to
20 permit the defendant to:

21 (1) seek employment;

22 (2) work;

23 (3) conduct a business or other self-employed
24 occupation including housekeeping;

25 (4) attend to family needs;

26 (5) attend an educational institution, including
27 vocational education;

28 (6) obtain medical or psychological treatment;

29 (7) perform work duties at a county, municipal, or
30 regional correctional or detention institution or
31 facility;

32 (8) continue to reside at home with or without
33 supervision involving the use of an approved electronic
34 monitoring device, subject to Article 8A of Chapter V; or

35 (9) for any other purpose determined by the court.

1 (c) Except where prohibited by other provisions of this
2 Code, the court may impose a sentence of periodic imprisonment
3 for a felony or misdemeanor on a person who is 18 ~~17~~ years of
4 age or older. The court shall not impose a sentence of periodic
5 imprisonment if it imposes a sentence of imprisonment upon the
6 defendant in excess of 90 days.

7 (d) A sentence of periodic imprisonment shall be for a
8 definite term of from 3 to 4 years for a Class 1 felony, 18 to
9 30 months for a Class 2 felony, and up to 18 months, or the
10 longest sentence of imprisonment that could be imposed for the
11 offense, whichever is less, for all other offenses; however, no
12 person shall be sentenced to a term of periodic imprisonment
13 longer than one year if he is committed to a county
14 correctional institution or facility, and in conjunction with
15 that sentence participate in a county work release program
16 comparable to the work and day release program provided for in
17 Article 13 of the Unified Code of Corrections in State
18 facilities. The term of the sentence shall be calculated upon
19 the basis of the duration of its term rather than upon the
20 basis of the actual days spent in confinement. No sentence of
21 periodic imprisonment shall be subject to the good time credit
22 provisions of Section 3-6-3 of this Code.

23 (e) When the court imposes a sentence of periodic
24 imprisonment, it shall state:

25 (1) the term of such sentence;

26 (2) the days or parts of days which the defendant is to
27 be confined;

28 (3) the conditions.

29 (f) The court may issue an order of protection pursuant to
30 the Illinois Domestic Violence Act of 1986 as a condition of a
31 sentence of periodic imprisonment. The Illinois Domestic
32 Violence Act of 1986 shall govern the issuance, enforcement and
33 recording of orders of protection issued under this Section. A
34 copy of the order of protection shall be transmitted to the
35 person or agency having responsibility for the case.

36 (f-5) An offender sentenced to a term of periodic

1 imprisonment for a felony sex offense as defined in the Sex
2 Offender Management Board Act shall be required to undergo and
3 successfully complete sex offender treatment by a treatment
4 provider approved by the Board and conducted in conformance
5 with the standards developed under the Sex Offender Management
6 Board Act.

7 (g) An offender sentenced to periodic imprisonment who
8 undergoes mandatory drug or alcohol testing, or both, or is
9 assigned to be placed on an approved electronic monitoring
10 device, shall be ordered to pay the costs incidental to such
11 mandatory drug or alcohol testing, or both, and costs
12 incidental to such approved electronic monitoring in
13 accordance with the defendant's ability to pay those costs. The
14 county board with the concurrence of the Chief Judge of the
15 judicial circuit in which the county is located shall establish
16 reasonable fees for the cost of maintenance, testing, and
17 incidental expenses related to the mandatory drug or alcohol
18 testing, or both, and all costs incidental to approved
19 electronic monitoring, of all offenders with a sentence of
20 periodic imprisonment. The concurrence of the Chief Judge shall
21 be in the form of an administrative order. The fees shall be
22 collected by the clerk of the circuit court. The clerk of the
23 circuit court shall pay all moneys collected from these fees to
24 the county treasurer who shall use the moneys collected to
25 defray the costs of drug testing, alcohol testing, and
26 electronic monitoring. The county treasurer shall deposit the
27 fees collected in the county working cash fund under Section
28 6-27001 or Section 6-29002 of the Counties Code, as the case
29 may be.

30 (h) All fees and costs imposed under this Section for any
31 violation of Chapters 3, 4, 6, and 11 of the Illinois Vehicle
32 Code, or a similar provision of a local ordinance, and any
33 violation of the Child Passenger Protection Act, or a similar
34 provision of a local ordinance, shall be collected and
35 disbursed by the circuit clerk as provided under Section 27.5
36 of the Clerks of Courts Act.

1 (i) A defendant at least 18 ~~17~~ years of age who is
2 convicted of a misdemeanor or felony in a county of 3,000,000
3 or more inhabitants and who has not been previously convicted
4 of a misdemeanor or a felony and who is sentenced to a term of
5 periodic imprisonment may as a condition of his or her sentence
6 be required by the court to attend educational courses designed
7 to prepare the defendant for a high school diploma and to work
8 toward receiving a high school diploma or to work toward
9 passing the high school level Test of General Educational
10 Development (GED) or to work toward completing a vocational
11 training program approved by the court. The defendant sentenced
12 to periodic imprisonment must attend a public institution of
13 education to obtain the educational or vocational training
14 required by this subsection (i). The defendant sentenced to a
15 term of periodic imprisonment shall be required to pay for the
16 cost of the educational courses or GED test, if a fee is
17 charged for those courses or test. The court shall revoke the
18 sentence of periodic imprisonment of the defendant who wilfully
19 fails to comply with this subsection (i). The court shall
20 resentence the defendant whose sentence of periodic
21 imprisonment has been revoked as provided in Section 5-7-2.
22 This subsection (i) does not apply to a defendant who has a
23 high school diploma or has successfully passed the GED test.
24 This subsection (i) does not apply to a defendant who is
25 determined by the court to be developmentally disabled or
26 otherwise mentally incapable of completing the educational or
27 vocational program.

28 (Source: P.A. 93-616, eff. 1-1-04.)

29 (730 ILCS 5/5-8-1.1) (from Ch. 38, par. 1005-8-1.1)

30 Sec. 5-8-1.1. Impact incarceration.

31 (a) The Department may establish and operate an impact
32 incarceration program for eligible offenders. If the court
33 finds under Section 5-4-1 that an offender sentenced to a term
34 of imprisonment for a felony may meet the eligibility
35 requirements of the Department, the court may in its sentencing

1 order approve the offender for placement in the impact
2 incarceration program conditioned upon his acceptance in the
3 program by the Department. Notwithstanding the sentencing
4 provisions of this Code, the sentencing order also shall
5 provide that if the Department accepts the offender in the
6 program and determines that the offender has successfully
7 completed the impact incarceration program, the sentence shall
8 be reduced to time considered served upon certification to the
9 court by the Department that the offender has successfully
10 completed the program. In the event the offender is not
11 accepted for placement in the impact incarceration program or
12 the offender does not successfully complete the program, his
13 term of imprisonment shall be as set forth by the court in its
14 sentencing order.

15 (b) In order to be eligible to participate in the impact
16 incarceration program, the committed person shall meet all of
17 the following requirements:

18 (1) The person must be not less than 18 ~~17~~ years of age
19 nor more than 35 years of age.

20 (2) The person has not previously participated in the
21 impact incarceration program and has not previously served
22 more than one prior sentence of imprisonment for a felony
23 in an adult correctional facility.

24 (3) The person has not been convicted of a Class X
25 felony, first or second degree murder, armed violence,
26 aggravated kidnapping, criminal sexual assault, aggravated
27 criminal sexual abuse or a subsequent conviction for
28 criminal sexual abuse, forcible detention, residential
29 arson, place of worship arson, or arson and has not been
30 convicted previously of any of those offenses.

31 (4) The person has been sentenced to a term of
32 imprisonment of 8 years or less.

33 (5) The person must be physically able to participate
34 in strenuous physical activities or labor.

35 (6) The person must not have any mental disorder or
36 disability that would prevent participation in the impact

1 incarceration program.

2 (7) The person has consented in writing to
3 participation in the impact incarceration program and to
4 the terms and conditions thereof.

5 (8) The person was recommended and approved for
6 placement in the impact incarceration program in the
7 court's sentencing order.

8 The Department may also consider, among other matters,
9 whether the committed person has any outstanding detainers or
10 warrants, whether the committed person has a history of
11 escaping or absconding, whether participation in the impact
12 incarceration program may pose a risk to the safety or security
13 of any person and whether space is available.

14 (c) The impact incarceration program shall include, among
15 other matters, mandatory physical training and labor, military
16 formation and drills, regimented activities, uniformity of
17 dress and appearance, education and counseling, including drug
18 counseling where appropriate.

19 (d) Privileges including visitation, commissary, receipt
20 and retention of property and publications and access to
21 television, radio and a library may be suspended or restricted,
22 notwithstanding provisions to the contrary in this Code.

23 (e) Committed persons participating in the impact
24 incarceration program shall adhere to all Department rules and
25 all requirements of the program. Committed persons shall be
26 informed of rules of behavior and conduct. Disciplinary
27 procedures required by this Code or by Department rule are not
28 applicable except in those instances in which the Department
29 seeks to revoke good time.

30 (f) Participation in the impact incarceration program
31 shall be for a period of 120 to 180 days. The period of time a
32 committed person shall serve in the impact incarceration
33 program shall not be reduced by the accumulation of good time.

34 (g) The committed person shall serve a term of mandatory
35 supervised release as set forth in subsection (d) of Section
36 5-8-1.

1 (h) A committed person may be removed from the program for
2 a violation of the terms or conditions of the program or in the
3 event he is for any reason unable to participate. The
4 Department shall promulgate rules and regulations governing
5 conduct which could result in removal from the program or in a
6 determination that the committed person has not successfully
7 completed the program. Committed persons shall have access to
8 such rules, which shall provide that a committed person shall
9 receive notice and have the opportunity to appear before and
10 address one or more hearing officers. A committed person may be
11 transferred to any of the Department's facilities prior to the
12 hearing.

13 (i) The Department may terminate the impact incarceration
14 program at any time.

15 (j) The Department shall report to the Governor and the
16 General Assembly on or before September 30th of each year on
17 the impact incarceration program, including the composition of
18 the program by the offenders, by county of commitment,
19 sentence, age, offense and race.

20 (k) The Department of Corrections shall consider the
21 affirmative action plan approved by the Department of Human
22 Rights in hiring staff at the impact incarceration facilities.
23 The Department shall report to the Director of Human Rights on
24 or before April 1 of the year on the sex, race and national
25 origin of persons employed at each impact incarceration
26 facility.

27 (Source: P.A. 93-169, eff. 7-10-03.)

28 (730 ILCS 5/5-8-1.2)

29 Sec. 5-8-1.2. County impact incarceration.

30 (a) Legislative intent. It is the finding of the General
31 Assembly that certain non-violent offenders eligible for
32 sentences of incarceration may benefit from the rehabilitative
33 aspects of a county impact incarceration program. It is the
34 intent of the General Assembly that such programs be
35 implemented as provided by this Section. This Section shall not

1 be construed to allow violent offenders to participate in a
2 county impact incarceration program.

3 (b) Under the direction of the Sheriff and with the
4 approval of the County Board of Commissioners, the Sheriff, in
5 any county with more than 3,000,000 inhabitants, may establish
6 and operate a county impact incarceration program for eligible
7 offenders. If the court finds under Section 5-4-1 that an
8 offender convicted of a felony meets the eligibility
9 requirements of the Sheriff's county impact incarceration
10 program, the court may sentence the offender to the county
11 impact incarceration program. The Sheriff shall be responsible
12 for monitoring all offenders who are sentenced to the county
13 impact incarceration program, including the mandatory period
14 of monitored release following the 120 to 180 days of impact
15 incarceration. Offenders assigned to the county impact
16 incarceration program under an intergovernmental agreement
17 between the county and the Illinois Department of Corrections
18 are exempt from the provisions of this mandatory period of
19 monitored release. In the event the offender is not accepted
20 for placement in the county impact incarceration program, the
21 court shall proceed to sentence the offender to any other
22 disposition authorized by this Code. If the offender does not
23 successfully complete the program, the offender's failure to do
24 so shall constitute a violation of the sentence to the county
25 impact incarceration program.

26 (c) In order to be eligible to be sentenced to a county
27 impact incarceration program by the court, the person shall
28 meet all of the following requirements:

29 (1) the person must be not less than 18 ~~17~~ years of age
30 nor more than 35 years of age;

31 (2) The person has not previously participated in the
32 impact incarceration program and has not previously served
33 more than one prior sentence of imprisonment for a felony
34 in an adult correctional facility;

35 (3) The person has not been convicted of a Class X
36 felony, first or second degree murder, armed violence,

1 aggravated kidnapping, criminal sexual assault, aggravated
2 criminal sexual abuse or a subsequent conviction for
3 criminal sexual abuse, forcible detention, or arson and has
4 not been convicted previously of any of those offenses.

5 (4) The person has been found in violation of probation
6 for an offense that is a Class 2, 3, or 4 felony that is not
7 a forcible felony as defined in Section 2-8 of the Criminal
8 Code of 1961 or a violent crime as defined in subsection
9 (c) of Section 3 of the Rights of Crime Victims and
10 Witnesses Act who otherwise could be sentenced to a term of
11 incarceration; or the person is convicted of an offense
12 that is a Class 2, 3, or 4 felony that is not a forcible
13 felony as defined in Section 2-8 of the Criminal Code of
14 1961 or a violent crime as defined in subsection (c) of
15 Section 3 of the Rights of Crime Victims and Witnesses Act
16 who has previously served a sentence of probation for any
17 felony offense and who otherwise could be sentenced to a
18 term of incarceration.

19 (5) The person must be physically able to participate
20 in strenuous physical activities or labor.

21 (6) The person must not have any mental disorder or
22 disability that would prevent participation in a county
23 impact incarceration program.

24 (7) The person was recommended and approved for
25 placement in the county impact incarceration program by the
26 Sheriff and consented in writing to participation in the
27 county impact incarceration program and to the terms and
28 conditions of the program. The Sheriff may consider, among
29 other matters, whether the person has any outstanding
30 detainers or warrants, whether the person has a history of
31 escaping or absconding, whether participation in the
32 county impact incarceration program may pose a risk to the
33 safety or security of any person and whether space is
34 available.

35 (c) The county impact incarceration program shall include,
36 among other matters, mandatory physical training and labor,

1 military formation and drills, regimented activities,
2 uniformity of dress and appearance, education and counseling,
3 including drug counseling where appropriate.

4 (d) Privileges including visitation, commissary, receipt
5 and retention of property and publications and access to
6 television, radio, and a library may be suspended or
7 restricted, notwithstanding provisions to the contrary in this
8 Code.

9 (e) The Sheriff shall issue written rules and requirements
10 for the program. Persons shall be informed of rules of behavior
11 and conduct. Persons participating in the county impact
12 incarceration program shall adhere to all rules and all
13 requirements of the program.

14 (f) Participation in the county impact incarceration
15 program shall be for a period of 120 to 180 days followed by a
16 mandatory term of monitored release for at least 8 months and
17 no more than 12 months supervised by the Sheriff. The period of
18 time a person shall serve in the impact incarceration program
19 shall not be reduced by the accumulation of good time. The
20 court may also sentence the person to a period of probation to
21 commence at the successful completion of the county impact
22 incarceration program.

23 (g) If the person successfully completes the county impact
24 incarceration program, the Sheriff shall certify the person's
25 successful completion of the program to the court and to the
26 county's State's Attorney. Upon successful completion of the
27 county impact incarceration program and mandatory term of
28 monitored release and if there is an additional period of
29 probation given, the person shall at that time begin his or her
30 probationary sentence under the supervision of the Adult
31 Probation Department.

32 (h) A person may be removed from the county impact
33 incarceration program for a violation of the terms or
34 conditions of the program or in the event he or she is for any
35 reason unable to participate. The failure to complete the
36 program for any reason, including the 8 to 12 month monitored

1 release period, shall be deemed a violation of the county
2 impact incarceration sentence. The Sheriff shall give notice to
3 the State's Attorney of the person's failure to complete the
4 program. The Sheriff shall file a petition for violation of the
5 county impact incarceration sentence with the court and the
6 State's Attorney may proceed on the petition under Section
7 5-6-4 of this Code. The Sheriff shall promulgate rules and
8 regulations governing conduct which could result in removal
9 from the program or in a determination that the person has not
10 successfully completed the program.

11 The mandatory conditions of every county impact
12 incarceration sentence shall include that the person either
13 while in the program or during the period of monitored release:

14 (1) not violate any criminal statute of any
15 jurisdiction;

16 (2) report or appear in person before any such person
17 or agency as directed by the court or the Sheriff;

18 (3) refrain from possessing a firearm or other
19 dangerous weapon;

20 (4) not leave the State without the consent of the
21 court or, in circumstances in which the reason for the
22 absence is of such an emergency nature that prior consent
23 by the court is not possible, without the prior
24 notification and approval of the Sheriff; and

25 (5) permit representatives of the Sheriff to visit at
26 the person's home or elsewhere to the extent necessary for
27 the Sheriff to monitor compliance with the program. Persons
28 shall have access to such rules, which shall provide that a
29 person shall receive notice of any such violation.

30 (i) The Sheriff may terminate the county impact
31 incarceration program at any time.

32 (j) The Sheriff shall report to the county board on or
33 before September 30th of each year on the county impact
34 incarceration program, including the composition of the
35 program by the offenders, by county of commitment, sentence,
36 age, offense, and race.

1 (Source: P.A. 89-587, eff. 7-31-96.)

2 (730 ILCS 5/5-8-6) (from Ch. 38, par. 1005-8-6)

3 Sec. 5-8-6. Place of Confinement. (a) Offenders sentenced
4 to a term of imprisonment for a felony shall be committed to
5 the penitentiary system of the Department of Corrections.
6 However, such sentence shall not limit the powers of the
7 Department of Children and Family Services in relation to any
8 child under the age of one year in the sole custody of a person
9 so sentenced, nor in relation to any child delivered by a
10 female so sentenced while she is so confined as a consequence
11 of such sentence. A person sentenced for a felony may be
12 assigned by the Department of Corrections to any of its
13 institutions, facilities or programs.

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

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

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

3 (e) When a court sentences a defendant to a term of
4 imprisonment concurrent with a previous and unexpired sentence
5 of imprisonment imposed by any district court of the United
6 States, it may commit the offender to the custody of the
7 Attorney General of the United States. The Attorney General of
8 the United States, or the authorized representative of the
9 Attorney General of the United States, shall be furnished with
10 the warrant of commitment from the court imposing sentence,
11 which warrant of commitment shall provide that, when the
12 offender is released from federal confinement, whether by
13 parole or by termination of sentence, the offender shall be
14 transferred by the Sheriff of the committing county to the
15 Department of Corrections. The court shall cause the Department
16 to be notified of such sentence at the time of commitment and
17 to be provided with copies of all records regarding the
18 sentence.

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