

1 AN ACT concerning children.

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

4 Section 2. The Child Death Review Team Act is amended by  
5 changing Sections 20 and 40 as follows:

6 (20 ILCS 515/20)

7 Sec. 20. Reviews of child deaths.

8 (a) Every child death shall be reviewed by the team in the  
9 subregion which has primary case management responsibility.

10 The deceased child must be one of the following:

11 (1) A ward of the Department.

12 (2) The subject of an open service case maintained by  
13 the Department.

14 (3) The subject of a pending child abuse or neglect  
15 investigation.

16 (4) A child who was the subject of an abuse or neglect  
17 investigation at any time during the 12 months preceding  
18 the child's death.

19 (5) Any other child whose death is reported to the  
20 State central register as a result of alleged child abuse  
21 or neglect which report is subsequently indicated.

22 A child death review team may, at its discretion, review  
23 other sudden, unexpected, or unexplained child deaths.

1 (b) A child death review team's purpose in conducting  
2 reviews of child deaths is to do the following:

3 (1) Assist in determining the cause and manner of the  
4 child's death, when requested.

5 (2) Evaluate means by which the death might have been  
6 prevented.

7 (3) Report its findings to appropriate agencies and  
8 make recommendations that may help to reduce the number of  
9 child deaths caused by abuse or neglect.

10 (4) Promote continuing education for professionals  
11 involved in investigating, treating, and preventing child  
12 abuse and neglect as a means of preventing child deaths due  
13 to abuse or neglect.

14 (5) Make specific recommendations to the Director and  
15 the Inspector General of the Department concerning the  
16 prevention of child deaths due to abuse or neglect and the  
17 establishment of protocols for investigating child deaths.

18 (c) A child death review team shall review a child death as  
19 soon as practical and not later than 90 days following the  
20 completion by the Department of the investigation of the death  
21 under the Abused and Neglected Child Reporting Act. When there  
22 has been no investigation by the Department, the child death  
23 review team shall review a child's death within 90 days after  
24 obtaining the information necessary to complete the review from  
25 the coroner, pathologist, medical examiner, or law enforcement  
26 agency, depending on the nature of the case. A child death

1 review team shall meet at least once in each calendar quarter.

2 (d) The Director shall, within 90 days, review and reply to  
3 recommendations made by a team under item (5) of subsection  
4 (b). With respect to each recommendation made by a team, the  
5 Director shall submit his or her reply both to the chairperson  
6 of that team and to the chairperson of the Executive Council.  
7 The Director's reply to each recommendation must include a  
8 statement as to whether the Director intends to implement the  
9 recommendation.

10 The Director shall implement recommendations as feasible  
11 and appropriate and shall respond in writing to explain the  
12 implementation or nonimplementation of the recommendations.

13 (e) Within 90 days after the Director submits a reply with  
14 respect to a recommendation as required by subsection (d), the  
15 Director must submit an additional report that sets forth in  
16 detail the way, if any, in which the Director will implement  
17 the recommendation and the schedule for implementing the  
18 recommendation. The Director shall submit this report to the  
19 chairperson of the team that made the recommendation and to the  
20 chairperson of the Executive Council.

21 (f) Within 180 days after the Director submits a report  
22 under subsection (e) concerning the implementation of a  
23 recommendation, the Director shall submit a further report to  
24 the chairperson of the team that made the recommendation and to  
25 the chairperson of the Executive Council. This report shall set  
26 forth the specific changes in the Department's policies and

1 procedures that have been made in response to the  
2 recommendation.

3 (Source: P.A. 90-239, eff. 7-28-97; 90-608, eff. 6-30-98.)

4 (20 ILCS 515/40)

5 Sec. 40. Illinois Child Death Review Teams Executive  
6 Council.

7 (a) The Illinois Child Death Review Teams Executive  
8 Council, consisting of the chairpersons of the 9 child death  
9 review teams in Illinois, is the coordinating and oversight  
10 body for child death review teams and activities in Illinois.  
11 The vice-chairperson of a child death review team, as  
12 designated by the chairperson, may serve as a back-up member or  
13 an alternate member of the Executive Council, if the  
14 chairperson of the child death review team is unavailable to  
15 serve on the Executive Council. The Inspector General of the  
16 Department, ex officio, is a non-voting member of the Executive  
17 Council. The Director may appoint to the Executive Council any  
18 ex-officio members deemed necessary. Persons with expertise  
19 needed by the Executive Council may be invited to meetings. The  
20 Executive Council must select from its members a chairperson  
21 and a vice-chairperson, each to serve a 2-year, renewable term.

22 The Executive Council must meet at least 4 times during  
23 each calendar year. At each such meeting, in addition to any  
24 other matters under consideration, the Executive Council shall  
25 review all replies and reports received from the Director

1 pursuant to subsections (d), (e), and (f) of Section 20 since  
2 the Executive Council's previous meeting. The Executive  
3 Council's review must include consideration of the Director's  
4 proposed manner of and schedule for implementing each  
5 recommendation made by a child death review team.

6 (b) The Department must provide or arrange for the staff  
7 support necessary for the Executive Council to carry out its  
8 duties. The Director, in cooperation and consultation with the  
9 Executive Council, shall appoint, reappoint, and remove team  
10 members.

11 (c) The Executive Council has, but is not limited to, the  
12 following duties:

13 (1) To serve as the voice of child death review teams  
14 in Illinois.

15 (2) To oversee the regional teams in order to ensure  
16 that the teams' work is coordinated and in compliance with  
17 the statutes and the operating protocol.

18 (3) To ensure that the data, results, findings, and  
19 recommendations of the teams are adequately used to make  
20 any necessary changes in the policies, procedures, and  
21 statutes in order to protect children in a timely manner.

22 (4) To collaborate with the General Assembly, the  
23 Department, and others in order to develop any legislation  
24 needed to prevent child fatalities and to protect children.

25 (5) To assist in the development of quarterly and  
26 annual reports based on the work and the findings of the

1 teams.

2 (6) To ensure that the regional teams' review processes  
3 are standardized in order to convey data, findings, and  
4 recommendations in a usable format.

5 (7) To serve as a link with child death review teams  
6 throughout the country and to participate in national child  
7 death review team activities.

8 (8) To develop an annual statewide symposium to update  
9 the knowledge and skills of child death review team members  
10 and to promote the exchange of information between teams.

11 (9) To provide the child death review teams with the  
12 most current information and practices concerning child  
13 death review and related topics.

14 (10) To perform any other functions necessary to  
15 enhance the capability of the child death review teams to  
16 reduce and prevent child injuries and fatalities.

17 (c-5) The Executive Council shall prepare an annual report.  
18 The report must include, but need not be limited to, (i) each  
19 recommendation made by a child death review team pursuant to  
20 item (5) of subsection (b) of Section 20 during the period  
21 covered by the report, (ii) the Director's proposed schedule  
22 for implementing each such recommendation, and (iii) a  
23 description of the specific changes in the Department's  
24 policies and procedures that have been made in response to the  
25 recommendation. The Executive Council shall send a copy of its  
26 annual report to each of the following:

1           (1) The Governor.

2           (2) Each member of the Senate or the House of  
3           Representatives whose legislative district lies wholly or  
4           partly within the region covered by any child death review  
5           team whose recommendation is addressed in the annual  
6           report.

7           (3) Each member of each child death review team in the  
8           State.

9           (d) In any instance when a child death review team does not  
10          operate in accordance with established protocol, the Director,  
11          in consultation and cooperation with the Executive Council,  
12          must take any necessary actions to bring the team into  
13          compliance with the protocol.

14          (Source: P.A. 92-468, eff. 8-22-01.)

15          Section 5. The Abused and Neglected Child Reporting Act is  
16          amended by changing Section 4.2 as follows:

17               (325 ILCS 5/4.2)

18          Sec. 4.2. Departmental report on death or serious  
19          life-threatening injury of child.

20               (a) In the case of the death or serious life-threatening  
21          injury of a child whose care and custody or custody and  
22          guardianship has been transferred to the Department, or in the  
23          case of a child abuse or neglect report made to the central  
24          register involving the death of a child, the Department shall

1 (i) investigate or provide for an investigation of the cause of  
2 and circumstances surrounding the death or serious  
3 life-threatening injury, (ii) review the investigation, and  
4 (iii) prepare and issue a report on the death or serious  
5 life-threatening injury.

6 (b) The report shall include (i) the cause of death or  
7 serious life-threatening injury, whether from natural or other  
8 causes, (ii) ~~identification of child protective or other~~  
9 ~~services provided or actions taken regarding the child and his~~  
10 ~~or her family~~, (iii) any extraordinary or pertinent information  
11 concerning the circumstances of the child's death or serious  
12 life-threatening injury, (iii) identification of child  
13 protective or other social services provided or actions taken  
14 regarding the child or his or her family at the time of the  
15 death or serious life-threatening injury or within the  
16 preceding 5 years, (iv) ~~whether the child or the child's family~~  
17 ~~had received assistance, care, or services from the social~~  
18 ~~services district prior to the child's death~~, (v) any action or  
19 further investigation undertaken by the Department since the  
20 death or serious life-threatening injury of the child, (v) and  
21 ~~(vi)~~ as appropriate, recommendations for State administrative  
22 or policy changes, and (vi) whether the alleged perpetrator of  
23 the abuse or neglect has been charged with committing a crime  
24 related to the report and allegation of abuse or neglect. In  
25 any case involving the death or near death of a child, when a  
26 person responsible for the child has been charged with



1 committing a crime that results in the child's death or near  
2 death, there shall be a presumption that the best interest of  
3 the public will be served by public disclosure of certain  
4 information concerning the circumstances of the investigations  
5 of the death or near death of the child and any other  
6 investigations concerning that child or other children living  
7 in the same household.

8 If the Department receives from the public a request for  
9 information relating to a case of child abuse or neglect  
10 involving the death or serious life-threatening injury of a  
11 child, the Director shall consult with the State's Attorney in  
12 the county of venue and release the report related to the case,  
13 except for the following, which may be redacted from the  
14 information disclosed to the public: any mental health or  
15 psychological information that is confidential as otherwise  
16 provided in State law; privileged communications of an  
17 attorney; the identity of the individual or individuals, if  
18 known, who made the report; information that may cause mental  
19 or physical harm to a sibling or another child living in the  
20 household; information that may undermine an ongoing criminal  
21 investigation; and any information prohibited from disclosure  
22 by federal law or regulation. Any information provided by an  
23 adult subject of a report that is released about the case in a  
24 public forum shall be subject to disclosure upon a public  
25 information request. Information about the case shall also be  
26 subject to disclosure upon consent of an adult subject.

1 Information about the case shall also be subject to disclosure  
2 if it has been publicly disclosed in a report by a law  
3 enforcement agency or official, a State's Attorney, a judge, or  
4 any other State or local investigative agency or official. ~~The~~  
5 ~~report shall contain no information that would identify the~~  
6 ~~name of the deceased child, his or her siblings, the parent or~~  
7 ~~other person legally responsible for the child, or any other~~  
8 ~~members of the child's household, but shall refer instead to~~  
9 ~~the case, which may be denoted in any fashion determined~~  
10 ~~appropriate by the Department. In making a fatality report~~  
11 ~~available to the public pursuant to subsection (c) of this~~  
12 ~~Section, the Department may respond to a child specific request~~  
13 ~~for a report if the Department determines that the disclosure~~  
14 ~~is not contrary to the best interests of the deceased child's~~  
15 ~~siblings or other children in the household.~~ Except as it may  
16 apply directly to the cause of the death or serious  
17 life-threatening injury of the child, nothing in this Section  
18 shall be deemed to authorize the release or disclosure to the  
19 public of the substance or content of any psychological,  
20 psychiatric, therapeutic, clinical, or medical reports,  
21 evaluation, or like materials or information pertaining to the  
22 child or the child's family.

23 (c) No later than 6 months after the date of the death or  
24 serious life-threatening injury of the child, the Department  
25 shall ~~complete its report.~~ ~~The Department shall~~ notify the  
26 President of the Senate, the Minority Leader of the Senate, the

1 Speaker of the House of Representatives, the Minority Leader of  
2 the House of Representatives, and the members of the Senate and  
3 the House of Representatives in whose district the child's  
4 death or serious life-threatening injury occurred upon the  
5 completion of each report and shall submit an annual cumulative  
6 report to the Governor and the General Assembly incorporating  
7 cumulative ~~the~~ data about ~~in~~ the above reports and including  
8 appropriate findings and recommendations. The reports required  
9 by this subsection (c) ~~concerning the death of a child and the~~  
10 ~~cumulative reports~~ shall be made available to the public after  
11 completion or submittal.

12 (d) To enable the Department to prepare the report, the  
13 Department may request and shall timely receive from  
14 departments, boards, bureaus, or other agencies of the State,  
15 or any of its political subdivisions, or any duly authorized  
16 agency, or any other agency which provided assistance, care, or  
17 services to the deceased or injured child any information they  
18 are authorized to provide.

19 (Source: P.A. 90-15, eff. 6-13-97.)

20 Section 10. The Juvenile Court Act of 1987 is amended by  
21 changing Sections 2-10, 2-13, and 2-25 as follows:

22 (705 ILCS 405/2-10) (from Ch. 37, par. 802-10)

23 Sec. 2-10. Temporary custody hearing. At the appearance of  
24 the minor before the court at the temporary custody hearing,

1 all witnesses present shall be examined before the court in  
2 relation to any matter connected with the allegations made in  
3 the petition.

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

7 (2) If the court finds that there is probable cause to  
8 believe that the minor is abused, neglected or dependent, the  
9 court shall state in writing the factual basis supporting its  
10 finding and the minor, his or her parent, guardian, custodian  
11 and other persons able to give relevant testimony shall be  
12 examined before the court. The Department of Children and  
13 Family Services shall give testimony concerning indicated  
14 reports of abuse and neglect, of which they are aware of  
15 through the central registry, involving the minor's parent,  
16 guardian or custodian. After such testimony, the court may,  
17 consistent with the health, safety and best interests of the  
18 minor, enter an order that the minor shall be released upon the  
19 request of parent, guardian or custodian if the parent,  
20 guardian or custodian appears to take custody. If it is  
21 determined that a parent's, guardian's, or custodian's  
22 compliance with critical services mitigates the necessity for  
23 removal of the minor from his or her home, the court may enter  
24 an Order of Protection setting forth reasonable conditions of  
25 behavior that a parent, guardian, or custodian must observe for  
26 a specified period of time, not to exceed 12 months, without a

1 violation; provided, however, that the 12-month period shall  
2 begin anew after any violation. Custodian shall include any  
3 agency of the State which has been given custody or wardship of  
4 the child. If it is consistent with the health, safety and best  
5 interests of the minor, the court may also prescribe shelter  
6 care and order that the minor be kept in a suitable place  
7 designated by the court or in a shelter care facility  
8 designated by the Department of Children and Family Services or  
9 a licensed child welfare agency; however, a minor charged with  
10 a criminal offense under the Criminal Code of 1961 or  
11 adjudicated delinquent shall not be placed in the custody of or  
12 committed to the Department of Children and Family Services by  
13 any court, except a minor less than 13 years of age and  
14 committed to the Department of Children and Family Services  
15 under Section 5-710 of this Act or a minor for whom an  
16 independent basis of abuse, neglect, or dependency exists,  
17 which must be defined by departmental rule. In placing the  
18 minor, the Department or other agency shall, to the extent  
19 compatible with the court's order, comply with Section 7 of the  
20 Children and Family Services Act. In determining the health,  
21 safety and best interests of the minor to prescribe shelter  
22 care, the court must find that it is a matter of immediate and  
23 urgent necessity for the safety and protection of the minor or  
24 of the person or property of another that the minor be placed  
25 in a shelter care facility or that he or she is likely to flee  
26 the jurisdiction of the court, and must further find that

1 reasonable efforts have been made or that, consistent with the  
2 health, safety and best interests of the minor, no efforts  
3 reasonably can be made to prevent or eliminate the necessity of  
4 removal of the minor from his or her home. The court shall  
5 require documentation from the Department of Children and  
6 Family Services as to the reasonable efforts that were made to  
7 prevent or eliminate the necessity of removal of the minor from  
8 his or her home or the reasons why no efforts reasonably could  
9 be made to prevent or eliminate the necessity of removal. When  
10 a minor is placed in the home of a relative, the Department of  
11 Children and Family Services shall complete a preliminary  
12 background review of the members of the minor's custodian's  
13 household in accordance with Section 4.3 of the Child Care Act  
14 of 1969 within 90 days of that placement. If the minor is  
15 ordered placed in a shelter care facility of the Department of  
16 Children and Family Services or a licensed child welfare  
17 agency, the court shall, upon request of the appropriate  
18 Department or other agency, appoint the Department of Children  
19 and Family Services Guardianship Administrator or other  
20 appropriate agency executive temporary custodian of the minor  
21 and the court may enter such other orders related to the  
22 temporary custody as it deems fit and proper, including the  
23 provision of services to the minor or his family to ameliorate  
24 the causes contributing to the finding of probable cause or to  
25 the finding of the existence of immediate and urgent necessity.

26 Where the Department of Children and Family Services

1 Guardianship Administrator is appointed as the executive  
2 temporary custodian, the Department of Children and Family  
3 Services shall file with the court and serve on the parties a  
4 parent-child visiting plan, within 10 days, excluding weekends  
5 and holidays, after the appointment. The parent-child visiting  
6 plan shall set out the time and place of visits, the frequency  
7 of visits, the length of visits, who shall be present at the  
8 visits, and where appropriate, the minor's opportunities to  
9 have telephone and mail communication with the parents. For  
10 good cause, the court may waive the requirement to file the  
11 parent-child visiting plan or extend the time for filing the  
12 parent-child visiting plan. Any party may, by motion, request  
13 the court to review the parent-child visiting plan to determine  
14 whether it is reasonably calculated to expeditiously  
15 facilitate the achievement of the permanency goal and is  
16 consistent with the minor's best interest. The frequency,  
17 duration, and locations of visitation shall be measured by the  
18 needs of the child and family, and not by the convenience of  
19 Department personnel. Child development principles shall be  
20 considered by the court in its analysis of how frequent  
21 visitation should be, how long it should last, where it should  
22 take place, and who should be present. If upon motion of the  
23 party to review the plan and after receiving evidence, the  
24 court determines that the parent-child visiting plan is not  
25 reasonably calculated to expeditiously facilitate the  
26 achievement of the permanency goal or that the restrictions

1 placed on parent-child contact are contrary to the child's best  
2 interests, the court shall put in writing the factual basis  
3 supporting the determination and enter specific findings based  
4 on the evidence. The court shall enter an order for the  
5 Department to implement changes to the parent-child visiting  
6 plan, consistent with the court's findings. At any stage of  
7 proceeding, any party may by motion request the court to enter  
8 any orders necessary to implement the parent-child visiting  
9 plan. Nothing under this subsection (2) shall restrict the  
10 court from granting discretionary authority to the Department  
11 to increase opportunities for additional parent-child  
12 contacts, without further court orders. Nothing in this  
13 subsection (2) shall restrict the Department from immediately  
14 restricting or terminating parent-child contact, without  
15 either amending the parent-child visiting plan or obtaining a  
16 court order, where the Department or its assigns reasonably  
17 believe that continuation of parent-child contact, as set out  
18 in the parent-child visiting plan, would be contrary to the  
19 child's health, safety, and welfare. The Department shall file  
20 with the court and serve on the parties any amendments to the  
21 visitation plan within 10 days, excluding weekends and  
22 holidays, of the change of the visitation. Any party may, by  
23 motion, request the court to review the parent-child visiting  
24 plan to determine whether the parent-child visiting plan is  
25 reasonably calculated to expeditiously facilitate the  
26 achievement of the permanency goal, and is consistent with the



1 minor's health, safety, and best interest.

2 Acceptance of services shall not be considered an admission  
3 of any allegation in a petition made pursuant to this Act, nor  
4 may a referral of services be considered as evidence in any  
5 proceeding pursuant to this Act, except where the issue is  
6 whether the Department has made reasonable efforts to reunite  
7 the family. In making its findings that it is consistent with  
8 the health, safety and best interests of the minor to prescribe  
9 shelter care, the court shall state in writing (i) the factual  
10 basis supporting its findings concerning the immediate and  
11 urgent necessity for the protection of the minor or of the  
12 person or property of another and (ii) the factual basis  
13 supporting its findings that reasonable efforts were made to  
14 prevent or eliminate the removal of the minor from his or her  
15 home or that no efforts reasonably could be made to prevent or  
16 eliminate the removal of the minor from his or her home. The  
17 parents, guardian, custodian, temporary custodian and minor  
18 shall each be furnished a copy of such written findings. The  
19 temporary custodian shall maintain a copy of the court order  
20 and written findings in the case record for the child. The  
21 order together with the court's findings of fact in support  
22 thereof shall be entered of record in the court.

23 Once the court finds that it is a matter of immediate and  
24 urgent necessity for the protection of the minor that the minor  
25 be placed in a shelter care facility, the minor shall not be  
26 returned to the parent, custodian or guardian until the court

1 finds that such placement is no longer necessary for the  
2 protection of the minor.

3 If the child is placed in the temporary custody of the  
4 Department of Children and Family Services for his or her  
5 protection, the court shall admonish the parents, guardian,  
6 custodian or responsible relative that the parents must  
7 cooperate with the Department of Children and Family Services,  
8 comply with the terms of the service plans, and correct the  
9 conditions which require the child to be in care, or risk  
10 termination of their parental rights.

11 (3) If prior to the shelter care hearing for a minor  
12 described in Sections 2-3, 2-4, 3-3 and 4-3 the moving party is  
13 unable to serve notice on the party respondent, the shelter  
14 care hearing may proceed ex-parte. A shelter care order from an  
15 ex-parte hearing shall be endorsed with the date and hour of  
16 issuance and shall be filed with the clerk's office and entered  
17 of record. The order shall expire after 10 days from the time  
18 it is issued unless before its expiration it is renewed, at a  
19 hearing upon appearance of the party respondent, or upon an  
20 affidavit of the moving party as to all diligent efforts to  
21 notify the party respondent by notice as herein prescribed. The  
22 notice prescribed shall be in writing and shall be personally  
23 delivered to the minor or the minor's attorney and to the last  
24 known address of the other person or persons entitled to  
25 notice. The notice shall also state the nature of the  
26 allegations, the nature of the order sought by the State,

1 including whether temporary custody is sought, and the  
 2 consequences of failure to appear and shall contain a notice  
 3 that the parties will not be entitled to further written  
 4 notices or publication notices of proceedings in this case,  
 5 including the filing of an amended petition or a motion to  
 6 terminate parental rights, except as required by Supreme Court  
 7 Rule 11; and shall explain the right of the parties and the  
 8 procedures to vacate or modify a shelter care order as provided  
 9 in this Section. The notice for a shelter care hearing shall be  
 10 substantially as follows:

11 NOTICE TO PARENTS AND CHILDREN  
 12 OF SHELTER CARE HEARING

13 On ..... at ....., before the Honorable  
 14 ....., (address:) ....., the State  
 15 of Illinois will present evidence (1) that (name of child  
 16 or children) ..... are abused, neglected  
 17 or dependent for the following reasons:

18 ..... and (2)  
 19 whether ~~that~~ there is "immediate and urgent necessity" to  
 20 remove the child or children from the responsible relative.

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

1 At the shelter care hearing, parents have the following  
2 rights:

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

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

7 3. To present evidence concerning:

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

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

15 c. The best interests of the child.

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

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

19 NOTICE OF PARENT'S AND CHILDREN'S RIGHTS

20 TO REHEARING ON TEMPORARY CUSTODY

21 If you were not present at and did not have adequate  
22 notice of the Shelter Care Hearing at which temporary  
23 custody of ..... was awarded to  
24 ....., you have the right to request a full  
25 rehearing on whether the State should have temporary

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

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

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

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

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

- 19 1. To have a guardian ad litem appointed.
- 20 2. To be declared competent as a witness and to  
21 present testimony concerning:
  - 22 a. Whether they are abused, neglected or  
23 dependent.
  - 24 b. Whether there is "immediate and urgent  
25 necessity" to be removed from home.
  - 26 c. Their best interests.

1           3. To cross examine witnesses for other parties.

2           4. To obtain an explanation of any proceedings and  
3 orders of the court.

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

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

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

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

26           (8) 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 (9) Notwithstanding any other provision of this Section any  
13 interested party, including the State, the temporary  
14 custodian, an agency providing services to the minor or family  
15 under a service plan pursuant to Section 8.2 of the Abused and  
16 Neglected Child Reporting Act, foster parent, or any of their  
17 representatives, on notice to all parties entitled to notice,  
18 may file a motion that it is in the best interests of the minor  
19 to modify or vacate a temporary custody order on any of the  
20 following grounds:

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

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

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

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

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

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

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

26                 (a) Such other minor is the subject of an abuse or



1 neglect petition pending before the court; and

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

4 Once the presumption of immediate and urgent necessity has  
5 been raised, the burden of demonstrating the lack of immediate  
6 and urgent necessity shall be on any party that is opposing  
7 shelter care for the other minor.

8 (Source: P.A. 94-604, eff. 1-1-06.)

9 (705 ILCS 405/2-13) (from Ch. 37, par. 802-13)

10 Sec. 2-13. Petition.

11 (1) Any adult person, any agency or association by its  
12 representative may file, or the court on its own motion,  
13 consistent with the health, safety and best interests of the  
14 minor may direct the filing through the State's Attorney of a  
15 petition in respect of a minor under this Act. The petition and  
16 all subsequent court documents shall be entitled "In the  
17 interest of ....., a minor".

18 (2) The petition shall be verified but the statements may  
19 be made upon information and belief. It shall allege that the  
20 minor is abused, neglected, or dependent, with citations to the  
21 appropriate provisions of this Act, and set forth (a) facts  
22 sufficient to bring the minor under Section 2-3 or 2-4 and to  
23 inform respondents of the cause of action, including, but not  
24 limited to, a plain and concise statement of the factual  
25 allegations that form the basis for the filing of the petition;

1 (b) the name, age and residence of the minor; (c) the names and  
2 residences of his parents; (d) the name and residence of his  
3 legal guardian or the person or persons having custody or  
4 control of the minor, or of the nearest known relative if no  
5 parent or guardian can be found; and (e) if the minor upon  
6 whose behalf the petition is brought is sheltered in custody,  
7 the date on which such temporary custody was ordered by the  
8 court or the date set for a temporary custody hearing. If any  
9 of the facts herein required are not known by the petitioner,  
10 the petition shall so state.

11 (3) The petition must allege that it is in the best  
12 interests of the minor and of the public that he be adjudged a  
13 ward of the court and may pray generally for relief available  
14 under this Act. The petition need not specify any proposed  
15 disposition following adjudication of wardship. The petition  
16 may request that the minor remain in the custody of the parent,  
17 guardian, or custodian under an Order of Protection.

18 (4) If termination of parental rights and appointment of a  
19 guardian of the person with power to consent to adoption of the  
20 minor under Section 2-29 is sought, the petition shall so  
21 state. If the petition includes this request, the prayer for  
22 relief shall clearly and obviously state that the parents could  
23 permanently lose their rights as a parent at this hearing.

24 In addition to the foregoing, the petitioner, by motion,  
25 may request the termination of parental rights and appointment  
26 of a guardian of the person with power to consent to adoption

1 of the minor under Section 2-29 at any time after the entry of  
2 a dispositional order under Section 2-22.

3 (4.5) (a) With respect to any minors committed to its care  
4 pursuant to this Act, the Department of Children and Family  
5 Services shall request the State's Attorney to file a petition  
6 or motion for termination of parental rights and appointment of  
7 guardian of the person with power to consent to adoption of the  
8 minor under Section 2-29 if:

9 (i) a minor has been in foster care, as described in  
10 subsection (b), for 15 months of the most recent 22 months;  
11 or

12 (ii) a minor under the age of 2 years has been  
13 previously determined to be abandoned at an adjudicatory  
14 hearing; or

15 (iii) the parent is criminally convicted of (A) first  
16 degree murder or second degree murder of any child, (B)  
17 attempt or conspiracy to commit first degree murder or  
18 second degree murder of any child, (C) solicitation to  
19 commit murder of any child, solicitation to commit murder  
20 for hire of any child, or solicitation to commit second  
21 degree murder of any child, (D) aggravated battery,  
22 aggravated battery of a child, or felony domestic battery,  
23 any of which has resulted in serious injury to the minor or  
24 a sibling of the minor, (E) aggravated criminal sexual  
25 assault in violation of subdivision (b) (1) of Section 12-14  
26 of the Criminal Code of 1961, or (F) an offense in any

1 other state the elements of which are similar and bear a  
2 substantial relationship to any of the foregoing offenses  
3 unless:

4 (i) the child is being cared for by a relative,

5 (ii) the Department has documented in the case plan a  
6 compelling reason for determining that filing such  
7 petition would not be in the best interests of the child,

8 (iii) the court has found within the preceding 12  
9 months that the Department has failed to make reasonable  
10 efforts to reunify the child and family, or

11 (iv) paragraph (c) of this subsection (4.5) provides  
12 otherwise.

13 (b) For purposes of this subsection, the date of entering  
14 foster care is defined as the earlier of:

15 (1) The date of a judicial finding at an adjudicatory  
16 hearing that the child is an abused, neglected, or  
17 dependent minor; or

18 (2) 60 days after the date on which the child is  
19 removed from his or her parent, guardian, or legal  
20 custodian.

21 (c) With respect to paragraph (a)(i), the following  
22 transition rules shall apply:

23 (1) If the child entered foster care after November 19,  
24 1997 and this amendatory Act of 1998 takes effect before  
25 the child has been in foster care for 15 months of the  
26 preceding 22 months, then the Department shall comply with

1 the requirements of paragraph (a) of this subsection (4.5)  
2 for that child as soon as the child has been in foster care  
3 for 15 of the preceding 22 months.

4 (2) If the child entered foster care after November 19,  
5 1997 and this amendatory Act of 1998 takes effect after the  
6 child has been in foster care for 15 of the preceding 22  
7 months, then the Department shall comply with the  
8 requirements of paragraph (a) of this subsection (4.5) for  
9 that child within 3 months after the end of the next  
10 regular session of the General Assembly.

11 (3) If the child entered foster care prior to November  
12 19, 1997, then the Department shall comply with the  
13 requirements of paragraph (a) of this subsection (4.5) for  
14 that child in accordance with Department policy or rule.

15 (d) If the State's Attorney determines that the  
16 Department's request for filing of a petition or motion  
17 conforms to the requirements set forth in subdivisions (a),  
18 (b), and (c) of this subsection (4.5), then the State's  
19 Attorney shall file the petition or motion as requested.

20 (5) The court shall liberally allow the petitioner to amend  
21 the petition to set forth a cause of action or to add, amend,  
22 or supplement factual allegations that form the basis for a  
23 cause of action up until 14 days before the adjudicatory  
24 hearing. The petitioner may amend the petition after that date  
25 and prior to the adjudicatory hearing if the court grants leave  
26 to amend upon a showing of good cause. The court may allow

1 amendment of the petition to conform with the evidence at any  
2 time prior to ruling. In all cases in which the court has  
3 granted leave to amend based on new evidence or new  
4 allegations, the court shall permit the respondent an adequate  
5 opportunity to prepare a defense to the amended petition.

6 (6) At any time before dismissal of the petition or before  
7 final closing and discharge under Section 2-31, one or more  
8 motions in the best interests of the minor may be filed. The  
9 motion shall specify sufficient facts in support of the relief  
10 requested.

11 (Source: P.A. 89-704, eff. 8-16-97 (changed from 1-1-98 by P.A.  
12 90-443); 90-28, eff. 1-1-98; 90-608, eff. 6-30-98.)

13 (705 ILCS 405/2-25) (from Ch. 37, par. 802-25)  
14 Sec. 2-25. Order of protection.

15 (1) The court may make an order of protection in assistance  
16 of or as a condition of any other order authorized by this Act.  
17 The order of protection shall be based on the health, safety  
18 and best interests of the minor and may set forth reasonable  
19 conditions of behavior to be observed for a specified period.  
20 Such an order may require a person:

21 (a) to stay away from the home or the minor;

22 (b) to permit a parent to visit the minor at stated  
23 periods;

24 (c) to abstain from offensive conduct against the  
25 minor, his parent or any person to whom custody of the

1 minor is awarded;

2 (d) to give proper attention to the care of the home;

3 (e) to cooperate in good faith with an agency to which  
4 custody of a minor is entrusted by the court or with an  
5 agency or association to which the minor is referred by the  
6 court;

7 (f) to prohibit and prevent any contact whatsoever with  
8 the respondent minor by a specified individual or  
9 individuals who are alleged in either a criminal or  
10 juvenile proceeding to have caused injury to a respondent  
11 minor or a sibling of a respondent minor;

12 (g) to refrain from acts of commission or omission that  
13 tend to make the home not a proper place for the minor;

14 (h) to refrain from contacting the minor and the foster  
15 parents in any manner that is not specified in writing in  
16 the case plan.

17 (2) The court shall enter an order of protection to  
18 prohibit and prevent any contact between a respondent minor or  
19 a sibling of a respondent minor and any person named in a  
20 petition seeking an order of protection who has been convicted  
21 of heinous battery under Section 12-4.1, aggravated battery of  
22 a child under Section 12-4.3, criminal sexual assault under  
23 Section 12-13, aggravated criminal sexual assault under  
24 Section 12-14, predatory criminal sexual assault of a child  
25 under Section 12-14.1, criminal sexual abuse under Section  
26 12-15, or aggravated criminal sexual abuse under Section 12-16

1 of the Criminal Code of 1961, or has been convicted of an  
2 offense that resulted in the death of a child, or has violated  
3 a previous order of protection under this Section.

4 (3) When the court issues an order of protection against  
5 any person as provided by this Section, the court shall direct  
6 a copy of such order to the Sheriff of that county. The Sheriff  
7 shall furnish a copy of the order of protection to the  
8 Department of State Police within 24 hours of receipt, in the  
9 form and manner required by the Department. The Department of  
10 State Police shall maintain a complete record and index of such  
11 orders of protection and make this data available to all local  
12 law enforcement agencies.

13 (4) After notice and opportunity for hearing afforded to a  
14 person subject to an order of protection, the order may be  
15 modified or extended for a further specified period or both or  
16 may be terminated if the court finds that the health, safety,  
17 and best interests of the minor and the public will be served  
18 thereby.

19 (5) An order of protection may be sought at any time during  
20 the course of any proceeding conducted pursuant to this Act if  
21 such an order is consistent with the health, safety, and best  
22 interests of the minor. Any person against whom an order of  
23 protection is sought may retain counsel to represent him at a  
24 hearing, and has rights to be present at the hearing, to be  
25 informed prior to the hearing in writing of the contents of the  
26 petition seeking a protective order and of the date, place and



1 time of such hearing, and to cross examine witnesses called by  
2 the petitioner and to present witnesses and argument in  
3 opposition to the relief sought in the petition.

4 (6) Diligent efforts shall be made by the petitioner to  
5 serve any person or persons against whom any order of  
6 protection is sought with written notice of the contents of the  
7 petition seeking a protective order and of the date, place and  
8 time at which the hearing on the petition is to be held. When a  
9 protective order is being sought in conjunction with a  
10 temporary custody hearing, if the court finds that the person  
11 against whom the protective order is being sought has been  
12 notified of the hearing or that diligent efforts have been made  
13 to notify such person, the court may conduct a hearing. If a  
14 protective order is sought at any time other than in  
15 conjunction with a temporary custody hearing, the court may not  
16 conduct a hearing on the petition in the absence of the person  
17 against whom the order is sought unless the petitioner has  
18 notified such person by personal service at least 3 days before  
19 the hearing or has sent written notice by first class mail to  
20 such person's last known address at least 5 days before the  
21 hearing.

22 (7) A person against whom an order of protection is being  
23 sought who is neither a parent, guardian, legal custodian or  
24 responsible relative as described in Section 1-5 is not a party  
25 or respondent as defined in that Section and shall not be  
26 entitled to the rights provided therein. Such person does not

1 have a right to appointed counsel or to be present at any  
2 hearing other than the hearing in which the order of protection  
3 is being sought or a hearing directly pertaining to that order.  
4 Unless the court orders otherwise, such person does not have a  
5 right to inspect the court file.

6 (8) All protective orders entered under this Section shall  
7 be in writing. Unless the person against whom the order was  
8 obtained was present in court when the order was issued, the  
9 sheriff, other law enforcement official or special process  
10 server shall promptly serve that order upon that person and  
11 file proof of such service, in the manner provided for service  
12 of process in civil proceedings. The person against whom the  
13 protective order was obtained may seek a modification of the  
14 order by filing a written motion to modify the order within 7  
15 days after actual receipt by the person of a copy of the order.  
16 Any modification of the order granted by the court must be  
17 determined to be consistent with the best interests of the  
18 minor.

19 (9) If a petition is filed charging a violation of a  
20 condition contained in the protective order and if the court  
21 determines that this violation is of a critical service  
22 necessary to the safety and welfare of the minor, the court may  
23 proceed to findings and an order for temporary custody.

24 (Source: P.A. 89-428, eff. 12-13-95; 89-462, eff. 5-29-96;  
25 90-15, eff. 6-13-97; 90-28, eff. 1-1-98; 90-655, eff. 7-30-98.)