



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

HB5343

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 5/5-8-6	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 are subject to the proceedings under the Juvenile Court Act of 1987 for delinquent minors. Effective January 1, 2010.

LRB095 17568 RLC 45898 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

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.

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

8 (3) Prosecutors and probation officers:

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

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

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

21 (4) Adult and Juvenile Prisoner Review Board.

22 (5) Authorized military personnel.

23 (6) Persons engaged in bona fide research, with the
24 permission of the Presiding Judge of the Juvenile Court and
25 the chief executive of the respective law enforcement
26 agency; provided that publication of such research results

1 in no disclosure of a minor's identity and protects the
2 confidentiality of the minor's record.

3 (7) Department of Children and Family Services child
4 protection investigators acting in their official
5 capacity.

6 (8) The appropriate school official. Inspection and
7 copying shall be limited to law enforcement records
8 transmitted to the appropriate school official by a local
9 law enforcement agency under a reciprocal reporting system
10 established and maintained between the school district and
11 the local law enforcement agency under Section 10-20.14 of
12 the School Code concerning a minor enrolled in a school
13 within the school district who has been arrested or taken
14 into custody for any of the following offenses:

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

17 (ii) a violation of the Illinois Controlled
18 Substances Act;

19 (iii) a violation of the Cannabis Control Act;

20 (iv) a forcible felony as defined in Section 2-8 of
21 the Criminal Code of 1961; or

22 (v) a violation of the Methamphetamine Control and
23 Community Protection Act.

24 (9) Mental health professionals on behalf of the
25 Illinois Department of Corrections or the Department of
26 Human Services or prosecutors who are evaluating,

1 prosecuting, or investigating a potential or actual
2 petition brought under the Sexually Violent Persons
3 Commitment Act relating to a person who is the subject of
4 juvenile law enforcement records or the respondent to a
5 petition brought under the Sexually Violent Persons
6 Commitment Act who is the subject of the juvenile law
7 enforcement records sought. Any records and any
8 information obtained from those records under this
9 paragraph (9) may be used only in sexually violent persons
10 commitment proceedings.

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

21 (2) Law enforcement officers or other persons or
22 agencies shall transmit to the Department of State Police
23 copies of fingerprints and descriptions of all minors who
24 have been arrested or taken into custody before their 18th
25 ~~17th~~ birthday for the offense of unlawful use of weapons
26 under Article 24 of the Criminal Code of 1961, a Class X or

1 Class 1 felony, a forcible felony as defined in Section 2-8
2 of the Criminal Code of 1961, or a Class 2 or greater
3 felony under the Cannabis Control Act, the Illinois
4 Controlled Substances Act, the Methamphetamine Control and
5 Community Protection Act, or Chapter 4 of the Illinois
6 Vehicle Code, pursuant to Section 5 of the Criminal
7 Identification Act. Information reported to the Department
8 pursuant to this Section may be maintained with records
9 that the Department files pursuant to Section 2.1 of the
10 Criminal Identification Act. Nothing in this Act prohibits
11 a law enforcement agency from fingerprinting a minor taken
12 into custody or arrested before his or her 18th ~~17th~~
13 birthday for an offense other than those listed in this
14 paragraph (2).

15 (C) The records of law enforcement officers concerning all
16 minors under 18 ~~17~~ years of age must be maintained separate
17 from the records of arrests and may not be open to public
18 inspection or their contents disclosed to the public except by
19 order of the court presiding over matters pursuant to this Act
20 or when the institution of criminal proceedings has been
21 permitted or required under Section 5-805 or such a person has
22 been convicted of a crime and is the subject of pre-sentence
23 investigation or proceedings on an application for probation or
24 when provided by law. For purposes of obtaining documents
25 pursuant to this Section, a civil subpoena is not an order of
26 the court.

1 (1) In cases where the law enforcement records concern
2 a pending juvenile court case, the party seeking to inspect
3 the records shall provide actual notice to the attorney or
4 guardian ad litem of the minor whose records are sought.

5 (2) In cases where the records concern a juvenile court
6 case that is no longer pending, the party seeking to
7 inspect the records shall provide actual notice to the
8 minor or the minor's parent or legal guardian, and the
9 matter shall be referred to the chief judge presiding over
10 matters pursuant to this Act.

11 (3) In determining whether the records should be
12 available for inspection, the court shall consider the
13 minor's interest in confidentiality and rehabilitation
14 over the moving party's interest in obtaining the
15 information. Any records obtained in violation of this
16 subsection (C) shall not be admissible in any criminal or
17 civil proceeding, or operate to disqualify a minor from
18 subsequently holding public office or securing employment,
19 or operate as a forfeiture of any public benefit, right,
20 privilege, or right to receive any license granted by
21 public authority.

22 (D) Nothing contained in subsection (C) of this Section
23 shall prohibit the inspection or disclosure to victims and
24 witnesses of photographs contained in the records of law
25 enforcement agencies when the inspection and disclosure is
26 conducted in the presence of a law enforcement officer for the

1 purpose of the identification or apprehension of any person
2 subject to the provisions of this Act or for the investigation
3 or prosecution of any crime.

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

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

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

26 (Source: P.A. 94-556, eff. 9-11-05; 95-123, eff. 8-13-07.)

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

2 Sec. 1-8. Confidentiality and accessibility of juvenile
3 court records.

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

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

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

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

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

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

12 (4) Judges, prosecutors and probation officers:

13 (a) in the course of a trial when institution of
14 criminal proceedings has been permitted or required
15 under Section 5-805; or

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

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

25 (d) when a minor becomes 18 ~~17~~ years of age or
26 older, and is the subject of criminal proceedings,

1 including a hearing to determine the amount of bail, a
2 pre-trial investigation, a pre-sentence investigation,
3 a fitness hearing, or proceedings on an application for
4 probation.

5 (5) Adult and Juvenile Prisoner Review Boards.

6 (6) Authorized military personnel.

7 (7) Victims, their subrogees and legal
8 representatives; however, such persons shall have access
9 only to the name and address of the minor and information
10 pertaining to the disposition or alternative adjustment
11 plan of the juvenile court.

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

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

24 (10) The administrator of a bonafide substance abuse
25 student assistance program with the permission of the
26 presiding judge of the juvenile court.

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

13 (B) A minor who is the victim in a juvenile proceeding
14 shall be provided the same confidentiality regarding
15 disclosure of identity as the minor who is the subject of
16 record.

17 (C) Except as otherwise provided in this subsection (C),
18 juvenile court records shall not be made available to the
19 general public but may be inspected by representatives of
20 agencies, associations and news media or other properly
21 interested persons by general or special order of the court
22 presiding over matters pursuant to this Act.

23 (0.1) In cases where the records concern a pending
24 juvenile court case, the party seeking to inspect the
25 juvenile court records shall provide actual notice to the
26 attorney or guardian ad litem of the minor whose records

1 are sought.

2 (0.2) In cases where the records concern a juvenile
3 court case that is no longer pending, the party seeking to
4 inspect the juvenile court records shall provide actual
5 notice to the minor or the minor's parent or legal
6 guardian, and the matter shall be referred to the chief
7 judge presiding over matters pursuant to this Act.

8 (0.3) In determining whether the records should be
9 available for inspection, the court shall consider the
10 minor's interest in confidentiality and rehabilitation
11 over the moving party's interest in obtaining the
12 information. The State's Attorney, the minor, and the
13 minor's parents, guardian, and counsel shall at all times
14 have the right to examine court files and records. For
15 purposes of obtaining documents pursuant to this Section, a
16 civil subpoena is not an order of the court.

17 (0.4) Any records obtained in violation of this
18 subsection (C) shall not be admissible in any criminal or
19 civil proceeding, or operate to disqualify a minor from
20 subsequently holding public office, or operate as a
21 forfeiture of any public benefit, right, privilege, or
22 right to receive any license granted by public authority.

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

1 (A) The adjudication of delinquency was based upon
2 the minor's commission of first degree murder, attempt
3 to commit first degree murder, aggravated criminal
4 sexual assault, or criminal sexual assault; or

5 (B) The court has made a finding that the minor was
6 at least 13 years of age at the time the act was
7 committed and the adjudication of delinquency was
8 based upon the minor's commission of: (i) an act in
9 furtherance of the commission of a felony as a member
10 of or on behalf of a criminal street gang, (ii) an act
11 involving the use of a firearm in the commission of a
12 felony, (iii) an act that would be a Class X felony
13 offense under or the minor's second or subsequent Class
14 2 or greater felony offense under the Cannabis Control
15 Act if committed by an adult, (iv) an act that would be
16 a second or subsequent offense under Section 402 of the
17 Illinois Controlled Substances Act if committed by an
18 adult, (v) an act that would be an offense under
19 Section 401 of the Illinois Controlled Substances Act
20 if committed by an adult, (vi) an act that would be a
21 second or subsequent offense under Section 60 of the
22 Methamphetamine Control and Community Protection Act,
23 or (vii) an act that would be an offense under another
24 Section of the Methamphetamine Control and Community
25 Protection Act.

26 (2) The court shall allow the general public to have

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

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

10 (B) The court has made a finding that the minor was
11 at least 13 years of age at the time the offense was
12 committed and the conviction was based upon the minor's
13 commission of: (i) an offense in furtherance of the
14 commission of a felony as a member of or on behalf of a
15 criminal street gang, (ii) an offense involving the use
16 of a firearm in the commission of a felony, (iii) a
17 Class X felony offense under or a second or subsequent
18 Class 2 or greater felony offense under the Cannabis
19 Control Act, (iv) a second or subsequent offense under
20 Section 402 of the Illinois Controlled Substances Act,
21 (v) an offense under Section 401 of the Illinois
22 Controlled Substances Act, (vi) an act that would be a
23 second or subsequent offense under Section 60 of the
24 Methamphetamine Control and Community Protection Act,
25 or (vii) an act that would be an offense under another
26 Section of the Methamphetamine Control and Community

1 Protection Act.

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

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

19 (F) Following any adjudication of delinquency for a crime
20 which would be a felony if committed by an adult, or following
21 any adjudication of delinquency for a violation of Section
22 24-1, 24-3, 24-3.1, or 24-5 of the Criminal Code of 1961, the
23 State's Attorney shall ascertain whether the minor respondent
24 is enrolled in school and, if so, shall provide a copy of the
25 dispositional order to the principal or chief administrative
26 officer of the school. Access to such juvenile records shall be

1 limited to the principal or chief administrative officer of the
2 school and any guidance counselor designated by him.

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

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

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

26 (Source: P.A. 94-556, eff. 9-11-05; 95-123, eff. 8-13-07.)

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

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

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

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

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

1 expungement.

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

3 (705 ILCS 405/2-10) (from Ch. 37, par. 802-10)

4 (Text of Section after amendment by P.A. 95-405 and 95-642)

5 Sec. 2-10. Temporary custody hearing. At the appearance of
6 the minor before the court at the temporary custody hearing,
7 all witnesses present shall be examined before the court in
8 relation to any matter connected with the allegations made in
9 the petition.

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

13 (2) If the court finds that there is probable cause to
14 believe that the minor is abused, neglected or dependent, the
15 court shall state in writing the factual basis supporting its
16 finding and the minor, his or her parent, guardian, custodian
17 and other persons able to give relevant testimony shall be
18 examined before the court. The Department of Children and
19 Family Services shall give testimony concerning indicated
20 reports of abuse and neglect, of which they are aware of
21 through the central registry, involving the minor's parent,
22 guardian or custodian. After such testimony, the court may,
23 consistent with the health, safety and best interests of the
24 minor, enter an order that the minor shall be released upon the
25 request of parent, guardian or custodian if the parent,

1 guardian or custodian appears to take custody. If it is
2 determined that a parent's, guardian's, or custodian's
3 compliance with critical services mitigates the necessity for
4 removal of the minor from his or her home, the court may enter
5 an Order of Protection setting forth reasonable conditions of
6 behavior that a parent, guardian, or custodian must observe for
7 a specified period of time, not to exceed 12 months, without a
8 violation; provided, however, that the 12-month period shall
9 begin anew after any violation. Custodian shall include any
10 agency of the State which has been given custody or wardship of
11 the child. If it is consistent with the health, safety and best
12 interests of the minor, the court may also prescribe shelter
13 care and order that the minor be kept in a suitable place
14 designated by the court or in a shelter care facility
15 designated by the Department of Children and Family Services or
16 a licensed child welfare agency; however, a minor charged with
17 a criminal offense under the Criminal Code of 1961 or
18 adjudicated delinquent shall not be placed in the custody of or
19 committed to the Department of Children and Family Services by
20 any court, except a minor less than 15 years of age and
21 committed to the Department of Children and Family Services
22 under Section 5-710 of this Act or a minor for whom an
23 independent basis of abuse, neglect, or dependency exists. An
24 independent basis exists when the allegations or adjudication
25 of abuse, neglect, or dependency do not arise from the same
26 facts, incident, or circumstances which give rise to a charge

1 or adjudication of delinquency.

2 In placing the minor, the Department or other agency shall,
3 to the extent compatible with the court's order, comply with
4 Section 7 of the Children and Family Services Act. In
5 determining the health, safety and best interests of the minor
6 to prescribe shelter care, the court must find that it is a
7 matter of immediate and urgent necessity for the safety and
8 protection of the minor or of the person or property of another
9 that the minor be placed in a shelter care facility or that he
10 or she is likely to flee the jurisdiction of the court, and
11 must further find that reasonable efforts have been made or
12 that, consistent with the health, safety and best interests of
13 the minor, no efforts reasonably can be made to prevent or
14 eliminate the necessity of removal of the minor from his or her
15 home. The court shall require documentation from the Department
16 of Children and Family Services as to the reasonable efforts
17 that were made to prevent or eliminate the necessity of removal
18 of the minor from his or her home or the reasons why no efforts
19 reasonably could be made to prevent or eliminate the necessity
20 of removal. When a minor is placed in the home of a relative,
21 the Department of Children and Family Services shall complete a
22 preliminary background review of the members of the minor's
23 custodian's household in accordance with Section 4.3 of the
24 Child Care Act of 1969 within 90 days of that placement. If the
25 minor is ordered placed in a shelter care facility of the
26 Department of Children and Family Services or a licensed child

1 welfare agency, the court shall, upon request of the
2 appropriate Department or other agency, appoint the Department
3 of Children and Family Services Guardianship Administrator or
4 other appropriate agency executive temporary custodian of the
5 minor and the court may enter such other orders related to the
6 temporary custody as it deems fit and proper, including the
7 provision of services to the minor or his family to ameliorate
8 the causes contributing to the finding of probable cause or to
9 the finding of the existence of immediate and urgent necessity.

10 Where the Department of Children and Family Services
11 Guardianship Administrator is appointed as the executive
12 temporary custodian, the Department of Children and Family
13 Services shall file with the court and serve on the parties a
14 parent-child visiting plan, within 10 days, excluding weekends
15 and holidays, after the appointment. The parent-child visiting
16 plan shall set out the time and place of visits, the frequency
17 of visits, the length of visits, who shall be present at the
18 visits, and where appropriate, the minor's opportunities to
19 have telephone and mail communication with the parents. For
20 good cause, the court may waive the requirement to file the
21 parent-child visiting plan or extend the time for filing the
22 parent-child visiting plan. Any party may, by motion, request
23 the court to review the parent-child visiting plan to determine
24 whether it is reasonably calculated to expeditiously
25 facilitate the achievement of the permanency goal and is
26 consistent with the minor's best interest. The frequency,

1 duration, and locations of visitation shall be measured by the
2 needs of the child and family, and not by the convenience of
3 Department personnel. Child development principles shall be
4 considered by the court in its analysis of how frequent
5 visitation should be, how long it should last, where it should
6 take place, and who should be present. If upon motion of the
7 party to review the plan and after receiving evidence, the
8 court determines that the parent-child visiting plan is not
9 reasonably calculated to expeditiously facilitate the
10 achievement of the permanency goal or that the restrictions
11 placed on parent-child contact are contrary to the child's best
12 interests, the court shall put in writing the factual basis
13 supporting the determination and enter specific findings based
14 on the evidence. The court shall enter an order for the
15 Department to implement changes to the parent-child visiting
16 plan, consistent with the court's findings. At any stage of
17 proceeding, any party may by motion request the court to enter
18 any orders necessary to implement the parent-child visiting
19 plan. Nothing under this subsection (2) shall restrict the
20 court from granting discretionary authority to the Department
21 to increase opportunities for additional parent-child
22 contacts, without further court orders. Nothing in this
23 subsection (2) shall restrict the Department from immediately
24 restricting or terminating parent-child contact, without
25 either amending the parent-child visiting plan or obtaining a
26 court order, where the Department or its assigns reasonably

1 believe that continuation of parent-child contact, as set out
2 in the parent-child visiting plan, would be contrary to the
3 child's health, safety, and welfare. The Department shall file
4 with the court and serve on the parties any amendments to the
5 visitation plan within 10 days, excluding weekends and
6 holidays, of the change of the visitation. Any party may, by
7 motion, request the court to review the parent-child visiting
8 plan to determine whether the parent-child visiting plan is
9 reasonably calculated to expeditiously facilitate the
10 achievement of the permanency goal, and is consistent with the
11 minor's health, safety, and best interest.

12 Acceptance of services shall not be considered an admission
13 of any allegation in a petition made pursuant to this Act, nor
14 may a referral of services be considered as evidence in any
15 proceeding pursuant to this Act, except where the issue is
16 whether the Department has made reasonable efforts to reunite
17 the family. In making its findings that it is consistent with
18 the health, safety and best interests of the minor to prescribe
19 shelter care, the court shall state in writing (i) the factual
20 basis supporting its findings concerning the immediate and
21 urgent necessity for the protection of the minor or of the
22 person or property of another and (ii) the factual basis
23 supporting its findings that reasonable efforts were made to
24 prevent or eliminate the removal of the minor from his or her
25 home or that no efforts reasonably could be made to prevent or
26 eliminate the removal of the minor from his or her home. The

1 parents, guardian, custodian, temporary custodian and minor
2 shall each be furnished a copy of such written findings. The
3 temporary custodian shall maintain a copy of the court order
4 and written findings in the case record for the child. The
5 order together with the court's findings of fact in support
6 thereof shall be entered of record in the court.

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

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

21 (3) If prior to the shelter care hearing for a minor
22 described in Sections 2-3, 2-4, 3-3 and 4-3 the moving party is
23 unable to serve notice on the party respondent, the shelter
24 care hearing may proceed ex-parte. A shelter care order from an
25 ex-parte hearing shall be endorsed with the date and hour of
26 issuance and shall be filed with the clerk's office and entered

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

21 NOTICE TO PARENTS AND CHILDREN
 22 OF SHELTER CARE HEARING

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

1 or dependent for the following reasons:

2 and (2)
3 whether there is "immediate and urgent necessity" to remove
4 the child or children from the responsible relative.

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

11 At the shelter care hearing, parents have the following
12 rights:

13 1. To ask the court to appoint a lawyer if they
14 cannot afford one.

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

17 3. To present evidence concerning:

18 a. Whether or not the child or children were
19 abused, neglected or dependent.

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

25 c. The best interests of the child.

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

1 The Notice for rehearings shall be substantially as
2 follows:

3 NOTICE OF PARENT'S AND CHILDREN'S RIGHTS
4 TO REHEARING ON TEMPORARY CUSTODY

5 If you were not present at and did not have adequate
6 notice of the Shelter Care Hearing at which temporary
7 custody of was awarded to
8, you have the right to request a full
9 rehearing on whether the State should have temporary
10 custody of To request this rehearing,
11 you must file with the Clerk of the Juvenile Court
12 (address):, in person or by
13 mailing a statement (affidavit) setting forth the
14 following:

- 15 1. That you were not present at the shelter care
- 16 hearing.
- 17 2. That you did not get adequate notice (explaining
- 18 how the notice was inadequate).
- 19 3. Your signature.
- 20 4. Signature must be notarized.

21 The rehearing should be scheduled within 48 hours of
22 your filing this affidavit.

23 At the rehearing, your rights are the same as at the
24 initial shelter care hearing. The enclosed notice explains
25 those rights.

1 At the Shelter Care Hearing, children have the
2 following rights:

3 1. To have a guardian ad litem appointed.

4 2. To be declared competent as a witness and to
5 present testimony concerning:

6 a. Whether they are abused, neglected or
7 dependent.

8 b. Whether there is "immediate and urgent
9 necessity" to be removed from home.

10 c. Their best interests.

11 3. To cross examine witnesses for other parties.

12 4. To obtain an explanation of any proceedings and
13 orders of the court.

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

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

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

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

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

22 (9) Notwithstanding any other provision of this Section any
23 interested party, including the State, the temporary
24 custodian, an agency providing services to the minor or family
25 under a service plan pursuant to Section 8.2 of the Abused and
26 Neglected Child Reporting Act, foster parent, or any of their

1 representatives, on notice to all parties entitled to notice,
2 may file a motion that it is in the best interests of the minor
3 to modify or vacate a temporary custody order on any of the
4 following grounds:

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

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

11 (c) A person not a party to the alleged abuse, neglect
12 or dependency, including a parent, relative or legal
13 guardian, is capable of assuming temporary custody of the
14 minor; or

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

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

23 The clerk shall set the matter for hearing not later than
24 14 days after such motion is filed. In the event that the court
25 modifies or vacates a temporary custody order but does not
26 vacate its finding of probable cause, the court may order that

1 appropriate services be continued or initiated in behalf of the
2 minor and his or her family.

3 (10) When the court finds or has found that there is
4 probable cause to believe a minor is an abused minor as
5 described in subsection (2) of Section 2-3 and that there is an
6 immediate and urgent necessity for the abused minor to be
7 placed in shelter care, immediate and urgent necessity shall be
8 presumed for any other minor residing in the same household as
9 the abused minor provided:

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

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

14 Once the presumption of immediate and urgent necessity has
15 been raised, the burden of demonstrating the lack of immediate
16 and urgent necessity shall be on any party that is opposing
17 shelter care for the other minor.

18 (Source: P.A. 94-604, eff. 1-1-06; 95-405, eff. 6-1-08; 95-642,
19 eff. 6-1-08; revised 11-19-07.)

20 (705 ILCS 405/3-12) (from Ch. 37, par. 803-12)

21 Sec. 3-12. Shelter care hearing. At the appearance of the
22 minor before the court at the shelter care hearing, all
23 witnesses present shall be examined before the court in
24 relation to any matter connected with the allegations made in
25 the petition.

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

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

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

1 good cause has been shown why reasonable efforts cannot prevent
2 or eliminate the necessity of removal of the minor from his or
3 her home, the court shall state in writing its findings
4 concerning the nature of the services that were offered or the
5 efforts that were made to prevent removal of the child and the
6 apparent reasons that such services or efforts could not
7 prevent the need for removal. The parents, guardian, custodian,
8 temporary custodian and minor shall each be furnished a copy of
9 such written findings. The temporary custodian shall maintain a
10 copy of the court order and written findings in the case record
11 for the child.

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

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

20 (3) If prior to the shelter care hearing for a minor
21 described in Sections 2-3, 2-4, 3-3 and 4-3 the petitioner is
22 unable to serve notice on the party respondent, the shelter
23 care hearing may proceed ex-parte. A shelter care order from an
24 ex-parte hearing shall be endorsed with the date and hour of
25 issuance and shall be filed with the clerk's office and entered
26 of record. The order shall expire after 10 days from the time

1 it is issued unless before its expiration it is renewed, at a
 2 hearing upon appearance of the party respondent, or upon an
 3 affidavit of the moving party as to all diligent efforts to
 4 notify the party respondent by notice as herein prescribed. The
 5 notice prescribed shall be in writing and shall be personally
 6 delivered to the minor or the minor's attorney and to the last
 7 known address of the other person or persons entitled to
 8 notice. The notice shall also state the nature of the
 9 allegations, the nature of the order sought by the State,
 10 including whether temporary custody is sought, and the
 11 consequences of failure to appear; and shall explain the right
 12 of the parties and the procedures to vacate or modify a shelter
 13 care order as provided in this Section. The notice for a
 14 shelter care hearing shall be substantially as follows:

15 NOTICE TO PARENTS AND CHILDREN OF SHELTER CARE HEARING

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

21
 22 and (2) that there is "immediate and urgent necessity" to
 23 remove the child or children from the responsible relative.

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

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

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

5 2. To ask the court to continue the hearing to allow
6 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 urgent
11 necessity" to remove the child from home (including:
12 their ability to care for the child, conditions in the
13 home, alternative means of protecting the child other
14 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 notice
22 of the Shelter Care Hearing at which temporary custody of
23 was awarded to, you have the
24 right to request a full rehearing on whether the State should
25 have temporary custody of To request this
26 rehearing, you must file with the Clerk of the Juvenile Court

1 (address):, in person or by mailing a
2 statement (affidavit) setting forth the following:

3 1. That you were not present at the shelter care
4 hearing.

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

7 3. Your signature.

8 4. Signature must be notarized.

9 The rehearing should be scheduled within one day of your
10 filing this affidavit.

11 At the rehearing, your rights are the same as at the
12 initial shelter care hearing. The enclosed notice explains
13 those rights.

14 At the Shelter Care Hearing, children have the following
15 rights:

16 1. To have a guardian ad litem appointed.

17 2. To be declared competent as a witness and to present
18 testimony concerning:

19 a. Whether they are abused, neglected or
20 dependent.

21 b. Whether there is "immediate and urgent
22 necessity" to be removed from home.

23 c. Their best interests.

24 3. To cross examine witnesses for other parties.

25 4. To obtain an explanation of any proceedings and
26 orders of the court.

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

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

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

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

23 (8) If neither the parent, guardian or custodian appears
24 within 24 hours to take custody of a minor released upon
25 request pursuant to subsection (2) of this Section, then the
26 clerk of the court shall set the matter for rehearing not later

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

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

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

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

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

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

1 temporary custody.

2 The clerk shall set the matter for hearing not later than
3 14 days after such motion is filed. In the event that the court
4 modifies or vacates a temporary custody order but does not
5 vacate its finding of probable cause, the court may order that
6 appropriate services be continued or initiated in behalf of the
7 minor and his or her family.

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

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

10 Sec. 4-9. Shelter care hearing. At the appearance of the
11 minor before the court at the shelter care hearing, all
12 witnesses present shall be examined before the court in
13 relation to any matter connected with the allegations made in
14 the petition.

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

18 (2) If the court finds that there is probable cause to
19 believe that the minor is addicted, the minor, his or her
20 parent, guardian, custodian and other persons able to give
21 relevant testimony shall be examined before the court. After
22 such testimony, the court may enter an order that the minor
23 shall be released upon the request of a parent, guardian or
24 custodian if the parent, guardian or custodian appears to take
25 custody and agrees to abide by a court order which requires the

1 minor and his or her parent, guardian, or legal custodian to
2 complete an evaluation by an entity licensed by the Department
3 of Human Services, as the successor to the Department of
4 Alcoholism and Substance Abuse, and complete any treatment
5 recommendations indicated by the assessment. Custodian shall
6 include any agency of the State which has been given custody or
7 wardship of the child.

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

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

1 home, the court shall state in writing its findings concerning
2 the nature of the services that were offered or the efforts
3 that were made to prevent removal of the child and the apparent
4 reasons that such services or efforts could not prevent the
5 need for removal. The parents, guardian, custodian, temporary
6 custodian and minor shall each be furnished a copy of such
7 written findings. The temporary custodian shall maintain a copy
8 of the court order and written findings in the case record for
9 the child. The order together with the court's findings of fact
10 in support thereof shall be entered of record in the court.

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

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

25 (4) If the minor is not brought before a judicial officer
26 within the time period as specified in Section 4-8, the minor

1 must immediately be released from custody.

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

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

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

25 (8) Any interested party, including the State, the
26 temporary custodian, an agency providing services to the minor

1 or family under a service plan pursuant to Section 8.2 of the
2 Abused and Neglected Child Reporting Act, foster parent, or any
3 of their representatives, may file a motion to modify or vacate
4 a temporary custody order on any of the following grounds:

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

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

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

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

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

22 (Source: P.A. 89-422; 89-507, eff. 7-1-97; 90-590, eff.
23 1-1-99.)

24 (705 ILCS 405/5-105)

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

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

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

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

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

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

24 (5) "Detention" means the temporary care of a minor who is
25 alleged to be or has been adjudicated delinquent and who
26 requires secure custody for the minor's own protection or the

1 community's protection in a facility designed to physically
2 restrict the minor's movements, pending disposition by the
3 court or execution of an order of the court for placement or
4 commitment. Design features that physically restrict movement
5 include, but are not limited to, locked rooms and the secure
6 handcuffing of a minor to a rail or other stationary object. In
7 addition, "detention" includes the court ordered care of an
8 alleged or adjudicated delinquent minor who requires secure
9 custody pursuant to Section 5-125 of this Act.

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

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

18 (8) "Juvenile justice continuum" means a set of delinquency
19 prevention programs and services designed for the purpose of
20 preventing or reducing delinquent acts, including criminal
21 activity by youth gangs, as well as intervention,
22 rehabilitation, and prevention services targeted at minors who
23 have committed delinquent acts, and minors who have previously
24 been committed to residential treatment programs for
25 delinquents. The term includes children-in-need-of-services
26 and families-in-need-of-services programs; aftercare and

1 reentry services; substance abuse and mental health programs;
2 community service programs; community service work programs;
3 and alternative-dispute resolution programs serving
4 youth-at-risk of delinquency and their families, whether
5 offered or delivered by State or local governmental entities,
6 public or private for-profit or not-for-profit organizations,
7 or religious or charitable organizations. This term would also
8 encompass any program or service consistent with the purpose of
9 those programs and services enumerated in this subsection.

10 (9) "Juvenile police officer" means a sworn police officer
11 who has completed a Basic Recruit Training Course, has been
12 assigned to the position of juvenile police officer by his or
13 her chief law enforcement officer and has completed the
14 necessary juvenile officers training as prescribed by the
15 Illinois Law Enforcement Training Standards Board, or in the
16 case of a State police officer, juvenile officer training
17 approved by the Director of State Police.

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

20 (11) "Non-secure custody" means confinement where the
21 minor is not physically restricted by being placed in a locked
22 cell or room, by being handcuffed to a rail or other stationary
23 object, or by other means. Non-secure custody may include, but
24 is not limited to, electronic monitoring, foster home
25 placement, home confinement, group home placement, or physical
26 restriction of movement or activity solely through facility

1 staff.

2 (12) "Public or community service" means uncompensated
3 labor for a not-for-profit organization or public body whose
4 purpose is to enhance physical or mental stability of the
5 offender, environmental quality or the social welfare and which
6 agrees to accept public or community service from offenders and
7 to report on the progress of the offender and the public or
8 community service to the court or to the authorized diversion
9 program that has referred the offender for public or community
10 service.

11 (13) "Sentencing hearing" means a hearing to determine
12 whether a minor should be adjudged a ward of the court, and to
13 determine what sentence should be imposed on the minor. It is
14 the intent of the General Assembly that the term "sentencing
15 hearing" replace the term "dispositional hearing" and be
16 synonymous with that definition as it was used in the Juvenile
17 Court Act of 1987.

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

21 (15) "Site" means a not-for-profit organization, public
22 body, church, charitable organization, or individual agreeing
23 to accept community service from offenders and to report on the
24 progress of ordered or required public or community service to
25 the court or to the authorized diversion program that has
26 referred the offender for public or community service.

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

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

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

10 (705 ILCS 405/5-120)

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

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

21 (705 ILCS 405/5-130)

22 Sec. 5-130. Excluded jurisdiction.

23 (1) (a) The definition of delinquent minor under Section
24 5-120 of this Article shall not apply to any minor who at the

1 time of an offense was at least 15 years of age and who is
2 charged with: (i) first degree murder, (ii) aggravated criminal
3 sexual assault, (iii) aggravated battery with a firearm where
4 the minor personally discharged a firearm as defined in Section
5 2-15.5 of the Criminal Code of 1961, (iv) armed robbery when
6 the armed robbery was committed with a firearm, or (v)
7 aggravated vehicular hijacking when the hijacking was
8 committed with a firearm.

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

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.

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

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

1 security of the public requires sentencing under Chapter V of
2 the Unified Code of Corrections; and (f) whether the minor
3 possessed a deadly weapon when committing the offense. The
4 rules of evidence shall be the same as if at trial. If after
5 the hearing the court finds that the minor should be sentenced
6 under Chapter V of the Unified Code of Corrections, then the
7 court shall sentence the minor accordingly having available to
8 it any or all dispositions so prescribed.

9 (2) (Blank).

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

1 Juvenile Court under the provisions of this Article. The
2 State's Attorney may proceed under the criminal laws of this
3 State on a lesser charge if before trial the minor defendant
4 knowingly and with advice of counsel waives, in writing, his or
5 her right to have the matter proceed in Juvenile Court.

6 (ii) If before trial or plea an information or indictment
7 is filed that includes one or more charges specified in
8 paragraph (a) of this subsection (3) and additional charges
9 that are not specified in that paragraph, all of the charges
10 arising out of the same incident shall be prosecuted under the
11 criminal laws of this State.

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

17 (ii) If after trial or plea the court finds that the minor
18 committed an offense not covered by paragraph (a) of this
19 subsection (3), that finding shall not invalidate the verdict
20 or the prosecution of the minor under the criminal laws of the
21 State; however, unless the State requests a hearing for the
22 purpose of sentencing the minor under Chapter V of the Unified
23 Code of Corrections, the Court must proceed under Sections
24 5-705 and 5-710 of this Article. To request a hearing, the
25 State must file a written motion within 10 days following the
26 entry of a finding or the return of a verdict. Reasonable

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

1 exclusively upon the accountability provisions of the Criminal
2 Code of 1961.

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

14 (ii) If before trial or plea an information or indictment
15 is filed that includes first degree murder committed during the
16 course of aggravated criminal sexual assault, criminal sexual
17 assault, or aggravated kidnaping, and additional charges that
18 are not specified in paragraph (a) of this subsection, all of
19 the charges arising out of the same incident shall be
20 prosecuted under the criminal laws of this State.

21 (c) (i) If after trial or plea the minor is convicted of
22 first degree murder committed during the course of aggravated
23 criminal sexual assault, criminal sexual assault, or
24 aggravated kidnaping, in sentencing the minor, the court shall
25 have available any or all dispositions prescribed for that
26 offense under Chapter V of the Unified Code of Corrections.

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

1 and (f) whether the minor possessed a deadly weapon when
2 committing the offense. The rules of evidence shall be the same
3 as if at trial. If after the hearing the court finds that the
4 minor should be sentenced under Chapter V of the Unified Code
5 of Corrections, then the court shall sentence the minor
6 accordingly having available to it any or all dispositions so
7 prescribed.

8 (5) (a) The definition of delinquent minor under Section
9 5-120 of this Article shall not apply to any minor who is
10 charged with a violation of subsection (a) of Section 31-6 or
11 Section 32-10 of the Criminal Code of 1961 when the minor is
12 subject to prosecution under the criminal laws of this State as
13 a result of the application of the provisions of Section 5-125,
14 or subsection (1) or (2) of this Section. These charges and all
15 other charges arising out of the same incident shall be
16 prosecuted under the criminal laws of this State.

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

26 (ii) If before trial or plea an information or indictment

1 is filed that includes one or more charges specified in
2 paragraph (a) of this subsection (5) and additional charges
3 that are not specified in that paragraph, all of the charges
4 arising out of the same incident shall be prosecuted under the
5 criminal laws of this State.

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

11 (ii) If after trial or plea the court finds that the minor
12 committed an offense not covered by paragraph (a) of this
13 subsection (5), the conviction shall not invalidate the verdict
14 or the prosecution of the minor under the criminal laws of this
15 State; however, unless the State requests a hearing for the
16 purpose of sentencing the minor under Chapter V of the Unified
17 Code of Corrections, the Court must proceed under Sections
18 5-705 and 5-710 of this Article. To request a hearing, the
19 State must file a written motion within 10 days following the
20 entry of a finding or the return of a verdict. Reasonable
21 notice of the motion shall be given to the minor or his or her
22 counsel. If the motion is made by the State, the court shall
23 conduct a hearing to determine if whether the minor should be
24 sentenced under Chapter V of the Unified Code of Corrections.
25 In making its determination, the court shall consider among
26 other matters: (a) whether there is evidence that the offense

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

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

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

26 (8) Nothing in this Act prohibits or limits the prosecution

1 of any minor for an offense committed on or after his or her
2 18th ~~17th~~ birthday even though he or she is at the time of the
3 offense a ward of the court.

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

14 (10) If, prior to August 12, 2005 (the effective date of
15 Public Act 94-574), a minor is charged with a violation of
16 Section 401 of the Illinois Controlled Substances Act under the
17 criminal laws of this State, other than a minor charged with a
18 Class X felony violation of the Illinois Controlled Substances
19 Act or the Methamphetamine Control and Community Protection
20 Act, any party including the minor or the court sua sponte may,
21 before trial, move for a hearing for the purpose of trying and
22 sentencing the minor as a delinquent minor. To request a
23 hearing, the party must file a motion prior to trial.
24 Reasonable notice of the motion shall be given to all parties.
25 On its own motion or upon the filing of a motion by one of the
26 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. 94-556, eff. 9-11-05; 94-574, eff. 8-12-05;
23 94-696, eff. 6-1-06.)

24 (705 ILCS 405/5-401.5)

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

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

6 In this Section, "electronic recording" includes motion
7 picture, audiotape, videotape, or digital recording.

8 In this Section, "place of detention" means a building or a
9 police station that is a place of operation for a municipal
10 police department or county sheriff department or other law
11 enforcement agency at which persons are or may be held in
12 detention in connection with criminal charges against those
13 persons or allegations that those persons are delinquent
14 minors.

15 (b) An oral, written, or sign language statement of a minor
16 who, at the time of the commission of the offense was under the
17 age of 18 ~~17~~ years, made as a result of a custodial
18 interrogation conducted at a police station or other place of
19 detention on or after the effective date of this amendatory Act
20 of the 93rd General Assembly shall be presumed to be
21 inadmissible as evidence against the minor in any criminal
22 proceeding or juvenile court proceeding, for an act that if
23 committed by an adult would be brought under Section 9-1,
24 9-1.2, 9-2, 9-2.1, 9-3, 9-3.2, or 9-3.3, of the Criminal Code
25 of 1961 or under clause (d)(1)(F) of Section 11-501 of the
26 Illinois Vehicle Code unless:

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

3 (2) the recording is substantially accurate and not
4 intentionally altered.

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

10 (d) If the court finds, by a preponderance of the evidence,
11 that the minor was subjected to a custodial interrogation in
12 violation of this Section, then any statements made by the
13 minor during or following that non-recorded custodial
14 interrogation, even if otherwise in compliance with this
15 Section, are presumed to be inadmissible in any criminal
16 proceeding or juvenile court proceeding against the minor
17 except for the purposes of impeachment.

18 (e) Nothing in this Section precludes the admission (i) of
19 a statement made by the minor in open court in any criminal
20 proceeding or juvenile court proceeding, before a grand jury,
21 or at a preliminary hearing, (ii) of a statement made during a
22 custodial interrogation that was not recorded as required by
23 this Section because electronic recording was not feasible,
24 (iii) of a voluntary statement, whether or not the result of a
25 custodial interrogation, that has a bearing on the credibility
26 of the accused as a witness, (iv) of a spontaneous statement

1 that is not made in response to a question, (v) of a statement
2 made after questioning that is routinely asked during the
3 processing of the arrest of the suspect, (vi) of a statement
4 made during a custodial interrogation by a suspect who
5 requests, prior to making the statement, to respond to the
6 interrogator's questions only if an electronic recording is not
7 made of the statement, provided that an electronic recording is
8 made of the statement of agreeing to respond to the
9 interrogator's question, only if a recording is not made of the
10 statement, (vii) of a statement made during a custodial
11 interrogation that is conducted out-of-state, (viii) of a
12 statement given at a time when the interrogators are unaware
13 that a death has in fact occurred, or (ix) of any other
14 statement that may be admissible under law. The State shall
15 bear the burden of proving, by a preponderance of the evidence,
16 that one of the exceptions described in this subsection (e) is
17 applicable. Nothing in this Section precludes the admission of
18 a statement, otherwise inadmissible under this Section, that is
19 used only for impeachment and not as substantive evidence.

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

25 (g) Any electronic recording of any statement made by a
26 minor during a custodial interrogation that is compiled by any

1 law enforcement agency as required by this Section for the
2 purposes of fulfilling the requirements of this Section shall
3 be confidential and exempt from public inspection and copying,
4 as provided under Section 7 of the Freedom of Information Act,
5 and the information shall not be transmitted to anyone except
6 as needed to comply with this Section.

7 (Source: P.A. 93-206, eff. 7-18-05; 93-517, eff. 8-6-05;
8 94-117, eff. 7-5-05.)

9 (705 ILCS 405/5-410)

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

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

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

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

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

21 (b-5) Subject to the provisions of subsection (b-4), if a
22 probation officer or detention officer (or other public officer
23 designated by the court in a county having 3,000,000 or more
24 inhabitants) does not intend to detain a minor for an offense
25 which constitutes one of the following offenses he or she shall
26 consult with the State's Attorney's Office prior to the release

1 of the minor: first degree murder, second degree murder,
2 involuntary manslaughter, criminal sexual assault, aggravated
3 criminal sexual assault, aggravated battery with a firearm,
4 aggravated or heinous battery involving permanent disability
5 or disfigurement or great bodily harm, robbery, aggravated
6 robbery, armed robbery, vehicular hijacking, aggravated
7 vehicular hijacking, vehicular invasion, arson, aggravated
8 arson, kidnapping, aggravated kidnapping, home invasion,
9 burglary, or residential burglary.

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

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

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

26 (iii) Upon placement in secure custody in a jail or

1 lockup, the minor shall be informed of the purpose of the
2 detention, the time it is expected to last and the fact
3 that it cannot exceed the time specified under this Act.

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

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

21 (A) The age of the person;

22 (B) Any previous delinquent or criminal history of
23 the person;

24 (C) Any previous abuse or neglect history of the
25 person; and

26 (D) Any mental health or educational history of the

1 person, or both.

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

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

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

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

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

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

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

26 (3) If the probation officer or State's Attorney (or such

1 other public officer designated by the court in a county having
2 3,000,000 or more inhabitants) determines that the minor may be
3 a delinquent minor as described in subsection (3) of Section
4 5-105, and should be retained in custody but does not require
5 physical restriction, the minor may be placed in non-secure
6 custody for up to 40 hours pending a detention hearing.

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

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

12 (705 ILCS 405/5-901)

13 Sec. 5-901. Court file.

14 (1) The Court file with respect to proceedings under this
15 Article shall consist of the petitions, pleadings, victim
16 impact statements, process, service of process, orders, writs
17 and docket entries reflecting hearings held and judgments and
18 decrees entered by the court. The court file shall be kept
19 separate from other records of the court.

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

24 (i) A judge of the circuit court and members of the
25 staff of the court designated by the judge;

1 (ii) Parties to the proceedings and their
2 attorneys;

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

7 (iv) Probation officers, law enforcement officers
8 or prosecutors or their staff;

9 (v) Adult and juvenile Prisoner Review Boards.

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

14 (i) Authorized military personnel;

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

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

1 available only to the Secretary of State, courts, and
2 police officers;

3 (iv) The administrator of a bonafide substance
4 abuse student assistance program with the permission
5 of the presiding judge of the juvenile court;

6 (v) Any individual, or any public or private agency
7 or institution, having custody of the juvenile under
8 court order or providing educational, medical or
9 mental health services to the juvenile or a
10 court-approved advocate for the juvenile or any
11 placement provider or potential placement provider as
12 determined by the court.

13 (3) A minor who is the victim or alleged victim in a
14 juvenile proceeding shall be provided the same confidentiality
15 regarding disclosure of identity as the minor who is the
16 subject of record. Information identifying victims and alleged
17 victims of sex offenses, shall not be disclosed or open to
18 public inspection under any circumstances. Nothing in this
19 Section shall prohibit the victim or alleged victim of any sex
20 offense from voluntarily disclosing his or her identity.

21 (4) Relevant information, reports and records shall be made
22 available to the Department of Juvenile Justice when a juvenile
23 offender has been placed in the custody of the Department of
24 Juvenile Justice.

25 (5) Except as otherwise provided in this subsection (5),
26 juvenile court records shall not be made available to the

1 general public but may be inspected by representatives of
2 agencies, associations and news media or other properly
3 interested persons by general or special order of the court.
4 The State's Attorney, the minor, his or her parents, guardian
5 and counsel shall at all times have the right to examine court
6 files and records.

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

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

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

1 Illinois Controlled Substances Act if committed by an
2 adult, (E) an act that would be an offense under
3 Section 401 of the Illinois Controlled Substances Act
4 if committed by an adult, or (F) an act that would be
5 an offense under the Methamphetamine Control and
6 Community Protection Act if committed by an adult.

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

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

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

1 subsequent offense under Section 402 of the Illinois
2 Controlled Substances Act, (E) an offense under
3 Section 401 of the Illinois Controlled Substances Act,
4 or (F) an offense under the Methamphetamine Control and
5 Community Protection Act.

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

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

19 (8) Following any adjudication of delinquency for a crime
20 which would be a felony if committed by an adult, or following
21 any adjudication of delinquency for a violation of Section
22 24-1, 24-3, 24-3.1, or 24-5 of the Criminal Code of 1961, the
23 State's Attorney shall ascertain whether the minor respondent
24 is enrolled in school and, if so, shall provide a copy of the
25 sentencing order to the principal or chief administrative
26 officer of the school. Access to such juvenile records shall be

1 limited to the principal or chief administrative officer of the
2 school and any guidance counselor designated by him or her.

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

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

18 (12) Information or records may be disclosed to the general
19 public when the court is conducting hearings under Section
20 5-805 or 5-810.

21 (Source: P.A. 94-556, eff. 9-11-05; 94-696, eff. 6-1-06.)

22 (705 ILCS 405/5-905)

23 Sec. 5-905. Law enforcement records.

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

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

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

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

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

12 (d) Adult and Juvenile Prisoner Review Boards;

13 (e) Authorized military personnel;

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

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

1 (h) The appropriate school official. Inspection and
2 copying shall be limited to law enforcement records
3 transmitted to the appropriate school official by a local
4 law enforcement agency under a reciprocal reporting system
5 established and maintained between the school district and
6 the local law enforcement agency under Section 10-20.14 of
7 the School Code concerning a minor enrolled in a school
8 within the school district who has been arrested for any
9 offense classified as a felony or a Class A or B
10 misdemeanor.

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

16 (3) Relevant information, reports and records shall be made
17 available to the Department of Juvenile Justice when a juvenile
18 offender has been placed in the custody of the Department of
19 Juvenile Justice.

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

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

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

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

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

12 (Source: P.A. 94-696, eff. 6-1-06.)

13 (705 ILCS 405/5-915)

14 Sec. 5-915. Expungement of juvenile law enforcement and
15 court records.

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

23 (a) the minor was arrested and no petition for
24 delinquency was filed with the clerk of the circuit court;
25 or

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

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

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

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

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

19 (b) 5 years have elapsed since all juvenile court
20 proceedings relating to him or her have been terminated or
21 his or her commitment to the Department of Juvenile Justice
22 pursuant to this Act has been terminated;

23 whichever is later of (a) or (b).

24 (2.5) If a minor is arrested and no petition for
25 delinquency is filed with the clerk of the circuit court as
26 provided in paragraph (a) of subsection (1) at the time the

1 minor is released from custody, the youth officer, if
2 applicable, or other designated person from the arresting
3 agency, shall notify verbally and in writing to the minor or
4 the minor's parents or guardians that if the State's Attorney
5 does not file a petition for delinquency, the minor has a right
6 to petition to have his or her arrest record expunged when the
7 minor attains the age of 18 ~~17~~ or when all juvenile court
8 proceedings relating to that minor have been terminated and
9 that unless a petition to expunge is filed, the minor shall
10 have an arrest record and shall provide the minor and the
11 minor's parents or guardians with an expungement information
12 packet, including a petition to expunge juvenile records
13 obtained from the clerk of the circuit court.

14 (2.6) If a minor is charged with an offense and is found
15 not delinquent of that offense; or if a minor is placed under
16 supervision under Section 5-615, and the order of supervision
17 is successfully terminated; or if a minor is adjudicated for an
18 offense that would be a Class B misdemeanor, a Class C
19 misdemeanor, or a business or petty offense if committed by an
20 adult; or if a minor has incidents occurring before his or her
21 18th ~~17th~~ birthday that have not resulted in proceedings in
22 criminal court, or resulted in proceedings in juvenile court,
23 and the adjudications were not based upon first degree murder
24 or sex offenses that would be felonies if committed by an
25 adult; then at the time of sentencing or dismissal of the case,
26 the judge shall inform the delinquent minor of his or her right

1 to petition for expungement as provided by law, and the clerk
2 of the circuit court shall provide an expungement information
3 packet to the delinquent minor, written in plain language,
4 including a petition for expungement, a sample of a completed
5 petition, expungement instructions that shall include
6 information informing the minor that (i) once the case is
7 expunged, it shall be treated as if it never occurred, (ii) he
8 or she may apply to have petition fees waived, (iii) once he or
9 she obtains an expungement, he or she may not be required to
10 disclose that he or she had a juvenile record, and (iv) he or
11 she may file the petition on his or her own or with the
12 assistance of an attorney. The failure of the judge to inform
13 the delinquent minor of his or her right to petition for
14 expungement as provided by law does not create a substantive
15 right, nor is that failure grounds for: (i) a reversal of an
16 adjudication of delinquency, (ii) a new trial; or (iii) an
17 appeal.

18 (2.7) For counties with a population over 3,000,000, the
19 clerk of the circuit court shall send a "Notification of a
20 Possible Right to Expungement" post card to the minor at the
21 address last received by the clerk of the circuit court on the
22 date that the minor attains the age of 18 ~~17~~ based on the
23 birthdate provided to the court by the minor or his or her
24 guardian in cases under paragraphs (b), (c), and (d) of
25 subsection (1); and when the minor attains the age of 21 based
26 on the birthdate provided to the court by the minor or his or

1 her guardian in cases under subsection (2).

2 (2.8) The petition for expungement for subsection (1) shall
3 be substantially in the following form:

4 IN THE CIRCUIT COURT OF, ILLINOIS
5 JUDICIAL CIRCUIT

6 IN THE INTEREST OF) NO.
7)
8)
9)
10 (Name of Petitioner)

11 PETITION TO EXPUNGE JUVENILE RECORDS
12 (705 ILCS 405/5-915 (SUBSECTION 1))

13 (Please prepare a separate petition for each offense)

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

22 (Check One:)

23 () a. no petition was filed with the Clerk of the Circuit
24 Court.

1 () b. was charged with and was found not delinquent of
2 the offense.

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

5 () d. on placed under supervision pursuant to Section
6 5-615 of the Juvenile Court Act of 1987 and such order of
7 supervision successfully terminated on

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

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

15 Charge(s):

16 Arresting Agency or Agencies:

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

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

23

24 Petitioner (Signature)

1
2

Petitioner's Street Address

3
4

City, State, Zip Code

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6

Petitioner's Telephone Number

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

11
12

Petitioner (Signature)

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

15 IN THE CIRCUIT COURT OF, ILLINOIS

16 JUDICIAL CIRCUIT

17 IN THE INTEREST OF) NO.

18)

19)

20)

1 (Name of Petitioner)

2 PETITION TO EXPUNGE JUVENILE RECORDS

3 (705 ILCS 405/5-915 (SUBSECTION 2))

4 (Please prepare a separate petition for each offense)

5 Now comes, petitioner, and respectfully requests
6 that this Honorable Court enter an order expunging all Juvenile
7 Law Enforcement and Court records of petitioner and in support
8 thereof states that:

9 The incident for which the Petitioner seeks expungement
10 occurred before the Petitioner's 18th ~~17th~~ birthday and did not
11 result in proceedings in criminal court and the Petitioner has
12 not had any convictions for any crime since his/her 18th ~~17th~~
13 birthday; and

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

20 Petitioner was arrested on by the Police
21 Department for the offense of, and:

22 (Check whichever one occurred the latest:)

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

25 () b. 5 years have elapsed since all juvenile court

1 proceedings relating to the Petitioner have been terminated; or
 2 the Petitioner's commitment to the Department of Juvenile
 3 Justice pursuant to the expungement of juvenile law enforcement
 4 and court records provisions of the Juvenile Court Act of 1987
 5 has been terminated. Petitioner ...has ...has not been arrested
 6 on charges in this or any other county other than the charge
 7 listed above. If petitioner has been arrested on additional
 8 charges, please list the charges below:

9 Charge(s):

10 Arresting Agency or Agencies:

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

12 WHEREFORE, the petitioner respectfully requests this Honorable
 13 Court to (1) order all law enforcement agencies to expunge all
 14 records of petitioner related to this incident, and (2) to
 15 order the Clerk of the Court to expunge all records concerning
 16 the petitioner regarding this incident.

17

18 Petitioner (Signature)

19

20 Petitioner's Street Address

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22 City, State, Zip Code

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Petitioner's Telephone Number

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

.....

Petitioner (Signature)

(3) The chief judge of the circuit in which an arrest was made or a charge was brought or any judge of that circuit designated by the chief judge may, upon verified petition of a person who is the subject of an arrest or a juvenile court proceeding under subsection (1) or (2) of this Section, order the law enforcement records or official court file, or both, to be expunged from the official records of the arresting authority, the clerk of the circuit court and the Department of State Police. The person whose records are to be expunged shall petition the court using the appropriate form containing his or her current address and shall promptly notify the clerk of the circuit court of any change of address. Notice of the petition shall be served upon the State's Attorney or prosecutor charged with the duty of prosecuting the offense, the Department of State Police, and the arresting agency or agencies by the clerk of the circuit court. If an objection is filed within 90 days of the notice of the petition, the clerk of the circuit court shall set a date for hearing after the 90 day objection period.

1 At the hearing the court shall hear evidence on whether the
 2 expungement should or should not be granted. Unless the State's
 3 Attorney or prosecutor, the Department of State Police, or an
 4 arresting agency objects to the expungement within 90 days of
 5 the notice, the court may enter an order granting expungement.
 6 The person whose records are to be expunged shall pay the clerk
 7 of the circuit court a fee equivalent to the cost associated
 8 with expungement of records by the clerk and the Department of
 9 State Police. The clerk shall forward a certified copy of the
 10 order to the Department of State Police, the appropriate
 11 portion of the fee to the Department of State Police for
 12 processing, and deliver a certified copy of the order to the
 13 arresting agency.

14 (3.1) The Notice of Expungement shall be in substantially
 15 the following form:

16 IN THE CIRCUIT COURT OF, ILLINOIS
 17 JUDICIAL CIRCUIT

18 IN THE INTEREST OF) NO.
 19)
 20)
 21)
 22 (Name of Petitioner)

23 NOTICE

24 TO: State's Attorney

1 TO: Arresting Agency

2
3

4

5
6

7

8 TO: Illinois State Police

9
10

11
12

13 ATTENTION: Expungement

14 You are hereby notified that on, at, in courtroom
15 ..., located at ..., before the Honorable ..., Judge, or any
16 judge sitting in his/her stead, I shall then and there present
17 a Petition to Expunge Juvenile records in the above-entitled
18 matter, at which time and place you may appear.

19
20 Petitioner's Signature

21
22 Petitioner's Street Address

23
24 City, State, Zip Code

25
26 Petitioner's Telephone Number

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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.

)

1)

2)

3 (Name of Petitioner)

4 DOB

5 Arresting Agency/Agencies

ORDER OF EXPUNGEMENT

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

8 This matter having been heard on the petitioner's motion and
9 the court being fully advised in the premises does find that
10 the petitioner is indigent or has presented reasonable cause to
11 waive all costs in this matter, IT IS HEREBY ORDERED that:

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

14 () 2. The Illinois State Police Bureau of Identification
15 and the following law enforcement agencies expunge all records
16 of petitioner relating to an arrest dated for the
17 offense of

Law Enforcement Agencies:

.....

.....

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

23 ENTER:

24

25 JUDGE

1 DATED:

2 Name:

3 Attorney for:

4 Address: City/State/Zip:

5 Attorney Number:

6 (3.3) The Notice of Objection shall be in substantially the
7 following form:

8 IN THE CIRCUIT COURT OF, ILLINOIS
9 JUDICIAL CIRCUIT

10 IN THE INTEREST OF) NO.
11)
12)
13)
14 (Name of Petitioner)

15 NOTICE OF OBJECTION

16 TO:(Attorney, Public Defender, Minor)

17

18

19 TO:(Illinois State Police)

20

21

22 TO:(Clerk of the Court)

23

24

1 TO: (Judge)
 2
 3

4 TO: (Arresting Agency/Agencies)
 5
 6

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

- 10 () State's Attorney's Office;
- 11 () Prosecutor (other than State's Attorney's Office) charged
- 12 with the duty of prosecuting the offense sought to be expunged;
- 13 () Department of Illinois State Police; or
- 14 () Arresting Agency or Agencies.

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

18 DATED:

19 Name:

20 Attorney For:

21 Address:

22 City/State/Zip:

23 Telephone:

24 Attorney No.:

25 FOR USE BY CLERK OF THE COURT PERSONNEL ONLY

26 This matter has been set for hearing on the foregoing

1 objection, on in room, located at, before the
2 Honorable, Judge, or any judge sitting in his/her stead.
3 (Only one hearing shall be set, regardless of the number of
4 Notices of Objection received on the same case).

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

- 11 () Attorney, Public Defender or Minor;
12 () State's Attorney's Office;
13 () Prosecutor (other than State's Attorney's Office) charged
14 with the duty of prosecuting the offense sought to be expunged;
15 () Department of Illinois State Police; and
16 () Arresting agency or agencies.

17 Date:

18 Initials of Clerk completing this section:

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

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

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

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

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

15 (i) An explanation of the State's juvenile expungement
16 process;

17 (ii) The circumstances under which juvenile
18 expungement may occur;

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

20 (iv) The steps necessary to initiate and complete the
21 juvenile expungement process; and

22 (v) Directions on how to contact the State Appellate
23 Defender.

24 (c) The State Appellate Defender shall establish and
25 maintain a statewide toll-free telephone number that a person
26 may use to receive information or assistance concerning the

1 expungement of juvenile records. The State Appellate Defender
2 shall advertise the toll-free telephone number statewide. The
3 State Appellate Defender shall develop an expungement
4 information packet that may be sent to eligible persons seeking
5 expungement of their juvenile records, which may include, but
6 is not limited to, a pre-printed expungement petition with
7 instructions on how to complete the petition and a pamphlet
8 containing information that would assist individuals through
9 the juvenile expungement process.

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

13 (e) This Section shall be implemented from funds
14 appropriated by the General Assembly to the State Appellate
15 Defender for this purpose. The State Appellate Defender shall
16 employ the necessary staff and adopt the necessary rules for
17 implementation of this Section.

18 (8) (a) Except with respect to law enforcement agencies, the
19 Department of Corrections, State's Attorneys, or other
20 prosecutors, an expunged juvenile record may not be considered
21 by any private or public entity in employment matters,
22 certification, licensing, revocation of certification or
23 licensure, or registration. Applications for employment must
24 contain specific language that states that the applicant is not
25 obligated to disclose expunged juvenile records of conviction
26 or arrest. Employers may not ask if an applicant has had a

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

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

14 (Source: P.A. 93-912, eff. 8-12-04; 94-696, eff. 6-1-06.)

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

17 (730 ILCS 5/3-10-7) (from Ch. 38, par. 1003-10-7)

18 Sec. 3-10-7. Interdivisional Transfers.

19 (a) In any case where a minor was originally prosecuted
20 under the provisions of the Criminal Code of 1961, as amended,
21 and sentenced under the provisions of this Act pursuant to
22 Section 2-7 of the Juvenile Court Act or Section 5-805 of the
23 Juvenile Court Act of 1987 and committed to the Department of
24 Juvenile Justice under Section 5-8-6, the Department of

1 Juvenile Justice shall, within 30 days of the date that the
2 minor reaches the age of 18 ~~17~~, send formal notification to the
3 sentencing court and the State's Attorney of the county from
4 which the minor was sentenced indicating the day upon which the
5 minor offender will achieve the age of 18 ~~17~~. Within 90 days of
6 receipt of that notice, the sentencing court shall conduct a
7 hearing, pursuant to the provisions of subsection (c) of this
8 Section to determine whether or not the minor shall continue to
9 remain under the auspices of the Department of Juvenile Justice
10 or be transferred to the Adult Division of the Department of
11 Corrections.

12 The minor shall be served with notice of the date of the
13 hearing, shall be present at the hearing, and has the right to
14 counsel at the hearing. The minor, with the consent of his or
15 her counsel or guardian may waive his presence at hearing.

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

1 supervision may be transferred to the Adult Division of the
2 Department of Corrections.

3 (c) Any interdivisional transfer hearing conducted
4 pursuant to subsection (a) of this Section shall consider all
5 available information which may bear upon the issue of
6 transfer. All evidence helpful to the court in determining the
7 question of transfer, including oral and written reports
8 containing hearsay, may be relied upon to the extent of its
9 probative value, even though not competent for the purposes of
10 an adjudicatory hearing. The court shall consider, along with
11 any other relevant matter, the following:

12 1. The nature of the offense for which the minor was
13 found guilty and the length of the sentence the minor has
14 to serve and the record and previous history of the minor.

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

22 3. The relative maturity of the minor based upon the
23 physical, psychological and emotional development of the
24 minor.

25 4. The record of the rehabilitative progress of the
26 minor and an assessment of the vocational potential of the

1 minor.

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

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

23 (d) Whenever the Director of Juvenile Justice or his
24 designee determines that the interests of safety, security and
25 discipline require the transfer to the Department of
26 Corrections of a person 18 ~~17~~ years or older who was prosecuted

1 under the provisions of the Criminal Code of 1961, as amended,
2 and sentenced under the provisions of this Act pursuant to
3 Section 2-7 of the Juvenile Court Act or Section 5-805 of the
4 Juvenile Court Act of 1987 and committed to the Department of
5 Juvenile Justice under Section 5-8-6, the Director or his
6 designee may authorize the emergency transfer of such person,
7 unless the transfer of the person is governed by subsection (e)
8 of this Section. The sentencing court shall be provided notice
9 of any emergency transfer no later than 3 days after the
10 emergency transfer. Upon motion brought within 60 days of the
11 emergency transfer by the sentencing court or any party, the
12 sentencing court may conduct a hearing pursuant to the
13 provisions of subsection (c) of this Section in order to
14 determine whether the person shall remain confined in the
15 Department of Corrections.

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

1 Corrections:

2 1. The nature of the offense for which the person was
3 found guilty and the length of the sentence the person has
4 to serve and the record and previous history of the person.

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

12 3. The relative maturity of the person based upon the
13 physical, psychological and emotional development of the
14 person.

15 4. The record of the rehabilitative progress of the
16 person and an assessment of the vocational potential of the
17 person.

18 5. An assessment of the necessity for transfer of the
19 person, including, but not limited to, the availability of
20 space within the Department of Corrections, the
21 disciplinary and security problem which the person has
22 presented to the Department of Juvenile Justice and the
23 practicability of maintaining the person in a juvenile
24 facility, whether resources have been exhausted within the
25 Department of Juvenile Justice, the availability of
26 rehabilitative and vocational programs within the

1 Department of Corrections, and the anticipated ability of
2 the person to adjust to confinement within an adult
3 institution based upon the person's physical size and
4 maturity.

5 (Source: P.A. 94-696, eff. 6-1-06.)

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

7 Sec. 5-8-6. Place of Confinement.

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

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

23 (c) All offenders under 18 ~~17~~ years of age when sentenced
24 to imprisonment shall be committed to the Department of
25 Juvenile Justice and the court in its order of commitment shall

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

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

16 (e) When a court sentences a defendant to a term of
17 imprisonment concurrent with a previous and unexpired sentence
18 of imprisonment imposed by any district court of the United
19 States, it may commit the offender to the custody of the
20 Attorney General of the United States. The Attorney General of
21 the United States, or the authorized representative of the
22 Attorney General of the United States, shall be furnished with
23 the warrant of commitment from the court imposing sentence,
24 which warrant of commitment shall provide that, when the
25 offender is released from federal confinement, whether by
26 parole or by termination of sentence, the offender shall be

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

6 (Source: P.A. 94-696, eff. 6-1-06.)

7 Section 99. Effective date. This Act takes effect January
8 1, 2010.