



Rep. Barbara Flynn Currie

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LRB098 07733 RLC 44127 a

1 AMENDMENT TO HOUSE BILL 2404

2 AMENDMENT NO. _____. Amend House Bill 2404, AS AMENDED, by
3 replacing the introductory clause of Section 5 with the
4 following:

5 "Section 5. The Juvenile Court Act of 1987 is amended by
6 changing Sections 1-7, 1-8, 1-9, 2-10, 3-12, 4-9, 5-105, 5-120,
7 5-130, 5-401.5, 5-410, 5-901, 5-905, and 5-915 as follows:";
8 and

9 by inserting after the last line of Sec. 1-8 of Section 5 the
10 following:

11 "(705 ILCS 405/1-9) (from Ch. 37, par. 801-9)

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

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

16 (2) This subsection (2) applies to expungement of law

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

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

21 (4) The changes made to this Section by this amendatory Act
22 of the 98th General Assembly apply to law enforcement and
23 juvenile court records of a minor who has been arrested or
24 taken into custody on or after the effective date of this
25 amendatory Act.

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

1 (705 ILCS 405/2-10) (from Ch. 37, par. 802-10)

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

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

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

1 removal of the minor from his or her home, the court may enter
2 an Order of Protection setting forth reasonable conditions of
3 behavior that a parent, guardian, or custodian must observe for
4 a specified period of time, not to exceed 12 months, without a
5 violation; provided, however, that the 12-month period shall
6 begin anew after any violation. Custodian shall include any
7 agency of the State which has been given custody or wardship of
8 the child. If it is consistent with the health, safety and best
9 interests of the minor, the court may also prescribe shelter
10 care and order that the minor be kept in a suitable place
11 designated by the court or in a shelter care facility
12 designated by the Department of Children and Family Services or
13 a licensed child welfare agency; however, a minor charged with
14 a criminal offense under the Criminal Code of 1961 or the
15 Criminal Code of 2012 or adjudicated delinquent shall not be
16 placed in the custody of or committed to the Department of
17 Children and Family Services by any court, except a minor less
18 than 15 years of age and committed to the Department of
19 Children and Family Services under Section 5-710 of this Act or
20 a minor for whom an independent basis of abuse, neglect, or
21 dependency exists. An independent basis exists when the
22 allegations or adjudication of abuse, neglect, or dependency do
23 not arise from the same facts, incident, or circumstances which
24 give rise to a charge or adjudication of delinquency.

25 In placing the minor, the Department or other agency shall,
26 to the extent compatible with the court's order, comply with

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

1 other appropriate agency executive temporary custodian of the
2 minor and the court may enter such other orders related to the
3 temporary custody as it deems fit and proper, including the
4 provision of services to the minor or his family to ameliorate
5 the causes contributing to the finding of probable cause or to
6 the finding of the existence of immediate and urgent necessity.

7 Where the Department of Children and Family Services
8 Guardianship Administrator is appointed as the executive
9 temporary custodian, the Department of Children and Family
10 Services shall file with the court and serve on the parties a
11 parent-child visiting plan, within 10 days, excluding weekends
12 and holidays, after the appointment. The parent-child visiting
13 plan shall set out the time and place of visits, the frequency
14 of visits, the length of visits, who shall be present at the
15 visits, and where appropriate, the minor's opportunities to
16 have telephone and mail communication with the parents.

17 Where the Department of Children and Family Services
18 Guardianship Administrator is appointed as the executive
19 temporary custodian, and when the child has siblings in care,
20 the Department of Children and Family Services shall file with
21 the court and serve on the parties a sibling placement and
22 contact plan within 10 days, excluding weekends and holidays,
23 after the appointment. The sibling placement and contact plan
24 shall set forth whether the siblings are placed together, and
25 if they are not placed together, what, if any, efforts are
26 being made to place them together. If the Department has

1 determined that it is not in a child's best interest to be
2 placed with a sibling, the Department shall document in the
3 sibling placement and contact plan the basis for its
4 determination. For siblings placed separately, the sibling
5 placement and contact plan shall set the time and place for
6 visits, the frequency of the visits, the length of visits, who
7 shall be present for the visits, and where appropriate, the
8 child's opportunities to have contact with their siblings in
9 addition to in person contact. If the Department determines it
10 is not in the best interest of a sibling to have contact with a
11 sibling, the Department shall document in the sibling placement
12 and contact plan the basis for its determination. The sibling
13 placement and contact plan shall specify a date for development
14 of the Sibling Contact Support Plan, under subsection (f) of
15 Section 7.4 of the Children and Family Services Act, and shall
16 remain in effect until the Sibling Contact Support Plan is
17 developed.

18 For good cause, the court may waive the requirement to
19 file the parent-child visiting plan or the sibling placement
20 and contact plan, or extend the time for filing either plan.
21 Any party may, by motion, request the court to review the
22 parent-child visiting plan to determine whether it is
23 reasonably calculated to expeditiously facilitate the
24 achievement of the permanency goal. A party may, by motion,
25 request the court to review the parent-child visiting plan or
26 the sibling placement and contact plan to determine whether it

1 is consistent with the minor's best interest. The court may
2 refer the parties to mediation where available. The frequency,
3 duration, and locations of visitation shall be measured by the
4 needs of the child and family, and not by the convenience of
5 Department personnel. Child development principles shall be
6 considered by the court in its analysis of how frequent
7 visitation should be, how long it should last, where it should
8 take place, and who should be present. If upon motion of the
9 party to review either plan and after receiving evidence, the
10 court determines that the parent-child visiting plan is not
11 reasonably calculated to expeditiously facilitate the
12 achievement of the permanency goal or that the restrictions
13 placed on parent-child contact or sibling placement or contact
14 are contrary to the child's best interests, the court shall put
15 in writing the factual basis supporting the determination and
16 enter specific findings based on the evidence. The court shall
17 enter an order for the Department to implement changes to the
18 parent-child visiting plan or sibling placement or contact
19 plan, consistent with the court's findings. At any stage of
20 proceeding, any party may by motion request the court to enter
21 any orders necessary to implement the parent-child visiting
22 plan, sibling placement or contact plan or subsequently
23 developed Sibling Contact Support Plan. Nothing under this
24 subsection (2) shall restrict the court from granting
25 discretionary authority to the Department to increase
26 opportunities for additional parent-child contacts or sibling

1 contacts, without further court orders. Nothing in this
2 subsection (2) shall restrict the Department from immediately
3 restricting or terminating parent-child contact or sibling
4 contacts, without either amending the parent-child visiting
5 plan or the sibling contact plan or obtaining a court order,
6 where the Department or its assigns reasonably believe that
7 continuation of the contact, as set out in the plan, would be
8 contrary to the child's health, safety, and welfare. The
9 Department shall file with the court and serve on the parties
10 any amendments to the plan within 10 days, excluding weekends
11 and holidays, of the change of the visitation.

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 The changes made to this Section by this amendatory Act of
19 the 98th General Assembly apply to a minor who has been
20 arrested or taken into custody on or after the effective date
21 of this amendatory Act.

22 (Source: P.A. 97-1076, eff. 8-24-12; 97-1150, eff. 1-25-13.)

23 (705 ILCS 405/3-12) (from Ch. 37, par. 803-12)

24 Sec. 3-12. Shelter care hearing. At the appearance of the
25 minor before the court at the shelter care hearing, all

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

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

8 (2) If the court finds that there is probable cause to
9 believe that the minor is a person requiring authoritative
10 intervention, the minor, his or her parent, guardian, custodian
11 and other persons able to give relevant testimony shall be
12 examined before the court. After such testimony, the court may
13 enter an order that the minor shall be released upon the
14 request of a parent, guardian or custodian if the parent,
15 guardian or custodian appears to take custody. Custodian shall
16 include any agency of the State which has been given custody or
17 wardship of the child. The Court shall require documentation by
18 representatives of the Department of Children and Family
19 Services or the probation department as to the reasonable
20 efforts that were made to prevent or eliminate the necessity of
21 removal of the minor from his or her home, and shall consider
22 the testimony of any person as to those reasonable efforts. If
23 the court finds that it is a matter of immediate and urgent
24 necessity for the protection of the minor or of the person or
25 property of another that the minor be placed in a shelter care
26 facility, or that he or she is likely to flee the jurisdiction

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

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

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

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

23 (3) If prior to the shelter care hearing for a minor
24 described in Sections 2-3, 2-4, 3-3 and 4-3 the petitioner is
25 unable to serve notice on the party respondent, the shelter
26 care hearing may proceed ex-parte. A shelter care order from an

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

18 NOTICE TO PARENTS AND CHILDREN OF SHELTER CARE HEARING

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

24
 25 and (2) that there is "immediate and urgent necessity" to
 26 remove the child or children from the responsible relative.

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

4 At the shelter care hearing, parents have the following
5 rights:

6 1. To ask the court to appoint a lawyer if they cannot
7 afford one.

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

10 3. To present evidence concerning:

11 a. Whether or not the child or children were
12 abused, neglected or dependent.

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

18 c. The best interests of the child.

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

20 The Notice for rehearings shall be substantially as
21 follows:

22 NOTICE OF PARENT'S AND CHILDREN'S RIGHTS
23 TO REHEARING ON TEMPORARY CUSTODY

24 If you were not present at and did not have adequate notice
25 of the Shelter Care Hearing at which temporary custody of
26 was awarded to, you have the

1 right to request a full rehearing on whether the State should
2 have temporary custody of To request this
3 rehearing, you must file with the Clerk of the Juvenile Court
4 (address):, in person or by mailing a
5 statement (affidavit) setting forth the following:

6 1. That you were not present at the shelter care
7 hearing.

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

10 3. Your signature.

11 4. Signature must be notarized.

12 The rehearing should be scheduled within one day of your
13 filing this affidavit.

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

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

19 1. To have a guardian ad litem appointed.

20 2. To be declared competent as a witness and to present
21 testimony concerning:

22 a. Whether they are abused, neglected or
23 dependent.

24 b. Whether there is "immediate and urgent
25 necessity" to be removed from home.

26 c. Their best interests.

1 3. To cross examine witnesses for other parties.

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

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

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

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

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

26 (8) If neither the parent, guardian or custodian appears

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

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

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

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

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

1 (d) Services provided by the Department of Children and
2 Family Services or a child welfare agency or other service
3 provider have been successful in eliminating the need for
4 temporary custody.

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

11 The changes made to this Section by this amendatory Act of
12 the 98th General Assembly apply to a minor who has been
13 arrested or taken into custody on or after the effective date
14 of this amendatory Act.

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

16 (705 ILCS 405/4-9) (from Ch. 37, par. 804-9)

17 Sec. 4-9. Shelter care hearing. At the appearance of the
18 minor before the court at the shelter care hearing, all
19 witnesses present shall be examined before the court in
20 relation to any matter connected with the allegations made in
21 the petition.

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

25 (2) If the court finds that there is probable cause to

1 believe that the minor is addicted, the minor, his or her
2 parent, guardian, custodian and other persons able to give
3 relevant testimony shall be examined before the court. After
4 such testimony, the court may enter an order that the minor
5 shall be released upon the request of a parent, guardian or
6 custodian if the parent, guardian or custodian appears to take
7 custody and agrees to abide by a court order which requires the
8 minor and his or her parent, guardian, or legal custodian to
9 complete an evaluation by an entity licensed by the Department
10 of Human Services, as the successor to the Department of
11 Alcoholism and Substance Abuse, and complete any treatment
12 recommendations indicated by the assessment. Custodian shall
13 include any agency of the State which has been given custody or
14 wardship of the child.

15 The Court shall require documentation by representatives
16 of the Department of Children and Family Services or the
17 probation department as to the reasonable efforts that were
18 made to prevent or eliminate the necessity of removal of the
19 minor from his or her home, and shall consider the testimony of
20 any person as to those reasonable efforts. If the court finds
21 that it is a matter of immediate and urgent necessity for the
22 protection of the minor or of the person or property of another
23 that the minor be or placed in a shelter care facility or that
24 he or she is likely to flee the jurisdiction of the court, and
25 further, finds that reasonable efforts have been made or good
26 cause has been shown why reasonable efforts cannot prevent or

1 eliminate the necessity of removal of the minor from his or her
2 home, the court may prescribe shelter care and order that the
3 minor be kept in a suitable place designated by the court or in
4 a shelter care facility designated by the Department of
5 Children and Family Services or a licensed child welfare
6 agency, or in a facility or program licensed by the Department
7 of Human Services for shelter and treatment services; otherwise
8 it shall release the minor from custody. If the court
9 prescribes shelter care, then in placing the minor, the
10 Department or other agency shall, to the extent compatible with
11 the court's order, comply with Section 7 of the Children and
12 Family Services Act. If the minor is ordered placed in a
13 shelter care facility of the Department of Children and Family
14 Services or a licensed child welfare agency, or in a facility
15 or program licensed by the Department of Human Services for
16 shelter and treatment services, the court shall, upon request
17 of the appropriate Department or other agency, appoint the
18 Department of Children and Family Services Guardianship
19 Administrator or other appropriate agency executive temporary
20 custodian of the minor and the court may enter such other
21 orders related to the temporary custody as it deems fit and
22 proper, including the provision of services to the minor or his
23 family to ameliorate the causes contributing to the finding of
24 probable cause or to the finding of the existence of immediate
25 and urgent necessity. Acceptance of services shall not be
26 considered an admission of any allegation in a petition made

1 pursuant to this Act, nor may a referral of services be
2 considered as evidence in any proceeding pursuant to this Act,
3 except where the issue is whether the Department has made
4 reasonable efforts to reunite the family. In making its
5 findings that reasonable efforts have been made or that good
6 cause has been shown why reasonable efforts cannot prevent or
7 eliminate the necessity of removal of the minor from his or her
8 home, the court shall state in writing its findings concerning
9 the nature of the services that were offered or the efforts
10 that were made to prevent removal of the child and the apparent
11 reasons that such services or efforts could not prevent the
12 need for removal. The parents, guardian, custodian, temporary
13 custodian and minor shall each be furnished a copy of such
14 written findings. The temporary custodian shall maintain a copy
15 of the court order and written findings in the case record for
16 the child. The order together with the court's findings of fact
17 in support thereof shall be entered of record in the court.

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

24 (3) If neither the parent, guardian, legal custodian,
25 responsible relative nor counsel of the minor has had actual
26 notice of or is present at the shelter care hearing, he or she

1 may file his or her affidavit setting forth these facts, and
2 the clerk shall set the matter for rehearing not later than 24
3 hours, excluding Sundays and legal holidays, after the filing
4 of the affidavit. At the rehearing, the court shall proceed in
5 the same manner as upon the original hearing.

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

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 neither the parent, guardian or custodian appears
21 within 24 hours to take custody of a minor released upon
22 request pursuant to subsection (2) of this Section, then the
23 clerk of the court shall set the matter for rehearing not later
24 than 7 days after the original order and shall issue a summons
25 directed to the parent, guardian or custodian to appear. At the
26 same time the probation department shall prepare a report on

1 the minor. If a parent, guardian or custodian does not appear
2 at such rehearing, the judge may enter an order prescribing
3 that the minor be kept in a suitable place designated by the
4 Department of Children and Family Services or a licensed child
5 welfare agency.

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

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

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

16 (c) A person, including a parent, relative or legal
17 guardian, is capable of assuming temporary custody of the
18 minor; or

19 (d) Services provided by the Department of Children and
20 Family Services or a child welfare agency or other service
21 provider have been successful in eliminating the need for
22 temporary custody.

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 The changes made to this Section by this amendatory Act of
4 the 98th General Assembly apply to a minor who has been
5 arrested or taken into custody on or after the effective date
6 of this amendatory Act.

7 (Source: P.A. 89-422; 89-507, eff. 7-1-97; 90-590, eff.
8 1-1-99.)"; and

9 by inserting after the last line of Sec. 5-120 of Section 5 the
10 following:

11 "(705 ILCS 405/5-130)

12 Sec. 5-130. Excluded jurisdiction.

13 (1) (a) The definition of delinquent minor under Section
14 5-120 of this Article shall not apply to any minor who at the
15 time of an offense was at least 15 years of age and who is
16 charged with: (i) first degree murder, (ii) aggravated criminal
17 sexual assault, (iii) aggravated battery with a firearm as
18 described in Section 12-4.2 or subdivision (e)(1), (e)(2),
19 (e)(3), or (e)(4) of Section 12-3.05 where the minor personally
20 discharged a firearm as defined in Section 2-15.5 of the
21 Criminal Code of 1961 or the Criminal Code of 2012, (iv) armed
22 robbery when the armed robbery was committed with a firearm, or
23 (v) aggravated vehicular hijacking when the hijacking was
24 committed with a firearm.

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

4 (b) (i) If before trial or plea an information or
5 indictment is filed that does not charge an offense specified
6 in paragraph (a) of this subsection (1) the State's Attorney
7 may proceed on any lesser charge or charges, but only in
8 Juvenile Court under the provisions of this Article. The
9 State's Attorney may proceed on a lesser charge if before trial
10 the minor defendant knowingly and with advice of counsel
11 waives, in writing, his or her right to have the matter proceed
12 in Juvenile Court.

13 (ii) If before trial or plea an information or indictment
14 is filed that includes one or more charges specified in
15 paragraph (a) of this subsection (1) and additional charges
16 that are not specified in that paragraph, all of the charges
17 arising out of the same incident shall be prosecuted under the
18 Criminal Code of 1961 or the Criminal Code of 2012.

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

24 (ii) If after trial or plea the court finds that the minor
25 committed an offense not covered by paragraph (a) of this
26 subsection (1), that finding shall not invalidate the verdict

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

1 (2) (Blank).

2 (3) (a) The definition of delinquent minor under Section
3 5-120 of this Article shall not apply to any minor who at the
4 time of the offense was at least 15 years of age and who is
5 charged with a violation of the provisions of paragraph (1),
6 (3), (4), or (10) of subsection (a) of Section 24-1 of the
7 Criminal Code of 1961 or the Criminal Code of 2012 while in
8 school, regardless of the time of day or the time of year, or
9 on the real property comprising any school, regardless of the
10 time of day or the time of year. School is defined, for
11 purposes of this Section as any public or private elementary or
12 secondary school, community college, college, or university.
13 These charges and all other charges arising out of the same
14 incident shall be prosecuted under the criminal laws of this
15 State.

16 (b) (i) If before trial or plea an information or
17 indictment is filed that does not charge an offense specified
18 in paragraph (a) of this subsection (3) the State's Attorney
19 may proceed on any lesser charge or charges, but only in
20 Juvenile Court under the provisions of this Article. The
21 State's Attorney may proceed under the criminal laws of this
22 State on a lesser charge if before trial the minor defendant
23 knowingly and with advice of counsel waives, in writing, his or
24 her right to have the matter proceed in Juvenile Court.

25 (ii) If before trial or plea an information or indictment
26 is filed that includes one or more charges specified in

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

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

10 (ii) If after trial or plea the court finds that the minor
11 committed an offense not covered by paragraph (a) of this
12 subsection (3), that finding shall not invalidate the verdict
13 or the prosecution of the minor under the criminal laws of the
14 State; however, unless the State requests a hearing for the
15 purpose of sentencing the minor under Chapter V of the Unified
16 Code of Corrections, the Court must proceed under Sections
17 5-705 and 5-710 of this Article. To request a hearing, the
18 State must file a written motion within 10 days following the
19 entry of a finding or the return of a verdict. Reasonable
20 notice of the motion shall be given to the minor or his or her
21 counsel. If the motion is made by the State, the court shall
22 conduct a hearing to determine if the minor should be sentenced
23 under Chapter V of the Unified Code of Corrections. In making
24 its determination, the court shall consider among other
25 matters: (a) whether there is evidence that the offense was
26 committed in an aggressive and premeditated manner; (b) the age

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

13 (4) (a) The definition of delinquent minor under Section
14 5-120 of this Article shall not apply to any minor who at the
15 time of an offense was at least 13 years of age and who is
16 charged with first degree murder committed during the course of
17 either aggravated criminal sexual assault, criminal sexual
18 assault, or aggravated kidnaping. However, this subsection (4)
19 does not include a minor charged with first degree murder based
20 exclusively upon the accountability provisions of the Criminal
21 Code of 1961 or the Criminal Code of 2012.

22 (b) (i) If before trial or plea an information or
23 indictment is filed that does not charge first degree murder
24 committed during the course of aggravated criminal sexual
25 assault, criminal sexual assault, or aggravated kidnaping, the
26 State's Attorney may proceed on any lesser charge or charges,

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

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

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

20 (ii) If the minor was not yet 15 years of age at the time of
21 the offense, and if after trial or plea the court finds that
22 the minor committed an offense other than first degree murder
23 committed during the course of either aggravated criminal
24 sexual assault, criminal sexual assault, or aggravated
25 kidnapping, the finding shall not invalidate the verdict or the
26 prosecution of the minor under the criminal laws of the State;

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

1 (5) (a) The definition of delinquent minor under Section
2 5-120 of this Article shall not apply to any minor who is
3 charged with a violation of subsection (a) of Section 31-6 or
4 Section 32-10 of the Criminal Code of 1961 or the Criminal Code
5 of 2012 when the minor is subject to prosecution under the
6 criminal laws of this State as a result of the application of
7 the provisions of Section 5-125, or subsection (1) or (2) of
8 this Section. These charges and all other charges arising out
9 of the same incident shall be prosecuted under the criminal
10 laws of this State.

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

20 (ii) If before trial or plea an information or indictment
21 is filed that includes one or more charges specified in
22 paragraph (a) of this subsection (5) and additional charges
23 that are not specified in that paragraph, all of the charges
24 arising out of the same incident shall be prosecuted under the
25 criminal laws of this State.

26 (c) (i) If after trial or plea the minor is convicted of

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

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

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

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

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

20 (8) Nothing in this Act prohibits or limits the prosecution
21 of any minor for an offense committed on or after his or her
22 18th ~~17th~~ birthday even though he or she is at the time of the
23 offense a ward of the court.

24 (9) If an original petition for adjudication of wardship
25 alleges the commission by a minor 13 years of age or over of an
26 act that constitutes a crime under the laws of this State, the

1 minor, with the consent of his or her counsel, may, at any time
2 before commencement of the adjudicatory hearing, file with the
3 court a motion that criminal prosecution be ordered and that
4 the petition be dismissed insofar as the act or acts involved
5 in the criminal proceedings are concerned. If such a motion is
6 filed as herein provided, the court shall enter its order
7 accordingly.

8 (10) If, prior to August 12, 2005 (the effective date of
9 Public Act 94-574), a minor is charged with a violation of
10 Section 401 of the Illinois Controlled Substances Act under the
11 criminal laws of this State, other than a minor charged with a
12 Class X felony violation of the Illinois Controlled Substances
13 Act or the Methamphetamine Control and Community Protection
14 Act, any party including the minor or the court sua sponte may,
15 before trial, move for a hearing for the purpose of trying and
16 sentencing the minor as a delinquent minor. To request a
17 hearing, the party must file a motion prior to trial.
18 Reasonable notice of the motion shall be given to all parties.
19 On its own motion or upon the filing of a motion by one of the
20 parties including the minor, the court shall conduct a hearing
21 to determine whether the minor should be tried and sentenced as
22 a delinquent minor under this Article. In making its
23 determination, the court shall consider among other matters:

24 (a) The age of the minor;

25 (b) Any previous delinquent or criminal history of the
26 minor;

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

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

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

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

16 The changes made to this Section by this amendatory Act of
17 the 98th General Assembly apply to a minor who has been
18 arrested or taken into custody on or after the effective date
19 of this amendatory Act.

20 (Source: P.A. 96-1551, eff. 7-1-11; 97-1150, eff. 1-25-13.)".