



98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

HB4495

by Rep. Mary E. Flowers

SYNOPSIS AS INTRODUCED:

20 ILCS 505/5	from Ch. 23, par. 5005
705 ILCS 405/2-10	from Ch. 37, par. 802-10
705 ILCS 405/2-27	from Ch. 37, par. 802-27
705 ILCS 405/5-710	

Amends the Children and Family Services Act and the Juvenile Court Act of 1987. Provides that a minor charged with a criminal offense under the Criminal Code of 1961 or the Criminal Code of 2012 or adjudicated delinquent shall not be placed in the custody of or committed to the Department of Children and Family Services by any court, except a minor less than 18 (rather than 15) years of age and committed to the Department of Children and Family Services under the sentencing order provisions of the Delinquency Article of the Juvenile Court Act of 1987 or a minor for whom a basis (deletes independent) of abuse, neglect, or dependency exists. Provides that a delinquent minor may be placed in the custody of the Department of Children and Family Services if the delinquent minor is under 18 (rather than 15) years of age and the court finds that reasonable efforts have been made to prevent or eliminate the need for removal and that continuance in the home of the parent or guardian would be contrary to the minor's welfare. Provides that a delinquent minor may be placed in the custody of the Department of Children and Family Services under the Abused, Neglected, or Dependent Minors Article of the Juvenile Court Act of 1987.

LRB098 13072 RLC 53414 b

1 AN ACT concerning minors.

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

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

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

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

11 (a) For purposes of this Section:

12 (1) "Children" means persons found within the State who
13 are under the age of 18 years. The term also includes
14 persons under age 21 who:

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

19 (B) were accepted for care, service and training by
20 the Department prior to the age of 18 and whose best
21 interest in the discretion of the Department would be
22 served by continuing that care, service and training
23 because of severe emotional disturbances, physical

1 disability, social adjustment or any combination
2 thereof, or because of the need to complete an
3 educational or vocational training program.

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

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

11 (A) protecting and promoting the health, safety
12 and welfare of children, including homeless, dependent
13 or neglected children;

14 (B) remedying, or assisting in the solution of
15 problems which may result in, the neglect, abuse,
16 exploitation or delinquency of children;

17 (C) preventing the unnecessary separation of
18 children from their families by identifying family
19 problems, assisting families in resolving their
20 problems, and preventing the breakup of the family
21 where the prevention of child removal is desirable and
22 possible when the child can be cared for at home
23 without endangering the child's health and safety;

24 (D) restoring to their families children who have
25 been removed, by the provision of services to the child
26 and the families when the child can be cared for at

1 home without endangering the child's health and
2 safety;

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

6 (F) assuring safe and adequate care of children
7 away from their homes, in cases where the child cannot
8 be returned home or cannot be placed for adoption. At
9 the time of placement, the Department shall consider
10 concurrent planning, as described in subsection (1-1)
11 of this Section so that permanency may occur at the
12 earliest opportunity. Consideration should be given so
13 that if reunification fails or is delayed, the
14 placement made is the best available placement to
15 provide permanency for the child;

16 (G) (blank);

17 (H) (blank); and

18 (I) placing and maintaining children in facilities
19 that provide separate living quarters for children
20 under the age of 18 and for children 18 years of age
21 and older, unless a child 18 years of age is in the
22 last year of high school education or vocational
23 training, in an approved individual or group treatment
24 program, in a licensed shelter facility, or secure
25 child care facility. The Department is not required to
26 place or maintain children:

- 1 (i) who are in a foster home, or
2 (ii) who are persons with a developmental
3 disability, as defined in the Mental Health and
4 Developmental Disabilities Code, or
5 (iii) who are female children who are
6 pregnant, pregnant and parenting or parenting, or
7 (iv) who are siblings, in facilities that
8 provide separate living quarters for children 18
9 years of age and older and for children under 18
10 years of age.

11 (b) Nothing in this Section shall be construed to authorize
12 the expenditure of public funds for the purpose of performing
13 abortions.

14 (c) The Department shall establish and maintain
15 tax-supported child welfare services and extend and seek to
16 improve voluntary services throughout the State, to the end
17 that services and care shall be available on an equal basis
18 throughout the State to children requiring such services.

19 (d) The Director may authorize advance disbursements for
20 any new program initiative to any agency contracting with the
21 Department. As a prerequisite for an advance disbursement, the
22 contractor must post a surety bond in the amount of the advance
23 disbursement and have a purchase of service contract approved
24 by the Department. The Department may pay up to 2 months
25 operational expenses in advance. The amount of the advance
26 disbursement shall be prorated over the life of the contract or

1 the remaining months of the fiscal year, whichever is less, and
2 the installment amount shall then be deducted from future
3 bills. Advance disbursement authorizations for new initiatives
4 shall not be made to any agency after that agency has operated
5 during 2 consecutive fiscal years. The requirements of this
6 Section concerning advance disbursements shall not apply with
7 respect to the following: payments to local public agencies for
8 child day care services as authorized by Section 5a of this
9 Act; and youth service programs receiving grant funds under
10 Section 17a-4.

11 (e) (Blank).

12 (f) (Blank).

13 (g) The Department shall establish rules and regulations
14 concerning its operation of programs designed to meet the goals
15 of child safety and protection, family preservation, family
16 reunification, and adoption, including but not limited to:

17 (1) adoption;

18 (2) foster care;

19 (3) family counseling;

20 (4) protective services;

21 (5) (blank);

22 (6) homemaker service;

23 (7) return of runaway children;

24 (8) (blank);

25 (9) placement under Section 5-7 of the Juvenile Court
26 Act or Section 2-27, 3-28, 4-25 or 5-740 of the Juvenile

1 Court Act of 1987 in accordance with the federal Adoption
2 Assistance and Child Welfare Act of 1980; and

3 (10) interstate services.

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

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

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

25 (1) case management;

26 (2) homemakers;

- 1 (3) counseling;
- 2 (4) parent education;
- 3 (5) day care; and
- 4 (6) emergency assistance and advocacy.

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

- 7 (1) comprehensive family-based services;
- 8 (2) assessments;
- 9 (3) respite care; and
- 10 (4) in-home health services.

11 The Department shall provide transportation for any of the
12 services it makes available to children or families or for
13 which it refers children or families.

14 (j) The Department may provide categories of financial
15 assistance and education assistance grants, and shall
16 establish rules and regulations concerning the assistance and
17 grants, to persons who adopt physically or mentally
18 handicapped, older and other hard-to-place children who (i)
19 immediately prior to their adoption were legal wards of the
20 Department or (ii) were determined eligible for financial
21 assistance with respect to a prior adoption and who become
22 available for adoption because the prior adoption has been
23 dissolved and the parental rights of the adoptive parents have
24 been terminated or because the child's adoptive parents have
25 died. The Department may continue to provide financial
26 assistance and education assistance grants for a child who was

1 determined eligible for financial assistance under this
2 subsection (j) in the interim period beginning when the child's
3 adoptive parents died and ending with the finalization of the
4 new adoption of the child by another adoptive parent or
5 parents. The Department may also provide categories of
6 financial assistance and education assistance grants, and
7 shall establish rules and regulations for the assistance and
8 grants, to persons appointed guardian of the person under
9 Section 5-7 of the Juvenile Court Act or Section 2-27, 3-28,
10 4-25 or 5-740 of the Juvenile Court Act of 1987 for children
11 who were wards of the Department for 12 months immediately
12 prior to the appointment of the guardian.

13 The amount of assistance may vary, depending upon the needs
14 of the child and the adoptive parents, as set forth in the
15 annual assistance agreement. Special purpose grants are
16 allowed where the child requires special service but such costs
17 may not exceed the amounts which similar services would cost
18 the Department if it were to provide or secure them as guardian
19 of the child.

20 Any financial assistance provided under this subsection is
21 inalienable by assignment, sale, execution, attachment,
22 garnishment, or any other remedy for recovery or collection of
23 a judgment or debt.

24 (j-5) The Department shall not deny or delay the placement
25 of a child for adoption if an approved family is available
26 either outside of the Department region handling the case, or

1 outside of the State of Illinois.

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

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

1 hearing the action under Article II of the Juvenile Court Act
2 of 1987 may order the Department to provide the services set
3 out in the plan, if those services are not provided with
4 reasonable promptness and if those services are available.

5 The Department shall notify the child and his family of the
6 Department's responsibility to offer and provide family
7 preservation services as identified in the service plan. The
8 child and his family shall be eligible for services as soon as
9 the report is determined to be "indicated". The Department may
10 offer services to any child or family with respect to whom a
11 report of suspected child abuse or neglect has been filed,
12 prior to concluding its investigation under Section 7.12 of the
13 Abused and Neglected Child Reporting Act. However, the child's
14 or family's willingness to accept services shall not be
15 considered in the investigation. The Department may also
16 provide services to any child or family who is the subject of
17 any report of suspected child abuse or neglect or may refer
18 such child or family to services available from other agencies
19 in the community, even if the report is determined to be
20 unfounded, if the conditions in the child's or family's home
21 are reasonably likely to subject the child or family to future
22 reports of suspected child abuse or neglect. Acceptance of such
23 services shall be voluntary. The Department may also provide
24 services to any child or family after completion of a family
25 assessment, as an alternative to an investigation, as provided
26 under the "differential response program" provided for in

1 subsection (a-5) of Section 7.4 of the Abused and Neglected
2 Child Reporting Act.

3 The Department may, at its discretion except for those
4 children also adjudicated neglected or dependent, accept for
5 care and training any child who has been adjudicated addicted,
6 as a truant minor in need of supervision or as a minor
7 requiring authoritative intervention, under the Juvenile Court
8 Act or the Juvenile Court Act of 1987, but no such child shall
9 be committed to the Department by any court without the
10 approval of the Department. A minor charged with a criminal
11 offense under the Criminal Code of 1961 or the Criminal Code of
12 2012 or adjudicated delinquent shall not be placed in the
13 custody of or committed to the Department by any court, except
14 (i) a minor less than 18 ~~15~~ years of age committed to the
15 Department under Section 5-710 of the Juvenile Court Act of
16 1987, (ii) a minor for whom a ~~an independent~~ basis of abuse,
17 neglect, or dependency exists, ~~which must be defined by~~
18 ~~departmental rule~~, or (iii) a minor for whom the court has
19 granted a supplemental petition to reinstate wardship pursuant
20 to subsection (2) of Section 2-33 of the Juvenile Court Act of
21 1987. ~~An independent basis exists when the allegations or~~
22 ~~adjudication of abuse, neglect, or dependency do not arise from~~
23 ~~the same facts, incident, or circumstances which give rise to a~~
24 ~~charge or adjudication of delinquency.~~

25 As soon as is possible after August 7, 2009 (the effective
26 date of Public Act 96-134), the Department shall develop and

1 implement a special program of family preservation services to
2 support intact, foster, and adoptive families who are
3 experiencing extreme hardships due to the difficulty and stress
4 of caring for a child who has been diagnosed with a pervasive
5 developmental disorder if the Department determines that those
6 services are necessary to ensure the health and safety of the
7 child. The Department may offer services to any family whether
8 or not a report has been filed under the Abused and Neglected
9 Child Reporting Act. The Department may refer the child or
10 family to services available from other agencies in the
11 community if the conditions in the child's or family's home are
12 reasonably likely to subject the child or family to future
13 reports of suspected child abuse or neglect. Acceptance of
14 these services shall be voluntary. The Department shall develop
15 and implement a public information campaign to alert health and
16 social service providers and the general public about these
17 special family preservation services. The nature and scope of
18 the services offered and the number of families served under
19 the special program implemented under this paragraph shall be
20 determined by the level of funding that the Department annually
21 allocates for this purpose. The term "pervasive developmental
22 disorder" under this paragraph means a neurological condition,
23 including but not limited to, Asperger's Syndrome and autism,
24 as defined in the most recent edition of the Diagnostic and
25 Statistical Manual of Mental Disorders of the American
26 Psychiatric Association.

1 (1-1) The legislature recognizes that the best interests of
2 the child require that the child be placed in the most
3 permanent living arrangement as soon as is practically
4 possible. To achieve this goal, the legislature directs the
5 Department of Children and Family Services to conduct
6 concurrent planning so that permanency may occur at the
7 earliest opportunity. Permanent living arrangements may
8 include prevention of placement of a child outside the home of
9 the family when the child can be cared for at home without
10 endangering the child's health or safety; reunification with
11 the family, when safe and appropriate, if temporary placement
12 is necessary; or movement of the child toward the most
13 permanent living arrangement and permanent legal status.

14 When determining reasonable efforts to be made with respect
15 to a child, as described in this subsection, and in making such
16 reasonable efforts, the child's health and safety shall be the
17 paramount concern.

18 When a child is placed in foster care, the Department shall
19 ensure and document that reasonable efforts were made to
20 prevent or eliminate the need to remove the child from the
21 child's home. The Department must make reasonable efforts to
22 reunify the family when temporary placement of the child occurs
23 unless otherwise required, pursuant to the Juvenile Court Act
24 of 1987. At any time after the dispositional hearing where the
25 Department believes that further reunification services would
26 be ineffective, it may request a finding from the court that

1 reasonable efforts are no longer appropriate. The Department is
2 not required to provide further reunification services after
3 such a finding.

4 A decision to place a child in substitute care shall be
5 made with considerations of the child's health, safety, and
6 best interests. At the time of placement, consideration should
7 also be given so that if reunification fails or is delayed, the
8 placement made is the best available placement to provide
9 permanency for the child.

10 The Department shall adopt rules addressing concurrent
11 planning for reunification and permanency. The Department
12 shall consider the following factors when determining
13 appropriateness of concurrent planning:

- 14 (1) the likelihood of prompt reunification;
- 15 (2) the past history of the family;
- 16 (3) the barriers to reunification being addressed by
17 the family;
- 18 (4) the level of cooperation of the family;
- 19 (5) the foster parents' willingness to work with the
20 family to reunite;
- 21 (6) the willingness and ability of the foster family to
22 provide an adoptive home or long-term placement;
- 23 (7) the age of the child;
- 24 (8) placement of siblings.

25 (m) The Department may assume temporary custody of any
26 child if:

1 (1) it has received a written consent to such temporary
2 custody signed by the parents of the child or by the parent
3 having custody of the child if the parents are not living
4 together or by the guardian or custodian of the child if
5 the child is not in the custody of either parent, or

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

8 If the child is found in his or her residence without a parent,
9 guardian, custodian or responsible caretaker, the Department
10 may, instead of removing the child and assuming temporary
11 custody, place an authorized representative of the Department
12 in that residence until such time as a parent, guardian or
13 custodian enters the home and expresses a willingness and
14 apparent ability to ensure the child's health and safety and
15 resume permanent charge of the child, or until a relative
16 enters the home and is willing and able to ensure the child's
17 health and safety and assume charge of the child until a
18 parent, guardian or custodian enters the home and expresses
19 such willingness and ability to ensure the child's safety and
20 resume permanent charge. After a caretaker has remained in the
21 home for a period not to exceed 12 hours, the Department must
22 follow those procedures outlined in Section 2-9, 3-11, 4-8, or
23 5-415 of the Juvenile Court Act of 1987.

24 The Department shall have the authority, responsibilities
25 and duties that a legal custodian of the child would have
26 pursuant to subsection (9) of Section 1-3 of the Juvenile Court

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

12 The Department shall ensure that any child taken into
13 custody is scheduled for an appointment for a medical
14 examination.

15 A parent, guardian or custodian of a child in the temporary
16 custody of the Department who would have custody of the child
17 if he were not in the temporary custody of the Department may
18 deliver to the Department a signed request that the Department
19 surrender the temporary custody of the child. The Department
20 may retain temporary custody of the child for 10 days after the
21 receipt of the request, during which period the Department may
22 cause to be filed a petition pursuant to the Juvenile Court Act
23 of 1987. If a petition is so filed, the Department shall retain
24 temporary custody of the child until the court orders
25 otherwise. If a petition is not filed within the 10 day period,
26 the child shall be surrendered to the custody of the requesting

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

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

19 (n) The Department may place children under 18 years of age
20 in licensed child care facilities when in the opinion of the
21 Department, appropriate services aimed at family preservation
22 have been unsuccessful and cannot ensure the child's health and
23 safety or are unavailable and such placement would be for their
24 best interest. Payment for board, clothing, care, training and
25 supervision of any child placed in a licensed child care
26 facility may be made by the Department, by the parents or

1 guardians of the estates of those children, or by both the
2 Department and the parents or guardians, except that no
3 payments shall be made by the Department for any child placed
4 in a licensed child care facility for board, clothing, care,
5 training and supervision of such a child that exceed the
6 average per capita cost of maintaining and of caring for a
7 child in institutions for dependent or neglected children
8 operated by the Department. However, such restriction on
9 payments does not apply in cases where children require
10 specialized care and treatment for problems of severe emotional
11 disturbance, physical disability, social adjustment, or any
12 combination thereof and suitable facilities for the placement
13 of such children are not available at payment rates within the
14 limitations set forth in this Section. All reimbursements for
15 services delivered shall be absolutely inalienable by
16 assignment, sale, attachment, garnishment or otherwise.

17 (n-1) The Department shall provide or authorize child
18 welfare services, aimed at assisting minors to achieve
19 sustainable self-sufficiency as independent adults, for any
20 minor eligible for the reinstatement of wardship pursuant to
21 subsection (2) of Section 2-33 of the Juvenile Court Act of
22 1987, whether or not such reinstatement is sought or allowed,
23 provided that the minor consents to such services and has not
24 yet attained the age of 21. The Department shall have
25 responsibility for the development and delivery of services
26 under this Section. An eligible youth may access services under

1 this Section through the Department of Children and Family
2 Services or by referral from the Department of Human Services.
3 Youth participating in services under this Section shall
4 cooperate with the assigned case manager in developing an
5 agreement identifying the services to be provided and how the
6 youth will increase skills to achieve self-sufficiency. A
7 homeless shelter is not considered appropriate housing for any
8 youth receiving child welfare services under this Section. The
9 Department shall continue child welfare services under this
10 Section to any eligible minor until the minor becomes 21 years
11 of age, no longer consents to participate, or achieves
12 self-sufficiency as identified in the minor's service plan. The
13 Department of Children and Family Services shall create clear,
14 readable notice of the rights of former foster youth to child
15 welfare services under this Section and how such services may
16 be obtained. The Department of Children and Family Services and
17 the Department of Human Services shall disseminate this
18 information statewide. The Department shall adopt regulations
19 describing services intended to assist minors in achieving
20 sustainable self-sufficiency as independent adults.

21 (o) The Department shall establish an administrative
22 review and appeal process for children and families who request
23 or receive child welfare services from the Department. Children
24 who are wards of the Department and are placed by private child
25 welfare agencies, and foster families with whom those children
26 are placed, shall be afforded the same procedural and appeal

1 rights as children and families in the case of placement by the
2 Department, including the right to an initial review of a
3 private agency decision by that agency. The Department shall
4 insure that any private child welfare agency, which accepts
5 wards of the Department for placement, affords those rights to
6 children and foster families. The Department shall accept for
7 administrative review and an appeal hearing a complaint made by
8 (i) a child or foster family concerning a decision following an
9 initial review by a private child welfare agency or (ii) a
10 prospective adoptive parent who alleges a violation of
11 subsection (j-5) of this Section. An appeal of a decision
12 concerning a change in the placement of a child shall be
13 conducted in an expedited manner. A court determination that a
14 current foster home placement is necessary and appropriate
15 under Section 2-28 of the Juvenile Court Act of 1987 does not
16 constitute a judicial determination on the merits of an
17 administrative appeal, filed by a former foster parent,
18 involving a change of placement decision.

19 (p) There is hereby created the Department of Children and
20 Family Services Emergency Assistance Fund from which the
21 Department may provide special financial assistance to
22 families which are in economic crisis when such assistance is
23 not available through other public or private sources and the
24 assistance is deemed necessary to prevent dissolution of the
25 family unit or to reunite families which have been separated
26 due to child abuse and neglect. The Department shall establish

1 administrative rules specifying the criteria for determining
2 eligibility for and the amount and nature of assistance to be
3 provided. The Department may also enter into written agreements
4 with private and public social service agencies to provide
5 emergency financial services to families referred by the
6 Department. Special financial assistance payments shall be
7 available to a family no more than once during each fiscal year
8 and the total payments to a family may not exceed \$500 during a
9 fiscal year.

10 (q) The Department may receive and use, in their entirety,
11 for the benefit of children any gift, donation or bequest of
12 money or other property which is received on behalf of such
13 children, or any financial benefits to which such children are
14 or may become entitled while under the jurisdiction or care of
15 the Department.

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

1 In disbursing funds from children's accounts, the
2 Department shall:

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

11 (2) Calculate on a monthly basis the amounts paid from
12 State funds for the child's board and care, medical care
13 not covered under Medicaid, and social services; and
14 utilize funds from the child's account, as covered by
15 regulation, to reimburse those costs. Monthly,
16 disbursements from all children's accounts, up to 1/12 of
17 \$13,000,000, shall be deposited by the Department into the
18 General Revenue Fund and the balance over 1/12 of
19 \$13,000,000 into the DCFS Children's Services Fund.

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

25 (r) The Department shall promulgate regulations
26 encouraging all adoption agencies to voluntarily forward to the

1 Department or its agent names and addresses of all persons who
2 have applied for and have been approved for adoption of a
3 hard-to-place or handicapped child and the names of such
4 children who have not been placed for adoption. A list of such
5 names and addresses shall be maintained by the Department or
6 its agent, and coded lists which maintain the confidentiality
7 of the person seeking to adopt the child and of the child shall
8 be made available, without charge, to every adoption agency in
9 the State to assist the agencies in placing such children for
10 adoption. The Department may delegate to an agent its duty to
11 maintain and make available such lists. The Department shall
12 ensure that such agent maintains the confidentiality of the
13 person seeking to adopt the child and of the child.

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

26 (t) The Department shall perform home studies and

1 investigations and shall exercise supervision over visitation
2 as ordered by a court pursuant to the Illinois Marriage and
3 Dissolution of Marriage Act or the Adoption Act only if:

4 (1) an order entered by an Illinois court specifically
5 directs the Department to perform such services; and

6 (2) the court has ordered one or both of the parties to
7 the proceeding to reimburse the Department for its
8 reasonable costs for providing such services in accordance
9 with Department rules, or has determined that neither party
10 is financially able to pay.

11 The Department shall provide written notification to the
12 court of the specific arrangements for supervised visitation
13 and projected monthly costs within 60 days of the court order.
14 The Department shall send to the court information related to
15 the costs incurred except in cases where the court has
16 determined the parties are financially unable to pay. The court
17 may order additional periodic reports as appropriate.

18 (u) In addition to other information that must be provided,
19 whenever the Department places a child with a prospective
20 adoptive parent or parents or in a licensed foster home, group
21 home, child care institution, or in a relative home, the
22 Department shall provide to the prospective adoptive parent or
23 parents or other caretaker:

24 (1) available detailed information concerning the
25 child's educational and health history, copies of
26 immunization records (including insurance and medical card

1 information), a history of the child's previous
2 placements, if any, and reasons for placement changes
3 excluding any information that identifies or reveals the
4 location of any previous caretaker;

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

8 (3) information containing details of the child's
9 individualized educational plan when the child is
10 receiving special education services.

11 The caretaker shall be informed of any known social or
12 behavioral information (including, but not limited to,
13 criminal background, fire setting, perpetuation of sexual
14 abuse, destructive behavior, and substance abuse) necessary to
15 care for and safeguard the children to be placed or currently
16 in the home. The Department may prepare a written summary of
17 the information required by this paragraph, which may be
18 provided to the foster or prospective adoptive parent in
19 advance of a placement. The foster or prospective adoptive
20 parent may review the supporting documents in the child's file
21 in the presence of casework staff. In the case of an emergency
22 placement, casework staff shall at least provide known
23 information verbally, if necessary, and must subsequently
24 provide the information in writing as required by this
25 subsection.

26 The information described in this subsection shall be

1 provided in writing. In the case of emergency placements when
2 time does not allow prior review, preparation, and collection
3 of written information, the Department shall provide such
4 information as it becomes available. Within 10 business days
5 after placement, the Department shall obtain from the
6 prospective adoptive parent or parents or other caretaker a
7 signed verification of receipt of the information provided.
8 Within 10 business days after placement, the Department shall
9 provide to the child's guardian ad litem a copy of the
10 information provided to the prospective adoptive parent or
11 parents or other caretaker. The information provided to the
12 prospective adoptive parent or parents or other caretaker shall
13 be reviewed and approved regarding accuracy at the supervisory
14 level.

15 (u-5) Effective July 1, 1995, only foster care placements
16 licensed as foster family homes pursuant to the Child Care Act
17 of 1969 shall be eligible to receive foster care payments from
18 the Department. Relative caregivers who, as of July 1, 1995,
19 were approved pursuant to approved relative placement rules
20 previously promulgated by the Department at 89 Ill. Adm. Code
21 335 and had submitted an application for licensure as a foster
22 family home may continue to receive foster care payments only
23 until the Department determines that they may be licensed as a
24 foster family home or that their application for licensure is
25 denied or until September 30, 1995, whichever occurs first.

26 (v) The Department shall access criminal history record

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

22 (v-1) Prior to final approval for placement of a child, the
23 Department shall conduct a criminal records background check of
24 the prospective foster or adoptive parent, including
25 fingerprint-based checks of national crime information
26 databases. Final approval for placement shall not be granted if

1 the record check reveals a felony conviction for child abuse or
2 neglect, for spousal abuse, for a crime against children, or
3 for a crime involving violence, including rape, sexual assault,
4 or homicide, but not including other physical assault or
5 battery, or if there is a felony conviction for physical
6 assault, battery, or a drug-related offense committed within
7 the past 5 years.

8 (v-2) Prior to final approval for placement of a child, the
9 Department shall check its child abuse and neglect registry for
10 information concerning prospective foster and adoptive
11 parents, and any adult living in the home. If any prospective
12 foster or adoptive parent or other adult living in the home has
13 resided in another state in the preceding 5 years, the
14 Department shall request a check of that other state's child
15 abuse and neglect registry.

16 (w) Within 120 days of August 20, 1995 (the effective date
17 of Public Act 89-392), the Department shall prepare and submit
18 to the Governor and the General Assembly, a written plan for
19 the development of in-state licensed secure child care
20 facilities that care for children who are in need of secure
21 living arrangements for their health, safety, and well-being.
22 For purposes of this subsection, secure care facility shall
23 mean a facility that is designed and operated to ensure that
24 all entrances and exits from the facility, a building or a
25 distinct part of the building, are under the exclusive control
26 of the staff of the facility, whether or not the child has the

1 freedom of movement within the perimeter of the facility,
2 building, or distinct part of the building. The plan shall
3 include descriptions of the types of facilities that are needed
4 in Illinois; the cost of developing these secure care
5 facilities; the estimated number of placements; the potential
6 cost savings resulting from the movement of children currently
7 out-of-state who are projected to be returned to Illinois; the
8 necessary geographic distribution of these facilities in
9 Illinois; and a proposed timetable for development of such
10 facilities.

11 (x) The Department shall conduct annual credit history
12 checks to determine the financial history of children placed
13 under its guardianship pursuant to the Juvenile Court Act of
14 1987. The Department shall conduct such credit checks starting
15 when a ward turns 12 years old and each year thereafter for the
16 duration of the guardianship as terminated pursuant to the
17 Juvenile Court Act of 1987. The Department shall determine if
18 financial exploitation of the child's personal information has
19 occurred. If financial exploitation appears to have taken place
20 or is presently ongoing, the Department shall notify the proper
21 law enforcement agency, the proper State's Attorney, or the
22 Attorney General.

23 (y) Beginning on the effective date of this amendatory Act
24 of the 96th General Assembly, a child with a disability who
25 receives residential and educational services from the
26 Department shall be eligible to receive transition services in

1 accordance with Article 14 of the School Code from the age of
2 14.5 through age 21, inclusive, notwithstanding the child's
3 residential services arrangement. For purposes of this
4 subsection, "child with a disability" means a child with a
5 disability as defined by the federal Individuals with
6 Disabilities Education Improvement Act of 2004.

7 (z) The Department shall access criminal history record
8 information as defined as "background information" in this
9 subsection and criminal history record information as defined
10 in the Illinois Uniform Conviction Information Act for each
11 Department employee or Department applicant. Each Department
12 employee or Department applicant shall submit his or her
13 fingerprints to the Department of State Police in the form and
14 manner prescribed by the Department of State Police. These
15 fingerprints shall be checked against the fingerprint records
16 now and hereafter filed in the Department of State Police and
17 the Federal Bureau of Investigation criminal history records
18 databases. The Department of State Police shall charge a fee
19 for conducting the criminal history record check, which shall
20 be deposited into the State Police Services Fund and shall not
21 exceed the actual cost of the record check. The Department of
22 State Police shall furnish, pursuant to positive
23 identification, all Illinois conviction information to the
24 Department of Children and Family Services.

25 For purposes of this subsection:

26 "Background information" means all of the following:

1 (i) Upon the request of the Department of Children and
2 Family Services, conviction information obtained from the
3 Department of State Police as a result of a
4 fingerprint-based criminal history records check of the
5 Illinois criminal history records database and the Federal
6 Bureau of Investigation criminal history records database
7 concerning a Department employee or Department applicant.

8 (ii) Information obtained by the Department of
9 Children and Family Services after performing a check of
10 the Department of State Police's Sex Offender Database, as
11 authorized by Section 120 of the Sex Offender Community
12 Notification Law, concerning a Department employee or
13 Department applicant.

14 (iii) Information obtained by the Department of
15 Children and Family Services after performing a check of
16 the Child Abuse and Neglect Tracking System (CANTS)
17 operated and maintained by the Department.

18 "Department employee" means a full-time or temporary
19 employee coded or certified within the State of Illinois
20 Personnel System.

21 "Department applicant" means an individual who has
22 conditional Department full-time or part-time work, a
23 contractor, an individual used to replace or supplement staff,
24 an academic intern, a volunteer in Department offices or on
25 Department contracts, a work-study student, an individual or
26 entity licensed by the Department, or an unlicensed service

1 provider who works as a condition of a contract or an agreement
2 and whose work may bring the unlicensed service provider into
3 contact with Department clients or client records.

4 (Source: P.A. 97-1150, eff. 1-25-13; 98-249, eff. 1-1-14;
5 98-570, eff. 8-27-13; revised 9-4-13.)

6 Section 10. The Juvenile Court Act of 1987 is amended by
7 changing Sections 2-10, 2-27, and 5-710 as follows:

8 (705 ILCS 405/2-10) (from Ch. 37, par. 802-10)

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

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

17 (2) If the court finds that there is probable cause to
18 believe that the minor is abused, neglected or dependent, the
19 court shall state in writing the factual basis supporting its
20 finding and the minor, his or her parent, guardian, custodian
21 and other persons able to give relevant testimony shall be
22 examined before the court. The Department of Children and
23 Family Services shall give testimony concerning indicated
24 reports of abuse and neglect, of which they are aware of

1 through the central registry, involving the minor's parent,
2 guardian or custodian. After such testimony, the court may,
3 consistent with the health, safety and best interests of the
4 minor, enter an order that the minor shall be released upon the
5 request of parent, guardian or custodian if the parent,
6 guardian or custodian appears to take custody. If it is
7 determined that a parent's, guardian's, or custodian's
8 compliance with critical services mitigates the necessity for
9 removal of the minor from his or her home, the court may enter
10 an Order of Protection setting forth reasonable conditions of
11 behavior that a parent, guardian, or custodian must observe for
12 a specified period of time, not to exceed 12 months, without a
13 violation; provided, however, that the 12-month period shall
14 begin anew after any violation. Custodian shall include any
15 agency of the State which has been given custody or wardship of
16 the child. If it is consistent with the health, safety and best
17 interests of the minor, the court may also prescribe shelter
18 care and order that the minor be kept in a suitable place
19 designated by the court or in a shelter care facility
20 designated by the Department of Children and Family Services or
21 a licensed child welfare agency; however, a minor charged with
22 a criminal offense under the Criminal Code of 1961 or the
23 Criminal Code of 2012 or adjudicated delinquent shall not be
24 placed in the custody of or committed to the Department of
25 Children and Family Services by any court, except a minor less
26 than 18 ~~15~~ years of age and committed to the Department of

1 Children and Family Services under Section 5-710 of this Act or
2 a minor for whom a ~~an independent~~ basis of abuse, neglect, or
3 dependency exists. ~~An independent basis exists when the~~
4 ~~allegations or adjudication of abuse, neglect, or dependency do~~
5 ~~not arise from the same facts, incident, or circumstances which~~
6 ~~give rise to a charge or adjudication of delinquency.~~

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

1 preliminary background review of the members of the minor's
2 custodian's household in accordance with Section 4.3 of the
3 Child Care Act of 1969 within 90 days of that placement. If the
4 minor is ordered placed in a shelter care facility of the
5 Department of Children and Family Services or a licensed child
6 welfare agency, the court shall, upon request of the
7 appropriate Department or other agency, appoint the Department
8 of Children and Family Services Guardianship Administrator or
9 other appropriate agency executive temporary custodian of the
10 minor and the court may enter such other orders related to the
11 temporary custody as it deems fit and proper, including the
12 provision of services to the minor or his family to ameliorate
13 the causes contributing to the finding of probable cause or to
14 the finding of the existence of immediate and urgent necessity.

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

25 Where the Department of Children and Family Services
26 Guardianship Administrator is appointed as the executive

1 temporary custodian, and when the child has siblings in care,
2 the Department of Children and Family Services shall file with
3 the court and serve on the parties a sibling placement and
4 contact plan within 10 days, excluding weekends and holidays,
5 after the appointment. The sibling placement and contact plan
6 shall set forth whether the siblings are placed together, and
7 if they are not placed together, what, if any, efforts are
8 being made to place them together. If the Department has
9 determined that it is not in a child's best interest to be
10 placed with a sibling, the Department shall document in the
11 sibling placement and contact plan the basis for its
12 determination. For siblings placed separately, the sibling
13 placement and contact plan shall set the time and place for
14 visits, the frequency of the visits, the length of visits, who
15 shall be present for the visits, and where appropriate, the
16 child's opportunities to have contact with their siblings in
17 addition to in person contact. If the Department determines it
18 is not in the best interest of a sibling to have contact with a
19 sibling, the Department shall document in the sibling placement
20 and contact plan the basis for its determination. The sibling
21 placement and contact plan shall specify a date for development
22 of the Sibling Contact Support Plan, under subsection (f) of
23 Section 7.4 of the Children and Family Services Act, and shall
24 remain in effect until the Sibling Contact Support Plan is
25 developed.

26 For good cause, the court may waive the requirement to

1 file the parent-child visiting plan or the sibling placement
2 and contact plan, or extend the time for filing either plan.
3 Any party may, by motion, request the court to review the
4 parent-child visiting plan to determine whether it is
5 reasonably calculated to expeditiously facilitate the
6 achievement of the permanency goal. A party may, by motion,
7 request the court to review the parent-child visiting plan or
8 the sibling placement and contact plan to determine whether it
9 is consistent with the minor's best interest. The court may
10 refer the parties to mediation where available. The frequency,
11 duration, and locations of visitation shall be measured by the
12 needs of the child and family, and not by the convenience of
13 Department personnel. Child development principles shall be
14 considered by the court in its analysis of how frequent
15 visitation should be, how long it should last, where it should
16 take place, and who should be present. If upon motion of the
17 party to review either plan and after receiving evidence, the
18 court determines that the parent-child visiting plan is not
19 reasonably calculated to expeditiously facilitate the
20 achievement of the permanency goal or that the restrictions
21 placed on parent-child contact or sibling placement or contact
22 are contrary to the child's best interests, the court shall put
23 in writing the factual basis supporting the determination and
24 enter specific findings based on the evidence. The court shall
25 enter an order for the Department to implement changes to the
26 parent-child visiting plan or sibling placement or contact

1 plan, consistent with the court's findings. At any stage of
2 proceeding, any party may by motion request the court to enter
3 any orders necessary to implement the parent-child visiting
4 plan, sibling placement or contact plan or subsequently
5 developed Sibling Contact Support Plan. Nothing under this
6 subsection (2) shall restrict the court from granting
7 discretionary authority to the Department to increase
8 opportunities for additional parent-child contacts or sibling
9 contacts, without further court orders. Nothing in this
10 subsection (2) shall restrict the Department from immediately
11 restricting or terminating parent-child contact or sibling
12 contacts, without either amending the parent-child visiting
13 plan or the sibling contact plan or obtaining a court order,
14 where the Department or its assigns reasonably believe that
15 continuation of the contact, as set out in the plan, would be
16 contrary to the child's health, safety, and welfare. The
17 Department shall file with the court and serve on the parties
18 any amendments to the plan within 10 days, excluding weekends
19 and holidays, of the change of the visitation.

20 Acceptance of services shall not be considered an admission
21 of any allegation in a petition made pursuant to this Act, nor
22 may a referral of services be considered as evidence in any
23 proceeding pursuant to this Act, except where the issue is
24 whether the Department has made reasonable efforts to reunite
25 the family. In making its findings that it is consistent with
26 the health, safety and best interests of the minor to prescribe

1 shelter care, the court shall state in writing (i) the factual
2 basis supporting its findings concerning the immediate and
3 urgent necessity for the protection of the minor or of the
4 person or property of another and (ii) the factual basis
5 supporting its findings that reasonable efforts were made to
6 prevent or eliminate the removal of the minor from his or her
7 home or that no efforts reasonably could be made to prevent or
8 eliminate the removal of the minor from his or her home. The
9 parents, guardian, custodian, temporary custodian and minor
10 shall each be furnished a copy of such written findings. The
11 temporary custodian shall maintain a copy of the court order
12 and written findings in the case record for the child. The
13 order together with the court's findings of fact in support
14 thereof shall be entered of record in the court.

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

21 If the child is placed in the temporary custody of the
22 Department of Children and Family Services for his or her
23 protection, the court shall admonish the parents, guardian,
24 custodian or responsible relative that the parents must
25 cooperate with the Department of Children and Family Services,
26 comply with the terms of the service plans, and correct the

1 conditions which require the child to be in care, or risk
2 termination of their parental rights.

3 (3) If prior to the shelter care hearing for a minor
4 described in Sections 2-3, 2-4, 3-3 and 4-3 the moving party is
5 unable to serve notice on the party respondent, the shelter
6 care hearing may proceed ex-parte. A shelter care order from an
7 ex-parte hearing shall be endorsed with the date and hour of
8 issuance and shall be filed with the clerk's office and entered
9 of record. The order shall expire after 10 days from the time
10 it is issued unless before its expiration it is renewed, at a
11 hearing upon appearance of the party respondent, or upon an
12 affidavit of the moving party as to all diligent efforts to
13 notify the party respondent by notice as herein prescribed. The
14 notice prescribed shall be in writing and shall be personally
15 delivered to the minor or the minor's attorney and to the last
16 known address of the other person or persons entitled to
17 notice. The notice shall also state the nature of the
18 allegations, the nature of the order sought by the State,
19 including whether temporary custody is sought, and the
20 consequences of failure to appear and shall contain a notice
21 that the parties will not be entitled to further written
22 notices or publication notices of proceedings in this case,
23 including the filing of an amended petition or a motion to
24 terminate parental rights, except as required by Supreme Court
25 Rule 11; and shall explain the right of the parties and the
26 procedures to vacate or modify a shelter care order as provided

1 in this Section. The notice for a shelter care hearing shall be
2 substantially as follows:

3 NOTICE TO PARENTS AND CHILDREN
4 OF SHELTER CARE HEARING

5 On at, before the Honorable
6, (address:), the State
7 of Illinois will present evidence (1) that (name of child
8 or children) are abused, neglected
9 or dependent for the following reasons:

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

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

19 At the shelter care hearing, parents have the following
20 rights:

21 1. To ask the court to appoint a lawyer if they
22 cannot afford one.

23 2. To ask the court to continue the hearing to
24 allow them time to prepare.

25 3. To present evidence concerning:
26 a. Whether or not the child or children were

1 abused, neglected or dependent.

2 b. Whether or not there is "immediate and
3 urgent necessity" to remove the child from home
4 (including: their ability to care for the child,
5 conditions in the home, alternative means of
6 protecting the child other than removal).

7 c. The best interests of the child.

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

9 The Notice for rehearings shall be substantially as
10 follows:

11 NOTICE OF PARENT'S AND CHILDREN'S RIGHTS
12 TO REHEARING ON TEMPORARY CUSTODY

13 If you were not present at and did not have adequate
14 notice of the Shelter Care Hearing at which temporary
15 custody of was awarded to
16, you have the right to request a full
17 rehearing on whether the State should have temporary
18 custody of To request this rehearing,
19 you must file with the Clerk of the Juvenile Court
20 (address):, in person or by
21 mailing a statement (affidavit) setting forth the
22 following:

23 1. That you were not present at the shelter care
24 hearing.

25 2. That you did not get adequate notice (explaining

1 how the notice was inadequate).

2 3. Your signature.

3 4. Signature must be notarized.

4 The rehearing should be scheduled within 48 hours of
5 your filing this affidavit.

6 At the rehearing, your rights are the same as at the
7 initial shelter care hearing. The enclosed notice explains
8 those rights.

9 At the Shelter Care Hearing, children have the
10 following rights:

11 1. To have a guardian ad litem appointed.

12 2. To be declared competent as a witness and to
13 present testimony concerning:

14 a. Whether they are abused, neglected or
15 dependent.

16 b. Whether there is "immediate and urgent
17 necessity" to be removed from home.

18 c. Their best interests.

19 3. To cross examine witnesses for other parties.

20 4. To obtain an explanation of any proceedings and
21 orders of the court.

22 (4) If the parent, guardian, legal custodian, responsible
23 relative, minor age 8 or over, or counsel of the minor did not
24 have actual notice of or was not present at the shelter care
25 hearing, he or she may file an affidavit setting forth these
26 facts, and the clerk shall set the matter for rehearing not

1 later than 48 hours, excluding Sundays and legal holidays,
2 after the filing of the affidavit. At the rehearing, the court
3 shall proceed in the same manner as upon the original hearing.

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

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

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

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

1 that the minor be kept in a suitable place designated by the
2 Department of Children and Family Services or a licensed child
3 welfare agency.

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

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

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

19 (c) A person not a party to the alleged abuse, neglect
20 or dependency, including a parent, relative or legal
21 guardian, is capable of assuming temporary custody of the
22 minor; or

23 (d) Services provided by the Department of Children and
24 Family Services or a child welfare agency or other service
25 provider have been successful in eliminating the need for
26 temporary custody and the child can be cared for at home

1 without endangering the child's health or safety.

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

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

11 (10) When the court finds or has found that there is
12 probable cause to believe a minor is an abused minor as
13 described in subsection (2) of Section 2-3 and that there is an
14 immediate and urgent necessity for the abused minor to be
15 placed in shelter care, immediate and urgent necessity shall be
16 presumed for any other minor residing in the same household as
17 the abused minor provided:

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

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

22 Once the presumption of immediate and urgent necessity has
23 been raised, the burden of demonstrating the lack of immediate
24 and urgent necessity shall be on any party that is opposing
25 shelter care for the other minor.

26 (11) The changes made to this Section by Public Act 98-61

1 ~~this amendatory Act of the 98th General Assembly~~ apply to a
2 minor who has been arrested or taken into custody on or after
3 January 1, 2014 (the effective date of Public Act 98-61) ~~this~~
4 ~~amendatory Act.~~

5 (Source: P.A. 97-1076, eff. 8-24-12; 97-1150, eff. 1-25-13;
6 98-61, eff. 1-1-14; revised 11-22-13.)

7 (705 ILCS 405/2-27) (from Ch. 37, par. 802-27)

8 Sec. 2-27. Placement; legal custody or guardianship.

9 (1) If the court determines and puts in writing the factual
10 basis supporting the determination of whether the parents,
11 guardian, or legal custodian of a minor adjudged a ward of the
12 court are unfit or are unable, for some reason other than
13 financial circumstances alone, to care for, protect, train or
14 discipline the minor or are unwilling to do so, and that the
15 health, safety, and best interest of the minor will be
16 jeopardized if the minor remains in the custody of his or her
17 parents, guardian or custodian, the court may at this hearing
18 and at any later point:

19 (a) place the minor in the custody of a suitable
20 relative or other person as legal custodian or guardian;

21 (a-5) with the approval of the Department of Children
22 and Family Services, place the minor in the subsidized
23 guardianship of a suitable relative or other person as
24 legal guardian; "subsidized guardianship" means a private
25 guardianship arrangement for children for whom the

1 permanency goals of return home and adoption have been
2 ruled out and who meet the qualifications for subsidized
3 guardianship as defined by the Department of Children and
4 Family Services in administrative rules;

5 (b) place the minor under the guardianship of a
6 probation officer;

7 (c) commit the minor to an agency for care or
8 placement, except an institution under the authority of the
9 Department of Corrections or of the Department of Children
10 and Family Services;

11 (d) commit the minor to the Department of Children and
12 Family Services for care and service; however, a minor
13 charged with a criminal offense under the Criminal Code of
14 1961 or the Criminal Code of 2012 or adjudicated delinquent
15 shall not be placed in the custody of or committed to the
16 Department of Children and Family Services by any court,
17 except (i) a minor less than 18 ~~15~~ years of age and
18 committed to the Department of Children and Family Services
19 under Section 5-710 of this Act, or (ii) a minor for whom a
20 ~~an independent~~ basis of abuse, neglect, or dependency
21 exists, ~~or (iii) a minor for whom the court has granted a~~
22 ~~supplemental petition to reinstate wardship pursuant to~~
23 ~~subsection (2) of Section 2-33 of this Act. An independent~~
24 ~~basis exists when the allegations or adjudication of abuse,~~
25 ~~neglect, or dependency do not arise from the same facts,~~
26 ~~incident, or circumstances which give rise to a charge or~~

1 ~~adjudication of delinquency.~~ The Department shall be given
2 due notice of the pendency of the action and the
3 Guardianship Administrator of the Department of Children
4 and Family Services shall be appointed guardian of the
5 person of the minor. Whenever the Department seeks to
6 discharge a minor from its care and service, the
7 Guardianship Administrator shall petition the court for an
8 order terminating guardianship. The Guardianship
9 Administrator may designate one or more other officers of
10 the Department, appointed as Department officers by
11 administrative order of the Department Director,
12 authorized to affix the signature of the Guardianship
13 Administrator to documents affecting the guardian-ward
14 relationship of children for whom he or she has been
15 appointed guardian at such times as he or she is unable to
16 perform the duties of his or her office. The signature
17 authorization shall include but not be limited to matters
18 of consent of marriage, enlistment in the armed forces,
19 legal proceedings, adoption, major medical and surgical
20 treatment and application for driver's license. Signature
21 authorizations made pursuant to the provisions of this
22 paragraph shall be filed with the Secretary of State and
23 the Secretary of State shall provide upon payment of the
24 customary fee, certified copies of the authorization to any
25 court or individual who requests a copy.

26 (1.5) In making a determination under this Section, the

1 court shall also consider whether, based on health, safety, and
2 the best interests of the minor,

3 (a) appropriate services aimed at family preservation
4 and family reunification have been unsuccessful in
5 rectifying the conditions that have led to a finding of
6 unfitness or inability to care for, protect, train, or
7 discipline the minor, or

8 (b) no family preservation or family reunification
9 services would be appropriate,

10 and if the petition or amended petition contained an allegation
11 that the parent is an unfit person as defined in subdivision
12 (D) of Section 1 of the Adoption Act, and the order of
13 adjudication recites that parental unfitness was established
14 by clear and convincing evidence, the court shall, when
15 appropriate and in the best interest of the minor, enter an
16 order terminating parental rights and appointing a guardian
17 with power to consent to adoption in accordance with Section
18 2-29.

19 When making a placement, the court, wherever possible,
20 shall require the Department of Children and Family Services to
21 select a person holding the same religious belief as that of
22 the minor or a private agency controlled by persons of like
23 religious faith of the minor and shall require the Department
24 to otherwise comply with Section 7 of the Children and Family
25 Services Act in placing the child. In addition, whenever
26 alternative plans for placement are available, the court shall

1 ascertain and consider, to the extent appropriate in the
2 particular case, the views and preferences of the minor.

3 (2) When a minor is placed with a suitable relative or
4 other person pursuant to item (a) of subsection (1), the court
5 shall appoint him or her the legal custodian or guardian of the
6 person of the minor. When a minor is committed to any agency,
7 the court shall appoint the proper officer or representative
8 thereof as legal custodian or guardian of the person of the
9 minor. Legal custodians and guardians of the person of the
10 minor have the respective rights and duties set forth in
11 subsection (9) of Section 1-3 except as otherwise provided by
12 order of court; but no guardian of the person may consent to
13 adoption of the minor unless that authority is conferred upon
14 him or her in accordance with Section 2-29. An agency whose
15 representative is appointed guardian of the person or legal
16 custodian of the minor may place the minor in any child care
17 facility, but the facility must be licensed under the Child
18 Care Act of 1969 or have been approved by the Department of
19 Children and Family Services as meeting the standards
20 established for such licensing. No agency may place a minor
21 adjudicated under Sections 2-3 or 2-4 in a child care facility
22 unless the placement is in compliance with the rules and
23 regulations for placement under this Section promulgated by the
24 Department of Children and Family Services under Section 5 of
25 the Children and Family Services Act. Like authority and
26 restrictions shall be conferred by the court upon any probation

1 officer who has been appointed guardian of the person of a
2 minor.

3 (3) No placement by any probation officer or agency whose
4 representative is appointed guardian of the person or legal
5 custodian of a minor may be made in any out of State child care
6 facility unless it complies with the Interstate Compact on the
7 Placement of Children. Placement with a parent, however, is not
8 subject to that Interstate Compact.

9 (4) The clerk of the court shall issue to the legal
10 custodian or guardian of the person a certified copy of the
11 order of court, as proof of his authority. No other process is
12 necessary as authority for the keeping of the minor.

13 (5) Custody or guardianship granted under this Section
14 continues until the court otherwise directs, but not after the
15 minor reaches the age of 19 years except as set forth in
16 Section 2-31, or if the minor was previously committed to the
17 Department of Children and Family Services for care and service
18 and the court has granted a supplemental petition to reinstate
19 wardship pursuant to subsection (2) of Section 2-33.

20 (6) (Blank).

21 (Source: P.A. 96-581, eff. 1-1-10; 97-1150, eff. 1-25-13.)

22 (705 ILCS 405/5-710)

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

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

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

3 (i) put on probation or conditional discharge and
4 released to his or her parents, guardian or legal
5 custodian, provided, however, that any such minor who
6 is not committed to the Department of Juvenile Justice
7 under this subsection and who is found to be a
8 delinquent for an offense which is first degree murder,
9 a Class X felony, or a forcible felony shall be placed
10 on probation;

11 (ii) placed in accordance with Section 5-740, with
12 or without also being put on probation or conditional
13 discharge;

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

17 (iv) placed in the guardianship of the Department
18 of Children and Family Services, ~~but only~~ if the
19 delinquent minor is under 18 15 years of age and the
20 court finds that reasonable efforts have been made to
21 prevent or eliminate the need for removal and that
22 continuance in the home of the parent or guardian would
23 be contrary to the minor's welfare; ~~or,~~

24 (iv-5) placed in the guardianship of the
25 Department of Children and Family Services under
26 pursuant to Article II of this Act, a minor for whom an

1 ~~independent basis of abuse, neglect, or dependency~~
2 ~~exists. An independent basis exists when the~~
3 ~~allegations or adjudication of abuse, neglect, or~~
4 ~~dependency do not arise from the same facts, incident,~~
5 ~~or circumstances which give rise to a charge or~~
6 ~~adjudication of delinquency;~~

7 (v) placed in detention for a period not to exceed
8 30 days, either as the exclusive order of disposition
9 or, where appropriate, in conjunction with any other
10 order of disposition issued under this paragraph,
11 provided that any such detention shall be in a juvenile
12 detention home and the minor so detained shall be 10
13 years of age or older. However, the 30-day limitation
14 may be extended by further order of the court for a
15 minor under age 15 committed to the Department of
16 Children and Family Services if the court finds that
17 the minor is a danger to himself or others. The minor
18 shall be given credit on the sentencing order of
19 detention for time spent in detention under Sections
20 5-501, 5-601, 5-710, or 5-720 of this Article as a
21 result of the offense for which the sentencing order
22 was imposed. The court may grant credit on a sentencing
23 order of detention entered under a violation of
24 probation or violation of conditional discharge under
25 Section 5-720 of this Article for time spent in
26 detention before the filing of the petition alleging

1 the violation. A minor shall not be deprived of credit
2 for time spent in detention before the filing of a
3 violation of probation or conditional discharge
4 alleging the same or related act or acts. The
5 limitation that the minor shall only be placed in a
6 juvenile detention home does not apply as follows:

7 Persons 18 years of age and older who have a
8 petition of delinquency filed against them may be
9 confined in an adult detention facility. In making a
10 determination whether to confine a person 18 years of
11 age or older who has a petition of delinquency filed
12 against the person, these factors, among other
13 matters, shall be considered:

14 (A) the age of the person;

15 (B) any previous delinquent or criminal
16 history of the person;

17 (C) any previous abuse or neglect history of
18 the person;

19 (D) any mental health history of the person;

20 and

21 (E) any educational history of the person;

22 (vi) ordered partially or completely emancipated
23 in accordance with the provisions of the Emancipation
24 of Minors Act;

25 (vii) subject to having his or her driver's license
26 or driving privileges suspended for such time as

1 determined by the court but only until he or she
2 attains 18 years of age;

3 (viii) put on probation or conditional discharge
4 and placed in detention under Section 3-6039 of the
5 Counties Code for a period not to exceed the period of
6 incarceration permitted by law for adults found guilty
7 of the same offense or offenses for which the minor was
8 adjudicated delinquent, and in any event no longer than
9 upon attainment of age 21; this subdivision (viii)
10 notwithstanding any contrary provision of the law;

11 (ix) ordered to undergo a medical or other
12 procedure to have a tattoo symbolizing allegiance to a
13 street gang removed from his or her body; or

14 (x) placed in electronic home detention under Part
15 7A of this Article.

16 (b) A minor found to be guilty may be committed to the
17 Department of Juvenile Justice under Section 5-750 if the
18 minor is 13 years of age or older, provided that the
19 commitment to the Department of Juvenile Justice shall be
20 made only if a term of incarceration is permitted by law
21 for adults found guilty of the offense for which the minor
22 was adjudicated delinquent. The time during which a minor
23 is in custody before being released upon the request of a
24 parent, guardian or legal custodian shall be considered as
25 time spent in detention.

26 (c) When a minor is found to be guilty for an offense

1 which is a violation of the Illinois Controlled Substances
2 Act, the Cannabis Control Act, or the Methamphetamine
3 Control and Community Protection Act and made a ward of the
4 court, the court may enter a disposition order requiring
5 the minor to undergo assessment, counseling or treatment in
6 a substance abuse program approved by the Department of
7 Human Services.

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

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

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

1 Section, up to the maximum amount allowed in Section 5 of the
2 Parental Responsibility Law.

3 (5) Any sentencing order where the minor is committed or
4 placed in accordance with Section 5-740 shall provide for the
5 parents or guardian of the estate of the minor to pay to the
6 legal custodian or guardian of the person of the minor such
7 sums as are determined by the custodian or guardian of the
8 person of the minor as necessary for the minor's needs. The
9 payments may not exceed the maximum amounts provided for by
10 Section 9.1 of the Children and Family Services Act.

11 (6) Whenever the sentencing order requires the minor to
12 attend school or participate in a program of training, the
13 truant officer or designated school official shall regularly
14 report to the court if the minor is a chronic or habitual
15 truant under Section 26-2a of the School Code. Notwithstanding
16 any other provision of this Act, in instances in which
17 educational services are to be provided to a minor in a
18 residential facility where the minor has been placed by the
19 court, costs incurred in the provision of those educational
20 services must be allocated based on the requirements of the
21 School Code.

22 (7) In no event shall a guilty minor be committed to the
23 Department of Juvenile Justice for a period of time in excess
24 of that period for which an adult could be committed for the
25 same act.

26 (8) A minor found to be guilty for reasons that include a

1 violation of Section 21-1.3 of the Criminal Code of 1961 or the
2 Criminal Code of 2012 shall be ordered to perform community
3 service for not less than 30 and not more than 120 hours, if
4 community service is available in the jurisdiction. The
5 community service shall include, but need not be limited to,
6 the cleanup and repair of the damage that was caused by the
7 violation or similar damage to property located in the
8 municipality or county in which the violation occurred. The
9 order may be in addition to any other order authorized by this
10 Section.

11 (8.5) A minor found to be guilty for reasons that include a
12 violation of Section 3.02 or Section 3.03 of the Humane Care
13 for Animals Act or paragraph (d) of subsection (1) of Section
14 21-1 of the Criminal Code of 1961 or paragraph (4) of
15 subsection (a) of Section 21-1 of the Criminal Code of 2012
16 shall be ordered to undergo medical or psychiatric treatment
17 rendered by a psychiatrist or psychological treatment rendered
18 by a clinical psychologist. The order may be in addition to any
19 other order authorized by this Section.

20 (9) In addition to any other sentencing order, the court
21 shall order any minor found to be guilty for an act which would
22 constitute, predatory criminal sexual assault of a child,
23 aggravated criminal sexual assault, criminal sexual assault,
24 aggravated criminal sexual abuse, or criminal sexual abuse if
25 committed by an adult to undergo medical testing to determine
26 whether the defendant has any sexually transmissible disease

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

1 the minor.

2 (10) When a court finds a minor to be guilty the court
3 shall, before entering a sentencing order under this Section,
4 make a finding whether the offense committed either: (a) was
5 related to or in furtherance of the criminal activities of an
6 organized gang or was motivated by the minor's membership in or
7 allegiance to an organized gang, or (b) involved a violation of
8 subsection (a) of Section 12-7.1 of the Criminal Code of 1961
9 or the Criminal Code of 2012, a violation of any Section of
10 Article 24 of the Criminal Code of 1961 or the Criminal Code of
11 2012, or a violation of any statute that involved the wrongful
12 use of a firearm. If the court determines the question in the
13 affirmative, and the court does not commit the minor to the
14 Department of Juvenile Justice, the court shall order the minor
15 to perform community service for not less than 30 hours nor
16 more than 120 hours, provided that community service is
17 available in the jurisdiction and is funded and approved by the
18 county board of the county where the offense was committed. The
19 community service shall include, but need not be limited to,
20 the cleanup and repair of any damage caused by a violation of
21 Section 21-1.3 of the Criminal Code of 1961 or the Criminal
22 Code of 2012 and similar damage to property located in the
23 municipality or county in which the violation occurred. When
24 possible and reasonable, the community service shall be
25 performed in the minor's neighborhood. This order shall be in
26 addition to any other order authorized by this Section except

1 for an order to place the minor in the custody of the
2 Department of Juvenile Justice. For the purposes of this
3 Section, "organized gang" has the meaning ascribed to it in
4 Section 10 of the Illinois Streetgang Terrorism Omnibus
5 Prevention Act.

6 (11) If the court determines that the offense was committed
7 in furtherance of the criminal activities of an organized gang,
8 as provided in subsection (10), and that the offense involved
9 the operation or use of a motor vehicle or the use of a
10 driver's license or permit, the court shall notify the
11 Secretary of State of that determination and of the period for
12 which the minor shall be denied driving privileges. If, at the
13 time of the determination, the minor does not hold a driver's
14 license or permit, the court shall provide that the minor shall
15 not be issued a driver's license or permit until his or her
16 18th birthday. If the minor holds a driver's license or permit
17 at the time of the determination, the court shall provide that
18 the minor's driver's license or permit shall be revoked until
19 his or her 21st birthday, or until a later date or occurrence
20 determined by the court. If the minor holds a driver's license
21 at the time of the determination, the court may direct the
22 Secretary of State to issue the minor a judicial driving
23 permit, also known as a JDP. The JDP shall be subject to the
24 same terms as a JDP issued under Section 6-206.1 of the
25 Illinois Vehicle Code, except that the court may direct that
26 the JDP be effective immediately.

1 (12) If a minor is found to be guilty of a violation of
2 subsection (a-7) of Section 1 of the Prevention of Tobacco Use
3 by Minors Act, the court may, in its discretion, and upon
4 recommendation by the State's Attorney, order that minor and
5 his or her parents or legal guardian to attend a smoker's
6 education or youth diversion program as defined in that Act if
7 that program is available in the jurisdiction where the
8 offender resides. Attendance at a smoker's education or youth
9 diversion program shall be time-credited against any community
10 service time imposed for any first violation of subsection
11 (a-7) of Section 1 of that Act. In addition to any other
12 penalty that the court may impose for a violation of subsection
13 (a-7) of Section 1 of that Act, the court, upon request by the
14 State's Attorney, may in its discretion require the offender to
15 remit a fee for his or her attendance at a smoker's education
16 or youth diversion program.

17 For purposes of this Section, "smoker's education program"
18 or "youth diversion program" includes, but is not limited to, a
19 seminar designed to educate a person on the physical and
20 psychological effects of smoking tobacco products and the
21 health consequences of smoking tobacco products that can be
22 conducted with a locality's youth diversion program.

23 In addition to any other penalty that the court may impose
24 under this subsection (12):

25 (a) If a minor violates subsection (a-7) of Section 1
26 of the Prevention of Tobacco Use by Minors Act, the court

1 may impose a sentence of 15 hours of community service or a
2 fine of \$25 for a first violation.

3 (b) A second violation by a minor of subsection (a-7)
4 of Section 1 of that Act that occurs within 12 months after
5 the first violation is punishable by a fine of \$50 and 25
6 hours of community service.

7 (c) A third or subsequent violation by a minor of
8 subsection (a-7) of Section 1 of that Act that occurs
9 within 12 months after the first violation is punishable by
10 a \$100 fine and 30 hours of community service.

11 (d) Any second or subsequent violation not within the
12 12-month time period after the first violation is
13 punishable as provided for a first violation.

14 (Source: P.A. 97-1150, eff. 1-25-13; 98-536, eff. 8-23-13.)