

1 AN ACT concerning courts.

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

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

7 (705 ILCS 405/1-7) (from Ch. 37, par. 801-7)

8 Sec. 1-7. Confidentiality of law enforcement records.

9 (A) Inspection and copying of law enforcement records
10 maintained by law enforcement agencies that relate to a minor
11 who has been arrested or taken into custody before his or her
12 18th ~~17th~~ birthday shall be restricted to the following:

13 (1) Any local, State or federal law enforcement
14 officers of any jurisdiction or agency when necessary for
15 the discharge of their official duties during the
16 investigation or prosecution of a crime or relating to a
17 minor who has been adjudicated delinquent and there has
18 been a previous finding that the act which constitutes the
19 previous offense was committed in furtherance of criminal
20 activities by a criminal street gang, or, when necessary
21 for the discharge of its official duties in connection with
22 a particular investigation of the conduct of a law
23 enforcement officer, an independent agency or its staff

1 created by ordinance and charged by a unit of local
2 government with the duty of investigating the conduct of
3 law enforcement officers. For purposes of this Section,
4 "criminal street gang" has the meaning ascribed to it in
5 Section 10 of the Illinois Streetgang Terrorism Omnibus
6 Prevention Act.

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

14 (3) Prosecutors and probation officers:

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

18 (b) when institution of criminal proceedings has
19 been permitted or required under Section 5-805 and such
20 minor is the subject of a proceeding to determine the
21 amount of bail; or

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

1 (4) Adult and Juvenile Prisoner Review Board.

2 (5) Authorized military personnel.

3 (6) Persons engaged in bona fide research, with the
4 permission of the Presiding Judge of the Juvenile Court and
5 the chief executive of the respective law enforcement
6 agency; provided that publication of such research results
7 in no disclosure of a minor's identity and protects the
8 confidentiality of the minor's record.

9 (7) Department of Children and Family Services child
10 protection investigators acting in their official
11 capacity.

12 (8) The appropriate school official only if the agency
13 or officer believes that there is an imminent threat of
14 physical harm to students, school personnel, or others who
15 are present in the school or on school grounds.

16 (A) Inspection and copying shall be limited to law
17 enforcement records transmitted to the appropriate
18 school official or officials whom the school has
19 determined to have a legitimate educational or safety
20 interest by a local law enforcement agency under a
21 reciprocal reporting system established and maintained
22 between the school district and the local law
23 enforcement agency under Section 10-20.14 of the
24 School Code concerning a minor enrolled in a school
25 within the school district who has been arrested or
26 taken into custody for any of the following offenses:

1 (i) any violation of Article 24 of the Criminal
2 Code of 1961 or the Criminal Code of 2012;

3 (ii) a violation of the Illinois Controlled
4 Substances Act;

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

6 (iv) a forcible felony as defined in Section 2-8 of
7 the Criminal Code of 1961 or the Criminal Code of 2012;

8 (v) a violation of the Methamphetamine Control and
9 Community Protection Act;

10 (vi) a violation of Section 1-2 of the Harassing
11 and Obscene Communications Act;

12 (vii) a violation of the Hazing Act; or

13 (viii) a violation of Section 12-1, 12-2, 12-3,
14 12-3.05, 12-3.1, 12-3.2, 12-3.4, 12-3.5, 12-5, 12-7.3,
15 12-7.4, 12-7.5, 25-1, or 25-5 of the Criminal Code of
16 1961 or the Criminal Code of 2012.

17 The information derived from the law enforcement
18 records shall be kept separate from and shall not
19 become a part of the official school record of that
20 child and shall not be a public record. The information
21 shall be used solely by the appropriate school official
22 or officials whom the school has determined to have a
23 legitimate educational or safety interest to aid in the
24 proper rehabilitation of the child and to protect the
25 safety of students and employees in the school. If the
26 designated law enforcement and school officials deem

1 it to be in the best interest of the minor, the student
2 may be referred to in-school or community based social
3 services if those services are available.
4 "Rehabilitation services" may include interventions by
5 school support personnel, evaluation for eligibility
6 for special education, referrals to community-based
7 agencies such as youth services, behavioral healthcare
8 service providers, drug and alcohol prevention or
9 treatment programs, and other interventions as deemed
10 appropriate for the student.

11 (B) Any information provided to appropriate school
12 officials whom the school has determined to have a
13 legitimate educational or safety interest by local law
14 enforcement officials about a minor who is the subject
15 of a current police investigation that is directly
16 related to school safety shall consist of oral
17 information only, and not written law enforcement
18 records, and shall be used solely by the appropriate
19 school official or officials to protect the safety of
20 students and employees in the school and aid in the
21 proper rehabilitation of the child. The information
22 derived orally from the local law enforcement
23 officials shall be kept separate from and shall not
24 become a part of the official school record of the
25 child and shall not be a public record. This limitation
26 on the use of information about a minor who is the

1 subject of a current police investigation shall in no
2 way limit the use of this information by prosecutors in
3 pursuing criminal charges arising out of the
4 information disclosed during a police investigation of
5 the minor. For purposes of this paragraph,
6 "investigation" means an official systematic inquiry
7 by a law enforcement agency into actual or suspected
8 criminal activity.

9 (9) Mental health professionals on behalf of the
10 Illinois Department of Corrections or the Department of
11 Human Services or prosecutors who are evaluating,
12 prosecuting, or investigating a potential or actual
13 petition brought under the Sexually Violent Persons
14 Commitment Act relating to a person who is the subject of
15 juvenile law enforcement records or the respondent to a
16 petition brought under the Sexually Violent Persons
17 Commitment Act who is the subject of the juvenile law
18 enforcement records sought. Any records and any
19 information obtained from those records under this
20 paragraph (9) may be used only in sexually violent persons
21 commitment proceedings.

22 (10) The president of a park district. Inspection and
23 copying shall be limited to law enforcement records
24 transmitted to the president of the park district by the
25 Illinois State Police under Section 8-23 of the Park
26 District Code or Section 16a-5 of the Chicago Park District

1 Act concerning a person who is seeking employment with that
2 park district and who has been adjudicated a juvenile
3 delinquent for any of the offenses listed in subsection (c)
4 of Section 8-23 of the Park District Code or subsection (c)
5 of Section 16a-5 of the Chicago Park District Act.

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

16 (2) Law enforcement officers or other persons or
17 agencies shall transmit to the Department of State Police
18 copies of fingerprints and descriptions of all minors who
19 have been arrested or taken into custody before their 18th
20 ~~17th~~ birthday for the offense of unlawful use of weapons
21 under Article 24 of the Criminal Code of 1961 or the
22 Criminal Code of 2012, a Class X or Class 1 felony, a
23 forcible felony as defined in Section 2-8 of the Criminal
24 Code of 1961 or the Criminal Code of 2012, or a Class 2 or
25 greater felony under the Cannabis Control Act, the Illinois
26 Controlled Substances Act, the Methamphetamine Control and

1 Community Protection Act, or Chapter 4 of the Illinois
2 Vehicle Code, pursuant to Section 5 of the Criminal
3 Identification Act. Information reported to the Department
4 pursuant to this Section may be maintained with records
5 that the Department files pursuant to Section 2.1 of the
6 Criminal Identification Act. Nothing in this Act prohibits
7 a law enforcement agency from fingerprinting a minor taken
8 into custody or arrested before his or her 18th ~~17th~~
9 birthday for an offense other than those listed in this
10 paragraph (2).

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

26 (1) In cases where the law enforcement, or independent

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

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

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

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

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

4 (E) Law enforcement officers, and personnel of an
5 independent agency created by ordinance and charged by a unit
6 of local government with the duty of investigating the conduct
7 of law enforcement officers, may not disclose the identity of
8 any minor in releasing information to the general public as to
9 the arrest, investigation or disposition of any case involving
10 a minor.

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

21 (G) Nothing in this Section shall prohibit the right of a
22 Civil Service Commission or appointing authority of any state,
23 county or municipality examining the character and fitness of
24 an applicant for employment with a law enforcement agency,
25 correctional institution, or fire department from obtaining
26 and examining the records of any law enforcement agency

1 relating to any record of the applicant having been arrested or
2 taken into custody before the applicant's 18th ~~17th~~ birthday.

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

7 (Source: P.A. 96-419, eff. 8-13-09; 97-700, eff. 6-22-12;
8 97-1083, eff. 8-24-12; 97-1104, eff. 1-1-13; 97-1150, eff.
9 1-25-13.)

10 (705 ILCS 405/1-8) (from Ch. 37, par. 801-8)

11 Sec. 1-8. Confidentiality and accessibility of juvenile
12 court records.

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

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

18 (2) Law enforcement officers and law enforcement
19 agencies when such information is essential to executing an
20 arrest or search warrant or other compulsory process, or to
21 conducting an ongoing investigation or relating to a minor
22 who has been adjudicated delinquent and there has been a
23 previous finding that the act which constitutes the
24 previous offense was committed in furtherance of criminal
25 activities by a criminal street gang.

1 Before July 1, 1994, for the purposes of this Section,
2 "criminal street gang" means any ongoing organization,
3 association, or group of 3 or more persons, whether formal
4 or informal, having as one of its primary activities the
5 commission of one or more criminal acts and that has a
6 common name or common identifying sign, symbol or specific
7 color apparel displayed, and whose members individually or
8 collectively engage in or have engaged in a pattern of
9 criminal activity.

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

14 (3) Judges, hearing officers, prosecutors, probation
15 officers, social workers or other individuals assigned by
16 the court to conduct a pre-adjudication or predisposition
17 investigation, and individuals responsible for supervising
18 or providing temporary or permanent care and custody for
19 minors pursuant to the order of the juvenile court when
20 essential to performing their responsibilities.

21 (4) Judges, prosecutors and probation officers:

22 (a) in the course of a trial when institution of
23 criminal proceedings has been permitted or required
24 under Section 5-805; or

25 (b) when criminal proceedings have been permitted
26 or required under Section 5-805 and a minor is the

1 subject of a proceeding to determine the amount of
2 bail; or

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

8 (d) when a minor becomes 18 ~~17~~ years of age or
9 older, and is the subject of criminal proceedings,
10 including a hearing to determine the amount of bail, a
11 pre-trial investigation, a pre-sentence investigation,
12 a fitness hearing, or proceedings on an application for
13 probation.

14 (5) Adult and Juvenile Prisoner Review Boards.

15 (6) Authorized military personnel.

16 (7) Victims, their subrogees and legal
17 representatives; however, such persons shall have access
18 only to the name and address of the minor and information
19 pertaining to the disposition or alternative adjustment
20 plan of the juvenile court.

21 (8) Persons engaged in bona fide research, with the
22 permission of the presiding judge of the juvenile court and
23 the chief executive of the agency that prepared the
24 particular records; provided that publication of such
25 research results in no disclosure of a minor's identity and
26 protects the confidentiality of the record.

1 (9) The Secretary of State to whom the Clerk of the
2 Court shall report the disposition of all cases, as
3 required in Section 6-204 of the Illinois Vehicle Code.
4 However, information reported relative to these offenses
5 shall be privileged and available only to the Secretary of
6 State, courts, and police officers.

7 (10) The administrator of a bonafide substance abuse
8 student assistance program with the permission of the
9 presiding judge of the juvenile court.

10 (11) Mental health professionals on behalf of the
11 Illinois Department of Corrections or the Department of
12 Human Services or prosecutors who are evaluating,
13 prosecuting, or investigating a potential or actual
14 petition brought under the Sexually Violent Persons
15 Commitment Act relating to a person who is the subject of
16 juvenile court records or the respondent to a petition
17 brought under the Sexually Violent Persons Commitment Act,
18 who is the subject of juvenile court records sought. Any
19 records and any information obtained from those records
20 under this paragraph (11) may be used only in sexually
21 violent persons commitment proceedings.

22 (A-1) Findings and exclusions of paternity entered in
23 proceedings occurring under Article II of this Act shall be
24 disclosed, in a manner and form approved by the Presiding Judge
25 of the Juvenile Court, to the Department of Healthcare and
26 Family Services when necessary to discharge the duties of the

1 Department of Healthcare and Family Services under Article X of
2 the Illinois Public Aid Code.

3 (B) A minor who is the victim in a juvenile proceeding
4 shall be provided the same confidentiality regarding
5 disclosure of identity as the minor who is the subject of
6 record.

7 (C) Except as otherwise provided in this subsection (C),
8 juvenile court records shall not be made available to the
9 general public but may be inspected by representatives of
10 agencies, associations and news media or other properly
11 interested persons by general or special order of the court
12 presiding over matters pursuant to this Act.

13 (0.1) In cases where the records concern a pending
14 juvenile court case, the party seeking to inspect the
15 juvenile court records shall provide actual notice to the
16 attorney or guardian ad litem of the minor whose records
17 are sought.

18 (0.2) In cases where the records concern a juvenile
19 court case that is no longer pending, the party seeking to
20 inspect the juvenile court records shall provide actual
21 notice to the minor or the minor's parent or legal
22 guardian, and the matter shall be referred to the chief
23 judge presiding over matters pursuant to this Act.

24 (0.3) In determining whether the records should be
25 available for inspection, the court shall consider the
26 minor's interest in confidentiality and rehabilitation

1 over the moving party's interest in obtaining the
2 information. The State's Attorney, the minor, and the
3 minor's parents, guardian, and counsel shall at all times
4 have the right to examine court files and records. For
5 purposes of obtaining documents pursuant to this Section, a
6 civil subpoena is not an order of the court.

7 (0.4) Any records obtained in violation of this
8 subsection (C) shall not be admissible in any criminal or
9 civil proceeding, or operate to disqualify a minor from
10 subsequently holding public office, or operate as a
11 forfeiture of any public benefit, right, privilege, or
12 right to receive any license granted by public authority.

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

17 (A) The adjudication of delinquency was based upon
18 the minor's commission of first degree murder, attempt
19 to commit first degree murder, aggravated criminal
20 sexual assault, or criminal sexual assault; or

21 (B) The court has made a finding that the minor was
22 at least 13 years of age at the time the act was
23 committed and the adjudication of delinquency was
24 based upon the minor's commission of: (i) an act in
25 furtherance of the commission of a felony as a member
26 of or on behalf of a criminal street gang, (ii) an act

1 involving the use of a firearm in the commission of a
2 felony, (iii) an act that would be a Class X felony
3 offense under or the minor's second or subsequent Class
4 2 or greater felony offense under the Cannabis Control
5 Act if committed by an adult, (iv) an act that would be
6 a second or subsequent offense under Section 402 of the
7 Illinois Controlled Substances Act if committed by an
8 adult, (v) an act that would be an offense under
9 Section 401 of the Illinois Controlled Substances Act
10 if committed by an adult, (vi) an act that would be a
11 second or subsequent offense under Section 60 of the
12 Methamphetamine Control and Community Protection Act,
13 or (vii) an act that would be an offense under another
14 Section of the Methamphetamine Control and Community
15 Protection Act.

16 (2) The court shall allow the general public to have
17 access to the name, address, and offense of a minor who is
18 at least 13 years of age at the time the offense is
19 committed and who is convicted, in criminal proceedings
20 permitted or required under Section 5-4, under either of
21 the following circumstances:

22 (A) The minor has been convicted of first degree
23 murder, attempt to commit first degree murder,
24 aggravated criminal sexual assault, or criminal sexual
25 assault,

26 (B) The court has made a finding that the minor was

1 at least 13 years of age at the time the offense was
2 committed and the conviction was based upon the minor's
3 commission of: (i) an offense in furtherance of the
4 commission of a felony as a member of or on behalf of a
5 criminal street gang, (ii) an offense involving the use
6 of a firearm in the commission of a felony, (iii) a
7 Class X felony offense under or a second or subsequent
8 Class 2 or greater felony offense under the Cannabis
9 Control Act, (iv) a second or subsequent offense under
10 Section 402 of the Illinois Controlled Substances Act,
11 (v) an offense under Section 401 of the Illinois
12 Controlled Substances Act, (vi) an act that would be a
13 second or subsequent offense under Section 60 of the
14 Methamphetamine Control and Community Protection Act,
15 or (vii) an act that would be an offense under another
16 Section of the Methamphetamine Control and Community
17 Protection Act.

18 (D) Pending or following any adjudication of delinquency
19 for any offense defined in Sections 11-1.20 through 11-1.60 or
20 12-13 through 12-16 of the Criminal Code of 1961 or the
21 Criminal Code of 2012, the victim of any such offense shall
22 receive the rights set out in Sections 4 and 6 of the Bill of
23 Rights for Victims and Witnesses of Violent Crime Act; and the
24 juvenile who is the subject of the adjudication,
25 notwithstanding any other provision of this Act, shall be
26 treated as an adult for the purpose of affording such rights to

1 the victim.

2 (E) Nothing in this Section shall affect the right of a
3 Civil Service Commission or appointing authority of any state,
4 county or municipality examining the character and fitness of
5 an applicant for employment with a law enforcement agency,
6 correctional institution, or fire department to ascertain
7 whether that applicant was ever adjudicated to be a delinquent
8 minor and, if so, to examine the records of disposition or
9 evidence which were made in proceedings under this Act.

10 (F) Following any adjudication of delinquency for a crime
11 which would be a felony if committed by an adult, or following
12 any adjudication of delinquency for a violation of Section
13 24-1, 24-3, 24-3.1, or 24-5 of the Criminal Code of 1961 or the
14 Criminal Code of 2012, the State's Attorney shall ascertain
15 whether the minor respondent is enrolled in school and, if so,
16 shall provide a copy of the dispositional order to the
17 principal or chief administrative officer of the school. Access
18 to such juvenile records shall be limited to the principal or
19 chief administrative officer of the school and any guidance
20 counselor designated by him.

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

1 (H) When a Court hearing a proceeding under Article II of
2 this Act becomes aware that an earlier proceeding under Article
3 II had been heard in a different county, that Court shall
4 request, and the Court in which the earlier proceedings were
5 initiated shall transmit, an authenticated copy of the Court
6 record, including all documents, petitions, and orders filed
7 therein and the minute orders, transcript of proceedings, and
8 docket entries of the Court.

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

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

22 (Source: P.A. 96-212, eff. 8-10-09; 96-1551, eff. 7-1-11;
23 97-813, eff. 7-13-12; 97-1150, eff. 1-25-13.)

24 (705 ILCS 405/1-9) (from Ch. 37, par. 801-9)

25 Sec. 1-9. Expungement of law enforcement and juvenile court

1 records.

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

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

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

25 (4) The changes made to this Section by this amendatory Act
26 of the 98th General Assembly apply to law enforcement and

1 juvenile court records of a minor who has been arrested or
2 taken into custody on or after the effective date of this
3 amendatory Act.

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

5 (705 ILCS 405/2-10) (from Ch. 37, par. 802-10)

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

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

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

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

1 not arise from the same facts, incident, or circumstances which
2 give rise to a charge or adjudication of delinquency.

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

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

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

21 Where the Department of Children and Family Services
22 Guardianship Administrator is appointed as the executive
23 temporary custodian, and when the child has siblings in care,
24 the Department of Children and Family Services shall file with
25 the court and serve on the parties a sibling placement and
26 contact plan within 10 days, excluding weekends and holidays,

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

22 For good cause, the court may waive the requirement to
23 file the parent-child visiting plan or the sibling placement
24 and contact plan, or extend the time for filing either plan.
25 Any party may, by motion, request the court to review the
26 parent-child visiting plan to determine whether it is

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

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

16 Acceptance of services shall not be considered an admission
17 of any allegation in a petition made pursuant to this Act, nor
18 may a referral of services be considered as evidence in any
19 proceeding pursuant to this Act, except where the issue is
20 whether the Department has made reasonable efforts to reunite
21 the family. In making its findings that it is consistent with
22 the health, safety and best interests of the minor to prescribe
23 shelter care, the court shall state in writing (i) the factual
24 basis supporting its findings concerning the immediate and
25 urgent necessity for the protection of the minor or of the
26 person or property of another and (ii) the factual basis

1 supporting its findings that reasonable efforts were made to
2 prevent or eliminate the removal of the minor from his or her
3 home or that no efforts reasonably could be made to prevent or
4 eliminate the removal of the minor from his or her home. The
5 parents, guardian, custodian, temporary custodian and minor
6 shall each be furnished a copy of such written findings. The
7 temporary custodian shall maintain a copy of the court order
8 and written findings in the case record for the child. The
9 order together with the court's findings of fact in support
10 thereof shall be entered of record in the court.

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

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

25 (3) If prior to the shelter care hearing for a minor
26 described in Sections 2-3, 2-4, 3-3 and 4-3 the moving party is

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

25 NOTICE TO PARENTS AND CHILDREN
26 OF SHELTER CARE HEARING

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

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

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

15 At the shelter care hearing, parents have the following
 16 rights:

17 1. To ask the court to appoint a lawyer if they
 18 cannot afford one.

19 2. To ask the court to continue the hearing to
 20 allow them time to prepare.

21 3. To present evidence concerning:

22 a. Whether or not the child or children were
 23 abused, neglected or dependent.

24 b. Whether or not there is "immediate and
 25 urgent necessity" to remove the child from home
 26 (including: their ability to care for the child,

1 conditions in the home, alternative means of
2 protecting the child other than removal).

3 c. The best interests of the child.

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

5 The Notice for rehearings shall be substantially as
6 follows:

7 NOTICE OF PARENT'S AND CHILDREN'S RIGHTS

8 TO REHEARING ON TEMPORARY CUSTODY

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

19 1. That you were not present at the shelter care
20 hearing.

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

23 3. Your signature.

24 4. Signature must be notarized.

25 The rehearing should be scheduled within 48 hours of

1 your filing this affidavit.

2 At the rehearing, your rights are the same as at the
3 initial shelter care hearing. The enclosed notice explains
4 those rights.

5 At the Shelter Care Hearing, children have the
6 following rights:

7 1. To have a guardian ad litem appointed.

8 2. To be declared competent as a witness and to
9 present testimony concerning:

10 a. Whether they are abused, neglected or
11 dependent.

12 b. Whether there is "immediate and urgent
13 necessity" to be removed from home.

14 c. Their best interests.

15 3. To cross examine witnesses for other parties.

16 4. To obtain an explanation of any proceedings and
17 orders of the court.

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

26 (5) Only when there is reasonable cause to believe that the

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

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

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

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

26 (9) Notwithstanding any other provision of this Section any

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

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

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

15 (c) A person not a party to the alleged abuse, neglect
16 or dependency, including a parent, relative or legal
17 guardian, is capable of assuming temporary custody of the
18 minor; or

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

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

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

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

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

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

18 Once the presumption of immediate and urgent necessity has
19 been raised, the burden of demonstrating the lack of immediate
20 and urgent necessity shall be on any party that is opposing
21 shelter care for the other minor.

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

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

1 (705 ILCS 405/3-12) (from Ch. 37, par. 803-12)

2 Sec. 3-12. Shelter care hearing. At the appearance of the
3 minor before the court at the shelter care hearing, all
4 witnesses present shall be examined before the court in
5 relation to any matter connected with the allegations made in
6 the petition.

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

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

1 the court finds that it is a matter of immediate and urgent
2 necessity for the protection of the minor or of the person or
3 property of another that the minor be placed in a shelter care
4 facility, or that he or she is likely to flee the jurisdiction
5 of the court, and further finds that reasonable efforts have
6 been made or good cause has been shown why reasonable efforts
7 cannot prevent or eliminate the necessity of removal of the
8 minor from his or her home, the court may prescribe shelter
9 care and order that the minor be kept in a suitable place
10 designated by the court or in a shelter care facility
11 designated by the Department of Children and Family Services or
12 a licensed child welfare agency; otherwise it shall release the
13 minor from custody. If the court prescribes shelter care, then
14 in placing the minor, the Department or other agency shall, to
15 the extent compatible with the court's order, comply with
16 Section 7 of the Children and Family Services Act. If the minor
17 is ordered placed in a shelter care facility of the Department
18 of Children and Family Services or a licensed child welfare
19 agency, the court shall, upon request of the Department or
20 other agency, appoint the Department of Children and Family
21 Services Guardianship Administrator or other appropriate
22 agency executive temporary custodian of the minor and the court
23 may enter such other orders related to the temporary custody as
24 it deems fit and proper, including the provision of services to
25 the minor or his family to ameliorate the causes contributing
26 to the finding of probable cause or to the finding of the

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

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

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

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

22 NOTICE TO PARENTS AND CHILDREN OF SHELTER CARE HEARING

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

1 dependent for the following reasons:

2

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

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

8 At the shelter care hearing, parents have the following
9 rights:

10 1. To ask the court to appoint a lawyer if they cannot
11 afford one.

12 2. To ask the court to continue the hearing to allow
13 them time to prepare.

14 3. To present evidence concerning:

15 a. Whether or not the child or children were
16 abused, neglected or dependent.

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

22 c. The best interests of the child.

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

24 The Notice for rehearings shall be substantially as
25 follows:

26 NOTICE OF PARENT'S AND CHILDREN'S RIGHTS

1 TO REHEARING ON TEMPORARY CUSTODY

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

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

16 The rehearing should be scheduled within one day of your
17 filing this affidavit.

18 At the rehearing, your rights are the same as at the
19 initial shelter care hearing. The enclosed notice explains
20 those rights.

21 At the Shelter Care Hearing, children have the following
22 rights:

- 23 1. To have a guardian ad litem appointed.
- 24 2. To be declared competent as a witness and to present
- 25 testimony concerning:
- 26 a. Whether they are abused, neglected or

1 dependent.

2 b. Whether there is "immediate and urgent
3 necessity" to be removed from home.

4 c. Their best interests.

5 3. To cross examine witnesses for other parties.

6 4. To obtain an explanation of any proceedings and
7 orders of the court.

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

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

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

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

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

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

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

26 (b) There is a material change in the circumstances of

1 the natural family from which the minor was removed; or

2 (c) A person, including a parent, relative or legal
3 guardian, is capable of assuming temporary custody of the
4 minor; or

5 (d) Services provided by the Department of Children and
6 Family Services or a child welfare agency or other service
7 provider have been successful in eliminating the need for
8 temporary custody.

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

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

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

20 (705 ILCS 405/4-9) (from Ch. 37, par. 804-9)

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

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

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

19 The Court shall require documentation by representatives
20 of the Department of Children and Family Services or the
21 probation department as to the reasonable efforts that were
22 made to prevent or eliminate the necessity of removal of the
23 minor from his or her home, and shall consider the testimony of
24 any person as to those reasonable efforts. If the court finds
25 that it is a matter of immediate and urgent necessity for the
26 protection of the minor or of the person or property of another

1 that the minor be or placed in a shelter care facility or that
2 he or she is likely to flee the jurisdiction of the court, and
3 further, finds that reasonable efforts have been made or good
4 cause has been shown why reasonable efforts cannot prevent or
5 eliminate the necessity of removal of the minor from his or her
6 home, the court may prescribe shelter care and order that the
7 minor be kept in a suitable place designated by the court or in
8 a shelter care facility designated by the Department of
9 Children and Family Services or a licensed child welfare
10 agency, or in a facility or program licensed by the Department
11 of Human Services for shelter and treatment services; otherwise
12 it shall release the minor from custody. If the court
13 prescribes shelter care, then in placing the minor, the
14 Department or other agency shall, to the extent compatible with
15 the court's order, comply with Section 7 of the Children and
16 Family Services Act. If the minor is ordered placed in a
17 shelter care facility of the Department of Children and Family
18 Services or a licensed child welfare agency, or in a facility
19 or program licensed by the Department of Human Services for
20 shelter and treatment services, the court shall, upon request
21 of the appropriate Department or other agency, appoint the
22 Department of Children and Family Services Guardianship
23 Administrator or other appropriate agency executive temporary
24 custodian of the minor and the court may enter such other
25 orders related to the temporary custody as it deems fit and
26 proper, including the provision of services to the minor or his

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

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

1 protection of the minor.

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

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

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

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

24 (7) If neither the parent, guardian or custodian appears
25 within 24 hours to take custody of a minor released upon
26 request pursuant to subsection (2) of this Section, then the

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

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

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

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

20 (c) A person, 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.

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

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

11 (Source: P.A. 89-422; 89-507, eff. 7-1-97; 90-590, eff.
12 1-1-99.)

13 (705 ILCS 405/5-105)

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

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

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

20 (2.5) "Community service agency" means a not-for-profit
21 organization, community organization, church, charitable
22 organization, individual, public office, or other public body
23 whose purpose is to enhance the physical or mental health of a
24 delinquent minor or to rehabilitate the minor, or to improve
25 the environmental quality or social welfare of the community

1 which agrees to accept community service from juvenile
2 delinquents and to report on the progress of the community
3 service to the State's Attorney pursuant to an agreement or to
4 the court or to any agency designated by the court or to the
5 authorized diversion program that has referred the delinquent
6 minor for community service.

7 (3) "Delinquent minor" means any minor who ~~prior to his or~~
8 ~~her 17th birthday has violated or attempted to violate,~~
9 ~~regardless of where the act occurred, any federal or State law,~~
10 ~~county or municipal ordinance, and any minor who~~ prior to his
11 or her 18th birthday has violated or attempted to violate,
12 regardless of where the act occurred, any federal, State,
13 county or municipal law or ordinance ~~classified as a~~
14 ~~misdemeanor offense.~~

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

17 (5) "Detention" means the temporary care of a minor who is
18 alleged to be or has been adjudicated delinquent and who
19 requires secure custody for the minor's own protection or the
20 community's protection in a facility designed to physically
21 restrict the minor's movements, pending disposition by the
22 court or execution of an order of the court for placement or
23 commitment. Design features that physically restrict movement
24 include, but are not limited to, locked rooms and the secure
25 handcuffing of a minor to a rail or other stationary object. In
26 addition, "detention" includes the court ordered care of an

1 alleged or adjudicated delinquent minor who requires secure
2 custody pursuant to Section 5-125 of this Act.

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

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

11 (8) "Juvenile justice continuum" means a set of delinquency
12 prevention programs and services designed for the purpose of
13 preventing or reducing delinquent acts, including criminal
14 activity by youth gangs, as well as intervention,
15 rehabilitation, and prevention services targeted at minors who
16 have committed delinquent acts, and minors who have previously
17 been committed to residential treatment programs for
18 delinquents. The term includes children-in-need-of-services
19 and families-in-need-of-services programs; aftercare and
20 reentry services; substance abuse and mental health programs;
21 community service programs; community service work programs;
22 and alternative-dispute resolution programs serving
23 youth-at-risk of delinquency and their families, whether
24 offered or delivered by State or local governmental entities,
25 public or private for-profit or not-for-profit organizations,
26 or religious or charitable organizations. This term would also

1 encompass any program or service consistent with the purpose of
2 those programs and services enumerated in this subsection.

3 (9) "Juvenile police officer" means a sworn police officer
4 who has completed a Basic Recruit Training Course, has been
5 assigned to the position of juvenile police officer by his or
6 her chief law enforcement officer and has completed the
7 necessary juvenile officers training as prescribed by the
8 Illinois Law Enforcement Training Standards Board, or in the
9 case of a State police officer, juvenile officer training
10 approved by the Director of State Police.

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

13 (11) "Non-secure custody" means confinement where the
14 minor is not physically restricted by being placed in a locked
15 cell or room, by being handcuffed to a rail or other stationary
16 object, or by other means. Non-secure custody may include, but
17 is not limited to, electronic monitoring, foster home
18 placement, home confinement, group home placement, or physical
19 restriction of movement or activity solely through facility
20 staff.

21 (12) "Public or community service" means uncompensated
22 labor for a not-for-profit organization or public body whose
23 purpose is to enhance physical or mental stability of the
24 offender, environmental quality or the social welfare and which
25 agrees to accept public or community service from offenders and
26 to report on the progress of the offender and the public or

1 community service to the court or to the authorized diversion
2 program that has referred the offender for public or community
3 service.

4 (13) "Sentencing hearing" means a hearing to determine
5 whether a minor should be adjudged a ward of the court, and to
6 determine what sentence should be imposed on the minor. It is
7 the intent of the General Assembly that the term "sentencing
8 hearing" replace the term "dispositional hearing" and be
9 synonymous with that definition as it was used in the Juvenile
10 Court Act of 1987.

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

14 (15) "Site" means a not-for-profit organization, public
15 body, church, charitable organization, or individual agreeing
16 to accept community service from offenders and to report on the
17 progress of ordered or required public or community service to
18 the court or to the authorized diversion program that has
19 referred the offender for public or community service.

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

22 (17) "Trial" means a hearing to determine whether the
23 allegations of a petition under Section 5-520 that a minor is
24 delinquent are proved beyond a reasonable doubt. It is the
25 intent of the General Assembly that the term "trial" replace
26 the term "adjudicatory hearing" and be synonymous with that

1 definition as it was used in the Juvenile Court Act of 1987.

2 The changes made to this Section by this amendatory Act of
3 the 98th General Assembly apply to violations or attempted
4 violations committed on or after the effective date of this
5 amendatory Act.

6 (Source: P.A. 95-1031, eff. 1-1-10.)

7 (705 ILCS 405/5-120)

8 Sec. 5-120. Exclusive jurisdiction. Proceedings may be
9 instituted under the provisions of this Article concerning any
10 minor who ~~prior to the minor's 17th birthday has violated or~~
11 ~~attempted to violate, regardless of where the act occurred, any~~
12 ~~federal or State law or municipal or county ordinance, and any~~
13 ~~minor who~~ prior to his or her 18th birthday has violated or
14 attempted to violate, regardless of where the act occurred, any
15 federal, State, county or municipal law or ordinance ~~classified~~
16 ~~as a misdemeanor offense. If before trial or plea, an~~
17 ~~information or indictment is filed that includes one or more~~
18 ~~charges under the criminal laws of this State and additional~~
19 ~~charges that are classified as misdemeanors that are subject to~~
20 ~~proceedings under this Act, all of the charges arising out of~~
21 ~~the same incident shall be prosecuted under the criminal laws~~
22 ~~of this State. If after trial or plea the court finds that the~~
23 ~~minor committed an offense that is solely classified as a~~
24 ~~misdemeanor, the court must proceed under Section 5-705 and~~
25 ~~5-710 of this Act.~~ Except as provided in Sections 5-125, 5-130,

1 5-805, and 5-810 of this Article, no minor who was under 18 ~~17~~
2 years of age at the time of the alleged offense may be
3 prosecuted under the criminal laws of this State.

4 The changes made to this Section by this amendatory Act of
5 the 98th General Assembly apply to violations or attempted
6 violations committed on or after the effective date of this
7 amendatory Act.

8 (Source: P.A. 95-1031, eff. 1-1-10.)

9 (705 ILCS 405/5-130)

10 Sec. 5-130. Excluded jurisdiction.

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

23 These charges and all other charges arising out of the same
24 incident shall be prosecuted under the criminal laws of this
25 State.

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

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

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

21 (ii) If after trial or plea the court finds that the minor
22 committed an offense not covered by paragraph (a) of this
23 subsection (1), that finding shall not invalidate the verdict
24 or the prosecution of the minor under the criminal laws of the
25 State; however, unless the State requests a hearing for the
26 purpose of sentencing the minor under Chapter V of the Unified

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

24 (2) (Blank).

25 (3) (a) The definition of delinquent minor under Section
26 5-120 of this Article shall not apply to any minor who at the

1 time of the offense was at least 15 years of age and who is
2 charged with a violation of the provisions of paragraph (1),
3 (3), (4), or (10) of subsection (a) of Section 24-1 of the
4 Criminal Code of 1961 or the Criminal Code of 2012 while in
5 school, regardless of the time of day or the time of year, or
6 on the real property comprising any school, regardless of the
7 time of day or the time of year. School is defined, for
8 purposes of this Section as any public or private elementary or
9 secondary school, community college, college, or university.
10 These charges and all other charges arising out of the same
11 incident shall be prosecuted under the criminal laws of this
12 State.

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

22 (ii) If before trial or plea an information or indictment
23 is filed that includes one or more charges specified in
24 paragraph (a) of this subsection (3) and additional charges
25 that are not specified in that paragraph, all of the charges
26 arising out of the same incident shall be prosecuted under the

1 criminal laws of this State.

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

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

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

10 (4) (a) The definition of delinquent minor under Section
11 5-120 of this Article shall not apply to any minor who at the
12 time of an offense was at least 13 years of age and who is
13 charged with first degree murder committed during the course of
14 either aggravated criminal sexual assault, criminal sexual
15 assault, or aggravated kidnaping. However, this subsection (4)
16 does not include a minor charged with first degree murder based
17 exclusively upon the accountability provisions of the Criminal
18 Code of 1961 or the Criminal Code of 2012.

19 (b) (i) If before trial or plea an information or
20 indictment is filed that does not charge first degree murder
21 committed during the course of aggravated criminal sexual
22 assault, criminal sexual assault, or aggravated kidnaping, the
23 State's Attorney may proceed on any lesser charge or charges,
24 but only in Juvenile Court under the provisions of this
25 Article. The State's Attorney may proceed under the criminal
26 laws of this State on a lesser charge if before trial the minor

1 defendant knowingly and with advice of counsel waives, in
2 writing, his or her right to have the matter proceed in
3 Juvenile Court.

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

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

17 (ii) If the minor was not yet 15 years of age at the time of
18 the offense, and if after trial or plea the court finds that
19 the minor committed an offense other than first degree murder
20 committed during the course of either aggravated criminal
21 sexual assault, criminal sexual assault, or aggravated
22 kidnaping, the finding shall not invalidate the verdict or the
23 prosecution of the minor under the criminal laws of the State;
24 however, unless the State requests a hearing for the purpose of
25 sentencing the minor under Chapter V of the Unified Code of
26 Corrections, the Court must proceed under Sections 5-705 and

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

24 (5) (a) The definition of delinquent minor under Section
25 5-120 of this Article shall not apply to any minor who is
26 charged with a violation of subsection (a) of Section 31-6 or

1 Section 32-10 of the Criminal Code of 1961 or the Criminal Code
2 of 2012 when the minor is subject to prosecution under the
3 criminal laws of this State as a result of the application of
4 the provisions of Section 5-125, or subsection (1) or (2) of
5 this Section. These charges and all other charges arising out
6 of the same incident shall be prosecuted under the criminal
7 laws of this State.

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

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

23 (c) (i) If after trial or plea the minor is convicted of
24 any offense covered by paragraph (a) of this subsection (5),
25 then, in sentencing the minor, the court shall have available
26 any or all dispositions prescribed for that offense under

1 Chapter V of the Unified Code of Corrections.

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

1 the hearing the court finds that the minor should be sentenced
2 under Chapter V of the Unified Code of Corrections, then the
3 court shall sentence the minor accordingly having available to
4 it any or all dispositions so prescribed.

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

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

17 (8) Nothing in this Act prohibits or limits the prosecution
18 of any minor for an offense committed on or after his or her
19 18th ~~17th~~ birthday even though he or she is at the time of the
20 offense a ward of the court.

21 (9) If an original petition for adjudication of wardship
22 alleges the commission by a minor 13 years of age or over of an
23 act that constitutes a crime under the laws of this State, the
24 minor, with the consent of his or her counsel, may, at any time
25 before commencement of the adjudicatory hearing, file with the
26 court a motion that criminal prosecution be ordered and that

1 the petition be dismissed insofar as the act or acts involved
2 in the criminal proceedings are concerned. If such a motion is
3 filed as herein provided, the court shall enter its order
4 accordingly.

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

21 (a) The age of the minor;

22 (b) Any previous delinquent or criminal history of the
23 minor;

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

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

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

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

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

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

18 (705 ILCS 405/5-401.5)

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

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

25 In this Section, "electronic recording" includes motion

1 picture, audiotape, videotape, or digital recording.

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

9 (b) An oral, written, or sign language statement of a minor
10 who, at the time of the commission of the offense was under the
11 age of 18 ~~17~~ years, made as a result of a custodial
12 interrogation conducted at a police station or other place of
13 detention on or after the effective date of this amendatory Act
14 of the 93rd General Assembly shall be presumed to be
15 inadmissible as evidence against the minor in any criminal
16 proceeding or juvenile court proceeding, for an act that if
17 committed by an adult would be brought under Section 9-1,
18 9-1.2, 9-2, 9-2.1, 9-3, 9-3.2, or 9-3.3, of the Criminal Code
19 of 1961 or the Criminal Code of 2012, or under clause (d) (1) (F)
20 of Section 11-501 of the Illinois Vehicle Code unless:

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

23 (2) the recording is substantially accurate and not
24 intentionally altered.

25 (c) Every electronic recording required under this Section
26 must be preserved until such time as the minor's adjudication

1 for any offense relating to the statement is final and all
2 direct and habeas corpus appeals are exhausted, or the
3 prosecution of such offenses is barred by law.

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

12 (e) Nothing in this Section precludes the admission (i) of
13 a statement made by the minor in open court in any criminal
14 proceeding or juvenile court proceeding, before a grand jury,
15 or at a preliminary hearing, (ii) of a statement made during a
16 custodial interrogation that was not recorded as required by
17 this Section because electronic recording was not feasible,
18 (iii) of a voluntary statement, whether or not the result of a
19 custodial interrogation, that has a bearing on the credibility
20 of the accused as a witness, (iv) of a spontaneous statement
21 that is not made in response to a question, (v) of a statement
22 made after questioning that is routinely asked during the
23 processing of the arrest of the suspect, (vi) of a statement
24 made during a custodial interrogation by a suspect who
25 requests, prior to making the statement, to respond to the
26 interrogator's questions only if an electronic recording is not

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

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

19 (g) Any electronic recording of any statement made by a
20 minor during a custodial interrogation that is compiled by any
21 law enforcement agency as required by this Section for the
22 purposes of fulfilling the requirements of this Section shall
23 be confidential and exempt from public inspection and copying,
24 as provided under Section 7 of the Freedom of Information Act,
25 and the information shall not be transmitted to anyone except
26 as needed to comply with this Section.

1 (h) A statement, admission, confession, or incriminating
2 information made by or obtained from a minor related to the
3 instant offense, as part of any behavioral health screening,
4 assessment, evaluation, or treatment, whether or not
5 court-ordered, shall not be admissible as evidence against the
6 minor on the issue of guilt only in the instant juvenile court
7 proceeding. The provisions of this subsection (h) are in
8 addition to and do not override any existing statutory and
9 constitutional prohibition on the admission into evidence in
10 delinquency proceedings of information obtained during
11 screening, assessment, or treatment.

12 The changes made to this Section by this amendatory Act of
13 the 98th General Assembly apply to statements of a minor made
14 on or after the effective date of this amendatory Act.

15 (Source: P.A. 96-1251, eff. 1-1-11; 97-1150, eff. 1-25-13.)

16 (705 ILCS 405/5-410)

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

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

23 (2) (a) Any minor 10 years of age or older arrested
24 pursuant to this Act where there is probable cause to believe
25 that the minor is a delinquent minor and that (i) secured

1 custody is a matter of immediate and urgent necessity for the
2 protection of the minor or of the person or property of
3 another, (ii) the minor is likely to flee the jurisdiction of
4 the court, or (iii) the minor was taken into custody under a
5 warrant, may be kept or detained in an authorized detention
6 facility. No minor under 12 years of age shall be detained in a
7 county jail or a municipal lockup for more than 6 hours.

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

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

1 more inhabitants) deviates from the screening instrument.

2 (b-5) Subject to the provisions of subsection (b-4), if a
3 probation officer or detention officer (or other public officer
4 designated by the court in a county having 3,000,000 or more
5 inhabitants) does not intend to detain a minor for an offense
6 which constitutes one of the following offenses he or she shall
7 consult with the State's Attorney's Office prior to the release
8 of the minor: first degree murder, second degree murder,
9 involuntary manslaughter, criminal sexual assault, aggravated
10 criminal sexual assault, aggravated battery with a firearm as
11 described in Section 12-4.2 or subdivision (e)(1), (e)(2),
12 (e)(3), or (e)(4) of Section 12-3.05, aggravated or heinous
13 battery involving permanent disability or disfigurement or
14 great bodily harm, robbery, aggravated robbery, armed robbery,
15 vehicular hijacking, aggravated vehicular hijacking, vehicular
16 invasion, arson, aggravated arson, kidnapping, aggravated
17 kidnapping, home invasion, burglary, or residential burglary.

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

25 (i) The period of detention is deemed to have begun
26 once the minor has been placed in a locked room or cell or

1 handcuffed to a stationary object in a building housing a
2 county jail or municipal lockup. Time spent transporting a
3 minor is not considered to be time in detention or secure
4 custody.

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

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

12 (iv) A log shall be kept which shows the offense which
13 is the basis for the detention, the reasons and
14 circumstances for the decision to detain and the length of
15 time the minor was in detention.

16 (v) Violation of the time limit on detention in a
17 county jail or municipal lockup shall not, in and of
18 itself, render inadmissible evidence obtained as a result
19 of the violation of this time limit. Minors under 18 ~~17~~
20 years of age shall be kept separate from confined adults
21 and may not at any time be kept in the same cell, room or
22 yard with adults confined pursuant to criminal law. Persons
23 18 ~~17~~ years of age and older who have a petition of
24 delinquency filed against them may be confined in an adult
25 detention facility. In making a determination whether to
26 confine a person 18 ~~17~~ years of age or older who has a

1 petition of delinquency filed against the person, these
2 factors, among other matters, shall be considered:

3 (A) The age of the person;

4 (B) Any previous delinquent or criminal history of
5 the person;

6 (C) Any previous abuse or neglect history of the
7 person; and

8 (D) Any mental health or educational history of the
9 person, or both.

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

25 (ii) To accept or hold minors, 12 years of age or older,
26 after the time period prescribed in paragraph (d) (i) of this

1 subsection (2) of this Section but not exceeding 7 days
2 including Saturdays, Sundays and holidays pending an
3 adjudicatory hearing, county jails shall comply with all
4 temporary detention standards promulgated by the Department of
5 Corrections and training standards approved by the Illinois Law
6 Enforcement Training Standards Board.

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

13 (e) When a minor who is at least 15 years of age is
14 prosecuted under the criminal laws of this State, the court may
15 enter an order directing that the juvenile be confined in the
16 county jail. However, any juvenile confined in the county jail
17 under this provision shall be separated from adults who are
18 confined in the county jail in such a manner that there will be
19 no contact by sight, sound or otherwise between the juvenile
20 and adult prisoners.

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

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

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

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

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

23 (Source: P.A. 96-1551, eff. 7-1-11.)

24 (705 ILCS 405/5-901)

25 Sec. 5-901. Court file.

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

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

11 (i) A judge of the circuit court and members of the
12 staff of the court designated by the judge;

13 (ii) Parties to the proceedings and their
14 attorneys;

15 (iii) Victims and their attorneys, except in cases
16 of multiple victims of sex offenses in which case the
17 information identifying the nonrequesting victims
18 shall be redacted;

19 (iv) Probation officers, law enforcement officers
20 or prosecutors or their staff;

21 (v) Adult and juvenile Prisoner Review Boards.

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

26 (i) Authorized military personnel;

1 (ii) Persons engaged in bona fide research, with
2 the permission of the judge of the juvenile court and
3 the chief executive of the agency that prepared the
4 particular recording: provided that publication of
5 such research results in no disclosure of a minor's
6 identity and protects the confidentiality of the
7 record;

8 (iii) The Secretary of State to whom the Clerk of
9 the Court shall report the disposition of all cases, as
10 required in Section 6-204 or Section 6-205.1 of the
11 Illinois Vehicle Code. However, information reported
12 relative to these offenses shall be privileged and
13 available only to the Secretary of State, courts, and
14 police officers;

15 (iv) The administrator of a bonafide substance
16 abuse student assistance program with the permission
17 of the presiding judge of the juvenile court;

18 (v) Any individual, or any public or private agency
19 or institution, having custody of the juvenile under
20 court order or providing educational, medical or
21 mental health services to the juvenile or a
22 court-approved advocate for the juvenile or any
23 placement provider or potential placement provider as
24 determined by the court.

25 (3) A minor who is the victim or alleged victim in a
26 juvenile proceeding shall be provided the same confidentiality

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

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

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

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

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

1 (ii) The court has made a finding that the minor
2 was at least 13 years of age at the time the act was
3 committed and the adjudication of delinquency was
4 based upon the minor's commission of: (A) an act in
5 furtherance of the commission of a felony as a member
6 of or on behalf of a criminal street gang, (B) an act
7 involving the use of a firearm in the commission of a
8 felony, (C) an act that would be a Class X felony
9 offense under or the minor's second or subsequent Class
10 2 or greater felony offense under the Cannabis Control
11 Act if committed by an adult, (D) an act that would be
12 a second or subsequent offense under Section 402 of the
13 Illinois Controlled Substances Act if committed by an
14 adult, (E) an act that would be an offense under
15 Section 401 of the Illinois Controlled Substances Act
16 if committed by an adult, or (F) an act that would be
17 an offense under the Methamphetamine Control and
18 Community Protection Act if committed by an adult.

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

25 (i) The minor has been convicted of first degree
26 murder, attempt to commit first degree murder,

1 aggravated criminal sexual assault, or criminal sexual
2 assault,

3 (ii) The court has made a finding that the minor
4 was at least 13 years of age at the time the offense
5 was committed and the conviction was based upon the
6 minor's commission of: (A) an offense in furtherance of
7 the commission of a felony as a member of or on behalf
8 of a criminal street gang, (B) an offense involving the
9 use of a firearm in the commission of a felony, (C) a
10 Class X felony offense under the Cannabis Control Act
11 or a second or subsequent Class 2 or greater felony
12 offense under the Cannabis Control Act, (D) a second or
13 subsequent offense under Section 402 of the Illinois
14 Controlled Substances Act, (E) an offense under
15 Section 401 of the Illinois Controlled Substances Act,
16 or (F) an offense under the Methamphetamine Control and
17 Community Protection Act.

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

24 (7) Nothing in this Section shall affect the right of a
25 Civil Service Commission or appointing authority examining the
26 character and fitness of an applicant for a position as a law

1 enforcement officer to ascertain whether that applicant was
2 ever adjudicated to be a delinquent minor and, if so, to
3 examine the records or evidence which were made in proceedings
4 under this Act.

5 (8) Following any adjudication of delinquency for a crime
6 which would be a felony if committed by an adult, or following
7 any adjudication of delinquency for a violation of Section
8 24-1, 24-3, 24-3.1, or 24-5 of the Criminal Code of 1961 or the
9 Criminal Code of 2012, the State's Attorney shall ascertain
10 whether the minor respondent is enrolled in school and, if so,
11 shall provide a copy of the sentencing order to the principal
12 or chief administrative officer of the school. Access to such
13 juvenile records shall be limited to the principal or chief
14 administrative officer of the school and any guidance counselor
15 designated by him or her.

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

22 (11) The Clerk of the Circuit Court shall report to the
23 Department of State Police, in the form and manner required by
24 the Department of State Police, the final disposition of each
25 minor who has been arrested or taken into custody before his or
26 her 18th ~~17th~~ birthday for those offenses required to be

1 reported under Section 5 of the Criminal Identification Act.
2 Information reported to the Department under this Section may
3 be maintained with records that the Department files under
4 Section 2.1 of the Criminal Identification Act.

5 (12) Information or records may be disclosed to the general
6 public when the court is conducting hearings under Section
7 5-805 or 5-810.

8 The changes made to this Section by this amendatory Act of
9 the 98th General Assembly apply to juvenile court records of a
10 minor who has been arrested or taken into custody on or after
11 the effective date of this amendatory Act.

12 (Source: P.A. 97-1150, eff. 1-25-13.)

13 (705 ILCS 405/5-905)

14 Sec. 5-905. Law enforcement records.

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

21 (a) A judge of the circuit court and members of the
22 staff of the court designated by the judge;

23 (b) Law enforcement officers, probation officers or
24 prosecutors or their staff, or, when necessary for the
25 discharge of its official duties in connection with a

1 particular investigation of the conduct of a law
2 enforcement officer, an independent agency or its staff
3 created by ordinance and charged by a unit of local
4 government with the duty of investigating the conduct of
5 law enforcement officers;

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

9 (d) Adult and Juvenile Prisoner Review Boards;

10 (e) Authorized military personnel;

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

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

24 (h) The appropriate school official only if the agency
25 or officer believes that there is an imminent threat of
26 physical harm to students, school personnel, or others who

1 are present in the school or on school grounds.

2 (A) Inspection and copying shall be limited to law
3 enforcement records transmitted to the appropriate
4 school official or officials whom the school has
5 determined to have a legitimate educational or safety
6 interest by a local law enforcement agency under a
7 reciprocal reporting system established and maintained
8 between the school district and the local law
9 enforcement agency under Section 10-20.14 of the
10 School Code concerning a minor enrolled in a school
11 within the school district who has been arrested or
12 taken into custody for any of the following offenses:

13 (i) any violation of Article 24 of the Criminal
14 Code of 1961 or the Criminal Code of 2012;

15 (ii) a violation of the Illinois Controlled
16 Substances Act;

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

18 (iv) a forcible felony as defined in Section
19 2-8 of the Criminal Code of 1961 or the Criminal
20 Code of 2012;

21 (v) a violation of the Methamphetamine Control
22 and Community Protection Act;

23 (vi) a violation of Section 1-2 of the
24 Harassing and Obscene Communications Act;

25 (vii) a violation of the Hazing Act; or

26 (viii) a violation of Section 12-1, 12-2,

1 12-3, 12-3.05, 12-3.1, 12-3.2, 12-3.4, 12-3.5,
2 12-5, 12-7.3, 12-7.4, 12-7.5, 25-1, or 25-5 of the
3 Criminal Code of 1961 or the Criminal Code of 2012.

4 The information derived from the law enforcement
5 records shall be kept separate from and shall not
6 become a part of the official school record of that
7 child and shall not be a public record. The information
8 shall be used solely by the appropriate school official
9 or officials whom the school has determined to have a
10 legitimate educational or safety interest to aid in the
11 proper rehabilitation of the child and to protect the
12 safety of students and employees in the school. If the
13 designated law enforcement and school officials deem
14 it to be in the best interest of the minor, the student
15 may be referred to in-school or community based social
16 services if those services are available.
17 "Rehabilitation services" may include interventions by
18 school support personnel, evaluation for eligibility
19 for special education, referrals to community-based
20 agencies such as youth services, behavioral healthcare
21 service providers, drug and alcohol prevention or
22 treatment programs, and other interventions as deemed
23 appropriate for the student.

24 (B) Any information provided to appropriate school
25 officials whom the school has determined to have a
26 legitimate educational or safety interest by local law

1 enforcement officials about a minor who is the subject
2 of a current police investigation that is directly
3 related to school safety shall consist of oral
4 information only, and not written law enforcement
5 records, and shall be used solely by the appropriate
6 school official or officials to protect the safety of
7 students and employees in the school and aid in the
8 proper rehabilitation of the child. The information
9 derived orally from the local law enforcement
10 officials shall be kept separate from and shall not
11 become a part of the official school record of the
12 child and shall not be a public record. This limitation
13 on the use of information about a minor who is the
14 subject of a current police investigation shall in no
15 way limit the use of this information by prosecutors in
16 pursuing criminal charges arising out of the
17 information disclosed during a police investigation of
18 the minor. For purposes of this paragraph,
19 "investigation" means an official systematic inquiry
20 by a law enforcement agency into actual or suspected
21 criminal activity;

22 (i) The president of a park district. Inspection and
23 copying shall be limited to law enforcement records
24 transmitted to the president of the park district by the
25 Illinois State Police under Section 8-23 of the Park
26 District Code or Section 16a-5 of the Chicago Park District

1 Act concerning a person who is seeking employment with that
2 park district and who has been adjudicated a juvenile
3 delinquent for any of the offenses listed in subsection (c)
4 of Section 8-23 of the Park District Code or subsection (c)
5 of Section 16a-5 of the Chicago Park District Act.

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

11 (2.5) If the minor is a victim of aggravated battery,
12 battery, attempted first degree murder, or other non-sexual
13 violent offense, the identity of the victim may be disclosed to
14 appropriate school officials, for the purpose of preventing
15 foreseeable future violence involving minors, by a local law
16 enforcement agency pursuant to an agreement established
17 between the school district and a local law enforcement agency
18 subject to the approval by the presiding judge of the juvenile
19 court.

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

24 (4) Nothing in this Section shall prohibit the inspection
25 or disclosure to victims and witnesses of photographs contained
26 in the records of law enforcement agencies when the inspection

1 or disclosure is conducted in the presence of a law enforcement
2 officer for purposes of identification or apprehension of any
3 person in the course of any criminal investigation or
4 prosecution.

5 (5) The records of law enforcement officers, or of an
6 independent agency created by ordinance and charged by a unit
7 of local government with the duty of investigating the conduct
8 of law enforcement officers, concerning all minors under 18 ~~17~~
9 years of age must be maintained separate from the records of
10 adults and may not be open to public inspection or their
11 contents disclosed to the public except by order of the court
12 or when the institution of criminal proceedings has been
13 permitted under Section 5-130 or 5-805 or required under
14 Section 5-130 or 5-805 or such a person has been convicted of a
15 crime and is the subject of pre-sentence investigation or when
16 provided by law.

17 (6) Except as otherwise provided in this subsection (6),
18 law enforcement officers, and personnel of an independent
19 agency created by ordinance and charged by a unit of local
20 government with the duty of investigating the conduct of law
21 enforcement officers, may not disclose the identity of any
22 minor in releasing information to the general public as to the
23 arrest, investigation or disposition of any case involving a
24 minor. Any victim or parent or legal guardian of a victim may
25 petition the court to disclose the name and address of the
26 minor and the minor's parents or legal guardian, or both. Upon

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

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

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

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

26 (Source: P.A. 96-419, eff. 8-13-09; 96-1414, eff. 1-1-11;

1 97-700, eff. 6-22-12; 97-1104, eff. 1-1-13; 97-1150, eff.
2 1-25-13.)

3 (705 ILCS 405/5-915)

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

6 (0.05) For purposes of this Section and Section 5-622:

7 "Expunge" means to physically destroy the records and
8 to obliterate the minor's name from any official index or
9 public record, or both. Nothing in this Act shall require
10 the physical destruction of the internal office records,
11 files, or databases maintained by a State's Attorney's
12 Office or other prosecutor.

13 "Law enforcement record" includes but is not limited to
14 records of arrest, station adjustments, fingerprints,
15 probation adjustments, the issuance of a notice to appear,
16 or any other records maintained by a law enforcement agency
17 relating to a minor suspected of committing an offense.

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

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

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

2 or

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

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

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

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

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

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

25 whichever is later of (a) or (b). Nothing in this Section 5-915
26 precludes a minor from obtaining expungement under Section

1 5-622.

2 (2.5) If a minor is arrested and no petition for
3 delinquency is filed with the clerk of the circuit court as
4 provided in paragraph (a) of subsection (1) at the time the
5 minor is released from custody, the youth officer, if
6 applicable, or other designated person from the arresting
7 agency, shall notify verbally and in writing to the minor or
8 the minor's parents or guardians that if the State's Attorney
9 does not file a petition for delinquency, the minor has a right
10 to petition to have his or her arrest record expunged when the
11 minor attains the age of 18 ~~17~~ or when all juvenile court
12 proceedings relating to that minor have been terminated and
13 that unless a petition to expunge is filed, the minor shall
14 have an arrest record and shall provide the minor and the
15 minor's parents or guardians with an expungement information
16 packet, including a petition to expunge juvenile records
17 obtained from the clerk of the circuit court.

18 (2.6) If a minor is charged with an offense and is found
19 not delinquent of that offense; or if a minor is placed under
20 supervision under Section 5-615, and the order of supervision
21 is successfully terminated; or if a minor is adjudicated for an
22 offense that would be a Class B misdemeanor, a Class C
23 misdemeanor, or a business or petty offense if committed by an
24 adult; or if a minor has incidents occurring before his or her
25 18th ~~17th~~ birthday that have not resulted in proceedings in
26 criminal court, or resulted in proceedings in juvenile court,

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

22 (2.7) For counties with a population over 3,000,000, the
23 clerk of the circuit court shall send a "Notification of a
24 Possible Right to Expungement" post card to the minor at the
25 address last received by the clerk of the circuit court on the
26 date that the minor attains the age of 18 ~~17~~ based on the

1 birthdate provided to the court by the minor or his or her
 2 guardian in cases under paragraphs (b), (c), and (d) of
 3 subsection (1); and when the minor attains the age of 21 based
 4 on the birthdate provided to the court by the minor or his or
 5 her guardian in cases under subsection (2).

6 (2.8) The petition for expungement for subsection (1) shall
 7 be substantially in the following form:

8 IN THE CIRCUIT COURT OF, ILLINOIS
 9 JUDICIAL CIRCUIT

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

15 PETITION TO EXPUNGE JUVENILE RECORDS
 16 (705 ILCS 405/5-915 (SUBSECTION 1))

17 (Please prepare a separate petition for each offense)

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

1 Department for the offense of, and:

2 (Check One:)

3 () a. no petition was filed with the Clerk of the Circuit
4 Court.

5 () b. was charged with and was found not delinquent of
6 the offense.

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

9 () d. on placed under supervision pursuant to Section
10 5-615 of the Juvenile Court Act of 1987 and such order of
11 supervision successfully terminated on

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

15 Petitioner has has not been arrested on charges in
16 this or any county other than the charges listed above. If
17 petitioner has been arrested on additional charges, please list
18 the charges below:

19 Charge(s):

20 Arresting Agency or Agencies:

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

22 WHEREFORE, the petitioner respectfully requests this Honorable
23 Court to (1) order all law enforcement agencies to expunge all
24 records of petitioner to this incident, and (2) to order the
25 Clerk of the Court to expunge all records concerning the
26 petitioner regarding this incident.

1
2

3
4 Petitioner (Signature)

5
6

7 Petitioner's Street Address

8
9

10 City, State, Zip Code

11
12

13 Petitioner's Telephone Number

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

18
19

20 Petitioner (Signature)

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

23 IN THE CIRCUIT COURT OF, ILLINOIS

24 JUDICIAL CIRCUIT

1 IN THE INTEREST OF) NO.
 2)
 3)
 4)
 5 (Name of Petitioner)

PETITION TO EXPUNGE JUVENILE RECORDS

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

(Please prepare a separate petition for each offense)

9 Now comes, petitioner, and respectfully requests
 10 that this Honorable Court enter an order expunging all Juvenile
 11 Law Enforcement and Court records of petitioner and in support
 12 thereof states that:

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

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

24 Petitioner was arrested on by the Police
 25 Department for the offense of, and:

1 (Check whichever one occurred the latest:)

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

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

13 Charge(s):

14 Arresting Agency or Agencies:

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

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

21

22 Petitioner (Signature)

23

24 Petitioner's Street Address

1
 2 City, State, Zip Code
 3
 4 Petitioner's Telephone Number

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

9
 10 Petitioner (Signature)

11 (3) The chief judge of the circuit in which an arrest was
 12 made or a charge was brought or any judge of that circuit
 13 designated by the chief judge may, upon verified petition of a
 14 person who is the subject of an arrest or a juvenile court
 15 proceeding under subsection (1) or (2) of this Section, order
 16 the law enforcement records or official court file, or both, to
 17 be expunged from the official records of the arresting
 18 authority, the clerk of the circuit court and the Department of
 19 State Police. The person whose records are to be expunged shall
 20 petition the court using the appropriate form containing his or
 21 her current address and shall promptly notify the clerk of the
 22 circuit court of any change of address. Notice of the petition
 23 shall be served upon the State's Attorney or prosecutor charged
 24 with the duty of prosecuting the offense, the Department of

1 State Police, and the arresting agency or agencies by the clerk
 2 of the circuit court. If an objection is filed within 45 days
 3 of the notice of the petition, the clerk of the circuit court
 4 shall set a date for hearing after the 45 day objection period.
 5 At the hearing the court shall hear evidence on whether the
 6 expungement should or should not be granted. Unless the State's
 7 Attorney or prosecutor, the Department of State Police, or an
 8 arresting agency objects to the expungement within 45 days of
 9 the notice, the court may enter an order granting expungement.
 10 The person whose records are to be expunged shall pay the clerk
 11 of the circuit court a fee equivalent to the cost associated
 12 with expungement of records by the clerk and the Department of
 13 State Police. The clerk shall forward a certified copy of the
 14 order to the Department of State Police, the appropriate
 15 portion of the fee to the Department of State Police for
 16 processing, and deliver a certified copy of the order to the
 17 arresting agency.

18 (3.1) The Notice of Expungement shall be in substantially
 19 the following form:

20 IN THE CIRCUIT COURT OF, ILLINOIS
 21 JUDICIAL CIRCUIT

22 IN THE INTEREST OF) NO.
 23)
 24)
 25)

1 (Name of Petitioner)

2 NOTICE

3 TO: State's Attorney

4 TO: Arresting Agency

5
6

7

8
9

10

11 TO: Illinois State Police

12
13

14
15

16 ATTENTION: Expungement

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

22
23 Petitioner's Signature

24
25 Petitioner's Street Address

1
 2 City, State, Zip Code
 3
 4 Petitioner's Telephone Number

PROOF OF SERVICE

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

9 (Check One:)

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

12 or

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

17

19 Signature

20 Clerk of the Circuit Court or Deputy Clerk

21 Printed Name of Delinquent Minor/Petitioner:

22 Address:

23 Telephone Number:

24 (3.2) The Order of Expungement shall be in substantially
 25 the following form:

26 IN THE CIRCUIT COURT OF, ILLINOIS

1 Court expunge all records regarding the above-captioned case.

2 ENTER:

3

4 JUDGE

5 DATED:

6 Name:

7 Attorney for:

8 Address: City/State/Zip:

9 Attorney Number:

10 (3.3) The Notice of Objection shall be in substantially the
11 following form:

12 IN THE CIRCUIT COURT OF, ILLINOIS
13 JUDICIAL CIRCUIT

14 IN THE INTEREST OF) NO.

15)

16)

17)

18 (Name of Petitioner)

19 NOTICE OF OBJECTION

20 TO:(Attorney, Public Defender, Minor)

21

22

23 TO:(Illinois State Police)

24

1

2 TO: (Clerk of the Court)

3

4

5 TO: (Judge)

6

7

8 TO: (Arresting Agency/Agencies)

9

10

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

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

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

22 DATED:

23 Name:

24 Attorney For:

25 Address:

26 City/State/Zip:

1 Telephone:

2 Attorney No.:

3 FOR USE BY CLERK OF THE COURT PERSONNEL ONLY

4 This matter has been set for hearing on the foregoing
5 objection, on in room, located at, before the
6 Honorable, Judge, or any judge sitting in his/her stead.
7 (Only one hearing shall be set, regardless of the number of
8 Notices of Objection received on the same case).

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

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

21 Date:

22 Initials of Clerk completing this section:

23 (4) Upon entry of an order expunging records or files, the
24 offense, which the records or files concern shall be treated as
25 if it never occurred. Law enforcement officers and other public
26 offices and agencies shall properly reply on inquiry that no

1 record or file exists with respect to the person.

2 (5) Records which have not been expunged are sealed, and
3 may be obtained only under the provisions of Sections 5-901,
4 5-905 and 5-915.

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

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

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

19 (i) An explanation of the State's juvenile expungement
20 process;

21 (ii) The circumstances under which juvenile
22 expungement may occur;

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

24 (iv) The steps necessary to initiate and complete the
25 juvenile expungement process; and

26 (v) Directions on how to contact the State Appellate

1 Defender.

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

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

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

22 (8) (a) Except with respect to law enforcement agencies, the
23 Department of Corrections, State's Attorneys, or other
24 prosecutors, an expunged juvenile record may not be considered
25 by any private or public entity in employment matters,
26 certification, licensing, revocation of certification or

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

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

18 (c) The expungement of juvenile records under Section 5-622
19 shall be funded by the additional fine imposed under Section
20 5-9-1.17 of the Unified Code of Corrections and additional
21 appropriations made by the General Assembly for such purpose.

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

26 (Source: P.A. 95-861, eff. 1-1-09; 96-707, eff. 1-1-10.)