

1 AN ACT concerning minors.

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

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

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

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

11 (a) For purposes of this Section:

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

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

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

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

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

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

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

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

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

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

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

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

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

16 (G) (blank);

17 (H) (blank); and

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

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

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

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

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

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

11 (e) (Blank).

12 (f) (Blank).

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

17 (1) adoption;

18 (2) foster care;

19 (3) family counseling;

20 (4) protective services;

21 (5) (blank);

22 (6) homemaker service;

23 (7) return of runaway children;

24 (8) (blank);

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

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

3 (10) interstate services.

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

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

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

25 (1) case management;

26 (2) homemakers;

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

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

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

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

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

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

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

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

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

1 outside of the State of Illinois.

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

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

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

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

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

3 The Department may, at its discretion except for those
4 children also adjudicated neglected or dependent, accept for
5 care and training any child who has been adjudicated addicted,
6 as a truant minor in need of supervision or as a minor
7 requiring authoritative intervention, under the Juvenile Court
8 Act or the Juvenile Court Act of 1987, but no such child shall
9 be committed to the Department by any court without the
10 approval of the Department. On and after the effective date of
11 this amendatory Act of the 98th General Assembly and before
12 January 1, 2017, a ~~A~~ minor charged with a criminal offense
13 under the Criminal Code of 1961 or the Criminal Code of 2012 or
14 adjudicated delinquent shall not be placed in the custody of or
15 committed to the Department by any court, except (i) a minor
16 less than 16 ~~15~~ years of age committed to the Department under
17 Section 5-710 of the Juvenile Court Act of 1987, (ii) a minor
18 for whom an independent basis of abuse, neglect, or dependency
19 exists, which must be defined by departmental rule, or (iii) a
20 minor for whom the court has granted a supplemental petition to
21 reinstate wardship pursuant to subsection (2) of Section 2-33
22 of the Juvenile Court Act of 1987. On and after January 1,
23 2017, a minor charged with a criminal offense under the
24 Criminal Code of 1961 or the Criminal Code of 2012 or
25 adjudicated delinquent shall not be placed in the custody of or
26 committed to the Department by any court, except (i) a minor

1 less than 15 years of age committed to the Department under
2 Section 5-710 of the Juvenile Court Act of 1987, ii) a minor
3 for whom an independent basis of abuse, neglect, or dependency
4 exists, which must be defined by departmental rule, or (iii) a
5 minor for whom the court has granted a supplemental petition to
6 reinstate wardship pursuant to subsection (2) of Section 2-33
7 of the Juvenile Court Act of 1987. An independent basis exists
8 when the allegations or adjudication of abuse, neglect, or
9 dependency do not arise from the same facts, incident, or
10 circumstances which give rise to a charge or adjudication of
11 delinquency.

12 As soon as is possible after August 7, 2009 (the effective
13 date of Public Act 96-134), the Department shall develop and
14 implement a special program of family preservation services to
15 support intact, foster, and adoptive families who are
16 experiencing extreme hardships due to the difficulty and stress
17 of caring for a child who has been diagnosed with a pervasive
18 developmental disorder if the Department determines that those
19 services are necessary to ensure the health and safety of the
20 child. The Department may offer services to any family whether
21 or not a report has been filed under the Abused and Neglected
22 Child Reporting Act. The Department may refer the child or
23 family to services available from other agencies in the
24 community if the conditions in the child's or family's home are
25 reasonably likely to subject the child or family to future
26 reports of suspected child abuse or neglect. Acceptance of

1 these services shall be voluntary. The Department shall develop
2 and implement a public information campaign to alert health and
3 social service providers and the general public about these
4 special family preservation services. The nature and scope of
5 the services offered and the number of families served under
6 the special program implemented under this paragraph shall be
7 determined by the level of funding that the Department annually
8 allocates for this purpose. The term "pervasive developmental
9 disorder" under this paragraph means a neurological condition,
10 including but not limited to, Asperger's Syndrome and autism,
11 as defined in the most recent edition of the Diagnostic and
12 Statistical Manual of Mental Disorders of the American
13 Psychiatric Association.

14 (1-1) The legislature recognizes that the best interests of
15 the child require that the child be placed in the most
16 permanent living arrangement as soon as is practically
17 possible. To achieve this goal, the legislature directs the
18 Department of Children and Family Services to conduct
19 concurrent planning so that permanency may occur at the
20 earliest opportunity. Permanent living arrangements may
21 include prevention of placement of a child outside the home of
22 the family when the child can be cared for at home without
23 endangering the child's health or safety; reunification with
24 the family, when safe and appropriate, if temporary placement
25 is necessary; or movement of the child toward the most
26 permanent living arrangement and permanent legal status.

1 When determining reasonable efforts to be made with respect
2 to a child, as described in this subsection, and in making such
3 reasonable efforts, the child's health and safety shall be the
4 paramount concern.

5 When a child is placed in foster care, the Department shall
6 ensure and document that reasonable efforts were made to
7 prevent or eliminate the need to remove the child from the
8 child's home. The Department must make reasonable efforts to
9 reunify the family when temporary placement of the child occurs
10 unless otherwise required, pursuant to the Juvenile Court Act
11 of 1987. At any time after the dispositional hearing where the
12 Department believes that further reunification services would
13 be ineffective, it may request a finding from the court that
14 reasonable efforts are no longer appropriate. The Department is
15 not required to provide further reunification services after
16 such a finding.

17 A decision to place a child in substitute care shall be
18 made with considerations of the child's health, safety, and
19 best interests. At the time of placement, consideration should
20 also be given so that if reunification fails or is delayed, the
21 placement made is the best available placement to provide
22 permanency for the child.

23 The Department shall adopt rules addressing concurrent
24 planning for reunification and permanency. The Department
25 shall consider the following factors when determining
26 appropriateness of concurrent planning:

- 1 (1) the likelihood of prompt reunification;
- 2 (2) the past history of the family;
- 3 (3) the barriers to reunification being addressed by
- 4 the family;
- 5 (4) the level of cooperation of the family;
- 6 (5) the foster parents' willingness to work with the
- 7 family to reunite;
- 8 (6) the willingness and ability of the foster family to
- 9 provide an adoptive home or long-term placement;
- 10 (7) the age of the child;
- 11 (8) placement of siblings.

12 (m) The Department may assume temporary custody of any
13 child if:

14 (1) it has received a written consent to such temporary
15 custody signed by the parents of the child or by the parent
16 having custody of the child if the parents are not living
17 together or by the guardian or custodian of the child if
18 the child is not in the custody of either parent, or

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

21 If the child is found in his or her residence without a parent,
22 guardian, custodian or responsible caretaker, the Department
23 may, instead of removing the child and assuming temporary
24 custody, place an authorized representative of the Department
25 in that residence until such time as a parent, guardian or
26 custodian enters the home and expresses a willingness and

1 apparent ability to ensure the child's health and safety and
2 resume permanent charge of the child, or until a relative
3 enters the home and is willing and able to ensure the child's
4 health and safety and assume charge of the child until a
5 parent, guardian or custodian enters the home and expresses
6 such willingness and ability to ensure the child's safety and
7 resume permanent charge. After a caretaker has remained in the
8 home for a period not to exceed 12 hours, the Department must
9 follow those procedures outlined in Section 2-9, 3-11, 4-8, or
10 5-415 of the Juvenile Court Act of 1987.

11 The Department shall have the authority, responsibilities
12 and duties that a legal custodian of the child would have
13 pursuant to subsection (9) of Section 1-3 of the Juvenile Court
14 Act of 1987. Whenever a child is taken into temporary custody
15 pursuant to an investigation under the Abused and Neglected
16 Child Reporting Act, or pursuant to a referral and acceptance
17 under the Juvenile Court Act of 1987 of a minor in limited
18 custody, the Department, during the period of temporary custody
19 and before the child is brought before a judicial officer as
20 required by Section 2-9, 3-11, 4-8, or 5-415 of the Juvenile
21 Court Act of 1987, shall have the authority, responsibilities
22 and duties that a legal custodian of the child would have under
23 subsection (9) of Section 1-3 of the Juvenile Court Act of
24 1987.

25 The Department shall ensure that any child taken into
26 custody is scheduled for an appointment for a medical

1 examination.

2 A parent, guardian or custodian of a child in the temporary
3 custody of the Department who would have custody of the child
4 if he were not in the temporary custody of the Department may
5 deliver to the Department a signed request that the Department
6 surrender the temporary custody of the child. The Department
7 may retain temporary custody of the child for 10 days after the
8 receipt of the request, during which period the Department may
9 cause to be filed a petition pursuant to the Juvenile Court Act
10 of 1987. If a petition is so filed, the Department shall retain
11 temporary custody of the child until the court orders
12 otherwise. If a petition is not filed within the 10 day period,
13 the child shall be surrendered to the custody of the requesting
14 parent, guardian or custodian not later than the expiration of
15 the 10 day period, at which time the authority and duties of
16 the Department with respect to the temporary custody of the
17 child shall terminate.

18 (m-1) The Department may place children under 18 years of
19 age in a secure child care facility licensed by the Department
20 that cares for children who are in need of secure living
21 arrangements for their health, safety, and well-being after a
22 determination is made by the facility director and the Director
23 or the Director's designate prior to admission to the facility
24 subject to Section 2-27.1 of the Juvenile Court Act of 1987.
25 This subsection (m-1) does not apply to a child who is subject
26 to placement in a correctional facility operated pursuant to

1 Section 3-15-2 of the Unified Code of Corrections, unless the
2 child is a ward who was placed under the care of the Department
3 before being subject to placement in a correctional facility
4 and a court of competent jurisdiction has ordered placement of
5 the child in a secure care facility.

6 (n) The Department may place children under 18 years of age
7 in licensed child care facilities when in the opinion of the
8 Department, appropriate services aimed at family preservation
9 have been unsuccessful and cannot ensure the child's health and
10 safety or are unavailable and such placement would be for their
11 best interest. Payment for board, clothing, care, training and
12 supervision of any child placed in a licensed child care
13 facility may be made by the Department, by the parents or
14 guardians of the estates of those children, or by both the
15 Department and the parents or guardians, except that no
16 payments shall be made by the Department for any child placed
17 in a licensed child care facility for board, clothing, care,
18 training and supervision of such a child that exceed the
19 average per capita cost of maintaining and of caring for a
20 child in institutions for dependent or neglected children
21 operated by the Department. However, such restriction on
22 payments does not apply in cases where children require
23 specialized care and treatment for problems of severe emotional
24 disturbance, physical disability, social adjustment, or any
25 combination thereof and suitable facilities for the placement
26 of such children are not available at payment rates within the

1 limitations set forth in this Section. All reimbursements for
2 services delivered shall be absolutely inalienable by
3 assignment, sale, attachment, garnishment or otherwise.

4 (n-1) The Department shall provide or authorize child
5 welfare services, aimed at assisting minors to achieve
6 sustainable self-sufficiency as independent adults, for any
7 minor eligible for the reinstatement of wardship pursuant to
8 subsection (2) of Section 2-33 of the Juvenile Court Act of
9 1987, whether or not such reinstatement is sought or allowed,
10 provided that the minor consents to such services and has not
11 yet attained the age of 21. The Department shall have
12 responsibility for the development and delivery of services
13 under this Section. An eligible youth may access services under
14 this Section through the Department of Children and Family
15 Services or by referral from the Department of Human Services.
16 Youth participating in services under this Section shall
17 cooperate with the assigned case manager in developing an
18 agreement identifying the services to be provided and how the
19 youth will increase skills to achieve self-sufficiency. A
20 homeless shelter is not considered appropriate housing for any
21 youth receiving child welfare services under this Section. The
22 Department shall continue child welfare services under this
23 Section to any eligible minor until the minor becomes 21 years
24 of age, no longer consents to participate, or achieves
25 self-sufficiency as identified in the minor's service plan. The
26 Department of Children and Family Services shall create clear,

1 readable notice of the rights of former foster youth to child
2 welfare services under this Section and how such services may
3 be obtained. The Department of Children and Family Services and
4 the Department of Human Services shall disseminate this
5 information statewide. The Department shall adopt regulations
6 describing services intended to assist minors in achieving
7 sustainable self-sufficiency as independent adults.

8 (o) The Department shall establish an administrative
9 review and appeal process for children and families who request
10 or receive child welfare services from the Department. Children
11 who are wards of the Department and are placed by private child
12 welfare agencies, and foster families with whom those children
13 are placed, shall be afforded the same procedural and appeal
14 rights as children and families in the case of placement by the
15 Department, including the right to an initial review of a
16 private agency decision by that agency. The Department shall
17 insure that any private child welfare agency, which accepts
18 wards of the Department for placement, affords those rights to
19 children and foster families. The Department shall accept for
20 administrative review and an appeal hearing a complaint made by
21 (i) a child or foster family concerning a decision following an
22 initial review by a private child welfare agency or (ii) a
23 prospective adoptive parent who alleges a violation of
24 subsection (j-5) of this Section. An appeal of a decision
25 concerning a change in the placement of a child shall be
26 conducted in an expedited manner. A court determination that a

1 current foster home placement is necessary and appropriate
2 under Section 2-28 of the Juvenile Court Act of 1987 does not
3 constitute a judicial determination on the merits of an
4 administrative appeal, filed by a former foster parent,
5 involving a change of placement decision.

6 (p) There is hereby created the Department of Children and
7 Family Services Emergency Assistance Fund from which the
8 Department may provide special financial assistance to
9 families which are in economic crisis when such assistance is
10 not available through other public or private sources and the
11 assistance is deemed necessary to prevent dissolution of the
12 family unit or to reunite families which have been separated
13 due to child abuse and neglect. The Department shall establish
14 administrative rules specifying the criteria for determining
15 eligibility for and the amount and nature of assistance to be
16 provided. The Department may also enter into written agreements
17 with private and public social service agencies to provide
18 emergency financial services to families referred by the
19 Department. Special financial assistance payments shall be
20 available to a family no more than once during each fiscal year
21 and the total payments to a family may not exceed \$500 during a
22 fiscal year.

23 (q) The Department may receive and use, in their entirety,
24 for the benefit of children any gift, donation or bequest of
25 money or other property which is received on behalf of such
26 children, or any financial benefits to which such children are

1 or may become entitled while under the jurisdiction or care of
2 the Department.

3 The Department shall set up and administer no-cost,
4 interest-bearing accounts in appropriate financial
5 institutions for children for whom the Department is legally
6 responsible and who have been determined eligible for Veterans'
7 Benefits, Social Security benefits, assistance allotments from
8 the armed forces, court ordered payments, parental voluntary
9 payments, Supplemental Security Income, Railroad Retirement
10 payments, Black Lung benefits, or other miscellaneous
11 payments. Interest earned by each account shall be credited to
12 the account, unless disbursed in accordance with this
13 subsection.

14 In disbursing funds from children's accounts, the
15 Department shall:

16 (1) Establish standards in accordance with State and
17 federal laws for disbursing money from children's
18 accounts. In all circumstances, the Department's
19 "Guardianship Administrator" or his or her designee must
20 approve disbursements from children's accounts. The
21 Department shall be responsible for keeping complete
22 records of all disbursements for each account for any
23 purpose.

24 (2) Calculate on a monthly basis the amounts paid from
25 State funds for the child's board and care, medical care
26 not covered under Medicaid, and social services; and

1 utilize funds from the child's account, as covered by
2 regulation, to reimburse those costs. Monthly,
3 disbursements from all children's accounts, up to 1/12 of
4 \$13,000,000, shall be deposited by the Department into the
5 General Revenue Fund and the balance over 1/12 of
6 \$13,000,000 into the DCFS Children's Services Fund.

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

12 (r) The Department shall promulgate regulations
13 encouraging all adoption agencies to voluntarily forward to the
14 Department or its agent names and addresses of all persons who
15 have applied for and have been approved for adoption of a
16 hard-to-place or handicapped child and the names of such
17 children who have not been placed for adoption. A list of such
18 names and addresses shall be maintained by the Department or
19 its agent, and coded lists which maintain the confidentiality
20 of the person seeking to adopt the child and of the child shall
21 be made available, without charge, to every adoption agency in
22 the State to assist the agencies in placing such children for
23 adoption. The Department may delegate to an agent its duty to
24 maintain and make available such lists. The Department shall
25 ensure that such agent maintains the confidentiality of the
26 person seeking to adopt the child and of the child.

1 (s) The Department of Children and Family Services may
2 establish and implement a program to reimburse Department and
3 private child welfare agency foster parents licensed by the
4 Department of Children and Family Services for damages
5 sustained by the foster parents as a result of the malicious or
6 negligent acts of foster children, as well as providing third
7 party coverage for such foster parents with regard to actions
8 of foster children to other individuals. Such coverage will be
9 secondary to the foster parent liability insurance policy, if
10 applicable. The program shall be funded through appropriations
11 from the General Revenue Fund, specifically designated for such
12 purposes.

13 (t) The Department shall perform home studies and
14 investigations and shall exercise supervision over visitation
15 as ordered by a court pursuant to the Illinois Marriage and
16 Dissolution of Marriage Act or the Adoption Act only if:

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

19 (2) the court has ordered one or both of the parties to
20 the proceeding to reimburse the Department for its
21 reasonable costs for providing such services in accordance
22 with Department rules, or has determined that neither party
23 is financially able to pay.

24 The Department shall provide written notification to the
25 court of the specific arrangements for supervised visitation
26 and projected monthly costs within 60 days of the court order.

1 The Department shall send to the court information related to
2 the costs incurred except in cases where the court has
3 determined the parties are financially unable to pay. The court
4 may order additional periodic reports as appropriate.

5 (u) In addition to other information that must be provided,
6 whenever the Department places a child with a prospective
7 adoptive parent or parents or in a licensed foster home, group
8 home, child care institution, or in a relative home, the
9 Department shall provide to the prospective adoptive parent or
10 parents or other caretaker:

11 (1) available detailed information concerning the
12 child's educational and health history, copies of
13 immunization records (including insurance and medical card
14 information), a history of the child's previous
15 placements, if any, and reasons for placement changes
16 excluding any information that identifies or reveals the
17 location of any previous caretaker;

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

21 (3) information containing details of the child's
22 individualized educational plan when the child is
23 receiving special education services.

24 The caretaker shall be informed of any known social or
25 behavioral information (including, but not limited to,
26 criminal background, fire setting, perpetuation of sexual

1 abuse, destructive behavior, and substance abuse) necessary to
2 care for and safeguard the children to be placed or currently
3 in the home. The Department may prepare a written summary of
4 the information required by this paragraph, which may be
5 provided to the foster or prospective adoptive parent in
6 advance of a placement. The foster or prospective adoptive
7 parent may review the supporting documents in the child's file
8 in the presence of casework staff. In the case of an emergency
9 placement, casework staff shall at least provide known
10 information verbally, if necessary, and must subsequently
11 provide the information in writing as required by this
12 subsection.

13 The information described in this subsection shall be
14 provided in writing. In the case of emergency placements when
15 time does not allow prior review, preparation, and collection
16 of written information, the Department shall provide such
17 information as it becomes available. Within 10 business days
18 after placement, the Department shall obtain from the
19 prospective adoptive parent or parents or other caretaker a
20 signed verification of receipt of the information provided.
21 Within 10 business days after placement, the Department shall
22 provide to the child's guardian ad litem a copy of the
23 information provided to the prospective adoptive parent or
24 parents or other caretaker. The information provided to the
25 prospective adoptive parent or parents or other caretaker shall
26 be reviewed and approved regarding accuracy at the supervisory

1 level.

2 (u-5) Effective July 1, 1995, only foster care placements
3 licensed as foster family homes pursuant to the Child Care Act
4 of 1969 shall be eligible to receive foster care payments from
5 the Department. Relative caregivers who, as of July 1, 1995,
6 were approved pursuant to approved relative placement rules
7 previously promulgated by the Department at 89 Ill. Adm. Code
8 335 and had submitted an application for licensure as a foster
9 family home may continue to receive foster care payments only
10 until the Department determines that they may be licensed as a
11 foster family home or that their application for licensure is
12 denied or until September 30, 1995, whichever occurs first.

13 (v) The Department shall access criminal history record
14 information as defined in the Illinois Uniform Conviction
15 Information Act and information maintained in the adjudicatory
16 and dispositional record system as defined in Section 2605-355
17 of the Department of State Police Law (20 ILCS 2605/2605-355)
18 if the Department determines the information is necessary to
19 perform its duties under the Abused and Neglected Child
20 Reporting Act, the Child Care Act of 1969, and the Children and
21 Family Services Act. The Department shall provide for
22 interactive computerized communication and processing
23 equipment that permits direct on-line communication with the
24 Department of State Police's central criminal history data
25 repository. The Department shall comply with all certification
26 requirements and provide certified operators who have been

1 trained by personnel from the Department of State Police. In
2 addition, one Office of the Inspector General investigator
3 shall have training in the use of the criminal history
4 information access system and have access to the terminal. The
5 Department of Children and Family Services and its employees
6 shall abide by rules and regulations established by the
7 Department of State Police relating to the access and
8 dissemination of this information.

9 (v-1) Prior to final approval for placement of a child, the
10 Department shall conduct a criminal records background check of
11 the prospective foster or adoptive parent, including
12 fingerprint-based checks of national crime information
13 databases. Final approval for placement shall not be granted if
14 the record check reveals a felony conviction for child abuse or
15 neglect, for spousal abuse, for a crime against children, or
16 for a crime involving violence, including rape, sexual assault,
17 or homicide, but not including other physical assault or
18 battery, or if there is a felony conviction for physical
19 assault, battery, or a drug-related offense committed within
20 the past 5 years.

21 (v-2) Prior to final approval for placement of a child, the
22 Department shall check its child abuse and neglect registry for
23 information concerning prospective foster and adoptive
24 parents, and any adult living in the home. If any prospective
25 foster or adoptive parent or other adult living in the home has
26 resided in another state in the preceding 5 years, the

1 Department shall request a check of that other state's child
2 abuse and neglect registry.

3 (w) Within 120 days of August 20, 1995 (the effective date
4 of Public Act 89-392), the Department shall prepare and submit
5 to the Governor and the General Assembly, a written plan for
6 the development of in-state licensed secure child care
7 facilities that care for children who are in need of secure
8 living arrangements for their health, safety, and well-being.
9 For purposes of this subsection, secure care facility shall
10 mean a facility that is designed and operated to ensure that
11 all entrances and exits from the facility, a building or a
12 distinct part of the building, are under the exclusive control
13 of the staff of the facility, whether or not the child has the
14 freedom of movement within the perimeter of the facility,
15 building, or distinct part of the building. The plan shall
16 include descriptions of the types of facilities that are needed
17 in Illinois; the cost of developing these secure care
18 facilities; the estimated number of placements; the potential
19 cost savings resulting from the movement of children currently
20 out-of-state who are projected to be returned to Illinois; the
21 necessary geographic distribution of these facilities in
22 Illinois; and a proposed timetable for development of such
23 facilities.

24 (x) The Department shall conduct annual credit history
25 checks to determine the financial history of children placed
26 under its guardianship pursuant to the Juvenile Court Act of

1 1987. The Department shall conduct such credit checks starting
2 when a ward turns 12 years old and each year thereafter for the
3 duration of the guardianship as terminated pursuant to the
4 Juvenile Court Act of 1987. The Department shall determine if
5 financial exploitation of the child's personal information has
6 occurred. If financial exploitation appears to have taken place
7 or is presently ongoing, the Department shall notify the proper
8 law enforcement agency, the proper State's Attorney, or the
9 Attorney General.

10 (y) Beginning on the effective date of this amendatory Act
11 of the 96th General Assembly, a child with a disability who
12 receives residential and educational services from the
13 Department shall be eligible to receive transition services in
14 accordance with Article 14 of the School Code from the age of
15 14.5 through age 21, inclusive, notwithstanding the child's
16 residential services arrangement. For purposes of this
17 subsection, "child with a disability" means a child with a
18 disability as defined by the federal Individuals with
19 Disabilities Education Improvement Act of 2004.

20 (z) The Department shall access criminal history record
21 information as defined as "background information" in this
22 subsection and criminal history record information as defined
23 in the Illinois Uniform Conviction Information Act for each
24 Department employee or Department applicant. Each Department
25 employee or Department applicant shall submit his or her
26 fingerprints to the Department of State Police in the form and

1 manner prescribed by the Department of State Police. These
2 fingerprints shall be checked against the fingerprint records
3 now and hereafter filed in the Department of State Police and
4 the Federal Bureau of Investigation criminal history records
5 databases. The Department of State Police shall charge a fee
6 for conducting the criminal history record check, which shall
7 be deposited into the State Police Services Fund and shall not
8 exceed the actual cost of the record check. The Department of
9 State Police shall furnish, pursuant to positive
10 identification, all Illinois conviction information to the
11 Department of Children and Family Services.

12 For purposes of this subsection:

13 "Background information" means all of the following:

14 (i) Upon the request of the Department of Children and
15 Family Services, conviction information obtained from the
16 Department of State Police as a result of a
17 fingerprint-based criminal history records check of the
18 Illinois criminal history records database and the Federal
19 Bureau of Investigation criminal history records database
20 concerning a Department employee or Department applicant.

21 (ii) Information obtained by the Department of
22 Children and Family Services after performing a check of
23 the Department of State Police's Sex Offender Database, as
24 authorized by Section 120 of the Sex Offender Community
25 Notification Law, concerning a Department employee or
26 Department applicant.

1 (iii) Information obtained by the Department of
2 Children and Family Services after performing a check of
3 the Child Abuse and Neglect Tracking System (CANTS)
4 operated and maintained by the Department.

5 "Department employee" means a full-time or temporary
6 employee coded or certified within the State of Illinois
7 Personnel System.

8 "Department applicant" means an individual who has
9 conditional Department full-time or part-time work, a
10 contractor, an individual used to replace or supplement staff,
11 an academic intern, a volunteer in Department offices or on
12 Department contracts, a work-study student, an individual or
13 entity licensed by the Department, or an unlicensed service
14 provider who works as a condition of a contract or an agreement
15 and whose work may bring the unlicensed service provider into
16 contact with Department clients or client records.

17 (Source: P.A. 97-1150, eff. 1-25-13; 98-249, eff. 1-1-14;
18 98-570, eff. 8-27-13; revised 9-4-13.)

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

21 (705 ILCS 405/2-10) (from Ch. 37, par. 802-10)

22 Sec. 2-10. Temporary custody hearing. At the appearance of
23 the minor before the court at the temporary custody hearing,
24 all witnesses present shall be examined before the court in

1 relation to any matter connected with the allegations made in
2 the petition.

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

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

1 begin anew after any violation. Custodian shall include any
2 agency of the State which has been given custody or wardship of
3 the child. If it is consistent with the health, safety and best
4 interests of the minor, the court may also prescribe shelter
5 care and order that the minor be kept in a suitable place
6 designated by the court or in a shelter care facility
7 designated by the Department of Children and Family Services or
8 a licensed child welfare agency; however, on and after the
9 effective date of this amendatory Act of the 98th General
10 Assembly and before January 1, 2017, a minor charged with a
11 criminal offense under the Criminal Code of 1961 or the
12 Criminal Code of 2012 or adjudicated delinquent shall not be
13 placed in the custody of or committed to the Department of
14 Children and Family Services by any court, except a minor less
15 than 16 ~~15~~ years of age and committed to the Department of
16 Children and Family Services under Section 5-710 of this Act or
17 a minor for whom an independent basis of abuse, neglect, or
18 dependency exists; and on and after January 1, 2017, a minor
19 charged with a criminal offense under the Criminal Code of 1961
20 or the Criminal Code of 2012 or adjudicated delinquent shall
21 not be placed in the custody of or committed to the Department
22 of Children and Family Services by any court, except a minor
23 less than 15 years of age and committed to the Department of
24 Children and Family Services under Section 5-710 of this Act or
25 a minor for whom an independent basis of abuse, neglect, or
26 dependency exists. An independent basis exists when the

1 allegations or adjudication of abuse, neglect, or dependency do
2 not arise from the same facts, incident, or circumstances which
3 give rise to a charge or adjudication of delinquency.

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

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

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

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

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

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

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

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

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

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

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

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

26 (3) If prior to the shelter care hearing for a minor

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

26 NOTICE TO PARENTS AND CHILDREN

OF SHELTER CARE HEARING

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

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

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

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

- 1. To ask the court to appoint a lawyer if they cannot afford one.
- 2. To ask the court to continue the hearing to allow them time to prepare.
- 3. To present evidence concerning:
 - a. Whether or not the child or children were abused, neglected or dependent.
 - b. Whether or not there is "immediate and urgent necessity" to remove the child from home

1 (including: their ability to care for the child,
2 conditions in the home, alternative means of
3 protecting the child other than removal).

4 c. The best interests of the child.

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

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

8 NOTICE OF PARENT'S AND CHILDREN'S RIGHTS
9 TO REHEARING ON TEMPORARY CUSTODY

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

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

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

24 3. Your signature.

25 4. Signature must be notarized.

1 The rehearing should be scheduled within 48 hours of
2 your filing this affidavit.

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

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

8 1. To have a guardian ad litem appointed.

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

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

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

15 c. Their best interests.

16 3. To cross examine witnesses for other parties.

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

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

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

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

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

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

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

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

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

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

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

25 In ruling on the motion, the court shall determine whether
26 it is consistent with the health, safety and best interests of

1 the minor to modify or vacate a temporary custody order.

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

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

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

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

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

23 (11) The changes made to this Section by Public Act 98-61
24 ~~this amendatory Act of the 98th General Assembly~~ apply to a
25 minor who has been arrested or taken into custody on or after
26 January 1, 2014 (the effective date of Public Act 98-61) ~~this~~

1 ~~amendatory Act.~~

2 (Source: P.A. 97-1076, eff. 8-24-12; 97-1150, eff. 1-25-13;
3 98-61, eff. 1-1-14; revised 11-22-13.)

4 (705 ILCS 405/2-27) (from Ch. 37, par. 802-27)

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

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

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

18 (a-5) with the approval of the Department of Children
19 and Family Services, place the minor in the subsidized
20 guardianship of a suitable relative or other person as
21 legal guardian; "subsidized guardianship" means a private
22 guardianship arrangement for children for whom the
23 permanency goals of return home and adoption have been
24 ruled out and who meet the qualifications for subsidized
25 guardianship as defined by the Department of Children and

1 Family Services in administrative rules;

2 (b) place the minor under the guardianship of a
3 probation officer;

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

8 (d) on and after the effective date of this amendatory
9 Act of the 98th General Assembly and before January 1,
10 2017, commit the minor to the Department of Children and
11 Family Services for care and service; however, a minor
12 charged with a criminal offense under the Criminal Code of
13 1961 or the Criminal Code of 2012 or adjudicated delinquent
14 shall not be placed in the custody of or committed to the
15 Department of Children and Family Services by any court,
16 except (i) a minor less than 16 ~~15~~ years of age and
17 committed to the Department of Children and Family Services
18 under Section 5-710 of this Act, (ii) a minor for whom an
19 independent basis of abuse, neglect, or dependency exists,
20 or (iii) a minor for whom the court has granted a
21 supplemental petition to reinstate wardship pursuant to
22 subsection (2) of Section 2-33 of this Act. On and after
23 January 1, 2017, commit the minor to the Department of
24 Children and Family Services for care and service; however,
25 a minor charged with a criminal offense under the Criminal
26 Code of 1961 or the Criminal Code of 2012 or adjudicated

1 delinquent shall not be placed in the custody of or
2 committed to the Department of Children and Family Services
3 by any court, except (i) a minor less than 15 years of age
4 and committed to the Department of Children and Family
5 Services under Section 5-710 of this Act, (ii) a minor for
6 whom an independent basis of abuse, neglect, or dependency
7 exists, or (iii) a minor for whom the court has granted a
8 supplemental petition to reinstate wardship pursuant to
9 subsection (2) of Section 2-33 of this Act. An independent
10 basis exists when the allegations or adjudication of abuse,
11 neglect, or dependency do not arise from the same facts,
12 incident, or circumstances which give rise to a charge or
13 adjudication of delinquency. The Department shall be given
14 due notice of the pendency of the action and the
15 Guardianship Administrator of the Department of Children
16 and Family Services shall be appointed guardian of the
17 person of the minor. Whenever the Department seeks to
18 discharge a minor from its care and service, the
19 Guardianship Administrator shall petition the court for an
20 order terminating guardianship. The Guardianship
21 Administrator may designate one or more other officers of
22 the Department, appointed as Department officers by
23 administrative order of the Department Director,
24 authorized to affix the signature of the Guardianship
25 Administrator to documents affecting the guardian-ward
26 relationship of children for whom he or she has been

1 appointed guardian at such times as he or she is unable to
2 perform the duties of his or her office. The signature
3 authorization shall include but not be limited to matters
4 of consent of marriage, enlistment in the armed forces,
5 legal proceedings, adoption, major medical and surgical
6 treatment and application for driver's license. Signature
7 authorizations made pursuant to the provisions of this
8 paragraph shall be filed with the Secretary of State and
9 the Secretary of State shall provide upon payment of the
10 customary fee, certified copies of the authorization to any
11 court or individual who requests a copy.

12 (1.5) In making a determination under this Section, the
13 court shall also consider whether, based on health, safety, and
14 the best interests of the minor,

15 (a) appropriate services aimed at family preservation
16 and family reunification have been unsuccessful in
17 rectifying the conditions that have led to a finding of
18 unfitness or inability to care for, protect, train, or
19 discipline the minor, or

20 (b) no family preservation or family reunification
21 services would be appropriate,

22 and if the petition or amended petition contained an allegation
23 that the parent is an unfit person as defined in subdivision
24 (D) of Section 1 of the Adoption Act, and the order of
25 adjudication recites that parental unfitness was established
26 by clear and convincing evidence, the court shall, when

1 appropriate and in the best interest of the minor, enter an
2 order terminating parental rights and appointing a guardian
3 with power to consent to adoption in accordance with Section
4 2-29.

5 When making a placement, the court, wherever possible,
6 shall require the Department of Children and Family Services to
7 select a person holding the same religious belief as that of
8 the minor or a private agency controlled by persons of like
9 religious faith of the minor and shall require the Department
10 to otherwise comply with Section 7 of the Children and Family
11 Services Act in placing the child. In addition, whenever
12 alternative plans for placement are available, the court shall
13 ascertain and consider, to the extent appropriate in the
14 particular case, the views and preferences of the minor.

15 (2) When a minor is placed with a suitable relative or
16 other person pursuant to item (a) of subsection (1), the court
17 shall appoint him or her the legal custodian or guardian of the
18 person of the minor. When a minor is committed to any agency,
19 the court shall appoint the proper officer or representative
20 thereof as legal custodian or guardian of the person of the
21 minor. Legal custodians and guardians of the person of the
22 minor have the respective rights and duties set forth in
23 subsection (9) of Section 1-3 except as otherwise provided by
24 order of court; but no guardian of the person may consent to
25 adoption of the minor unless that authority is conferred upon
26 him or her in accordance with Section 2-29. An agency whose

1 representative is appointed guardian of the person or legal
2 custodian of the minor may place the minor in any child care
3 facility, but the facility must be licensed under the Child
4 Care Act of 1969 or have been approved by the Department of
5 Children and Family Services as meeting the standards
6 established for such licensing. No agency may place a minor
7 adjudicated under Sections 2-3 or 2-4 in a child care facility
8 unless the placement is in compliance with the rules and
9 regulations for placement under this Section promulgated by the
10 Department of Children and Family Services under Section 5 of
11 the Children and Family Services Act. Like authority and
12 restrictions shall be conferred by the court upon any probation
13 officer who has been appointed guardian of the person of a
14 minor.

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

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

25 (5) Custody or guardianship granted under this Section
26 continues until the court otherwise directs, but not after the

1 minor reaches the age of 19 years except as set forth in
2 Section 2-31, or if the minor was previously committed to the
3 Department of Children and Family Services for care and service
4 and the court has granted a supplemental petition to reinstate
5 wardship pursuant to subsection (2) of Section 2-33.

6 (6) (Blank).

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

8 (705 ILCS 405/5-710)

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

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

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

14 (i) put on probation or conditional discharge and
15 released to his or her parents, guardian or legal
16 custodian, provided, however, that any such minor who
17 is not committed to the Department of Juvenile Justice
18 under this subsection and who is found to be a
19 delinquent for an offense which is first degree murder,
20 a Class X felony, or a forcible felony shall be placed
21 on probation;

22 (ii) placed in accordance with Section 5-740, with
23 or without also being put on probation or conditional
24 discharge;

25 (iii) required to undergo a substance abuse

1 assessment conducted by a licensed provider and
2 participate in the indicated clinical level of care;

3 (iv) on and after the effective date of this
4 amendatory Act of the 98th General Assembly and before
5 January 1, 2017, placed in the guardianship of the
6 Department of Children and Family Services, but only if
7 the delinquent minor is under 16 ~~15~~ years of age or,
8 pursuant to Article II of this Act, a minor for whom an
9 independent basis of abuse, neglect, or dependency
10 exists. On and after January 1, 2017, placed in the
11 guardianship of the Department of Children and Family
12 Services, but only if the delinquent minor is under 15
13 years of age or, pursuant to Article II of this Act, a
14 minor for whom an independent basis of abuse, neglect,
15 or dependency exists. An independent basis exists when
16 the allegations or adjudication of abuse, neglect, or
17 dependency do not arise from the same facts, incident,
18 or circumstances which give rise to a charge or
19 adjudication of delinquency;

20 (v) placed in detention for a period not to exceed
21 30 days, either as the exclusive order of disposition
22 or, where appropriate, in conjunction with any other
23 order of disposition issued under this paragraph,
24 provided that any such detention shall be in a juvenile
25 detention home and the minor so detained shall be 10
26 years of age or older. However, the 30-day limitation

1 may be extended by further order of the court for a
2 minor under age 15 committed to the Department of
3 Children and Family Services if the court finds that
4 the minor is a danger to himself or others. The minor
5 shall be given credit on the sentencing order of
6 detention for time spent in detention under Sections
7 5-501, 5-601, 5-710, or 5-720 of this Article as a
8 result of the offense for which the sentencing order
9 was imposed. The court may grant credit on a sentencing
10 order of detention entered under a violation of
11 probation or violation of conditional discharge under
12 Section 5-720 of this Article for time spent in
13 detention before the filing of the petition alleging
14 the violation. A minor shall not be deprived of credit
15 for time spent in detention before the filing of a
16 violation of probation or conditional discharge
17 alleging the same or related act or acts. The
18 limitation that the minor shall only be placed in a
19 juvenile detention home does not apply as follows:

20 Persons 18 years of age and older who have a
21 petition of delinquency filed against them may be
22 confined in an adult detention facility. In making a
23 determination whether to confine a person 18 years of
24 age or older who has a petition of delinquency filed
25 against the person, these factors, among other
26 matters, shall be considered:

- 1 (A) the age of the person;
- 2 (B) any previous delinquent or criminal
3 history of the person;
- 4 (C) any previous abuse or neglect history of
5 the person;
- 6 (D) any mental health history of the person;
7 and
- 8 (E) any educational history of the person;
- 9 (vi) ordered partially or completely emancipated
10 in accordance with the provisions of the Emancipation
11 of Minors Act;
- 12 (vii) subject to having his or her driver's license
13 or driving privileges suspended for such time as
14 determined by the court but only until he or she
15 attains 18 years of age;
- 16 (viii) put on probation or conditional discharge
17 and placed in detention under Section 3-6039 of the
18 Counties Code for a period not to exceed the period of
19 incarceration permitted by law for adults found guilty
20 of the same offense or offenses for which the minor was
21 adjudicated delinquent, and in any event no longer than
22 upon attainment of age 21; this subdivision (viii)
23 notwithstanding any contrary provision of the law;
- 24 (ix) ordered to undergo a medical or other
25 procedure to have a tattoo symbolizing allegiance to a
26 street gang removed from his or her body; or

1 (x) placed in electronic home detention under Part
2 7A of this Article.

3 (b) A minor found to be guilty may be committed to the
4 Department of Juvenile Justice under Section 5-750 if the
5 minor is 13 years of age or older, provided that the
6 commitment to the Department of Juvenile Justice shall be
7 made only if a term of incarceration is permitted by law
8 for adults found guilty of the offense for which the minor
9 was adjudicated delinquent. The time during which a minor
10 is in custody before being released upon the request of a
11 parent, guardian or legal custodian shall be considered as
12 time spent in detention.

13 (c) When a minor is found to be guilty for an offense
14 which is a violation of the Illinois Controlled Substances
15 Act, the Cannabis Control Act, or the Methamphetamine
16 Control and Community Protection Act and made a ward of the
17 court, the court may enter a disposition order requiring
18 the minor to undergo assessment, counseling or treatment in
19 a substance abuse program approved by the Department of
20 Human Services.

21 (2) Any sentencing order other than commitment to the
22 Department of Juvenile Justice may provide for protective
23 supervision under Section 5-725 and may include an order of
24 protection under Section 5-730.

25 (3) Unless the sentencing order expressly so provides, it
26 does not operate to close proceedings on the pending petition,

1 but is subject to modification until final closing and
2 discharge of the proceedings under Section 5-750.

3 (4) In addition to any other sentence, the court may order
4 any minor found to be delinquent to make restitution, in
5 monetary or non-monetary form, under the terms and conditions
6 of Section 5-5-6 of the Unified Code of Corrections, except
7 that the "presentencing hearing" referred to in that Section
8 shall be the sentencing hearing for purposes of this Section.
9 The parent, guardian or legal custodian of the minor may be
10 ordered by the court to pay some or all of the restitution on
11 the minor's behalf, pursuant to the Parental Responsibility
12 Law. The State's Attorney is authorized to act on behalf of any
13 victim in seeking restitution in proceedings under this
14 Section, up to the maximum amount allowed in Section 5 of the
15 Parental Responsibility Law.

16 (5) Any sentencing order where the minor is committed or
17 placed in accordance with Section 5-740 shall provide for the
18 parents or guardian of the estate of the minor to pay to the
19 legal custodian or guardian of the person of the minor such
20 sums as are determined by the custodian or guardian of the
21 person of the minor as necessary for the minor's needs. The
22 payments may not exceed the maximum amounts provided for by
23 Section 9.1 of the Children and Family Services Act.

24 (6) Whenever the sentencing order requires the minor to
25 attend school or participate in a program of training, the
26 truant officer or designated school official shall regularly

1 report to the court if the minor is a chronic or habitual
2 truant under Section 26-2a of the School Code. Notwithstanding
3 any other provision of this Act, in instances in which
4 educational services are to be provided to a minor in a
5 residential facility where the minor has been placed by the
6 court, costs incurred in the provision of those educational
7 services must be allocated based on the requirements of the
8 School Code.

9 (7) In no event shall a guilty minor be committed to the
10 Department of Juvenile Justice for a period of time in excess
11 of that period for which an adult could be committed for the
12 same act.

13 (8) A minor found to be guilty for reasons that include a
14 violation of Section 21-1.3 of the Criminal Code of 1961 or the
15 Criminal Code of 2012 shall be ordered to perform community
16 service for not less than 30 and not more than 120 hours, if
17 community service is available in the jurisdiction. The
18 community service shall include, but need not be limited to,
19 the cleanup and repair of the damage that was caused by the
20 violation or similar damage to property located in the
21 municipality or county in which the violation occurred. The
22 order may be in addition to any other order authorized by this
23 Section.

24 (8.5) A minor found to be guilty for reasons that include a
25 violation of Section 3.02 or Section 3.03 of the Humane Care
26 for Animals Act or paragraph (d) of subsection (1) of Section

1 21-1 of the Criminal Code of 1961 or paragraph (4) of
2 subsection (a) of Section 21-1 of the Criminal Code of 2012
3 shall be ordered to undergo medical or psychiatric treatment
4 rendered by a psychiatrist or psychological treatment rendered
5 by a clinical psychologist. The order may be in addition to any
6 other order authorized by this Section.

7 (9) In addition to any other sentencing order, the court
8 shall order any minor found to be guilty for an act which would
9 constitute, predatory criminal sexual assault of a child,
10 aggravated criminal sexual assault, criminal sexual assault,
11 aggravated criminal sexual abuse, or criminal sexual abuse if
12 committed by an adult to undergo medical testing to determine
13 whether the defendant has any sexually transmissible disease
14 including a test for infection with human immunodeficiency
15 virus (HIV) or any other identified causative agency of
16 acquired immunodeficiency syndrome (AIDS). Any medical test
17 shall be performed only by appropriately licensed medical
18 practitioners and may include an analysis of any bodily fluids
19 as well as an examination of the minor's person. Except as
20 otherwise provided by law, the results of the test shall be
21 kept strictly confidential by all medical personnel involved in
22 the testing and must be personally delivered in a sealed
23 envelope to the judge of the court in which the sentencing
24 order was entered for the judge's inspection in camera. Acting
25 in accordance with the best interests of the victim and the
26 public, the judge shall have the discretion to determine to

1 whom the results of the testing may be revealed. The court
2 shall notify the minor of the results of the test for infection
3 with the human immunodeficiency virus (HIV). The court shall
4 also notify the victim if requested by the victim, and if the
5 victim is under the age of 15 and if requested by the victim's
6 parents or legal guardian, the court shall notify the victim's
7 parents or the legal guardian, of the results of the test for
8 infection with the human immunodeficiency virus (HIV). The
9 court shall provide information on the availability of HIV
10 testing and counseling at the Department of Public Health
11 facilities to all parties to whom the results of the testing
12 are revealed. The court shall order that the cost of any test
13 shall be paid by the county and may be taxed as costs against
14 the minor.

15 (10) When a court finds a minor to be guilty the court
16 shall, before entering a sentencing order under this Section,
17 make a finding whether the offense committed either: (a) was
18 related to or in furtherance of the criminal activities of an
19 organized gang or was motivated by the minor's membership in or
20 allegiance to an organized gang, or (b) involved a violation of
21 subsection (a) of Section 12-7.1 of the Criminal Code of 1961
22 or the Criminal Code of 2012, a violation of any Section of
23 Article 24 of the Criminal Code of 1961 or the Criminal Code of
24 2012, or a violation of any statute that involved the wrongful
25 use of a firearm. If the court determines the question in the
26 affirmative, and the court does not commit the minor to the

1 Department of Juvenile Justice, the court shall order the minor
2 to perform community service for not less than 30 hours nor
3 more than 120 hours, provided that community service is
4 available in the jurisdiction and is funded and approved by the
5 county board of the county where the offense was committed. The
6 community service shall include, but need not be limited to,
7 the cleanup and repair of any damage caused by a violation of
8 Section 21-1.3 of the Criminal Code of 1961 or the Criminal
9 Code of 2012 and similar damage to property located in the
10 municipality or county in which the violation occurred. When
11 possible and reasonable, the community service shall be
12 performed in the minor's neighborhood. This order shall be in
13 addition to any other order authorized by this Section except
14 for an order to place the minor in the custody of the
15 Department of Juvenile Justice. For the purposes of this
16 Section, "organized gang" has the meaning ascribed to it in
17 Section 10 of the Illinois Streetgang Terrorism Omnibus
18 Prevention Act.

19 (11) If the court determines that the offense was committed
20 in furtherance of the criminal activities of an organized gang,
21 as provided in subsection (10), and that the offense involved
22 the operation or use of a motor vehicle or the use of a
23 driver's license or permit, the court shall notify the
24 Secretary of State of that determination and of the period for
25 which the minor shall be denied driving privileges. If, at the
26 time of the determination, the minor does not hold a driver's

1 license or permit, the court shall provide that the minor shall
2 not be issued a driver's license or permit until his or her
3 18th birthday. If the minor holds a driver's license or permit
4 at the time of the determination, the court shall provide that
5 the minor's driver's license or permit shall be revoked until
6 his or her 21st birthday, or until a later date or occurrence
7 determined by the court. If the minor holds a driver's license
8 at the time of the determination, the court may direct the
9 Secretary of State to issue the minor a judicial driving
10 permit, also known as a JDP. The JDP shall be subject to the
11 same terms as a JDP issued under Section 6-206.1 of the
12 Illinois Vehicle Code, except that the court may direct that
13 the JDP be effective immediately.

14 (12) If a minor is found to be guilty of a violation of
15 subsection (a-7) of Section 1 of the Prevention of Tobacco Use
16 by Minors Act, the court may, in its discretion, and upon
17 recommendation by the State's Attorney, order that minor and
18 his or her parents or legal guardian to attend a smoker's
19 education or youth diversion program as defined in that Act if
20 that program is available in the jurisdiction where the
21 offender resides. Attendance at a smoker's education or youth
22 diversion program shall be time-credited against any community
23 service time imposed for any first violation of subsection
24 (a-7) of Section 1 of that Act. In addition to any other
25 penalty that the court may impose for a violation of subsection
26 (a-7) of Section 1 of that Act, the court, upon request by the

1 State's Attorney, may in its discretion require the offender to
2 remit a fee for his or her attendance at a smoker's education
3 or youth diversion program.

4 For purposes of this Section, "smoker's education program"
5 or "youth diversion program" includes, but is not limited to, a
6 seminar designed to educate a person on the physical and
7 psychological effects of smoking tobacco products and the
8 health consequences of smoking tobacco products that can be
9 conducted with a locality's youth diversion program.

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

12 (a) If a minor violates subsection (a-7) of Section 1
13 of the Prevention of Tobacco Use by Minors Act, the court
14 may impose a sentence of 15 hours of community service or a
15 fine of \$25 for a first violation.

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

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

24 (d) Any second or subsequent violation not within the
25 12-month time period after the first violation is
26 punishable as provided for a first violation.

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