



## 99TH GENERAL ASSEMBLY

### State of Illinois

2015 and 2016

HB6308

Introduced 2/11/2016, by Rep. Laura Fine

#### SYNOPSIS AS INTRODUCED:

705 ILCS 405/1-7	from Ch. 37, par. 801-7
705 ILCS 405/1-8	from Ch. 37, par. 801-8
705 ILCS 405/1-9	from Ch. 37, par. 801-9
705 ILCS 405/2-10	from Ch. 37, par. 802-10
705 ILCS 405/3-12	from Ch. 37, par. 803-12
705 ILCS 405/4-9	from Ch. 37, par. 804-9
705 ILCS 405/5-105	
705 ILCS 405/5-120	
705 ILCS 405/5-130	
705 ILCS 405/5-401.5	
705 ILCS 405/5-410	
705 ILCS 405/5-901	
705 ILCS 405/5-905	
705 ILCS 405/5-915	
730 ILCS 5/3-2-5	from Ch. 38, par. 1003-2-5
730 ILCS 5/3-10-7	from Ch. 38, par. 1003-10-7
730 ILCS 5/5-8-6	from Ch. 38, par. 1005-8-6

Amends the Juvenile Court Act of 1987. Provides that persons under 21 years of age (rather than under 18 years of age) who commit misdemeanor offenses are subject to the proceedings under the Act for delinquent minors. Amends the Unified Code of Corrections to make conforming changes.

LRB099 17799 SLF 42161 b

1 AN ACT in relation to minors.

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

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

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

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

9 (A) Inspection and copying of law enforcement records  
10 maintained by law enforcement agencies that relate to a minor  
11 who has been investigated, arrested, or taken into custody  
12 before his or her 21st birthday for a misdemeanor offense or  
13 18th birthday for a felony offense shall be restricted to the  
14 following:

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

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

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

16 (3) Prosecutors and probation officers:

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

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

24 (c) when criminal proceedings have been permitted  
25 or required under Section 5-805 and such minor is the  
26 subject of a pre-trial investigation, pre-sentence

1 investigation, fitness hearing, or proceedings on an  
2 application for probation.

3 (4) Adult and Juvenile Prisoner Review Board.

4 (5) Authorized military personnel.

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

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

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

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

1 within the school district who has been arrested or  
2 taken into custody for any of the following offenses:

3 (i) any violation of Article 24 of the Criminal  
4 Code of 1961 or the Criminal Code of 2012;

5 (ii) a violation of the Illinois Controlled  
6 Substances Act;

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

8 (iv) a forcible felony as defined in Section  
9 2-8 of the Criminal Code of 1961 or the Criminal  
10 Code of 2012;

11 (v) a violation of the Methamphetamine Control  
12 and Community Protection Act;

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

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

16 (viii) a violation of Section 12-1, 12-2,  
17 12-3, 12-3.05, 12-3.1, 12-3.2, 12-3.4, 12-3.5,  
18 12-5, 12-7.3, 12-7.4, 12-7.5, 25-1, or 25-5 of the  
19 Criminal Code of 1961 or the Criminal Code of 2012.

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

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

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

1           become a part of the official school record of the  
2           child and shall not be a public record. This limitation  
3           on the use of information about a minor who is the  
4           subject of a current police investigation shall in no  
5           way limit the use of this information by prosecutors in  
6           pursuing criminal charges arising out of the  
7           information disclosed during a police investigation of  
8           the minor. For purposes of this paragraph,  
9           "investigation" means an official systematic inquiry  
10          by a law enforcement agency into actual or suspected  
11          criminal activity.

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

25          (10) The president of a park district. Inspection and  
26          copying shall be limited to law enforcement records

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

9 (B) (1) Except as provided in paragraph (2), no law  
10 enforcement officer or other person or agency may knowingly  
11 transmit to the Department of Corrections or the Department  
12 of State Police or to the Federal Bureau of Investigation  
13 any fingerprint or photograph relating to a minor who has  
14 been arrested or taken into custody before his or her 21st  
15 birthday for a misdemeanor offense or 18th birthday for a  
16 felony offense, unless the court in proceedings under this  
17 Act authorizes the transmission or enters an order under  
18 Section 5-805 permitting or requiring the institution of  
19 criminal proceedings.

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



1 Criminal Code of 2012, a Class X or Class 1 felony, a  
2 forcible felony as defined in Section 2-8 of the Criminal  
3 Code of 1961 or the Criminal Code of 2012, or a Class 2 or  
4 greater felony under the Cannabis Control Act, the Illinois  
5 Controlled Substances Act, the Methamphetamine Control and  
6 Community Protection Act, or Chapter 4 of the Illinois  
7 Vehicle Code, pursuant to Section 5 of the Criminal  
8 Identification Act. Information reported to the Department  
9 pursuant to this Section may be maintained with records  
10 that the Department files pursuant to Section 2.1 of the  
11 Criminal Identification Act. Nothing in this Act prohibits  
12 a law enforcement agency from fingerprinting a minor taken  
13 into custody or arrested before his or her 21st birthday  
14 for a misdemeanor offense or 18th birthday for a felony  
15 offense for an offense other than those listed in this  
16 paragraph (2).

17 (C) The records of law enforcement officers, or of an  
18 independent agency created by ordinance and charged by a unit  
19 of local government with the duty of investigating the conduct  
20 of law enforcement officers, concerning all minors under 21  
21 years of age for a misdemeanor offense or 18 years of age for a  
22 felony offense must be maintained separate from the records of  
23 arrests and may not be open to public inspection or their  
24 contents disclosed to the public except by order of the court  
25 presiding over matters pursuant to this Act or when the  
26 institution of criminal proceedings has been permitted or

1 required under Section 5-805 or such a person has been  
2 convicted of a crime and is the subject of pre-sentence  
3 investigation or proceedings on an application for probation or  
4 when provided by law. For purposes of obtaining documents  
5 pursuant to this Section, a civil subpoena is not an order of  
6 the court.

7 (1) In cases where the law enforcement, or independent  
8 agency, records concern a pending juvenile court case, the  
9 party seeking to inspect the records shall provide actual  
10 notice to the attorney or guardian ad litem of the minor  
11 whose records are sought.

12 (2) In cases where the records concern a juvenile court  
13 case that is no longer pending, the party seeking to  
14 inspect the records shall provide actual notice to the  
15 minor or the minor's parent or legal guardian, and the  
16 matter shall be referred to the chief judge presiding over  
17 matters pursuant to this Act.

18 (3) In determining whether the records should be  
19 available for inspection, the court shall consider the  
20 minor's interest in confidentiality and rehabilitation  
21 over the moving party's interest in obtaining the  
22 information. Any records obtained in violation of this  
23 subsection (C) shall not be admissible in any criminal or  
24 civil proceeding, or operate to disqualify a minor from  
25 subsequently holding public office or securing employment,  
26 or operate as a forfeiture of any public benefit, right,

1 privilege, or right to receive any license granted by  
2 public authority.

3 (D) Nothing contained in subsection (C) of this Section  
4 shall prohibit the inspection or disclosure to victims and  
5 witnesses of photographs contained in the records of law  
6 enforcement agencies when the inspection and disclosure is  
7 conducted in the presence of a law enforcement officer for the  
8 purpose of the identification or apprehension of any person  
9 subject to the provisions of this Act or for the investigation  
10 or prosecution of any crime.

11 (E) Law enforcement officers, and personnel of an  
12 independent agency created by ordinance and charged by a unit  
13 of local government with the duty of investigating the conduct  
14 of law enforcement officers, may not disclose the identity of  
15 any minor in releasing information to the general public as to  
16 the arrest, investigation or disposition of any case involving  
17 a minor.

18 (F) Nothing contained in this Section shall prohibit law  
19 enforcement agencies from communicating with each other by  
20 letter, memorandum, teletype or intelligence alert bulletin or  
21 other means the identity or other relevant information  
22 pertaining to a person under 21 years of age years of age for a  
23 misdemeanor offense or 18 years of age for a felony offense if  
24 there are reasonable grounds to believe that the person poses a  
25 real and present danger to the safety of the public or law  
26 enforcement officers. The information provided under this

1 subsection (F) shall remain confidential and shall not be  
2 publicly disclosed, except as otherwise allowed by law.

3 (G) Nothing in this Section shall prohibit the right of a  
4 Civil Service Commission or appointing authority of any state,  
5 county or municipality examining the character and fitness of  
6 an applicant for employment with a law enforcement agency,  
7 correctional institution, or fire department from obtaining  
8 and examining the records of any law enforcement agency  
9 relating to any record of the applicant having been arrested or  
10 taken into custody before the applicant's 21st birthday for a  
11 misdemeanor offense or 18th birthday for a felony offense.

12 (H) The changes made to this Section by Public Act 98-61  
13 apply to law enforcement records of a minor who has been  
14 arrested or taken into custody on or after January 1, 2014 (the  
15 effective date of Public Act 98-61).

16 (Source: P.A. 98-61, eff. 1-1-14; 98-756, eff. 7-16-14; 99-298,  
17 eff. 8-6-15.)

18 (705 ILCS 405/1-8) (from Ch. 37, par. 801-8)

19 Sec. 1-8. Confidentiality and accessibility of juvenile  
20 court records.

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

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

1           (2) Law enforcement officers and law enforcement  
2 agencies when such information is essential to executing an  
3 arrest or search warrant or other compulsory process, or to  
4 conducting an ongoing investigation or relating to a minor  
5 who has been adjudicated delinquent and there has been a  
6 previous finding that the act which constitutes the  
7 previous offense was committed in furtherance of criminal  
8 activities by a criminal street gang.

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

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

22           (3) Judges, hearing officers, prosecutors, probation  
23 officers, social workers or other individuals assigned by  
24 the court to conduct a pre-adjudication or predisposition  
25 investigation, and individuals responsible for supervising  
26 or providing temporary or permanent care and custody for

1 minors pursuant to the order of the juvenile court when  
2 essential to performing their responsibilities.

3 (4) Judges, prosecutors and probation officers:

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

7 (b) when criminal proceedings have been permitted  
8 or required under Section 5-805 and a minor is the  
9 subject of a proceeding to determine the amount of  
10 bail; or

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

16 (d) when a minor becomes 21 years of age for a  
17 misdemeanor offense or 18 years of age for a felony  
18 offense or older, and is the subject of criminal  
19 proceedings, including a hearing to determine the  
20 amount of bail, a pre-trial investigation, a  
21 pre-sentence investigation, a fitness hearing, or  
22 proceedings on an application for probation.

23 (5) Adult and Juvenile Prisoner Review Boards.

24 (6) Authorized military personnel.

25 (7) Victims, their subrogees and legal  
26 representatives; however, such persons shall have access

1           only to the name and address of the minor and information  
2           pertaining to the disposition or alternative adjustment  
3           plan of the juvenile court.

4           (8) Persons engaged in bona fide research, with the  
5           permission of the presiding judge of the juvenile court and  
6           the chief executive of the agency that prepared the  
7           particular records; provided that publication of such  
8           research results in no disclosure of a minor's identity and  
9           protects the confidentiality of the record.

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

16          (10) The administrator of a bonafide substance abuse  
17          student assistance program with the permission of the  
18          presiding judge of the juvenile court.

19          (11) Mental health professionals on behalf of the  
20          Illinois Department of Corrections or the Department of  
21          Human Services or prosecutors who are evaluating,  
22          prosecuting, or investigating a potential or actual  
23          petition brought under the Sexually Violent Persons  
24          Commitment Act relating to a person who is the subject of  
25          juvenile court records or the respondent to a petition  
26          brought under the Sexually Violent Persons Commitment Act,

1           who is the subject of juvenile court records sought. Any  
2           records and any information obtained from those records  
3           under this paragraph (11) may be used only in sexually  
4           violent persons commitment proceedings.

5           (A-1) Findings and exclusions of paternity entered in  
6           proceedings occurring under Article II of this Act shall be  
7           disclosed, in a manner and form approved by the Presiding Judge  
8           of the Juvenile Court, to the Department of Healthcare and  
9           Family Services when necessary to discharge the duties of the  
10          Department of Healthcare and Family Services under Article X of  
11          the Illinois Public Aid Code.

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

16          (C) Except as otherwise provided in this subsection (C),  
17          juvenile court records shall not be made available to the  
18          general public. Subject to the limitations in paragraphs (0.1)  
19          through (0.4) of this subsection (C), the judge presiding over  
20          a juvenile court proceeding brought under this Act, in his or  
21          her discretion, may order that juvenile court records of an  
22          individual case be made available for inspection upon request  
23          by a representative of an agency, association, or news media  
24          entity or by a properly interested person. For purposes of  
25          inspecting documents under this subsection (C), a civil  
26          subpoena is not an order of the court.



1           (0.1) In cases where the records concern a pending  
2 juvenile court case, the requesting party seeking to  
3 inspect the juvenile court records shall provide actual  
4 notice to the attorney or guardian ad litem of the minor  
5 whose records are sought.

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

12           (0.3) In determining whether records should be made  
13 available for inspection and whether inspection should be  
14 limited to certain parts of the file, the court shall  
15 consider the minor's interest in confidentiality and  
16 rehabilitation over the requesting party's interest in  
17 obtaining the information. The State's Attorney, the  
18 minor, and the minor's parents, guardian, and counsel shall  
19 at all times have the right to examine court files and  
20 records.

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

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

5           (A) The adjudication of delinquency was based upon  
6 the minor's commission of first degree murder, attempt  
7 to commit first degree murder, aggravated criminal  
8 sexual assault, or criminal sexual assault; or

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

1 or (vii) an act that would be an offense under another  
2 Section of the Methamphetamine Control and Community  
3 Protection Act.

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

10 (A) The minor has been convicted of first degree  
11 murder, attempt to commit first degree murder,  
12 aggravated criminal sexual assault, or criminal sexual  
13 assault,

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

1 second or subsequent offense under Section 60 of the  
2 Methamphetamine Control and Community Protection Act,  
3 or (vii) an act that would be an offense under another  
4 Section of the Methamphetamine Control and Community  
5 Protection Act.

6 (D) Pending or following any adjudication of delinquency  
7 for any offense defined in Sections 11-1.20 through 11-1.60 or  
8 12-13 through 12-16 of the Criminal Code of 1961 or the  
9 Criminal Code of 2012, the victim of any such offense shall  
10 receive the rights set out in Sections 4 and 6 of the Bill of  
11 Rights for Victims and Witnesses of Violent Crime Act; and the  
12 juvenile who is the subject of the adjudication,  
13 notwithstanding any other provision of this Act, shall be  
14 treated as an adult for the purpose of affording such rights to  
15 the victim.

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

24 (F) Following any adjudication of delinquency for a crime  
25 which would be a felony if committed by an adult, or following  
26 any adjudication of delinquency for a violation of Section

1 24-1, 24-3, 24-3.1, or 24-5 of the Criminal Code of 1961 or the  
2 Criminal Code of 2012, the State's Attorney shall ascertain  
3 whether the minor respondent is enrolled in school and, if so,  
4 shall provide a copy of the dispositional order to the  
5 principal or chief administrative officer of the school. Access  
6 to such juvenile records shall be limited to the principal or  
7 chief administrative officer of the school and any guidance  
8 counselor designated by him.

9 (G) Nothing contained in this Act prevents the sharing or  
10 disclosure of information or records relating or pertaining to  
11 juveniles subject to the provisions of the Serious Habitual  
12 Offender Comprehensive Action Program when that information is  
13 used to assist in the early identification and treatment of  
14 habitual juvenile offenders.

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

23 (I) The Clerk of the Circuit Court shall report to the  
24 Department of State Police, in the form and manner required by  
25 the Department of State Police, the final disposition of each  
26 minor who has been arrested or taken into custody before his or

1 her 21st birthday for a misdemeanor offense or 18th birthday  
2 for a felony offense for those offenses required to be reported  
3 under Section 5 of the Criminal Identification Act. Information  
4 reported to the Department under this Section may be maintained  
5 with records that the Department files under Section 2.1 of the  
6 Criminal Identification Act.

7 (J) The changes made to this Section by Public Act 98-61  
8 apply to law enforcement records of a minor who has been  
9 arrested or taken into custody on or after January 1, 2014 (the  
10 effective date of Public Act 98-61).

11 (Source: P.A. 97-813, eff. 7-13-12; 97-1150, eff. 1-25-13;  
12 98-61, eff. 1-1-14; 98-552, eff. 8-27-13; 98-756, eff.  
13 7-16-14.)

14 (705 ILCS 405/1-9) (from Ch. 37, par. 801-9)

15 Sec. 1-9. Expungement of law enforcement and juvenile court  
16 records.

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

19 (2) This subsection (2) applies to expungement of law  
20 enforcement and juvenile court records other than delinquency  
21 proceedings. Whenever any person has attained the age of 21 for  
22 a misdemeanor offense or 18 for a felony offense or whenever  
23 all juvenile court proceedings relating to that person have  
24 been terminated, whichever is later, the person may petition  
25 the court to expunge law enforcement records relating to

1 incidents occurring before his 21st birthday for a misdemeanor  
2 offense or 18th birthday for a felony offense or his juvenile  
3 court records, or both, if the minor was placed under  
4 supervision pursuant to Sections 2-20, 3-21, or 4-18, and such  
5 order of supervision has since been successfully terminated.

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

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

22 (Source: P.A. 98-61, eff. 1-1-14.)

23 (705 ILCS 405/2-10) (from Ch. 37, par. 802-10)

24 Sec. 2-10. Temporary custody hearing. At the appearance of  
25 the minor before the court at the temporary custody hearing,

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

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

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



1 violation; provided, however, that the 12-month period shall  
2 begin anew after any violation. Custodian shall include any  
3 agency of the State which has been given custody or wardship of  
4 the child. If it is consistent with the health, safety and best  
5 interests of the minor, the court may also prescribe shelter  
6 care and order that the minor be kept in a suitable place  
7 designated by the court or in a shelter care facility  
8 designated by the Department of Children and Family Services or  
9 a licensed child welfare agency; however, on and after January  
10 1, 2015 (the effective date of Public Act 98-803) ~~this~~  
11 ~~amendatory Act of the 98th General Assembly~~ and before January  
12 1, 2017, a minor charged with a criminal offense under the  
13 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 of Children and Family Services by  
16 any court, except a minor less than 16 years of age and  
17 committed to the Department of Children and Family Services  
18 under Section 5-710 of this Act or a minor for whom an  
19 independent basis of abuse, neglect, or dependency exists; and  
20 on and after January 1, 2017, a minor charged with a criminal  
21 offense under the Criminal Code of 1961 or the Criminal Code of  
22 2012 or adjudicated delinquent shall not be placed in the  
23 custody of or committed to the Department of Children and  
24 Family Services by any court, except a minor less than 15 years  
25 of age and committed to the Department of Children and Family  
26 Services under Section 5-710 of this Act or a minor for whom an

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

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

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

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

24         Where the Department of Children and Family Services  
25    Guardianship Administrator is appointed as the executive  
26    temporary custodian, and when the child has siblings in care,

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

25 For good cause, the court may waive the requirement to  
26 file the parent-child visiting plan or the sibling placement

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

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

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

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

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

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

1 termination of their parental rights.

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



1 care hearing shall be substantially as follows:

2 NOTICE TO PARENTS AND CHILDREN  
3 OF SHELTER CARE HEARING

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

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

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

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

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

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

24 3. To present evidence concerning:

25 a. Whether or not the child or children were  
26 abused, neglected or dependent.

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

6           c. The best interests of the child.

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

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

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

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

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

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

1           3. Your signature.

2           4. Signature must be notarized.

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

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

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

10           1. To have a guardian ad litem appointed.

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

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

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

17           c. Their best interests.

18           3. To cross examine witnesses for other parties.

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

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

1 after the filing of the affidavit. At the rehearing, the court  
2 shall proceed in the same manner as upon the original hearing.

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

8 (6) No minor under 16 years of age may be confined in a  
9 jail or place ordinarily used for the confinement of prisoners  
10 in a police station. Minors under 21 years of age for a  
11 misdemeanor offense or 18 years of age for a felony offense  
12 must be kept separate from confined adults and may not at any  
13 time be kept in the same cell, room, or yard with adults  
14 confined pursuant to the criminal law.

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

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

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

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

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

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

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

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

1 without endangering the child's health or safety.

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

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

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

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

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

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

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

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

4 (Source: P.A. 97-1076, eff. 8-24-12; 97-1150, eff. 1-25-13;  
5 98-61, eff. 1-1-14; 98-756, eff. 7-16-14; 98-803, eff. 1-1-15;  
6 revised 10-16-15.)

7 (705 ILCS 405/3-12) (from Ch. 37, par. 803-12)

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

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

17 (2) If the court finds that there is probable cause to  
18 believe that the minor is a person requiring authoritative  
19 intervention, the minor, his or her parent, guardian, custodian  
20 and other persons able to give relevant testimony shall be  
21 examined before the court. After such testimony, the court may  
22 enter an order that the minor shall be released upon the  
23 request of a parent, guardian or custodian if the parent,  
24 guardian or custodian appears to take custody. Custodian shall  
25 include any agency of the State which has been given custody or

1 wardship of the child. The Court shall require documentation by  
2 representatives of the Department of Children and Family  
3 Services or the probation department as to the reasonable  
4 efforts that were made to prevent or eliminate the necessity of  
5 removal of the minor from his or her home, and shall consider  
6 the testimony of any person as to those reasonable efforts. If  
7 the court finds that it is a matter of immediate and urgent  
8 necessity for the protection of the minor or of the person or  
9 property of another that the minor be placed in a shelter care  
10 facility, or that he or she is likely to flee the jurisdiction  
11 of the court, and further finds that reasonable efforts have  
12 been made or good cause has been shown why reasonable efforts  
13 cannot prevent or eliminate the necessity of removal of the  
14 minor from his or her home, the court may prescribe shelter  
15 care and order that the minor be kept in a suitable place  
16 designated by the court or in a shelter care facility  
17 designated by the Department of Children and Family Services or  
18 a licensed child welfare agency; otherwise it shall release the  
19 minor from custody. If the court prescribes shelter care, then  
20 in placing the minor, the Department or other agency shall, to  
21 the extent compatible with the court's order, comply with  
22 Section 7 of the Children and Family Services Act. If the minor  
23 is ordered placed in a shelter care facility of the Department  
24 of Children and Family Services or a licensed child welfare  
25 agency, the court shall, upon request of the Department or  
26 other agency, appoint the Department of Children and Family



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

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

1           Once the court finds that it is a matter of immediate and  
2 urgent necessity for the protection of the minor that the minor  
3 be placed in a shelter care facility, the minor shall not be  
4 returned to the parent, custodian or guardian until the court  
5 finds that such placement is no longer necessary for the  
6 protection of the minor.

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

1 notice for a shelter care hearing shall be substantially as  
2 follows:

3 NOTICE TO PARENTS AND CHILDREN OF SHELTER CARE HEARING

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

9 .....  
10 and (2) that there is "immediate and urgent necessity" to  
11 remove the child or children from the responsible relative.

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

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

- 17 1. To ask the court to appoint a lawyer if they cannot  
18 afford one.
- 19 2. To ask the court to continue the hearing to allow  
20 them time to prepare.
- 21 3. To present evidence concerning:
  - 22 a. Whether or not the child or children were  
23 abused, neglected or dependent.
  - 24 b. Whether or not there is "immediate and urgent  
25 necessity" to remove the child from home (including:  
26 their ability to care for the child, conditions in the

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

3 c. The best interests of the child.

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

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

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

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

17 1. That you were not present at the shelter care  
18 hearing.

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

21 3. Your signature.

22 4. Signature must be notarized.

23 The rehearing should be scheduled within one day of your  
24 filing this affidavit.

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

1 those rights.

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

4 1. To have a guardian ad litem appointed.

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

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

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

11 c. Their best interests.

12 3. To cross examine witnesses for other parties.

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

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

23 (5) Only when there is reasonable cause to believe that the  
24 minor taken into custody is a person described in subsection  
25 (3) of Section 5-105 may the minor be kept or detained in a  
26 detention home or county or municipal jail. This Section shall

1 in no way be construed to limit subsection (6).

2 (6) No minor under 16 years of age may be confined in a  
3 jail or place ordinarily used for the confinement of prisoners  
4 in a police station. Minors under 21 years of age for a  
5 misdemeanor offense, or 18 years of age for a felony offense  
6 must be kept separate from confined adults and may not at any  
7 time be kept in the same cell, room, or yard with adults  
8 confined pursuant to the criminal law.

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

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

24 (9) Notwithstanding any other provision of this Section,  
25 any interested party, including the State, the temporary  
26 custodian, an agency providing services to the minor or family

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

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

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

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

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

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

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

1 (Source: P.A. 98-61, eff. 1-1-14; 98-756, eff. 7-16-14; revised  
2 10-16-15.)

3 (705 ILCS 405/4-9) (from Ch. 37, par. 804-9)

4 Sec. 4-9. Shelter care hearing. At the appearance of the  
5 minor before the court at the shelter care hearing, all  
6 witnesses present shall be examined before the court in  
7 relation to any matter connected with the allegations made in  
8 the petition.

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

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



1 wardship of the child.

2       The Court shall require documentation by representatives  
3 of the Department of Children and Family Services or the  
4 probation department as to the reasonable efforts that were  
5 made to prevent or eliminate the necessity of removal of the  
6 minor from his or her home, and shall consider the testimony of  
7 any person as to those reasonable efforts. If the court finds  
8 that it is a matter of immediate and urgent necessity for the  
9 protection of the minor or of the person or property of another  
10 that the minor be or placed in a shelter care facility or that  
11 he or she is likely to flee the jurisdiction of the court, and  
12 further, finds that reasonable efforts have been made or good  
13 cause has been shown why reasonable efforts cannot prevent or  
14 eliminate the necessity of removal of the minor from his or her  
15 home, the court may prescribe shelter care and order that the  
16 minor be kept in a suitable place designated by the court or in  
17 a shelter care facility designated by the Department of  
18 Children and Family Services or a licensed child welfare  
19 agency, or in a facility or program licensed by the Department  
20 of Human Services for shelter and treatment services; otherwise  
21 it shall release the minor from custody. If the court  
22 prescribes shelter care, then in placing the minor, the  
23 Department or other agency shall, to the extent compatible with  
24 the court's order, comply with Section 7 of the Children and  
25 Family Services Act. If the minor is ordered placed in a  
26 shelter care facility of the Department of Children and Family

1 Services or a licensed child welfare agency, or in a facility  
2 or program licensed by the Department of Human Services for  
3 shelter and treatment services, the court shall, upon request  
4 of the appropriate Department or other agency, appoint the  
5 Department of Children and Family Services Guardianship  
6 Administrator or other appropriate agency executive temporary  
7 custodian of the minor and the court may enter such other  
8 orders related to the temporary custody as it deems fit and  
9 proper, including the provision of services to the minor or his  
10 family to ameliorate the causes contributing to the finding of  
11 probable cause or to the finding of the existence of immediate  
12 and urgent necessity. Acceptance of services shall not be  
13 considered an admission of any allegation in a petition made  
14 pursuant to this Act, nor may a referral of services be  
15 considered as evidence in any proceeding pursuant to this Act,  
16 except where the issue is whether the Department has made  
17 reasonable efforts to reunite the family. In making its  
18 findings that reasonable efforts have been made or that good  
19 cause has been shown why reasonable efforts cannot prevent or  
20 eliminate the necessity of removal of the minor from his or her  
21 home, the court shall state in writing its findings concerning  
22 the nature of the services that were offered or the efforts  
23 that were made to prevent removal of the child and the apparent  
24 reasons that such services or efforts could not prevent the  
25 need for removal. The parents, guardian, custodian, temporary  
26 custodian and minor shall each be furnished a copy of such

1 written findings. The temporary custodian shall maintain a copy  
2 of the court order and written findings in the case record for  
3 the child. The order together with the court's findings of fact  
4 in support thereof shall be entered of record in the court.

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

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

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

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

1           (6) No minor under 16 years of age may be confined in a  
2 jail or place ordinarily used for the confinement of prisoners  
3 in a police station. Minors under 21 years of age for a  
4 misdemeanor offense or 18 years of age for a felony offense  
5 must be kept separate from confined adults and may not at any  
6 time be kept in the same cell, room or yard with adults  
7 confined pursuant to the criminal law.

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

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

26           (a) It is no longer a matter of immediate and urgent

1 necessity that the minor remain in shelter care; or

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

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

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

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

17 (9) The changes made to this Section by Public Act 98-61  
18 apply to a minor who has been arrested or taken into custody on  
19 or after January 1, 2014 (the effective date of Public Act  
20 98-61).

21 (Source: P.A. 98-61, eff. 1-1-14; 98-756, eff. 7-16-14.)

22 (705 ILCS 405/5-105)

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

24 (1) "Aftercare release" means the conditional and  
25 revocable release of an adjudicated delinquent juvenile

1 committed to the Department of Juvenile Justice under the  
2 supervision of the Department of Juvenile Justice.

3 (1.5) "Court" means the circuit court in a session or  
4 division assigned to hear proceedings under this Act, and  
5 includes the term Juvenile Court.

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

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

21 (3) "Delinquent minor" means any minor who prior to his  
22 or her 21st birthday for a misdemeanor offense or 18th  
23 birthday for a felony offense who has violated or attempted  
24 to violate, regardless of where the act occurred, any  
25 federal, State, county or municipal law or ordinance.

26 (4) "Department" means the Department of Human

1 Services unless specifically referenced as another  
2 department.

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

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

21 (7) "Juvenile detention home" means a public facility  
22 with specially trained staff that conforms to the county  
23 juvenile detention standards adopted by the Department of  
24 Juvenile Justice.

25 (8) "Juvenile justice continuum" means a set of  
26 delinquency prevention programs and services designed for

1 the purpose of preventing or reducing delinquent acts,  
2 including criminal activity by youth gangs, as well as  
3 intervention, rehabilitation, and prevention services  
4 targeted at minors who have committed delinquent acts, and  
5 minors who have previously been committed to residential  
6 treatment programs for delinquents. The term includes  
7 children-in-need-of-services and  
8 families-in-need-of-services programs; aftercare and  
9 reentry services; substance abuse and mental health  
10 programs; community service programs; community service  
11 work programs; and alternative-dispute resolution programs  
12 serving youth-at-risk of delinquency and their families,  
13 whether offered or delivered by State or local governmental  
14 entities, public or private for-profit or not-for-profit  
15 organizations, or religious or charitable organizations.  
16 This term would also encompass any program or service  
17 consistent with the purpose of those programs and services  
18 enumerated in this subsection.

19 (9) "Juvenile police officer" means a sworn police  
20 officer who has completed a Basic Recruit Training Course,  
21 has been assigned to the position of juvenile police  
22 officer by his or her chief law enforcement officer and has  
23 completed the necessary juvenile officers training as  
24 prescribed by the Illinois Law Enforcement Training  
25 Standards Board, or in the case of a State police officer,  
26 juvenile officer training approved by the Director of State



1 Police.

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

4 (11) "Non-secure custody" means confinement where the  
5 minor is not physically restricted by being placed in a  
6 locked cell or room, by being handcuffed to a rail or other  
7 stationary object, or by other means. Non-secure custody  
8 may include, but is not limited to, electronic monitoring,  
9 foster home placement, home confinement, group home  
10 placement, or physical restriction of movement or activity  
11 solely through facility staff.

12 (12) "Public or community service" means uncompensated  
13 labor for a not-for-profit organization or public body  
14 whose purpose is to enhance physical or mental stability of  
15 the offender, environmental quality or the social welfare  
16 and which agrees to accept public or community service from  
17 offenders and to report on the progress of the offender and  
18 the public or community service to the court or to the  
19 authorized diversion program that has referred the  
20 offender for public or community service. "Public or  
21 community service" does not include blood donation or  
22 assignment to labor at a blood bank. For the purposes of  
23 this Act, "blood bank" has the meaning ascribed to the term  
24 in Section 2-124 of the Illinois Clinical Laboratory and  
25 Blood Bank Act.

26 (13) "Sentencing hearing" means a hearing to determine

1           whether a minor should be adjudged a ward of the court, and  
2           to determine what sentence should be imposed on the minor.  
3           It is the intent of the General Assembly that the term  
4           "sentencing hearing" replace the term "dispositional  
5           hearing" and be synonymous with that definition as it was  
6           used in the Juvenile Court Act of 1987.

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

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

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

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

1           The changes made to this Section by Public Act 98-61 apply  
2 to violations or attempted violations committed on or after  
3 January 1, 2014 (the effective date of Public Act 98-61).  
4 (Source: P.A. 98-61, eff. 1-1-14; 98-558, eff. 1-1-14; 98-685,  
5 eff. 1-1-15; 98-756, eff. 7-16-14; 98-824, eff. 1-1-15; 99-78,  
6 eff. 7-20-15.)

7           (705 ILCS 405/5-120)

8           Sec. 5-120. Exclusive jurisdiction. Proceedings may be  
9 instituted under the provisions of this Article concerning any  
10 minor who prior to his or her 21st birthday for a misdemeanor  
11 offense or 18th birthday for a felony offense who has violated  
12 or attempted to violate, regardless of where the act occurred,  
13 any federal, State, county or municipal law or ordinance.  
14 Except as provided in Sections 5-125, 5-130, 5-805, and 5-810  
15 of this Article, no minor who was under 21 years of age for a  
16 misdemeanor offense or 18 years of age for a felony offense at  
17 the time of the alleged offense may be prosecuted under the  
18 criminal laws of this State.

19           The changes made to this Section by this amendatory Act of  
20 the 98th General Assembly apply to violations or attempted  
21 violations committed on or after the effective date of this  
22 amendatory Act.

23           The changes made to this Section by this amendatory Act of  
24 the 99th General Assembly apply to violations or attempted  
25 violations committed on or after the effective date of this

1 amendatory Act.

2 (Source: P.A. 98-61, eff. 1-1-14.)

3 (705 ILCS 405/5-130)

4 Sec. 5-130. Excluded jurisdiction.

5 (1)(a) The definition of delinquent minor under Section  
6 5-120 of this Article shall not apply to any minor who at the  
7 time of an offense was at least 16 years of age and who is  
8 charged with: (i) first degree murder, (ii) aggravated criminal  
9 sexual assault, or (iii) aggravated battery with a firearm as  
10 described in Section 12-4.2 or subdivision (e)(1), (e)(2),  
11 (e)(3), or (e)(4) of Section 12-3.05 where the minor personally  
12 discharged a firearm as defined in Section 2-15.5 of the  
13 Criminal Code of 1961 or the Criminal Code of 2012.

14 These charges and all other charges arising out of the same  
15 incident shall be prosecuted under the criminal laws of this  
16 State.

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

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

1 is filed that includes one or more charges specified in  
2 paragraph (a) of this subsection (1) and additional charges  
3 that are not specified in that paragraph, all of the charges  
4 arising out of the same incident shall be prosecuted under the  
5 Criminal Code of 1961 or the Criminal Code of 2012.

6 (c) (i) If after trial or plea the minor is convicted of any  
7 offense covered by paragraph (a) of this subsection (1), then,  
8 in sentencing the minor, the court shall sentence the minor  
9 under Section 5-4.5-105 of the Unified Code of Corrections.

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

1 of the minor; (c) the previous history of the minor; (d)  
2 whether there are facilities particularly available to the  
3 Juvenile Court or the Department of Juvenile Justice for the  
4 treatment and rehabilitation of the minor; (e) whether the  
5 security of the public requires sentencing under Chapter V of  
6 the Unified Code of Corrections; and (f) whether the minor  
7 possessed a deadly weapon when committing the offense. The  
8 rules of evidence shall be the same as if at trial. If after  
9 the hearing the court finds that the minor should be sentenced  
10 under Chapter V of the Unified Code of Corrections, then the  
11 court shall sentence the minor under Section 5-4.5-105 of the  
12 Unified Code of Corrections.

13 (2) (Blank).

14 (3) (Blank).

15 (4) (Blank).

16 (5) (Blank).

17 (6) (Blank).

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

24 (8) Nothing in this Act prohibits or limits the prosecution  
25 of any minor for an offense committed on or after his or her  
26 21st birthday for a misdemeanor offense or 18th birthday for a

1 felony offense even though he or she is at the time of the  
2 offense a ward of the court.

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

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

1 a delinquent minor under this Article. In making its  
2 determination, the court shall consider among other matters:

3 (a) The age of the minor;

4 (b) Any previous delinquent or criminal history of the  
5 minor;

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

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

9 (e) Whether there is probable cause to support the  
10 charge, whether the minor is charged through  
11 accountability, and whether there is evidence the minor  
12 possessed a deadly weapon or caused serious bodily harm  
13 during the offense.

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

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

26 (Source: P.A. 98-61, eff. 1-1-14; 98-756, eff. 7-16-14; 99-258,



1 eff. 1-1-16.)

2 (705 ILCS 405/5-401.5)

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

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

9 In this Section, "electronic recording" includes motion  
10 picture, audiotape, videotape, or digital recording.

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

18 (b) An oral, written, or sign language statement of a minor  
19 who, at the time of the commission of the offense was under the  
20 age of 21 for a misdemeanor offense or 18 years for a felony  
21 offense, made as a result of a custodial interrogation  
22 conducted at a police station or other place of detention on or  
23 after the effective date of this amendatory Act of the 93rd  
24 General Assembly and on or after the effective date of this  
25 amendatory Act of the 99th General Assembly shall be presumed

1 to be inadmissible as evidence against the minor in any  
2 criminal proceeding or juvenile court proceeding, for an act  
3 that if committed by an adult would be brought under Section  
4 9-1, 9-1.2, 9-2, 9-2.1, 9-3, 9-3.2, or 9-3.3, of the Criminal  
5 Code of 1961 or the Criminal Code of 2012, or under clause  
6 (d)(1)(F) of Section 11-501 of the Illinois Vehicle Code  
7 unless:

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

10 (2) the recording is substantially accurate and not  
11 intentionally altered.

12 (b-5) Under the following circumstances, an oral, written,  
13 or sign language statement of a minor who, at the time of the  
14 commission of the offense was under the age of 21 for a  
15 misdemeanor offense or under 18 for a felony offense ~~17 years,~~  
16 made as a result of a custodial interrogation conducted at a  
17 police station or other place of detention shall be presumed to  
18 be inadmissible as evidence against the minor, unless an  
19 electronic recording is made of the custodial interrogation and  
20 the recording is substantially accurate and not intentionally  
21 altered:

22 (1) in any criminal proceeding or juvenile court  
23 proceeding, for an act that if committed by an adult would  
24 be brought under Section 11-1.40 or 20-1.1 of the Criminal  
25 Code of 1961 or the Criminal Code of 2012, if the custodial  
26 interrogation was conducted on or after June 1, 2014;

1           (2) in any criminal proceeding or juvenile court  
2 proceeding, for an act that if committed by an adult would  
3 be brought under Section 10-2, 18-4, or 19-6 of the  
4 Criminal Code of 1961 or the Criminal Code of 2012, if the  
5 custodial interrogation was conducted on or after June 1,  
6 2015; and

7           (3) in any criminal proceeding or juvenile court  
8 proceeding, for an act that if committed by an adult would  
9 be brought under Section 11-1.30 or 18-2 or subsection (e)  
10 of Section 12-3.05 of the Criminal Code of 1961 or the  
11 Criminal Code of 2012, if the custodial interrogation was  
12 conducted on or after June 1, 2016.

13           (b-10) If, during the course of an electronically recorded  
14 custodial interrogation conducted under this Section of a minor  
15 who, at the time of the commission of the offense was under the  
16 age of 21 years for a misdemeanor offense or 18 ~~17~~ years for a  
17 felony offense, the minor makes a statement that creates a  
18 reasonable suspicion to believe the minor has committed an act  
19 that if committed by an adult would be an offense other than an  
20 offense required to be recorded under subsection (b) or (b-5),  
21 the interrogators may, without the minor's consent, continue to  
22 record the interrogation as it relates to the other offense  
23 notwithstanding any provision of law to the contrary. Any oral,  
24 written, or sign language statement of a minor made as a result  
25 of an interrogation under this subsection shall be presumed to  
26 be inadmissible as evidence against the minor in any criminal

1 proceeding or juvenile court proceeding, unless the recording  
2 is substantially accurate and not intentionally altered.

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

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

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

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

24 (f) The presumption of inadmissibility of a statement made  
25 by a suspect at a custodial interrogation at a police station  
26 or other place of detention may be overcome by a preponderance

1 of the evidence that the statement was voluntarily given and is  
2 reliable, based on the totality of the circumstances.

3 (g) Any electronic recording of any statement made by a  
4 minor during a custodial interrogation that is compiled by any  
5 law enforcement agency as required by this Section for the  
6 purposes of fulfilling the requirements of this Section shall  
7 be confidential and exempt from public inspection and copying,  
8 as provided under Section 7 of the Freedom of Information Act,  
9 and the information shall not be transmitted to anyone except  
10 as needed to comply with this Section.

11 (h) A statement, admission, confession, or incriminating  
12 information made by or obtained from a minor related to the  
13 instant offense, as part of any behavioral health screening,  
14 assessment, evaluation, or treatment, whether or not  
15 court-ordered, shall not be admissible as evidence against the  
16 minor on the issue of guilt only in the instant juvenile court  
17 proceeding. The provisions of this subsection (h) are in  
18 addition to and do not override any existing statutory and  
19 constitutional prohibition on the admission into evidence in  
20 delinquency proceedings of information obtained during  
21 screening, assessment, or treatment.

22 (i) The changes made to this Section by Public Act 98-61  
23 apply to statements of a minor made on or after January 1, 2014  
24 (the effective date of Public Act 98-61).

25 (Source: P.A. 97-1150, eff. 1-25-13; 98-61, eff. 1-1-14;  
26 98-547, eff. 1-1-14; 98-756, eff. 7-16-14.)

1 (705 ILCS 405/5-410)

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

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

8 (2) (a) Any minor 10 years of age or older arrested  
9 pursuant to this Act where there is probable cause to believe  
10 that the minor is a delinquent minor and that (i) secured  
11 custody is a matter of immediate and urgent necessity for the  
12 protection of the minor or of the person or property of  
13 another, (ii) the minor is likely to flee the jurisdiction of  
14 the court, or (iii) the minor was taken into custody under a  
15 warrant, may be kept or detained in an authorized detention  
16 facility. A minor under 13 years of age shall not be admitted,  
17 kept, or detained in a detention facility unless a local youth  
18 service provider, including a provider through the  
19 Comprehensive Community Based Youth Services network, has been  
20 contacted and has not been able to accept the minor. No minor  
21 under 12 years of age shall be detained in a county jail or a  
22 municipal lockup for more than 6 hours.

23 (b) The written authorization of the probation officer or  
24 detention officer (or other public officer designated by the  
25 court in a county having 3,000,000 or more inhabitants)

1 constitutes authority for the superintendent of any juvenile  
2 detention home to detain and keep a minor for up to 40 hours,  
3 excluding Saturdays, Sundays and court-designated holidays.  
4 These records shall be available to the same persons and  
5 pursuant to the same conditions as are law enforcement records  
6 as provided in Section 5-905.

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

18 (b-5) Subject to the provisions of subsection (b-4), if a  
19 probation officer or detention officer (or other public officer  
20 designated by the court in a county having 3,000,000 or more  
21 inhabitants) does not intend to detain a minor for an offense  
22 which constitutes one of the following offenses he or she shall  
23 consult with the State's Attorney's Office prior to the release  
24 of the minor: first degree murder, second degree murder,  
25 involuntary manslaughter, criminal sexual assault, aggravated  
26 criminal sexual assault, aggravated battery with a firearm as



1 described in Section 12-4.2 or subdivision (e)(1), (e)(2),  
2 (e)(3), or (e)(4) of Section 12-3.05, aggravated or heinous  
3 battery involving permanent disability or disfigurement or  
4 great bodily harm, robbery, aggravated robbery, armed robbery,  
5 vehicular hijacking, aggravated vehicular hijacking, vehicular  
6 invasion, arson, aggravated arson, kidnapping, aggravated  
7 kidnapping, home invasion, burglary, or residential burglary.

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

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

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

24 (iii) Upon placement in secure custody in a jail or  
25 lockup, the minor shall be informed of the purpose of the  
26 detention, the time it is expected to last and the fact

1 that it cannot exceed the time specified under this Act.

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

6 (v) Violation of the time limit on detention in a  
7 county jail or municipal lockup shall not, in and of  
8 itself, render inadmissible evidence obtained as a result  
9 of the violation of this time limit. Minors under 21 years  
10 of age for a misdemeanor offense or 18 years of age for a  
11 felony offense shall be kept separate from confined adults  
12 and may not at any time be kept in the same cell, room or  
13 yard with adults confined pursuant to criminal law. Persons  
14 18 years of age and older who have a petition of  
15 delinquency filed against them for a felony offense may be  
16 confined in an adult detention facility. In making a  
17 determination whether to confine a person 18 years of age  
18 or older who has a petition of delinquency filed against  
19 the person, these factors, among other matters, shall be  
20 considered:

21 (A) The age of the person;

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

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

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

1 person, or both.

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

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

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

1 (d) (ii) of this subsection (2) of this Section, county jails  
2 shall comply with all county juvenile detention standards  
3 adopted by the Department of Juvenile Justice.

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

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

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

25 (3) If the probation officer or State's Attorney (or such  
26 other public officer designated by the court in a county having

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

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

10 (5) The changes made to this Section by Public Act 98-61  
11 apply to a minor who has been arrested or taken into custody on  
12 or after January 1, 2014 (the effective date of Public Act  
13 98-61).

14 (Source: P.A. 98-61, eff. 1-1-14; 98-685, eff. 1-1-15; 98-756,  
15 eff. 7-16-14; 99-254, eff. 1-1-16.)

16 (705 ILCS 405/5-901)

17 Sec. 5-901. Court file.

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

24 (a) The file, including information identifying the  
25 victim or alleged victim of any sex offense, shall be

1 disclosed only to the following parties when necessary for  
2 discharge of their official duties:

3 (i) A judge of the circuit court and members of the  
4 staff of the court designated by the judge;

5 (ii) Parties to the proceedings and their  
6 attorneys;

7 (iii) Victims and their attorneys, except in cases  
8 of multiple victims of sex offenses in which case the  
9 information identifying the nonrequesting victims  
10 shall be redacted;

11 (iv) Probation officers, law enforcement officers  
12 or prosecutors or their staff;

13 (v) Adult and juvenile Prisoner Review Boards.

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

18 (i) Authorized military personnel;

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

26 (iii) The Secretary of State to whom the Clerk of

1 the Court shall report the disposition of all cases, as  
2 required in Section 6-204 or Section 6-205.1 of the  
3 Illinois Vehicle Code. However, information reported  
4 relative to these offenses shall be privileged and  
5 available only to the Secretary of State, courts, and  
6 police officers;

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

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

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

25 (4) Relevant information, reports and records shall be made  
26 available to the Department of Juvenile Justice when a juvenile

1 offender has been placed in the custody of the Department of  
2 Juvenile Justice.

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

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

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

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



1 offense under or the minor's second or subsequent Class  
2 2 or greater felony offense under the Cannabis Control  
3 Act if committed by an adult, (D) an act that would be  
4 a second or subsequent offense under Section 402 of the  
5 Illinois Controlled Substances Act if committed by an  
6 adult, (E) an act that would be an offense under  
7 Section 401 of the Illinois Controlled Substances Act  
8 if committed by an adult, or (F) an act that would be  
9 an offense under the Methamphetamine Control and  
10 Community Protection Act if committed by an adult.

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

17 (i) The minor has been convicted of first degree  
18 murder, attempt to commit first degree murder,  
19 aggravated criminal sexual assault, or criminal sexual  
20 assault,

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

1 use of a firearm in the commission of a felony, (C) a  
2 Class X felony offense under the Cannabis Control Act  
3 or a second or subsequent Class 2 or greater felony  
4 offense under the Cannabis Control Act, (D) a second or  
5 subsequent offense under Section 402 of the Illinois  
6 Controlled Substances Act, (E) an offense under  
7 Section 401 of the Illinois Controlled Substances Act,  
8 or (F) an offense under the Methamphetamine Control and  
9 Community Protection Act.

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

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

23 (8) Following any adjudication of delinquency for a crime  
24 which would be a felony if committed by an adult, or following  
25 any adjudication of delinquency for a violation of Section  
26 24-1, 24-3, 24-3.1, or 24-5 of the Criminal Code of 1961 or the

1 Criminal Code of 2012, the State's Attorney shall ascertain  
2 whether the minor respondent is enrolled in school and, if so,  
3 shall provide a copy of the sentencing order to the principal  
4 or chief administrative officer of the school. Access to such  
5 juvenile records shall be limited to the principal or chief  
6 administrative officer of the school and any guidance counselor  
7 designated by him or her.

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

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

24 (12) Information or records may be disclosed to the general  
25 public when the court is conducting hearings under Section  
26 5-805 or 5-810.

1           (13) The changes made to this Section by Public Act 98-61  
2 apply to juvenile court records of a minor who has been  
3 arrested or taken into custody on or after January 1, 2014 (the  
4 effective date of Public Act 98-61).

5           (Source: P.A. 97-1150, eff. 1-25-13; 98-61, eff. 1-1-14;  
6 98-756, eff. 7-16-14.)

7           (705 ILCS 405/5-905)

8           Sec. 5-905. Law enforcement records.

9           (1) Law Enforcement Records. Inspection and copying of law  
10 enforcement records maintained by law enforcement agencies  
11 that relate to a minor who has been investigated, arrested, or  
12 taken into custody before his or her 21st birthday for a  
13 misdemeanor offense or 18th birthday for a felony offense shall  
14 be restricted to the following and when necessary for the  
15 discharge of their official duties:

16           (a) A judge of the circuit court and members of the  
17 staff of the court designated by the judge;

18           (b) Law enforcement officers, probation officers or  
19 prosecutors or their staff, or, when necessary for the  
20 discharge of its official duties in connection with a  
21 particular investigation of the conduct of a law  
22 enforcement officer, an independent agency or its staff  
23 created by ordinance and charged by a unit of local  
24 government with the duty of investigating the conduct of  
25 law enforcement officers;

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

4 (d) Adult and Juvenile Prisoner Review Boards;

5 (e) Authorized military personnel;

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

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

19 (h) The appropriate school official only if the agency  
20 or officer believes that there is an imminent threat of  
21 physical harm to students, school personnel, or others who  
22 are present in the school or on school grounds.

23 (A) Inspection and copying shall be limited to law  
24 enforcement records transmitted to the appropriate  
25 school official or officials whom the school has  
26 determined to have a legitimate educational or safety

1 interest by a local law enforcement agency under a  
2 reciprocal reporting system established and maintained  
3 between the school district and the local law  
4 enforcement agency under Section 10-20.14 of the  
5 School Code concerning a minor enrolled in a school  
6 within the school district who has been arrested or  
7 taken into custody for any of the following offenses:

8 (i) any violation of Article 24 of the Criminal  
9 Code of 1961 or the Criminal Code of 2012;

10 (ii) a violation of the Illinois Controlled  
11 Substances Act;

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

13 (iv) a forcible felony as defined in Section  
14 2-8 of the Criminal Code of 1961 or the Criminal  
15 Code of 2012;

16 (v) a violation of the Methamphetamine Control  
17 and Community Protection Act;

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

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

21 (viii) a violation of Section 12-1, 12-2,  
22 12-3, 12-3.05, 12-3.1, 12-3.2, 12-3.4, 12-3.5,  
23 12-5, 12-7.3, 12-7.4, 12-7.5, 25-1, or 25-5 of the  
24 Criminal Code of 1961 or the Criminal Code of 2012.

25 The information derived from the law enforcement  
26 records shall be kept separate from and shall not

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

19                 (B) Any information provided to appropriate school  
20                 officials whom the school has determined to have a  
21                 legitimate educational or safety interest by local law  
22                 enforcement officials about a minor who is the subject  
23                 of a current police investigation that is directly  
24                 related to school safety shall consist of oral  
25                 information only, and not written law enforcement  
26                 records, and shall be used solely by the appropriate

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

17 (i) The president of a park district. Inspection and  
18 copying shall be limited to law enforcement records  
19 transmitted to the president of the park district by the  
20 Illinois State Police under Section 8-23 of the Park  
21 District Code or Section 16a-5 of the Chicago Park District  
22 Act concerning a person who is seeking employment with that  
23 park district and who has been adjudicated a juvenile  
24 delinquent for any of the offenses listed in subsection (c)  
25 of Section 8-23 of the Park District Code or subsection (c)  
26 of Section 16a-5 of the Chicago Park District Act.



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

6           (2.5) If the minor is a victim of aggravated battery,  
7 battery, attempted first degree murder, or other non-sexual  
8 violent offense, the identity of the victim may be disclosed to  
9 appropriate school officials, for the purpose of preventing  
10 foreseeable future violence involving minors, by a local law  
11 enforcement agency pursuant to an agreement established  
12 between the school district and a local law enforcement agency  
13 subject to the approval by the presiding judge of the juvenile  
14 court.

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

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

26           (5) The records of law enforcement officers, or of an

1 independent agency created by ordinance and charged by a unit  
2 of local government with the duty of investigating the conduct  
3 of law enforcement officers, concerning all minors under 21 ~~18~~  
4 years of age must be maintained separate from the records of  
5 adults and may not be open to public inspection or their  
6 contents disclosed to the public except by order of the court  
7 or when the institution of criminal proceedings has been  
8 permitted under Section 5-130 or 5-805 or required under  
9 Section 5-130 or 5-805 or such a person has been convicted of a  
10 crime and is the subject of pre-sentence investigation or when  
11 provided by law.

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

1 information to the victim or to the parent or legal guardian of  
2 the victim only for the purpose of the victim pursuing a civil  
3 remedy against the minor or the minor's parents or legal  
4 guardian, or both, or to protect the victim's person or  
5 property from the minor.

6 (7) Nothing contained in this Section shall prohibit law  
7 enforcement agencies when acting in their official capacity  
8 from communicating with each other by letter, memorandum,  
9 teletype or intelligence alert bulletin or other means the  
10 identity or other relevant information pertaining to a person  
11 under 21 years of age for a misdemeanor offense or 18 years of  
12 age for a felony offense. The information provided under this  
13 subsection (7) shall remain confidential and shall not be  
14 publicly disclosed, except as otherwise allowed by law.

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

18 (9) The changes made to this Section by Public Act 98-61  
19 apply to law enforcement records of a minor who has been  
20 arrested or taken into custody on or after January 1, 2014 (the  
21 effective date of Public Act 98-61).

22 (Source: P.A. 98-61, eff. 1-1-14; 98-756, eff. 7-16-14; 99-298,  
23 eff. 8-6-15.)

24 (705 ILCS 405/5-915)

25 Sec. 5-915. Expungement of juvenile law enforcement and

1 court records.

2 (0.05) For purposes of this Section and Section 5-622:

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

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

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

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

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

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

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

7 (1.5) Commencing 180 days after the effective date of this  
8 amendatory Act of the 98th General Assembly, the Department of  
9 State Police shall automatically expunge, on or before January  
10 1 of each year, a person's law enforcement records relating to  
11 incidents occurring before his or her 21st birthday for a  
12 misdemeanor offense or 18th birthday for a felony offense in  
13 the Department's possession or control and which contains the  
14 final disposition which pertain to the person when arrested as  
15 a minor if:

16 (a) the minor was arrested for an eligible offense and  
17 no petition for delinquency was filed with the clerk of the  
18 circuit court; and

19 (b) the person attained the age of 21 years for a  
20 misdemeanor offense or 18 years for a felony offense during  
21 the last calendar year; and

22 (c) since the date of the minor's most recent arrest,  
23 at least 6 months have elapsed without an additional  
24 arrest, filing of a petition for delinquency whether  
25 related or not to a previous arrest, or filing of charges  
26 not initiated by arrest.

1           The Department of State Police shall allow a person to use  
2 the Access and Review process, established in the Department of  
3 State Police, for verifying that his or her law enforcement  
4 records relating to incidents occurring before his or her 18th  
5 birthday eligible under this subsection have been expunged as  
6 provided in this subsection.

7           The Department of State Police shall provide by rule the  
8 process for access, review, and automatic expungement.

9           (1.6) Commencing on the effective date of this amendatory  
10 Act of the 98th General Assembly, a person whose law  
11 enforcement records are not subject to subsection (1.5) of this  
12 Section and who has attained the age of 21 years for a  
13 misdemeanor offense or 18 years for a felony offense may use  
14 the Access and Review process, established in the Department of  
15 State Police, for verifying his or her law enforcement records  
16 relating to incidents occurring before his or her 18th birthday  
17 in the Department's possession or control which pertain to the  
18 person when arrested as a minor, if the incident occurred no  
19 earlier than 30 years before the effective date of this  
20 amendatory Act of the 98th General Assembly. If the person  
21 identifies a law enforcement record of an eligible offense that  
22 meets the requirements of this subsection, paragraphs (a) and  
23 (c) of subsection (1.5) of this Section, and all juvenile court  
24 proceedings related to the person have been terminated, the  
25 person may file a Request for Expungement of Juvenile Law  
26 Enforcement Records, in the form and manner prescribed by the

1 Department of State Police, with the Department and the  
2 Department shall consider expungement of the record as  
3 otherwise provided for automatic expungement under subsection  
4 (1.5) of this Section. The person shall provide notice and a  
5 copy of the Request for Expungement of Juvenile Law Enforcement  
6 Records to the arresting agency, prosecutor charged with the  
7 prosecution of the minor, or the State's Attorney of the county  
8 that prosecuted the minor. The Department of State Police shall  
9 provide by rule the process for access, review, and Request for  
10 Expungement of Juvenile Law Enforcement Records.

11 (1.7) Nothing in subsections (1.5) and (1.6) of this  
12 Section precludes a person from filing a petition under  
13 subsection (1) for expungement of records subject to automatic  
14 expungement under subsection (1.5) or (1.6) of this Section.

15 (1.8) For the purposes of subsections (1.5) and (1.6) of  
16 this Section, "eligible offense" means records relating to an  
17 arrest or incident occurring before the person's 21st birthday  
18 for a misdemeanor offense or 18th birthday for a felony offense  
19 that if committed by an adult is not an offense classified as a  
20 Class 2 felony or higher offense, an offense under Article 11  
21 of the Criminal Code of 1961 or the Criminal Code of 2012, or  
22 an offense under Section 12-13, 12-14, 12-14.1, 12-15, or 12-16  
23 of the Criminal Code of 1961.

24 (2) Any person may petition the court to expunge all law  
25 enforcement records relating to any incidents occurring before  
26 his or her 21st birthday for a misdemeanor offense or 18th

1 birthday for a felony offense which did not result in  
2 proceedings in criminal court and all juvenile court records  
3 with respect to any adjudications except those based upon first  
4 degree murder and sex offenses which would be felonies if  
5 committed by an adult, if the person for whom expungement is  
6 sought has had no convictions for any crime since his or her  
7 21st birthday for a misdemeanor offense or 18th birthday for a  
8 felony offense and:

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

10 (b) 5 years have elapsed since all juvenile court  
11 proceedings relating to him or her have been terminated or  
12 his or her commitment to the Department of Juvenile Justice  
13 pursuant to this Act has been terminated;

14 whichever is later of (a) or (b). Nothing in this Section 5-915  
15 precludes a minor from obtaining expungement under Section  
16 5-622.

17 (2.5) If a minor is arrested and no petition for  
18 delinquency is filed with the clerk of the circuit court as  
19 provided in paragraph (a) of subsection (1) at the time the  
20 minor is released from custody, the youth officer, if  
21 applicable, or other designated person from the arresting  
22 agency, shall notify verbally and in writing to the minor or  
23 the minor's parents or guardians that if the State's Attorney  
24 does not file a petition for delinquency, the minor has a right  
25 to petition to have his or her arrest record expunged when the  
26 minor attains the age of 18 or when all juvenile court



1 proceedings relating to that minor have been terminated and  
2 that unless a petition to expunge is filed, the minor shall  
3 have an arrest record and shall provide the minor and the  
4 minor's parents or guardians with an expungement information  
5 packet, including a petition to expunge juvenile records  
6 obtained from the clerk of the circuit court.

7 (2.6) If a minor is charged with an offense and is found  
8 not delinquent of that offense; or if a minor is placed under  
9 supervision under Section 5-615, and the order of supervision  
10 is successfully terminated; or if a minor is adjudicated for an  
11 offense that would be a Class B misdemeanor, a Class C  
12 misdemeanor, or a business or petty offense if committed by an  
13 adult; or if a minor has incidents occurring before his or her  
14 21st birthday for a misdemeanor offense or 18th birthday for a  
15 felony offense that have not resulted in proceedings in  
16 criminal court, or resulted in proceedings in juvenile court,  
17 and the adjudications were not based upon first degree murder  
18 or sex offenses that would be felonies if committed by an  
19 adult; then at the time of sentencing or dismissal of the case,  
20 the judge shall inform the delinquent minor of his or her right  
21 to petition for expungement as provided by law, and the clerk  
22 of the circuit court shall provide an expungement information  
23 packet to the delinquent minor, written in plain language,  
24 including a petition for expungement, a sample of a completed  
25 petition, expungement instructions that shall include  
26 information informing the minor that (i) once the case is

1 expunged, it shall be treated as if it never occurred, (ii) he  
2 or she may apply to have petition fees waived, (iii) once he or  
3 she obtains an expungement, he or she may not be required to  
4 disclose that he or she had a juvenile record, and (iv) he or  
5 she may file the petition on his or her own or with the  
6 assistance of an attorney. The failure of the judge to inform  
7 the delinquent minor of his or her right to petition for  
8 expungement as provided by law does not create a substantive  
9 right, nor is that failure grounds for: (i) a reversal of an  
10 adjudication of delinquency, (ii) a new trial; or (iii) an  
11 appeal.

12 (2.7) For counties with a population over 3,000,000, the  
13 clerk of the circuit court shall send a "Notification of a  
14 Possible Right to Expungement" post card to the minor at the  
15 address last received by the clerk of the circuit court on the  
16 date that the minor attains the age of 21 for a misdemeanor  
17 offense or 18 for a felony offense based on the birthdate  
18 provided to the court by the minor or his or her guardian in  
19 cases under paragraphs (b), (c), and (d) of subsection (1); and  
20 when the minor attains the age of 21 based on the birthdate  
21 provided to the court by the minor or his or her guardian in  
22 cases under subsection (2).

23 (2.8) The petition for expungement for subsection (1) may  
24 include multiple offenses on the same petition and shall be  
25 substantially in the following form:

26 IN THE CIRCUIT COURT OF ....., ILLINOIS



1 ( ) d. on ..... placed under supervision pursuant to Section  
2 5-615 of the Juvenile Court Act of 1987 and such order of  
3 supervision successfully terminated on .....

4 ( ) e. was adjudicated for the offense or offenses, which would  
5 have been a Class B misdemeanor, a Class C misdemeanor, or a  
6 petty offense or business offense if committed by an adult.

7 Petitioner .... has .... has not been arrested on charges in  
8 this or any county other than the charges listed above. If  
9 petitioner has been arrested on additional charges, please list  
10 the charges below:

11 Charge(s): .....

12 Arresting Agency or Agencies: .....

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

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

19 .....  
20 Petitioner (Signature)

21 .....  
22 Petitioner's Street Address

23 .....

1 City, State, Zip Code

2 .....

3 Petitioner's Telephone Number

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

8 .....

9 Petitioner (Signature)

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

12 IN THE CIRCUIT COURT OF ....., ILLINOIS

13 ..... JUDICIAL CIRCUIT

14 IN THE INTEREST OF ) NO.

15 )

16 )

17 .....)

18 (Name of Petitioner)

19 PETITION TO EXPUNGE JUVENILE RECORDS

20 (705 ILCS 405/5-915 (SUBSECTION 2))

1 (Please prepare a separate petition for each offense)

2 Now comes ....., petitioner, and respectfully requests  
3 that this Honorable Court enter an order expunging all Juvenile  
4 Law Enforcement and Court records of petitioner and in support  
5 thereof states that:

6 The incident for which the Petitioner seeks expungement  
7 occurred before the Petitioner's 21st birthday for a  
8 misdemeanor offense or 18th birthday for a felony offense and  
9 did not result in proceedings in criminal court and the  
10 Petitioner has not had any convictions for any crime since his  
11 or her 21st birthday for a misdemeanor offense or his/her 18th  
12 birthday for a felony offense; and

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

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

23 (Check whichever one occurred the latest:)

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

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

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

9 Charge(s): .....

10 Arresting Agency or Agencies: .....

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

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

17 .....

18 Petitioner (Signature)

19 .....

20 Petitioner's Street Address

21 .....

22 City, State, Zip Code

23 .....

1

Petitioner's Telephone Number

2

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

6

.....

7

Petitioner (Signature)

8

(3) The chief judge of the circuit in which an arrest was made or a charge was brought or any judge of that circuit designated by the chief judge may, upon verified petition of a person who is the subject of an arrest or a juvenile court proceeding under subsection (1) or (2) of this Section, order the law enforcement records or official court file, or both, to be expunged from the official records of the arresting authority, the clerk of the circuit court and the Department of State Police. The person whose records are to be expunged shall petition the court using the appropriate form containing his or her current address and shall promptly notify the clerk of the circuit court of any change of address. Notice of the petition shall be served upon the State's Attorney or prosecutor charged with the duty of prosecuting the offense, the Department of State Police, and the arresting agency or agencies by the clerk of the circuit court. If an objection is filed within 45 days of the notice of the petition, the clerk of the circuit court shall set a date for hearing after the 45 day objection period.

25



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

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

16 IN THE CIRCUIT COURT OF ....., ILLINOIS  
 17 ..... JUDICIAL CIRCUIT

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

23 NOTICE

24 TO: State's Attorney

1 TO: Arresting Agency

2  
3 .....

4 .....

5  
6 .....

7 .....

8 TO: Illinois State Police

9  
10 .....

11  
12 .....

13 ATTENTION: Expungement

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

19 .....  
20 Petitioner's Signature

21 .....  
22 Petitioner's Street Address

23 .....  
24 City, State, Zip Code

25 .....  
26 Petitioner's Telephone Number

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PROOF OF SERVICE

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

(Check One:)

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

or

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

.....

Signature

Clerk of the Circuit Court or Deputy Clerk

Printed Name of Delinquent Minor/Petitioner: ....

Address: .....

Telephone Number: .....

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

IN THE CIRCUIT COURT OF ....., ILLINOIS

..... JUDICIAL CIRCUIT

IN THE INTEREST OF ) NO.

)

1 )

2 .....)

3 (Name of Petitioner)

4 DOB .....

5 Arresting Agency/Agencies .....

ORDER OF EXPUNGEMENT

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

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

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

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

18 Law Enforcement Agencies:

19 .....

20 .....

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

23 ENTER: .....

24

25 JUDGE

1 DATED: .....

2 Name:

3 Attorney for:

4 Address: City/State/Zip:

5 Attorney Number:

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

8 IN THE CIRCUIT COURT OF ....., ILLINOIS

9 ..... JUDICIAL CIRCUIT

10 IN THE INTEREST OF ) NO.

11 )

12 )

13 .....)

14 (Name of Petitioner)

15 NOTICE OF OBJECTION

16 TO: (Attorney, Public Defender, Minor)

17 .....

18 .....

19 TO: (Illinois State Police)

20 .....

21 .....

22 TO: (Clerk of the Court)

23 .....

24 .....

1 TO: (Judge)

2 .....

3 .....

4 TO: (Arresting Agency/Agencies)

5 .....

6 .....

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

10 ( ) State's Attorney's Office;

11 ( ) Prosecutor (other than State's Attorney's Office) charged  
12 with the duty of prosecuting the offense sought to be expunged;

13 ( ) Department of Illinois State Police; or

14 ( ) Arresting Agency or Agencies.

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

18 DATED: .....

19 Name:

20 Attorney For:

21 Address:

22 City/State/Zip:

23 Telephone:

24 Attorney No.:

25 FOR USE BY CLERK OF THE COURT PERSONNEL ONLY

26 This matter has been set for hearing on the foregoing

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

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

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

17 Date: .....

18 Initials of Clerk completing this section: .....

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

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

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

7           (6.5) The Department of State Police or any employee of the  
8 Department shall be immune from civil or criminal liability for  
9 failure to expunge any records of arrest that are subject to  
10 expungement under subsection (1.5) or (1.6) of this Section  
11 because of inability to verify a record. Nothing in subsection  
12 (1.5) or (1.6) of this Section shall create Department of State  
13 Police liability or responsibility for the expungement of law  
14 enforcement records it does not possess.

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

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

23           (i) An explanation of the State's juvenile expungement  
24 process;

25           (ii) The circumstances under which juvenile  
26 expungement may occur;



- 1           (iii) The juvenile offenses that may be expunged;
- 2           (iv) The steps necessary to initiate and complete the
- 3 juvenile expungement process; and
- 4           (v) Directions on how to contact the State Appellate
- 5 Defender.

6           (c) The State Appellate Defender shall establish and

7 maintain a statewide toll-free telephone number that a person

8 may use to receive information or assistance concerning the

9 expungement of juvenile records. The State Appellate Defender

10 shall advertise the toll-free telephone number statewide. The

11 State Appellate Defender shall develop an expungement

12 information packet that may be sent to eligible persons seeking

13 expungement of their juvenile records, which may include, but

14 is not limited to, a pre-printed expungement petition with

15 instructions on how to complete the petition and a pamphlet

16 containing information that would assist individuals through

17 the juvenile expungement process.

18           (d) The State Appellate Defender shall compile a statewide

19 list of volunteer attorneys willing to assist eligible

20 individuals through the juvenile expungement process.

21           (e) This Section shall be implemented from funds

22 appropriated by the General Assembly to the State Appellate

23 Defender for this purpose. The State Appellate Defender shall

24 employ the necessary staff and adopt the necessary rules for

25 implementation of this Section.

26           (8) (a) Except with respect to law enforcement agencies, the

1 Department of Corrections, State's Attorneys, or other  
2 prosecutors, an expunged juvenile record may not be considered  
3 by any private or public entity in employment matters,  
4 certification, licensing, revocation of certification or  
5 licensure, or registration. Applications for employment must  
6 contain specific language that states that the applicant is not  
7 obligated to disclose expunged juvenile records of conviction  
8 or arrest. Employers may not ask if an applicant has had a  
9 juvenile record expunged. Effective January 1, 2005, the  
10 Department of Labor shall develop a link on the Department's  
11 website to inform employers that employers may not ask if an  
12 applicant had a juvenile record expunged and that application  
13 for employment must contain specific language that states that  
14 the applicant is not obligated to disclose expunged juvenile  
15 records of arrest or conviction.

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

22 (c) The expungement of juvenile records under Section 5-622  
23 shall be funded by the additional fine imposed under Section  
24 5-9-1.17 of the Unified Code of Corrections and additional  
25 appropriations made by the General Assembly for such purpose.

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

1 apply to law enforcement records of a minor who has been  
2 arrested or taken into custody on or after January 1, 2014 (the  
3 effective date of Public Act 98-61).

4 (10) The changes made in subsection (1.5) of this Section  
5 by this amendatory Act of the 98th General Assembly apply to  
6 law enforcement records of a minor who has been arrested or  
7 taken into custody on or after January 1, 2015. The changes  
8 made in subsection (1.6) of this Section by this amendatory Act  
9 of the 98th General Assembly apply to law enforcement records  
10 of a minor who has been arrested or taken into custody before  
11 January 1, 2015.

12 (Source: P.A. 98-61, eff. 1-1-14; 98-637, eff. 1-1-15; 98-756,  
13 eff. 7-16-14.)

14 Section 10. The Unified Code of Corrections is amended by  
15 changing Sections 3-2-5, 3-10-7, and 5-8-6 as follows:

16 (730 ILCS 5/3-2-5) (from Ch. 38, par. 1003-2-5)

17 Sec. 3-2-5. Organization of the Department of Corrections  
18 and the Department of Juvenile Justice.

19 (a) There shall be a Department of Corrections which shall  
20 be administered by a Director and an Assistant Director  
21 appointed by the Governor under the Civil Administrative Code  
22 of Illinois. The Assistant Director shall be under the  
23 direction of the Director. The Department of Corrections shall  
24 be responsible for all persons committed or transferred to the

1 Department under Sections 3-10-7 or 5-8-6 of this Code.

2 (b) There shall be a Department of Juvenile Justice which  
3 shall be administered by a Director appointed by the Governor  
4 under the Civil Administrative Code of Illinois. The Department  
5 of Juvenile Justice shall be responsible for all persons under  
6 21 years of age for a misdemeanor offense or under 18 ~~17~~ years  
7 of age for a felony offense when sentenced to imprisonment and  
8 committed to the Department under subsection (c) of Section  
9 5-8-6 of this Code, Section 5-10 of the Juvenile Court Act, or  
10 Section 5-750 of the Juvenile Court Act of 1987. Persons under  
11 21 years of age for a misdemeanor offense or under 18 ~~17~~ years  
12 of age for a felony offense committed to the Department of  
13 Juvenile Justice pursuant to this Code shall be sight and sound  
14 separate from adult offenders committed to the Department of  
15 Corrections.

16 (c) The Department shall create a gang intelligence unit  
17 under the supervision of the Director. The unit shall be  
18 specifically designed to gather information regarding the  
19 inmate gang population, monitor the activities of gangs, and  
20 prevent the furtherance of gang activities through the  
21 development and implementation of policies aimed at deterring  
22 gang activity. The Director shall appoint a Corrections  
23 Intelligence Coordinator.

24 All information collected and maintained by the unit shall  
25 be highly confidential, and access to that information shall be  
26 restricted by the Department. The information shall be used to

1 control and limit the activities of gangs within correctional  
2 institutions under the jurisdiction of the Illinois Department  
3 of Corrections and may be shared with other law enforcement  
4 agencies in order to curb gang activities outside of  
5 correctional institutions under the jurisdiction of the  
6 Department and to assist in the investigations and prosecutions  
7 of gang activity. The Department shall establish and promulgate  
8 rules governing the release of information to outside law  
9 enforcement agencies. Due to the highly sensitive nature of the  
10 information, the information is exempt from requests for  
11 disclosure under the Freedom of Information Act as the  
12 information contained is highly confidential and may be harmful  
13 if disclosed.

14 (Source: P.A. 97-800, eff. 7-13-12; 97-1083, eff. 8-24-12;  
15 98-463, eff. 8-16-13.)

16 (730 ILCS 5/3-10-7) (from Ch. 38, par. 1003-10-7)

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

18 (a) In any case where a minor was originally prosecuted  
19 under the provisions of the Criminal Code of 1961 or the  
20 Criminal Code of 2012 and sentenced under the provisions of  
21 this Act pursuant to Section 2-7 of the Juvenile Court Act or  
22 Section 5-805 of the Juvenile Court Act of 1987 and committed  
23 to the Department of Juvenile Justice under Section 5-8-6, the  
24 Department of Juvenile Justice shall, within 30 days of the  
25 date that the minor reaches the age of 21 for a misdemeanor

1 offense or 18 for a felony offense ~~17~~, send formal notification  
2 to the sentencing court and the State's Attorney of the county  
3 from which the minor was sentenced indicating the day upon  
4 which the minor offender will achieve the age of 21 for a  
5 misdemeanor offense or 18 for a felony offense ~~17~~. Within 90  
6 days of receipt of that notice, the sentencing court shall  
7 conduct a hearing, pursuant to the provisions of subsection (c)  
8 of this Section to determine whether or not the minor shall  
9 continue to remain under the auspices of the Department of  
10 Juvenile Justice or be transferred to the Department of  
11 Corrections.

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

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

1 the Department of Corrections.

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

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

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

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

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

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

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

22           (d) Whenever the Director of Juvenile Justice or his  
23 designee determines that the interests of safety, security and  
24 discipline require the transfer to the Department of  
25 Corrections of a person 17 years or older who was prosecuted  
26 under the provisions of the Criminal Code of 1961 or the



1 Criminal Code of 2012 and sentenced under the provisions of  
2 this Act pursuant to Section 2-7 of the Juvenile Court Act or  
3 Section 5-805 of the Juvenile Court Act of 1987 and committed  
4 to the Department of Juvenile Justice under Section 5-8-6, the  
5 Director or his designee may authorize the emergency transfer  
6 of such person, unless the transfer of the person is governed  
7 by subsection (e) of this Section. The sentencing court shall  
8 be provided notice of any emergency transfer no later than 3  
9 days after the emergency transfer. Upon motion brought within  
10 60 days of the emergency transfer by the sentencing court or  
11 any party, the sentencing court may conduct a hearing pursuant  
12 to the provisions of subsection (c) of this Section in order to  
13 determine whether the person shall remain confined in the  
14 Department of Corrections.

15 (e) The Director of Juvenile Justice or his designee may  
16 authorize the permanent transfer to the Department of  
17 Corrections of any person 18 years or older who was prosecuted  
18 under the provisions of the Criminal Code of 1961 or the  
19 Criminal Code of 2012 and sentenced under the provisions of  
20 this Act pursuant to Section 2-7 of the Juvenile Court Act or  
21 Section 5-805 of the Juvenile Court Act of 1987 and committed  
22 to the Department of Juvenile Justice under Section 5-8-6 of  
23 this Act. The Director of Juvenile Justice or his designee  
24 shall be governed by the following factors in determining  
25 whether to authorize the permanent transfer of the person to  
26 the Department of Corrections:

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

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

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

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

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

1 the person to adjust to confinement within an adult  
2 institution based upon the person's physical size and  
3 maturity.

4 (Source: P.A. 97-1083, eff. 8-24-12; 97-1150, eff. 1-25-13.)

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

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

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

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

22 (c) All offenders under 21 ~~17~~ years of age for a  
23 misdemeanor offense or 18 years of age for a felony offense  
24 when sentenced to imprisonment shall be committed to the  
25 Department of Juvenile Justice and the court in its order of

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

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

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

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

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