



94TH GENERAL ASSEMBLY

State of Illinois

2005 and 2006

HB4341

Introduced 12/30/2005, by Rep. Annazette Collins

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 5/5-5-3	from Ch. 38, par. 1005-5-3
730 ILCS 5/5-6-3	from Ch. 38, par. 1005-6-3
730 ILCS 5/5-6-3.1	from Ch. 38, par. 1005-6-3.1
730 ILCS 5/5-7-1	from Ch. 38, par. 1005-7-1
730 ILCS 5/5-8-1.1	from Ch. 38, par. 1005-8-1.1
730 ILCS 5/5-8-1.2	
730 ILCS 5/5-8-6	from Ch. 38, par. 1005-8-6
730 ILCS 150/2	from Ch. 38, par. 222
730 ILCS 150/3	from Ch. 38, par. 223

Amends the Juvenile Court Act of 1987 and the Unified Code of Corrections. Provides that persons under 18 years of age (rather than under 17 years of age) who commit offenses, other than traffic, boating, or fish and game law offenses, or violations of municipal or county ordinances, are subject to the proceedings under the Juvenile Court Act of 1987 for delinquent minors.

LRB094 15749 RLC 50962 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 arrested or taken into custody before his or her
12 18th ~~17th~~ birthday shall be restricted to the following:

13 (1) Any local, State or federal law enforcement
14 officers of any jurisdiction or agency when necessary for
15 the discharge of their official duties during the
16 investigation or prosecution of a crime or relating to a
17 minor who has been adjudicated delinquent and there has
18 been a previous finding that the act which constitutes the
19 previous offense was committed in furtherance of criminal
20 activities by a criminal street gang. For purposes of this
21 Section, "criminal street gang" has the meaning ascribed to
22 it in Section 10 of the Illinois Streetgang Terrorism
23 Omnibus Prevention Act.

24 (2) Prosecutors, probation officers, social workers,
25 or other individuals assigned by the court to conduct a
26 pre-adjudication or pre-disposition investigation, and
27 individuals responsible for supervising or providing
28 temporary or permanent care and custody for minors pursuant
29 to the order of the juvenile court, when essential to
30 performing their responsibilities.

31 (3) Prosecutors and probation officers:

32 (a) in the course of a trial when institution of

1 criminal proceedings has been permitted or required
2 under Section 5-805; or

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

7 (c) when criminal proceedings have been permitted
8 or required under Section 5-805 and such minor is the
9 subject of a pre-trial investigation, pre-sentence
10 investigation, fitness hearing, or proceedings on an
11 application for probation.

12 (4) Adult and Juvenile Prisoner Review Board.

13 (5) Authorized military personnel.

14 (6) Persons engaged in bona fide research, with the
15 permission of the Presiding Judge of the Juvenile Court and
16 the chief executive of the respective law enforcement
17 agency; provided that publication of such research results
18 in no disclosure of a minor's identity and protects the
19 confidentiality of the minor's record.

20 (7) Department of Children and Family Services child
21 protection investigators acting in their official
22 capacity.

23 (8) The appropriate school official. Inspection and
24 copying shall be limited to law enforcement records
25 transmitted to the appropriate school official by a local
26 law enforcement agency under a reciprocal reporting system
27 established and maintained between the school district and
28 the local law enforcement agency under Section 10-20.14 of
29 the School Code concerning a minor enrolled in a school
30 within the school district who has been arrested or taken
31 into custody for any of the following offenses:

32 (i) unlawful use of weapons under Section 24-1 of
33 the Criminal Code of 1961;

34 (ii) a violation of the Illinois Controlled
35 Substances Act;

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

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

3 (v) a violation of the Methamphetamine Control and
4 Community Protection Act.

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

18 (B) (1) Except as provided in paragraph (2), no law
19 enforcement officer or other person or agency may knowingly
20 transmit to the Department of Corrections, Adult Division
21 or the Department of State Police or to the Federal Bureau
22 of Investigation any fingerprint or photograph relating to
23 a minor who has been arrested or taken into custody before
24 his or her 18th ~~17th~~ birthday, unless the court in
25 proceedings under this Act authorizes the transmission or
26 enters an order under Section 5-805 permitting or requiring
27 the institution of criminal proceedings.

28 (2) Law enforcement officers or other persons or
29 agencies shall transmit to the Department of State Police
30 copies of fingerprints and descriptions of all minors who
31 have been arrested or taken into custody before their 18th
32 ~~17th~~ birthday for the offense of unlawful use of weapons
33 under Article 24 of the Criminal Code of 1961, a Class X or
34 Class 1 felony, a forcible felony as defined in Section 2-8
35 of the Criminal Code of 1961, or a Class 2 or greater
36 felony under the Cannabis Control Act, the Illinois

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

12 (C) The records of law enforcement officers concerning all
13 minors under 18 ~~17~~ years of age must be maintained separate
14 from the records of arrests and may not be open to public
15 inspection or their contents disclosed to the public except by
16 order of the court or when the institution of criminal
17 proceedings has been permitted or required under Section 5-805
18 or such a person has been convicted of a crime and is the
19 subject of pre-sentence investigation or proceedings on an
20 application for probation or when provided by law.

21 (D) Nothing contained in subsection (C) of this Section
22 shall prohibit the inspection or disclosure to victims and
23 witnesses of photographs contained in the records of law
24 enforcement agencies when the inspection and disclosure is
25 conducted in the presence of a law enforcement officer for the
26 purpose of the identification or apprehension of any person
27 subject to the provisions of this Act or for the investigation
28 or prosecution of any crime.

29 (E) Law enforcement officers may not disclose the identity
30 of any minor in releasing information to the general public as
31 to the arrest, investigation or disposition of any case
32 involving a minor.

33 (F) Nothing contained in this Section shall prohibit law
34 enforcement agencies from communicating with each other by
35 letter, memorandum, teletype or intelligence alert bulletin or
36 other means the identity or other relevant information

1 pertaining to a person under 18 ~~17~~ years of age if there are
2 reasonable grounds to believe that the person poses a real and
3 present danger to the safety of the public or law enforcement
4 officers. The information provided under this subsection (F)
5 shall remain confidential and shall not be publicly disclosed,
6 except as otherwise allowed by law.

7 (G) Nothing in this Section shall prohibit the right of a
8 Civil Service Commission or appointing authority of any state,
9 county or municipality examining the character and fitness of
10 an applicant for employment with a law enforcement agency,
11 correctional institution, or fire department from obtaining
12 and examining the records of any law enforcement agency
13 relating to any record of the applicant having been arrested or
14 taken into custody before the applicant's 18th ~~17th~~ birthday.

15 (Source: P.A. 94-556, eff. 9-11-05.)

16 (705 ILCS 405/1-8) (from Ch. 37, par. 801-8)

17 Sec. 1-8. Confidentiality and accessibility of juvenile
18 court records.

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

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

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

32 Before July 1, 1994, for the purposes of this Section,
33 "criminal street gang" means any ongoing organization,
34 association, or group of 3 or more persons, whether formal
35 or informal, having as one of its primary activities the

1 commission of one or more criminal acts and that has a
2 common name or common identifying sign, symbol or specific
3 color apparel displayed, and whose members individually or
4 collectively engage in or have engaged in a pattern of
5 criminal activity.

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

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

17 (4) Judges, prosecutors and probation officers:

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

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

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

30 (d) when a minor becomes 18 ~~17~~ years of age or
31 older, and is the subject of criminal proceedings,
32 including a hearing to determine the amount of bail, a
33 pre-trial investigation, a pre-sentence investigation,
34 a fitness hearing, or proceedings on an application for
35 probation.

36 (5) Adult and Juvenile Prisoner Review Boards.

1 (6) Authorized military personnel.

2 (7) Victims, their subrogees and legal
3 representatives; however, such persons shall have access
4 only to the name and address of the minor and information
5 pertaining to the disposition or alternative adjustment
6 plan of the juvenile court.

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

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

19 (10) The administrator of a bonafide substance abuse
20 student assistance program with the permission of the
21 presiding judge of the juvenile court.

22 (11) Mental health professionals on behalf of the
23 Illinois Department of Corrections or the Department of
24 Human Services or prosecutors who are evaluating,
25 prosecuting, or investigating a potential or actual
26 petition brought under the Sexually Persons Commitment Act
27 relating to a person who is the subject of juvenile court
28 records or the respondent to a petition brought under the
29 Sexually Violent Persons Commitment Act, who is the subject
30 of juvenile court records sought. Any records and any
31 information obtained from those records under this
32 paragraph (11) may be used only in sexually violent persons
33 commitment proceedings.

34 (B) A minor who is the victim in a juvenile proceeding
35 shall be provided the same confidentiality regarding
36 disclosure of identity as the minor who is the subject of

1 record.

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

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

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

18 (B) The court has made a finding that the minor was
19 at least 13 years of age at the time the act was
20 committed and the adjudication of delinquency was
21 based upon the minor's commission of: (i) an act in
22 furtherance of the commission of a felony as a member
23 of or on behalf of a criminal street gang, (ii) an act
24 involving the use of a firearm in the commission of a
25 felony, (iii) an act that would be a Class X felony
26 offense under or the minor's second or subsequent Class
27 2 or greater felony offense under the Cannabis Control
28 Act if committed by an adult, (iv) an act that would be
29 a second or subsequent offense under Section 402 of the
30 Illinois Controlled Substances Act if committed by an
31 adult, (v) an act that would be an offense under
32 Section 401 of the Illinois Controlled Substances Act
33 if committed by an adult, (vi) an act that would be a
34 second or subsequent offense under Section 60 of the
35 Methamphetamine Control and Community Protection Act,
36 or (vii) an act that would be an offense under another

1 Section of the Methamphetamine Control and Community
2 Protection Act.

3 (2) The court shall allow the general public to have
4 access to the name, address, and offense of a minor who is
5 at least 13 years of age at the time the offense is
6 committed and who is convicted, in criminal proceedings
7 permitted or required under Section 5-805 ~~5-4~~, under either
8 of the following circumstances:

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

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

31 (D) Pending or following any adjudication of delinquency
32 for any offense defined in Sections 12-13 through 12-16 of the
33 Criminal Code of 1961, the victim of any such offense shall
34 receive the rights set out in Sections 4 and 6 of the Bill of
35 Rights for Victims and Witnesses of Violent Crime Act; and the
36 juvenile who is the subject of the adjudication,

1 notwithstanding any other provision of this Act, shall be
2 treated as an adult for the purpose of affording such rights to
3 the victim.

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

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

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

28 (H) When a Court hearing a proceeding under Article II of
29 this Act becomes aware that an earlier proceeding under Article
30 II had been heard in a different county, that Court shall
31 request, and the Court in which the earlier proceedings were
32 initiated shall transmit, an authenticated copy of the Court
33 record, including all documents, petitions, and orders filed
34 therein and the minute orders, transcript of proceedings, and
35 docket entries of the Court.

36 (I) The Clerk of the Circuit Court shall report to the

1 Department of State Police, in the form and manner required by
2 the Department of State Police, the final disposition of each
3 minor who has been arrested or taken into custody before his or
4 her 18th ~~17th~~ birthday for those offenses required to be
5 reported under Section 5 of the Criminal Identification Act.
6 Information reported to the Department under this Section may
7 be maintained with records that the Department files under
8 Section 2.1 of the Criminal Identification Act.

9 (Source: P.A. 94-556, eff. 9-11-05.)

10 (705 ILCS 405/1-9) (from Ch. 37, par. 801-9)

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

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

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

25 (3) The chief judge of the circuit in which an arrest was
26 made or a charge was brought or any judge of that circuit
27 designated by the chief judge may, upon verified petition of a
28 person who is the subject of an arrest or a juvenile court
29 proceeding pursuant to subsection (2) of this Section, order
30 the law enforcement records or juvenile court records, or both,
31 to be expunged from the official records of the arresting
32 authority and the clerk of the circuit court. Notice of the
33 petition shall be served upon the State's Attorney and upon the
34 arresting authority which is the subject of the petition for
35 expungement.

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

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

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

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

11 (2) If the court finds that there is probable cause to
12 believe that the minor is abused, neglected or dependent, the
13 court shall state in writing the factual basis supporting its
14 finding and the minor, his or her parent, guardian, custodian
15 and other persons able to give relevant testimony shall be
16 examined before the court. The Department of Children and
17 Family Services shall give testimony concerning indicated
18 reports of abuse and neglect, of which they are aware of
19 through the central registry, involving the minor's parent,
20 guardian or custodian. After such testimony, the court may,
21 consistent with the health, safety and best interests of the
22 minor, enter an order that the minor shall be released upon the
23 request of 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
26 wardship of the child. If it is consistent with the health,
27 safety and best interests of the minor, the court may also
28 prescribe shelter care and order that the minor be kept in a
29 suitable place designated by the court or in a shelter care
30 facility designated by the Department of Children and Family
31 Services or a licensed child welfare agency; however, a minor
32 charged with a criminal offense under the Criminal Code of 1961
33 or adjudicated delinquent shall not be placed in the custody of
34 or committed to the Department of Children and Family Services
35 by any court, except a minor less than 13 years of age and

1 committed to the Department of Children and Family Services
2 under Section 5-710 of this Act or a minor for whom an
3 independent basis of abuse, neglect, or dependency exists,
4 which must be defined by departmental rule. In placing the
5 minor, the Department or other agency shall, to the extent
6 compatible with the court's order, comply with Section 7 of the
7 Children and Family Services Act. In determining the health,
8 safety and best interests of the minor to prescribe shelter
9 care, the court must find that it is a matter of immediate and
10 urgent necessity for the safety and protection of the minor or
11 of the person or property of another that the minor be placed
12 in a shelter care facility or that he or she is likely to flee
13 the jurisdiction of the court, and must further find that
14 reasonable efforts have been made or that, consistent with the
15 health, safety and best interests of the minor, no efforts
16 reasonably can be made to prevent or eliminate the necessity of
17 removal of the minor from his or her home. The court shall
18 require documentation from the Department of Children and
19 Family Services as to the reasonable efforts that were made to
20 prevent or eliminate the necessity of removal of the minor from
21 his or her home or the reasons why no efforts reasonably could
22 be made to prevent or eliminate the necessity of removal. When
23 a minor is placed in the home of a relative, the Department of
24 Children and Family Services shall complete a preliminary
25 background review of the members of the minor's custodian's
26 household in accordance with Section 4.3 of the Child Care Act
27 of 1969 within 90 days of that placement. If the minor is
28 ordered placed in a shelter care facility of the Department of
29 Children and Family Services or a licensed child welfare
30 agency, the court shall, upon request of the appropriate
31 Department or other agency, appoint the Department of Children
32 and Family Services Guardianship Administrator or other
33 appropriate agency executive temporary custodian of the minor
34 and the court may enter such other orders related to the
35 temporary custody as it deems fit and proper, including the
36 provision of services to the minor or his family to ameliorate

1 the causes contributing to the finding of probable cause or to
2 the finding of the existence of immediate and urgent necessity.

3 Where the Department of Children and Family Services
4 Guardianship Administrator is appointed as the executive
5 temporary custodian, the Department of Children and Family
6 Services shall file with the court and serve on the parties a
7 parent-child visiting plan, within 10 days, excluding weekends
8 and holidays, after the appointment. The parent-child visiting
9 plan shall set out the time and place of visits, the frequency
10 of visits, the length of visits, who shall be present at the
11 visits, and where appropriate, the minor's opportunities to
12 have telephone and mail communication with the parents. For
13 good cause, the court may waive the requirement to file the
14 parent-child visiting plan or extend the time for filing the
15 parent-child visiting plan. Any party may, by motion, request
16 the court to review the parent-child visiting plan to determine
17 whether it is reasonably calculated to expeditiously
18 facilitate the achievement of the permanency goal and is
19 consistent with the minor's best interest. The frequency,
20 duration, and locations of visitation shall be measured by the
21 needs of the child and family, and not by the convenience of
22 Department personnel. Child development principles shall be
23 considered by the court in its analysis of how frequent
24 visitation should be, how long it should last, where it should
25 take place, and who should be present. If upon motion of the
26 party to review the plan and after receiving evidence, the
27 court determines that the parent-child visiting plan is not
28 reasonably calculated to expeditiously facilitate the
29 achievement of the permanency goal or that the restrictions
30 placed on parent-child contact are contrary to the child's best
31 interests, the court shall put in writing the factual basis
32 supporting the determination and enter specific findings based
33 on the evidence. The court shall enter an order for the
34 Department to implement changes to the parent-child visiting
35 plan, consistent with the court's findings. At any stage of
36 proceeding, any party may by motion request the court to enter

1 any orders necessary to implement the parent-child visiting
2 plan. Nothing under this subsection (2) shall restrict the
3 court from granting discretionary authority to the Department
4 to increase opportunities for additional parent-child
5 contacts, without further court orders. Nothing in this
6 subsection (2) shall restrict the Department from immediately
7 restricting or terminating parent-child contact, without
8 either amending the parent-child visiting plan or obtaining a
9 court order, where the Department or its assigns reasonably
10 believe that continuation of parent-child contact, as set out
11 in the parent-child visiting plan, would be contrary to the
12 child's health, safety, and welfare. The Department shall file
13 with the court and serve on the parties any amendments to the
14 visitation plan within 10 days, excluding weekends and
15 holidays, of the change of the visitation. Any party may, by
16 motion, request the court to review the parent-child visiting
17 plan to determine whether the parent-child visiting plan is
18 reasonably calculated to expeditiously facilitate the
19 achievement of the permanency goal, and is consistent with the
20 minor's health, safety, and best interest.

21 Acceptance of services shall not be considered an admission
22 of any allegation in a petition made pursuant to this Act, nor
23 may a referral of services be considered as evidence in any
24 proceeding pursuant to this Act, except where the issue is
25 whether the Department has made reasonable efforts to reunite
26 the family. In making its findings that it is consistent with
27 the health, safety and best interests of the minor to prescribe
28 shelter care, the court shall state in writing (i) the factual
29 basis supporting its findings concerning the immediate and
30 urgent necessity for the protection of the minor or of the
31 person or property of another and (ii) the factual basis
32 supporting its findings that reasonable efforts were made to
33 prevent or eliminate the removal of the minor from his or her
34 home or that no efforts reasonably could be made to prevent or
35 eliminate the removal of the minor from his or her home. The
36 parents, guardian, custodian, temporary custodian and minor

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

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

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

20 (3) If prior to the shelter care hearing for a minor
21 described in Sections 2-3, 2-4, 3-3 and 4-3 the moving party is
22 unable to serve notice on the party respondent, the shelter
23 care hearing may proceed ex-parte. A shelter care order from an
24 ex-parte hearing shall be endorsed with the date and hour of
25 issuance and shall be filed with the clerk's office and entered
26 of record. The order shall expire after 10 days from the time
27 it is issued unless before its expiration it is renewed, at a
28 hearing upon appearance of the party respondent, or upon an
29 affidavit of the moving party as to all diligent efforts to
30 notify the party respondent by notice as herein prescribed. The
31 notice prescribed shall be in writing and shall be personally
32 delivered to the minor or the minor's attorney and to the last
33 known address of the other person or persons entitled to
34 notice. The notice shall also state the nature of the
35 allegations, the nature of the order sought by the State,
36 including whether temporary custody is sought, and the

1 consequences of failure to appear and shall contain a notice
 2 that the parties will not be entitled to further written
 3 notices or publication notices of proceedings in this case,
 4 including the filing of an amended petition or a motion to
 5 terminate parental rights, except as required by Supreme Court
 6 Rule 11; and shall explain the right of the parties and the
 7 procedures to vacate or modify a shelter care order as provided
 8 in this Section. The notice for a shelter care hearing shall be
 9 substantially as follows:

10 NOTICE TO PARENTS AND CHILDREN
 11 OF SHELTER CARE HEARING

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

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

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

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

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

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

4 c. The best interests of the child.

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

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

8 NOTICE OF PARENT'S AND CHILDREN'S RIGHTS

9 TO REHEARING ON TEMPORARY CUSTODY

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

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

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

24 3. Your signature.

25 4. Signature must be notarized.

26 The rehearing should be scheduled within 48 hours of
27 your filing this affidavit.

28 At the rehearing, your rights are the same as at the
29 initial shelter care hearing. The enclosed notice explains
30 those rights.

31 At the Shelter Care Hearing, children have the
32 following rights:

33 1. To have a guardian ad litem appointed.

34 2. To be declared competent as a witness and to
35 present testimony concerning:

1 a. Whether they are abused, neglected or
2 dependent.

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

5 c. Their best interests.

6 3. To cross examine witnesses for other parties.

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

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

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

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

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

31 (8) If neither the parent, guardian or custodian appears
32 within 24 hours to take custody of a minor released upon
33 request pursuant to subsection (2) of this Section, then the
34 clerk of the court shall set the matter for rehearing not later
35 than 7 days after the original order and shall issue a summons
36 directed to the parent, guardian or custodian to appear. At the

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

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

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

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

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

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

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

34 The clerk shall set the matter for hearing not later than
35 14 days after such motion is filed. In the event that the court
36 modifies or vacates a temporary custody order but does not

1 vacate its finding of probable cause, the court may order that
2 appropriate services be continued or initiated in behalf of the
3 minor and his or her family.

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

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

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

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

19 (Source: P.A. 94-604, eff. 1-1-06.)

20 (705 ILCS 405/3-12) (from Ch. 37, par. 803-12)

21 Sec. 3-12. Shelter care hearing. At the appearance of the
22 minor before the court at the shelter care hearing, all
23 witnesses present shall be examined before the court in
24 relation to any matter connected with the allegations made in
25 the petition.

26 (1) If the court finds that there is not probable cause to
27 believe that the minor is a person requiring authoritative
28 intervention, it shall release the minor and dismiss the
29 petition.

30 (2) If the court finds that there is probable cause to
31 believe that the minor is a person requiring authoritative
32 intervention, the minor, his or her parent, guardian, custodian
33 and other persons able to give relevant testimony shall be
34 examined before the court. After such testimony, the court may
35 enter an order that the minor shall be released upon the

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

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

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

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

26 (3) If prior to the shelter care hearing for a minor
27 described in Sections 2-3, 2-4, 3-3 and 4-3 the petitioner is
28 unable to serve notice on the party respondent, the shelter
29 care hearing may proceed ex-parte. A shelter care order from an
30 ex-parte hearing shall be endorsed with the date and hour of
31 issuance and shall be filed with the clerk's office and entered
32 of record. The order shall expire after 10 days from the time
33 it is issued unless before its expiration it is renewed, at a
34 hearing upon appearance of the party respondent, or upon an
35 affidavit of the moving party as to all diligent efforts to
36 notify the party respondent by notice as herein prescribed. The

1 notice prescribed shall be in writing and shall be personally
 2 delivered to the minor or the minor's attorney and to the last
 3 known address of the other person or persons entitled to
 4 notice. The notice shall also state the nature of the
 5 allegations, the nature of the order sought by the State,
 6 including whether temporary custody is sought, and the
 7 consequences of failure to appear; and shall explain the right
 8 of the parties and the procedures to vacate or modify a shelter
 9 care order as provided in this Section. The notice for a
 10 shelter care hearing shall be substantially as follows:

11 NOTICE TO PARENTS AND CHILDREN OF SHELTER CARE HEARING

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

17
 18 and (2) that there is "immediate and urgent necessity" to
 19 remove the child or children from the responsible relative.

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

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

- 25 1. To ask the court to appoint a lawyer if they cannot
 26 afford one.
- 27 2. To ask the court to continue the hearing to allow
 28 them time to prepare.
- 29 3. To present evidence concerning:
 - 30 a. Whether or not the child or children were
 31 abused, neglected or dependent.
 - 32 b. Whether or not there is "immediate and urgent
 33 necessity" to remove the child from home (including:
 34 their ability to care for the child, conditions in the
 35 home, alternative means of protecting the child other
 36 than removal).

1 c. The best interests of the child.

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

3 The Notice for rehearings shall be substantially as
4 follows:

5 NOTICE OF PARENT'S AND CHILDREN'S RIGHTS
6 TO REHEARING ON TEMPORARY CUSTODY

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

- 15 1. That you were not present at the shelter care
- 16 hearing.
- 17 2. That you did not get adequate notice (explaining how
- 18 the notice was inadequate).
- 19 3. Your signature.
- 20 4. Signature must be notarized.

21 The rehearing should be scheduled within one day of your
22 filing this affidavit.

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

26 At the Shelter Care Hearing, children have the following
27 rights:

- 28 1. To have a guardian ad litem appointed.
- 29 2. To be declared competent as a witness and to present
- 30 testimony concerning:
 - 31 a. Whether they are abused, neglected or
 - 32 dependent.
 - 33 b. Whether there is "immediate and urgent
 - 34 necessity" to be removed from home.
 - 35 c. Their best interests.
- 36 3. To cross examine witnesses for other parties.

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

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

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

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

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

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

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

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

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

13 (c) A person, including a parent, relative or legal
14 guardian, is capable of assuming temporary custody of the
15 minor; or

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

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

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

27 (705 ILCS 405/4-9) (from Ch. 37, par. 804-9)

28 Sec. 4-9. Shelter care hearing. At the appearance of the
29 minor before the court at the shelter care hearing, all
30 witnesses present shall be examined before the court in
31 relation to any matter connected with the allegations made in
32 the petition.

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

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

16 The Court shall require documentation by representatives
17 of the Department of Children and Family Services or the
18 probation department as to the reasonable efforts that were
19 made to prevent or eliminate the necessity of removal of the
20 minor from his or her home, and shall consider the testimony of
21 any person as to those reasonable efforts. If the court finds
22 that it is a matter of immediate and urgent necessity for the
23 protection of the minor or of the person or property of another
24 that the minor be or placed in a shelter care facility or that
25 he or she is likely to flee the jurisdiction of the court, and
26 further, finds that reasonable efforts have been made or good
27 cause has been shown why reasonable efforts cannot prevent or
28 eliminate the necessity of removal of the minor from his or her
29 home, the court may prescribe shelter care and order that the
30 minor be kept in a suitable place designated by the court or in
31 a shelter care facility designated by the Department of
32 Children and Family Services or a licensed child welfare
33 agency, or in a facility or program licensed by the Department
34 of Human Services for shelter and treatment services; otherwise
35 it shall release the minor from custody. If the court
36 prescribes shelter care, then in placing the minor, the

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

35 Once the court finds that it is a matter of immediate and
36 urgent necessity for the protection of the minor that the minor

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

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

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

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

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

27 (7) If neither the parent, guardian or custodian appears
28 within 24 hours to take custody of a minor released upon
29 request pursuant to subsection (2) of this Section, then the
30 clerk of the court shall set the matter for rehearing not later
31 than 7 days after the original order and shall issue a summons
32 directed to the parent, guardian or custodian to appear. At the
33 same time the probation department shall prepare a report on
34 the minor. If a parent, guardian or custodian does not appear
35 at such rehearing, the judge may enter an order prescribing
36 that the minor be kept in a suitable place designated by the

1 Department of Children and Family Services or a licensed child
2 welfare agency.

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

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

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

13 (c) A person, including a parent, relative or legal
14 guardian, is capable of assuming temporary custody of the
15 minor; or

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

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

26 (Source: P.A. 89-422; 89-507, eff. 7-1-97; 90-590, eff.
27 1-1-99.)

28 (705 ILCS 405/5-105)

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

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

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

35 (2.5) "Community service agency" means a not-for-profit

1 organization, community organization, church, charitable
2 organization, individual, public office, or other public body
3 whose purpose is to enhance the physical or mental health of a
4 delinquent minor or to rehabilitate the minor, or to improve
5 the environmental quality or social welfare of the community
6 which agrees to accept community service from juvenile
7 delinquents and to report on the progress of the community
8 service to the State's Attorney pursuant to an agreement or to
9 the court or to any agency designated by the court or to the
10 authorized diversion program that has referred the delinquent
11 minor for community service.

12 (3) "Delinquent minor" means any minor who prior to his or
13 her 18th ~~17th~~ birthday has violated or attempted to violate,
14 regardless of where the act occurred, any federal or State law,
15 county or municipal ordinance.

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

18 (5) "Detention" means the temporary care of a minor who is
19 alleged to be or has been adjudicated delinquent and who
20 requires secure custody for the minor's own protection or the
21 community's protection in a facility designed to physically
22 restrict the minor's movements, pending disposition by the
23 court or execution of an order of the court for placement or
24 commitment. Design features that physically restrict movement
25 include, but are not limited to, locked rooms and the secure
26 handcuffing of a minor to a rail or other stationary object. In
27 addition, "detention" includes the court ordered care of an
28 alleged or adjudicated delinquent minor who requires secure
29 custody pursuant to Section 5-125 of this Act.

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

34 (7) "Juvenile detention home" means a public facility with
35 specially trained staff that conforms to the county juvenile
36 detention standards promulgated by the Department of

1 Corrections.

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

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

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

30 (11) "Non-secure custody" means confinement where the
31 minor is not physically restricted by being placed in a locked
32 cell or room, by being handcuffed to a rail or other stationary
33 object, or by other means. Non-secure custody may include, but
34 is not limited to, electronic monitoring, foster home
35 placement, home confinement, group home placement, or physical
36 restriction of movement or activity solely through facility

1 staff.

2 (12) "Public or community service" means uncompensated
3 labor for a not-for-profit organization or public body whose
4 purpose is to enhance physical or mental stability of the
5 offender, environmental quality or the social welfare and which
6 agrees to accept public or community service from offenders and
7 to report on the progress of the offender and the public or
8 community service to the court or to the authorized diversion
9 program that has referred the offender for public or community
10 service.

11 (13) "Sentencing hearing" means a hearing to determine
12 whether a minor should be adjudged a ward of the court, and to
13 determine what sentence should be imposed on the minor. It is
14 the intent of the General Assembly that the term "sentencing
15 hearing" replace the term "dispositional hearing" and be
16 synonymous with that definition as it was used in the Juvenile
17 Court Act of 1987.

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

21 (15) "Site" means a not-for-profit organization, public
22 body, church, charitable organization, or individual agreeing
23 to accept community service from offenders and to report on the
24 progress of ordered or required public or community service to
25 the court or to the authorized diversion program that has
26 referred the offender for public or community service.

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

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

35 (Source: P.A. 90-590, eff. 1-1-99; 91-820, eff. 6-13-00.)

1 (705 ILCS 405/5-120)

2 Sec. 5-120. Exclusive jurisdiction. Proceedings may be
3 instituted under the provisions of this Article concerning any
4 minor who prior to the minor's 18th ~~17th~~ birthday has violated
5 or attempted to violate, regardless of where the act occurred,
6 any federal or State law or municipal or county ordinance.
7 Except as provided in Sections 5-125, 5-130, 5-805, and 5-810
8 of this Article, no minor who was under 18 ~~17~~ years of age at
9 the time of the alleged offense may be prosecuted under the
10 criminal laws of this State.

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

12 (705 ILCS 405/5-130)

13 Sec. 5-130. Excluded jurisdiction.

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

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

27 (b) (i) If before trial or plea an information or
28 indictment is filed that does not charge an offense specified
29 in paragraph (a) of this subsection (1) the State's Attorney
30 may proceed on any lesser charge or charges, but only in
31 Juvenile Court under the provisions of this Article. The
32 State's Attorney may proceed under the Criminal Code of 1961 on
33 a lesser charge if before trial the minor defendant knowingly
34 and with advice of counsel waives, in writing, his or her right
35 to have the matter proceed in Juvenile Court.

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

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

12 (ii) If after trial or plea the court finds that the minor
13 committed an offense not covered by paragraph (a) of this
14 subsection (1), that finding shall not invalidate the verdict
15 or the prosecution of the minor under the criminal laws of the
16 State; however, unless the State requests a hearing for the
17 purpose of sentencing the minor under Chapter V of the Unified
18 Code of Corrections, the Court must proceed under Sections
19 5-705 and 5-710 of this Article. To request a hearing, the
20 State must file a written motion within 10 days following the
21 entry of a finding or the return of a verdict. Reasonable
22 notice of the motion shall be given to the minor or his or her
23 counsel. If the motion is made by the State, the court shall
24 conduct a hearing to determine if the minor should be sentenced
25 under Chapter V of the Unified Code of Corrections. In making
26 its determination, the court shall consider among other
27 matters: (a) whether there is evidence that the offense was
28 committed in an aggressive and premeditated manner; (b) the age
29 of the minor; (c) the previous history of the minor; (d)
30 whether there are facilities particularly available to the
31 Juvenile Court or the Department of Juvenile Justice for the
32 treatment and rehabilitation of the minor; (e) whether the
33 security of the public requires sentencing under Chapter V of
34 the Unified Code of Corrections; and (f) whether the minor
35 possessed a deadly weapon when committing the offense. The
36 rules of evidence shall be the same as if at trial. If after

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

5 (2) (Blank).

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

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

28 (ii) If before trial or plea an information or indictment
29 is filed that includes one or more charges specified in
30 paragraph (a) of this subsection (3) and additional charges
31 that are not specified in that paragraph, all of the charges
32 arising out of the same incident shall be prosecuted under the
33 criminal laws of this State.

34 (c) (i) If after trial or plea the minor is convicted of
35 any offense covered by paragraph (a) of this subsection (3),
36 then, in sentencing the minor, the court shall have available

1 any or all dispositions prescribed for that offense under
2 Chapter V of the Unified Code of Corrections.

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

32 (4) (a) The definition of delinquent minor under Section
33 5-120 of this Article shall not apply to any minor who at the
34 time of an offense was at least 13 years of age and who is
35 charged with first degree murder committed during the course of
36 either aggravated criminal sexual assault, criminal sexual

1 assault, or aggravated kidnaping. However, this subsection (4)
2 does not include a minor charged with first degree murder based
3 exclusively upon the accountability provisions of the Criminal
4 Code of 1961.

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

16 (ii) If before trial or plea an information or indictment
17 is filed that includes first degree murder committed during the
18 course of aggravated criminal sexual assault, criminal sexual
19 assault, or aggravated kidnaping, and additional charges that
20 are not specified in paragraph (a) of this subsection, all of
21 the charges arising out of the same incident shall be
22 prosecuted under the criminal laws of this State.

23 (c) (i) If after trial or plea the minor is convicted of
24 first degree murder committed during the course of aggravated
25 criminal sexual assault, criminal sexual assault, or
26 aggravated kidnaping, in sentencing the minor, the court shall
27 have available any or all dispositions prescribed for that
28 offense under Chapter V of the Unified Code of Corrections.

29 (ii) If the minor was not yet 15 years of age at the time of
30 the offense, and if after trial or plea the court finds that
31 the minor committed an offense other than first degree murder
32 committed during the course of either aggravated criminal
33 sexual assault, criminal sexual assault, or aggravated
34 kidnaping, the finding shall not invalidate the verdict or the
35 prosecution of the minor under the criminal laws of the State;
36 however, unless the State requests a hearing for the purpose of

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

26 (5) (a) The definition of delinquent minor under Section
27 5-120 of this Article shall not apply to any minor who is
28 charged with a violation of subsection (a) of Section 31-6 or
29 Section 32-10 of the Criminal Code of 1961 when the minor is
30 subject to prosecution under the criminal laws of this State as
31 a result of the application of the provisions of Section 5-125,
32 or subsection (1) or (2) of this Section. These charges and all
33 other charges arising out of the same incident shall be
34 prosecuted under the criminal laws of this State.

35 (b) (i) If before trial or plea an information or
36 indictment is filed that does not charge an offense specified

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

8 (ii) If before trial or plea an information or indictment
9 is filed that includes one or more charges specified in
10 paragraph (a) of this subsection (5) and additional charges
11 that are not specified in that paragraph, all of the charges
12 arising out of the same incident shall be prosecuted under the
13 criminal laws of this State.

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

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

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

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

19 (7) The procedures set out in this Article for the
20 investigation, arrest and prosecution of juvenile offenders
21 shall not apply to minors who are excluded from jurisdiction of
22 the Juvenile Court, except that minors under 18 ~~17~~ years of age
23 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 18th ~~17th~~ birthday even though he or she is at the time of the
27 offense a ward of the court.

28 (9) If an original petition for adjudication of wardship
29 alleges the commission by a minor 13 years of age or over of an
30 act that constitutes a crime under the laws of this State, the
31 minor, with the consent of his or her counsel, may, at any time
32 before commencement of the adjudicatory hearing, file with the
33 court a motion that criminal prosecution be ordered and that
34 the petition be dismissed insofar as the act or acts involved
35 in the criminal proceedings are concerned. If such a motion is
36 filed as herein provided, the court shall enter its order

1 accordingly.

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

18 (a) The age of the minor;

19 (b) Any previous delinquent or criminal history of the
20 minor;

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

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

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

28 Any material that is relevant and reliable shall be
29 admissible at the hearing. In all cases, the judge shall enter
30 an order permitting prosecution under the criminal laws of
31 Illinois unless the judge makes a finding based on a
32 preponderance of the evidence that the minor would be amenable
33 to the care, treatment, and training programs available through
34 the facilities of the juvenile court based on an evaluation of
35 the factors listed in this subsection (10).

36 (Source: P.A. 94-556, eff. 9-11-05; 94-574, eff. 8-12-05;

1 94-696, eff. 6-1-06.)

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 18 ~~17~~ years, made as a result of a custodial
21 interrogation conducted at a police station or other place of
22 detention on or after the effective date of this amendatory Act
23 of the 93rd General Assembly shall be presumed to be
24 inadmissible as evidence against the minor in any criminal
25 proceeding or juvenile court proceeding, for an act that if
26 committed by an adult would be brought under Section 9-1,
27 9-1.2, 9-2, 9-2.1, 9-3, 9-3.2, or 9-3.3, of the Criminal Code
28 of 1961 or under clause (d)(1)(F) of Section 11-501 of the
29 Illinois Vehicle Code unless:

30 (1) an electronic recording is made of the custodial
31 interrogation; and

32 (2) the recording is substantially accurate and not
33 intentionally altered.

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

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

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

12 (e) Nothing in this Section precludes the admission (i) of
13 a statement made by the minor in open court in any criminal
14 proceeding or juvenile court proceeding, before a grand jury,
15 or at a preliminary hearing, (ii) of a statement made during a
16 custodial interrogation that was not recorded as required by
17 this Section because electronic recording was not feasible,
18 (iii) of a voluntary statement, whether or not the result of a
19 custodial interrogation, that has a bearing on the credibility
20 of the accused as a witness, (iv) of a spontaneous statement
21 that is not made in response to a question, (v) of a statement
22 made after questioning that is routinely asked during the
23 processing of the arrest of the suspect, (vi) of a statement
24 made during a custodial interrogation by a suspect who
25 requests, prior to making the statement, to respond to the
26 interrogator's questions only if an electronic recording is not
27 made of the statement, provided that an electronic recording is
28 made of the statement of agreeing to respond to the
29 interrogator's question, only if a recording is not made of the
30 statement, (vii) of a statement made during a custodial
31 interrogation that is conducted out-of-state, (viii) of a
32 statement given at a time when the interrogators are unaware
33 that a death has in fact occurred, or (ix) of any other
34 statement that may be admissible under law. The State shall
35 bear the burden of proving, by a preponderance of the evidence,
36 that one of the exceptions described in this subsection (e) is

1 applicable. Nothing in this Section precludes the admission of
2 a statement, otherwise inadmissible under this Section, that is
3 used only for impeachment and not as substantive evidence.

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

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

17 (Source: P.A. 93-206, eff. 7-18-05; 93-517, eff. 8-6-05;
18 94-117, eff. 7-5-05.)

19 (705 ILCS 405/5-410)

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

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

26 (2) (a) Any minor 10 years of age or older arrested
27 pursuant to this Act where there is probable cause to believe
28 that the minor is a delinquent minor and that (i) secured
29 custody is a matter of immediate and urgent necessity for the
30 protection of the minor or of the person or property of
31 another, (ii) the minor is likely to flee the jurisdiction of
32 the court, or (iii) the minor was taken into custody under a
33 warrant, may be kept or detained in an authorized detention
34 facility. No minor under 12 years of age shall be detained in a
35 county jail or a municipal lockup for more than 6 hours.

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

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

21 (b-5) Subject to the provisions of subsection (b-4), if a
22 probation officer or detention officer (or other public officer
23 designated by the court in a county having 3,000,000 or more
24 inhabitants) does not intend to detain a minor for an offense
25 which constitutes one of the following offenses he or she shall
26 consult with the State's Attorney's Office prior to the release
27 of the minor: first degree murder, second degree murder,
28 involuntary manslaughter, criminal sexual assault, aggravated
29 criminal sexual assault, aggravated battery with a firearm,
30 aggravated or heinous battery involving permanent disability
31 or disfigurement or great bodily harm, robbery, aggravated
32 robbery, armed robbery, vehicular hijacking, aggravated
33 vehicular hijacking, vehicular invasion, arson, aggravated
34 arson, kidnapping, aggravated kidnapping, home invasion,
35 burglary, or residential burglary.

36 (c) Except as otherwise provided in paragraph (a), (d), or

1 (e), no minor shall be detained in a county jail or municipal
2 lockup for more than 12 hours, unless the offense is a crime of
3 violence in which case the minor may be detained up to 24
4 hours. For the purpose of this paragraph, "crime of violence"
5 has the meaning ascribed to it in Section 1-10 of the
6 Alcoholism and Other Drug Abuse and Dependency Act.

7 (i) The period of detention is deemed to have begun
8 once the minor has been placed in a locked room or cell or
9 handcuffed to a stationary object in a building housing a
10 county jail or municipal lockup. Time spent transporting a
11 minor is not considered to be time in detention or secure
12 custody.

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

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

20 (iv) A log shall be kept which shows the offense which
21 is the basis for the detention, the reasons and
22 circumstances for the decision to detain and the length of
23 time the minor was in detention.

24 (v) Violation of the time limit on detention in a
25 county jail or municipal lockup shall not, in and of
26 itself, render inadmissible evidence obtained as a result
27 of the violation of this time limit. Minors under 18 ~~17~~
28 years of age shall be kept separate from confined adults
29 and may not at any time be kept in the same cell, room or
30 yard with adults confined pursuant to criminal law. Persons
31 18 ~~17~~ years of age and older who have a petition of
32 delinquency filed against them may be confined in an adult
33 detention facility. In making a determination whether to
34 confine a person 18 ~~17~~ years of age or older who has a
35 petition of delinquency filed against the person, these
36 factors, among other matters, shall be considered:

- 1 (A) The age of the person;
- 2 (B) Any previous delinquent or criminal history of
3 the person;
- 4 (C) Any previous abuse or neglect history of the
5 person; and
- 6 (D) Any mental health or educational history of the
7 person, or both.

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

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

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

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

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

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

22 (3) If the probation officer or State's Attorney (or such
23 other public officer designated by the court in a county having
24 3,000,000 or more inhabitants) determines that the minor may be
25 a delinquent minor as described in subsection (3) of Section
26 5-105, and should be retained in custody but does not require
27 physical restriction, the minor may be placed in non-secure
28 custody for up to 40 hours pending a detention hearing.

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

33 (Source: P.A. 93-255, eff. 1-1-04.)

34 (705 ILCS 405/5-901)

35 Sec. 5-901. Court file.

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

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

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

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

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

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

21 (v) Adult and juvenile Prisoner Review Boards.

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

26 (i) Authorized military personnel;

27 (ii) Persons engaged in bona fide research, with
28 the permission of the judge of the juvenile court and
29 the chief executive of the agency that prepared the
30 particular recording: provided that publication of
31 such research results in no disclosure of a minor's
32 identity and protects the confidentiality of the
33 record;

34 (iii) The Secretary of State to whom the Clerk of
35 the Court shall report the disposition of all cases, as
36 required in Section 6-204 or Section 6-205.1 of the

1 Illinois Vehicle Code. However, information reported
2 relative to these offenses shall be privileged and
3 available only to the Secretary of State, courts, and
4 police officers;

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

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

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

23 (4) Relevant information, reports and records shall be made
24 available to the Department of Juvenile Justice when a juvenile
25 offender has been placed in the custody of the Department of
26 Juvenile Justice.

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

35 (a) The court shall allow the general public to have
36 access to the name, address, and offense of a minor who is

1 adjudicated a delinquent minor under this Act under either
2 of the following circumstances:

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

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

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

31 (i) The minor has been convicted of first degree
32 murder, attempt to commit first degree murder,
33 aggravated criminal sexual assault, or criminal sexual
34 assault,

35 (ii) The court has made a finding that the minor
36 was at least 13 years of age at the time the offense

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

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

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

27 (8) Following any adjudication of delinquency for a crime
28 which would be a felony if committed by an adult, or following
29 any adjudication of delinquency for a violation of Section
30 24-1, 24-3, 24-3.1, or 24-5 of the Criminal Code of 1961, the
31 State's Attorney shall ascertain whether the minor respondent
32 is enrolled in school and, if so, shall provide a copy of the
33 sentencing order to the principal or chief administrative
34 officer of the school. Access to such juvenile records shall be
35 limited to the principal or chief administrative officer of the
36 school and any guidance counselor designated by him or her.

1 (9) Nothing contained in this Act prevents the sharing or
2 disclosure of information or records relating or pertaining to
3 juveniles subject to the provisions of the Serious Habitual
4 Offender Comprehensive Action Program when that information is
5 used to assist in the early identification and treatment of
6 habitual juvenile offenders.

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

16 (12) Information or records may be disclosed to the general
17 public when the court is conducting hearings under Section
18 5-805 or 5-810.

19 (Source: P.A. 94-556, eff. 9-11-05; 94-696, eff. 6-1-06.)

20 (705 ILCS 405/5-905)

21 Sec. 5-905. Law enforcement records.

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

28 (a) A judge of the circuit court and members of the
29 staff of the court designated by the judge;

30 (b) Law enforcement officers, probation officers or
31 prosecutors or their staff;

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

35 (d) Adult and Juvenile Prisoner Review Boards;

1 (e) Authorized military personnel;

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

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

15 (h) The appropriate school official. Inspection and
16 copying shall be limited to law enforcement records
17 transmitted to the appropriate school official by a local
18 law enforcement agency under a reciprocal reporting system
19 established and maintained between the school district and
20 the local law enforcement agency under Section 10-20.14 of
21 the School Code concerning a minor enrolled in a school
22 within the school district who has been arrested for any
23 offense classified as a felony or a Class A or B
24 misdemeanor.

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

30 (3) Relevant information, reports and records shall be made
31 available to the Department of Juvenile Justice when a juvenile
32 offender has been placed in the custody of the Department of
33 Juvenile Justice.

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

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

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

14 (6) Except as otherwise provided in this subsection (6),
15 law enforcement officers may not disclose the identity of any
16 minor in releasing information to the general public as to the
17 arrest, investigation or disposition of any case involving a
18 minor. Any victim or parent or legal guardian of a victim may
19 petition the court to disclose the name and address of the
20 minor and the minor's parents or legal guardian, or both. Upon
21 a finding by clear and convincing evidence that the disclosure
22 is either necessary for the victim to pursue a civil remedy
23 against the minor or the minor's parents or legal guardian, or
24 both, or to protect the victim's person or property from the
25 minor, then the court may order the disclosure of the
26 information to the victim or to the parent or legal guardian of
27 the victim only for the purpose of the victim pursuing a civil
28 remedy against the minor or the minor's parents or legal
29 guardian, or both, or to protect the victim's person or
30 property from the minor.

31 (7) Nothing contained in this Section shall prohibit law
32 enforcement agencies when acting in their official capacity
33 from communicating with each other by letter, memorandum,
34 teletype or intelligence alert bulletin or other means the
35 identity or other relevant information pertaining to a person
36 under 18 ~~17~~ years of age. The information provided under this

1 subsection (7) shall remain confidential and shall not be
2 publicly disclosed, except as otherwise allowed by law.

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

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

7 (705 ILCS 405/5-915)

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

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

17 (a) the minor was arrested and no petition for
18 delinquency was filed with the clerk of the circuit court;
19 or

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

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

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

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

1 18th ~~17th~~ birthday and:

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

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

7 whichever is later of (a) or (b).

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

24 (2.6) If a minor is charged with an offense and is found
25 not delinquent of that offense; or if a minor is placed under
26 supervision under Section 5-615, and the order of supervision
27 is successfully terminated; or if a minor is adjudicated for an
28 offense that would be a Class B misdemeanor, a Class C
29 misdemeanor, or a business or petty offense if committed by an
30 adult; or if a minor has incidents occurring before his or her
31 18th ~~17th~~ birthday that have not resulted in proceedings in
32 criminal court, or resulted in proceedings in juvenile court,
33 and the adjudications were not based upon first degree murder
34 or sex offenses that would be felonies if committed by an
35 adult; then at the time of sentencing or dismissal of the case,
36 the judge shall inform the delinquent minor of his or her right

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

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

28 (2.8) The petition for expungement for subsection (1) shall
 29 be substantially in the following form:

30 IN THE CIRCUIT COURT OF, ILLINOIS
 31 JUDICIAL CIRCUIT

32 IN THE INTEREST OF) NO.
 33)
 34)
 35)

1 (Name of Petitioner)

2 PETITION TO EXPUNGE JUVENILE RECORDS

3 (705 ILCS 405/5-915 (SUBSECTION 1))

4 (Please prepare a separate petition for each offense)

5 Now comes, petitioner, and respectfully requests
6 that this Honorable Court enter an order expunging all juvenile
7 law enforcement and court records of petitioner and in support
8 thereof states that: Petitioner has attained the age of 18 ~~17~~,
9 his/her birth date being, or all Juvenile Court
10 proceedings terminated as of, whichever occurred later.
11 Petitioner was arrested on by the Police
12 Department for the offense of, and:

13 (Check One:)

14 () a. no petition was filed with the Clerk of the Circuit
15 Court.

16 () b. was charged with and was found not delinquent of
17 the offense.

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

20 () d. on placed under supervision pursuant to Section
21 5-615 of the Juvenile Court Act of 1987 and such order of
22 supervision successfully terminated on

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

26 Petitioner has has not been arrested on charges in
27 this or any county other than the charges listed above. If
28 petitioner has been arrested on additional charges, please list
29 the charges below:

30 Charge(s):

31 Arresting Agency or Agencies:

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

33 WHEREFORE, the petitioner respectfully requests this Honorable
34 Court to (1) order all law enforcement agencies to expunge all
35 records of petitioner to this incident, and (2) to order the

1 Clerk of the Court to expunge all records concerning the
2 petitioner regarding this incident.

3
4 Petitioner (Signature)

5
6 Petitioner's Street Address

7
8 City, State, Zip Code

9
10 Petitioner's Telephone Number

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

15
16 Petitioner (Signature)

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

19 IN THE CIRCUIT COURT OF, ILLINOIS
20 JUDICIAL CIRCUIT

21 IN THE INTEREST OF) NO.
22)
23)
24)
25 (Name of Petitioner)

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 18th ~~17th~~ birthday and did not
8 result in proceedings in criminal court and the Petitioner has
9 not had any convictions for any crime since his/her 18th ~~17th~~
10 birthday; and

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

17 Petitioner was arrested on by the Police
18 Department for the offense of, and:

19 (Check whichever one occurred the latest:)

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

22 () b. 5 years have elapsed since all juvenile court
23 proceedings relating to the Petitioner have been terminated; or
24 the Petitioner's commitment to the Department of Juvenile
25 Justice pursuant to the expungement of juvenile law enforcement
26 and court records provisions of the Juvenile Court Act of 1987
27 has been terminated. Petitioner ...has ...has not been arrested
28 on charges in this or any other county other than the charge
29 listed above. If petitioner has been arrested on additional
30 charges, please list the charges below:

31 Charge(s):

32 Arresting Agency or Agencies:

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

34 WHEREFORE, the petitioner respectfully requests this Honorable
35 Court to (1) order all law enforcement agencies to expunge all
36 records of petitioner related to this incident, and (2) to

1 order the Clerk of the Court to expunge all records concerning
2 the petitioner regarding this incident.

3

4 Petitioner (Signature)

5

6 Petitioner's Street Address

7

8 City, State, Zip Code

9

10 Petitioner's Telephone Number

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

15

16 Petitioner (Signature)

17 (3) The chief judge of the circuit in which an arrest was
18 made or a charge was brought or any judge of that circuit
19 designated by the chief judge may, upon verified petition of a
20 person who is the subject of an arrest or a juvenile court
21 proceeding under subsection (1) or (2) of this Section, order
22 the law enforcement records or official court file, or both, to
23 be expunged from the official records of the arresting
24 authority, the clerk of the circuit court and the Department of
25 State Police. The person whose records are to be expunged shall
26 petition the court using the appropriate form containing his or
27 her current address and shall promptly notify the clerk of the
28 circuit court of any change of address. Notice of the petition
29 shall be served upon the State's Attorney or prosecutor charged
30 with the duty of prosecuting the offense, the Department of
31 State Police, and the arresting agency or agencies by the clerk
32 of the circuit court. If an objection is filed within 90 days

1 of the notice of the petition, the clerk of the circuit court
 2 shall set a date for hearing after the 90 day objection period.
 3 At the hearing the court shall hear evidence on whether the
 4 expungement should or should not be granted. Unless the State's
 5 Attorney or prosecutor, the Department of State Police, or an
 6 arresting agency objects to the expungement within 90 days of
 7 the notice, the court may enter an order granting expungement.
 8 The person whose records are to be expunged shall pay the clerk
 9 of the circuit court a fee equivalent to the cost associated
 10 with expungement of records by the clerk and the Department of
 11 State Police. The clerk shall forward a certified copy of the
 12 order to the Department of State Police, the appropriate
 13 portion of the fee to the Department of State Police for
 14 processing, and deliver a certified copy of the order to the
 15 arresting agency.

16 (3.1) The Notice of Expungement shall be in substantially
 17 the following form:

18 IN THE CIRCUIT COURT OF, ILLINOIS
 19 JUDICIAL CIRCUIT

20 IN THE INTEREST OF) NO.
 21)
 22)
 23)
 24 (Name of Petitioner)

25 NOTICE

26 TO: State's Attorney

27 TO: Arresting Agency

28
 29

30

31
 32

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34 TO: Illinois State Police

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ATTENTION: Expungement

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

.....

Petitioner's Signature

.....

Petitioner's Street Address

.....

City, State, Zip Code

.....

Petitioner's Telephone Number

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:

1 Telephone Number:

2 (3.2) The Order of Expungement shall be in substantially
3 the following form:

4 IN THE CIRCUIT COURT OF, ILLINOIS
5 JUDICIAL CIRCUIT

6 IN THE INTEREST OF) NO.
7)
8)
9)
10 (Name of Petitioner)

11 DOB

12 Arresting Agency/Agencies

13 ORDER OF EXPUNGEMENT
14 (705 ILCS 405/5-915 (SUBSECTION 3))

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

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

21 () 2. The Illinois State Police Bureau of Identification
22 and the following law enforcement agencies expunge all records
23 of petitioner relating to an arrest dated for the
24 offense of

25 Law Enforcement Agencies:
26
27

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

30 ENTER:

31
32 JUDGE

33 DATED:

34 Name:

1 Attorney for:
2 Address: City/State/Zip:
3 Attorney Number:

4 (3.3) The Notice of Objection shall be in substantially the
5 following form:

6 IN THE CIRCUIT COURT OF, ILLINOIS
7 JUDICIAL CIRCUIT

8 IN THE INTEREST OF) NO.
9)
10)
11)
12 (Name of Petitioner)

13 NOTICE OF OBJECTION

14 TO:(Attorney, Public Defender, Minor)
15
16

17 TO:(Illinois State Police)
18
19

20 TO:(Clerk of the Court)
21
22

23 TO:(Judge)
24
25

26 TO:(Arresting Agency/Agencies)
27
28

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

- 32 () State's Attorney's Office;
- 33 () Prosecutor (other than State's Attorney's Office) charged
- 34 with the duty of prosecuting the offense sought to be expunged;

1 () Department of Illinois State Police; or

2 () Arresting Agency or Agencies.

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

6 DATED:

7 Name:

8 Attorney For:

9 Address:

10 City/State/Zip:

11 Telephone:

12 Attorney No.:

13 FOR USE BY CLERK OF THE COURT PERSONNEL ONLY

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

19 A copy of this completed Notice of Objection containing the
20 court date, time, and location, has been sent via regular U.S.
21 Mail to the following entities. (If more than one Notice of
22 Objection is received on the same case, each one must be
23 completed with the court date, time and location and mailed to
24 the following entities):

25 () Attorney, Public Defender or Minor;

26 () State's Attorney's Office;

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

29 () Department of Illinois State Police; and

30 () Arresting agency or agencies.

31 Date:

32 Initials of Clerk completing this section:

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

1 record or file exists with respect to the person.

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

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

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

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

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

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

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

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

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

28 (c) The State Appellate Defender shall establish and
29 maintain a statewide toll-free telephone number that a person
30 may use to receive information or assistance concerning the
31 expungement of juvenile records. The State Appellate Defender
32 shall advertise the toll-free telephone number statewide. The
33 State Appellate Defender shall develop an expungement
34 information packet that may be sent to eligible persons seeking
35 expungement of their juvenile records, which may include, but
36 is not limited to, a pre-printed expungement petition with

1 instructions on how to complete the petition and a pamphlet
2 containing information that would assist individuals through
3 the juvenile expungement process.

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

7 (e) This Section shall be implemented from funds
8 appropriated by the General Assembly to the State Appellate
9 Defender for this purpose. The State Appellate Defender shall
10 employ the necessary staff and adopt the necessary rules for
11 implementation of this Section.

12 (8) (a) Except with respect to law enforcement agencies, the
13 Department of Corrections, State's Attorneys, or other
14 prosecutors, an expunged juvenile record may not be considered
15 by any private or public entity in employment matters,
16 certification, licensing, revocation of certification or
17 licensure, or registration. Applications for employment must
18 contain specific language that states that the applicant is not
19 obligated to disclose expunged juvenile records of conviction
20 or arrest. Employers may not ask if an applicant has had a
21 juvenile record expunged. Effective January 1, 2005, the
22 Department of Labor shall develop a link on the Department's
23 website to inform employers that employers may not ask if an
24 applicant had a juvenile record expunged and that application
25 for employment must contain specific language that states that
26 the applicant is not obligated to disclose expunged juvenile
27 records of arrest or conviction.

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

34 (Source: P.A. 93-912, eff. 8-12-04; 94-696, eff. 6-1-06.)

35 Section 10. The Unified Code of Corrections is amended by

1 changing Sections 3-2-5, 3-10-7, 5-5-3, 5-6-3, 5-6-3.1, 5-7-1,
2 5-8-1.1, 5-8-1.2, and 5-8-6 as follows:

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

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

6 (a) There shall be an Adult Division within the Department
7 which shall be administered by an Assistant Director appointed
8 by the Governor under The Civil Administrative Code of
9 Illinois. The Assistant Director shall be under the direction
10 of the Director. The Adult Division shall be responsible for
11 all persons committed or transferred to the Department under
12 Sections 3-10-7 or 5-8-6 of this Code.

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

24 (c) The Department shall create a gang intelligence unit
25 under the supervision of the Director. The unit shall be
26 specifically designed to gather information regarding the
27 inmate gang population, monitor the activities of gangs, and
28 prevent the furtherance of gang activities through the
29 development and implementation of policies aimed at deterring
30 gang activity. The Director shall appoint a Corrections
31 Intelligence Coordinator.

32 All information collected and maintained by the unit shall
33 be highly confidential, and access to that information shall be
34 restricted by the Department. The information shall be used to
35 control and limit the activities of gangs within correctional

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

13 The Department shall file an annual report with the General
14 Assembly on the profile of the inmate population associated
15 with gangs, gang-related activity within correctional
16 institutions under the jurisdiction of the Department, and an
17 overall status of the unit as it relates to its function and
18 performance.

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

20 (730 ILCS 5/3-10-7) (from Ch. 38, par. 1003-10-7)

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

22 (a) In any case where a minor was originally prosecuted
23 under the provisions of the Criminal Code of 1961, as amended,
24 and sentenced under the provisions of this Act pursuant to
25 Section 2-7 of the Juvenile Court Act or Section 5-805 of the
26 Juvenile Court Act of 1987 and committed to the Department of
27 Juvenile Justice under Section 5-8-6, the Department of
28 Juvenile Justice shall, within 30 days of the date that the
29 minor reaches the age of 18 ~~17~~, send formal notification to the
30 sentencing court and the State's Attorney of the county from
31 which the minor was sentenced indicating the day upon which the
32 minor offender will achieve the age of 18 ~~17~~. Within 90 days of
33 receipt of that notice, the sentencing court shall conduct a
34 hearing, pursuant to the provisions of subsection (c) of this
35 Section to determine whether or not the minor shall continue to

1 remain under the auspices of the Department of Juvenile Justice
2 or be transferred to the Adult Division of the Department of
3 Corrections.

4 The minor shall be served with notice of the date of the
5 hearing, shall be present at the hearing, and has the right to
6 counsel at the hearing. The minor, with the consent of his or
7 her counsel or guardian may waive his presence at hearing.

8 (b) Unless sooner paroled under Section 3-3-3, the
9 confinement of a minor person committed for an indeterminate
10 sentence in a criminal proceeding shall terminate at the
11 expiration of the maximum term of imprisonment, and he shall
12 thereupon be released to serve a period of parole under Section
13 5-8-1, but if the maximum term of imprisonment does not expire
14 until after his 21st birthday, he shall continue to be subject
15 to the control and custody of the Department of Juvenile
16 Justice, and on his 21st birthday, he shall be transferred to
17 the Adult Division of the Department of Corrections. If such
18 person is on parole on his 21st birthday, his parole
19 supervision may be transferred to the Adult Division of the
20 Department of Corrections.

21 (c) Any interdivisional transfer hearing conducted
22 pursuant to subsection (a) of this Section shall consider all
23 available information which may bear upon the issue of
24 transfer. All evidence helpful to the court in determining the
25 question of transfer, including oral and written reports
26 containing hearsay, may be relied upon to the extent of its
27 probative value, even though not competent for the purposes of
28 an adjudicatory hearing. The court shall consider, along with
29 any other relevant matter, the following:

30 1. The nature of the offense for which the minor was
31 found guilty and the length of the sentence the minor has
32 to serve and the record and previous history of the minor.

33 2. The record of the minor's adjustment within the
34 Department of Juvenile Justice, including, but not limited
35 to, reports from the minor's counselor, any escapes,
36 attempted escapes or violent or disruptive conduct on the

1 part of the minor, any tickets received by the minor,
2 summaries of classes attended by the minor, and any record
3 of work performed by the minor while in the institution.

4 3. The relative maturity of the minor based upon the
5 physical, psychological and emotional development of the
6 minor.

7 4. The record of the rehabilitative progress of the
8 minor and an assessment of the vocational potential of the
9 minor.

10 5. An assessment of the necessity for transfer of the
11 minor, including, but not limited to, the availability of
12 space within the Department of Corrections, the
13 disciplinary and security problem which the minor has
14 presented to the Department of Juvenile Justice and the
15 practicability of maintaining the minor in a juvenile
16 facility, whether resources have been exhausted within the
17 Department of Juvenile Justice, the availability of
18 rehabilitative and vocational programs within the
19 Department of Corrections, and the anticipated ability of
20 the minor to adjust to confinement within an adult
21 institution based upon the minor's physical size and
22 maturity.

23 All relevant factors considered under this subsection need
24 not be resolved against the juvenile in order to justify such
25 transfer. Access to social records, probation reports or any
26 other reports which are considered by the court for the purpose
27 of transfer shall be made available to counsel for the juvenile
28 at least 30 days prior to the date of the transfer hearing. The
29 Sentencing Court, upon granting a transfer order, shall
30 accompany such order with a statement of reasons.

31 (d) Whenever the Director of Juvenile Justice or his
32 designee determines that the interests of safety, security and
33 discipline require the transfer to the Department of
34 Corrections of a person 18 ~~17~~ years or older who was prosecuted
35 under the provisions of the Criminal Code of 1961, as amended,
36 and sentenced under the provisions of this Act pursuant to

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

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

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

29 2. The record of the person's adjustment within the
30 Department of Juvenile Justice, including, but not limited
31 to, reports from the person's counselor, any escapes,
32 attempted escapes or violent or disruptive conduct on the
33 part of the person, any tickets received by the person,
34 summaries of classes attended by the person, and any record
35 of work performed by the person while in the institution.

36 3. The relative maturity of the person based upon the

1 physical, psychological and emotional development of the
2 person.

3 4. The record of the rehabilitative progress of the
4 person and an assessment of the vocational potential of the
5 person.

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

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

20 (730 ILCS 5/5-5-3) (from Ch. 38, par. 1005-5-3)

21 Sec. 5-5-3. Disposition.

22 (a) Except as provided in Section 11-501 of the Illinois
23 Vehicle Code, every person convicted of an offense shall be
24 sentenced as provided in this Section.

25 (b) The following options shall be appropriate
26 dispositions, alone or in combination, for all felonies and
27 misdemeanors other than those identified in subsection (c) of
28 this Section:

29 (1) A period of probation.

30 (2) A term of periodic imprisonment.

31 (3) A term of conditional discharge.

32 (4) A term of imprisonment.

33 (5) An order directing the offender to clean up and
34 repair the damage, if the offender was convicted under
35 paragraph (h) of Section 21-1 of the Criminal Code of 1961

1 (now repealed).

2 (6) A fine.

3 (7) An order directing the offender to make restitution
4 to the victim under Section 5-5-6 of this Code.

5 (8) A sentence of participation in a county impact
6 incarceration program under Section 5-8-1.2 of this Code.

7 (9) A term of imprisonment in combination with a term
8 of probation when the offender has been admitted into a
9 drug court program under Section 20 of the Drug Court
10 Treatment Act.

11 Neither a fine nor restitution shall be the sole
12 disposition for a felony and either or both may be imposed only
13 in conjunction with another disposition.

14 (c) (1) When a defendant is found guilty of first degree
15 murder the State may either seek a sentence of imprisonment
16 under Section 5-8-1 of this Code, or where appropriate seek
17 a sentence of death under Section 9-1 of the Criminal Code
18 of 1961.

19 (2) A period of probation, a term of periodic
20 imprisonment or conditional discharge shall not be imposed
21 for the following offenses. The court shall sentence the
22 offender to not less than the minimum term of imprisonment
23 set forth in this Code for the following offenses, and may
24 order a fine or restitution or both in conjunction with
25 such term of imprisonment:

26 (A) First degree murder where the death penalty is
27 not imposed.

28 (B) Attempted first degree murder.

29 (C) A Class X felony.

30 (D) A violation of Section 401.1 or 407 of the
31 Illinois Controlled Substances Act, or a violation of
32 subdivision (c) (1) or (c) (2) of Section 401 of that Act
33 which relates to more than 5 grams of a substance
34 containing heroin or cocaine or an analog thereof.

35 (E) A violation of Section 5.1 or 9 of the Cannabis
36 Control Act.

1 (F) A Class 2 or greater felony if the offender had
2 been convicted of a Class 2 or greater felony within 10
3 years of the date on which the offender committed the
4 offense for which he or she is being sentenced, except
5 as otherwise provided in Section 40-10 of the
6 Alcoholism and Other Drug Abuse and Dependency Act.

7 (F-5) A violation of Section 24-1, 24-1.1, or
8 24-1.6 of the Criminal Code of 1961 for which
9 imprisonment is prescribed in those Sections.

10 (G) Residential burglary, except as otherwise
11 provided in Section 40-10 of the Alcoholism and Other
12 Drug Abuse and Dependency Act.

13 (H) Criminal sexual assault.

14 (I) Aggravated battery of a senior citizen.

15 (J) A forcible felony if the offense was related to
16 the activities of an organized gang.

17 Before July 1, 1994, for the purposes of this
18 paragraph, "organized gang" means an association of 5
19 or more persons, with an established hierarchy, that
20 encourages members of the association to perpetrate
21 crimes or provides support to the members of the
22 association who do commit crimes.

23 Beginning July 1, 1994, for the purposes of this
24 paragraph, "organized gang" has the meaning ascribed
25 to it in Section 10 of the Illinois Streetgang
26 Terrorism Omnibus Prevention Act.

27 (K) Vehicular hijacking.

28 (L) A second or subsequent conviction for the
29 offense of hate crime when the underlying offense upon
30 which the hate crime is based is felony aggravated
31 assault or felony mob action.

32 (M) A second or subsequent conviction for the
33 offense of institutional vandalism if the damage to the
34 property exceeds \$300.

35 (N) A Class 3 felony violation of paragraph (1) of
36 subsection (a) of Section 2 of the Firearm Owners

1 Identification Card Act.

2 (O) A violation of Section 12-6.1 of the Criminal
3 Code of 1961.

4 (P) A violation of paragraph (1), (2), (3), (4),
5 (5), or (7) of subsection (a) of Section 11-20.1 of the
6 Criminal Code of 1961.

7 (Q) A violation of Section 20-1.2 or 20-1.3 of the
8 Criminal Code of 1961.

9 (R) A violation of Section 24-3A of the Criminal
10 Code of 1961.

11 (S) (Blank).

12 (T) A second or subsequent violation of the
13 Methamphetamine Control and Community Protection Act.

14 (3) (Blank).

15 (4) A minimum term of imprisonment of not less than 10
16 consecutive days or 30 days of community service shall be
17 imposed for a violation of paragraph (c) of Section 6-303
18 of the Illinois Vehicle Code.

19 (4.1) (Blank).

20 (4.2) Except as provided in paragraph (4.3) of this
21 subsection (c), a minimum of 100 hours of community service
22 shall be imposed for a second violation of Section 6-303 of
23 the Illinois Vehicle Code.

24 (4.3) A minimum term of imprisonment of 30 days or 300
25 hours of community service, as determined by the court,
26 shall be imposed for a second violation of subsection (c)
27 of Section 6-303 of the Illinois Vehicle Code.

28 (4.4) Except as provided in paragraph (4.5) and
29 paragraph (4.6) of this subsection (c), a minimum term of
30 imprisonment of 30 days or 300 hours of community service,
31 as determined by the court, shall be imposed for a third or
32 subsequent violation of Section 6-303 of the Illinois
33 Vehicle Code.

34 (4.5) A minimum term of imprisonment of 30 days shall
35 be imposed for a third violation of subsection (c) of
36 Section 6-303 of the Illinois Vehicle Code.

1 (4.6) A minimum term of imprisonment of 180 days shall
2 be imposed for a fourth or subsequent violation of
3 subsection (c) of Section 6-303 of the Illinois Vehicle
4 Code.

5 (5) The court may sentence an offender convicted of a
6 business offense or a petty offense or a corporation or
7 unincorporated association convicted of any offense to:

8 (A) a period of conditional discharge;

9 (B) a fine;

10 (C) make restitution to the victim under Section
11 5-5-6 of this Code.

12 (5.1) In addition to any penalties imposed under
13 paragraph (5) of this subsection (c), and except as
14 provided in paragraph (5.2) or (5.3), a person convicted of
15 violating subsection (c) of Section 11-907 of the Illinois
16 Vehicle Code shall have his or her driver's license,
17 permit, or privileges suspended for at least 90 days but
18 not more than one year, if the violation resulted in damage
19 to the property of another person.

20 (5.2) In addition to any penalties imposed under
21 paragraph (5) of this subsection (c), and except as
22 provided in paragraph (5.3), a person convicted of
23 violating subsection (c) of Section 11-907 of the Illinois
24 Vehicle Code shall have his or her driver's license,
25 permit, or privileges suspended for at least 180 days but
26 not more than 2 years, if the violation resulted in injury
27 to another person.

28 (5.3) In addition to any penalties imposed under
29 paragraph (5) of this subsection (c), a person convicted of
30 violating subsection (c) of Section 11-907 of the Illinois
31 Vehicle Code shall have his or her driver's license,
32 permit, or privileges suspended for 2 years, if the
33 violation resulted in the death of another person.

34 (6) In no case shall an offender be eligible for a
35 disposition of probation or conditional discharge for a
36 Class 1 felony committed while he was serving a term of

1 probation or conditional discharge for a felony.

2 (7) When a defendant is adjudged a habitual criminal
3 under Article 33B of the Criminal Code of 1961, the court
4 shall sentence the defendant to a term of natural life
5 imprisonment.

6 (8) When a defendant, over the age of 21 years, is
7 convicted of a Class 1 or Class 2 felony, after having
8 twice been convicted in any state or federal court of an
9 offense that contains the same elements as an offense now
10 classified in Illinois as a Class 2 or greater Class felony
11 and such charges are separately brought and tried and arise
12 out of different series of acts, such defendant shall be
13 sentenced as a Class X offender. This paragraph shall not
14 apply unless (1) the first felony was committed after the
15 effective date of this amendatory Act of 1977; and (2) the
16 second felony was committed after conviction on the first;
17 and (3) the third felony was committed after conviction on
18 the second. A person sentenced as a Class X offender under
19 this paragraph is not eligible to apply for treatment as a
20 condition of probation as provided by Section 40-10 of the
21 Alcoholism and Other Drug Abuse and Dependency Act.

22 (9) A defendant convicted of a second or subsequent
23 offense of ritualized abuse of a child may be sentenced to
24 a term of natural life imprisonment.

25 (10) (Blank).

26 (11) The court shall impose a minimum fine of \$1,000
27 for a first offense and \$2,000 for a second or subsequent
28 offense upon a person convicted of or placed on supervision
29 for battery when the individual harmed was a sports
30 official or coach at any level of competition and the act
31 causing harm to the sports official or coach occurred
32 within an athletic facility or within the immediate
33 vicinity of the athletic facility at which the sports
34 official or coach was an active participant of the athletic
35 contest held at the athletic facility. For the purposes of
36 this paragraph (11), "sports official" means a person at an

1 athletic contest who enforces the rules of the contest,
2 such as an umpire or referee; "athletic facility" means an
3 indoor or outdoor playing field or recreational area where
4 sports activities are conducted; and "coach" means a person
5 recognized as a coach by the sanctioning authority that
6 conducted the sporting event.

7 (12) A person may not receive a disposition of court
8 supervision for a violation of Section 5-16 of the Boat
9 Registration and Safety Act if that person has previously
10 received a disposition of court supervision for a violation
11 of that Section.

12 (d) In any case in which a sentence originally imposed is
13 vacated, the case shall be remanded to the trial court. The
14 trial court shall hold a hearing under Section 5-4-1 of the
15 Unified Code of Corrections which may include evidence of the
16 defendant's life, moral character and occupation during the
17 time since the original sentence was passed. The trial court
18 shall then impose sentence upon the defendant. The trial court
19 may impose any sentence which could have been imposed at the
20 original trial subject to Section 5-5-4 of the Unified Code of
21 Corrections. If a sentence is vacated on appeal or on
22 collateral attack due to the failure of the trier of fact at
23 trial to determine beyond a reasonable doubt the existence of a
24 fact (other than a prior conviction) necessary to increase the
25 punishment for the offense beyond the statutory maximum
26 otherwise applicable, either the defendant may be re-sentenced
27 to a term within the range otherwise provided or, if the State
28 files notice of its intention to again seek the extended
29 sentence, the defendant shall be afforded a new trial.

30 (e) In cases where prosecution for aggravated criminal
31 sexual abuse under Section 12-16 of the Criminal Code of 1961
32 results in conviction of a defendant who was a family member of
33 the victim at the time of the commission of the offense, the
34 court shall consider the safety and welfare of the victim and
35 may impose a sentence of probation only where:

36 (1) the court finds (A) or (B) or both are appropriate:

1 (A) the defendant is willing to undergo a court
2 approved counseling program for a minimum duration of 2
3 years; or

4 (B) the defendant is willing to participate in a
5 court approved plan including but not limited to the
6 defendant's:

7 (i) removal from the household;

8 (ii) restricted contact with the victim;

9 (iii) continued financial support of the
10 family;

11 (iv) restitution for harm done to the victim;

12 and

13 (v) compliance with any other measures that
14 the court may deem appropriate; and

15 (2) the court orders the defendant to pay for the
16 victim's counseling services, to the extent that the court
17 finds, after considering the defendant's income and
18 assets, that the defendant is financially capable of paying
19 for such services, if the victim was under 18 years of age
20 at the time the offense was committed and requires
21 counseling as a result of the offense.

22 Probation may be revoked or modified pursuant to Section
23 5-6-4; except where the court determines at the hearing that
24 the defendant violated a condition of his or her probation
25 restricting contact with the victim or other family members or
26 commits another offense with the victim or other family
27 members, the court shall revoke the defendant's probation and
28 impose a term of imprisonment.

29 For the purposes of this Section, "family member" and
30 "victim" shall have the meanings ascribed to them in Section
31 12-12 of the Criminal Code of 1961.

32 (f) This Article shall not deprive a court in other
33 proceedings to order a forfeiture of property, to suspend or
34 cancel a license, to remove a person from office, or to impose
35 any other civil penalty.

36 (g) Whenever a defendant is convicted of an offense under

1 Sections 11-14, 11-15, 11-15.1, 11-16, 11-17, 11-18, 11-18.1,
2 11-19, 11-19.1, 11-19.2, 12-13, 12-14, 12-14.1, 12-15 or 12-16
3 of the Criminal Code of 1961, the defendant shall undergo
4 medical testing to determine whether the defendant has any
5 sexually transmissible disease, including a test for infection
6 with human immunodeficiency virus (HIV) or any other identified
7 causative agent of acquired immunodeficiency syndrome (AIDS).
8 Any such medical test shall be performed only by appropriately
9 licensed medical practitioners and may include an analysis of
10 any bodily fluids as well as an examination of the defendant's
11 person. Except as otherwise provided by law, the results of
12 such test shall be kept strictly confidential by all medical
13 personnel involved in the testing and must be personally
14 delivered in a sealed envelope to the judge of the court in
15 which the conviction was entered for the judge's inspection in
16 camera. Acting in accordance with the best interests of the
17 victim and the public, the judge shall have the discretion to
18 determine to whom, if anyone, the results of the testing may be
19 revealed. The court shall notify the defendant of the test
20 results. The court shall also notify the victim if requested by
21 the victim, and if the victim is under the age of 15 and if
22 requested by the victim's parents or legal guardian, the court
23 shall notify the victim's parents or legal guardian of the test
24 results. The court shall provide information on the
25 availability of HIV testing and counseling at Department of
26 Public Health facilities to all parties to whom the results of
27 the testing are revealed and shall direct the State's Attorney
28 to provide the information to the victim when possible. A
29 State's Attorney may petition the court to obtain the results
30 of any HIV test administered under this Section, and the court
31 shall grant the disclosure if the State's Attorney shows it is
32 relevant in order to prosecute a charge of criminal
33 transmission of HIV under Section 12-16.2 of the Criminal Code
34 of 1961 against the defendant. The court shall order that the
35 cost of any such test shall be paid by the county and may be
36 taxed as costs against the convicted defendant.

1 (g-5) When an inmate is tested for an airborne communicable
2 disease, as determined by the Illinois Department of Public
3 Health including but not limited to tuberculosis, the results
4 of the test shall be personally delivered by the warden or his
5 or her designee in a sealed envelope to the judge of the court
6 in which the inmate must appear for the judge's inspection in
7 camera if requested by the judge. Acting in accordance with the
8 best interests of those in the courtroom, the judge shall have
9 the discretion to determine what if any precautions need to be
10 taken to prevent transmission of the disease in the courtroom.

11 (h) Whenever a defendant is convicted of an offense under
12 Section 1 or 2 of the Hypodermic Syringes and Needles Act, the
13 defendant shall undergo medical testing to determine whether
14 the defendant has been exposed to human immunodeficiency virus
15 (HIV) or any other identified causative agent of acquired
16 immunodeficiency syndrome (AIDS). Except as otherwise provided
17 by law, the results of such test shall be kept strictly
18 confidential by all medical personnel involved in the testing
19 and must be personally delivered in a sealed envelope to the
20 judge of the court in which the conviction was entered for the
21 judge's inspection in camera. Acting in accordance with the
22 best interests of the public, the judge shall have the
23 discretion to determine to whom, if anyone, the results of the
24 testing may be revealed. The court shall notify the defendant
25 of a positive test showing an infection with the human
26 immunodeficiency virus (HIV). The court shall provide
27 information on the availability of HIV testing and counseling
28 at Department of Public Health facilities to all parties to
29 whom the results of the testing are revealed and shall direct
30 the State's Attorney to provide the information to the victim
31 when possible. A State's Attorney may petition the court to
32 obtain the results of any HIV test administered under this
33 Section, and the court shall grant the disclosure if the
34 State's Attorney shows it is relevant in order to prosecute a
35 charge of criminal transmission of HIV under Section 12-16.2 of
36 the Criminal Code of 1961 against the defendant. The court

1 shall order that the cost of any such test shall be paid by the
2 county and may be taxed as costs against the convicted
3 defendant.

4 (i) All fines and penalties imposed under this Section for
5 any violation of Chapters 3, 4, 6, and 11 of the Illinois
6 Vehicle Code, or a similar provision of a local ordinance, and
7 any violation of the Child Passenger Protection Act, or a
8 similar provision of a local ordinance, shall be collected and
9 disbursed by the circuit clerk as provided under Section 27.5
10 of the Clerks of Courts Act.

11 (j) In cases when prosecution for any violation of Section
12 11-6, 11-8, 11-9, 11-11, 11-14, 11-15, 11-15.1, 11-16, 11-17,
13 11-17.1, 11-18, 11-18.1, 11-19, 11-19.1, 11-19.2, 11-20.1,
14 11-21, 12-13, 12-14, 12-14.1, 12-15, or 12-16 of the Criminal
15 Code of 1961, any violation of the Illinois Controlled
16 Substances Act, any violation of the Cannabis Control Act, or
17 any violation of the Methamphetamine Control and Community
18 Protection Act results in conviction, a disposition of court
19 supervision, or an order of probation granted under Section 10
20 of the Cannabis Control Act, Section 410 of the Illinois
21 Controlled Substance Act, or Section 70 of the Methamphetamine
22 Control and Community Protection Act of a defendant, the court
23 shall determine whether the defendant is employed by a facility
24 or center as defined under the Child Care Act of 1969, a public
25 or private elementary or secondary school, or otherwise works
26 with children under 18 years of age on a daily basis. When a
27 defendant is so employed, the court shall order the Clerk of
28 the Court to send a copy of the judgment of conviction or order
29 of supervision or probation to the defendant's employer by
30 certified mail. If the employer of the defendant is a school,
31 the Clerk of the Court shall direct the mailing of a copy of
32 the judgment of conviction or order of supervision or probation
33 to the appropriate regional superintendent of schools. The
34 regional superintendent of schools shall notify the State Board
35 of Education of any notification under this subsection.

36 (j-5) A defendant at least 18 ~~17~~ years of age who is

1 convicted of a felony and who has not been previously convicted
2 of a misdemeanor or felony and who is sentenced to a term of
3 imprisonment in the Illinois Department of Corrections shall as
4 a condition of his or her sentence be required by the court to
5 attend educational courses designed to prepare the defendant
6 for a high school diploma and to work toward a high school
7 diploma or to work toward passing the high school level Test of
8 General Educational Development (GED) or to work toward
9 completing a vocational training program offered by the
10 Department of Corrections. If a defendant fails to complete the
11 educational training required by his or her sentence during the
12 term of incarceration, the Prisoner Review Board shall, as a
13 condition of mandatory supervised release, require the
14 defendant, at his or her own expense, to pursue a course of
15 study toward a high school diploma or passage of the GED test.
16 The Prisoner Review Board shall revoke the mandatory supervised
17 release of a defendant who wilfully fails to comply with this
18 subsection (j-5) upon his or her release from confinement in a
19 penal institution while serving a mandatory supervised release
20 term; however, the inability of the defendant after making a
21 good faith effort to obtain financial aid or pay for the
22 educational training shall not be deemed a wilful failure to
23 comply. The Prisoner Review Board shall recommit the defendant
24 whose mandatory supervised release term has been revoked under
25 this subsection (j-5) as provided in Section 3-3-9. This
26 subsection (j-5) does not apply to a defendant who has a high
27 school diploma or has successfully passed the GED test. This
28 subsection (j-5) does not apply to a defendant who is
29 determined by the court to be developmentally disabled or
30 otherwise mentally incapable of completing the educational or
31 vocational program.

32 (k) A court may not impose a sentence or disposition for a
33 felony or misdemeanor that requires the defendant to be
34 implanted or injected with or to use any form of birth control.

35 (l) (A) Except as provided in paragraph (C) of subsection

36 (l), whenever a defendant, who is an alien as defined by

1 the Immigration and Nationality Act, is convicted of any
2 felony or misdemeanor offense, the court after sentencing
3 the defendant may, upon motion of the State's Attorney,
4 hold sentence in abeyance and remand the defendant to the
5 custody of the Attorney General of the United States or his
6 or her designated agent to be deported when:

7 (1) a final order of deportation has been issued
8 against the defendant pursuant to proceedings under
9 the Immigration and Nationality Act, and

10 (2) the deportation of the defendant would not
11 deprecate the seriousness of the defendant's conduct
12 and would not be inconsistent with the ends of justice.

13 Otherwise, the defendant shall be sentenced as
14 provided in this Chapter V.

15 (B) If the defendant has already been sentenced for a
16 felony or misdemeanor offense, or has been placed on
17 probation under Section 10 of the Cannabis Control Act,
18 Section 410 of the Illinois Controlled Substances Act, or
19 Section 70 of the Methamphetamine Control and Community
20 Protection Act, the court may, upon motion of the State's
21 Attorney to suspend the sentence imposed, commit the
22 defendant to the custody of the Attorney General of the
23 United States or his or her designated agent when:

24 (1) a final order of deportation has been issued
25 against the defendant pursuant to proceedings under
26 the Immigration and Nationality Act, and

27 (2) the deportation of the defendant would not
28 deprecate the seriousness of the defendant's conduct
29 and would not be inconsistent with the ends of justice.

30 (C) This subsection (1) does not apply to offenders who
31 are subject to the provisions of paragraph (2) of
32 subsection (a) of Section 3-6-3.

33 (D) Upon motion of the State's Attorney, if a defendant
34 sentenced under this Section returns to the jurisdiction of
35 the United States, the defendant shall be recommitted to
36 the custody of the county from which he or she was

1 sentenced. Thereafter, the defendant shall be brought
2 before the sentencing court, which may impose any sentence
3 that was available under Section 5-5-3 at the time of
4 initial sentencing. In addition, the defendant shall not be
5 eligible for additional good conduct credit for
6 meritorious service as provided under Section 3-6-6.

7 (m) A person convicted of criminal defacement of property
8 under Section 21-1.3 of the Criminal Code of 1961, in which the
9 property damage exceeds \$300 and the property damaged is a
10 school building, shall be ordered to perform community service
11 that may include cleanup, removal, or painting over the
12 defacement.

13 (n) The court may sentence a person convicted of a
14 violation of Section 12-19, 12-21, or 16-1.3 of the Criminal
15 Code of 1961 (i) to an impact incarceration program if the
16 person is otherwise eligible for that program under Section
17 5-8-1.1, (ii) to community service, or (iii) if the person is
18 an addict or alcoholic, as defined in the Alcoholism and Other
19 Drug Abuse and Dependency Act, to a substance or alcohol abuse
20 program licensed under that Act.

21 (Source: P.A. 93-44, eff. 7-1-03; 93-156, eff. 1-1-04; 93-169,
22 eff. 7-10-03; 93-301, eff. 1-1-04; 93-419, eff. 1-1-04; 93-546,
23 eff. 1-1-04; 93-694, eff. 7-9-04; 93-782, eff. 1-1-05; 93-800,
24 eff. 1-1-05; 93-1014, eff. 1-1-05; 94-72, eff. 1-1-06; 94-556,
25 eff. 9-11-05; revised 8-19-05.)

26 (730 ILCS 5/5-6-3) (from Ch. 38, par. 1005-6-3)

27 Sec. 5-6-3. Conditions of Probation and of Conditional
28 Discharge.

29 (a) The conditions of probation and of conditional
30 discharge shall be that the person:

31 (1) not violate any criminal statute of any
32 jurisdiction;

33 (2) report to or appear in person before such person or
34 agency as directed by the court;

35 (3) refrain from possessing a firearm or other

1 dangerous weapon;

2 (4) not leave the State without the consent of the
3 court or, in circumstances in which the reason for the
4 absence is of such an emergency nature that prior consent
5 by the court is not possible, without the prior
6 notification and approval of the person's probation
7 officer. Transfer of a person's probation or conditional
8 discharge supervision to another state is subject to
9 acceptance by the other state pursuant to the Interstate
10 Compact for Adult Offender Supervision;

11 (5) permit the probation officer to visit him at his
12 home or elsewhere to the extent necessary to discharge his
13 duties;

14 (6) perform no less than 30 hours of community service
15 and not more than 120 hours of community service, if
16 community service is available in the jurisdiction and is
17 funded and approved by the county board where the offense
18 was committed, where the offense was related to or in
19 furtherance of the criminal activities of an organized gang
20 and was motivated by the offender's membership in or
21 allegiance to an organized gang. The community service
22 shall include, but not be limited to, the cleanup and
23 repair of any damage caused by a violation of Section
24 21-1.3 of the Criminal Code of 1961 and similar damage to
25 property located within the municipality or county in which
26 the violation occurred. When possible and reasonable, the
27 community service should be performed in the offender's
28 neighborhood. For purposes of this Section, "organized
29 gang" has the meaning ascribed to it in Section 10 of the
30 Illinois Streetgang Terrorism Omnibus Prevention Act;

31 (7) if he or she is at least 18 ~~17~~ years of age and has
32 been sentenced to probation or conditional discharge for a
33 misdemeanor or felony in a county of 3,000,000 or more
34 inhabitants and has not been previously convicted of a
35 misdemeanor or felony, may be required by the sentencing
36 court to attend educational courses designed to prepare the

1 defendant for a high school diploma and to work toward a
2 high school diploma or to work toward passing the high
3 school level Test of General Educational Development (GED)
4 or to work toward completing a vocational training program
5 approved by the court. The person on probation or
6 conditional discharge must attend a public institution of
7 education to obtain the educational or vocational training
8 required by this clause (7). The court shall revoke the
9 probation or conditional discharge of a person who wilfully
10 fails to comply with this clause (7). The person on
11 probation or conditional discharge shall be required to pay
12 for the cost of the educational courses or GED test, if a
13 fee is charged for those courses or test. The court shall
14 resentence the offender whose probation or conditional
15 discharge has been revoked as provided in Section 5-6-4.
16 This clause (7) does not apply to a person who has a high
17 school diploma or has successfully passed the GED test.
18 This clause (7) does not apply to a person who is
19 determined by the court to be developmentally disabled or
20 otherwise mentally incapable of completing the educational
21 or vocational program;

22 (8) if convicted of possession of a substance
23 prohibited by the Cannabis Control Act, the Illinois
24 Controlled Substances Act, or the Methamphetamine Control
25 and Community Protection Act after a previous conviction or
26 disposition of supervision for possession of a substance
27 prohibited by the Cannabis Control Act or Illinois
28 Controlled Substances Act or after a sentence of probation
29 under Section 10 of the Cannabis Control Act, Section 410
30 of the Illinois Controlled Substances Act, or Section 70 of
31 the Methamphetamine Control and Community Protection Act
32 and upon a finding by the court that the person is
33 addicted, undergo treatment at a substance abuse program
34 approved by the court;

35 (8.5) if convicted of a felony sex offense as defined
36 in the Sex Offender Management Board Act, the person shall

1 undergo and successfully complete sex offender treatment
2 by a treatment provider approved by the Board and conducted
3 in conformance with the standards developed under the Sex
4 Offender Management Board Act;

5 (8.6) if convicted of a sex offense as defined in the
6 Sex Offender Management Board Act, refrain from residing at
7 the same address or in the same condominium unit or
8 apartment unit or in the same condominium complex or
9 apartment complex with another person he or she knows or
10 reasonably should know is a convicted sex offender or has
11 been placed on supervision for a sex offense; the
12 provisions of this paragraph do not apply to a person
13 convicted of a sex offense who is placed in a Department of
14 Corrections licensed transitional housing facility for sex
15 offenders; ~~and~~

16 (9) if convicted of a felony, physically surrender at a
17 time and place designated by the court, his or her Firearm
18 Owner's Identification Card and any and all firearms in his
19 or her possession; and

20 (10) if convicted of a sex offense as defined in
21 subsection (a-5) of Section 3-1-2 of this Code, unless the
22 offender is a parent or guardian of the person under 18
23 years of age present in the home and no non-familial minors
24 are present, not participate in a holiday event involving
25 children under 18 years of age, such as distributing candy
26 or other items to children on Halloween, wearing a Santa
27 Claus costume on or preceding Christmas, being employed as
28 a department store Santa Claus, or wearing an Easter Bunny
29 costume on or preceding Easter.

30 (b) The Court may in addition to other reasonable
31 conditions relating to the nature of the offense or the
32 rehabilitation of the defendant as determined for each
33 defendant in the proper discretion of the Court require that
34 the person:

35 (1) serve a term of periodic imprisonment under Article
36 7 for a period not to exceed that specified in paragraph

- 1 (d) of Section 5-7-1;
- 2 (2) pay a fine and costs;
- 3 (3) work or pursue a course of study or vocational
4 training;
- 5 (4) undergo medical, psychological or psychiatric
6 treatment; or treatment for drug addiction or alcoholism;
- 7 (5) attend or reside in a facility established for the
8 instruction or residence of defendants on probation;
- 9 (6) support his dependents;
- 10 (7) and in addition, if a minor:
- 11 (i) reside with his parents or in a foster home;
- 12 (ii) attend school;
- 13 (iii) attend a non-residential program for youth;
- 14 (iv) contribute to his own support at home or in a
15 foster home;
- 16 (v) with the consent of the superintendent of the
17 facility, attend an educational program at a facility
18 other than the school in which the offense was
19 committed if he or she is convicted of a crime of
20 violence as defined in Section 2 of the Crime Victims
21 Compensation Act committed in a school, on the real
22 property comprising a school, or within 1,000 feet of
23 the real property comprising a school;
- 24 (8) make restitution as provided in Section 5-5-6 of
25 this Code;
- 26 (9) perform some reasonable public or community
27 service;
- 28 (10) serve a term of home confinement. In addition to
29 any other applicable condition of probation or conditional
30 discharge, the conditions of home confinement shall be that
31 the offender:
- 32 (i) remain within the interior premises of the
33 place designated for his confinement during the hours
34 designated by the court;
- 35 (ii) admit any person or agent designated by the
36 court into the offender's place of confinement at any

1 time for purposes of verifying the offender's
2 compliance with the conditions of his confinement; and

3 (iii) if further deemed necessary by the court or
4 the Probation or Court Services Department, be placed
5 on an approved electronic monitoring device, subject
6 to Article 8A of Chapter V;

7 (iv) for persons convicted of any alcohol,
8 cannabis or controlled substance violation who are
9 placed on an approved monitoring device as a condition
10 of probation or conditional discharge, the court shall
11 impose a reasonable fee for each day of the use of the
12 device, as established by the county board in
13 subsection (g) of this Section, unless after
14 determining the inability of the offender to pay the
15 fee, the court assesses a lesser fee or no fee as the
16 case may be. This fee shall be imposed in addition to
17 the fees imposed under subsections (g) and (i) of this
18 Section. The fee shall be collected by the clerk of the
19 circuit court. The clerk of the circuit court shall pay
20 all monies collected from this fee to the county
21 treasurer for deposit in the substance abuse services
22 fund under Section 5-1086.1 of the Counties Code; and

23 (v) for persons convicted of offenses other than
24 those referenced in clause (iv) above and who are
25 placed on an approved monitoring device as a condition
26 of probation or conditional discharge, the court shall
27 impose a reasonable fee for each day of the use of the
28 device, as established by the county board in
29 subsection (g) of this Section, unless after
30 determining the inability of the defendant to pay the
31 fee, the court assesses a lesser fee or no fee as the
32 case may be. This fee shall be imposed in addition to
33 the fees imposed under subsections (g) and (i) of this
34 Section. The fee shall be collected by the clerk of the
35 circuit court. The clerk of the circuit court shall pay
36 all monies collected from this fee to the county

1 treasurer who shall use the monies collected to defray
2 the costs of corrections. The county treasurer shall
3 deposit the fee collected in the county working cash
4 fund under Section 6-27001 or Section 6-29002 of the
5 Counties Code, as the case may be.

6 (11) comply with the terms and conditions of an order
7 of protection issued by the court pursuant to the Illinois
8 Domestic Violence Act of 1986, as now or hereafter amended,
9 or an order of protection issued by the court of another
10 state, tribe, or United States territory. A copy of the
11 order of protection shall be transmitted to the probation
12 officer or agency having responsibility for the case;

13 (12) reimburse any "local anti-crime program" as
14 defined in Section 7 of the Anti-Crime Advisory Council Act
15 for any reasonable expenses incurred by the program on the
16 offender's case, not to exceed the maximum amount of the
17 fine authorized for the offense for which the defendant was
18 sentenced;

19 (13) contribute a reasonable sum of money, not to
20 exceed the maximum amount of the fine authorized for the
21 offense for which the defendant was sentenced, to a "local
22 anti-crime program", as defined in Section 7 of the
23 Anti-Crime Advisory Council Act;

24 (14) refrain from entering into a designated
25 geographic area except upon such terms as the court finds
26 appropriate. Such terms may include consideration of the
27 purpose of the entry, the time of day, other persons
28 accompanying the defendant, and advance approval by a
29 probation officer, if the defendant has been placed on
30 probation or advance approval by the court, if the
31 defendant was placed on conditional discharge;

32 (15) refrain from having any contact, directly or
33 indirectly, with certain specified persons or particular
34 types of persons, including but not limited to members of
35 street gangs and drug users or dealers;

36 (16) refrain from having in his or her body the

1 presence of any illicit drug prohibited by the Cannabis
2 Control Act, the Illinois Controlled Substances Act, or the
3 Methamphetamine Control and Community Protection Act,
4 unless prescribed by a physician, and submit samples of his
5 or her blood or urine or both for tests to determine the
6 presence of any illicit drug.

7 (c) The court may as a condition of probation or of
8 conditional discharge require that a person under 18 years of
9 age found guilty of any alcohol, cannabis or controlled
10 substance violation, refrain from acquiring a driver's license
11 during the period of probation or conditional discharge. If
12 such person is in possession of a permit or license, the court
13 may require that the minor refrain from driving or operating
14 any motor vehicle during the period of probation or conditional
15 discharge, except as may be necessary in the course of the
16 minor's lawful employment.

17 (d) An offender sentenced to probation or to conditional
18 discharge shall be given a certificate setting forth the
19 conditions thereof.

20 (e) Except where the offender has committed a fourth or
21 subsequent violation of subsection (c) of Section 6-303 of the
22 Illinois Vehicle Code, the court shall not require as a
23 condition of the sentence of probation or conditional discharge
24 that the offender be committed to a period of imprisonment in
25 excess of 6 months. This 6 month limit shall not include
26 periods of confinement given pursuant to a sentence of county
27 impact incarceration under Section 5-8-1.2. This 6 month limit
28 does not apply to a person sentenced to probation as a result
29 of a conviction of a fourth or subsequent violation of
30 subsection (c-4) of Section 11-501 of the Illinois Vehicle Code
31 or a similar provision of a local ordinance.

32 Persons committed to imprisonment as a condition of
33 probation or conditional discharge shall not be committed to
34 the Department of Corrections.

35 (f) The court may combine a sentence of periodic
36 imprisonment under Article 7 or a sentence to a county impact

1 incarceration program under Article 8 with a sentence of
2 probation or conditional discharge.

3 (g) An offender sentenced to probation or to conditional
4 discharge and who during the term of either undergoes mandatory
5 drug or alcohol testing, or both, or is assigned to be placed
6 on an approved electronic monitoring device, shall be ordered
7 to pay all costs incidental to such mandatory drug or alcohol
8 testing, or both, and all costs incidental to such approved
9 electronic monitoring in accordance with the defendant's
10 ability to pay those costs. The county board with the
11 concurrence of the Chief Judge of the judicial circuit in which
12 the county is located shall establish reasonable fees for the
13 cost of maintenance, testing, and incidental expenses related
14 to the mandatory drug or alcohol testing, or both, and all
15 costs incidental to approved electronic monitoring, involved
16 in a successful probation program for the county. The
17 concurrence of the Chief Judge shall be in the form of an
18 administrative order. The fees shall be collected by the clerk
19 of the circuit court. The clerk of the circuit court shall pay
20 all moneys collected from these fees to the county treasurer
21 who shall use the moneys collected to defray the costs of drug
22 testing, alcohol testing, and electronic monitoring. The
23 county treasurer shall deposit the fees collected in the county
24 working cash fund under Section 6-27001 or Section 6-29002 of
25 the Counties Code, as the case may be.

26 (h) Jurisdiction over an offender may be transferred from
27 the sentencing court to the court of another circuit with the
28 concurrence of both courts. Further transfers or retransfers of
29 jurisdiction are also authorized in the same manner. The court
30 to which jurisdiction has been transferred shall have the same
31 powers as the sentencing court.

32 (i) The court shall impose upon an offender sentenced to
33 probation after January 1, 1989 or to conditional discharge
34 after January 1, 1992 or to community service under the
35 supervision of a probation or court services department after
36 January 1, 2004, as a condition of such probation or

1 conditional discharge or supervised community service, a fee of
2 \$50 for each month of probation or conditional discharge
3 supervision or supervised community service ordered by the
4 court, unless after determining the inability of the person
5 sentenced to probation or conditional discharge or supervised
6 community service to pay the fee, the court assesses a lesser
7 fee. The court may not impose the fee on a minor who is made a
8 ward of the State under the Juvenile Court Act of 1987 while
9 the minor is in placement. The fee shall be imposed only upon
10 an offender who is actively supervised by the probation and
11 court services department. The fee shall be collected by the
12 clerk of the circuit court. The clerk of the circuit court
13 shall pay all monies collected from this fee to the county
14 treasurer for deposit in the probation and court services fund
15 under Section 15.1 of the Probation and Probation Officers Act.

16 A circuit court may not impose a probation fee under this
17 subsection (i) in excess of \$25 per month unless: (1) the
18 circuit court has adopted, by administrative order issued by
19 the chief judge, a standard probation fee guide determining an
20 offender's ability to pay, under guidelines developed by the
21 Administrative Office of the Illinois Courts; and (2) the
22 circuit court has authorized, by administrative order issued by
23 the chief judge, the creation of a Crime Victim's Services
24 Fund, to be administered by the Chief Judge or his or her
25 designee, for services to crime victims and their families. Of
26 the amount collected as a probation fee, up to \$5 of that fee
27 collected per month may be used to provide services to crime
28 victims and their families.

29 This amendatory Act of the 93rd General Assembly deletes
30 the \$10 increase in the fee under this subsection that was
31 imposed by Public Act 93-616. This deletion is intended to
32 control over any other Act of the 93rd General Assembly that
33 retains or incorporates that fee increase.

34 (i-5) In addition to the fees imposed under subsection (i)
35 of this Section, in the case of an offender convicted of a
36 felony sex offense (as defined in the Sex Offender Management

1 Board Act) or an offense that the court or probation department
2 has determined to be sexually motivated (as defined in the Sex
3 Offender Management Board Act), the court or the probation
4 department shall assess additional fees to pay for all costs of
5 treatment, assessment, evaluation for risk and treatment, and
6 monitoring the offender, based on that offender's ability to
7 pay those costs either as they occur or under a payment plan.

8 (j) All fines and costs imposed under this Section for any
9 violation of Chapters 3, 4, 6, and 11 of the Illinois Vehicle
10 Code, or a similar provision of a local ordinance, and any
11 violation of the Child Passenger Protection Act, or a similar
12 provision of a local ordinance, shall be collected and
13 disbursed by the circuit clerk as provided under Section 27.5
14 of the Clerks of Courts Act.

15 (k) Any offender who is sentenced to probation or
16 conditional discharge for a felony sex offense as defined in
17 the Sex Offender Management Board Act or any offense that the
18 court or probation department has determined to be sexually
19 motivated as defined in the Sex Offender Management Board Act
20 shall be required to refrain from any contact, directly or
21 indirectly, with any persons specified by the court and shall
22 be available for all evaluations and treatment programs
23 required by the court or the probation department.

24 (Source: P.A. 93-475, eff. 8-8-03; 93-616, eff. 1-1-04; 93-970,
25 eff. 8-20-04; 94-159, eff. 7-11-05; 94-161, eff. 7-11-05;
26 94-556, eff. 9-11-05; revised 8-19-05.)

27 (730 ILCS 5/5-6-3.1) (from Ch. 38, par. 1005-6-3.1)

28 Sec. 5-6-3.1. Incidents and Conditions of Supervision.

29 (a) When a defendant is placed on supervision, the court
30 shall enter an order for supervision specifying the period of
31 such supervision, and shall defer further proceedings in the
32 case until the conclusion of the period.

33 (b) The period of supervision shall be reasonable under all
34 of the circumstances of the case, but may not be longer than 2
35 years, unless the defendant has failed to pay the assessment

1 required by Section 10.3 of the Cannabis Control Act, Section
2 411.2 of the Illinois Controlled Substances Act, or Section 80
3 of the Methamphetamine Control and Community Protection Act, in
4 which case the court may extend supervision beyond 2 years.
5 Additionally, the court shall order the defendant to perform no
6 less than 30 hours of community service and not more than 120
7 hours of community service, if community service is available
8 in the jurisdiction and is funded and approved by the county
9 board where the offense was committed, when the offense (1) was
10 related to or in furtherance of the criminal activities of an
11 organized gang or was motivated by the defendant's membership
12 in or allegiance to an organized gang; or (2) is a violation of
13 any Section of Article 24 of the Criminal Code of 1961 where a
14 disposition of supervision is not prohibited by Section 5-6-1
15 of this Code. The community service shall include, but not be
16 limited to, the cleanup and repair of any damage caused by
17 violation of Section 21-1.3 of the Criminal Code of 1961 and
18 similar damages to property located within the municipality or
19 county in which the violation occurred. Where possible and
20 reasonable, the community service should be performed in the
21 offender's neighborhood.

22 For the purposes of this Section, "organized gang" has the
23 meaning ascribed to it in Section 10 of the Illinois Streetgang
24 Terrorism Omnibus Prevention Act.

25 (c) The court may in addition to other reasonable
26 conditions relating to the nature of the offense or the
27 rehabilitation of the defendant as determined for each
28 defendant in the proper discretion of the court require that
29 the person:

30 (1) make a report to and appear in person before or
31 participate with the court or such courts, person, or
32 social service agency as directed by the court in the order
33 of supervision;

34 (2) pay a fine and costs;

35 (3) work or pursue a course of study or vocational
36 training;

1 (4) undergo medical, psychological or psychiatric
2 treatment; or treatment for drug addiction or alcoholism;

3 (5) attend or reside in a facility established for the
4 instruction or residence of defendants on probation;

5 (6) support his dependents;

6 (7) refrain from possessing a firearm or other
7 dangerous weapon;

8 (8) and in addition, if a minor:

9 (i) reside with his parents or in a foster home;

10 (ii) attend school;

11 (iii) attend a non-residential program for youth;

12 (iv) contribute to his own support at home or in a
13 foster home; or

14 (v) with the consent of the superintendent of the
15 facility, attend an educational program at a facility
16 other than the school in which the offense was
17 committed if he or she is placed on supervision for a
18 crime of violence as defined in Section 2 of the Crime
19 Victims Compensation Act committed in a school, on the
20 real property comprising a school, or within 1,000 feet
21 of the real property comprising a school;

22 (9) make restitution or reparation in an amount not to
23 exceed actual loss or damage to property and pecuniary loss
24 or make restitution under Section 5-5-6 to a domestic
25 violence shelter. The court shall determine the amount and
26 conditions of payment;

27 (10) perform some reasonable public or community
28 service;

29 (11) comply with the terms and conditions of an order
30 of protection issued by the court pursuant to the Illinois
31 Domestic Violence Act of 1986 or an order of protection
32 issued by the court of another state, tribe, or United
33 States territory. If the court has ordered the defendant to
34 make a report and appear in person under paragraph (1) of
35 this subsection, a copy of the order of protection shall be
36 transmitted to the person or agency so designated by the

1 court;

2 (12) reimburse any "local anti-crime program" as
3 defined in Section 7 of the Anti-Crime Advisory Council Act
4 for any reasonable expenses incurred by the program on the
5 offender's case, not to exceed the maximum amount of the
6 fine authorized for the offense for which the defendant was
7 sentenced;

8 (13) contribute a reasonable sum of money, not to
9 exceed the maximum amount of the fine authorized for the
10 offense for which the defendant was sentenced, to a "local
11 anti-crime program", as defined in Section 7 of the
12 Anti-Crime Advisory Council Act;

13 (14) refrain from entering into a designated
14 geographic area except upon such terms as the court finds
15 appropriate. Such terms may include consideration of the
16 purpose of the entry, the time of day, other persons
17 accompanying the defendant, and advance approval by a
18 probation officer;

19 (15) refrain from having any contact, directly or
20 indirectly, with certain specified persons or particular
21 types of person, including but not limited to members of
22 street gangs and drug users or dealers;

23 (16) refrain from having in his or her body the
24 presence of any illicit drug prohibited by the Cannabis
25 Control Act, the Illinois Controlled Substances Act, or the
26 Methamphetamine Control and Community Protection Act,
27 unless prescribed by a physician, and submit samples of his
28 or her blood or urine or both for tests to determine the
29 presence of any illicit drug;

30 (17) refrain from operating any motor vehicle not
31 equipped with an ignition interlock device as defined in
32 Section 1-129.1 of the Illinois Vehicle Code. Under this
33 condition the court may allow a defendant who is not
34 self-employed to operate a vehicle owned by the defendant's
35 employer that is not equipped with an ignition interlock
36 device in the course and scope of the defendant's

1 employment; and

2 (18) if placed on supervision for a sex offense as
3 defined in subsection (a-5) of Section 3-1-2 of this Code,
4 unless the offender is a parent or guardian of the person
5 under 18 years of age present in the home and no
6 non-familial minors are present, not participate in a
7 holiday event involving children under 18 years of age,
8 such as distributing candy or other items to children on
9 Halloween, wearing a Santa Claus costume on or preceding
10 Christmas, being employed as a department store Santa
11 Claus, or wearing an Easter Bunny costume on or preceding
12 Easter.

13 (d) The court shall defer entering any judgment on the
14 charges until the conclusion of the supervision.

15 (e) At the conclusion of the period of supervision, if the
16 court determines that the defendant has successfully complied
17 with all of the conditions of supervision, the court shall
18 discharge the defendant and enter a judgment dismissing the
19 charges.

20 (f) Discharge and dismissal upon a successful conclusion of
21 a disposition of supervision shall be deemed without
22 adjudication of guilt and shall not be termed a conviction for
23 purposes of disqualification or disabilities imposed by law
24 upon conviction of a crime. Two years after the discharge and
25 dismissal under this Section, unless the disposition of
26 supervision was for a violation of Sections 3-707, 3-708,
27 3-710, 5-401.3, or 11-503 of the Illinois Vehicle Code or a
28 similar provision of a local ordinance, or for a violation of
29 Sections 12-3.2 or 16A-3 of the Criminal Code of 1961, in which
30 case it shall be 5 years after discharge and dismissal, a
31 person may have his record of arrest sealed or expunged as may
32 be provided by law. However, any defendant placed on
33 supervision before January 1, 1980, may move for sealing or
34 expungement of his arrest record, as provided by law, at any
35 time after discharge and dismissal under this Section. A person
36 placed on supervision for a sexual offense committed against a

1 minor as defined in subsection (g) of Section 5 of the Criminal
2 Identification Act or for a violation of Section 11-501 of the
3 Illinois Vehicle Code or a similar provision of a local
4 ordinance shall not have his or her record of arrest sealed or
5 expunged.

6 (g) A defendant placed on supervision and who during the
7 period of supervision undergoes mandatory drug or alcohol
8 testing, or both, or is assigned to be placed on an approved
9 electronic monitoring device, shall be ordered to pay the costs
10 incidental to such mandatory drug or alcohol testing, or both,
11 and costs incidental to such approved electronic monitoring in
12 accordance with the defendant's ability to pay those costs. The
13 county board with the concurrence of the Chief Judge of the
14 judicial circuit in which the county is located shall establish
15 reasonable fees for the cost of maintenance, testing, and
16 incidental expenses related to the mandatory drug or alcohol
17 testing, or both, and all costs incidental to approved
18 electronic monitoring, of all defendants placed on
19 supervision. The concurrence of the Chief Judge shall be in the
20 form of an administrative order. The fees shall be collected by
21 the clerk of the circuit court. The clerk of the circuit court
22 shall pay all moneys collected from these fees to the county
23 treasurer who shall use the moneys collected to defray the
24 costs of drug testing, alcohol testing, and electronic
25 monitoring. The county treasurer shall deposit the fees
26 collected in the county working cash fund under Section 6-27001
27 or Section 6-29002 of the Counties Code, as the case may be.

28 (h) A disposition of supervision is a final order for the
29 purposes of appeal.

30 (i) The court shall impose upon a defendant placed on
31 supervision after January 1, 1992 or to community service under
32 the supervision of a probation or court services department
33 after January 1, 2004, as a condition of supervision or
34 supervised community service, a fee of \$50 for each month of
35 supervision or supervised community service ordered by the
36 court, unless after determining the inability of the person

1 placed on supervision or supervised community service to pay
2 the fee, the court assesses a lesser fee. The court may not
3 impose the fee on a minor who is made a ward of the State under
4 the Juvenile Court Act of 1987 while the minor is in placement.
5 The fee shall be imposed only upon a defendant who is actively
6 supervised by the probation and court services department. The
7 fee shall be collected by the clerk of the circuit court. The
8 clerk of the circuit court shall pay all monies collected from
9 this fee to the county treasurer for deposit in the probation
10 and court services fund pursuant to Section 15.1 of the
11 Probation and Probation Officers Act.

12 A circuit court may not impose a probation fee in excess of
13 \$25 per month unless: (1) the circuit court has adopted, by
14 administrative order issued by the chief judge, a standard
15 probation fee guide determining an offender's ability to pay,
16 under guidelines developed by the Administrative Office of the
17 Illinois Courts; and (2) the circuit court has authorized, by
18 administrative order issued by the chief judge, the creation of
19 a Crime Victim's Services Fund, to be administered by the Chief
20 Judge or his or her designee, for services to crime victims and
21 their families. Of the amount collected as a probation fee, not
22 to exceed \$5 of that fee collected per month may be used to
23 provide services to crime victims and their families.

24 (j) All fines and costs imposed under this Section for any
25 violation of Chapters 3, 4, 6, and 11 of the Illinois Vehicle
26 Code, or a similar provision of a local ordinance, and any
27 violation of the Child Passenger Protection Act, or a similar
28 provision of a local ordinance, shall be collected and
29 disbursed by the circuit clerk as provided under Section 27.5
30 of the Clerks of Courts Act.

31 (k) A defendant at least 18 ~~17~~ years of age who is placed
32 on supervision for a misdemeanor in a county of 3,000,000 or
33 more inhabitants and who has not been previously convicted of a
34 misdemeanor or felony may as a condition of his or her
35 supervision be required by the court to attend educational
36 courses designed to prepare the defendant for a high school

1 diploma and to work toward a high school diploma or to work
2 toward passing the high school level Test of General
3 Educational Development (GED) or to work toward completing a
4 vocational training program approved by the court. The
5 defendant placed on supervision must attend a public
6 institution of education to obtain the educational or
7 vocational training required by this subsection (k). The
8 defendant placed on supervision shall be required to pay for
9 the cost of the educational courses or GED test, if a fee is
10 charged for those courses or test. The court shall revoke the
11 supervision of a person who wilfully fails to comply with this
12 subsection (k). The court shall resentence the defendant upon
13 revocation of supervision as provided in Section 5-6-4. This
14 subsection (k) does not apply to a defendant who has a high
15 school diploma or has successfully passed the GED test. This
16 subsection (k) does not apply to a defendant who is determined
17 by the court to be developmentally disabled or otherwise
18 mentally incapable of completing the educational or vocational
19 program.

20 (l) The court shall require a defendant placed on
21 supervision for possession of a substance prohibited by the
22 Cannabis Control Act, the Illinois Controlled Substances Act,
23 or the Methamphetamine Control and Community Protection Act
24 after a previous conviction or disposition of supervision for
25 possession of a substance prohibited by the Cannabis Control
26 Act, the Illinois Controlled Substances Act, or the
27 Methamphetamine Control and Community Protection Act or a
28 sentence of probation under Section 10 of the Cannabis Control
29 Act or Section 410 of the Illinois Controlled Substances Act
30 and after a finding by the court that the person is addicted,
31 to undergo treatment at a substance abuse program approved by
32 the court.

33 (m) The Secretary of State shall require anyone placed on
34 court supervision for a violation of Section 3-707 of the
35 Illinois Vehicle Code or a similar provision of a local
36 ordinance to give proof of his or her financial responsibility

1 as defined in Section 7-315 of the Illinois Vehicle Code. The
2 proof shall be maintained by the individual in a manner
3 satisfactory to the Secretary of State for a minimum period of
4 one year after the date the proof is first filed. The proof
5 shall be limited to a single action per arrest and may not be
6 affected by any post-sentence disposition. The Secretary of
7 State shall suspend the driver's license of any person
8 determined by the Secretary to be in violation of this
9 subsection.

10 (n) Any offender placed on supervision for any offense that
11 the court or probation department has determined to be sexually
12 motivated as defined in the Sex Offender Management Board Act
13 shall be required to refrain from any contact, directly or
14 indirectly, with any persons specified by the court and shall
15 be available for all evaluations and treatment programs
16 required by the court or the probation department.

17 (o) An offender placed on supervision for a sex offense as
18 defined in the Sex Offender Management Board Act shall refrain
19 from residing at the same address or in the same condominium
20 unit or apartment unit or in the same condominium complex or
21 apartment complex with another person he or she knows or
22 reasonably should know is a convicted sex offender or has been
23 placed on supervision for a sex offense. The provisions of this
24 subsection (o) do not apply to a person convicted of a sex
25 offense who is placed in a Department of Corrections licensed
26 transitional housing facility for sex offenders.

27 (Source: P.A. 93-475, eff. 8-8-03; 93-970, eff. 8-20-04;
28 94-159, eff. 7-11-05; 94-161, eff. 7-11-05; 94-556, eff.
29 9-11-05; revised 8-19-05.)

30 (730 ILCS 5/5-7-1) (from Ch. 38, par. 1005-7-1)

31 Sec. 5-7-1. Sentence of Periodic Imprisonment.

32 (a) A sentence of periodic imprisonment is a sentence of
33 imprisonment during which the committed person may be released
34 for periods of time during the day or night or for periods of
35 days, or both, or if convicted of a felony, other than first

1 degree murder, a Class X or Class 1 felony, committed to any
2 county, municipal, or regional correctional or detention
3 institution or facility in this State for such periods of time
4 as the court may direct. Unless the court orders otherwise, the
5 particular times and conditions of release shall be determined
6 by the Department of Corrections, the sheriff, or the
7 Superintendent of the house of corrections, who is
8 administering the program.

9 (b) A sentence of periodic imprisonment may be imposed to
10 permit the defendant to:

11 (1) seek employment;

12 (2) work;

13 (3) conduct a business or other self-employed
14 occupation including housekeeping;

15 (4) attend to family needs;

16 (5) attend an educational institution, including
17 vocational education;

18 (6) obtain medical or psychological treatment;

19 (7) perform work duties at a county, municipal, or
20 regional correctional or detention institution or
21 facility;

22 (8) continue to reside at home with or without
23 supervision involving the use of an approved electronic
24 monitoring device, subject to Article 8A of Chapter V; or

25 (9) for any other purpose determined by the court.

26 (c) Except where prohibited by other provisions of this
27 Code, the court may impose a sentence of periodic imprisonment
28 for a felony or misdemeanor on a person who is 18 ~~17~~ years of
29 age or older. The court shall not impose a sentence of periodic
30 imprisonment if it imposes a sentence of imprisonment upon the
31 defendant in excess of 90 days.

32 (d) A sentence of periodic imprisonment shall be for a
33 definite term of from 3 to 4 years for a Class 1 felony, 18 to
34 30 months for a Class 2 felony, and up to 18 months, or the
35 longest sentence of imprisonment that could be imposed for the
36 offense, whichever is less, for all other offenses; however, no

1 person shall be sentenced to a term of periodic imprisonment
2 longer than one year if he is committed to a county
3 correctional institution or facility, and in conjunction with
4 that sentence participate in a county work release program
5 comparable to the work and day release program provided for in
6 Article 13 of the Unified Code of Corrections in State
7 facilities. The term of the sentence shall be calculated upon
8 the basis of the duration of its term rather than upon the
9 basis of the actual days spent in confinement. No sentence of
10 periodic imprisonment shall be subject to the good time credit
11 provisions of Section 3-6-3 of this Code.

12 (e) When the court imposes a sentence of periodic
13 imprisonment, it shall state:

14 (1) the term of such sentence;

15 (2) the days or parts of days which the defendant is to
16 be confined;

17 (3) the conditions.

18 (f) The court may issue an order of protection pursuant to
19 the Illinois Domestic Violence Act of 1986 as a condition of a
20 sentence of periodic imprisonment. The Illinois Domestic
21 Violence Act of 1986 shall govern the issuance, enforcement and
22 recording of orders of protection issued under this Section. A
23 copy of the order of protection shall be transmitted to the
24 person or agency having responsibility for the case.

25 (f-5) An offender sentenced to a term of periodic
26 imprisonment for a felony sex offense as defined in the Sex
27 Offender Management Board Act shall be required to undergo and
28 successfully complete sex offender treatment by a treatment
29 provider approved by the Board and conducted in conformance
30 with the standards developed under the Sex Offender Management
31 Board Act.

32 (g) An offender sentenced to periodic imprisonment who
33 undergoes mandatory drug or alcohol testing, or both, or is
34 assigned to be placed on an approved electronic monitoring
35 device, shall be ordered to pay the costs incidental to such
36 mandatory drug or alcohol testing, or both, and costs

1 incidental to such approved electronic monitoring in
2 accordance with the defendant's ability to pay those costs. The
3 county board with the concurrence of the Chief Judge of the
4 judicial circuit in which the county is located shall establish
5 reasonable fees for the cost of maintenance, testing, and
6 incidental expenses related to the mandatory drug or alcohol
7 testing, or both, and all costs incidental to approved
8 electronic monitoring, of all offenders with a sentence of
9 periodic imprisonment. The concurrence of the Chief Judge shall
10 be in the form of an administrative order. The fees shall be
11 collected by the clerk of the circuit court. The clerk of the
12 circuit court shall pay all moneys collected from these fees to
13 the county treasurer who shall use the moneys collected to
14 defray the costs of drug testing, alcohol testing, and
15 electronic monitoring. The county treasurer shall deposit the
16 fees collected in the county working cash fund under Section
17 6-27001 or Section 6-29002 of the Counties Code, as the case
18 may be.

19 (h) All fees and costs imposed under this Section for any
20 violation of Chapters 3, 4, 6, and 11 of the Illinois Vehicle
21 Code, or a similar provision of a local ordinance, and any
22 violation of the Child Passenger Protection Act, or a similar
23 provision of a local ordinance, shall be collected and
24 disbursed by the circuit clerk as provided under Section 27.5
25 of the Clerks of Courts Act.

26 (i) A defendant at least 18 ~~17~~ years of age who is
27 convicted of a misdemeanor or felony in a county of 3,000,000
28 or more inhabitants and who has not been previously convicted
29 of a misdemeanor or a felony and who is sentenced to a term of
30 periodic imprisonment may as a condition of his or her sentence
31 be required by the court to attend educational courses designed
32 to prepare the defendant for a high school diploma and to work
33 toward receiving a high school diploma or to work toward
34 passing the high school level Test of General Educational
35 Development (GED) or to work toward completing a vocational
36 training program approved by the court. The defendant sentenced

1 to periodic imprisonment must attend a public institution of
2 education to obtain the educational or vocational training
3 required by this subsection (i). The defendant sentenced to a
4 term of periodic imprisonment shall be required to pay for the
5 cost of the educational courses or GED test, if a fee is
6 charged for those courses or test. The court shall revoke the
7 sentence of periodic imprisonment of the defendant who wilfully
8 fails to comply with this subsection (i). The court shall
9 resentence the defendant whose sentence of periodic
10 imprisonment has been revoked as provided in Section 5-7-2.
11 This subsection (i) does not apply to a defendant who has a
12 high school diploma or has successfully passed the GED test.
13 This subsection (i) does not apply to a defendant who is
14 determined by the court to be developmentally disabled or
15 otherwise mentally incapable of completing the educational or
16 vocational program.

17 (Source: P.A. 93-616, eff. 1-1-04.)

18 (730 ILCS 5/5-8-1.1) (from Ch. 38, par. 1005-8-1.1)

19 Sec. 5-8-1.1. Impact incarceration.

20 (a) The Department may establish and operate an impact
21 incarceration program for eligible offenders. If the court
22 finds under Section 5-4-1 that an offender sentenced to a term
23 of imprisonment for a felony may meet the eligibility
24 requirements of the Department, the court may in its sentencing
25 order approve the offender for placement in the impact
26 incarceration program conditioned upon his acceptance in the
27 program by the Department. Notwithstanding the sentencing
28 provisions of this Code, the sentencing order also shall
29 provide that if the Department accepts the offender in the
30 program and determines that the offender has successfully
31 completed the impact incarceration program, the sentence shall
32 be reduced to time considered served upon certification to the
33 court by the Department that the offender has successfully
34 completed the program. In the event the offender is not
35 accepted for placement in the impact incarceration program or

1 the offender does not successfully complete the program, his
2 term of imprisonment shall be as set forth by the court in its
3 sentencing order.

4 (b) In order to be eligible to participate in the impact
5 incarceration program, the committed person shall meet all of
6 the following requirements:

7 (1) The person must be not less than 18 ~~17~~ years of age
8 nor more than 35 years of age.

9 (2) The person has not previously participated in the
10 impact incarceration program and has not previously served
11 more than one prior sentence of imprisonment for a felony
12 in an adult correctional facility.

13 (3) The person has not been convicted of a Class X
14 felony, first or second degree murder, armed violence,
15 aggravated kidnapping, criminal sexual assault, aggravated
16 criminal sexual abuse or a subsequent conviction for
17 criminal sexual abuse, forcible detention, residential
18 arson, place of worship arson, or arson and has not been
19 convicted previously of any of those offenses.

20 (4) The person has been sentenced to a term of
21 imprisonment of 8 years or less.

22 (5) The person must be physically able to participate
23 in strenuous physical activities or labor.

24 (6) The person must not have any mental disorder or
25 disability that would prevent participation in the impact
26 incarceration program.

27 (7) The person has consented in writing to
28 participation in the impact incarceration program and to
29 the terms and conditions thereof.

30 (8) The person was recommended and approved for
31 placement in the impact incarceration program in the
32 court's sentencing order.

33 The Department may also consider, among other matters,
34 whether the committed person has any outstanding detainers or
35 warrants, whether the committed person has a history of
36 escaping or absconding, whether participation in the impact

1 incarceration program may pose a risk to the safety or security
2 of any person and whether space is available.

3 (c) The impact incarceration program shall include, among
4 other matters, mandatory physical training and labor, military
5 formation and drills, regimented activities, uniformity of
6 dress and appearance, education and counseling, including drug
7 counseling where appropriate.

8 (d) Privileges including visitation, commissary, receipt
9 and retention of property and publications and access to
10 television, radio and a library may be suspended or restricted,
11 notwithstanding provisions to the contrary in this Code.

12 (e) Committed persons participating in the impact
13 incarceration program shall adhere to all Department rules and
14 all requirements of the program. Committed persons shall be
15 informed of rules of behavior and conduct. Disciplinary
16 procedures required by this Code or by Department rule are not
17 applicable except in those instances in which the Department
18 seeks to revoke good time.

19 (f) Participation in the impact incarceration program
20 shall be for a period of 120 to 180 days. The period of time a
21 committed person shall serve in the impact incarceration
22 program shall not be reduced by the accumulation of good time.

23 (g) The committed person shall serve a term of mandatory
24 supervised release as set forth in subsection (d) of Section
25 5-8-1.

26 (h) A committed person may be removed from the program for
27 a violation of the terms or conditions of the program or in the
28 event he is for any reason unable to participate. The
29 Department shall promulgate rules and regulations governing
30 conduct which could result in removal from the program or in a
31 determination that the committed person has not successfully
32 completed the program. Committed persons shall have access to
33 such rules, which shall provide that a committed person shall
34 receive notice and have the opportunity to appear before and
35 address one or more hearing officers. A committed person may be
36 transferred to any of the Department's facilities prior to the

1 hearing.

2 (i) The Department may terminate the impact incarceration
3 program at any time.

4 (j) The Department shall report to the Governor and the
5 General Assembly on or before September 30th of each year on
6 the impact incarceration program, including the composition of
7 the program by the offenders, by county of commitment,
8 sentence, age, offense and race.

9 (k) The Department of Corrections shall consider the
10 affirmative action plan approved by the Department of Human
11 Rights in hiring staff at the impact incarceration facilities.
12 The Department shall report to the Director of Human Rights on
13 or before April 1 of the year on the sex, race and national
14 origin of persons employed at each impact incarceration
15 facility.

16 (Source: P.A. 93-169, eff. 7-10-03.)

17 (730 ILCS 5/5-8-1.2)

18 Sec. 5-8-1.2. County impact incarceration.

19 (a) Legislative intent. It is the finding of the General
20 Assembly that certain non-violent offenders eligible for
21 sentences of incarceration may benefit from the rehabilitative
22 aspects of a county impact incarceration program. It is the
23 intent of the General Assembly that such programs be
24 implemented as provided by this Section. This Section shall not
25 be construed to allow violent offenders to participate in a
26 county impact incarceration program.

27 (b) Under the direction of the Sheriff and with the
28 approval of the County Board of Commissioners, the Sheriff, in
29 any county with more than 3,000,000 inhabitants, may establish
30 and operate a county impact incarceration program for eligible
31 offenders. If the court finds under Section 5-4-1 that an
32 offender convicted of a felony meets the eligibility
33 requirements of the Sheriff's county impact incarceration
34 program, the court may sentence the offender to the county
35 impact incarceration program. The Sheriff shall be responsible

1 for monitoring all offenders who are sentenced to the county
2 impact incarceration program, including the mandatory period
3 of monitored release following the 120 to 180 days of impact
4 incarceration. Offenders assigned to the county impact
5 incarceration program under an intergovernmental agreement
6 between the county and the Illinois Department of Corrections
7 are exempt from the provisions of this mandatory period of
8 monitored release. In the event the offender is not accepted
9 for placement in the county impact incarceration program, the
10 court shall proceed to sentence the offender to any other
11 disposition authorized by this Code. If the offender does not
12 successfully complete the program, the offender's failure to do
13 so shall constitute a violation of the sentence to the county
14 impact incarceration program.

15 (c) In order to be eligible to be sentenced to a county
16 impact incarceration program by the court, the person shall
17 meet all of the following requirements:

18 (1) the person must be not less than 18 ~~17~~ years of age
19 nor more than 35 years of age;

20 (2) The person has not previously participated in the
21 impact incarceration program and has not previously served
22 more than one prior sentence of imprisonment for a felony
23 in an adult correctional facility;

24 (3) The person has not been convicted of a Class X
25 felony, first or second degree murder, armed violence,
26 aggravated kidnapping, criminal sexual assault, aggravated
27 criminal sexual abuse or a subsequent conviction for
28 criminal sexual abuse, forcible detention, or arson and has
29 not been convicted previously of any of those offenses.

30 (4) The person has been found in violation of probation
31 for an offense that is a Class 2, 3, or 4 felony that is not
32 a forcible felony as defined in Section 2-8 of the Criminal
33 Code of 1961 or a violent crime as defined in subsection
34 (c) of Section 3 of the Rights of Crime Victims and
35 Witnesses Act who otherwise could be sentenced to a term of
36 incarceration; or the person is convicted of an offense

1 that is a Class 2, 3, or 4 felony that is not a forcible
2 felony as defined in Section 2-8 of the Criminal Code of
3 1961 or a violent crime as defined in subsection (c) of
4 Section 3 of the Rights of Crime Victims and Witnesses Act
5 who has previously served a sentence of probation for any
6 felony offense and who otherwise could be sentenced to a
7 term of incarceration.

8 (5) The person must be physically able to participate
9 in strenuous physical activities or labor.

10 (6) The person must not have any mental disorder or
11 disability that would prevent participation in a county
12 impact incarceration program.

13 (7) The person was recommended and approved for
14 placement in the county impact incarceration program by the
15 Sheriff and consented in writing to participation in the
16 county impact incarceration program and to the terms and
17 conditions of the program. The Sheriff may consider, among
18 other matters, whether the person has any outstanding
19 detainers or warrants, whether the person has a history of
20 escaping or absconding, whether participation in the
21 county impact incarceration program may pose a risk to the
22 safety or security of any person and whether space is
23 available.

24 (c) The county impact incarceration program shall include,
25 among other matters, mandatory physical training and labor,
26 military formation and drills, regimented activities,
27 uniformity of dress and appearance, education and counseling,
28 including drug counseling where appropriate.

29 (d) Privileges including visitation, commissary, receipt
30 and retention of property and publications and access to
31 television, radio, and a library may be suspended or
32 restricted, notwithstanding provisions to the contrary in this
33 Code.

34 (e) The Sheriff shall issue written rules and requirements
35 for the program. Persons shall be informed of rules of behavior
36 and conduct. Persons participating in the county impact

1 incarceration program shall adhere to all rules and all
2 requirements of the program.

3 (f) Participation in the county impact incarceration
4 program shall be for a period of 120 to 180 days followed by a
5 mandatory term of monitored release for at least 8 months and
6 no more than 12 months supervised by the Sheriff. The period of
7 time a person shall serve in the impact incarceration program
8 shall not be reduced by the accumulation of good time. The
9 court may also sentence the person to a period of probation to
10 commence at the successful completion of the county impact
11 incarceration program.

12 (g) If the person successfully completes the county impact
13 incarceration program, the Sheriff shall certify the person's
14 successful completion of the program to the court and to the
15 county's State's Attorney. Upon successful completion of the
16 county impact incarceration program and mandatory term of
17 monitored release and if there is an additional period of
18 probation given, the person shall at that time begin his or her
19 probationary sentence under the supervision of the Adult
20 Probation Department.

21 (h) A person may be removed from the county impact
22 incarceration program for a violation of the terms or
23 conditions of the program or in the event he or she is for any
24 reason unable to participate. The failure to complete the
25 program for any reason, including the 8 to 12 month monitored
26 release period, shall be deemed a violation of the county
27 impact incarceration sentence. The Sheriff shall give notice to
28 the State's Attorney of the person's failure to complete the
29 program. The Sheriff shall file a petition for violation of the
30 county impact incarceration sentence with the court and the
31 State's Attorney may proceed on the petition under Section
32 5-6-4 of this Code. The Sheriff shall promulgate rules and
33 regulations governing conduct which could result in removal
34 from the program or in a determination that the person has not
35 successfully completed the program.

36 The mandatory conditions of every county impact

1 incarceration sentence shall include that the person either
2 while in the program or during the period of monitored release:

3 (1) not violate any criminal statute of any
4 jurisdiction;

5 (2) report or appear in person before any such person
6 or agency as directed by the court or the Sheriff;

7 (3) refrain from possessing a firearm or other
8 dangerous weapon;

9 (4) not leave the State without the consent of the
10 court or, in circumstances in which the reason for the
11 absence is of such an emergency nature that prior consent
12 by the court is not possible, without the prior
13 notification and approval of the Sheriff; and

14 (5) permit representatives of the Sheriff to visit at
15 the person's home or elsewhere to the extent necessary for
16 the Sheriff to monitor compliance with the program. Persons
17 shall have access to such rules, which shall provide that a
18 person shall receive notice of any such violation.

19 (i) The Sheriff may terminate the county impact
20 incarceration program at any time.

21 (j) The Sheriff shall report to the county board on or
22 before September 30th of each year on the county impact
23 incarceration program, including the composition of the
24 program by the offenders, by county of commitment, sentence,
25 age, offense, and race.

26 (Source: P.A. 89-587, eff. 7-31-96.)

27 (730 ILCS 5/5-8-6) (from Ch. 38, par. 1005-8-6)

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

29 (a) Offenders sentenced to a term of imprisonment for a
30 felony shall be committed to the penitentiary system of the
31 Department of Corrections. However, such sentence shall not
32 limit the powers of the Department of Children and Family
33 Services in relation to any child under the age of one year in
34 the sole custody of a person so sentenced, nor in relation to
35 any child delivered by a female so sentenced while she is so

1 confined as a consequence of such sentence. A person sentenced
2 for a felony may be assigned by the Department of Corrections
3 to any of its institutions, facilities or programs.

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

9 (c) All offenders under 18 ~~17~~ years of age when sentenced
10 to imprisonment shall be committed to the Department of
11 Juvenile Justice and the court in its order of commitment shall
12 set a definite term. Such order of commitment shall be the
13 sentence of the court which may be amended by the court while
14 jurisdiction is retained; and such sentence shall apply
15 whenever the offender sentenced is in the control and custody
16 of the Department of Corrections. The provisions of Section
17 3-3-3 shall be a part of such commitment as fully as though
18 written in the order of commitment. The committing court shall
19 retain jurisdiction of the subject matter and the person until
20 he or she reaches the age of 21 unless earlier discharged.
21 However, the Department of Juvenile Justice shall, after a
22 juvenile has reached 18 ~~17~~ years of age, petition the court to
23 conduct a hearing pursuant to subsection (c) of Section 3-10-7
24 of this Code.

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

27 (e) When a court sentences a defendant to a term of
28 imprisonment concurrent with a previous and unexpired sentence
29 of imprisonment imposed by any district court of the United
30 States, it may commit the offender to the custody of the
31 Attorney General of the United States. The Attorney General of
32 the United States, or the authorized representative of the
33 Attorney General of the United States, shall be furnished with
34 the warrant of commitment from the court imposing sentence,
35 which warrant of commitment shall provide that, when the
36 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.)

8 Section 15. The Sex Offender Registration Act is amended by
9 changing Sections 2 and 3 as follows:

10 (730 ILCS 150/2) (from Ch. 38, par. 222)

11 Sec. 2. Definitions.

12 (A) As used in this Article, "sex offender" means any
13 person who is:

14 (1) charged pursuant to Illinois law, or any
15 substantially similar federal, Uniform Code of Military
16 Justice, sister state, or foreign country law, with a sex
17 offense set forth in subsection (B) of this Section or the
18 attempt to commit an included sex offense, and:

19 (a) is convicted of such offense or an attempt to
20 commit such offense; or

21 (b) is found not guilty by reason of insanity of
22 such offense or an attempt to commit such offense; or

23 (c) is found not guilty by reason of insanity
24 pursuant to Section 104-25(c) of the Code of Criminal
25 Procedure of 1963 of such offense or an attempt to
26 commit such offense; or

27 (d) is the subject of a finding not resulting in an
28 acquittal at a hearing conducted pursuant to Section
29 104-25(a) of the Code of Criminal Procedure of 1963 for
30 the alleged commission or attempted commission of such
31 offense; or

32 (e) is found not guilty by reason of insanity
33 following a hearing conducted pursuant to a federal,
34 Uniform Code of Military Justice, sister state, or

1 foreign country law substantially similar to Section
2 104-25(c) of the Code of Criminal Procedure of 1963 of
3 such offense or of the attempted commission of such
4 offense; or

5 (f) is the subject of a finding not resulting in an
6 acquittal at a hearing conducted pursuant to a federal,
7 Uniform Code of Military Justice, sister state, or
8 foreign country law substantially similar to Section
9 104-25(a) of the Code of Criminal Procedure of 1963 for
10 the alleged violation or attempted commission of such
11 offense; or

12 (2) certified as a sexually dangerous person pursuant
13 to the Illinois Sexually Dangerous Persons Act, or any
14 substantially similar federal, Uniform Code of Military
15 Justice, sister state, or foreign country law; or

16 (3) subject to the provisions of Section 2 of the
17 Interstate Agreements on Sexually Dangerous Persons Act;
18 or

19 (4) found to be a sexually violent person pursuant to
20 the Sexually Violent Persons Commitment Act or any
21 substantially similar federal, Uniform Code of Military
22 Justice, sister state, or foreign country law; or

23 (5) adjudicated a juvenile delinquent as the result of
24 committing or attempting to commit an act which, if
25 committed by an adult, would constitute any of the offenses
26 specified in item (B), (C), or (C-5) of this Section or a
27 violation of any substantially similar federal, Uniform
28 Code of Military Justice, sister state, or foreign country
29 law, or found guilty under Article V of the Juvenile Court
30 Act of 1987 of committing or attempting to commit an act
31 which, if committed by an adult, would constitute any of
32 the offenses specified in item (B), (C), or (C-5) of this
33 Section or a violation of any substantially similar
34 federal, Uniform Code of Military Justice, sister state, or
35 foreign country law.

36 Convictions that result from or are connected with the same

1 act, or result from offenses committed at the same time, shall
2 be counted for the purpose of this Article as one conviction.
3 Any conviction set aside pursuant to law is not a conviction
4 for purposes of this Article.

5 For purposes of this Section, "convicted" shall have the
6 same meaning as "adjudicated". For the purposes of this
7 Article, a person who is defined as a sex offender as a result
8 of being adjudicated a juvenile delinquent under paragraph (5)
9 of this subsection (A) upon attaining 18 ~~17~~ years of age shall
10 be considered as having committed the sex offense on or after
11 the sex offender's 18th ~~17th~~ birthday. Registration of
12 juveniles upon attaining 18 ~~17~~ years of age shall not extend
13 the original registration of 10 years from the date of
14 conviction.

15 (B) As used in this Article, "sex offense" means:

16 (1) A violation of any of the following Sections of the
17 Criminal Code of 1961:

18 11-20.1 (child pornography),
19 11-6 (indecent solicitation of a child),
20 11-9.1 (sexual exploitation of a child),
21 11-9.2 (custodial sexual misconduct),
22 11-15.1 (soliciting for a juvenile prostitute),
23 11-18.1 (patronizing a juvenile prostitute),
24 11-17.1 (keeping a place of juvenile
25 prostitution),
26 11-19.1 (juvenile pimping),
27 11-19.2 (exploitation of a child),
28 12-13 (criminal sexual assault),
29 12-14 (aggravated criminal sexual assault),
30 12-14.1 (predatory criminal sexual assault of a
31 child),
32 12-15 (criminal sexual abuse),
33 12-16 (aggravated criminal sexual abuse),
34 12-33 (ritualized abuse of a child).

35 An attempt to commit any of these offenses.

36 (1.5) A violation of any of the following Sections of

1 the Criminal Code of 1961, when the victim is a person
2 under 18 years of age, the defendant is not a parent of the
3 victim, and the offense was committed on or after January
4 1, 1996:

5 10-1 (kidnapping),
6 10-2 (aggravated kidnapping),
7 10-3 (unlawful restraint),
8 10-3.1 (aggravated unlawful restraint).

9 An attempt to commit any of these offenses.

10 (1.6) First degree murder under Section 9-1 of the
11 Criminal Code of 1961, when the victim was a person under
12 18 years of age and the defendant was at least 17 years of
13 age at the time of the commission of the offense.

14 (1.7) (Blank).

15 (1.8) A violation or attempted violation of Section
16 11-11 (sexual relations within families) of the Criminal
17 Code of 1961, and the offense was committed on or after
18 June 1, 1997.

19 (1.9) Child abduction under paragraph (10) of
20 subsection (b) of Section 10-5 of the Criminal Code of 1961
21 committed by luring or attempting to lure a child under the
22 age of 16 into a motor vehicle, building, house trailer, or
23 dwelling place without the consent of the parent or lawful
24 custodian of the child for other than a lawful purpose and
25 the offense was committed on or after January 1, 1998.

26 (1.10) A violation or attempted violation of any of the
27 following Sections of the Criminal Code of 1961 when the
28 offense was committed on or after July 1, 1999:

29 10-4 (forcible detention, if the victim is under 18
30 years of age),

31 11-6.5 (indecent solicitation of an adult),

32 11-15 (soliciting for a prostitute, if the victim
33 is under 18 years of age),

34 11-16 (pandering, if the victim is under 18 years
35 of age),

36 11-18 (patronizing a prostitute, if the victim is

1 under 18 years of age),
2 11-19 (pimping, if the victim is under 18 years of
3 age).

4 (1.11) A violation or attempted violation of any of the
5 following Sections of the Criminal Code of 1961 when the
6 offense was committed on or after August 22, 2002:

7 11-9 (public indecency for a third or subsequent
8 conviction).

9 (1.12) A violation or attempted violation of Section
10 5.1 of the Wrongs to Children Act (permitting sexual abuse)
11 when the offense was committed on or after August 22, 2002.

12 (2) A violation of any former law of this State
13 substantially equivalent to any offense listed in
14 subsection (B) of this Section.

15 (C) A conviction for an offense of federal law, Uniform
16 Code of Military Justice, or the law of another state or a
17 foreign country that is substantially equivalent to any offense
18 listed in subsections (B), (C), and (E) of this Section shall
19 constitute a conviction for the purpose of this Article. A
20 finding or adjudication as a sexually dangerous person or a
21 sexually violent person under any federal law, Uniform Code of
22 Military Justice, or the law of another state or foreign
23 country that is substantially equivalent to the Sexually
24 Dangerous Persons Act or the Sexually Violent Persons
25 Commitment Act shall constitute an adjudication for the
26 purposes of this Article.

27 (C-5) A person at least 17 years of age at the time of the
28 commission of the offense who is convicted of first degree
29 murder under Section 9-1 of the Criminal Code of 1961, against
30 a person under 18 years of age, shall be required to register
31 for natural life. A conviction for an offense of federal,
32 Uniform Code of Military Justice, sister state, or foreign
33 country law that is substantially equivalent to any offense
34 listed in subsection (C-5) of this Section shall constitute a
35 conviction for the purpose of this Article. This subsection
36 (C-5) applies to a person who committed the offense before June

1 1, 1996 only if the person is incarcerated in an Illinois
2 Department of Corrections facility on August 20, 2004 (the
3 effective date of Public Act 93-977).

4 (D) As used in this Article, "law enforcement agency having
5 jurisdiction" means the Chief of Police in each of the
6 municipalities in which the sex offender expects to reside,
7 work, or attend school (1) upon his or her discharge, parole or
8 release or (2) during the service of his or her sentence of
9 probation or conditional discharge, or the Sheriff of the
10 county, in the event no Police Chief exists or if the offender
11 intends to reside, work, or attend school in an unincorporated
12 area. "Law enforcement agency having jurisdiction" includes
13 the location where out-of-state students attend school and
14 where out-of-state employees are employed or are otherwise
15 required to register.

16 (D-1) As used in this Article, "supervising officer" means
17 the assigned Illinois Department of Corrections parole agent or
18 county probation officer.

19 (E) As used in this Article, "sexual predator" means any
20 person who, after July 1, 1999, is:

21 (1) Convicted for an offense of federal, Uniform Code
22 of Military Justice, sister state, or foreign country law
23 that is substantially equivalent to any offense listed in
24 subsection (E) of this Section shall constitute a
25 conviction for the purpose of this Article. Convicted of a
26 violation or attempted violation of any of the following
27 Sections of the Criminal Code of 1961, if the conviction
28 occurred after July 1, 1999:

29 11-17.1 (keeping a place of juvenile
30 prostitution),

31 11-19.1 (juvenile pimping),

32 11-19.2 (exploitation of a child),

33 11-20.1 (child pornography),

34 12-13 (criminal sexual assault),

35 12-14 (aggravated criminal sexual assault),

36 12-14.1 (predatory criminal sexual assault of a

1 child),
2 12-16 (aggravated criminal sexual abuse),
3 12-33 (ritualized abuse of a child); or
4 (2) convicted of first degree murder under Section 9-1
5 of the Criminal Code of 1961, when the victim was a person
6 under 18 years of age and the defendant was at least 17
7 years of age at the time of the commission of the offense;
8 or
9 (3) certified as a sexually dangerous person pursuant
10 to the Sexually Dangerous Persons Act or any substantially
11 similar federal, Uniform Code of Military Justice, sister
12 state, or foreign country law; or
13 (4) found to be a sexually violent person pursuant to
14 the Sexually Violent Persons Commitment Act or any
15 substantially similar federal, Uniform Code of Military
16 Justice, sister state, or foreign country law; or
17 (5) convicted of a second or subsequent offense which
18 requires registration pursuant to this Act. The conviction
19 for the second or subsequent offense must have occurred
20 after July 1, 1999. For purposes of this paragraph (5),
21 "convicted" shall include a conviction under any
22 substantially similar Illinois, federal, Uniform Code of
23 Military Justice, sister state, or foreign country law.
24 (F) As used in this Article, "out-of-state student" means
25 any sex offender, as defined in this Section, or sexual
26 predator who is enrolled in Illinois, on a full-time or
27 part-time basis, in any public or private educational
28 institution, including, but not limited to, any secondary
29 school, trade or professional institution, or institution of
30 higher learning.
31 (G) As used in this Article, "out-of-state employee" means
32 any sex offender, as defined in this Section, or sexual
33 predator who works in Illinois, regardless of whether the
34 individual receives payment for services performed, for a
35 period of time of 10 or more days or for an aggregate period of
36 time of 30 or more days during any calendar year. Persons who

1 operate motor vehicles in the State accrue one day of
2 employment time for any portion of a day spent in Illinois.

3 (H) As used in this Article, "school" means any public or
4 private educational institution, including, but not limited
5 to, any elementary or secondary school, trade or professional
6 institution, or institution of higher education.

7 (I) As used in this Article, "fixed residence" means any
8 and all places that a sex offender resides for an aggregate
9 period of time of 5 or more days in a calendar year.

10 (Source: P.A. 93-977, eff. 8-20-04; 93-979, eff. 8-20-04;
11 94-166, eff. 1-1-06; 94-168, eff. 1-1-06; revised 8-19-05.)

12 (730 ILCS 150/3) (from Ch. 38, par. 223)

13 Sec. 3. Duty to register.

14 (a) A sex offender, as defined in Section 2 of this Act, or
15 sexual predator shall, within the time period prescribed in
16 subsections (b) and (c), register in person and provide
17 accurate information as required by the Department of State
18 Police. Such information shall include a current photograph,
19 current address, current place of employment, the employer's
20 telephone number, school attended, extensions of the time
21 period for registering as provided in this Article and, if an
22 extension was granted, the reason why the extension was granted
23 and the date the sex offender was notified of the extension. A
24 person who has been adjudicated a juvenile delinquent for an
25 act which, if committed by an adult, would be a sex offense
26 shall register as an adult sex offender within 10 days after
27 attaining 18 ~~17~~ years of age. The sex offender or sexual
28 predator shall register:

29 (1) with the chief of police in the municipality in
30 which he or she resides or is temporarily domiciled for a
31 period of time of 5 or more days, unless the municipality
32 is the City of Chicago, in which case he or she shall
33 register at the Chicago Police Department Headquarters; or

34 (2) with the sheriff in the county in which he or she
35 resides or is temporarily domiciled for a period of time of

1 5 or more days in an unincorporated area or, if
2 incorporated, no police chief exists.

3 If the sex offender or sexual predator is employed at or
4 attends an institution of higher education, he or she shall
5 register:

6 (i) with the chief of police in the municipality in
7 which he or she is employed at or attends an institution of
8 higher education, unless the municipality is the City of
9 Chicago, in which case he or she shall register at the
10 Chicago Police Department Headquarters; or

11 (ii) with the sheriff in the county in which he or she
12 is employed or attends an institution of higher education
13 located in an unincorporated area, or if incorporated, no
14 police chief exists.

15 For purposes of this Article, the place of residence or
16 temporary domicile is defined as any and all places where the
17 sex offender resides for an aggregate period of time of 5 or
18 more days during any calendar year. Any person required to
19 register under this Article who lacks a fixed address or
20 temporary domicile must notify, in person, the agency of
21 jurisdiction of his or her last known address within 5 days
22 after ceasing to have a fixed residence.

23 Any person who lacks a fixed residence must report weekly,
24 in person, with the sheriff's office of the county in which he
25 or she is located in an unincorporated area, or with the chief
26 of police in the municipality in which he or she is located.
27 The agency of jurisdiction will document each weekly
28 registration to include all the locations where the person has
29 stayed during the past 7 days.

30 The sex offender or sexual predator shall provide accurate
31 information as required by the Department of State Police. That
32 information shall include the sex offender's or sexual
33 predator's current place of employment.

34 (a-5) An out-of-state student or out-of-state employee
35 shall, within 5 days after beginning school or employment in
36 this State, register in person and provide accurate information

1 as required by the Department of State Police. Such information
2 will include current place of employment, school attended, and
3 address in state of residence. The out-of-state student or
4 out-of-state employee shall register:

5 (1) with the chief of police in the municipality in
6 which he or she attends school or is employed for a period
7 of time of 5 or more days or for an aggregate period of
8 time of more than 30 days during any calendar year, unless
9 the municipality is the City of Chicago, in which case he
10 or she shall register at the Chicago Police Department
11 Headquarters; or

12 (2) with the sheriff in the county in which he or she
13 attends school or is employed for a period of time of 5 or
14 more days or for an aggregate period of time of more than
15 30 days during any calendar year in an unincorporated area
16 or, if incorporated, no police chief exists.

17 The out-of-state student or out-of-state employee shall
18 provide accurate information as required by the Department of
19 State Police. That information shall include the out-of-state
20 student's current place of school attendance or the
21 out-of-state employee's current place of employment.

22 (b) Any sex offender, as defined in Section 2 of this Act,
23 or sexual predator, regardless of any initial, prior, or other
24 registration, shall, within 5 days of beginning school, or
25 establishing a residence, place of employment, or temporary
26 domicile in any county, register in person as set forth in
27 subsection (a) or (a-5).

28 (c) The registration for any person required to register
29 under this Article shall be as follows:

30 (1) Any person registered under the Habitual Child Sex
31 Offender Registration Act or the Child Sex Offender
32 Registration Act prior to January 1, 1996, shall be deemed
33 initially registered as of January 1, 1996; however, this
34 shall not be construed to extend the duration of
35 registration set forth in Section 7.

36 (2) Except as provided in subsection (c) (4), any person

1 convicted or adjudicated prior to January 1, 1996, whose
2 liability for registration under Section 7 has not expired,
3 shall register in person prior to January 31, 1996.

4 (2.5) Except as provided in subsection (c)(4), any
5 person who has not been notified of his or her
6 responsibility to register shall be notified by a criminal
7 justice entity of his or her responsibility to register.
8 Upon notification the person must then register within 5
9 days of notification of his or her requirement to register.
10 If notification is not made within the offender's 10 year
11 registration requirement, and the Department of State
12 Police determines no evidence exists or indicates the
13 offender attempted to avoid registration, the offender
14 will no longer be required to register under this Act.

15 (3) Except as provided in subsection (c)(4), any person
16 convicted on or after January 1, 1996, shall register in
17 person within 5 days after the entry of the sentencing
18 order based upon his or her conviction.

19 (4) Any person unable to comply with the registration
20 requirements of this Article because he or she is confined,
21 institutionalized, or imprisoned in Illinois on or after
22 January 1, 1996, shall register in person within 5 days of
23 discharge, parole or release.

24 (5) The person shall provide positive identification
25 and documentation that substantiates proof of residence at
26 the registering address.

27 (6) The person shall pay a \$20 initial registration fee
28 and a \$10 annual renewal fee. The fees shall be used by the
29 registering agency for official purposes. The agency shall
30 establish procedures to document receipt and use of the
31 funds. The law enforcement agency having jurisdiction may
32 waive the registration fee if it determines that the person
33 is indigent and unable to pay the registration fee. Ten
34 dollars for the initial registration fee and \$5 of the
35 annual renewal fee shall be used by the registering agency
36 for official purposes. Ten dollars of the initial

1 registration fee and \$5 of the annual fee shall be
2 deposited into the Sex Offender Management Board Fund under
3 Section 19 of the Sex Offender Management Board Act. Money
4 deposited into the Sex Offender Management Board Fund shall
5 be administered by the Sex Offender Management Board and
6 shall be used to fund practices endorsed or required by the
7 Sex Offender Management Board Act including but not limited
8 to sex offenders evaluation, treatment, or monitoring
9 programs that are or may be developed, as well as for
10 administrative costs, including staff, incurred by the
11 Board.

12 (d) Within 5 days after obtaining or changing employment
13 and, if employed on January 1, 2000, within 5 days after that
14 date, a person required to register under this Section must
15 report, in person to the law enforcement agency having
16 jurisdiction, the business name and address where he or she is
17 employed. If the person has multiple businesses or work
18 locations, every business and work location must be reported to
19 the law enforcement agency having jurisdiction.

20 (Source: P.A. 93-616, eff. 1-1-04; 93-979, eff. 8-20-04;
21 94-166, eff. 1-1-06; 94-168, eff. 1-1-06; revised 8-19-05.)