



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

SB2042

Introduced 2/7/2008, by Sen. Michael Bond

SYNOPSIS AS INTRODUCED:

105 ILCS 5/10-20.12a	from Ch. 122, par. 10-20.12a
105 ILCS 5/10-20.12b	
105 ILCS 5/14-1.11	from Ch. 122, par. 14-1.11
105 ILCS 5/14-7.03	from Ch. 122, par. 14-7.03
705 ILCS 405/5-710	

Amends the School Code and the Juvenile Court Act of 1987. Makes changes relating to the residency of pupils in residential facilities and the payment of costs in provisions of the School Code concerning tuition for non-resident pupils, residency and the payment of tuition, determining the resident district with respect to children with disabilities, and special education classes for children from orphanages, foster family homes, children's homes, or in-State housing units and a provision of the Juvenile Court Act of 1987 concerning sentencing orders. Provides that certain of these changes apply to all placements in effect on July 1, 2007 and all placements thereafter. Contains a severability clause. Effective immediately.

LRB095 18874 NHT 45013 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning education.

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

4 Section 5. The School Code is amended by changing Sections
5 10-20.12a, 10-20.12b, 14-1.11, and 14-7.03 as follows:

6 (105 ILCS 5/10-20.12a) (from Ch. 122, par. 10-20.12a)

7 Sec. 10-20.12a. Tuition for non-resident pupils. To charge
8 non-resident pupils who attend the schools of the district
9 tuition in an amount not exceeding 110% of the per capita cost
10 of maintaining the schools of the district for the preceding
11 school year.

12 Such per capita cost shall be computed by dividing the
13 total cost of conducting and maintaining the schools of the
14 district by the average daily attendance, including tuition
15 pupils. Depreciation on the buildings and equipment of the
16 schools of the district, and the amount of annual depreciation
17 on such buildings and equipment shall be dependent upon the
18 useful life of such property.

19 The tuition charged shall in no case exceed 110% of the per
20 capita cost of conducting and maintaining the schools of the
21 district attended, as determined with reference to the most
22 recent audit prepared under Section 3-7 which is available at
23 the commencement of the current school year. Non-resident

1 pupils attending the schools of the district for less than the
2 school term shall have their tuition apportioned, however
3 pupils who become non-resident during a school term shall not
4 be charged tuition for the remainder of the school term in
5 which they became non-resident pupils.

6 Unless otherwise agreed to by the parties involved and
7 where the educational services are not otherwise provided for,
8 educational services for an Illinois student under the age of
9 21 in a residential program designed to correct alcohol or
10 other drug dependencies shall be provided by the district in
11 which the facility is located and financed as follows. The cost
12 of educational services shall be paid by the district in which
13 the student resides in an amount equal to the cost of providing
14 educational services in a treatment facility. Payments shall be
15 made by the district of the student's residence and shall be
16 made to the district wherein the facility is located no less
17 than once per month unless otherwise agreed to by the parties.

18 The funding provision in this paragraph applies to all Illinois
19 students receiving educational services in residential
20 facilities designed to correct alcohol or other drug
21 dependencies, irrespective of whether the student was placed
22 therein pursuant to this Code, the Juvenile Court Act of 1987,
23 or a court order or by a State agency. Nothing in this Section
24 shall be construed to relieve the district of the student's
25 residence of financial responsibility based on the manner in
26 which the student was placed at the facility. The changes to

1 this Section made by this amendatory Act of the 95th General
2 Assembly apply to all placements in effect on July 1, 2007 and
3 all placements thereafter.

4 (Source: P.A. 89-397, eff. 8-20-95; 90-649, eff. 7-24-98.)

5 (105 ILCS 5/10-20.12b)

6 Sec. 10-20.12b. Residency; payment of tuition; hearing;
7 criminal penalty.

8 (a) For purposes of this Section:

9 (1) The residence of a person who has legal custody of
10 a pupil is deemed to be the residence of the pupil.

11 (2) "Legal custody" means one of the following:

12 (i) Custody exercised by a natural or adoptive
13 parent with whom the pupil resides.

14 (ii) Custody granted by order of a court of
15 competent jurisdiction to a person with whom the pupil
16 resides for reasons other than to have access to the
17 educational programs of the district.

18 (iii) Custody exercised under a statutory
19 short-term guardianship, provided that within 60 days
20 of the pupil's enrollment a court order is entered that
21 establishes a permanent guardianship and grants
22 custody to a person with whom the pupil resides for
23 reasons other than to have access to the educational
24 programs of the district.

25 (iv) Custody exercised by an adult caretaker

1 relative who is receiving aid under the Illinois Public
2 Aid Code for the pupil who resides with that adult
3 caretaker relative for purposes other than to have
4 access to the educational programs of the district.

5 (v) Custody exercised by an adult who demonstrates
6 that, in fact, he or she has assumed and exercises
7 legal responsibility for the pupil and provides the
8 pupil with a regular fixed night-time abode for
9 purposes other than to have access to the educational
10 programs of the district.

11 (a-5) If a pupil's change of residence is due to the
12 military service obligation of a person who has legal custody
13 of the pupil, then, upon the written request of the person
14 having legal custody of the pupil, the residence of the pupil
15 is deemed for all purposes relating to enrollment (including
16 tuition, fees, and costs), for the duration of the custodian's
17 military service obligation, to be the same as the residence of
18 the pupil immediately before the change of residence caused by
19 the military service obligation. A school district is not
20 responsible for providing transportation to or from school for
21 a pupil whose residence is determined under this subsection
22 (a-5). School districts shall facilitate re-enrollment when
23 necessary to comply with this subsection (a-5).

24 (b) Except as otherwise provided under Section 10-22.5a,
25 only resident pupils of a school district may attend the
26 schools of the district without payment of the tuition required

1 to be charged under Section 10-20.12a. However, children for
2 whom the Guardianship Administrator of the Department of
3 Children and Family Services has been appointed temporary
4 custodian or guardian of the person of a child shall not be
5 charged tuition as a nonresident pupil if the child was placed
6 by the Department of Children and Family Services with a foster
7 parent or placed in another type of child care facility and the
8 foster parent or child care facility is located in a school
9 district other than the child's former school district and it
10 is determined by the Department of Children and Family Services
11 to be in the child's best interest to maintain attendance at
12 his or her former school district.

13 (b-5) The residence of a pupil placed in a residential drug
14 or alcohol treatment facility by order of a court must be
15 determined in accordance with subsection (a) of this Section,
16 except in those instances in which a court of competent
17 jurisdiction has affirmatively terminated the parent's or
18 guardian's legal rights to guardianship over the pupil. The
19 changes to this Section made by this amendatory Act of the 95th
20 General Assembly apply to all placements in effect on July 1,
21 2007 and all placements thereafter.

22 (c) The provisions of this subsection do not apply in
23 school districts having a population of 500,000 or more. If a
24 school board in a school district with a population of less
25 than 500,000 determines that a pupil who is attending school in
26 the district on a tuition free basis is a nonresident of the

1 district for whom tuition is required to be charged under
2 Section 10-20.12a, the board shall notify the person who
3 enrolled the pupil of the amount of the tuition charged under
4 Section 10-20.12a that is due to the district for the
5 nonresident pupil's attendance in the district's schools. The
6 notice shall be given by certified mail, return receipt
7 requested. Within 10 days after receipt of the notice, the
8 person who enrolled the pupil may request a hearing to review
9 the determination of the school board. The request shall be
10 sent by certified mail, return receipt requested, to the
11 district superintendent. Within 10 days after receipt of the
12 request, the board shall notify, by certified mail, return
13 receipt requested, the person requesting the hearing of the
14 time and place of the hearing, which shall be held not less
15 than 10 nor more than 20 days after the notice of hearing is
16 given. The board or a hearing officer designated by the board
17 shall conduct the hearing. The board and the person who
18 enrolled the pupil may be represented at the hearing by
19 representatives of their choice. At the hearing, the person who
20 enrolled the pupil shall have the burden of going forward with
21 the evidence concerning the pupil's residency. If the hearing
22 is conducted by a hearing officer, the hearing officer, within
23 5 days after the conclusion of the hearing, shall send a
24 written report of his or her findings by certified mail, return
25 receipt requested, to the school board and to the person who
26 enrolled the pupil. The person who enrolled the pupil may,

1 within 5 days after receiving the findings, file written
2 objections to the findings with the school board by sending the
3 objections by certified mail, return receipt requested,
4 addressed to the district superintendent. Whether the hearing
5 is conducted by the school board or a hearing officer, the
6 school board shall, within 15 days after the conclusion of the
7 hearing, decide whether or not the pupil is a resident of the
8 district and the amount of any tuition required to be charged
9 under Section 10-20.12a as a result of the pupil's attendance
10 in the schools of the district. The school board shall send a
11 copy of its decision to the person who enrolled the pupil, and
12 the decision of the school board shall be final.

13 (c-5) The provisions of this subsection apply only in
14 school districts having a population of 500,000 or more. If the
15 board of education of a school district with a population of
16 500,000 or more determines that a pupil who is attending school
17 in the district on a tuition free basis is a nonresident of the
18 district for whom tuition is required to be charged under
19 Section 10-20.12a, the board shall notify the person who
20 enrolled the pupil of the amount of the tuition charged under
21 Section 10-20.12a that is due to the district for the
22 nonresident pupil's attendance in the district's schools. The
23 notice shall be given by certified mail, return receipt
24 requested. Within 10 days after receipt of the notice, the
25 person who enrolled the pupil may request a hearing to review
26 the determination of the school board. The request shall be

1 sent by certified mail, return receipt requested, to the
2 district superintendent. Within 30 days after receipt of the
3 request, the board shall notify, by certified mail, return
4 receipt requested, the person requesting the hearing of the
5 time and place of the hearing, which shall be held not less
6 than 10 nor more than 30 days after the notice of hearing is
7 given. The board or a hearing officer designated by the board
8 shall conduct the hearing. The board and the person who
9 enrolled the pupil may each be represented at the hearing by a
10 representative of their choice. At the hearing, the person who
11 enrolled the pupil shall have the burden of going forward with
12 the evidence concerning the pupil's residency. If the hearing
13 is conducted by a hearing officer, the hearing officer, within
14 20 days after the conclusion of the hearing, shall serve a
15 written report of his or her findings by personal service or by
16 certified mail, return receipt requested, to the school board
17 and to the person who enrolled the pupil. The person who
18 enrolled the pupil may, within 10 days after receiving the
19 findings, file written objections to the findings with the
20 board of education by sending the objections by certified mail,
21 return receipt requested, addressed to the general
22 superintendent of schools. If the hearing is conducted by the
23 board of education, the board shall, within 45 days after the
24 conclusion of the hearing, decide whether or not the pupil is a
25 resident of the district and the amount of any tuition required
26 to be charged under Section 10-20.12a as a result of the

1 pupil's attendance in the schools of the district. If the
2 hearing is conducted by a hearing officer, the board of
3 education shall, within 45 days after the receipt of the
4 hearing officer's findings, decide whether or not the pupil is
5 a resident of the district and the amount of any tuition
6 required to be charged under Section 10-20.12a as a result of
7 the pupil's attendance in the schools of the district. The
8 board of education shall send, by certified mail, return
9 receipt requested, a copy of its decision to the person who
10 enrolled the pupil, and the decision of the board shall be
11 final.

12 (d) If a hearing is requested under subsection (c) or (c-5)
13 to review the determination of the school board or board of
14 education that a nonresident pupil is attending the schools of
15 the district without payment of the tuition required to be
16 charged under Section 10-20.12a, the pupil may, at the request
17 of a person who enrolled the pupil, continue attendance at the
18 schools of the district pending a final decision of the board
19 following the hearing. However, attendance of that pupil in the
20 schools of the district as authorized by this subsection (d)
21 shall not relieve any person who enrolled the pupil of the
22 obligation to pay the tuition charged for that attendance under
23 Section 10-20.12a if the final decision of the board is that
24 the pupil is a nonresident of the district. If a pupil is
25 determined to be a nonresident of the district for whom tuition
26 is required to be charged pursuant to this Section, the board

1 shall refuse to permit the pupil to continue attending the
2 schools of the district unless the required tuition is paid for
3 the pupil.

4 (e) Except for a pupil referred to in subsection (b) of
5 Section 10-22.5a, a pupil referred to in Section 10-20.12a, or
6 a pupil referred to in subsection (b) of this Section, a person
7 who knowingly enrolls or attempts to enroll in the schools of a
8 school district on a tuition free basis a pupil known by that
9 person to be a nonresident of the district shall be guilty of a
10 Class C misdemeanor.

11 (f) A person who knowingly or wilfully presents to any
12 school district any false information regarding the residency
13 of a pupil for the purpose of enabling that pupil to attend any
14 school in that district without the payment of a nonresident
15 tuition charge shall be guilty of a Class C misdemeanor.

16 (g) The provisions of this Section are subject to the
17 provisions of the Education for Homeless Children Act. Nothing
18 in this Section shall be construed to apply to or require the
19 payment of tuition by a parent or guardian of a "homeless
20 child" (as that term is defined in Section 1-5 of the Education
21 for Homeless Children Act) in connection with or as a result of
22 the homeless child's continued education or enrollment in a
23 school that is chosen in accordance with any of the options
24 provided in Section 1-10 of that Act.

25 (Source: P.A. 94-309, eff. 7-25-05.)

1 (105 ILCS 5/14-1.11) (from Ch. 122, par. 14-1.11)
2 Sec. 14-1.11. Resident district; parent; legal guardian.
3 The resident district is the school district in which the
4 parent or guardian, or both parent and guardian, of the student
5 reside when:

6 (1) the parent has legal guardianship of the student
7 and resides within Illinois; or

8 (2) an individual guardian has been appointed by the
9 courts and resides within Illinois; or

10 (3) an Illinois public agency has legal guardianship
11 and the student resides either in the home of the parent or
12 within the same district as the parent; or

13 (4) an Illinois court orders a residential placement
14 but the parents retain any legal rights or guardianship and
15 have not been subject to a termination of parental rights
16 order.

17 In cases of divorced or separated parents, when only one
18 parent has legal guardianship or custody, the district in which
19 the parent having legal guardianship or custody resides is the
20 resident district. When both parents retain legal guardianship
21 or custody, the resident district is the district in which
22 either parent who provides the student's primary regular fixed
23 night-time abode resides; provided, that the election of
24 resident district may be made only one time per school year.

25 When the parent has legal guardianship and lives outside of
26 the State of Illinois, or when the individual legal guardian

1 other than the natural parent lives outside the State of
2 Illinois, the parent, legal guardian, or other placing agent is
3 responsible for making arrangements to pay the Illinois school
4 district serving the child for the educational services
5 provided. Those service costs shall be determined in accordance
6 with Section 14-7.01.

7 (Source: P.A. 89-698, eff. 1-14-97.)

8 (105 ILCS 5/14-7.03) (from Ch. 122, par. 14-7.03)

9 Sec. 14-7.03. Special Education Classes for Children from
10 Orphanages, Foster Family Homes, Children's Homes, or in State
11 Housing Units. If a school district maintains special education
12 classes on the site of orphanages and children's homes, or if
13 children from the orphanages, children's homes, foster family
14 homes, other State agencies, or State residential units for
15 children attend classes for children with disabilities in which
16 the school district is a participating member of a joint
17 agreement, or if the children from the orphanages, children's
18 homes, foster family homes, other State agencies, or State
19 residential units attend classes for the children with
20 disabilities maintained by the school district, then
21 reimbursement shall be paid to eligible districts in accordance
22 with the provisions of this Section by the Comptroller as
23 directed by the State Superintendent of Education.

24 The amount of tuition for such children shall be determined
25 by the actual cost of maintaining such classes, using the per

1 capita cost formula set forth in Section 14-7.01, such program
2 and cost to be pre-approved by the State Superintendent of
3 Education.

4 On forms prepared by the State Superintendent of Education,
5 the district shall certify to the regional superintendent the
6 following:

7 (1) The name of the home or State residential unit with
8 the name of the owner or proprietor and address of those
9 maintaining it;

10 (2) That no service charges or other payments
11 authorized by law were collected in lieu of taxes therefrom
12 or on account thereof during either of the calendar years
13 included in the school year for which claim is being made;

14 (3) The number of children qualifying under this Act in
15 special education classes for instruction on the site of
16 the orphanages and children's homes;

17 (4) The number of children attending special education
18 classes for children with disabilities in which the
19 district is a participating member of a special education
20 joint agreement;

21 (5) The number of children attending special education
22 classes for children with disabilities maintained by the
23 district;

24 (6) The computed amount of tuition payment claimed as
25 due, as approved by the State Superintendent of Education,
26 for maintaining these classes.

1 If a school district makes a claim for reimbursement under
2 Section 18-3 or 18-4 of this Act it shall not include in any
3 claim filed under this Section a claim for such children.
4 Payments authorized by law, including State or federal grants
5 for education of children included in this Section, shall be
6 deducted in determining the tuition amount.

7 Nothing in this Act shall be construed so as to prohibit
8 reimbursement for the tuition of children placed in for profit
9 facilities. Private facilities shall provide adequate space at
10 the facility for special education classes provided by a school
11 district or joint agreement for children with disabilities who
12 are residents of the facility at no cost to the school district
13 or joint agreement upon request of the school district or joint
14 agreement. If such a private facility provides space at no cost
15 to the district or joint agreement for special education
16 classes provided to children with disabilities who are
17 residents of the facility, the district or joint agreement
18 shall not include any costs for the use of those facilities in
19 its claim for reimbursement.

20 Reimbursement for tuition may include the cost of providing
21 summer school programs for children with severe and profound
22 disabilities served under this Section. Claims for that
23 reimbursement shall be filed by November 1 and shall be paid on
24 or before December 15 from appropriations made for the purposes
25 of this Section.

26 The State Board of Education shall establish such rules and

1 regulations as may be necessary to implement the provisions of
2 this Section.

3 Claims filed on behalf of programs operated under this
4 Section housed in a jail, detention center, or county-owned
5 shelter care facility shall be on an individual student basis
6 only for eligible students with disabilities. These claims
7 shall be in accordance with applicable rules.

8 Each district claiming reimbursement for a program
9 operated as a group program shall have an approved budget on
10 file with the State Board of Education prior to the initiation
11 of the program's operation. On September 30, December 31, and
12 March 31, the State Board of Education shall voucher payments
13 to group programs based upon the approved budget during the
14 year of operation. Final claims for group payments shall be
15 filed on or before July 15. Final claims for group programs
16 received at the State Board of Education on or before June 15
17 shall be vouchered by June 30. Final claims received at the
18 State Board of Education between June 16 and July 15 shall be
19 vouchered by August 30. Claims for group programs received
20 after July 15 shall not be honored.

21 Each district claiming reimbursement for individual
22 students shall have the eligibility of those students verified
23 by the State Board of Education. On September 30, December 31,
24 and March 31, the State Board of Education shall voucher
25 payments for individual students based upon an estimated cost
26 calculated from the prior year's claim. Final claims for

1 individual students for the regular school term must be
2 received at the State Board of Education by July 15. Claims for
3 individual students received after July 15 shall not be
4 honored. Final claims for individual students shall be
5 vouchered by August 30.

6 Reimbursement shall be made based upon approved group
7 programs or individual students. The State Superintendent of
8 Education shall direct the Comptroller to pay a specified
9 amount to the district by the 30th day of September, December,
10 March, June, or August, respectively. However, notwithstanding
11 any other provisions of this Section or the School Code,
12 beginning with fiscal year 1994 and each fiscal year
13 thereafter, if the amount appropriated for any fiscal year is
14 less than the amount required for purposes of this Section, the
15 amount required to eliminate any insufficient reimbursement
16 for each district claim under this Section shall be reimbursed
17 on August 30 of the next fiscal year. Payments required to
18 eliminate any insufficiency for prior fiscal year claims shall
19 be made before any claims are paid for the current fiscal year.

20 The claim of a school district otherwise eligible to be
21 reimbursed in accordance with Section 14-12.01 for the 1976-77
22 school year but for this amendatory Act of 1977 shall not be
23 paid unless the district ceases to maintain such classes for
24 one entire school year.

25 If a school district's current reimbursement payment for
26 the 1977-78 school year only is less than the prior year's

1 reimbursement payment owed, the district shall be paid the
2 amount of the difference between the payments in addition to
3 the current reimbursement payment, and the amount so paid shall
4 be subtracted from the amount of prior year's reimbursement
5 payment owed to the district.

6 Regional superintendents may operate special education
7 classes for children from orphanages, foster family homes,
8 children's homes or State housing units located within the
9 educational services region upon consent of the school board
10 otherwise so obligated. In electing to assume the powers and
11 duties of a school district in providing and maintaining such a
12 special education program, the regional superintendent may
13 enter into joint agreements with other districts and may
14 contract with public or private schools or the orphanage,
15 foster family home, children's home or State housing unit for
16 provision of the special education program. The regional
17 superintendent exercising the powers granted under this
18 Section shall claim the reimbursement authorized by this
19 Section directly from the State Board of Education.

20 Any child who is not a resident of Illinois who is placed
21 in a child welfare institution, private facility, foster family
22 home, State operated program, orphanage or children's home
23 shall have the payment for his educational tuition and any
24 related services assured by the placing agent.

25 Commencing July 1, 1992, for each disabled student who is
26 placed residentially by a State agency or the courts for care

1 or custody or both care and custody, welfare, medical or mental
2 health treatment or both medical and mental health treatment,
3 rehabilitation, and protection, whether placed there on,
4 before, or after July 1, 1992, the costs for educating the
5 student are eligible for reimbursement under this Section
6 providing the placing agency or court has notified the
7 appropriate school district authorities of the status of
8 student residency where applicable prior to or upon placement.
9 School Subject to appropriation, school districts of residence
10 are responsible for paying for the educational services of
11 disabled students residentially placed by a State agency or the
12 courts or residentially placed and paid for by a State agency
13 for any of the reasons listed in this paragraph. These
14 districts shall be reimbursed under this Section for the
15 eligible costs of educating all such disabled students
16 ~~residentially placed by a State agency or the courts or placed~~
17 ~~and paid for by a State agency for any of the reasons listed in~~
18 ~~this paragraph.~~ Reimbursements under this paragraph shall
19 first be provided for claims made for the 2007-2008 school year
20 payable in fiscal year 2008. The changes to this Section made
21 by this amendatory Act of the 95th General Assembly apply to
22 all placements in effect on July 1, 2007 and all placements
23 thereafter.

24 The district of residence of the parent, guardian, or
25 disabled student as defined in Sections 14-1.11 and 14-1.11a is
26 responsible for the actual costs of the student's special

1 education program and is eligible for reimbursement under this
2 Section when placement is made by a State agency or the courts.
3 Payments shall be made by the resident district to the district
4 wherein the facility is located no less than once per quarter
5 unless otherwise agreed to in writing by the parties.

6 When a dispute arises over the determination of the
7 district of residence, the district or districts may appeal the
8 decision in writing to the State Superintendent of Education.
9 The decision of the State Superintendent of Education shall be
10 final.

11 In the event a district does not make a tuition payment to
12 another district that is providing the special education
13 program and services, the State Board of Education shall
14 immediately withhold 125% of the then remaining annual tuition
15 cost from the State aid or categorical aid payment due to the
16 school district that is determined to be the resident school
17 district. All funds withheld by the State Board of Education
18 shall immediately be forwarded to the school district where the
19 student is being served.

20 When a child eligible for services under this Section
21 14-7.03 must be placed in a nonpublic facility, that facility
22 shall meet the programmatic requirements of Section 14-7.02 and
23 its regulations, and the educational services shall be funded
24 only in accordance with this Section 14-7.03.

25 (Source: P.A. 95-313, eff. 8-20-07.)

1 Section 10. The Juvenile Court Act of 1987 is amended by
2 changing Section 5-710 as follows:

3 (705 ILCS 405/5-710)

4 (Text of Section before amendment by P.A. 95-337 and
5 95-642)

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

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

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

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

19 (ii) placed in accordance with Section 5-740, with
20 or without also being put on probation or conditional
21 discharge;

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

25 (iv) placed in the guardianship of the Department

1 of Children and Family Services, but only if the
2 delinquent minor is under 13 years of age;

3 (v) placed in detention for a period not to exceed
4 30 days, either as the exclusive order of disposition
5 or, where appropriate, in conjunction with any other
6 order of disposition issued under this paragraph,
7 provided that any such detention shall be in a juvenile
8 detention home and the minor so detained shall be 10
9 years of age or older. However, the 30-day limitation
10 may be extended by further order of the court for a
11 minor under age 13 committed to the Department of
12 Children and Family Services if the court finds that
13 the minor is a danger to himself or others. The minor
14 shall be given credit on the sentencing order of
15 detention for time spent in detention under Sections
16 5-501, 5-601, 5-710, or 5-720 of this Article as a
17 result of the offense for which the sentencing order
18 was imposed. The court may grant credit on a sentencing
19 order of detention entered under a violation of
20 probation or violation of conditional discharge under
21 Section 5-720 of this Article for time spent in
22 detention before the filing of the petition alleging
23 the violation. A minor shall not be deprived of credit
24 for time spent in detention before the filing of a
25 violation of probation or conditional discharge
26 alleging the same or related act or acts;

1 (vi) ordered partially or completely emancipated
2 in accordance with the provisions of the Emancipation
3 of Minors Act;

4 (vii) subject to having his or her driver's license
5 or driving privileges suspended for such time as
6 determined by the court but only until he or she
7 attains 18 years of age;

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

16 (ix) ordered to undergo a medical or other
17 procedure to have a tattoo symbolizing allegiance to a
18 street gang removed from his or her body.

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

1 parent, guardian or legal custodian shall be considered as
2 time spent in detention.

3 (c) When a minor is found to be guilty for an offense
4 which is a violation of the Illinois Controlled Substances
5 Act, the Cannabis Control Act, or the Methamphetamine
6 Control and Community Protection Act and made a ward of the
7 court, the court may enter a disposition order requiring
8 the minor to undergo assessment, counseling or treatment in
9 a substance abuse program approved by the Department of
10 Human Services.

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

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

19 (4) In addition to any other sentence, the court may order
20 any minor found to be delinquent to make restitution, in
21 monetary or non-monetary form, under the terms and conditions
22 of Section 5-5-6 of the Unified Code of Corrections, except
23 that the "presentencing hearing" referred to in that Section
24 shall be the sentencing hearing for purposes of this Section.
25 The parent, guardian or legal custodian of the minor may be
26 ordered by the court to pay some or all of the restitution on

1 the minor's behalf, pursuant to the Parental Responsibility
2 Law. The State's Attorney is authorized to act on behalf of any
3 victim in seeking restitution in proceedings under this
4 Section, up to the maximum amount allowed in Section 5 of the
5 Parental Responsibility Law.

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

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

26 (7) In no event shall a guilty minor be committed to the

1 Department of Juvenile Justice for a period of time in excess
2 of that period for which an adult could be committed for the
3 same act.

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

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

22 (9) In addition to any other sentencing order, the court
23 shall order any minor found to be guilty for an act which would
24 constitute, predatory criminal sexual assault of a child,
25 aggravated criminal sexual assault, criminal sexual assault,
26 aggravated criminal sexual abuse, or criminal sexual abuse if

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

1 are revealed. The court shall order that the cost of any test
2 shall be paid by the county and may be taxed as costs against
3 the minor.

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

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

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

7 (Text of Section after amendment by P.A. 95-337 and 95-642)
8 Sec. 5-710. Kinds of sentencing orders.

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

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

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

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

24 (iii) required to undergo a substance abuse
25 assessment conducted by a licensed provider and

1 participate in the indicated clinical level of care;

2 (iv) placed in the guardianship of the Department
3 of Children and Family Services, but only if the
4 delinquent minor is under 15 years of age or, pursuant
5 to Article II of this Act, a minor for whom an
6 independent basis of abuse, neglect, or dependency
7 exists. An independent basis exists when the
8 allegations or adjudication of abuse, neglect, or
9 dependency do not arise from the same facts, incident,
10 or circumstances which give rise to a charge or
11 adjudication of delinquency;

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

1 was imposed. The court may grant credit on a sentencing
2 order of detention entered under a violation of
3 probation or violation of conditional discharge under
4 Section 5-720 of this Article for time spent in
5 detention before the filing of the petition alleging
6 the violation. A minor shall not be deprived of credit
7 for time spent in detention before the filing of a
8 violation of probation or conditional discharge
9 alleging the same or related act or acts;

10 (vi) ordered partially or completely emancipated
11 in accordance with the provisions of the Emancipation
12 of Minors Act;

13 (vii) subject to having his or her driver's license
14 or driving privileges suspended for such time as
15 determined by the court but only until he or she
16 attains 18 years of age;

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

25 (ix) ordered to undergo a medical or other
26 procedure to have a tattoo symbolizing allegiance to a

1 street gang removed from his or her body.

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

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

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

24 (3) Unless the sentencing order expressly so provides, it
25 does not operate to close proceedings on the pending petition,
26 but is subject to modification until final closing and

1 discharge of the proceedings under Section 5-750.

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

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

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

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

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

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

23 (8.5) A minor found to be guilty for reasons that include a
24 violation of Section 3.02 or Section 3.03 of the Humane Care
25 for Animals Act or paragraph (d) of subsection (1) of Section
26 21-1 of the Criminal Code of 1961 shall be ordered to undergo

1 medical or psychiatric treatment rendered by a psychiatrist or
2 psychological treatment rendered by a clinical psychologist.
3 The order may be in addition to any other order authorized by
4 this Section.

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

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

13 (10) When a court finds a minor to be guilty the court
14 shall, before entering a sentencing order under this Section,
15 make a finding whether the offense committed either: (a) was
16 related to or in furtherance of the criminal activities of an
17 organized gang or was motivated by the minor's membership in or
18 allegiance to an organized gang, or (b) involved a violation of
19 subsection (a) of Section 12-7.1 of the Criminal Code of 1961,
20 a violation of any Section of Article 24 of the Criminal Code
21 of 1961, or a violation of any statute that involved the
22 wrongful use of a firearm. If the court determines the question
23 in the affirmative, and the court does not commit the minor to
24 the Department of Juvenile Justice, the court shall order the
25 minor to perform community service for not less than 30 hours
26 nor more than 120 hours, provided that community service is

1 available in the jurisdiction and is funded and approved by the
2 county board of the county where the offense was committed. The
3 community service shall include, but need not be limited to,
4 the cleanup and repair of any damage caused by a violation of
5 Section 21-1.3 of the Criminal Code of 1961 and similar damage
6 to property located in the municipality or county in which the
7 violation occurred. When possible and reasonable, the
8 community service shall be performed in the minor's
9 neighborhood. This order shall be in addition to any other
10 order authorized by this Section except for an order to place
11 the minor in the custody of the Department of Juvenile Justice.
12 For the purposes of this Section, "organized gang" has the
13 meaning ascribed to it in Section 10 of the Illinois Streetgang
14 Terrorism Omnibus Prevention Act.

15 (11) If the court determines that the offense was committed
16 in furtherance of the criminal activities of an organized gang,
17 as provided in subsection (10), and that the offense involved
18 the operation or use of a motor vehicle or the use of a
19 driver's license or permit, the court shall notify the
20 Secretary of State of that determination and of the period for
21 which the minor shall be denied driving privileges. If, at the
22 time of the determination, the minor does not hold a driver's
23 license or permit, the court shall provide that the minor shall
24 not be issued a driver's license or permit until his or her
25 18th birthday. If the minor holds a driver's license or permit
26 at the time of the determination, the court shall provide that

1 the minor's driver's license or permit shall be revoked until
2 his or her 21st birthday, or until a later date or occurrence
3 determined by the court. If the minor holds a driver's license
4 at the time of the determination, the court may direct the
5 Secretary of State to issue the minor a judicial driving
6 permit, also known as a JDP. The JDP shall be subject to the
7 same terms as a JDP issued under Section 6-206.1 of the
8 Illinois Vehicle Code, except that the court may direct that
9 the JDP be effective immediately.

10 (Source: P.A. 94-556, eff. 9-11-05; 94-696, eff. 6-1-06;
11 95-337, eff. 6-1-08; 95-642, eff. 6-1-08; revised 11-19-07.)

12 Section 95. No acceleration or delay. Where this Act makes
13 changes in a statute that is represented in this Act by text
14 that is not yet or no longer in effect (for example, a Section
15 represented by multiple versions), the use of that text does
16 not accelerate or delay the taking effect of (i) the changes
17 made by this Act or (ii) provisions derived from any other
18 Public Act.

19 Section 97. Severability. If any provision of this Act or
20 its application to any person or circumstance is held invalid,
21 the invalidity of that provision or application does not affect
22 other provisions or applications of this Act that can be given
23 effect without the invalid provision or application.

24 Section 99. Effective date. This Act takes effect upon

1 becoming law.