

# **YOUTH AND SOCIETY 2000 RIGHTS AND RESPONSIBILITIES**

Sixth Edition



Constitutional Rights Foundation Chicago

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Executive Director

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## ACKNOWLEDGMENTS

We at the Constitutional Rights Foundation Chicago gratefully acknowledge the following persons for their contributions to *Youth and Society 2000* and recognize their essential roles in helping to bring such important information to Illinois youth.

Many thanks to:

The Chicago Bar Association Young Lawyers Section Committee on Homeless and At-Risk Youth, comprised of: Penny Gillen, Maria Harrigan, Brendan Patrick Meyer, Michael Thomas Miller, Sonya D. Naar, Jonathan Rolfe Sick, Susan Smith, Katherine E. Walz, and Julie Welsh for their assistance in updating the statutory and case law throughout this edition;

Ronald J. Allen for his extensive knowledge of constitutional criminal procedure;

Victor P. Filippini, Jr. for lending his expertise in contract and tort law;

Therese L. Hodges and Denise B. McCracken for generously giving their time and effort updating sections throughout the book, offering editorial assistance, answering questions and lending their expertise in education law;

Eileen Momblanco for her assistance in locating information on aliens and immigration;

James Oh and Carolyn Aberman for lending their expertise in employment law;

Timothy D. Payne for his contribution to the section entitled Aliens and Immigration;

Warren D. Watkins for sharing his encyclopedic knowledge of the *Illinois Juvenile Court Act* and lending his expertise on the juvenile court system;

James S. Whitehead for facilitating the update of the aliens and immigration materials; and

Jonathan Williams for his assistance in updating statutory and case law.

Special Thanks to CRFC staff members Nisan Chavkin, Gary Coleman, and Katy Hansen.

Jennifer Elizabeth Rosenberger Faus, Editor  
*Youth & Society 2000*

**FOREWORD**

America is a nation of optimists, a country focused on possibility for ourselves and our children. Each generation strives to continue the progress of its forebears and to leave a lasting legacy for its children.

The children of this era have greater opportunities than any generation before them, yet they remain highly vulnerable. Youth are immersed in a culture of violence, isolated by technology, seduced by sometimes elusive material prosperity, and left to sort through the financial and emotional wreckage that can accompany broken families.

We, their parents, caretakers, teachers, mentors and legislators are challenged to guide them safely around these and other obstacles—and to help them achieve their potential. Moreover, we have an obligation to keep the promise of our nation's founders and fulfill our constitution's guarantee to life, liberty and the pursuit of happiness.

This manual is a valuable resource for all those who act on behalf of our nation's children. It serves as a guide to children's rights and responsibilities under the law—and helps us better understand our obligations as caregivers and leaders.

Best wishes to all who use it.

Corinne Wood  
Lieutenant Governor

## FOREWORD

The Juvenile Court began in the United States in Cook County, Illinois, on July 1, 1899. The original stated purpose was to get children out of adult institutions, focus more on rehabilitative treatment rather than punishment and provide greater informality and confidentiality in court proceedings. As we have celebrated the Court's 100<sup>th</sup> Anniversary during the year 1999, we have been doing so under the new *Illinois Juvenile Court Act* that became effective January 1, 1999. Both society and laws have changed during the last 100 years, and I am certain that change will continue. This publication becomes more important as change continues.

The veil of confidentiality has long been in place to protect children that become involved in our court system. The premise of the need for confidentiality is to prevent the past of the minor from becoming an inappropriate adverse impediment to a successful adult life. There is no reason, however, for confidentiality preventing those who are expected to benefit from the service of the Juvenile Court learning about their rights and responsibilities. With every right, whether earned or given, there is a degree of responsibility associated with its exercise. *Youth and Society, Rights and Responsibilities*, provides an excellent overview of relationships with our laws, society, and our younger citizens.

Society and our urban environments are moving and often changing at such a fast pace we all have difficulty keeping up. Children should be aware of the support the constitution and courts are prepared to provide them. Additionally, youth have other support systems in place to help guide them in their responsibilities. Our youth must know that in addition to their extended families, they have law enforcement agencies, schools, the community and other concerned citizens they can turn to for advice and assistance.

Current events often cause society to debate the continued efficacy of our Juvenile Justice System. It is important that our youth have as much knowledge as possible about the decisions that may be made or that they may be making. An informed citizen is better able to contribute to the debate.

Curtis Heaston, Presiding Judge  
State of Illinois  
Circuit Court of Cook County  
Juvenile Justice Division

## INTRODUCTION TO THE SIXTH EDITION

*Youth and Society 2000* has been updated and reorganized to include recent court decisions and laws which affect juveniles in society and the schools. The purpose of this sourcebook is to introduce Illinois young people to their rights and responsibilities under the law. Like any sourcebook, it cannot address every possible situation or how the law will be applied in those situations. Rather, *Youth and Society 2000* outlines the prevailing rules and laws that apply in a variety of areas that affect youth. **YOUTH AND SOCIETY 2000 IS NOT INTENDED TO PROVIDE LEGAL ADVICE.** Call an attorney or a bar association for help with specific legal problems.

The term “minor” is defined and will vary per statute. Do not assume that when we use the word minor, we are referring to a specific age. For example, a seventeen year old who is charged with a crime will be tried in the adult criminal system. A person who is eighteen may vote in local, state, and federal elections. No one under twenty-one may legally purchase alcohol, but anyone over twelve years of age may consent to treatment for venereal disease and drug addiction. If you are unclear about your rights in regard to your status as a “minor” call an attorney or a bar association for help. Resources are listed throughout and at the end of this sourcebook.

The laws and court cases cited in this book are primarily state, with federal laws and court cases cited to highlight instances where federal law and court cases changed the administration of justice in Illinois.

Our system of federalism divides the authority between federal (national), state, and local governments. Even though federal laws and court cases are supreme, they cannot overrule state and local laws and court cases unless the state and local laws conflict with the federal ones. The U.S. Supreme Court is the highest court in the United States.

The U.S. Congress is made up of two legislative (law making) bodies, the Senate and the House of Representatives. In Illinois, legislative power is also vested in the Senate and House of Representatives called the General Assembly. Once laws are enacted in Illinois they are published in the Illinois Compiled Statutes, which are the official reports of Illinois law.

While most laws are made by the Senate and House of Representatives, there are federal, state, and local administrative agencies charged with enacting and enforcing regulations. In addition to the U.S. Congress and state legislatures, federal and state administrative agencies, cities, towns and counties have law making bodies which pass ordinances and regulations that govern actions only in relation to that agency or within in that city or town.

For more information on state government see *Governing Illinois* published by the University of Illinois at Springfield ([www.uis.edu/govern](http://www.uis.edu/govern)). Or visit the State of Illinois web page [www.state.il.us](http://www.state.il.us).

## **THE CONSTITUTIONAL RIGHTS FOUNDATION CHICAGO**

*Youth and Society* is just one resource provided by the Constitutional Rights Foundation Chicago (CRFC). CRFC is committed to helping young people understand our country's legal and governmental system. CRFC helps elementary and high school students develop the skills and attitudes necessary to serve their communities and nation as responsible citizens.

CRFC achieves its mission by:

Training teachers in the law and age-appropriate teaching methods;

Recruiting and preparing lawyers, judges, police officers, and other law-related professionals to work with teachers and students;

Developing innovative materials for K–12 classrooms; and

Bringing students from diverse backgrounds together to work with one another and learn about legal and political issues.

Formal evaluations conclude that law-related education programs, when properly implemented, statistically reduce delinquency. Teachers who use law-related education report increases in student motivation, learning, and enthusiasm.

The Chicago office of the Constitutional Rights Foundation opened in 1974 as an offspring of the Constitutional Rights Foundation in Los Angeles. In 1990, the Chicago program established an independent Board of Directors and became autonomous. The Constitutional Rights Foundation Chicago has support from the federal government, law firms, foundations, corporations, state government, and individuals.

CRFC is a not-for-profit, non-partisan organization. For information about CRFC's other materials and programs, please call, write or visit [www.crfc.org](http://www.crfc.org).

## SOURCES AND CITATIONS

Legal citations follow *A Uniform System of Citation*, 16th ed., Columbia Law Review Ass'n. et al. eds. (1996).

Text follows *The Chicago Manual of Style*, 14<sup>th</sup> ed., The University of Chicago Press (1993).

To look up an Illinois statute on the internet:

1. Go to [www.state.il.us](http://www.state.il.us)
2. Click on "site map"
3. Scroll down and click on "laws and legislation" (under the heading "Public Services")
4. Click on Illinois Compiled Statutes
5. Click on Search
6. In the box next to "What are you looking for?" input citation or keywords  
for example: 705 ILCS 405  
OR "The Juvenile Court Act"

To find case law and statutes:

[www.washlaw.edu](http://www.washlaw.edu)  
[www.findlaw.com](http://www.findlaw.com)

To access United States Supreme Court information and cases:

[www.supremecourtus.gov](http://www.supremecourtus.gov)

## **STUDENTS AND SCHOOLS RIGHTS TO AN EDUCATION**

### **ATTENDANCE**

Young people and their parents are responsible for a minor's school attendance. Persons having custody or control of a child between the ages of seven and sixteen must make sure that the child attends public school in the district of their residence for the entire school session, unless:

1. The child attends an appropriate private or parochial school.
2. The child is found by a competent physician or psychiatrist to be physically or mentally unable to attend school. This exception does not apply to females who are pregnant or who are mothers of children, unless the absence is due to complications of pregnancy and the complication is confirmed by a competent physician.
3. The child is temporarily excused for cause, including illness or religious practices, by the principal, teacher or school board.
4. The child is necessarily employed, subject to the provisions of the child labor laws, and is excused with the consent of the superintendent of the educational service region.
5. The child is over twelve and under fourteen years in attendance at confirmation classes. 105 ILCS 5/26-1.

Persons having custody or control of any child not legally required to be in school (below the age of seven or above the age of sixteen) but who is enrolled in any of the grades one through twelve are also responsible for the regular attendance of that child during the regular school term. 105 ILCS 5/26-1; 105 ILCS 5/26-2.

Valid causes for absence are illness, death in the immediate family, family emergency, observance of a religious holiday, and other situations which are beyond the control of the student as determined by the district board of education, or other circumstances which give reasonable concern to the responsible custodian for the health or safety of the student. 105 ILCS 5/26-2a.

### **TRUANCY**

Truancy is an unexcused absence from school for any portion of the school day. Chronic or habitual truancy consists of absence from compulsory school attendance without a valid reason for ten percent or more of the previous 180 regular attendance days (i.e., eighteen or more days). 105 ILCS 5/26-2a; 105 ILCS 5/26-8a. State law requires that the school provide supportive services and other school resources to the student to assist in overcoming problems which may cause chronic truancy. If these services are unsuccessful in resolving the problem or if the student or responsible custodian is uncooperative, the district or regional truant officer can initiate legal action to enforce the compulsory attendance laws. The truancy petition must include

the supportive services, alternative programs, and other school resources the school district provided to the student, which are written in the student's temporary record. 105 ILCS 5/26-1 *et seq.*

No punitive action (filing a truancy petition with the juvenile court) may be taken against a chronic truant until all available resources have been offered. 105 ILCS 5/26-8a. Resources include supportive services such as counseling, guidance, special education placement, alternative programming, referrals to appropriate public agencies, and the adoption and implementation of school policies and procedures which address the needs and problems of chronic truants. Truancy cannot be used as grounds for excluding students from the educational services of the school. 105 ILCS 5/26-1 *et seq.*

A school district shall deny reenrollment in secondary schools to any student above the age of sixteen who has dropped out of school and who cannot, because of age and lack of credits, attend classes during the normal school year and graduate before his or her twenty-first birthday. If denied reenrollment for this reason, the school district must provide counseling and must direct the student to alternative educational programs that lead to graduation or receipt of a GED diploma. Reenrollment may not be denied unless the student is first afforded a due process hearing. Also, a disabled student may not be denied reenrollment in violation of special education and other disability laws. 105 ILCS 5/26-2.

#### **RESIDENCY**

A student is usually considered a resident of the school district in which the student's parents, guardians, or other persons having the primary responsibility for the student's care and custody live. A student is not considered a resident of a district other than that of the parents or guardians if the student is living there only to attend the public schools of that district. 105 ILCS 5/10-20.12b. Additionally, other residency rules apply to students who receive special education services. 105 ILCS 5/14-1.11, 1.11a and 1.11b.

Non-resident pupils must be charged tuition if a school district permits them to enroll. If they attend the schools of the district for less than the full school year, their tuition will be pro-rated. Resident pupils who become non-residents during a school term will not be charged tuition for the remainder of the school term in which they become non-resident pupils. 105 ILCS 5/10-20.12a and 10-20.12b.

Unless provided for in some other way, educational services for an Illinois student under the age of twenty-one in a residential program designed to correct alcohol or other drug dependencies will be provided by the district in which the facility is located. 105 ILCS 5/10-20.12a.

#### **THE EDUCATION FOR HOMELESS CHILDREN ACT**

The Illinois *Education for Homeless Children Act* is to assist families who become homeless and are forced to move out of their school district to find temporary shelter. 105 ILCS 45, Art. 1. Under the Act, children may continue to attend the "school of

origin,” defined as the school that the child attended when permanently housed or the school in which the child was last enrolled, or the child may be promptly transferred to the school where the child is actually living.

If parents or guardians choose to have their child attend their school of origin, they must attempt to provide transportation to the school of origin or may authorize relatives, friends, or a shelter to provide transportation. If transportation cannot be provided in this way, then the school districts involved must provide transportation. 105 ILCS 45/1-15.

However, when travel to the school of origin is longer than one hour one way, the parents or guardians, a teacher of the child, and a school social worker may meet to determine whether the travel is detrimental to the child as compared to the development and education available in attending the school nearest the child's abode. All parties must agree that the school nearest the child's abode is the most suitable prior to transfer to that school. 105 ILCS 45/1-15. Contact the Illinois Coalition to End Homelessness at (708) 742-4227 for additional information on the rights of homeless students.

#### **IMMUNIZATION AND HEALTH EXAMINATIONS**

The *School Code* of Illinois requires that all students submit proof of having received a health examination and immunization against preventable, communicable diseases before entering nursery school, kindergarten or first grade, as well as fifth and ninth grades of any public, private, or parochial school. 105 ILCS 5/27-8.1. Proof must also be provided when a new student enrolls in an Illinois school at any grade. The health examination must have taken place within one year of the period for which proof is required.

Students who fail to submit proof of examination and immunization by October 15 of the current school year (or an earlier date if established by a school board with proper prior notice) must be excluded from school until such proof is presented. 105 ILCS 5/27-8.1(5). Students will be exempted from these requirements if their parent or guardian of the child objects to it on the grounds that it conflicts with his or her religious beliefs; 105 ILCS 5/27-8.1(8); or a licensed physician states in writing that the immunization would be harmful to the child's health. Ill. Dept. of Public Health Rules & Regulations, Rule 3.

A student will be considered in compliance with the requirement if there is evidence of intent to comply. Such evidence may be a signed statement from the physician that the necessary immunization procedures have begun or will begin, or the parent's written consent for the child to participate in a school or community immunization program. 105 ILCS 5/27-8.1 (5).

A student who resides in an area designated as having a high incidence of tuberculosis must undergo a tuberculosis skin test as a required part of each health examination. Additionally, parents and guardians are encouraged to have students undergo dental examinations at the same time as their health examinations. 105 ILCS 5/27-8.1.

**SCHOOL FEES**

Students should not be denied publicly supported educational services or privileges, such as classes, report cards, academic credit, record transfer, or library services, due to the inability or unwillingness of parents or guardians to pay textbook or other school fees. 105 ILCS 5/10-20.13; Illinois Constitution, Art. 10, Sec. 1. The parent or guardian is legally responsible for the charges, not the student, and any action taken by the school to collect the fees should be taken against the responsible custodian.

School fees for students from indigent families may be waived. 105 ILCS 5/10- 20.13. The principal or district superintendent should be contacted for applications and/or information concerning the waiving of these fees.

**TRANSPORTATION AND BUS SAFETY**

All public schools and other educational institutions (kindergarten through twelfth grade) which receive public funds must offer a class in bus safety for all students who ride a bus to or from school or for school activities. These classes must be given at least twice during each school year and will include emergency evacuation drills. 105 ILCS 5/27-26.

Unit, consolidated, and certain school districts must provide free transportation to pupils residing at a distance of one and one-half miles or more from any school to which they are assigned. 105 ILCS 5/29-3.

Only authorized school administrators may take disciplinary action for incidents occurring on school buses. Due process procedures must be followed. 105 ILCS 5/10-22.6(b).

School administrators who detain students after school who normally ride the bus are responsible for ensuring that they get home safely.

**SPECIAL EDUCATION**

There are many types of physical and/or mental challenges that make it difficult, or even impossible, for some students to learn in a standard school setting. Some of these challenges are readily identifiable, for example in the areas of vision, hearing, physical abilities, and speech. Others can cause severe difficulties but may be much more difficult to diagnose. These include perceptual problems, emotional disorders, medical problems and disorders, and serious social or personal problems. These challenges require professionals to determine the source of the problem and to recommend the proper program to maximize the educational development of the student.

The school district must provide a program to meet the needs of all persons between the ages of three and twenty-one years who have special needs. 105 ILCS 5/14-4.01. Regardless of the nature or severity of the child's special need, the child has a right to

receive a free and appropriate public education. Individuals with Disabilities Education Act, 20 U.S.C. § 1400-1485.

If a student is determined to be eligible for special education, then a program designed to meet the student's needs must be provided. If parents are dissatisfied with the evaluation or the program provided for the student, they may request a review of the evaluation or the proposed program. An impartial hearing officer will then be appointed by the Illinois State Board of Education to conduct a review. 105 ILCS 5/14-8.02a.

A parent or guardian of a child who is receiving special education benefits has certain rights which are provided under state and federal statute. Further information concerning special education is available from a local school district superintendent, director of special education, regional superintendent of schools, or the Illinois State Board of Education by requesting a copy of the Special Education Rules and the booklet "A Parent's Guide to the Educational Rights of Children with a Disability." In Chicago, (312) 814-2220, Springfield, (217) 782-4321, the Problem Resolution Office, (800) 215-6379, or visit [www.isbe.state.il.us](http://www.isbe.state.il.us).

Students receiving special education and their parent or guardian have the right to an independent education evaluation for which the parent will be reimbursed if the school district's evaluation is shown to be inappropriate. Students and parents also have the right to receive written notice of the evaluation procedure and placement; give consent before an evaluation is conducted; request an impartial due process hearing to question the identity, evaluation or placement of the student; have a full and individual evaluation of the student's educational needs; and be educated with non-disabled children to the maximum extent possible. 105 ILCS 5/14-8.02. Additionally, the right to inspect and review the student's records, 105 ILCS 10/5 (a), and the right to restrict access to the student's records. 105 ILCS 10/6.

#### **BILINGUAL EDUCATION**

School districts are responsible for establishing bilingual education programs for children whose first language is other than English in accordance with regulations prescribed by the State Board of Education. 105 ILCS 5/10-22.38a.

#### **CURRICULUM/SCHOOL PROGRAMS**

##### **GRADUATION REQUIREMENTS**

Students entering the ninth grade must successfully complete the following courses, in addition to other course requirements, as a prerequisite to receiving a high school diploma: three years of language arts; two years of mathematics, one of which may be related to computer technology; one year of science; two years of social studies, of which at least one year must be history of the United States or a combination of history of the United States and American government; and one year chosen from music, art, foreign language (which may include American Sign Language), or vocational education. 105 ILCS 5/27- 22.

These requirements do not apply to disabled students whose course of study is determined by an individualized education program.

All graduates must have had adequate instruction in honesty, kindness, justice, discipline, respect for others, moral courage, humane education, driver and safety education, health and physical education, consumer education, career and vocational education, conservation of natural resources, and other areas mandated in *The School Code*. 105 ILCS 5/27-1

be provided for students who are physically or emotionally unable to participate in the standard program. High school students may be excused from PE for various reasons including participation in marching band, college prep courses (juniors and seniors only), and ROTC. 105 ILCS 5/27-6.

Students objecting to co-educational physical education classes on religious grounds can be exempted from co-educational classes. *Moody v. Cronin*, 484 F.Supp. 270 (C.D. Ill. 1979). This does not, however, exempt the student from physical education instruction.

#### **MARRIED AND PREGNANT STUDENTS**

Married and pregnant students are entitled to receive all educational services and participate in all programs and activities of the school under the same conditions as any other student, as long as their physical condition permits. 23 Ill. Admin. Code § 200.50 (e). A student who is pregnant is not excused from compulsory school attendance unless a physician certifies that complications resulting from pregnancy preclude school attendance. 105 ILCS 5/26-1. School boards are authorized to provide home instruction, correspondence courses, or other means of instruction for students who are unable to attend school because of pregnancy. 105 ILCS 5/10-22.6a.

#### **STUDENTS' CIVIL RIGHTS**

##### **FREEDOM OF ASSOCIATION**

Generally, a student is free to join any organization or society he or she chooses while in school. However, a public school fraternity, sorority, or secret society has been declared by state law to be "inimical (harmful) to the public good," 105 ILCS 5/31-2, and any student who joins such an organization or tries to get other students to join is subject to suspension or expulsion. A fraternity, sorority, or secret society is an organization in which the members are chosen by the membership of the organization rather than the membership being open by free choice to all qualified students. 105 ILCS 5/31-1 *et seq.* A public school student organization that discriminates solely on the basis of race, creed, sex, or national origin should not be permitted to use school facilities for any purpose.

In requesting the use of school facilities, a student organization may be asked to submit a copy of the organization's constitution and the names of the officers of the organization to appropriate school officials, so that the purpose, activities, and membership requirements of the organization may be examined.

##### **DE JURE SEGREGATION AND DISCRIMINATION ON THE BASIS OF COLOR, RACE, NATIONALITY, SEX, OR RELIGION**

School segregation which is the intentional result of actions or failures to act on the part of public officials is a violation of the 14th Amendment to the United States Constitution and (if the local district is a recipient of federal funds) Title VI of the *Civil Rights Act* of 1964. Segregation is also prohibited by *The Illinois School Code*. 105 ILCS 5/10-22.5.

When the State Board of Education receives a complaint signed by at least fifty residents of a school district or 10% of the residents (whichever is less), alleging either that students have been excluded from or segregated on the basis of their color, race, nationality, sex, religion, or religious affiliation or that school employees or applicants for employment have been discriminated against on the same basis, the State Board shall notify the local school board of the complaint and, within thirty days, set a date for a hearing on the allegations. If the State Board determines that a violation exists, it shall send its findings to the Illinois Attorney General for legal action. 105 ILCS 5/22-19.

For more information concerning state requirements for the elimination and prevention of racial segregation and discrimination in schools, contact the Office of the State Superintendent of Education, 100 North First Street, Springfield, Illinois 62777.

#### **DRESS AND GROOMING**

A school district is authorized under law to adopt a school uniform or dress code policy. 105 ILCS 5/10-22.25b. Where a dress code is not in effect, students have the right to dress and groom themselves according to their personal tastes, as long as it does not present health or safety hazards, is not lewd or indecent, or does not substantially disrupt the educational process. Gang signs or colors may be excluded. Dress and grooming codes must not restrict this right even if students or community groups draft the code. Individual differences in dress and grooming preferences are matters of personal freedom. *Holsapple v. Woods*, 500 F.2d 49 (7th Cir.); *cert. denied*, 419 U.S. 901 (1974); *Crews v. Cloncs*, 432 F.2d 1259 (7th Cir. 1970); *Breen v. Kahl*, 419 F.2d 1034 (7th Cir. 1969).

#### **SEX BIAS AND DISCRIMINATION**

Both federal law (Title IX of the *Education Amendments of 1972*) and state law prohibit educational institutions from discriminating against students on the basis of sex. 20 U.S.C. §§ 1681 *et seq.*; 105 ILCS 5/10-22.5, 5/27-1.

Under federal and state laws, female and male students are guaranteed equal treatment. Regulations of the Illinois State Board of Education provide that all students within a school district must have equal opportunities in all education services provided by the system including access to courses (including physical education and vocational education); counseling and guidance; student services, benefits, financial aid, and insurance coverage; rules and regulations affecting student behavior, dress, and discipline; policies relating to marital or parental status; extra-curricular activities, including athletics, competitive sports, music and drama events, clubs and other organizations; and every aspect of the educational system either directly or indirectly effecting students. *See generally* 23 Ill. Admin. Code § 200.50 and § 1.240.

Title IX regulations issued by the U.S. Department of Education require each school to identify a coordinator for district efforts to eliminate sex discrimination and to establish a grievance procedure through which students may present problems of

suspected sex discrimination for resolution. The responsibility for Title IX enforcement now lies with the U.S. Department of Education's Office of Civil Rights. Schools are required to inform students of the name, address, and telephone number of the Title IX Coordinator, the use of the grievance procedure, and their right to present questions of sex discrimination directly to the Office of Civil Rights. 34 C.F.R. 106.8, 106.9.

#### **SPEECH AND EXPRESSION**

In *Tinker v. Des Moines Independent Community School District No. 21*, the Supreme Court of the United States decreed that: "Students in school as well as out of school are 'persons' under our Constitution. They are possessed of fundamental rights which the State must respect, just as they themselves must respect their obligations to the State." 393 U.S. 503 (1969).

Political expression, social expression, and expressions of criticism or dissatisfaction with the educational system and educational officials are all constitutionally protected communications, unless they cause substantial disruption to education. However, students' rights to free expression in school are not the same as the rights persons have to free expression in other settings and must be exercised in light of the special characteristics of the school environment. For example, buttons, arm bands, posters, and handouts may be permissible. Gang symbols are not. School officials may reasonably regulate the time and place of speeches, assemblies, and distribution of literature and handouts. Controversy or unpopularity of an expression does not always constitute disruption of the educational process.

#### **STUDENT PUBLICATIONS**

Independent publications by students may be distributed in the school at the places and times established by the school. School officials may not prohibit the distribution of such publications unless they can reasonably forecast that the publication and distribution of the material to the students will substantially or materially disrupt the educational process. Offensive statements, controversial articles, or critical remarks about school officials do not necessarily constitute a disruption of educational activity. *Fujishima v. Board of Education*, 460 F.2d 1355 (7th Cir. 1972); *Scoville v. Board of Education of Joliet Township High School District 204*, 425 F.2d 10 (7th Cir. 1970); 23 Ill. Adm. Code 375. The expression of controversial or critical viewpoints is protected by the 1st Amendment to the United States Constitution so long as it does not actually cause disruption or violence.

School-sponsored publications, in contrast, are subject to greater review and restriction. School officials may impose reasonable restrictions on such publications' content as long as their actions are reasonably related to legitimate educational concerns. *Hazelwood School District v. Kuhlmeier*, 108 S.Ct. 562 (1988).

#### **STUDENT RECORDS**

Federal regulations and laws, 20 U.S.C. § 1232g; 34 C.F.R. Part 99, and Illinois regulations and laws, 105 ILCS 10/1-10, detail the rights and responsibilities of students, parents, and school officials with respect to student records and rights to

privacy. Following is a summary of some of the major provisions of these regulations and laws.

1. A student's permanent record shall contain minimum personal information which may include name, birth date, address, grades, grade level, parents' names and addresses and attendance records. The permanent record is kept for sixty years after graduation or permanent withdrawal. 105 ILCS 10/2(e); 105 ILCS 10/4(e).

2. The student's temporary record contains all information not included in the student's permanent record, including family background information, test scores, psychological evaluations, teacher evaluations and other information of clear relevance to the education of the student, disciplinary information, and a record of all releases of temporary records. The temporary record is reviewed to eliminate out-of-date information and is maintained for not less than five years after transfer or graduation or permanent withdrawal. 105 ILCS 10/2(f); 105 ILCS 10/4(f) and (g); 105 ILCS 10/6.

3. Parents have the right to:

Inspect and copy all information contained in the student record. Schools may charge reasonable costs for copying. However, no parent or student may be denied a copy of the student's school records because of an inability to pay such costs. 105 ILCS 10/5(d).

Challenge the contents of the records—except grades—on the bases of accuracy, relevance and/or propriety, by notifying the principal or records custodian of the objection to information contained in the record. An informal conference must be scheduled within fifteen school days to discuss the matter. If the question is not resolved, a formal hearing, conducted by a hearing officer not employed in the attendance center in which the student is enrolled, will be scheduled. 105 ILCS 10/7.

Request and receive copies of records proposed to be destroyed. The school must notify parents of the destruction schedule for student records. 105 ILCS 10/4(h).

Inspect and challenge information proposed to be transferred to another school district in the event of a student transfer. 105 ILCS 10/7(a).

4. Local, state, and federal educational and governmental officials may have access to student records for educational, administrative, and other purposes defined by law without parental consent. Student records may also be released, without parental consent, pursuant to a court order and in emergency situations where the records are needed to meet a threat to the health or safety of the student or other persons. All other releases of information, except in an emergency, require the informed, written consent of the parent or eligible student, or notification of the proposed release and of their rights to challenge the records. Parents must be notified of the release of records because of court order. *See generally* 105 ILCS 10/6.

5. Schools are allowed to publish student directories which list student names, addresses and other identifying information which complies with State Board regulations. Parents may request that any and all information not be released 105 ILCS 10/6(e).

6. No person may force a parent or student to release information from the temporary record in order to secure any right, privilege, or benefit including employment, credit or insurance. 105 ILCS 10/8.

7. Rules and regulations adopted by schools relating to student records shall be available to the public; and regulations of the State Board governing student records shall be available to the public. 105 ILCS 10/3(a)-(b).

## **DISCIPLINE/SUPERVISION**

### **GENERAL DISCIPLINE**

When a student commits an act of gross disobedience or misconduct as defined by the school board, the student's right to an education may be temporarily denied. 105 ILCS 5/10-22.6. However, no governmental agency, such as a school, may deprive a student of rights without due process of law. A student is entitled to procedural due process and must be allowed to present a defense, to explain the circumstances of the actions in question, or to prove innocence.

Subject to these due process rights, a student may be suspended or expelled from school, the school bus, or school activities, i.e. extracurricular or athletic activities. 105 ILCS 5/10-22.6. A student may be suspended from the school bus for gross disobedience or misconduct, following the same procedure required in any other suspension. The school board may suspend the student from the school bus for more than ten school days for safety reasons. 105 ILCS 5/10-22.6.

The basic differences between suspension and expulsion are:

1. A suspension is a removal from school not to exceed ten school days. A school board may expel (remove) a student for a definite period of time beyond ten days but not to exceed two calendar years, as determined on a case by case basis. Any student who brings a weapon to any school-sponsored activity or event or any activity or event which bears a reasonable relationship to school shall be expelled for no less than one year, except that the expulsion period may be modified by the superintendent and the superintendent's determination may be modified by the board on a case by case basis. 105 ILCS 5/ 10-22.6.

2. The local district board of education may suspend a student. With board authorization, the district superintendent, principal, assistant principal, or dean of students also may suspend students. Only the local board of education may expel a student. 105 ILCS 5/10-22.6.

3. A student may be suspended after an informal hearing is held. A student may not be expelled until after a formal hearing. 105 ILCS 5/10-22.6. A formal hearing requires that a hearing officer be present. An informal hearing may take place at the

administrative level, for example, in the dean's office. Parents will be notified before a formal hearing. An informal hearing may take place and the parent or guardian notified after the suspension has been given.

#### **SUSPENSION**

The United States Supreme Court in *Goss v. Lopez*, held that, prior to any student suspension, the following procedures must be observed:

1. The official executing the suspension must give the student oral or written notice of the charges; and
2. A student who denies the charges must be given an opportunity to present an explanation in a conference with the suspending school official.

The Court also stated that a student whose presence poses a continuing danger to persons or property, or an ongoing threat of disruption of the academic process, may be immediately removed from school. In such cases, the requirements of suspension proceedings should follow immediately. *Goss v. Lopez*, 419 U.S. 565 (1975).

In addition to the procedures required by the United States Supreme Court, Illinois law outlines the following procedures to be followed in suspension cases:

1. A student may be suspended by the board of education or, if authorized by the board, the district superintendent, principal, assistant principal, or dean of students. The student's parents must be notified of the suspension immediately. The parents must also receive a full statement of the reasons for the suspension and notification of their right to seek school board review of the suspension. The parents should also receive notification of the number of days of the suspension (which may not exceed ten school days).
2. At the parents' request, the school board or a hearing officer appointed by the board must review the suspension. At this appeal, the parents may appear and discuss the suspension with the board or the hearing officer. The student may be represented by a lawyer (at the student's expense) and has the right to present and question witnesses and to put forward a defense.
3. If requested by the student, the parent or representative, a record will be kept of the proceedings. A copy of the record may be requested by the student's representative or parents (at their expense).
4. If a hearing officer is appointed by the board, the hearing officer shall report to the board a written summary of the evidence presented at the hearing. After the hearing, or upon receipt of the written report of the hearing officer, the board may take appro-

**EXPULSION**

In expulsion cases, the following procedures are required:

1. A proposed expulsion cannot take place until after a formal hearing before the school board or before a hearing officer appointed by the school board. A student's parent or guardian must be notified by registered or certified mail of the date, time, place and purpose of the school board hearing. 105 ILCS 5/10-22.6. The student's parents should also be notified of the reasons for the recommended expulsion and the proposed length of the expulsion.
2. At the formal hearing, the student may be represented by counsel at the student's expense, and has the right to present evidence, call and question witnesses and put forward a defense. *See generally* Goss v. Lopez, 419 U.S. 565 (1975) and Linwood v. Board of Education of City of Peoria, School Dist. No. 150, 463 F2d 763 (7<sup>th</sup> Cir. 1972), *cert. denied*, 409 U.S. 1027.
3. Due process dictates that the hearing may be recorded by either side and, when a record is made, a copy of the record may be requested and furnished at the requestor's expense. Recordings are made to preserve the record for court appeals on administrative review.
4. If a hearing officer is appointed by the board, he or she shall report to the board a written summary of the evidence heard at the meeting, and the board may take such action as it finds appropriate. 105 ILCS 5/10-22.6.

In the interest of helping students, the school district may assist in providing or locating alternative educational opportunities for a suspended or expelled student. 105 ILCS 5/10-22.6. These alternatives could include homebound or telephone instruction, reading lists, adult evening classes, or alternative school settings. The Illinois State Board of Education provides information and assistance to school districts and students interested in educational alternatives within a school or off-campus.

The Illinois Department of Human Services shall be invited to send a representative to consult with the board at any suspension or expulsion meeting whenever there is evidence that mental illness may be the cause for the expulsion or suspension. 105 ILCS 5/10-22.6.

Students are under the jurisdiction of school personnel at all activities conducted within the school program, including events outside the school. 105 ILCS 5/24-24.

**CORPORAL PUNISHMENT**

Corporal punishment is defined as punishment applied directly to the body. Each school board must establish a policy on discipline, which shall prohibit slapping, paddling, prolonged maintenance of students in physically painful positions, and intentional infliction of bodily harm. The policy shall provide that a teacher or any other person providing a related service for a student may use reasonable force as needed to maintain safety of other students, school personnel or persons, or for the purpose of self defense or defense of property, and may remove a student from the

classroom for disruptive behavior. The discipline policy shall include provisions for due process to students. 105 ILCS 5/24-24.

### **GRIEVANCE PROCEDURES**

Although many school districts have no formal procedures established for the resolution and appeal of grievances, the usual process is as follows:

1. The student or the parents should discuss the matter with the person(s) directly responsible for the grievance.
2. If this does not resolve the issue, the matter should be directed to the building or school principal and then to the district superintendent. If the grievance is against the principal, the district superintendent should be contacted after talking with the principal.
3. If the matter is still not solved, the student or parents may request the permission of the school board president to speak on the matter at the next meeting of the local board of education.
4. Unless otherwise provided by local board rules and regulations, the next step would be through the judicial system.

*The Illinois School Code* or other pertinent rules and regulations (available at the local library or through the district superintendent) should be consulted to determine the rights and responsibilities of all persons involved. Local school officials should be contacted for information on specific school district appeal procedures.

### **SCHOOL PROPERTY**

#### **VIOLENCE AND VANDALISM**

Students and their parents may be liable for acts of violence or vandalism committed on or against school property, and involving school employees or other students. *See* The Family Relationship and Society's Controls.

#### **SCHOOL LOCKERS AND STUDENT SEARCHES**

The United States Supreme Court has held that the 4th Amendment of the United States Constitution protects students against encroachment by public school officials against their persons and personal property. Thus, a student is protected from "unreasonable" searches and seizures while at school. However, to conduct a search of a student's locker, property or a student, the teacher or administrator need not have probable cause that a law is being broken. A search must be based upon a reasonable suspicion of wrongdoing, and the subsequent search itself must be reasonable. The legality of the search depends upon its reasonableness, under all of the circumstances. *New Jersey v. T.L.O.*, 469 U.S. 325 (1985). This standard gives school officials significant leeway to search lockers, student property and students.

Illinois statute provides that to maintain order and security in the school, school authorities may search areas such as lockers, desks, parking lots, and personal belongings left in these areas, without notice to or consent of the students, and without a search warrant. School authorities may request the assistance of law enforcement officials to search for illegal drugs, weapons, or other illegal or dangerous substances or materials, including searches conducted through the use of specially trained dogs. 105 ILCS 5/10-22.6.

Law enforcement officials who wish to search lockers or student property independently of school officials should possess a valid search warrant.

#### **STUDENT AND COMMUNITY INVOLVEMENT**

Each community in Illinois shares with the State the responsibility for educating its citizens. Students, as recipients of educational services and programs, and parents and community members, as supporters of the school system, evaluate the quality and effectiveness of those programs and services offered by the school district. Public education in Illinois has traditionally adhered to the concept of local control of the schools. It is the responsibility of the local school board and the local district citizens to ensure that the educational program is responsive to the needs of the community. It is imperative that local districts provide avenues of involvement in the governance of the district for all segments of the community and that pupils and parents take advantage of these venues for affecting school policy.

In recognition of the significant contributions of students to an effective educational program, the Illinois State Board of Education adopted the following resolution:

Recognizing the potential value of student involvement in the deliberations of school boards, and recognizing the educational value students may derive from such participation, the Illinois State Board of Education urges all school boards to provide for student participation through such means as advisory boards, task forces, non-voting membership, or other devices appropriate to local conditions.

## THE FAMILY RELATIONSHIP

The following section examines marriage, divorce (dissolution of marriage), and having children. In the United States, greater than 50% of marriages end in divorce. Marriage is a legal contract that can only be dissolved by going to court. Therefore, it is important to understand the legal aspects of marriage, divorce, and having children.

### MARRIAGE

In Illinois marriages are categorically prohibited if they involve polygamy, homosexuality, or close blood relatives. 750 ILCS 5/212. In Illinois a person may not marry someone who is already married, or of the same sex. Further, a person may not marry a near blood relative, such as a brother, sister, first cousin, aunt, or uncle. Both persons must also be eighteen years or older to be married without parental consent or court approval. If either person is under eighteen, and has married without consent, a parent or guardian may go to court and get the marriage annulled (*i.e.*, voided).

If a minor is sixteen or seventeen, a parent or guardian may give permission to marry. The minor must have the consent of both parents or the consent of one parent plus a signed affidavit from the consenting parent stating that the other parent cannot be located. The parent or guardian must accompany the minor when applying for a license, and sign a consent form. 750 ILCS 5/203. Parents who have consented to the marriage of their children cannot change their minds after the marriage and try to get it annulled.

A minor who is sixteen or seventeen may go to court to get permission to marry from a judge. The judge may grant permission under certain conditions. 750 ILCS 5/208.

If a minor lives and marries in a state which allows marriage at an earlier age and then moves to Illinois, the marriage will be valid in Illinois. But a marriage could be annulled if a minor who is an Illinois resident gets married in another state just to avoid the age requirement. 750 ILCS 5/216.

When a husband or wife assumes the other's name or they hyphenate their names together, they do not have to legally change their names. Generally, a copy of the marriage certificate will suffice for changing driver's license, credit cards, and Social Security card.

Note: It is important to change your name on your Social Security card if you plan to file your tax return under your new name. If you decide to resume using your former name if you get divorced, you may be required to provide a copy of your divorce decree when changing your name back on your driver's license, etc.

## **DISSOLUTION OF MARRIAGE**

### **ANNULMENT AND DIVORCE**

Annulment means to make legally void. If a couple has their marriage annulled, it is as if they were never legally married. A divorce, however, recognizes the fact that they were once married.

No-fault divorces (neither spouse is at fault) are given to couples who decide together that they no longer wish to be married. Illinois no-fault divorce law requires that a couple live apart continuously for two years prior to filing for a no-fault divorce. 750 ILCS 5/401(2). This two-year provision can be jointly waived by the parties after six months of living apart.

Note: For the person who wants to handle his or her own divorce without the assistance of an attorney, several groups in Chicago are available to help. Including, the Coordinated Advice and Referral Program for Legal Services (CARPLS) that has many self-help pamphlets available. CARPLS can also refer people whose income is 125% of the poverty line or less to an appropriate legal aid office. CARPLS can be reached at (312) 738-9200.

### **CHILD CUSTODY**

Divorce is a very difficult situation for all involved, especially for children. In determining which parent should have custody of a child, judges will give consideration to the child's welfare and best interests including:

1. The wishes of the child's parents or parent.
2. The wishes of the child.
3. The child's relationship with parents, siblings, and others who significantly affect the child's best interests.
4. The child's adjustment to home, school, and community.
5. The mental and physical health of all involved.
6. The physical violence or threat of physical violence by the child's potential guardian whether directed against the child or another.
7. The occurrence of ongoing abuse whether directed against the child or another person.
8. The willingness and ability of each parent to facilitate and encourage a close and continuing relationship between the other parent and the child. 750 ILCS 5/602.

The Courts have held that it is not absolutely necessary to ask the children for their preference, or to heed their choice when circumstances merit. *In re Marriage of Balzell*, 566 N.E.2d 20 (1991). *In re Marriage of Apperson*, 574 N.E.2d 1257 (1991). The judge will consider what the child has to say in making the decision, though in all cases the judge makes the final decision. Each parent's relative financial circumstances may be considered in a custody dispute. The right of the parent to care for the child means the responsibility of support. *In re Marriage of Fahy*, 567 N.E.2d 552 (1991). Conduct of the parents, which has a direct effect on the relationship between the parent and the child, may also be considered in determining what is in the child's best interest. *Fahy*, 694-5 and *In re Marriage of Wiley*, 145 Ill.Dec. 191, 199 Ill.App. 3d 169 (1990).

#### **CHILD SUPPORT**

Raising children may very well be the most difficult task adults have. Children need love, understanding and discipline, as well as sufficient food, clothing, and shelter. Child raising is easier and more rewarding when both parents cooperate. The law states that both parents are responsible for raising and supporting a child, 750 ILCS 45/3, 3.1, even if the parents are not married and are under eighteen years old.

If one parent does not share in supporting the child, the other parent can go to court. The court may then order that the non-supporting parent help support the child by paying a certain amount of money each month. These monthly payments are called child support. If the parent does not obey this court order, he or she may be sent to jail. For more information on getting or enforcing a child support order, call the Public Benefits Hotline (888) 8WELFARE, the Clerk of the Circuit Court Child Support Division (312) 603-2000 or CARPLS.

#### **PARENTAL RIGHTS AND RESPONSIBILITIES**

##### **PATERNITY**

If the parents are not married, a mother may file a paternity suit against an alleged father to prove that he is the father. A paternity suit may be brought on behalf of the child before the child turns twenty. 750 ILCS 45/8. If the court decides that the man is the father, he will be required to furnish child support. A man is presumed to be the father of a child if the child was born or conceived during the marriage or if the parents married after the birth and named the father on the birth certificate. 750 ILCS 45/5. When these circumstances do not exist, other facts (DNA tests) are considered to determine whether a man is the father of the child. More information regarding the establishment of paternity may be obtained from the State's Attorney's Office at (800) 447-4278.

A man who believes that he is the father of a child and wants to protect his parental rights, may register with the Putative Father Registry 750 ILCS 50/12.1. With few exceptions, a father who fails to register is barred from later bringing any action to assert any interest in the child, waives his right to protest against the adoption of the child, and constitutes abandonment such that the father's parental rights may be terminated.

Fathers may choose to raise their children themselves and may seek custody, visitation, and, where the father is caring for the child, child support. To protect paternal rights, fathers must register with the Putative Father Registry. For more information on fathers' rights and responsibilities, contact The Paternal Involvement Project, 6800 S. Wentworth, (773) 651-9262.

If a mother wants to have her baby adopted by a man other than the father, the father must always be notified. *Stanley v. Illinois*, 405 U.S. 645 (1972). Additionally, if a child is to be adopted without the father's consent or knowledge, steps must be taken to notify him 705 ILCS 405/4-28. If his whereabouts are unknown, a notice is published in a newspaper.

Generally, the law does not discriminate against children of unmarried parents. However, birth status is of legal importance in matters of inheritance. A child of unmarried parents usually inherits only from the mother unless the father specifically provides for the child in his will, or acknowledges he is the father by going through the court, or has his name put on the birth certificate, or makes other affirmative gestures. The mother and father must marry or the child must be adopted by the father to gain all of the rights possessed by children born to married parents.

#### **ABUSE AND NEGLECT**

Parents are required by law to properly care for their children. When they do not, the child could be found to be neglected or abused. Child neglect is generally considered to occur when the parents, either willfully or unintentionally, disregard their parental duties, *In re Walter B.*, 592 N.E.2d 274, appeal denied, *People v. Walter B., Sr.*, 602 N.E.2d 473 (1992), including not providing the proper or necessary support, nourishment, medical care, food, clothing, shelter or supervision. A newborn infant whose blood, meconium or urine contains any amount of a controlled substance is a neglected minor. 705 ILCS 405/2. An abused child is a child under eighteen years of age who is physically abused, sexually abused, tortured or receives excessive corporal punishment. 705 ILCS 405/3.

Although parents may discipline their children when necessary, they have no right to abuse their children. The Illinois Department of Children and Family Services (DCFS) should be contacted if one thinks a child is being abused or neglected. The DCFS Hotline for reporting cases of abuse or neglect can be reached by calling (800) 25-ABUSE. Any person may file a Hotline report if they feel that a child is in danger. If the danger is immediate the police should be called right away. With the right to file a Hotline report also comes the responsibility to do so only if it is appropriate. Should you need assistance in making the decision to file a Hotline report you can consult with a mandated reporter. Mandated reporters include school and medical personnel, social workers, and probation officers.

If at some time, parents are unable, unwilling, or unfit to care for a child properly, a juvenile court judge can place the child in a foster home or other appropriate setting. 705 ILCS 405/2-1. Parents may be reunited with their child when a judge feels they have corrected the problems which caused the child to be removed from the home.

Parents may lose a child forever if they are unfit to care for their child. Before any action can be taken by the judge, the child and the parent must be represented by a lawyer. If there is no money to pay for an attorney, the court will appoint one. Usually the Office of the Public Guardian is appointed for the child, and the Office of the Public Defender is appointed for the parent.

#### **GUARDIANS**

In cases where a child is found to be neglected, abused, or dependent (*i.e.*, the parents are dead, physically or mentally disabled, or the child is without proper medical care through no fault of the parents), or where the parents agree, a guardian can be appointed by the court. The Department of Children and Family Services is usually appointed in Juvenile Court proceedings. Private guardians can also be appointed through the Probate Division of the circuit court. In Cook County, call the Guardianship Assistance Desk at (312) 603-0135. Outside of Cook County, call your county court house main information number.

A guardian has the same duties of control, discipline, and support as a parent, but a guardian cannot consent to adoption of a minor unless the guardian is given that authority by the court. 705 ILCS 405/1-3(8).

#### **PARENTAL CONTROL**

Parents traditionally have been given a great deal of control over their children's lives. This is slowly changing in some areas. For example, a minor has the right to birth control information, abortion, and treatment for venereal disease without parental consent. While a minor may receive an abortion without parental consent, the United States Supreme Court has ruled that parents be notified in some situations when their unemancipated minor daughter is seeking an abortion. *Planned Parenthood v. Casey*, 505 US 833 (1992). Often, a minor must receive a court order to proceed without her parents' permission. *See* Consent for Medical and Surgical Treatment.

#### **PARENTAL RESPONSIBILITY LAW**

Under the Parental Responsibility Law, parents may have to pay for damages their child caused as a result of a willful or malicious act. 740 ILCS 115/1. Parents may be liable for up to \$2,500 in actual damages for each person or legal entity (*e.g.*, business or division of government) injured in addition to court costs and attorney's fees. Parents may also be found to be negligent and therefore liable for damages of their own account, if they allow their child to do something illegal, such as allowing the child to drive their car without a license.

#### **CONSENT FOR MEDICAL AND SURGICAL TREATMENT**

In Illinois, unless a person is married, pregnant, or over eighteen, parental consent is required for medical and surgical treatment, including cosmetic surgery, diet pills, and ear piercing. 410 ILCS 210/1. Exceptions:

1. In an emergency, a minor can be treated without parental consent if, in the opinion of a doctor or dentist, the minor's health would be seriously affected by waiting to obtain permission. A hospital, physician, and other medical personnel may treat and counsel a victim of criminal sexual assault or abuse without obtaining consent of the minor's parent. 410 ILCS 210/3.

2. If a minor's parents do not consent to treatment and the doctor feels that treatment is needed to save the patient's life, a petition may be filed in juvenile court. There a judge may temporarily take the minor from the parents' custody and select a temporary legal guardian solely for the purpose of consent to the treatment. This is done only for very serious cases when a life is at stake. A minor may refuse to receive medical treatment if a court determines that the minor is mature enough to make a decision to refuse lifesaving treatment. *In re E.G.*, 549 N.E.2d 322 (1990).

3. A doctor may give birth control information and service to someone under eighteen who is either married, a parent, or pregnant, or if that person is referred for such service by another doctor, a member of the clergy, or a family planning agency, or if failure to provide such services would create a serious health hazard. 325 ILCS 10/1.

4. Anyone twelve years or older may consent to treatment for venereal disease and drug addiction without parental consent. 410 ILCS 210/4.

5. Forty-eight hours notice is required to an adult family member of a pregnant minor prior to an abortion. Notice is not required if the physician certifies that a medical emergency exists; or the minor declares in writing that she is a victim of sexual abuse, neglect or physical abuse by a family member. The minor can also petition the court for a waiver of the notice requirement. 750 ILCS 70/15, /20, /25.

For more information about birth control, abortion, OB-GYN services, HIV and AIDS services, and other basic health care needs, visit [www.plannedparenthood.org](http://www.plannedparenthood.org), [www.behiv.org](http://www.behiv.org), [www.friendsofpwa.org](http://www.friendsofpwa.org), [www.siu.edu/departments/busea](http://www.siu.edu/departments/busea), [www.oxygen.com](http://www.oxygen.com).

### **EMANCIPATION FROM PARENTAL AUTHORITY AND CARE**

All persons reach emancipation at the age of eighteen, meaning that the person is then held to the same level of responsibility as all other adults. An eighteen year old may sign and be responsible for contracts, marry without parental consent, and generally run his or her own life. Emancipation before age eighteen can occur voluntarily and in agreement with one's parents by leaving a parent's home; marrying; or joining the armed services. *In re Marriage of Walters*, 604 N.E.2d 432 (1992).

Emancipation means that a minor is no longer subject to parental authority and parents in turn do not have to care for that child. *Zozaski v. Mather Stock Car Co.*, 38 N.E.2d 825 (1942). The court can declare a minor emancipated if the minor has shown the ability to manage his or her own affairs and to live independently. A minor cannot be declared emancipated if his or her parents object. 750 ILCS 30/1. Being an "unwed mother" does not emancipate a minor.

Along with the rights of emancipation come the responsibilities of self-support.

## **THE RELATIONSHIP OF YOUTH TO SOCIETY**

This section covers rights and responsibilities regarding the workplace; paying taxes; driving a car or riding a motorcycle or bicycle; entering into a contract; renting an apartment; and duties to others under the law of torts. It also includes information on social welfare programs like TANF and food stamps; registration for the draft, voting, and jury service.

### **WORKING**

#### **LABOR LAWS**

Child labor laws are set by the federal, state, and local governments to protect the educational opportunities of minors and to prohibit the employment of minors in certain jobs and work settings that may be dangerous to their health and well-being. Federal and state laws govern the kinds and hours of work minors can perform. These laws vary with respect to farm and non-farm work, as well as age. People between the ages of fourteen and sixteen can work in most jobs which are non-hazardous. The number of hours a person can work and the times during which work is permitted are determined by the person's age, the nature of the job, and whether school is in session. For example, someone who is fifteen or younger cannot work more than three hours a day or after 7:00 p.m. when school is in session. 820 IL CS 205/3. However, the number of hours of farm work is unlimited as long as you work outside of school hours.

NOTE: Everyone must have a Social Security number to work. Contact the Social Security Office at (800) 772-1213 for more information.

#### **WORK PERMIT**

Most jobs require persons under age sixteen to obtain a work permit. The minimum age to apply for a work permit is fourteen. 820 ILCS 205/6. To get a work permit, the individual must first secure a position, and then accompanied by a parent or guardian, must take proof of the job offer to any school superintendent. Information on getting a work permit is available from school counselors and from the offices of regional superintendents of schools. Generally, most employers looking for full time employees prefer applicants who have high school diplomas.

There are many laws regarding child labor. Questions should be directed to the Illinois Department of Labor in Chicago at (312) 793-2800 or the United States Department of Labor at (312) 353-8145.

#### **MINIMUM WAGE**

There are federal and state minimum wage laws. As of September 1, 1997, the federal minimum wage is \$5.15 per hour. 29 U.S.C.A. § 206. The Illinois minimum wage for persons under eighteen is \$4.65 per hour and \$5.15 per hour for persons eighteen or over. 820 ILCS 105/4 – /6. For more information on the minimum wage laws contact the Illinois Department of Labor Minimum Wage and Overtime Department at (312) 793-2804 or the United States Department of Labor's Wage and Hour Division in Chicago at (312) 353-8145.

**DISCRIMINATION IN EMPLOYMENT**

A person may not be discriminated against because of race, color, religion, sex, pregnancy, national origin or ancestry, age (over forty), marital status, disability, unfavorable discharge from military service, or sealed/expunged arrest or conviction records. 42 U.S.C. § 2000e *et seq*; 775 ILCS 5/1-101 *et seq*. Thus a person may not be denied employment, fired, paid a lesser wage, refused a promotion, or discriminated against on other terms and conditions of employment because of any of these characteristics.

Under the *Americans with Disabilities Act*, 42 U.S.C. § 12101 *et seq*, employers may not discriminate against an individual with a disability in hiring or promotion if the person is otherwise able to perform the essential functions of the job with or without “reasonable accommodation.” Employers will also need to provide reasonable accommodations to individuals with disabilities. Employers with fifteen or more employees must comply with the *Americans with Disabilities Act*.

Although an employer may not discriminate against a person because of national origin, it is illegal for an employer to knowingly hire an illegal alien. 8 U.S.C.A. § 1324(a)(1)(A). It is also unlawful for an employer to hire a person unless he or she asks for proof of United States citizenship or lawful admission to the United States. 8 U.S.C.A. § 1324(a)(4)(A). Proof includes United States passport, resident alien card, Social Security card, driver’s license, and state I.D. card. *See also* Aliens and Immigration.

A person who feels that he or she has been treated unfairly or discriminated against can file a charge of discrimination with the Illinois Department of Human Rights or the Equal Employment Opportunity Commission. This must be done within 300 days of the discriminatory event or action. 42 U.S.C. § 2000e *et seq*; 775 ILCS 5/1-101 *et seq*. *See also* [www.eeoc.gov](http://www.eeoc.gov) or [www.state.il.us/dhr](http://www.state.il.us/dhr) for information on filing a charge. If there was no way of knowing you were discriminated against, you must file within 300 days of discovering or being presented with evidence of the allegedly discriminatory act. After you file, the charge will be investigated to determine whether there is sufficient evidence to pursue the case.

For more information, call the Illinois Department of Human Rights Office in Chicago at (312) 814-6200, the Springfield office of the Illinois Department of Human Rights at (217) 785-5100, or the Equal Employment Opportunity Commission at (312) 353-2713.

**INCOME TAXES**

All minors, if they earn over a certain amount, must pay federal and state income taxes. These earnings are not included on parents’ income tax returns if the minor is fourteen years of age or older. 26 U.S.C.A. § 1; 26 U.S.C.A. § 73; 26 U.S.C.A. § 6201.

Even if a person doesn’t earn enough to pay taxes, income tax returns for the state and federal governments have to be filed to claim a refund of taxes withheld. Check with

the Internal Revenue Service at (800) 829-1040, [www.irs.ustreas.gov](http://www.irs.ustreas.gov), and the Illinois Department of Revenue at (800) 732-8866 for information.

NOTE: Most people must file tax returns even if they owe no taxes. However, often people file tax returns unnecessarily. To determine if you are exempt from filing, contact the IRS at the number above, or follow the steps on the web site. If you have had income tax withheld, but do not need to file a return, you should file a return to get a refund.

### **SOCIAL WELFARE PROGRAMS**

The *Social Security Act*, enacted in 1935, establishes many programs which have the basic objective of providing for the material needs of individuals and families. Federal programs include: retirement, survivors, and disability insurance (FICA); hospital and medical insurance for the aged, disabled and those with end-stage renal (kidney) disease; black lung benefits; and supplemental security income (SSI). Programs operated by the state include unemployment insurance, public assistance, and welfare services including: aid to needy families with children; medical assistance; maternal and child health services; child support enforcement; family and child welfare services; food stamps; and energy assistance. For information about state programs visit the Illinois Department of Human Services and Illinois Department of Public Aid web sites: [www.state.il.us/agency/dhs](http://www.state.il.us/agency/dhs) and [www.state.il.us/dpa](http://www.state.il.us/dpa). Programs which directly affect youth are discussed below.

### **FEDERAL PROGRAMS**

#### **SOCIAL SECURITY (FICA)**

FICA (*Federal Insurance Compensation Act*) is a federal insurance policy which provides financial benefits to people when they retire (age sixty-two and older), and/or if they become disabled. Financial benefits may also be payable to a worker's family when a worker dies or retires. Some FICA benefits have been phased out. Aid to students eighteen years of age and older whose insured parents have died or retired is no longer available. However, benefits are paid to high school students up to age nineteen. 42 USC 404 *et seq.*

The main source of Social Security income comes from taxes paid by employees, employers, and self-employed persons. The government uses these funds to pay money to retired people, sick people who are too disabled to work, and families of workers who have died. An employer pays half of the FICA premium and the employee pays the other half. A self-employed person pays both the employer's and the employee's portions. FICA is generally automatically deducted from the employee's paycheck and paid to the government by the employer.

NOTE: If your employer deducts FICA it should be itemized on your paycheck. If you have questions about your FICA deductions ask your employer. A person who does not pay FICA taxes may not be eligible for benefits. Minor and disabled children of persons fully insured under FICA are eligible for benefits.

Everyone must have a Social Security number. You can download the application at [www.ssa.gov](http://www.ssa.gov) or, for more information, contact your local Social Security office at (800) 772-1213. The Social Security office in Chicago is located at 77 W. Jackson; the corner of Clark and Jackson.

### **SUPPLEMENTAL SECURITY INCOME (SSI)**

The Supplemental Security Income (SSI) program is administered by the Social Security Administration. A person who is disabled, blind, or at least age sixty-five may receive SSI if he or she meets certain financial eligibility requirements. SSI is not just for adults; monthly checks can go to disabled and blind children as well. The person must be a United States citizen or legally admitted alien. People who receive SSI often receive food stamps and Medicaid as well. Because SSI is funded by general revenues, someone who is otherwise qualified may receive the benefits without paying FICA taxes.

There are stringent eligibility rules to receive SSI including your (or your parents') income and how much you (or your parents) own, where you live and what you have to do (*e.g.*, accept vocational rehabilitation services if they are offered; sign up for other Social Security benefits). For more information call (800) 772-1213 or visit [www.ssa.gov/pubs/11000.html](http://www.ssa.gov/pubs/11000.html). Legal assistance for children eligible for SSI may be obtained by calling the Illinois Pro-Bono Children's SSI Hotline (800) 471-9300.

### **STATE AND LOCAL PROGRAMS**

#### **FOOD STAMPS**

The Food Stamp program is supported by the U.S. Department of Agriculture and the Illinois Department of Human Services. Persons may qualify for food stamps if they are eighteen or older and meet certain financial eligibility requirements based on income, expenses, and need. Before you go to the food stamp office, be sure you have the following: proof of citizenship; proof of income with check stubs from earned and unearned income; proof that you have a job; and Social Security numbers for everyone in your household.

Food stamp benefits are issued to households in different ways depending on where the recipient lives. The local food stamp issuer will explain how food stamps will be issued to you. If you have no income or very little income for the month and you need help right away, you may qualify for seven-day service.

Food stamps can be used at retail stores or homeless shelters to purchase food or seeds or plants to grow for food. Food stamps cannot be used for alcohol, tobacco, paper goods, foods in restaurants, vitamins or medicine, or hot prepared food (such as deli items). 7 U.S.C. § 2012(g). Call the Illinois Department of Human Services in Springfield at (800) 252-8635 or in Chicago at (312) 793-4706 for more information. *See also* [www.fns.usda.gov/fsp/MENU/apps/apps.htm](http://www.fns.usda.gov/fsp/MENU/apps/apps.htm).

**NOTE:** There are many food programs available to individuals and families in need. They are often run by public, private, and religious organizations and include food banks, food pantries and emergency feeding centers; school lunch and breakfast

programs; summer food programs; WIC (Women, Infants and Children); and child and adult food care programs. For general information, visit [www.foodusa.org](http://www.foodusa.org). Many service organizations including several providing emergency food assistance are listed at [www.voices4kids.org/rrwebr.htm](http://www.voices4kids.org/rrwebr.htm). For information about WIC call (800) 323-4769 (national) or (312) 744-0729 (Chicago).

#### **TEMPORARY ASSISTANCE FOR NEEDY FAMILIES (TANF)**

Parents who cannot support their children may qualify for temporary cash and medical care from the TANF program administered by the Illinois Department of Human Services (DHS). TANF requires most clients to work or participate in work related activities. TANF requires parents to participate in paternity establishment and child support enforcement. Parents receiving TANF will not receive their full child support payments. The state will intercept any child support payments while you are receiving TANF.

There are certain financial eligibility requirements that must be met before TANF benefits can be given depending on a family's income, expenses, and need. To qualify for TANF, applicants must be pregnant or have a child under age nineteen still living with them. If the child is age eighteen, he/she must be a full time high school student. Teen parents must finish high school or earn a GED to remain eligible. Applicants must also live in Illinois (homeless applicants can qualify). In addition, applicants must be U.S. citizens or must meet certain immigration requirements. If an applicant's children qualify as citizens or immigrants but the applicant does not, the applicant may receive TANF benefits just for his/her children.

A person who qualifies for TANF will receive cash benefits electronically through an "IllinoisLink" card or directly deposited into a bank account. A person who qualifies for TANF will also receive a MediPlan card which allows the person to take part in the Department of Public Aid's Medicaid Program (*See* Medicaid). A person may also qualify for social services, such as day care services. For more information, contact your local DHS office which may be located by calling (800) 252-8635, or visit [www.state.il.us/agency/dhs/TANF.HTM](http://www.state.il.us/agency/dhs/TANF.HTM).

If your application is denied you may file an appeal. Call (800) 435-0774. For more information on filing an appeal visit [www.povertylaw.org](http://www.povertylaw.org).

#### **TRANSITIONAL ASSISTANCE**

Transitional Assistance provides money for a person who is chronically needy and ineligible for assistance under any other provisions of the Public Aid Code. 305 ILCS 5/6-11. To qualify for Transitional Assistance, a person must meet program rules and meet one of the "not employable" criteria which include: needed at home to care for someone with a medical condition; disabled as determined by the Department of Health and Human Services and have an SSI application pending; homeless due to a court-ordered evacuation, domestic violence, fire, or natural disaster; or age nineteen or under and attend high school or equivalent vocational training school full time. For more information call the Department of Human Services (800) 252-8635.

**FAMILY AND CHILDREN ASSISTANCE**

Family and Children Assistance provides money for families with children and pregnant women who are not eligible for other types of public aid, such as TANF. Again, financial eligibility depends on income, expenses, and needs.

**MEDICAID**

Medicaid is a jointly-funded state and federal government program that pays for medically necessary services. Medicaid pays for medical services for qualifying children and their caretakers, pregnant women, and persons who are disabled, blind or sixty-five years of age or older.

In Illinois, Medicaid is administered by the Department of Public Aid. State government contributes one-half of the program's cost, the federal government the other half. Primary services funded through Medicaid are physician, hospital, and long term care. Additional coverage includes prescription drugs, medical equipment and transportation, family planning, laboratory tests, x-rays, and other medical services.

Medicaid is available to anyone who can demonstrate need as established through income and asset standards and either is a child, has dependent children, is pregnant, blind, disabled, or age sixty-five or more. Persons eligible for Medicaid Assistance include persons receiving Temporary Assistance for Needy Families (TANF), Medical Benefits for Families (Parent Assist, KidCare Assist, KidCare Moms and Babies), Aid to the Aged, Blind and Disabled (AABD), Foster Care/Adoption Care Assistance, Repatriate Program, and Refugee Resettlement Program. For a list of services covered or for more information call (800) 252-8635 or visit [www.state.il.us/dpa/html/medicaid\\_program.htm](http://www.state.il.us/dpa/html/medicaid_program.htm).

**KIDCARE**

KidCare is a state program that offers health care coverage to children and pregnant women and help in paying premiums of employer-sponsored or private insurance plans. Children through age eighteen who are Illinois residents, U.S. citizens or qualified legal immigrants, including refugees and asylees, and meet income requirements are eligible. Any pregnant women who are Illinois residents and meet the income requirements are eligible. Income requirements vary by KidCare plan and are based on family size. Call (800) 226-0768 or visit [www.state.il.us/dpa/kidcare.htm](http://www.state.il.us/dpa/kidcare.htm) for more information.

**AID TO THE AGED, BLIND AND DISABLED (AABD)**

The AABD program provides financial assistance, medical assistance, and social services to individuals who have been determined to be aged, blind, or disabled as defined by the Social Security Administration. Financial aid is available under this program only for persons who are receiving SSI or who have been found ineligible for SSI on the basis of income and who meet other eligibility standards.

NOTE: Anyone who is turned down for or terminated from any of these programs and thinks a mistake was made has the right to appeal and to ask for a hearing. Appeals may be filed in writing or by calling (800) 435-0774. For more information about rights to appeal, ask a case worker, call (800) 252-8635, or contact the National Center on Poverty Law, [www.povertylaw.org](http://www.povertylaw.org), (312) 263-3830.

## **TRANSPORTATION**

### **MOTOR VEHICLES**

In order to legally drive most vehicles, a driver's license or instruction permit must be obtained from the Illinois Secretary of State. Driver's licenses are classified for various vehicles.

A person who is fifteen years of age or older and is enrolled in an approved driver education course may get an instruction permit to operate an automobile. This allows a person to drive a car when accompanied by a driver education instructor or a licensed driver who is at least twenty-one years old and who has been licensed for at least one year. 625 ILCS 5/6-103, 5/6-105.

A minor who is at least sixteen may get a driver's license with the written consent of either parent or a legal guardian, as long as the parent or guardian certifies that the minor has had at least twenty-five hours of behind-the-wheel practice time. The minor must also present proof of successful completion of an approved driver education course and must have held a valid instruction permit for at least three months. 625 ILCS 5/6-107.

A person who is at least eighteen years old may get a driver's license without the written consent of a parent or guardian. A person under seventeen who drives after curfew must have a parent, legal guardian, or someone eighteen or older with them. This person must be approved by the minor's parent or legal guardian. Local police will provide information about the curfews in effect in your area.

*The Rules of the Road Manual*, published by the Illinois Secretary of State, has complete information on drivers' licensing and traffic laws. The Secretary of State also publishes *Rules of the Road for Second Division Vehicles*, which contains information for drivers of trucks and other large vehicles.

Driving is a privilege, not a right. It is the driver's responsibility to obey all traffic laws, to operate a safe vehicle, and to carry adequate insurance. Parents who allow their licensed children to drive the family car must notify their insurance company to add additional drivers to their policy.

Insurance is mandatory in Illinois. Evidence of liability coverage must be carried by the driver or in the vehicle and shown to police officers upon request. The penalties for driving without insurance include a minimum \$500 fine and suspension of vehicle registration until a \$100 reinstatement fee and proof of insurance is submitted.

For more information, call or write the Secretary of State's Office, Driver Services Department, 2701 South Dirksen Parkway, Springfield, Illinois 62723, (800) 252-2904, a local branch office, or visit [www.sos.state.il.us/depts/drivers/mot\\_info.html](http://www.sos.state.il.us/depts/drivers/mot_info.html).

### **DRUNK DRIVING**

Illinois has an implied consent law, which means that any driver on Illinois roads is required to submit to breath, blood, and/or urine tests following arrest for DUI (driving under the influence). Refusal to take such tests results in a summary suspension of driving privileges. 625 ILCS 5/11-501.1.

Under the summary suspension law, a first offender whose blood alcohol concentration is found to be 0.08 percent or greater will have his or her license suspended for at least three months. If a first offender refuses the test, the suspension period is at least six months. A second offender within a five-year period will have his or her license suspended for at least twelve months for failing the test, or at least twenty-four months for refusal to take the test. Upon arrest, the driver will be issued a temporary receipt allowing him or her to drive for forty-five days. During this forty-five day period, the driver may request a judicial hearing on the suspension. However, a delay in the hearing will not prevent the suspension forty-six days or more after arrest.

Illinois also has a summary suspension law for drivers found with any trace of any illegal drug (including marijuana) in their bodies. For a first offender, a three month suspension will result from tests showing any trace of illegal substances. 625 ILCS 5/6-208.1.

In addition to the summary suspension procedures, a suspected offender may also be charged under the DUI laws. A person convicted of DUI will have his or her license revoked for a minimum of one year for a first offense. A first offender may also be fined up to \$1,000 and jailed for up to one year. Persons convicted of DUI a second time within twenty years will have their license revoked for at least three years. Second offenders will also receive a minimum of two days in jail or ten days of community service, and a fine of up to \$10,000.

NOTE: A person arrested for DUI should immediately contact an attorney.

### **MOTORCYCLES**

A special license is required to operate a motorcycle. *The Rules of the Road for Non-CDL Vehicles*, published by the Illinois Secretary of State, has information concerning motorcycle licenses. *The Motorcycle Operator Manual*, also published by the Illinois Secretary of State, also contains important information for motorcyclists.

### **BICYCLES**

Generally, the same rules that apply to driving a car apply to riding a bicycle. However, no license is required and children may ride bicycles. The Secretary of State publishes a special pamphlet, *Bicycle Rules of the Road*, on this issue.

NOTE: Motorcyclists and bicycle riders should always wear helmets.

**HITCHHIKING**

It is against the law to hitchhike in Illinois. 625 ILCS 5/11-1006.

**CONTRACTS**

A contract is an oral or written agreement between two or more people to do something in return for something else. Layaway plans, charge accounts, and installment plans are all contracts.

Generally, a minor who enters into a contract is not bound by the terms of the contract. Minors can choose to void their contracts at almost any time. Because minors are allowed to void their contracts, landlords, merchants, loan companies, and other adults rarely contract with persons under eighteen. However, a contract entered into by a minor may bind that person if he or she does not reject it within a reasonable time after reaching majority. *Dixon National Bank v. Neal*, 125 N.E.2d 463 (1955); *Shepherd v. Shepherd*, 97 N.E.2d 273 (1951); *Perry v. Saleda*, 340 N.E.2d 314 (3d Dist. 1975). An adult, however, cannot break a contract with a minor as long as the minor continues to execute the terms of the contract.

There are certain cases in which a minor is bound by a contract. Some examples are: loans received for the necessities of life (food, clothing, medical care), education, or for life, health or accident insurance, *Pelham v. Howard Motors, Inc.*, 156 N.E.2d 597 (1st Dist. 1959); Illinois college loans, 815 ILCS 155/1; savings or bank accounts in a minor's name, 205 ILCS 5/45; consent papers to have an abortion, *Wynn v. Scott*, 449 F. Supp. 1302 (N.D. Ill. 1978); 720 ILCS 515/4; and medical care in matters relating to drugs or alcohol, sexual assault or abuse, venereal disease, mental health, and giving blood. 410 ILCS 210/1 *et seq.*

For more information on abortion and other medical matters *See* Consent for Medical and Surgical Treatment .

Laws regarding contracts have been enacted to protect the buyer from certain sales pressure techniques and practices. 815 ILCS 505/1 *et seq.* For example:

1. A seller cannot resort to unfair competition or deception—such as misrepresenting something or not telling the buyer all the facts that are important—in order to make a sale. A seller also cannot ask the buyer to give the names of other prospective buyers in return for compensation. 815 ILCS 505/2, 2A(1).
2. If a person buys, leases, or rents something for \$25.00 or more due to a salesperson's personal visit to the buyer's home, and the salesperson was not asked to come, the buyer may void the contract or sale by notifying the seller within three full business days and returning the merchandise in its original condition. The three-day period does not begin until a notice (that the order may be canceled within three days) is given to the buyer by the seller. The seller must give the buyer the address and phone number where the seller can be reached. This does not apply to sales or rentals of real property, insurance, or securities. 815 ILCS 505/2B.

3. A buyer under eighteen may void the contract because of age unless the buyer is an emancipated minor. 750 ILCS 30/5(a). *See also* Local 165 of IBEW v. Bradley, 499 N.E.2d 577 (1<sup>st</sup> Dist. 1986).

4. If a person's application for credit is rejected, the seller cannot keep the down payment. Retaining it as a fee for investigating a credit history or to cover "depreciation" of the merchandise is unlawful. 815 ILCS 505/2C.

5. If someone buys something on an installment plan and then defaults (fails to pay), the seller cannot sell the merchandise at a lower price and increase the balance owed by the original buyer when the merchandise was repossessed. 815 ILCS 505/2G.

6. No creditor or agent of a creditor may attempt to collect a debt by contacting a debtor's employer unless there has been a default of payment for at least thirty days, and at least five days notice of an intention to contact the debtor's employer has been given.

If a contract contains a provision that discriminates or appears to discriminate against someone on the basis of race, color, creed, national ancestry, sex, ethnic, or religious grounds, or on the basis of any connection between that person and any other entity, that provision is invalid.

NOTE: The best advice for anyone entering into a contract is to read it carefully and be sure to understand it before it is signed! Be sure there are no blank spaces where changes could be made, and be sure to get a copy of the signed contract. If anything in a printed contract is changed, or if new language is added to a contract, it is best to have all the people entering into the contract initial the change or new language. Also, if someone tells you something before you sign the contract that is important to your decision to enter the contract, you should make sure the contract language reflects what you were told.

## **LANDLORD/TENANT**

### **DISCRIMINATION IN HOUSING**

It is a federal civil rights violation to discriminate in housing on the basis of race, color, religion, sex, familial (family) status, or national origin. Civil Rights Act of 1968, Title VIII Sec. 804, 42 U.S.C. § 3604.

It is also illegal to refuse to become involved in a real estate transaction based on discrimination or familial status. A landlord or seller cannot tell an interested tenant or buyer that available property is unavailable for rental or sale just because of a person's race, color, religion, national origin, ancestry, age, sex, marital status, disability, an unfavorable discharge from military service, or because a person is under eighteen years old and lives with his or her parents or guardian. 775 ILCS 5/3-101 *et seq.*

For more information on discrimination, *See* De Jure Segregation and Discrimination on the Basis of Color, Race, Nationality, Sex, or Religion.

**TENANT AND LANDLORD RESPONSIBILITIES**

A landlord may not insert a provision in a lease which exempts him or her from liability for damages for injuries to persons or property resulting from the landlord's negligence in the operation and maintenance of the building or premises. These types of provisions will not be enforced by the courts. 765 ILCS 705/1.

Written leases generally set forth various tenant obligations, and these, as well as building rules and regulations, must be complied with by the tenants unless they are unreasonable. Tenants should take good care of their apartments and should avoid damaging the building as well.

**SECURITY DEPOSITS**

Landlords can require tenants to make security deposits to ensure that tenants pay their rent and do not damage the property being rented.

The landlord of a building of twenty-five or more living units must pay interest on tenant security deposits. The interest will be calculated at a rate equal to the interest rate paid by the largest commercial bank in the State of Illinois for a passbook account as of December 31 of the year preceding the start of the lease if the security deposit is held more than six months. The interest must be paid after the end of each twelve month rental period, unless the tenant owes the landlord money. 765 ILCS 715/1. A landlord who is found by the court to have willfully failed or refused to pay the interest can be fined an amount equal to the amount of the security deposit, court costs, and reasonable attorneys' fees.

When a lease ends, the tenant is entitled to the return of the security deposit minus any amounts of rent due or the cost of repair for any damages to the rented property. The landlord of a building of five or more units must give a tenant a list of damages with estimates or receipts for repairs within thirty days after the premises are vacated. If the landlord gives price estimates, actual receipts must be submitted within thirty days after the first notice was sent. If a landlord does not give these notices and receipts, the landlord must return the security deposit within forty-five days of the date the tenant vacated the premises. 765 ILCS 710/1.

If the court finds that a landlord has refused to supply the itemized statement or has supplied it in bad faith and has failed or refused to return the security deposit within the time limits provided, the landlord can be fined an amount equal to twice the amount of the security deposit plus court costs and reasonable attorney fees. 765 ILCS 710/1.

**UTILITIES**

Depending on provisions in the lease, the landlord may be responsible for payment of some or all of a tenant's utility bills. If a landlord is responsible for payment and fails to make payment, the tenants may pay the past due costs, and service must be restored if it has been cut off. The tenants may deduct the amount paid by them from the rent due on the lease. The utilities in any building with three or more apartments cannot be

cut off for non-payment until the utility company gives notice to all tenants. 765 ILCS 735/1. The notice shall allow the tenants at least ten days to pay the past due amount, or allow the tenants to petition the court to have a receiver appointed to collect rent to satisfy the outstanding amount. 765 ILCS 735/3.

### **EVICTION**

Only the sheriff may legally evict (remove) a tenant from a dwelling, and only with a court order. The landlord must sue the tenant to get that court order, and then deliver the order to the sheriff. However, many written leases include provisions in which the tenants agree that the landlord may evict them with or without due process of law in the event of default. This type of provision is unenforceable. 735 ILCS 5/9-102.

A landlord who wants to have a tenant evicted because of non-payment of rent must give the tenant a five-day notice, unless the lease includes a waiver of the notice. This notice says that the tenant must pay the rent or leave the premises within five days. If the tenant still has not paid the rent after the five days have elapsed, the landlord can file suit. If the tenant tries to pay the full rent within the five-day period and the landlord does not accept it, the landlord cannot evict. 735 ILCS 5/9-209. Some local governments have enacted ordinances that protect tenants in their dealings with other tenants. To find out if your city or village has such an ordinance, contact your local building department.

### **TORTS**

Torts is the legal name given to all those areas of law which relate to injury of another person or property. Torts deals with "civil" injury, not criminal, and the penalty is not jail, but a payment of money to make the injured person whole again.

The main areas of torts are intentional (injury done on purpose) and negligent (injury caused by carelessness). The law of torts is based on an interplay between policies of providing adequate compensation to an injured party (plaintiff) and of punishing a wrongdoer (defendant).

### **INTENTIONAL TORTS**

Intentional torts include torts to a person and torts to property. Typical examples of torts to a person are assault, battery (defined in Criminal Offenses), false imprisonment (detaining someone although knowing or assuming that person is innocent of wrongdoing), and intentional infliction of emotional distress.

Typical torts to property include trespass to land (going on someone's land without permission); trespass to chattels or property (using someone's property without permission); and conversion of chattels (taking someone's property and having no intention of returning it).

### **NEGLIGENT TORTS**

A duty is a legal obligation a person has to someone else. In tort law, a person who commits a breach of duty (failure to perform a duty owed to someone) could be held liable (responsible) for damages.

Under the law of negligent torts, an individual owes other people a “duty of due care”, which means that a person must conduct him or herself in a reasonably careful way so as to avoid causing injury to others. People are responsible for injuries resulting from foreseeable consequences following from their actions.

In order to be liable for negligent torts, injury must actually be caused by someone’s act or the failure of someone to act. There must be a showing of actual damage to the person or property. *Martin v. Heinhold Commodities*, 643 N.E.2d 734 (1994).

A person who is responsible for the care of another has the duty to aid that person in an emergency. Failing to do so could result in a negligent tort. It should be noted, though, that the general rule in law is that a person has no duty to go to the aid of a stranger in an emergency if that individual did not cause the emergency situation. However, a special duty arises between employer and employee, host and guest, and carrier and passenger. *See Serritos v. Chicago Transit Authority*, 505 N.E.2d 1034 (1987) carrier-passenger relationship. *See also Taal vv. WHGK*, 592 N.E.2d 1150 (5<sup>th</sup> Dist. 1992) employer-employee relationship.

Other acts of negligence include doing something forbidden by law or otherwise acting carelessly (for example, practicing medicine without a license and injuring the patient), and failing to practice reasonable care when responsible for a third person (for example, a parent or guardian of a minor failing to protect the minor from foreseeable harm).

#### **LIABILITY FOR TORTS**

Anyone, including persons under eighteen years of age, may sue another person for a tort. In some cases, children over age seven may be sued for torts. Adults are judged by an objective standard of reasonableness. This means that they are judged according to what a “reasonable person” would do under the same circumstances. Minors between the ages of seven and eighteen, however, are judged against a standard of care and behavior that is reasonably expected of other children who are the same age, have the same experience, and have the same intelligence. *See, e.g., Barth v. Massa*, 558 N.E.2d 528 (5<sup>th</sup> Dist. 1990).

Persons injured through negligence may receive money for their pain and suffering, plus any loss of actual or expected earnings and medical costs which result from their injury. For example, if a person is in a serious accident and is permanently injured, that person's ability to work both immediately and at some later date may be affected. The lost earnings from the injury are compensable, as may be the inability to work in the future. The parents of an injured minor are also entitled to receive the money spent for medical services. *Kelleher v. Hood*, 605 N.E.2d 1018 (2<sup>nd</sup> Dist. 1992).

Persons of any age are responsible for all intentional torts they commit. A person who committed a tort unintentionally may still be responsible if he or she is over seven years of age. *Jorgensen v. Nudelman*, 195 N.E.2d 422 (1st Dist. 1963). If a judge finds a person responsible for a tort, the person might have to pay cash for the injury caused.

Parents may have to pay damages, plus court costs, for a negligent minor child who is unable to pay. 740 ILCS 115/1 *et seq.*

A person may be found liable for negligence even if the injured party is partially liable. *Alvis v. Ribar*, 421 N.E.2d 886 (1981). The plaintiff's and the defendant's relative fault is compared, and the award of damages to the suing party is reduced in proportion to his or her fault. However, the injured party cannot be more than 50% liable for the injury to collect damages. 735 ILCS 5/2-1116. This rule of law is referred to as comparative negligence.

### **REGISTRATION FOR THE DRAFT**

All men must register for the draft when they become eighteen. Any young man who does not register could be fined up to \$10,000, and sentenced to up to five years in prison. Military Selective Service Act, 50 U.S.C. App. § 451 *et seq.*

Registration takes place at United States Post Offices throughout the country. Each registrant records his name, address, sex, birth date, Social Security number, phone number, date signed, and signature on the registration card.

Conscientious objectors (those opposed to participation in any war on religious, moral, or ethical grounds) may indicate their status on the registration card. The Selective Service will *not* classify registrants by their physical condition, nor by their student, marital, or conscientious objector status. A classification system may be added by Congress at a later date, or when and if the draft is resumed.

Currently, women are not required to register. The Supreme Court has held that the draft is constitutional although it excludes women. *Rostker v. Goldberg*, 453 U.S. 57 (1981).

### **VOTING**

United States citizens (born and naturalized) eighteen and over have the right and responsibility to vote in local, state, and federal elections. It is necessary to register in order to vote. You may register at any Driver Services Facility (where you got your driver's license), request a registration card on-line (it must be mailed to you) at [www.voterinfonet.com](http://www.voterinfonet.com), or contact your local county clerk. (In Chicago, the Chicago Board of Elections).

NOTE: Whenever you change your permanent address, you must re-register. If you are temporarily away from home, for example, away at college, you do not have to re-register but may vote in your home district by absentee ballot.

Any person convicted of a felony loses the right to vote.

**JURY SERVICE**

The United States Constitution guarantees the right to trial by jury in criminal trials and in civil trials over matters involving \$20 or greater. U.S. Const. amend. VI, VII. The Illinois Constitution also guarantees a right to trial by jury. Ill. Const. art. I, § 13.

To guarantee this right, citizens are required when summoned to serve as jurors. Citizens can be called to serve as jurors in state or federal court. A person may also be called to serve as a state or federal grand juror. Names for jury service are selected using voter records, driver's licenses, and other public lists.

To serve as a juror, a person must be 18 years or older and a U.S. citizen. In state court, they must also be a resident of the county where the court is located.

Persons can be excused from jury service for a variety of reasons which may vary by jurisdiction. The U.S. Supreme Court has ruled that a person cannot be excluded from jury service on the basis of race, *Batson v. Kentucky*, 476 U.S. 79 (1986), or gender, *J.E.B. v. Alabama Ex Rel. T.B.*, 511 U.S. 127 (1994).

## SOCIETY'S CONTROLS

The *Illinois Juvenile Court Act* governs the relationship between the State of Illinois and minors who are abused, neglected, dependent, addicted, delinquent, or who require authoritative intervention. The following sections examine offenses committed by minors and the consequences that may be faced for committing such offenses.

### STATUS OFFENSES

Status offenses are violations which can only be committed by minors. In other words, adults who do these things are not violating any laws. Adults may stay out as late as they like, do not have to attend school, and may leave home without permission.

### CURFEW

Curfew prohibits minors from being out alone during certain hours. During these hours, a minor under seventeen must be accompanied by a parent, guardian, or other person who is over eighteen and has the consent of the minor's parent. Local police will provide information about the curfews in effect in your area. There are exceptions for minors who are working. 720 ILCS 555/1.

### TRUANCY

Truancy is the act of staying out of school without valid cause. A valid cause includes but is not limited to, illness, observance of a religious holiday, death in the immediate family, and family emergency. A chronic truant is a child who is absent from school without permission for eighteen or more of the previous 180 regular school days. 105 ILCS 5/26-2a.

### MINORS REQUIRING AUTHORITATIVE INTERVENTION

Minors who run away from home or are found to be beyond their parents' control may be taken into limited custody involuntarily for up six hours. If the problem is not resolved within that time, the minor may be transported to an agency or association providing crisis intervention services. 705 ILCS 405/3-4. If the crisis intervention agency is unable to make arrangements for the child to safely return home, the child can be sheltered in a temporary living arrangement. 705 ILCS 405/3-5. A petition may be filed with the court alleging that the minor requires authoritative intervention or a neglect petition filed against the minor's parents. *See* 705 ILCS 405/3-3, -5, -6. *See also* 705 ILCS 405/2-3 (neglected or abused minor) and 2-13 (petition).

### CRIMINAL OFFENSES

#### VIOLENT OFFENSES

**Assault** involves threatening someone such that the person feels in danger of being hurt. 720 ILCS 5/12-1. **Battery** is intentionally hurting someone. 720 ILCS 5/12-3. When a knife or other dangerous weapon is used, the offense is termed **Aggravated Assault** or **Aggravated Battery**. The offense will also be termed "Aggravated" if the person threatened or hurt is a teacher or other school employee, park district employee, public aid employee, bus driver, correctional officer, or other public employee who is performing his or her job. The offense will also be termed "Aggravated" if the person

threatened is sixty years old or older, pregnant (Aggravated Battery only) or physically handicapped. 720 ILCS 5/12-2, -4. People have the right to protect themselves and others with reasonable force. But they cannot hurt a person just because that person is bothering them. Force may be used only to prevent one person from hurting another.

**Vehicular Endangerment** is causing an object to fall from an overpass in the direction of a moving motor vehicle with the intent to strike a motor vehicle. 720 ILCS 5/12-2.5.

**Domestic Battery** is intentionally causing bodily harm to a family or household member. 720 ILCS 5/12-3.2.

**Robbery** is taking property from a person, or in front of a person, while using or threatening force. 720 ILCS 5/18.1. When a dangerous weapon is used, the offense becomes **Armed Robbery**. 720 ILCS 5/18.2. Also, if the victim is sixty years of age or older, or is handicapped, a more severe penalty is imposed.

**Burglary** is entering a building or other personal enclosure (*e.g.*, house, boat), or remaining there without authority and intending to take property or to commit a felony. The law allows more severe penalties for the burglary of a home as compared to a nonresidential burglary. It is also a crime to possess burglary tools. 720 ILCS 5/19-1, -2, -3.

A person commits the offense of **Stalking** when he or she twice follows another and threatens him or her. The penalty is increased when the offender hurts or restrains the victim. 720 ILCS 5/12-7.3, -7.4.

**Mob Action** is two or more persons disturbing the peace, using violence or otherwise disobeying the law. 720 ILCS 5/25-1.

**Intimidation** is threatening to hurt someone (either the person directly or another person he or she knows) in order to force that person to do something (for example, forcing someone to join a gang). 720 ILCS 5/12-6, -6.2.

**Hate Crime** is committing offenses such as assault, trespass or mob action by reason of another person's race, color, creed, religion, ancestry, gender, sexual orientation, physical or mental disability, or national origin. 720 ILCS 5/12-7.1.

**Hazing** is requiring a student to do something which is not authorized by the school, in order to be admitted into a group, which results in bodily harm to the student. 720 ILCS 120/5.

**Compelling Organization Membership of Persons** involves compelling others to join an organization or association,

eighteen years old or older and the victim is younger than eighteen years old. 720 ILCS 5/12-6.1.

**Criminal Sexual Abuse** is any sexual act, including touching or fondling, by the use of force or the threat of force. An offense also occurs when a person has sexual intercourse with someone who is under seventeen. 720 ILCS 5/12-15. If the accused is more than five years older than the victim, who is between ages thirteen and sixteen, the charge is **Aggravated Criminal Sexual Abuse**. 720 ILCS 5/12-16. Any act of sexual intercourse between a person seventeen or older with someone under thirteen constitutes the even more serious charge **Predatory Criminal Sexual Assault**. 720 ILCS 5/12-14.1.

**Vehicular Hijacking**, *i.e.*, carjacking, is taking the motor vehicle of another by force or threat of force. 720 ILCS 5/18-3.

#### **NON-VIOLENT OFFENSES**

**Theft** is the taking of or exerting of unauthorized control over someone else's property. This offense includes shoplifting; buying or receiving something with the knowledge or suspicion that it may be stolen; keeping lost property without making a reasonable effort to find the real owner; and using someone's credit card without permission. 720 ILCS 5/16-1.

**Criminal Trespass to Vehicles** (Auto Theft) is taking someone's car without that person's permission, even if the person taking the car intended to return it (for example, joyriding). 720 ILCS 5/21-2.

**Criminal Fortification of a Residence or Building** is the use of steel, wood, dogs, alarm systems or other means to impede the entry of police into a residence or building by a person involved in drug trafficking. 720 ILCS 5/19-5.

**Disorderly Conduct** includes unreasonably disturbing another (making phony or obscene phone calls); pulling a fire alarm knowing that there is no fire or emergency; making a false bomb threat; and making a fake police report, as well as other generally disruptive behavior. 720 ILCS 5/26-1.

**Educational Intimidation** is interfering with the right of any child who has or is believed to have a chronic infectious disease from attending or participating in school activities. Only school officials (infectious disease review team) have the right to review a case and/or bar a child from activities because of infectious disease and may do so only within the confines of the law. 720 ILCS 5/12-7.2.

A person commits **Criminal Transmission of HIV** when the person knows he or she is HIV positive and has intimate contact or shares needles with another. 720 ILCS 5/12-16.2.

A person **Resists Arrest** when he or she resists or obstructs a police officer in the course of his or her duty to arrest. 720 ILCS 5/7-7.

#### **PROPERTY CRIMES**

**Institutional Vandalism** or **Criminal Damage to Property** is knowing destruction or defacement of public or private property. 720 ILCS 5/21, -1.2.

**Trespass** is entering someone's residence or land without permission. 720 ILCS 5/19-4, /21-3.

#### **GUNS, ALCOHOL, TOBACCO AND CANNABIS**

The following is a description of the requirements and penalties for possessing and/or selling a number of potentially dangerous items. Explanations are designed to provide a clear description of what juveniles may or may not purchase.

##### **GUNS**

A Firearm Owner's I.D. card is necessary to possess a gun and/or ammunition. 430 ILCS 65/2. To get this card, a person must be over twenty-one, never been convicted of a felony and not have been a patient in a mental health facility within the last five years. 430 ILCS 65/4.

I.D. cards may be obtained by persons under twenty-one, provided they have never been convicted of a non-traffic misdemeanor or adjudicated delinquent, with written parental consent. The consenting parent(s) must also be eligible to receive a card. 430 ILCS 65/4. A minor, while hunting, is not required to carry a Firearm Owner's ID card so long as he or she is hunting with an adult who has a currently valid Firearm Owner's Identification Card.

A person under eighteen may not have a gun which can be hidden under clothing. A person under twenty-one who has been convicted of a misdemeanor other than a traffic offense or adjudged delinquent; is a narcotic addict; has been a patient in a mental hospital within the past five years; or is mentally retarded may not have any firearms or firearm ammunition in his or her possession. It is illegal to possess any explosive bullet. 720 ILCS 5/24-3.1

A salesperson may not sell a BB gun to anyone under thirteen. 720 ILCS 535/2. A person between the ages of thirteen and twenty-one may shoot a BB gun only on a safely constructed target range, or if the person is a duly enrolled member of a club or team and is shooting under adult supervision. 720 ILCS 535/4.

NOTE: Many local communities have gun control ordinances that are enforced within their boundaries. Consult your local police department or county sheriff's office for the laws that apply in your community.

##### **ALCOHOL**

In order to buy, drink, or possess any alcoholic beverages (beer, wine and liquor) in Illinois, a person must be twenty-one or over. 235 ILCS 5/6-16. A person under

twenty-one is not prohibited from possessing, dispensing, or drinking alcohol when in the performance of a religious service or ceremony, or under the direct supervision and approval of the parent or guardian in the privacy of their home. 235 ILCS 5/6-20. No one, regardless of age, may drink or possess any open bottles or cans of alcohol in a car while moving. 625 ILCS 5/11-502.

#### **TOBACCO**

Tobacco or cigarettes cannot be sold or given to anyone under eighteen. 720 ILCS 675/1. All manufacturers must label cigarettes as potentially harmful to your health.

#### **CANNABIS**

Cannabis, as defined in the *Illinois Cannabis Control Act*, includes marijuana, hashish, resin, including tetrahydrocannabinol (THC) seeds, and all other derivatives of the cannabis plant. The possession or sale of cannabis is illegal in Illinois. 720 ILCS 55/3, /4, /5.

The penalties for selling and possessing cannabis are based on the quantities involved—the larger the quantity, the stiffer the possible penalty. Usually, sale of cannabis carries a stiffer prison sentence and fine than does possession. 720 ILCS 550/4, /5.

These penalties can vary under certain sections of the Act. Under the enhanced penalty section, a person may be subject to a penalty twice the normal maximum term. This could happen if someone eighteen or older attempts to, or succeeds in transferring (giving or selling) an amount of cannabis to a person who is under eighteen and is three years younger. 720 ILCS 550/7. (For example, if you are nineteen and attempt to, or actually do give or sell cannabis to a person sixteen or younger, you could be given twice the normal sentence for that offense.) In addition, the maximum penalty for a sale occurring within 1000 feet of a school is fifteen years and a \$200,000 fine. 720 ILCS 550/5.2.

A person who transfers an amount of cannabis without receiving anything in return for it could be sentenced under the casual delivery section of the Act. The penalty for this offense is the same as the penalty for possession. The quantity of cannabis transferred determines the sentence. 720 ILCS 550/6.

One of the most important aspects of Illinois' cannabis law deals with first offenders. A first offender is a person who has not previously been convicted or placed on probation for any offense under the *Cannabis Control Act*, or any law of the U.S. or any other state relating to cannabis or controlled substances. A first offender who pleads guilty of certain violations of the Act can be fined and sentenced to a special form of probation by the Court. If the terms of the probation are fulfilled, the Court will dismiss the charge and discharge the offender from probation, thus avoiding a criminal record. This form of discharge and dismissal can occur only once during an individual's lifetime. 720 ILCS 550/10.

It should be noted that a person involved in the growing or processing of cannabis can receive a stiff fine and/or prison sentence. For example, a person convicted of growing over fifty plants may be sentenced for up to seven years in prison and fined up to \$100,000. 720 ILCS 550/8.

#### **OTHER DRUGS**

The *Cannabis Control Act* covers only marijuana and the other cannabis derivatives. Other drugs, which are considered dangerous to take without the advice of a doctor, are controlled by the *Illinois Controlled Substances Act*. 720 ILCS 570 *et seq.* Penalties for use of these drugs are based on their potential for abuse, and their degree of psychological or physiological dependence. 720 ILCS 570/201. Under this Act, it is illegal to manufacture, sell or give these substances away; possess them without a prescription; or try to get them by changing a prescription. 720 ILCS 570/401, /402, /406.

Drugs classified as narcotics, including heroin and cocaine, are controlled under both State and Federal laws. Penalties are based on quantity, degree of potential harm, and are stricter for manufacture and delivery than they are for possession. 720 ILCS 570/401, /402.

#### **LAW ENFORCEMENT**

##### **ARRESTS**

Arrests may be made when a court has issued a warrant for the arrest of a specific person, or when a law enforcement officer has good reason to believe that a suspect has broken a city, state, or federal law. One should not run away, resist arrest, or argue with a police officer. In Illinois it is against the law to disobey the direct order of a police officer.

NOTE: If you feel you have been harassed, treated unfairly, or stopped unreasonably by the police you may file a complaint with the Police Department Office of Professional Standards. In Chicago by phone (312) 747-6307 or in person or by mail 1130 S. Wabash, Chicago, IL 60605. Your complaint can be handled more efficiently if you have the officer's badge or car number, where the incident occurred, the names any witnesses to the incident, and exactly what happened. The Chicago Police Department has limited ability to pursue anonymous complaints unless the complaint alleges criminal activity on the part of a police officer. Outside Chicago, contact your Police Department's Internal Affairs Division.

The U.S. Supreme Court has outlined certain rights that everyone has when arrested for custodial interrogation (questioning by the police while in custody). These rights include:

1. The right to remain silent whether or not a lawyer is present;
2. The right to be told that anything said by the suspect may be used against him or her in a court of law;
3. The right to have a lawyer present during any questioning;

4. The right to be informed that the court will appoint a lawyer free of charge for any suspect who cannot afford one; and
5. The right to stop the questioning at any time even though he or she chooses to answer some questions. *Miranda v. Arizona*, 384 U.S. 436 (1966).

The police may place a suspect in a line-up for possible identification by witnesses, but there are certain guidelines. The suspect must resemble others in the lineup. For example, the suspect cannot be the only person in the lineup who has long hair, the only member of a minority group, or the only person of his or her sex. A person charged with a crime and indicted has a right to have a lawyer present when in a lineup. *U.S. v. Wade*, 388 U.S. 218 (1967); *People v. Palmer*, 244 N.E.2d 173 (1969).

#### **SEARCHES**

Generally, a law officer must appear before a judge in order to get a search warrant before actually executing the search. Some exceptions to this are listed below. *Katz v. U.S.*, 389 U.S. 347 (1967).

**Arrest**—When an arrest is being made, the police may search the person being arrested and the area within the officer's range to ensure protection from close range weapons. (This applies regardless of whether the officer has a warrant.) If the police are making an arrest of a driver of a car, the officer may also search glove compartments, trunks, handbags, and other areas where a weapon may be stored. *U.S. v. Robinson*, 414 U.S. 218 (1973).

**Plain View**—Any officer who comes across illegal material does not need a search warrant to seize that material, as long as the officer has a legal right to be at the location where the material is found. For example, if a police officer stops a car because it has a faulty brake light, and upon stopping the car the officer sees marijuana on the dashboard, the officer may seize the marijuana and arrest the driver. The marijuana may be used as evidence against the driver. *Horton v. CA*, 496 U.S. 128 (1990).

**Consent**—When someone having a legal right to consent to a search does so, a police officer may execute a search without a warrant. *Schneckloth v. Bustamonte*, 412 U.S. 218 (1973).

**Hot Pursuit**—When the police are in hot pursuit or chasing a suspect, they may search without a warrant. For example, if the police chase a robbery suspect from the scene of a crime to a house, the police may follow the suspect and search the house for the suspect. *Warden v. Hayden*, 387 U.S. 294 (1967).

**Stop and Frisk**—The police may stop persons who they reasonably believe are committing, have committed, or are about to commit a crime. When such stops are made, persons reasonably believed to be armed may be frisked, but only for dangerous weapons. *Terry v. Ohio*, 392 U.S. 1 (1968).

**Customs**—Customs officers may search anyone passing through customs (at a border or airport) for illegal materials and items on which duty should be paid. *U.S. v. Ramsey*, 431 U.S. 606 (1977).

**Airports**—Passengers and others passing through departure gates are subject to search for weapons and other articles which may not be carried onto airplanes. In some instances, luggage or packages may be retained for a short period of time while warrants are being sought. *U.S. v. Place*, 462 U.S. 696 (1983) (luggage).

**Good Faith**—Evidence obtained in a search based upon an invalid search warrant may be used against a suspect, if the police officer acted in good faith. This good faith exception has also been extended to searches based upon illegal statutes and searches of the wrong apartment. For example, if the police get a warrant to search your neighbor's apartment and mistakenly search your apartment, any drugs they find in your apartment can be used against you, as long as the police acted in good faith. *Maryland v. Garrison*, 480 U.S. 79 (1987); *U.S. v. Leon*, 468 U.S. 897 (1984).

**Inventory**—When the police take custody of a vehicle after a traffic arrest, they can take an “inventory” of the contents of a car without a warrant. For example, if you are arrested for drunk driving and the police tow your car, they can search the entire car, including closed containers, without a warrant. *Colorado v. Bertine*, 479 U.S. 367 (1987).

**Probation**—The police can search the home of someone on probation without a warrant. *Griffin v. Wisconsin*, 483 U.S. 868 (1987).

The police cannot pump a person's stomach for evidence, *Rochin v. California*, 342 U.S. 165 (1952), but they can take a blood sample. *Schmerber v. California*, 384 U.S. 757 (1966). Breathalyzer tests may also be administered when a person is suspected of driving under the influence of alcohol. *South Dakota v. Neville*, 45 U.S. 553 (1983).

## JUVENILE COURT

The first juvenile court in the U.S. opened in July 1899 in Chicago based on the belief that putting juveniles in the adult criminal system would only make them more likely to continue committing crimes. The purpose of the original juvenile court was to help and protect young people. The court of today continues in that spirit striving to protect the “best interests” of the minor while at the same time keeping the community safe. However, juveniles convicted of crimes are held accountable.

Children taken to juvenile court fall into one of four statutory categories.

**A Delinquent Minor** is a person younger than seventeen who has broken or has attempted to break a federal or state law or a county or municipal ordinance. 705 ILCS 405/5-105.

**A Minor Requiring Authoritative Intervention** is a person younger than eighteen who is absent from home without the consent of a parent or guardian, or who is beyond the control of a parent or guardian in circumstances which constitute a substantial and immediate danger to the minor's physical safety; *and*, after interim counseling, will not agree to return home or to being placed in an alternative residence. 705 ILCS 405/3-3.

**Abused, Neglected, and Dependent Minors** are discussed in the section entitled Parental Rights and Responsibilities. *See* 705 ILCS 405/2-3 (definition of neglected minor; abused minor) and 405 ILCS 405/2-4 (definition of dependent minor).

An **Addicted Minor** is a person younger than twenty-one who is addicted to drugs or alcohol as defined in the *Illinois Alcoholism and Other Drug Abuse and Dependency Act*. 705 ILCS 405/4-3.

#### **ARREST AND CUSTODY**

All juveniles taken into custody and transported to the police station are turned over to a special officer known as a Juvenile or Youth Officer. The Juvenile/Youth Officer may then elect one of the following options:

Release the minor to a parent or guardian, usually after some type of counseling session.

When the offense is considered minor, the offender has no or limited past record, and the parents are cooperative, the Officer may Station Adjust the matter. This often includes encouraging the youth and the family to take advantage of some community resource that will help the minor or family and requiring the youth to take some action to remedy harm caused by the offense.

Refer the minor to juvenile court. This is done when the youth officer believes the act(s) were too serious to adjust or dismiss. The Juvenile/Youth Officer will then decide whether the minor may go home and report to court later or should immediately be detained until the court date. Youth who are detained are taken to facilities designated for juveniles. At no time may the juvenile be jailed with adults. No minor under twelve years of age shall be detained in a county jail or municipal lock-up for more than six hours. 705 ILCS 405/5-405 (options available to youth officer) and 410 (six hour rule).

#### **DETENTION HEARING**

Minors that are charged with delinquency and immediately detained by the Juvenile/Youth Officer are entitled to a detention/shelter care hearing within forty hours. Juveniles placed on Home Confinement by the Juvenile/Youth Officer must also appear before a juvenile court judge within forty hours. 705 ILCS 405/5-415. Youth not detained or placed on home confinement are allowed to return to their homes and communities with their parents and will be told to report to the court on a future date for arraignment. It is at that time that they will have their first contact with a judge.

At the Detention/Shelter Care hearing the judge determines whether the state has probable cause to believe that a delinquent act was committed, and that the youth in custody may have committed it. No hearing may be held unless the minor is represented by counsel. A judge may determine that a juvenile should be held in custody. The judge could base this decision on the need to protect the minor, to safeguard others, or to insure the juvenile's presence in court. 705 ILCS 405/5-501(1)-(2).

If the juvenile enters a denial to the charge (pleads not guilty), the judge will determine if there is sufficient reason to believe the allegation in the petition (the written document claiming that the juvenile committed a crime) is true. Usually the prosecutor need present only a small amount of evidence to show probable cause. The court can then inquire about the juvenile's past history to determine if it is a matter of urgent and immediate necessity that the minor continue to be detained until the adjudicatory hearing. If the juvenile enters an admission (pleads guilty) to the charge at the detention hearing, the case will proceed to a dispositional (sentencing) hearing, and not be continued for an adjudicatory hearing.

#### **SCREENING PROCESS**

Juveniles arrested and not detained by a Juvenile/Youth Officer may still be referred to juvenile court. The state's attorney reviews the referral to decide whether or not to prosecute. 705 ILCS 405/5-325, 330. If the state's attorney decides to take the case to court, the juvenile will be assigned to a courtroom for the involvement of a judge and the scheduling of an adjudicatory hearing.

#### **THE ADJUDICATORY HEARING (TRIAL)**

The purpose of this hearing is to determine whether or not the petition allegations are true. The juvenile either enters an admission (pleads guilty) or denial (pleads not guilty). The juvenile's status of being in custody or out of custody will govern the setting of the first adjudicatory (trial) date. The trial should be held within 120 days. A failure to hold the trial within the appropriate time limit may result in the petitions being dismissed. 705 ILCS 405/5-601.

Before the adjudicatory hearing, attorneys for the juvenile and prosecution may engage in plea bargaining. The lawyer representing a juvenile might try to work out a deal with the state's attorney. The state's attorney may agree to drop or reduce some of the charges and agree to recommend a dispositional alternative that acknowledges the juvenile's cooperation. Plea-bargaining has the effect of reducing the number of adjudicatory hearings. Plea-bargaining may work either for or against a juvenile.

A person who is innocent should not plead guilty to a charge. A juvenile who rejects a bargained plea and is found delinquent could receive a dispositional alternative that may be considered very restrictive. Usually guilty pleas are changed only when a person can prove that the earlier plea was made involuntarily.

At the adjudicatory hearing, evidence is presented and witnesses are questioned and cross-examined. The standard of proof necessary to find a juvenile delinquent is

beyond a reasonable doubt. 705 ILCS 405/5-605. If there is no finding of delinquency, the petition is dismissed.

A case may be continued (postponed) under the court's supervision without conducting the adjudicatory hearing if it appears the minor will benefit from the terms of supervision. 705 ILCS 405/5-615. Failure to comply with the terms of supervision during the period of continuance can result in proceeding with the adjudicatory hearing and possibly a finding of delinquency.

#### **PRE-SENTENCING**

A probation officer may be ordered to prepare a social investigation of the juvenile's family history. The officer will visit the minor's home, neighborhood, and school talking with the parents, teachers, school officials and other community based agencies and organizations to develop a picture of the minor's background. 705 ILCS 405/5-701.

The judge may order the juvenile to remain in custody until the dispositional hearing (sentencing). If the judge orders this, the dispositional hearing must take place within a maximum of thirty days or the juvenile must be released. 705 ILCS 5/5-22(3). If the judge orders the juvenile out of custody (out of detention) until sentencing, the dispositional hearing usually takes place within six weeks.

The judge may order the juvenile to undergo psychological or psychiatric testing while awaiting sentencing. A juvenile who was not held in custody before the trial and who is found delinquent will probably be allowed to go home if a parent or guardian guarantees that the juvenile will appear for the dispositional hearing.

#### **THE DISPOSITIONAL HEARING (SENTENCING)**

If the juvenile is found delinquent, the court will then determine which of the dispositional alternatives available would be in the minor's best interest, including the options noted below.

At this hearing, if a social investigation was ordered, the probation officer will present to the judge a report of what was found and may make recommendations. The lawyer for the minor and the state's attorney will also have a chance to give recommendations. All evidence that may be helpful to the court in making a dispositional determination may be presented. The judge will make the final decision, based upon the best interest of the juvenile, the best interest or requirements of the community, the seriousness of the offense, and the juvenile's past record and character. 705 ILCS 405/5-705.

#### **DELINQUENCY**

##### **KINDS OF SENTENCING ORDERS**

**Probation or conditional discharge** (a non-reporting form of probation), and released to his/her parents or guardians. A juvenile who violates probation will be brought to court by the probation officer or the police. The same judge who originally placed the juvenile on probation will decide whether the juvenile should get another chance on

probation, or should be sent to the Department of Corrections if the juvenile is at least thirteen years old. 705 ILCS 405/5-710(1)(a)(i).

**Commitment to a relative**, guardian, or other person, the Department of Children and Family Services (DCFS), or other appropriate institution. The judge may order this (depending upon the minor's age) when the minor's parents or legal guardian are found unfit or unable to protect, train, or discipline the minor. 705 ILCS 405/5-740.

**Treatment for drug addiction.** The judge may order the juvenile to undergo a substance abuse assessment and participate in the indicated level of care. 705 ILCS 405/5 710(1)(a)(iii).

**Time in the temporary detention shelter** (Youth Home) for juveniles. A minor may not be held for more than thirty days unless the court finds that the minor is a danger to him/herself or others. 705 ILCS 405/5-710(1)(a)(v).

**Partial or complete emancipation** in accordance with the provisions of the *Emancipation of Mature Minors Act*. 705 ILCS 405/5-710(1)(a)(vi). *See also* Emancipation.

**The Illinois Department of Corrections (IDOC), Juvenile Division.** A juvenile thirteen years of age or older may be committed to the Juvenile Division of the IDOC. This is the most restrictive placement a juvenile judge can make and is only used in extreme cases. For example, where a minor is adjudicated delinquent for first degree murder, the sentence is commitment to the IDOC until the minor reaches age twenty-one and will not be eligible for parole for five years. When a minor is committed to IDOC he or she is a ward of the court, which means under the care and control of the court, not his or her parents. A juvenile committed to IDOC shall be committed for an indeterminate term which will terminate when the minor reaches age twenty-one unless the minor is released sooner. 705 ILCS 405/5-750.

The court may not sentence a minor to a term which exceeds what an adult would receive for the same crime. 705 ILCS 405/5-710(7). Following any adjudication of delinquency for a crime which would be a felony if committed by an adult, the state's attorney shall provide a copy of the dispositional order to the principal of the school where the minor is enrolled. Access to such juvenile records shall be limited to the principal or chief administrative officer of the school and any guidance counselor designated by him/her. 705 ILCS 405/5-901(8)

#### **MINOR REQUIRING AUTHORITATIVE INTERVENTION**

##### **KINDS OF DISPOSITIONAL ORDERS UNDER 705 ILCS 405/3-24**

**Commitment to the Department of Children and Family Services** which offers a wide range of services. A juvenile may be placed in a foster home, a residential school, a group home, or with a relative or friend. Before the court may do this, however, the state must show that the parents are unable to provide proper care. Juveniles placed in foster homes which they do not like should first talk to their caseworker. If the

situation does not improve, the Guardian Ad Litem at juvenile court (the court-appointed adult who acts as the child's temporary guardian) should be called.

**Placement under supervision** and release to parent(s), guardian, or legal custodian.

**Placement in a guardianship** or custodianship of a relative or interested person with or without supervision.

**Partially or completely emancipate the minor** in accordance with the provisions in the *Emancipation of Mature Minors Act*. 750 ILCS 30/1 *et seq.* Or suspend his or her driving privileges or driver's license (only until the minor reaches eighteen).

#### **TRANSFER OF JURISDICTION**

If a juvenile thirteen years of age or older is accused of a serious crime and/or has a long record, the prosecuting attorney may ask the juvenile court to transfer the case to the criminal court (adult) at any time before the adjudicatory hearing. If granted, the juvenile is transferred to the criminal court and is tried as an adult and the juvenile petition is dismissed.

#### **Mandatory Transfer**

Individuals fifteen years of age or older will be transferred to criminal court on the motion of the State's Attorney if the petition alleges that the minor has a previous felony or forcible felony conviction (adjudicated delinquent) and is accused of a forcible felony or felony committed in furtherance of organized gang activity. Or, the petition alleges that the minor has committed an offense listed under the presumptive transfer section and has previously been convicted of a forcible felony. 705 ILCS 405/5-805(1).

#### **Presumptive Transfer**

If the State's Attorney files a petition alleging a minor fifteen years of age or older committed certain crimes involving firearms (for example, armed robbery with a firearm) in furtherance of gang activity or in violation of the *Illinois Controlled Substances Act*, or alleges that the minor has committed a class X felony, the minor will be transferred to the criminal court unless the judge believes that the minor would be receptive to the rehabilitative services of the juvenile court. The judge considers many factors in making this decision including the seriousness of the offense; whether a deadly weapon was used; whether the offense was aggressive or premeditated; and the adequacy of services available through the juvenile court system. 705 ILCS 405/5-805(2).

#### **Discretionary Transfer**

Upon motion of the State's Attorney a judge will consider: the seriousness of an alleged offense; the minor's history of delinquency; the age of the minor; the minor's culpability; aggression or premeditation in committing the crime; use of a deadly weapon; and adequacy of the juvenile court to meet the minor's needs. After due consideration, the judge may transfer any minor thirteen years of age or over to the

criminal court for any act which constitutes a crime under Illinois law. 705 ILCS 405/5-805(3).

A conviction in criminal court may result in harsher penalties including a longer prison sentence. For example, under the juvenile system, a minor must be released at the age of twenty-one. Under the criminal system, no such age limitation exists.

#### **EXTENDED JURISDICTION JUVENILE PROSECUTION**

If an Extended jurisdiction juvenile proceeding is requested and the juvenile court judge agrees then the dispositional alternatives available to the court are expanded. If found guilty under these provisions the court may place the minor on juvenile probation with terms and conditions that if violated may lead to an adult sentence of incarceration. The adult sentence is set at the time of the juvenile disposition. Successful completion of the juvenile disposition will close the case. The minor is entitled to a jury trial under this provision and the proceedings are open to the public. 705 ILCS 405/5-810(3).

#### **HABITUAL JUVENILE OFFENDER**

A habitual juvenile offender (HJO) is a juvenile delinquent who has been, on two occasions, adjudicated delinquent for offenses which would be treated as felonies as an adult, and who has been adjudicated delinquent for a third time. The second offense must have occurred after a finding was made on the first offense, and the third offense must have occurred after a finding was made on the second offense. Also, the third offense must be certain serious crimes. This offender is entitled to a jury but the hearing will be a closed session with no public allowed. 705 ILCS 405/5-815.

A juvenile tried as a HJO is entitled to a jury trial, unless he or she demands a trial before the court (bench trial). 705 ILCS 405/5-815(d). If found guilty, there are no sentencing options—the court must sentence the juvenile to the DOC until his or her twenty-first birthday. Good-time credit can be given for up to half the sentence. For each day of good behavior, one day may be taken off the sentence, but good-time behavior will be eliminated if the juvenile gets into trouble. 705 ILCS 405/5-810(f).

#### **VIOLENT JUVENILE OFFENDER**

Proceedings under the Violent Juvenile Offender provisions are similar to those of the Habitual Juvenile Offender. A violent juvenile offender is one who has previously been adjudicated a delinquent minor for an offense that is a class 2 or greater felony using threat of physical force of violence or in possession of or use of a firearm during the event. The Violent Juvenile Offender finding would occur if found guilty of the third event. The minor tried as a VJO is entitled to a jury trial. 705 ILCS 405/5-820.

#### **PAROLE**

Based on a delinquent's behavior and rehabilitation, he or she shall be eligible for parole, except those juveniles tried as HJO. 730 ILCS 5/3-3-3(e). Sometimes parole may be determined by point systems. The very latest that a juvenile may be paroled is on his or her twentieth birthday. 730 ILCS 5/3-3-5(d).

Because the juvenile court has no authority over a person after the twenty-first birthday, the parole period may not last past that time. A person who is in custody as a juvenile must be released at that time.

### **APPEALS**

All decisions made during or after the trial may be appealed to a higher court. Appeals may be granted when a serious mistake or a very bad decision was made. As a practical matter, a juvenile's sentence will often be completed before any appeal can be complete.

### **THE CONSEQUENCES OF A JUVENILE RECORD**

A juvenile record may be expunged (erased). Expungement is not automatic. Persons wishing to have records expunged should contact the state's attorney's office at juvenile court to determine their eligibility. Only a judge can grant the request. The judge will consider the juvenile's past record. 705 ILCS 405/5-915.

Once the records are expunged, the court orders the police department to destroy them and the court to seal them. After this occurs, there should be nothing left on file to indicate the person was once declared delinquent.

### **DIFFERENCES BETWEEN CRIMINAL AND JUVENILE COURT**

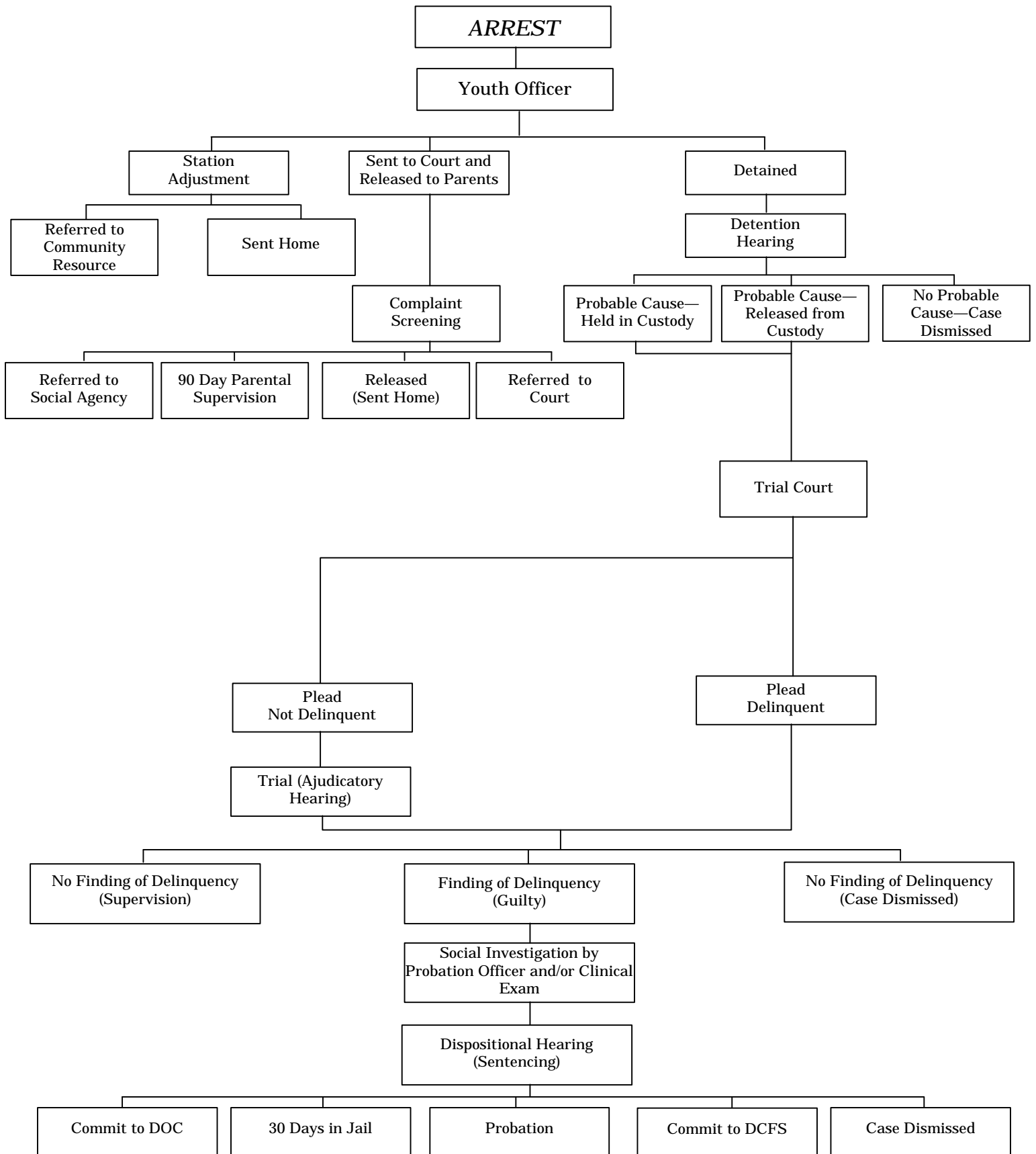
Anyone seventeen or older who is charged with a crime goes to criminal court. The major differences between cases handled in juvenile court and cases handled in the adult court are: An adult is entitled to a jury trial—juveniles are entitled to a jury trial only when they have been transferred to criminal court or if they are being prosecuted as HJOs, VJO's, or under EJJ.

An adult may be prosecuted for a felony only by information (state's attorney files the charge) or indictment by a grand jury—a juvenile is not entitled to indictment or information. Any adult person, agency, association, or juvenile court may seek through the state's attorney to file a petition charging a minor with a delinquent act. (Usually, a youth officer sends the juvenile to court.)

Adult proceedings and records are open to the public—juvenile proceedings are not.

An adult is entitled to reasonable bond in most cases—a juvenile is not entitled to bond before a adjudicatory hearing. A person seventeen or older who has been arrested, or a juvenile who is going to the adult court pursuant to the State's Attorney's motion for a transfer hearing, is entitled to a reasonable bond upon arrest. This is usually set at a bond hearing but can also be determined at the police station. Anyone who cannot make bond must be tried within 120 days. Anyone released on bail or on recognizance (without bail but with a promise to return and face charges) must be tried within 160 days.

# JUVENILE JUSTICE SYSTEM (FOR DELINQUENT ACTS)



Note: This diagram should be used as an aid to understanding the procedures described in the following pages. The transfer hearing seeking to transfer a juvenile case to adult court which can be held at any time before the adjudicatory hearing and the habitual juvenile offender procedures are not incorporated into the diagram. Although this diagram shows the most common routes in the juvenile justice system for delinquency proceedings, there are alternative routes.

An adult is sentenced for a certain number of years—a juvenile is committed to the Department of Corrections for an indeterminate amount of time, but must be released on or before his twenty-first birthday.

#### **CRIMINAL COURT SENTENCING ALTERNATIVES**

These penalties apply only to defendants who are tried and convicted in Criminal Court.

There are two general categories:

1. Misdemeanors are less serious crimes such as criminal trespass to a vehicle, battery, simple assault, disorderly conduct, unlawful possession of firearms, and pranks or obscene telephone calls. The penalty for misdemeanors can be up to one year in jail and/or up to a \$1,000 fine.
2. Felonies are more serious crimes such as armed robbery, robbery, murder, kidnapping, and false fire alarms. The penalty for felonies can be from one year to natural life in prison and/or a fine of up to \$100,000. The death penalty may also be given for murders under certain circumstances.

#### **CONSEQUENCES OF A CRIMINAL RECORD**

A person convicted of a crime in the criminal court may be ineligible for certain kinds of employment, denied a driver's license, denied admission to certain colleges or universities, denied bonding (a requirement for some jobs), or be ineligible to vote. In addition, a convicted person may not be eligible to join the armed forces or, if accepted, may not be eligible to receive a commission.

Each school district may develop policy guideline procedures to establish and maintain a reciprocal reporting system between the school district and local law enforcement agencies regarding criminal offenses committed by students. 105 ILCS 5/10-20.14.

#### **CRIME VICTIMS' COMPENSATION ACT**

A person who is injured as the result of a violent crime or by a driver who is drunk or on drugs may be entitled to receive compensation of up to \$27,000 from the State for injuries actually sustained. Additionally, the dependents or relatives of victims may be entitled to compensation for lost financial support, medical or funeral expenses or other financial losses they incur.

In order to be eligible for compensation, an applicant must have notified law enforcement officials within seventy-two hours of the crime or injuries; have cooperated fully with law enforcement officials; and must not have been the substantial cause, by wrongful act or provocation, of his or her injuries. Application must be filed with the Illinois Court of Claims within one year, or in some cases up to two years, after the incident. A victim who is under eighteen may file any time up to within one year after he or she turns eighteen. Criminal offenders and accomplices are not entitled to compensation under the Act. 740 ILCS 45/1.

The *Crime Victims Compensation Act* provides that the award of compensation will be reduced when the criminal conviction or conduct of the victim directly or indirectly contributed to the injury or death of the victim. *In re* Application of Wintrol, 38 Ill.Ct.Cl. 409 (1985). Law enforcement agencies investigating crimes are required to inform victims about the availability of an award of compensation and advise the victim that any information concerning the Act and the filing of a claim may be obtained from the office of the Attorney General. 740 ILCS 45/5.1(b). Likewise, hospitals licensed in Illinois are required to display posters giving notification of the existence and general provisions of the Act. 740 ILCS 45/5.1(a).

If you believe that you may be entitled to compensation under the *Crime Victims Compensation Act*, or if you would like more information, you should contact the Illinois Attorney General's Office, Crime Victims' Division, 13th Floor, 100 West Randolph Street, Chicago, Illinois 60601, (312) 814-2581.

## **CIVIL COMMITMENT TO A MENTAL HEALTH FACILITY**

### **ADMISSIONS**

Persons sixteen or older may admit themselves to a mental health facility. The parents or guardians, however, will be informed of the admission. 405 ILCS 5/3-502.

A minor (here, a person under eighteen) may be admitted to a mental health facility by a parent, a guardian, a person acting in loco parentis (when a parent or guardian is not available), the Department of Children and Family Services, or the Department of Corrections. In order for the patient to be admitted, he or she must be examined by a psychiatrist, clinical social worker or clinical psychologist, who must state in writing that the patient meets the standard for admission (the minor has a mental illness or emotional disturbance of such severity that hospitalization is necessary and the minor is likely to benefit from inpatient treatment); the reasons for that conclusion; and that alternatives to hospitalization (counseling, outpatient treatment) have been explored. 405 ILCS 5/3-503.

When a person other than a minor's parent or guardian (*e.g.*, a police officer, or an adult eighteen years or older) admits a minor to a hospital the psychiatrist, social worker, or psychologists' examination and written statement must be completed within twenty-four hours. If this is not done, the hospital must discharge the patient. 405 ILCS 5/3-504.

If immediate hospitalization is necessary, and the patient's parent or guardian cannot be located, or they refuse to consent to admission, another adult (eighteen or older) may admit the patient. However, the parent or guardian must be notified. If no parent or guardian can be located within three working days or takes no other action (taking other action may be, for example: refusing to consent to the admission or requesting a discharge) a petition will be filed under the *Illinois Juvenile Court Act* to have a guardian appointed for the patient. 405 ILCS 5/3-504.

A peace officer (for example a police or sheriff's officer) may transport a minor to a mental health facility if there are reasonable grounds to believe that the minor meets

the standard for admission, and that hospitalization is necessary to protect the minor or others from physical harm. The officer must complete a detailed statement of the reasons for immediate hospitalization including the date, time and place of the acts or the threats the minor has made. 405 ILCS 5/3-504.

Persons twelve years of age or older must be told of the right to object to being admitted to a mental health facility. The patient, the parent or guardian, or an interested person eighteen years or older can object for the patient. The hospital must then discharge the patient within five working days unless it petitions the court with two certificates for commitment. The petitions must state that the patient has a severe mental illness or emotional disturbance that requires hospitalization from which the patient is likely to benefit and that a less restrictive alternative is not appropriate. 405 ILCS 5/3-507. If the court determines that the patient does not meet the standard of admission, the patient will be discharged by the court.

A person twelve years of age or older must be given a copy of the admission application. Copies must also be given to the person who made the application for admission, the patient's parent or guardian, an attorney, and two other persons chosen by the patient. 405 ILCS 5/3-505.

Thirty days after admission, the person who made the application for admission must give notification that hospitalization is still needed. Every sixty days thereafter, authorization must be secured from the person who executed the application. If it is not, the hospital must discharge the patient. 405 ILCS 5/3-506.

#### **MENTAL HEALTH PATIENTS' RIGHTS**

People receiving mental health or developmental disability services may not be denied any rights, benefits or privileges guaranteed by law, the Illinois Constitution or the U.S. Constitution solely because the person has requested the services. 405 ILCS 5/2-100(a).

Mental health and developmental disability services shall not be denied to a person because of age, race, sex, religious belief, ethnic origin, marital status, physical or mental disability or criminal record unrelated to present dangerousness. 405 ILCS 5/2-100(b).

The *Mental Health and Developmental Disabilities Code* defines a minor as anyone under eighteen years of age. 405 ILCS 5/1-117. Under the Code, minors have many rights. For example, a minor who is at least twelve years old does not need a parent or guardian's permission to seek outpatient counseling or psychotherapy. However, this right is limited to five sessions of forty-five minutes. 405 ILCS 5/3-501.

Additionally, mental health patients have the right to:

Access to an advocate or lawyer. If a patient does not have, and cannot afford a lawyer, the court will appoint one free of charge. A patient should tell the lawyer of any witnesses or information that might demonstrate why hospitalization is not

necessary. Patients should direct questions about their rights to a lawyer or a patient advocate. 405 ILCS 5/3-805.

Private, unimpeded, and uncensored communication by mail, telephone, and visitation. These rights can be restricted only to prevent a patient from harm, harassment, or intimidation and only if notification of these restrictions was given during admission. Patients without money for telephone calls must be given reasonable telephone funds. 405 ILCS 5/2-103.

Treatment outside the hospital and an individual treatment plan formulated with the patient's participation and review. Treatment must take place in the least restrictive environment, which includes treatment in a community program outside the hospital if there is one to meet the patient's individual needs (for example, a drug treatment program or a youth services bureau). 405 ILCS 5/2-102.

Freedom from restraints and seclusion. Physical restraints and seclusion can be used only to prevent the patient from causing physical personal harm or physical abuse to others. They cannot be used as punishment or discipline nor as a convenience for staff. 405 ILCS 5/2-108, 109.

Access to personal records. Patients twelve or older have the right to inspect and receive copies of personal records upon request, and sign for someone else to receive copies of them. Parents or guardians of patients under twelve have the right to receive the records. 405 ILCS 5/804.

Discharge. Any person admitted to an institution for mental illness may file a petition for discharge at any time in the local county court and a hearing shall be held within five days. 405 ILCS 5/3-901.

## **ALIENS AND IMMIGRATION**

### **U.S. CITIZENSHIP**

People born in the United States are citizens of the United States. 8 U.S.C.A. § 1401(a). Generally, all people born in Puerto Rico are also United States citizens. 8 U.S.C.A. § 1402. Someone born outside the United States and Puerto Rico may also be a United States citizen if one or both of his or her parents are United States citizens. For example, if a person in the Army has a child while serving overseas, that child will be a U.S. citizen. 8 U.S.C.A. §§ 1401(c)(d) and (g).

Minors born outside the United States who have been admitted for lawful permanent residence in the United States (*See* Lawful Permanent Residence) may become U.S. citizens if they live with a parent or guardian who becomes a citizen before the minor reaches eighteen, 8 U.S.C.A. §§ 1431, 1432(a)(4) and (5), or if they are adopted by a United States citizen before age eighteen. 8 U.S.C.A. § 1433(c).

Parents who are not United States citizens can help their child become a citizen by filing a petition with the Attorney General before the child's eighteenth birthday.

Minors must have legally lived in the United States for a certain length of time before filing the petition. Persons eighteen or older may become citizens by filing an application with the Immigration and Naturalization Service of the United States Department of Justice. For information call "Ask Immigration" (800) 375-5283; Citizenship Office (312) 353-5540; Forms (800) 870-3676; website [www.usdoj.gov/eoir](http://www.usdoj.gov/eoir).

Citizenship might be denied to a person who advocates, teaches or is a member of an organization opposed to all organized governments, 8 U.S.C.A. § 1424(1), or a person who advocates, teaches, or is a member of an organization which advocates or teaches the violent overthrow of the United States government unless that person shows that he or she did not have knowledge or reason to believe at the time he became a member of or affiliated with the organization that the organization promoted the violent overthrow of the U.S. government. 8 U.S.C.A. § 1424(a)(2-6).

Citizenship may also be denied to a person who deserts the United States armed forces, illegally avoids the draft, or avoids serving in the United States armed forces by claiming to be an alien. 8 U.S.C.A. § 1425. An alien may be permanently ineligible for citizenship if he does not register for the draft. 8 U.S.C.A. § 1426. Only males are required to register for the draft.

#### **BECOMING AN AMERICAN CITIZEN**

First, an American sponsors a family member for immigration; an American company sponsors an employee to come work for its company; or an alien enters the U.S. as a refugee or someone seeking asylum. Then, the alien becomes a lawful permanent resident (LPR) and is allowed to work and travel freely. After living here for about 5 years, a LPR may become eligible to apply for citizenship (*See also* U.S. Citizenship). Next, the person files an application and pays a fee to the Immigration and Naturalization Service. (INS) The person must pass a reading, writing and basic history test to show that he or she has an understanding of English and American history and be interviewed by an INS official to make sure that his/her desire to become an American is genuine. Finally, the person takes an oath called "The Oath of Renunciation and Allegiance" promising to support and defend the Constitution and the laws of the US and is sworn in as a U.S. citizen by a judge or INS official. When an immigrant becomes a citizen, he or she has the same rights that any other citizen has. The immigrant can now vote, sit on jury, hold most elective offices, and do work for the U.S. government that requires security and secrecy.

#### **LAWFUL PERMANENT RESIDENCE**

An alien is a person who is not a citizen of the United States. 8 U.S.C. § 1101(a)(3). Generally, aliens can get a visa to reside permanently in the United States if they have close family relatives (parents, spouse, children, or brothers or sisters) who are United States citizens or lawful permanent residents of the United States. In certain cases, a minor may be able to get permanent residence by accompanying relatives who qualify under either of the above qualifications. 8 U.S.C.A. §§ 1151 *et seq.*

**EXCLUSION FROM ADMISSION TO THE U.S.**

An alien may be ineligible to receive a visa and can be excluded from admission to the United States on health, crime-related, or financial grounds.

**Health Related Grounds**

An alien who is mentally retarded or insane, 8 U.S.C.A. §§ 1182(a)(1)-(2); is

Legal aliens have the same obligations that citizens have, including paying income and Social Security taxes, and abiding by all the laws of this country. In addition, an alien fourteen years of age or older who stays in the United States for more than thirty days is required to report an address of residence in January of every year by filing an alien registration card with the Immigration Service. An alien must also notify the Attorney General in writing of each change of address and a new address within ten days from the date of the change. This card can be obtained at the U.S. post office. The parents of an alien not yet fourteen are obligated to file alien registration cards for their children. 8 U.S.C. §§ 1302, 1305.

#### **DEPORTATION**

A legal alien can be deported. Immigration laws refer to exclusion proceedings (for aliens ineligible for admission) and deportation proceedings. A legal alien may be placed in removal proceedings if he or she commits the crimes listed under the section entitled Crime Related Grounds. For example, aliens who are lawful permanent residents of the United States may be deported if they are convicted of certain crimes such as being involved with marijuana or other narcotic drugs. 8 U.S.C.A. §§ 1251(a)(4),(5), (11).

An alien who is stopped and questioned by local or state police has the right to remain silent and to refuse to answer questions about his or her immigration status. If stopped while driving, an alien must show the police a valid driver's license.

Local and state police have no authority to enforce immigration laws. They have no right to stop, question or detain an alien just because the alien does not speak English, has different skin color, or they suspect the alien has violated the immigration law. *See also* Arrests.

If immigration agents come to the home of an alien, they can be denied entry unless they show a search warrant signed by a judge or magistrate authorizing them to search the alien's home. 4th Amendment, U.S. Constitution. If they forcefully insist, the alien should not resist, run, or use force.

An alien has the right to refuse to answer questions if arrested. Before a suspected alien can be deported, the United States Immigration Service must prove to a judge at a deportation hearing that the person is in fact an alien and is illegally in the United States, or has committed an offense which requires deportation. Often the Immigration Service is able to prove their case through the alien's own statement. An alien who decides to remain silent should inform the interrogators of that decision and refuse to answer further questions. *Valeros v. I.N.S.*, 387 F.2d 921 (7th Cir. 1967); *Miranda v. Arizona*, 384 U.S. 436 (1966); 5th Amendment, U.S. Constitution.

Aliens waiting to go before a judge at a deportation hearing have the right to be released on bond or on their own recognizance pending the deportation hearing. If the bond is set too high, an alien has the right to appear before an immigration judge to request that the amount of bond be reduced. 8 U.S.C.A. § 1252(a). At the deportation hearing, an alien has the right to be represented by an attorney (but not at any expense

to the Government), to remain silent, to present witnesses and favorable evidence, as well as to confront the government's evidence and witnesses, and to apply for various ways in which to avoid deportation. 8 U.S.C.A. § 1252(b). A decision to deport an alien must be based upon reasonable, substantial, and probative evidence. 8 U.S.C.A. § 1252(b)(4). For general questions about Immigration Court call (312) 886-2698. For information on a pending case call (800) 898-7180.

Aliens who cannot afford an attorney to represent them at deportation hearings should consult with agencies and community organizations which offer free legal services. 8 C.F.R. 287.3. Call your local bar association for information on where to get free legal services.

NOTE: Immigration laws impose more severe consequences on legal aliens convicted of criminal offenses. *See generally* the Antiterrorism and Effective Death Penalty Act AEDPA); IIRIRA. No matter how small the crime, an alien accused of a criminal act should consult an attorney concerning the full impact of the crime on their immigration status before pleading guilty to an offense. Even a relatively minor criminal conviction may result in the alien's placement in removal proceedings.

## **GLOSSARY**

Consult *Black's Law Dictionary* for legal definitions not included.

### **Attorney**

A lawyer; legal counsel. A person authorized to practice law.

### **Arrest**

To take a person into custody for the purpose of charging that person with a crime.

### **Civil Action**

A non-criminal case in which one private party sues another to protect, enforce, or redress private or civil rights.

### **Crime**

An illegal act punishable upon conviction in court.

### **Damages**

Compensation awarded by the court as a result of a civil action.

### **Defendant**

The accused person in a criminal trial.

### **Felony**

A serious crime usually punished by one or more years of imprisonment in a state or federal penitentiary.

### **Grant**

A sum of money authorized by the government (or other organization) for spending on certain projects if stated conditions are met.

### **Injunction**

A way that a court can order a party to not do a particular act.

### **Juvenile Justice System**

A special system of courts and custody facilities set up for conducting trials and carrying out sentences of young people. It is separate from the adult criminal court system and is based specifically on the needs and problems of young people. The main goal of the juvenile justice system is rehabilitation rather than punishment for crime.

### **Misdemeanor**

A crime less serious than a felony, usually punished by a fine or imprisonment of up to one year in a local jail.

### **Motion**

A formal request made to a court.

**Offender**

A person who breaks the law.

**Probation**

An alternative to a prison sentence, where a person found guilty of an offense can stay in the community instead of in jail, usually under certain conditions and under the supervision of an officer of the court. A violation of probation can result in the offender serving time in prison.

**Prosecutor (State's Attorney)**

The government's attorney who presents the case against a criminal defendant.

**Public Defender**

A lawyer, employed by the government, whose duty is to represent accused persons who are unable to pay for legal counsel.

**Public Policy**

Public policy is a plan of action, adopted by government, to solve a problem or reach a goal.

**Recidivism**

The committing of further crimes by offenders with previous convictions.

**Rehabilitation**

Helping convicted offenders change their lives so that they can lead productive lives in society.

**Resiliency Factors**

The personal and environmental factors that strengthen young people and help them to become successful citizens.

**Risk Factors**

The personal and environmental factors that tear young people down and make it more likely that they will get in trouble with the law.

## **RESOURCES & CONTACT INFORMATION**

### **CRFC:**

*For more information about CRFC programs and materials, visit:*

[www.crfc.org](http://www.crfc.org).

### **SOURCES AND CITATIONS:**

*To look up an Illinois statute on the Internet:*

[www.state.il.us](http://www.state.il.us)

*To find case law and statutes on the web:*

[www.washlaw.edu](http://www.washlaw.edu)

[www.findlaw.edu](http://www.findlaw.edu)

*To access United States Supreme Court information and cases:*

[www.supremecourtus.gov](http://www.supremecourtus.gov)

### **STUDENTS AND SCHOOLS**

#### **Rights to an Education: Special Education**

*For more information concerning special education or to request a copy of the Special Education Rules and the booklet "A Parent's Guide to the Educational Rights of Children with a Disability", contact:*

Illinois State Board of Education

Chicago: (312) 814-2220

Springfield: (217) 782-4321

Problem Resolution Office: (800) 215-6379

[www.isbe.state.il.us](http://www.isbe.state.il.us)

#### **Students' Civil Rights: De Jure Segregation and Discrimination on the Basis of Color, Race, Nationality, Sex, or Religion**

*For more information concerning state requirements for the elimination and prevention of racial segregation and discrimination in schools, contact:*

Office of the State Superintendent of Education

100 North First Street,

Springfield, Illinois 62777

### **THE FAMILY RELATIONSHIP**

#### **Dissolution of Marriage: Annulment and Divorce**

*For assistance in handling a divorce without the assistance of an attorney, or for referral to appropriate legal aid office, contact:*

Coordinated Advice and Referral Program for Legal Services (CARPLS):

(312) 738-9200

**Child Support**

*For more information on getting or enforcing a child support order, call:*

Public Benefits Hotline: (888) 8WELFARE;  
 Clerk of the Circuit Court Child Support Division: (312) 603-2000  
 CARPLS: (312) 738-9200

**Parental Rights and Responsibilities: Paternity**

*For more information regarding the establishment of paternity, contact:*

State's Attorney's Office: (800) 447-4278

*For more information on fathers' rights and responsibilities, contact:*

The Paternal Involvement Project  
 600 S. Wentworth  
 (773) 651-9262

**Abuse and Neglect:**

*To report cases of abuse or neglect, contact:*

Illinois Department of Children and Family Services (DCFS) Hotline:  
 (800) 25-ABUSE

*For more information, visit:*

[www.state.il.us/dcfs/](http://www.state.il.us/dcfs/)

**Guardians:**

*To find out more information about appointing guardians, contact:*

The Guardianship Assistance Desk:

Cook County: (312) 603-0135  
 Outside of Cook County: Call your county court house main information  
 number

**Consent for Medical and Surgical Treatment:**

*For more information about birth control, abortion, OB-GYN services, HIV and AIDS services, and other basic health care needs, visit:*

[www.plannedparenthood.org](http://www.plannedparenthood.org)  
[www.behiv.org](http://www.behiv.org)  
[www.friendsofpwa.org](http://www.friendsofpwa.org)  
[www.siu.edu/departments/busea](http://www.siu.edu/departments/busea)  
[www.oxygen.com](http://www.oxygen.com).

**THE RELATIONSHIP OF YOUTH TO SOCIETY****Working: Labor Laws**

*For information on receiving a Social Security Number, contact:*

Social Security Office: (800) 772-1213

*For information about child labor laws, contact:*

Illinois Department of Labor: (312) 793-2800  
 United States Department of Labor: (312) 353-8145

**Minimum Wage:***For information on minimum wage laws, contact:*

Illinois Department of Labor Minimum Wage and Overtime Department:  
 (312) 793-2804  
 United States Department of Labor's Wage and Hour Division:  
 (312) 353-8145

**Discrimination in Employment:***For information about filing a charge of discrimination, contact:*

Illinois Department of Human Rights Office:  
 Chicago: (312) 814-6200  
 Springfield: (217) 785-5100  
 Equal Employment Opportunity Commission (312) 353-2713  
[www.eeoc.gov](http://www.eeoc.gov)  
[www.state.il.us/dhr](http://www.state.il.us/dhr)

**Income Taxes:***For information about income tax returns, contact:*

Internal Revenue Service: (800) 829-1040  
 Illinois Department of Revenue: (800) 732-8866  
[www.irs.ustreas.gov](http://www.irs.ustreas.gov)

**SOCIAL WELFARE PROGRAMS***For more information about state programs, visit:*

Illinois Department of Human Services: [www.state.il.us/agency/dhs](http://www.state.il.us/agency/dhs)  
 Department of Public Aid: [www.state.il.us/dpa](http://www.state.il.us/dpa)

**Federal Program: Social Security (FICA)***To get an application for FICA, contact:*

Social Security Office: (800) 772-1213  
 77 W. Jackson (Clark and Jackson)  
 Chicago, IL 60604  
[www.ssa.gov](http://www.ssa.gov)

**Supplemental Security Income (SSI)***For more information, contact:*

Social Security Office (800) 772-1213

*For legal assistance for children eligible for SSI, contact:*

Illinois Pro-Bono Children's Hotline: (800) 471-9300  
[www.ssa.gov/pubs/11000.html](http://www.ssa.gov/pubs/11000.html)

**State and Local Programs: Food Stamps***For more information about obtaining food stamps, contact:*

Illinois Department of Human Services  
 Chicago: (312) 793-4706

Springfield: (800) 252-8635  
[www.fns.usda.gov/fsp/MENU/apps/apps.htm](http://www.fns.usda.gov/fsp/MENU/apps/apps.htm)

*For general information about food stamps, contact:*

Women, Infants, and Children (WIC)  
Chicago: (312) 744-0729  
National: (800) 323-4769  
[www.foodusa.org](http://www.foodusa.org)  
[www.voices4kids.org/rwwebr.htm](http://www.voices4kids.org/rwwebr.htm)

### **Temporary Assistance for Needy Families (TANF)**

*For more information, contact:*

Department of Human Services: (800) 252-8635  
[www.state.il.us/agency/dhs/TANF.HTM](http://www.state.il.us/agency/dhs/TANF.HTM)

*To file an appeal, if your application is denied, call:*

(800) 435-0774  
[www.povertylaw.org](http://www.povertylaw.org)

### **Transitional Assistance**

*For more information, contact:*

Department of Human Services: (800) 252-8635

### **Medicaid**

*For a list of services covered and for more information, contact:*

Department of Human Services: (800) 252-8635  
[www.state.il.us/dpa/html/medicaid\\_program.htm](http://www.state.il.us/dpa/html/medicaid_program.htm)

### **KidCare**

*For more information, contact:*

(800) 226-0768  
[www.state.il.us/dpa/kidcare.htm](http://www.state.il.us/dpa/kidcare.htm)

### **Aid to the Aged, Blind and Disabled (AABD)**

*For information about filing, or rights to an appeal, contact:*

(800) 435-0774  
(800) 252-8635-caseworker  
National Center on Poverty Law (312) 263-3830  
[www.povertylaw.org](http://www.povertylaw.org)

**TRANSPORTATION****Motor Vehicles**

*For more information, call or write:*

The Secretary of State's Office  
Driver Services Department  
2701 South Dirksen Parkway,  
Springfield, IL 62723  
(800) 252-2904  
[http://www.sos.state.il.us/depts/drivers/mot\\_info.html](http://www.sos.state.il.us/depts/drivers/mot_info.html)

**LAW ENFORCEMENT****Arrests**

*If you feel you have been harassed, treated unfairly or stopped unreasonably by the police you may file a complaint with:*

Police Department Office of Professional Standards:  
1130 S. Wabash  
Chicago, IL 60605  
(312) 747-6307

**CRIME VICTIMS' COMPENSATION ACT**

*If you believe that you may be entitled to compensation under the Crime Victims Compensation Act, or if you would like more information, contact:*

Illinois Attorney General's Office, Crime Victims' Division  
100 West Randolph Street, 13th Floor  
Chicago, Illinois 60601  
(312) 814-2581.

**ALIENS AND IMMIGRATION****U.S. Citizenship**

*For information, contact:*

Ask Immigration: (800) 375-5283  
Citizenship Office: (312) 353-5540  
Forms: (800) 870-3676  
[www.usdoj.gov/eoir](http://www.usdoj.gov/eoir)

## **MATERIALS AVAILABLE FROM CRFC**

For pricing information or to place an order, contact CRFC at (312) 663-9057 or crfc@crfc.org. Program information and selected materials are also available on-line at www.crfc.org.

### **VOICE**

4th-6th Grades

The nationally used curriculum of the Violence-prevention Outcomes in Civic Education (VOICE) program, this text combines law-related education, peer mediation and service learning to teach elementary students about the workings of government. Over 50 lessons included.

### **Chicago Directory of Law-Related Education Resources**

All Grades

This compendium for Chicago metropolitan area law-related educators lists and describes organizations that provide outside resource people, speakers, field experiences and/or materials on a wide variety of law-related topics.

### **It's Yours: The Bill of Rights**

Grades 7-12

Middle and high school students with below grade-level reading skills and students studying English as a second language use this supplemental text to build a basic understanding of the U.S. legal system. Eight units of interactive lessons on such topics as the structure of the U.S. government, free speech, equal protection, religion, and rights of the accused. The use of outside resource persons is emphasized.

### **From the School Newsroom to the Courtroom**

High School

This supplemental resource builds on an examination of the Supreme Court's decision in the 1987 landmark case of Hazelwood v. Kuhlmeier, in which three high school seniors took their principal to court over censorship of the school newspaper. It includes a series of lessons based on First Amendment freedom of expression rights.

### **Working Together: Lessons in Justice**

Grades 5-9

All ten lessons in this collection focus on law and citizenship,. Organized to fit into a U.S. history curriculum, lessons focus on subjects such as the American Revolution, the Old West, civil rights, and the three branches of government. Each lesson is free standing, stresses cooperative learning and critical thinking, and comes with suggestions for participating outside resource person.

### **Working Together: We the People**

Grades 5-9

In 15 simple lessons, this collection brings alive the U.S. Constitution and its Bill of Rights. Designed to introduce law and citizenship into U.S. history and government courses, the text helps students understand democratic principles and how these

principles related to their daily lives by exploring handgun control, civil law, police-community relations, juvenile justice, and other current issues. Each free-standing lesson includes discussion questions, motivational strategies, interactive role plays, and opportunities and guidelines for using outside resource persons.

### **Service Learning in the Social Studies**

Middle and High School

This 12-page publication introduces educators to a model of service learning that emphasizes the exploration of public policy as it relates to social issues in the community. It includes a step-by-step process for implementing service learning, as well as resource lists for additional assistance. Designed for use with high school students, it can readily be adapted for upper middle school.

### **CONSTITUTIONAL RIGHTS FOUNDATION IN LOS ANGELES**

CRFC's sister organization, the Constitutional Rights Foundation in Los Angeles, produces an extensive array of worthwhile publications. Some of their most popular titles are:

- Criminal Justice in America
- The Challenge Series
- Of Codes and Crowns
- Active Citizenship Today (ACT)
- Youth & Police

For prices, descriptions, or to place an order, call (800) 488-4CRF or visit CRF on-line at [www.crf-usa.org](http://www.crf-usa.org).

### **CRFC PROGRAMS**

#### **VOICE (Violence-Prevention Outcomes in Civic Education)**

VOICE is a year-long elementary social studies program is designed to increase academic achievement, foster peaceful resolution of conflict, and spark community service. VOICE combines law education, peer mediation and service learning to educate 4th grade through middle school students about our democratic government and offers ways to resolve conflicts non-violently. Research has shown the VOICE curriculum to be highly effective in helping students retain and use essential information and skills relating to government and to resolve conflict peacefully.

#### **Illinois Youth Summit**

Now in its seventh year, the Illinois Youth Summit is an extended program for high school students to examine public policy issues with peers and policymakers. Through the Summit, students select issues of violence affecting youth, study policies addressing those policies, design and conduct local service projects to address these issues, and discuss their recommendations and experiences with state and federal policymakers. The Summit will involve up to 1,500 urban, suburban, and rural students and their teachers at up to 30 high schools in Chicago and Northern Illinois.

**Law in My Life: U.S. Constitution Program for Chicago 7th and 8th Grade Students**  
 Also referred to as the lawyer-in-the-classroom project, Law in My Life teams volunteer lawyers with seventh and eighth grade teachers. The teams are trained in the use of participatory exercises found in CRFC curricula and features class participation in mock trials developed by CRFC.

### **Service Learning**

Service learning helps students acquire the vision and leadership skills necessary to become committed, effective members of their community through practice in "citizenship in action." CRFC is a national pioneer in the development of classroom-based service learning materials, teacher training, and student opportunities. CRFC sponsor the annual Citywide Service Learning Conference for the Chicago Public Schools and is available for in-service training for interested schools and school districts.

### **We the People... The Citizen and the Constitution**

We the People... The Citizen and the Constitution is a civic education program developed by the Center for Civic Education, funded by the U.S. Department of Education, and coordinated in Illinois by CRFC. As part of the program, classes of high school students from across Illinois participate in a competitive display of knowledge about the application of the U.S. Constitution to both historic and current issues judged by community experts. The class which demonstrates the greatest mastery in their presentation is invited to represent the state in the National Hearings held each spring in Washington, DC.

### **LEAPP (Law Education and Positive Participation)**

Developed in the 1999-2000 school year by Illinois District U-46 in cooperation with CRFC, LEAPP gives 4th through 8th grade U-46 students an alternative of three Saturday mornings of intensive instruction—in LRE, conflict resolution, and anger management, with mandatory parent participation and police partnership—in lieu of the traditional out-of-school suspension for a breach of school rules.

### **Law Prep at Jones Academic Magnet High School**

Beginning in school year 2000-2001, Law Prep will be a three-year college preparatory course of study within Jones Academic Magnet High School (JAM), a Chicago Public School in the South Loop that offers similar professional programs in finance, technology, and the performing arts. The program will be designed to foster greater understanding of American law and government and to stimulate interest in legal and law-related careers among CPS students. Law Prep is being developed in collaboration with JAM faculty through a year-long planning process led by CRFC in cooperation with the Chicago Bar Foundation and area legal experts and scholars.

### **Primary VOICE: Literature and the Law**

Based on CRFC's successful VOICE program, Primary VOICE will combine reading and law-related education for K-3 students. The program is designed to enhance reading comprehension and citizen competencies of young students using children's

literature and LRE issues and methods. CRFC is working with a cadre of elementary teachers from the Chicago Public Schools and Illinois District U-46 to create a second grade infusion model of lessons and activities. This model will be tested and implemented in CPS and U-46 during the 2000-2001 school year.

### **Project Citizen**

Project Citizen, a curriculum of the Center for Civic Education, is a portfolio-based civic education program for middle school classes. Project Citizen promotes competent and responsible participation in state and local government and actively engages students in learning how to monitor and influence public policy. The program is administered nationally by CCE in cooperation with the National Conference of State Legislatures (NCSL) and is coordinated in Illinois through CRFC.

### **The American Jury: Bulwark of Democracy**

CRFC is conducting a national dissemination project devoted to promoting teaching and discussion of the role that the jury system plays in American legal, social, and political life. The project, supported by a grant from the National Endowment for the Humanities (NEH), an independent federal agency, involves teams of social studies teachers from California, Colorado, North Carolina, Washington, Wisconsin, and Illinois working with nationally recognized legal scholars and practitioners. Participating teachers have developed and field tested original lessons based on their research at the Chicago Historical Society, which hosted the project. These lessons and resources, along with lessons from the institute, will be posted on an "American Jury" web page on the CRFC web site in the fall of 2000.

### **Youth for Justice**

CRFC is part of a nationwide team coordinating and implementing a national law-related education program called Youth for Justice. Funded by the Office of Juvenile Justice and Delinquency Prevention of the U.S. Department of Justice and dating back to the 1970s, the program offers training and technical assistance in delinquency-preventing, law-related education for schools, clubs, and juvenile correctional settings. CRFC collaborates on the project with CRF in Los Angeles, the American Bar Association's Division for Public Education, the Center for Civic Education, Phi Alpha Delta Public Service Center, and Street Law, Inc. Youth for Justice has successfully established a national network of law-related education centers in every state, the District of Columbia, and Puerto Rico; incorporated law-related education as a component of the North Carolina public school system and the Nashville public schools; developed and supported youth summits throughout the country; and created special initiatives and materials focusing on drug abuse and enforcement, juvenile justice, at-risk students in urban settings, and violence.