



# **POLICIES AND PROCEDURES OF THE ILLINOIS JUVENILE JUSTICE SYSTEM**

---



*Prepared for*  
**The Illinois Juvenile Justice Commission**

*Prepared by*  
**Lindsay Bostwick, Research Analyst**

August 2010

This project was supported by Grant #09-JF-FX-0048, awarded to the Illinois Criminal Justice Information Authority from the Office of Juvenile Justice and Delinquency Prevention, Office of Justice Programs, U.S. Department of Justice through the Illinois Department of Human Services for the Illinois Juvenile Justice Commission. Points of view or opinions contained within this document are those of the authors and do not necessarily represent the official position or policies of the Office of Juvenile Justice and Delinquency Prevention, the Illinois Department of Human Services, or the Illinois Juvenile Justice Commission.

Printed by authority of the State of Illinois, March 2011  
Printing order #11-054  
200 copies

Illinois Criminal Justice Information Authority  
300 West Adams Street, Suite 200  
Chicago, Illinois 60606  
Telephone 312.793.8550  
Fax 312.793.8422  
[www.icjia.state.il.us](http://www.icjia.state.il.us)



# Acknowledgments

We wish to acknowledge the assistance of those who provided guidance for this report and reviewed it, as it benefited from the guidance and input of many individuals:

*Thomas Bilyk, Juvenile Justice Division, Cook County State's Attorney's Office*  
*Julie Biehl, Children and Family Justice Center, Bluhm Legal Clinic, Northwestern University School of Law*

*Patricia Connell, John Howard Association, Illinois Juvenile Justice Commission*  
*Leanne Engleman, Juvenile Probation and Court Services Department of Cook County*  
*Dr. Debra Ferguson, Illinois Department of Human Services, Division of Mental Health*  
*Ali Flaum, Children and Family Justice Center, Bluhm Legal Clinic*

*Kurt Friedenauer, Illinois Department of Juvenile Justice*  
*Michelle Geller, Mandel Legal Aid Clinic, University of Chicago Law School*  
*Dr. Gene Griffin, Mental Health Services and Policy Program, Northwestern University Feinberg School of Medicine*

*Kristen Jones, Children and Family Justice Center, Bluhm Legal Clinic*  
*Detective Al Krok, Chicago Police Department*

*Lisa Margolies, Juvenile Probation and Court Services Department of Cook County*  
*Jorge Montes, Illinois Prisoner Review Board*  
*Honorable Judge John Payne, Redeploy Illinois*  
*Eileen Subak, League of Women Voters*

*Honorable Judge George Timberlake, Illinois Juvenile Justice Commission*  
*Ken Tupy, Prisoner Review Board, Office of Legal Counsel*

In addition, the project benefited from the previous and ongoing work of the Illinois Criminal Justice Information Authority's Research and Analysis Unit. The preparer would like to recognize the support and assistance provided by the following Authority staff:

*Junaid Afeef*  
*Cristin Monti Evans*  
*Simeon Kim*  
*Mark Myrent*  
*Sean O'Brien*  
*Jessica Ashley Reichert*  
*Christine Devitt Westley*

# Table of contents

<b>Introduction</b> .....	1
Illinois Juvenile Court Act .....	1
Changes in language .....	2
Recent changes in legislation.....	3
Purpose of this report .....	3
<b>Incident</b> .....	5
<b>Police custody and arrest</b> .....	5
Diversion.....	6
Excluded jurisdiction (automatic transfers) .....	7
<b>Pre-trial</b> .....	8
Juvenile detention screening .....	8
Pre-trial detention and detention hearing.....	9
Alternatives to pre-trial detention .....	10
Home confinement.....	10
Electronic monitoring .....	10
Evening and day reporting centers.....	10
Juvenile intake screening .....	11
Diversion.....	11
Probation adjustment .....	11
Restorative justice programs.....	11
Filing a delinquency petition .....	11
Transfers to the adult court .....	12
Mandatory transfer.....	12
Presumptive transfer .....	13
Discretionary transfer.....	13
Extended jurisdiction juvenile prosecution.....	13
Fitness to stand trial .....	13
<b>Trial or plea</b> .....	15
Diversion.....	16
Continuance under supervision.....	16
Court supervision.....	16
Not guilty by reasons of insanity or guilty but mentally ill .....	17
Failure to appear in court .....	17
<b>Sentencing hearing</b> .....	18
Probation.....	18
Intensive probation supervision .....	19
Conditional discharge .....	19
Periodic imprisonment .....	19

Detention.....	19
Home confinement.....	19
Electronic monitoring .....	20
Treatment .....	20
Incarceration .....	20
Court evaluations and bring-back orders .....	21
Sentences of incarceration for youth tried in adult criminal court.....	21
Release and post-incarceration supervision .....	22
Successful completion of sentence .....	23
Unsuccessful completion of sentence .....	23
Violations of probation and revocation.....	23
Violations of parole and revocation.....	23
<b>Discharge</b> .....	<b>25</b>
<b>Expungement</b> .....	<b>25</b>
<b>Appendix A:</b> Map of Illinois judicial circuits .....	<b>27</b>
<b>Appendix B:</b> Juvenile arrest card .....	<b>28</b>
<b>Appendix C:</b> Detention screening instrument.....	<b>29</b>
<b>Appendix D:</b> Map of Illinois Department of Juvenile Justice facilities and county detention centers.....	<b>31</b>
<b>Appendix E:</b> Flowchart of process after youth is found unfit to stand trial.....	<b>32</b>
<b>Appendix F:</b> Flowchart of process of youth found not guilty by reason of insanity.....	<b>33</b>
<b>Appendix G:</b> Flowchart of sentencing options.....	<b>34</b>
<b>Appendix H:</b> Flowchart of IDJJ commitment .....	<b>35</b>

## Introduction

Prior to the passage of the Illinois Juvenile Court Act of 1899, youth were tried in the adult criminal court system and treated like adults. The Act established the first juvenile court, located in Cook County, as well as a separate juvenile justice system for youth, emphasizing the rehabilitation and protection of youth. This new juvenile justice system was designed to operate differently from the adult system, since the needs and abilities of juveniles were found to be developmentally different from those of adults. While the juvenile justice system has evolved since it was first established, especially in regards to affording due process to youth, it remains distinct from the adult system in its practices and procedures.

In 1974, the United States enacted the Juvenile Justice and Delinquency Prevention Act (JJDPA) which provides federal funding for the operation of states' juvenile justice systems. To be eligible for federal funding under the JJDPA, states must separate juveniles and adults in secure confinement in both sight and sound, and restrict confinement of youth charged with status offenses (offenses that would not be criminal if committed by an adult, such as curfew violations and truancy). The JJDPA also requires states to assess and address disproportionate minority contact within their juvenile justice system and requires the removal of juveniles from adult jails and municipal lock-ups.

In Illinois, the court systems are separated into 23 judicial circuits. Each judicial circuit is the original court of jurisdiction and most circuits include two or more counties. Five counties are single-county judicial circuits (Cook, DuPage, Lake, McHenry, and Will). Circuit judges elect the chief judge, who is the administrative authority for the circuit and assigns cases to specialized divisions. All judicial circuits report information to the Administrative Office of the Illinois Courts. Circuit court judges are elected for six-year terms and there is no term limit. Associate judges are appointed by the circuit judges for four-year terms and may hear any cases on any crime punishable by prison terms of less than one year or another type of sentencing, such as fines or probation, unless authorized by the Illinois Supreme Court to hear felony matters.<sup>1</sup>

*Appendix A* shows the judicial circuits in Illinois.

### Illinois Juvenile Court Act

In 1998, Illinois passed the Juvenile Justice Reform Provisions of the Illinois Juvenile Court Act. One of the most significant changes was revision of the purpose and policy statement to Article V of the Illinois Juvenile Court Act [705 ILCS 405/5-101], which adopts the principles of balanced and restorative justice (BARJ) as the guiding philosophy for the Illinois juvenile justice system. BARJ is a philosophy of addressing juvenile delinquency holistically by recognizing three core stakeholders: the offenders, the victims, and the community. BARJ has three main goals:<sup>2</sup>

---

<sup>1</sup> Administrative Office of the Illinois Courts

<sup>2</sup> Taken from Ashley, J. & Stevenson, P. (2006). *Implementing Restorative Justice: A guide for juvenile probation*. Illinois Criminal Justice Information Authority: 7.

- **Accountability.** Restorative justice strategies provide opportunities for offenders to be accountable to those they have harmed, and enable them to repair the harm they caused to the extent possible.
- **Community safety.** Restorative justice recognizes the need to keep the community safe through strategies that build relationships and empower the community to take responsibility for the well-being of its members.
- **Competency development.** Restorative justice seeks to increase the pro-social skills of offenders by addressing underlying factors that lead youth to engage in delinquent behavior and building on the strengths in each youth to increase their competencies.

### Changes in language

The Juvenile Justice Reform Provisions of 1998 also changed some of the language used in the Juvenile Court Act for delinquency proceedings (*Table 1*). Historically, the juvenile justice system has used unique language to reduce potential stigma for juvenile offenders. The reform provisions adopted some terms used in the adult criminal court system. In practice, however, these terms are often used interchangeably.

**Table 1**  
**Terminology in the juvenile justice system**

Previous terminology	Reform provision terminology (if applicable)	Definition
Adjudicatory hearing	Trial	A hearing to determine whether the allegations of a petition are proved beyond a reasonable doubt.
Adjudicated delinquent	n/a	A youth who has been found or plead guilty in the juvenile court system.
Delinquency petition	n/a	A petition that is filed with the court alleging the youth has violated or attempted to violate any federal or state law, or county or municipal ordinance.
Detention	n/a	Short-term secure confinement of a minor who is alleged to have or found guilty of violating laws or ordinances and requires secure custody for the minor's own or the community's protection, pending disposition.
Dispositional hearing	Sentencing hearing	Hearing after a youth is found or pleads guilty in which the court determines whether to adjudge the youth a ward of the court and to determine what sentence should be imposed.
Findings of delinquency	Findings of guilt	When a judge determines that the allegations of a petition are proved beyond a reasonable doubt.
Sentence	n/a	Any punishment or disciplinary action ordered by the court upon a person convicted of a crime.
Disposition	n/a	The disposition is the outcome of the case. Sometimes it is used to refer to the sentence imposed.

### Recent changes in legislation—juvenile court jurisdiction

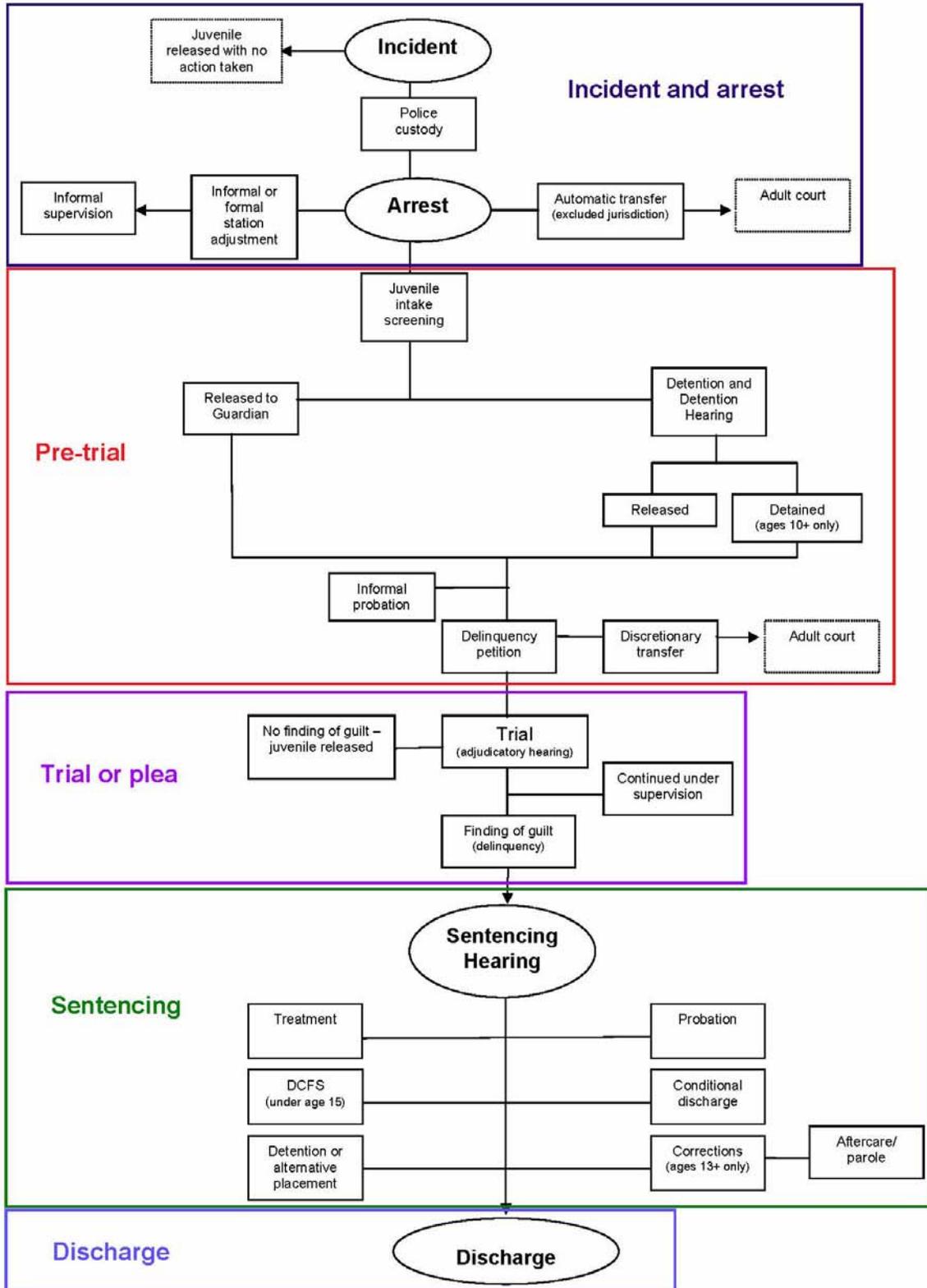
As of January 1, 2010, youth 17 years of age charged with misdemeanor offenses that were alleged to have occurred on or after January 1, 2010, are considered juveniles. Youth who are 17 years of age and charged with felonies remain under the jurisdiction of the adult criminal court.

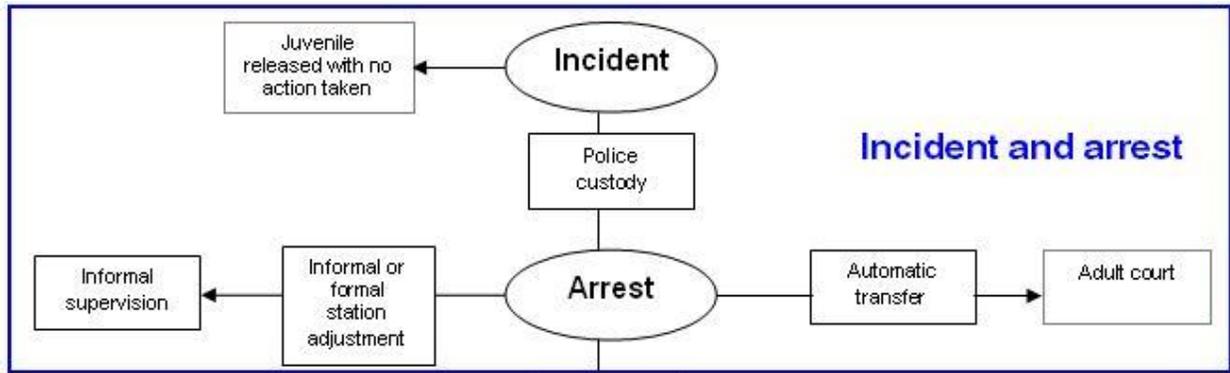
### Purpose of this report

Most local jurisdictions operate independently of one another. This document provides a general overview of juvenile justice system processes across jurisdictions.

*Figure 1* provides a general overview of how youth may move through the Illinois juvenile justice system.

**Figure 1**  
**Flow chart of the Illinois juvenile justice system**





## I. Incident

Involvement in the juvenile justice system begins with an incident in which there is an alleged violation of criminal law or local or municipal ordinance. While most young people violate the law at some point during their adolescence, most incidents often involve minor violations such as truancy, curfew violations, littering, and speeding. A very small proportion of juveniles is actually arrested and enters the juvenile justice system each year. In 2008, about 3 percent of all youth ages 10 to 16 in Illinois were arrested (31,731 arrested 10- to 16-year olds of 1,254,609 in the population), according to the Authority’s Criminal History Records Information (CHRI) ad hoc datasets.

Youth may enter police custody in a few ways. A police officer may observe a violation of the law or ordinance, have probable cause to believe a violation has occurred, or be called to take a youth into police custody. A police officer has discretion regarding what action he or she takes. A youth may also be taken into police custody on a warrant—an order issued by a judge authorizing the arrest and detention of an individual. Judges issue warrants for the arrest of juveniles who, based on probable cause, have allegedly committed a criminal offense, and when individuals fail to appear in court or perform court-mandated activities. In Illinois, juveniles arrested on warrants are typically detained in a temporary juvenile detention facility, discussed later in this report. Youth also may enter the juvenile justice system through referrals by probation officers, truancy officers, and other outside entities.

## II. Police custody and arrest

Once taken into police custody and placed under arrest, a youth must be informed of his or her Miranda rights prior to interrogation. Any time a youth is taken into police custody and is not free to leave they have been arrested. However, being arrested does not always mean they will be formally charged. Officers may release juveniles from police custody without further action, either on the street or from a police station to their parent or guardian. Any officer who takes a youth into custody must legally make a reasonable attempt to notify a parent or legal guardian [705 ILCS 405/2-6]. At any time when a juvenile is in police custody, parents or guardians may request to see the youth.

When a law enforcement officer takes a youth into custody on a warrant, the officer must take the minor to the nearest juvenile police officer [705 *ILCS* 405/2-6(a)]. A juvenile police officer is a sworn police officer who has completed juvenile officers training as prescribed by the Illinois Law Enforcement Training Standards Board [705 *ILCS* 405/1-3(17)].

An officer may decide to formally charge the youth with a crime. Youth have the right to know what charges are being brought against them, the right to an attorney, and the right to protection from self-incrimination. When an arrest is made, in addition to other departmental records and documents, an arrest card is typically filled out which includes the juvenile's fingerprint, offenses with which they are being charged, race, gender, age, and other information. The card is then submitted to the Illinois State Police's Computerized Criminal History (CCH) system. *Appendix B* includes copies of the arrest cards used by police across the state of Illinois.

Options available to officers at the time of a youth arrest include giving the youth an informal or formal station adjustment, releasing the youth with formal charges sent to the state's attorney (prosecutor), or formally charging the youth and requesting he or she be screened for detention in a secure facility.

### **Diversion opportunities at arrest: Station adjustments**

A station adjustment is an informal handling of a juvenile offender avoiding further juvenile justice system involvement. Youth who are given a station adjustment are not referred to the court for prosecution and are released to a parent or guardian under specified conditions, such as obeying curfew, attending school, performing community service, and/or participating in social services. Informal station adjustments do not require an admission of guilt by the minor, but youth who receive a formal station adjustment must admit involvement in the offense [705 *ILCS* 405/5-301]. Formal station adjustments cannot last more than 120 days, unless the juvenile violates the conditions. At this time, the length may be extended to 180 days, but no longer. Officers monitor the conditions of the adjustment.

A juvenile may receive up to three informal station adjustments for misdemeanors and three informal adjustments for felonies. Combined, youth may not receive more than five informal station adjustments within three years without prior approval from the state's attorney. Youth may receive up to three formal station adjustments for misdemeanors and two for felonies. Combined, youth may not receive more than four formal station adjustments within three years without prior approval from the state's attorney. The total number of allowable station adjustments statewide, both formal and informal, may not exceed nine without the state's attorney's approval.

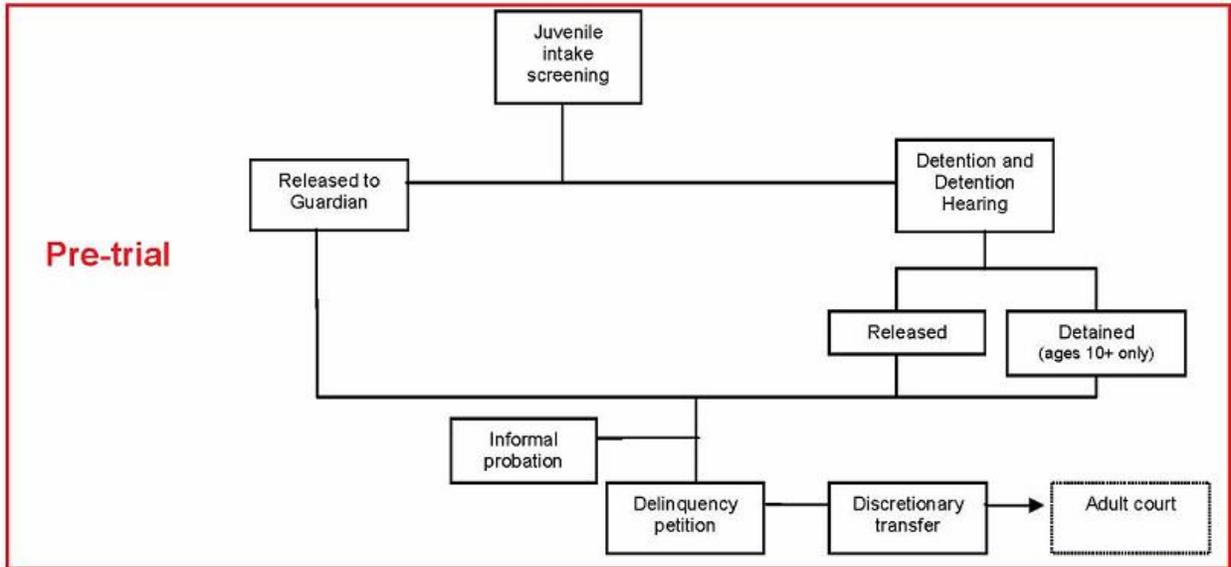
### **Excluded jurisdiction (automatic transfers to the criminal court)**

Youth are subject to the jurisdiction of the adult criminal court if they are 17 years of age at the time of the alleged offense unless they are charged with a misdemeanor offense that is alleged to have occurred after January 1, 2010 [705 *ILCS* 405/5-120].

Youth may also be automatically transferred, or waived, to the criminal court [705 *ILCS* 405/5-130]. Youth are excluded from the jurisdiction of the juvenile court and automatically transferred to adult criminal court if they are 15 years of age or older at the time of the alleged crime and are alleged to have committed first degree murder, aggravated criminal sexual assault, aggravated battery with a firearm where the juvenile personally discharged the firearm, armed robbery committed with a firearm, or aggravated vehicular hijacking committed with a firearm. Additionally, youth 15 years of age or older who are alleged to have committed offenses relating to the sale, possession, and manufacturing of certain weapons on school property, regardless of time of year, are also subject to automatic transfers to the adult court [705 *ILCS* 405/5-130(3)(a)].

Automatic transfers also occur when the youth is at least 13 years of age at the time of the alleged offense and the alleged offense is first degree murder committed during the course of either aggravated criminal sexual assault, criminal sexual assault, or aggravated kidnapping [705 *ILCS* 405/5-130(4)(a)]. Any juvenile previously tried and convicted in the adult criminal court is automatically transferred to criminal court for subsequent law violations.

Automatic transfer cases originate in the adult court, whereas all other types of juvenile transfers must be presented to a juvenile court judge who determines whether or not to grant the transfer. Additional detail concerning specific transfer provisions and processes are described later in this report.



### III. Pre-trial activities

Numerous actions occur prior to a juvenile's trial (adjudication hearing). As a youth awaits trial, he or she may be detained in a secure detention facility, released to a parent or guardian, or be referred to one of several detention alternatives, such as home confinement with electronic monitoring or shelter care. During this time, state's attorneys (prosecutors) may divert the youth, file a delinquency petition, or file a motion seeking transfer to the criminal court.

Once a juvenile is formally arrested and it has been determined that there could be a petition of delinquency filed or there is probable cause to believe that the youth is delinquent, he or she will receive an initial screening to assess whether it is necessary to detain him or her. Detention centers provide temporary secure confinement of youth awaiting trial.

#### Juvenile detention screening

Police may either release the youth to their parents or guardians or, if the youth is at least 10 years of age, use a detention screening instrument to assess whether to detain the youth. In some jurisdictions, police will refer the youth to the local juvenile detention center to conduct the detention screening. Screeners consider the need for placement in a detention facility based on factors such as flight risk and whether the youth is a danger to himself or the community.

Formal detention screening is usually done by police, a probation department, detention facility, or the state's attorney's office. A detention screening determines whether the youth requires detainment in a secure or non-secure detention facility based on the final score. Points are assigned based on the severity of the offense, the youth's prior involvement with the juvenile justice system, whether or not the youth has missed previous court dates, and the youth's legal status. In most Illinois jurisdictions, if a youth scores high, they will be detained. If a youth scores in the middle range, the screener may apply a less restrictive or non-secure custody option, such as home confinement with electronic monitoring or placement in a non-secure

facility. A non-secure facility is a live-in setting that does not physically restrict the movement of the youth. If a youth scores low, he or she is typically released to a parent or guardian.

Also, detention screeners may seek permission to override the score when aggravating or mitigating factors not found on the instrument are considered. For example, a youth arrested during a domestic dispute may not score high enough to warrant detention, but the screener may request an override to keep the youth from returning to his or her home environment. Screeners also may seek permission to override the score to a non-secure facility or release to a parent or guardian if there is evidence to believe the youth does not pose a risk to him or herself, public safety, nor is a flight risk.

*Appendix C* shows the juvenile detention screening instrument used in Illinois. Jurisdictions have the ability to modify the instrument.

## Pre-trial detention and detention hearing

If a youth is detained in a secure detention facility, the court must hold a detention hearing within 40 hours, excluding Saturdays, Sundays, and court-designated holidays [705 *ILCS* 405/5-501]. A detention hearing may not be held until the youth has met with legal counsel and the youth must be represented by legal counsel at the hearing. At the hearing, the judge will make a decision about the youth's custody status.

If the judge at the detention hearing finds there is probable cause to believe the youth is delinquent, continuation of pre-trial detention may be ordered if:

1. Secure custody is of immediate and urgent necessity for the minor's protection or the protection of another person or his or her property.
2. The minor is likely to flee the jurisdiction of the court.
3. The minor was arrested under a warrant [705 *ILCS* 405/5-501].

Only youth 10 years of age or older can be held in a youth detention center. If the detention hearing upholds the detainment of the youth, he or she may remain in the detention facility until trial in the juvenile court or for 30 days, whichever comes first. In certain situations, such as with cases involving great bodily harm, pre-trial detention stays may be increased to a maximum of 70 days. If a youth's trial has not yet been heard by the time of maximum stay, the youth must be released from pre-trial detention [705 *ILCS* 405/5-501(5)].

In Illinois, juvenile detention centers are operated by counties. There are 17 Illinois detention centers located in Adams, Cook, Champaign, DuPage, Franklin, Kane, Knox, Lake, LaSalle, Madison, McLean, Peoria, Sangamon, St. Clair, Vermilion, Will, and Winnebago counties. Most detention centers will provide temporary secure confinement to juveniles in neighboring counties.

*Appendix D* shows the counties that operate juvenile detention facilities.

## **Alternatives to pre-trial detention**

Some alternatives to pre-trial detention are available to the juvenile court. Often they are used in conjunction with one another. These options, depending on the jurisdiction and resources of the court, include home confinement, electronic monitoring, evening reporting centers, and non-secure facilities.

### **Home confinement**

Home confinement requires that the juvenile remain at his or her own residence, with the exception of approved leave. Approved leave typically only consists of attending school or work, religious services, and court-ordered programming, or receiving medical services. Home confinement allows for minimal disruption in the juvenile's life during the pre-trial proceedings. Home confinement is typically monitored by a probation officer who will confirm youth are in their designated places with random checks and other methods. Home confinement is often paired with electronic monitoring (using an ankle bracelet) to assist the probation officer in ensuring the juvenile is complying with the conditions of the home confinement.

### **Electronic monitoring**

Electronic monitoring uses telemetry devices to verify that offenders are at specified locations. The devices, commonly used in conjunction with home confinement, assist probation officers in ensuring offenders are in compliance with home confinement requirements. Electronic monitoring systems may be either active or passive, but both devices require the offender to have a home telephone landline or cellular phone. Active electronic monitoring devices emit signals verifying the offender's whereabouts. Passive monitoring systems make random calls to the offender's home or specified location throughout the day and use voice verification devices to ensure the offender is there. Both passive and active monitoring systems can emit signals to the probation officer if the offender enters a restricted zone, a method most commonly used to enforce orders of protection.

Global Positioning Systems (GPS) also can track offenders, providing probation officers and other authorities with the location of an individual at any time. If the offender strays from allowed zones, or into a restricted zone, authorities are immediately notified. Some jurisdictions have indicated that these systems are less easy to tamper with than other electronic monitoring systems. The introduction of GPS monitoring can be costly, which may prevent many jurisdictions from adopting the technique.

### **Evening and day reporting centers**

Evening and day reporting centers are another common alternative to pre-trial detention. Evening and day reporting centers are often used for youth awaiting dispositions for offenses that include, but are not limited to, probation violations and warrant arrests. Youth are often assigned to home confinement along with a reporting program. Evening reporting center programs transport youth to a facility every evening during the week, typically from 3 p.m. until 9 p.m. During this time, the youth participates in structured activities, completes school work, and participates in group counseling. Youth do not attend these programs on the weekend; however, home confinement

orders prevent youth from leaving their homes during that time. Programming and restrictions at day reporting centers are typically the same, with operational hours of 8 a.m. to 8 p.m.

## **Juvenile intake screening**

Juvenile intake screenings are typically conducted by state's attorney's offices, often with the assistance of the juvenile probation department. A juvenile intake screening is the process through which the prosecutor determines the appropriate next action after an arrest and a detention decision has been made. Prosecutors decide whether to file a delinquency petition, enter the youth into a diversion program, give the youth a probation adjustment (informal probation supervision), or transfer the case to adult criminal court. In some jurisdictions, the juvenile probation department can make some diversion decisions.

## **Diversion opportunities prior to the filing of a delinquency petition**

After arrest and screening, youth can be diverted from further system involvement. The youth may receive a probation adjustment, or be offered the opportunity to enter into a diversion program. Pre-trial diversion decisions can be made by probation departments, state's attorneys, and juvenile court judges.

## **Probation adjustment (informal probation supervision)**

A youth may receive a probation adjustment (or informal probation supervision) in lieu of the state's attorney filing a petition of delinquency. Typically, informal probation supervision lasts 12 months. If the youth has refrained from any additional law violations or non-compliance with supervisory mandates (such as attending school or refraining from drug use) during that period, he or she is released from informal probation without further action [705 *ILCS* 405/5-305].

## **Restorative justice programs**

A prosecutor may offer youth the opportunity to enter into a restorative justice diversion program. Restorative justice diversion programs include community mediation panels and mediation programs, victim-offender conferencing, restorative justice circles, referrals for services, counseling, restitution, or other community-based programs that hold the youth accountable for their actions and provide opportunities for rehabilitation and restoration without further juvenile justice system involvement. Community mediation panels are established by state's attorneys to provide opportunities for neighborhoods and community members to be involved in addressing juvenile delinquency, while helping youth understand the seriousness of their actions and the effect they have on the community [705 *ILCS* 405/5-310].

## **Filing of a delinquency petition**

If a state's attorney files a delinquency petition, the youth will have to proceed through the juvenile court process. Delinquency petitions include all relevant case information, including evidence and facts about the alleged offense; name, age, and residence of the minor; names and residences of the minor's parents, guardian, or legal custodian; and date of shelter care or

detention hearing, if applicable [705 *ILCS* 405/5-520]. A petition argues, in the interest of the minor, for the adjudication of the minor as a ward of the juvenile court, making the resources and processes of the juvenile court available to the youth. The petition does not specify proposed dispositions.

Before trial, new information may come to light that results in the state's attorney dismissing the petition entering into a plea agreement, or referring the youth to a diversionary program.

## Transfers to the adult court

In addition to automatic transfers in which juveniles begin the trial process in adult criminal court, juveniles can be transferred through the use of discretionary and presumptive transfers or mandatorily transferred according to Illinois criminal law statutes. In these types of transfers, the prosecutor files a transfer motion and a juvenile court judge decides whether the motion should be granted. Youth transferred to the adult criminal court are afforded all the due process rights guaranteed adults, including the right to a jury trial, which youth tried in juvenile court do not have, except in certain circumstances—habitual juvenile offenders, violent juvenile offenders, and extended juvenile jurisdiction prosecution.

### Mandatory transfer

Mandatory transfer laws move youth to the adult court upon alleged commission of certain offenses. However, unlike automatic transfers, mandatory transfer requests must be heard by a juvenile court judge who makes the determination of whether there is probable cause that the allegations against the youth are true, and accordingly enters an order permitting prosecution under adult criminal law.

Mandatory transfers occur when a youth is at least 15 years of age or older and is alleged to have committed:

- Any forcible felony<sup>3</sup> when the youth had been previously adjudicated delinquent for another felony and the current alleged forcible felony was related to gang activity.
- Any felony when the youth had been previously adjudicated delinquent for a forcible felony and the current alleged felony was related to gang activity.
- Any offenses that would qualify for a presumptive transfer and the youth had been previously adjudicated delinquent for a forcible felony [705 *ILCS* 405/5-805(1)(c)].
- Aggravated discharge of a firearm in a school, on school property, within 1,000 feet of a school, at a school activity, or in a school vehicle.

---

<sup>3</sup> Under Illinois criminal law, forcible felonies include: first degree murder, second degree murder, predatory criminal sexual assault of a child, aggravated criminal sexual assault, criminal sexual assault, robbery, burglary, residential burglary, aggravated arson, arson, aggravated kidnapping, kidnapping, aggravated battery resulting in great bodily harm or permanent disability or disfigurement, and any other felony which involves the use or threat of physical force or violence against any individual [720 *ILCS* 5/2-8].

**Presumptive transfer**

A presumptive transfer occurs when a youth 15 years of age or older has allegedly committed a Class X felony other than armed violence, or if they allegedly committed aggravated discharge of a firearm, or other offenses specified by statute [705 *ILCS* 405/5-805(2)]. A petition is filed by the state's attorney to permit the prosecution of the youth under adult criminal law. Presumptive transfers will occur for these youth unless a juvenile court judge makes a finding based on clear and convincing evidence that the youth is amenable to the care, treatment, and training programs available through the juvenile court [705 *ILCS* 405/5-805(2)].

**Discretionary transfer**

A motion for discretionary transfer is made by the state's attorney to allow for prosecution of a youth 13 years of age or older under criminal law. While there are no specific offenses associated with a discretionary transfer, the court will consider many factors before granting such a transfer, including the seriousness of the offense and the minor's prior record of delinquency [705 *ILCS* 405/5-805(3)].

**Extended juvenile jurisdiction prosecution**

The prosecutor can file a petition to designate juvenile proceedings as an extended juvenile jurisdiction (EJJ) prosecution. This process is sometimes referred to as blended sentencing, in which a juvenile receives both juvenile and adult sentences if the youth pleads or is found guilty.

EJJ requires that the youth be at least 13 years of age charged with any felony, and there is probable cause to believe the allegations in the petition are true. A judge will grant a motion for EJJ prosecution with probable cause unless he or she is able to make a finding based on clear and convincing evidence that sentencing in criminal court would not be appropriate for the minor based on seriousness of the current offense, history of delinquency, age, culpability of the minor in committing the alleged offense, whether the offense was committed in an aggressive or premeditated manner, and whether the minor used or possessed a deadly weapon when committing the offense [705 *ILCS* 405/5-810].

If a motion for EJJ prosecution is granted, the hearing must be held within 60 days and the youth has a right to a trial by jury. If found guilty, the youth will receive both juvenile and adult criminal sentences. The adult sentence is stayed until the youth successfully completes the provisions of the juvenile sentence, at which point the adult sentence is vacated. If the youth does not successfully complete the provisions of the juvenile sentence, the state's attorney can file a petition stating that the youth violated his or her juvenile sentence and a judge may require the youth to serve the adult criminal sentence.

**Fitness to stand trial**

At any time during juvenile court proceedings, either attorney or the judge may raise the issue of a youth's fitness to stand trial. When a bona fide doubt is raised, the judge will order an examination to determine the youth's fitness to stand trial. No statutory regulations exist for

these instances in the Illinois Juvenile Court Act, and the statutory procedures and requirements used in the adult criminal court are followed.

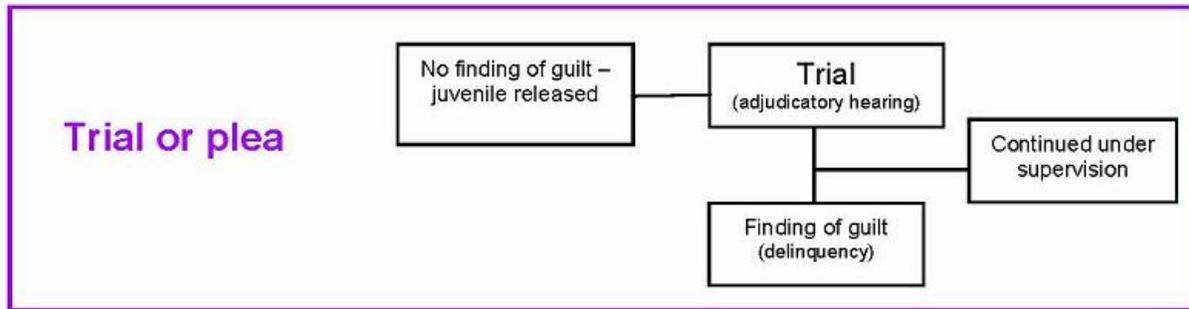
Fitness evaluations are ordered by the judge when there is a concern that a youth's mental or physical condition may interfere with their ability to understand the nature of the court proceedings or compromise their ability to cooperate with their attorneys. It is important to note that a youth who possesses a mental illness, a physical condition, or a developmental disability is not necessarily unfit to stand trial. Determinations are made based on whether these conditions interfere with the youth's ability to understand the nature and purpose of, and participate in, the proceedings.

When a bona fide issue of a youth's fitness is raised, the judge will order the youth to be evaluated by a qualified licensed physician, clinical psychologist, or psychiatrist [725 ILCS 5/104-13(a)]. These evaluations may be conducted while the youth is in custody or out on bond. The recommendation of the evaluation is then submitted to the judge, the defense attorney, and the state's attorney, and a fitness hearing is held. The findings include whether or not the youth is deemed unfit to stand trial and, if so, whether or not a substantial probability exists that the youth can be restored to fitness within the statutory time frame of one year. During the hearing, expert testimony by evaluators will be heard. If the parties stipulate to the results of the evaluation, the court will issue an order reflecting that finding.

If a youth is determined fit to stand trial, the court process will proceed. If a youth is found unfit to stand trial, the youth will then be remanded by the judge to the Illinois Department of Human Services, Division of Mental Health (DMH). DMH will then make the determination as to what services or treatment the youth needs in order to be fit to stand trial. A youth must be made fit within one year and the services may be inpatient or outpatient.

If a youth is not determined fit to stand trial after one year, DMH will report to court whether the youth remains unfit but is making progress towards fitness or if fitness cannot be achieved. If a youth is determined unfit to stand trial and unable to achieve fitness, the State may drop charges with prejudice, pursue a civil commitment, or the case may proceed to a discharge hearing. During the discharge hearing, the judge may find the youth not guilty by reason of insanity, not guilty, or not acquit the youth. If the judge does not acquit the youth and DMH believes the youth can achieve fitness, the judge can order him or her to a term of extended treatment. Statutory limitations exist governing how long a youth may remain in extended treatment based on the offense committed [725 ILCS 5/104-23].

*Appendix E* provides a flow chart depicting the process of youth determined not fit to stand trial.



## IV. Trial or plea

Plea agreements occur when the state’s attorney and juvenile defendant agree to a sentence and the youth pleads guilty. Plea agreements must be approved by the judge. If approved, a sentencing hearing will be set.

Trials (adjudicatory hearings), occur in juvenile court only if:

- The youth has pled not guilty.
- The youth was not diverted from the system.
- The youth did not sign a plea agreement.
- The prosecutor did not dismiss all charges against the youth.

As juveniles do not have a constitutional right to a jury trial (determined by the 1971 U.S. Supreme Court case *McKeiver v. Pennsylvania* [403 U.S. 528, 545 (1971)]), only bench trials are conducted. Trials must be held within 120 days of the youth’s demand for trial, although in some circumstances this time may be extended 30 days [705 ILCS 405/5-601(1)]. However, in cases of habitual juvenile offenders [705 ILCS 405/5-815], violent juvenile offenders [705 ILCS 405/5-820], and extended juvenile jurisdiction prosecution [705 ILCS 405/5-810], the statutes provide the right to a jury trial.

During a trial, the judge determines whether the allegations against a youth are supported by evidence beyond a reasonable doubt. If the judge does not find sufficient evidence, the case will be dismissed (with no finding of guilt) and the youth will be released with no further action by the court.

If the judge finds that the allegations are supported by evidence beyond a reasonable doubt, the youth will be found guilty (adjudicated delinquent). At this point, the judge has several sentencing options. Typically, judges set a date for a sentencing hearing. During the time between the trial and the sentencing hearing, social investigations are ordered that assist judges in making sentencing decisions. However, sometimes judges will waive the social investigation and proceed immediately to sentencing, especially if there is a plea agreement.

Social investigation reports ordered by the court must be submitted to all parties a minimum of three days prior to the sentencing hearing. Social investigation reports, often conducted by probation officers, include relevant information about the juvenile, including, but not limited to

the youth's physical and mental history and condition, family situation and background, socio-economic status, education, occupation, personal habits, history of delinquency or criminality, and available resources for the youth [705 *ILCS* 405/5-701].

### **Diversion options at trial**

Judges and prosecutors have options for diverting youth from further juvenile justice system involvement after a delinquency petition has been filed. Many jurisdictions in Illinois are incorporating restorative justice programs as diversionary options at trial.

### **Continuance under supervision**

In Illinois, the court may order a continuance under supervision which may not exceed a 24-month period for youth alleged to be delinquent, unless the alleged offense is first degree murder, a Class X felony, or a forcible felony—offenses ineligible for continuances under supervision. During the time of the continuance, the youth must follow conditions of supervision determined by the court and monitored by a probation officer [705 *ILCS* 405/5-615]. If the youth successfully completes supervision, he or she will not be adjudicated delinquent and will be released. If the youth does not successfully complete the supervision, he or she will be adjudicated delinquent and sentenced. A continuance under supervision may not be ordered if any party—the state's attorney, defense attorney, defendant, or the youth's parents or legal guardian—objects.

### **Court supervision**

A youth may be diverted with court supervision, also known as deferred prosecution, which suspends the judgment in a case. If the youth complies with the conditions set by the court, he or she will be released without further prosecution. Typical conditions of court supervision are refraining from any additional involvement with the juvenile justice system or law violating behavior. Before court supervision is ordered, a judge typically determines whether the youth will be adequately supervised by parents or guardians while the case is pending. Youth who receive court supervision are not monitored by a probation officer.

## **Not guilty by reasons of insanity or guilty but mentally ill**

Youth may enter a plea of not guilty by reason of insanity. This is an affirmative defense presented by the attorney for the youth. Such a plea asserts that the youth's mental state at the time of the offense results in the youth lacking substantial capacity to appreciate the criminality of his or her act [720 *ILCS* 5/6-2]. If a youth is found not guilty by reason of insanity, a hearing will be held to determine whether the youth is in need of mental health services on an inpatient basis [705 *ILCS* 405/5-605(3)(b)] or whether they require outpatient treatment services. There are statutory limitations on how long a youth may receive inpatient mental health services.

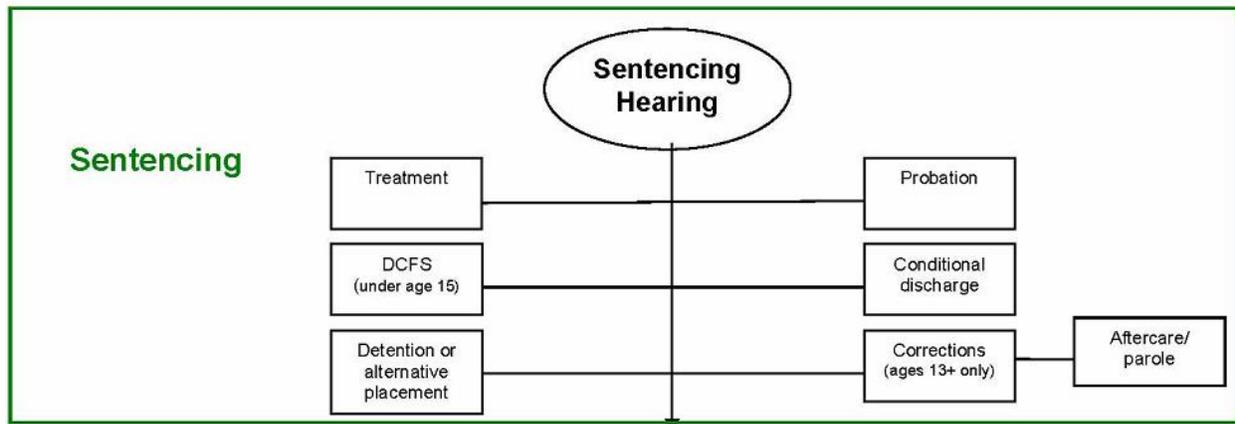
If a youth is mentally ill but was not insane during the time of the offense, the court may find youth guilty but mentally ill [705 *ILCS* 405/5-605(3)(c)]. Youth found guilty but mentally ill are then sentenced in the juvenile court the same way as a youth found guilty but not mentally ill.

*Appendix F* provides a flow chart depicting the process of findings of not guilty by reason of insanity in juvenile court.

## **Failure to appear in court**

If a youth fails to appear in court, the judge will issue a warrant for his or her arrest. Youth arrested on warrants are typically detained in secure detention facilities due to their flight risk.

If a youth fails to appear for trial and the state's attorney is able to prove with substantial evidence that the youth is willfully avoiding the trial, the court may commence the trial in the youth's absence, as long as the absent youth is represented by an attorney. If there is a finding of guilt, the court may hold a sentencing hearing for the absent youth. If the youth who was found guilty and sentenced in absentia can prove that the absence was both not his or her fault and due to circumstance beyond his or her control, he or she may request a new trial and/or sentencing hearing [705 *ILCS* 405/5-625(5)].



## V. Sentencing hearing

Once a youth has been found guilty (adjudicated delinquent), a sentencing hearing is held. There are numerous sentencing options (dispositions) available to a judge at this juncture. During the sentencing hearing, the court determines based on evidence whether it is in the best interests of the youth or the public that he or she be made a ward of the court, giving the court the authority to make decisions on behalf of the youth. If the youth is made a ward of the court, the judge determines which disposition best serves the needs of the youth and the public [705 ILCS 405/5-705(1)].

*Appendix G* provides an in-depth flowchart of sentencing.

### Probation

Probation is the most common disposition of the juvenile court. Youth on probation return to the community with court-ordered conditions. Their compliance with these conditions is monitored by a probation officer. While probation can last up to five years, except in some circumstances, or until the youth's 21<sup>st</sup> birthday, whichever comes first, typical sentences of juvenile probation in Illinois are 12 to 24 months. However, youth who receive probation sentences for first degree murder, a Class X felony, or a forcible felony receive extended probation sentences for at least five years or until they reach the age of 21, whichever comes first [705 ILCS 405/5-715(1)].

Typical conditions of juvenile probation in Illinois include, but are not limited to [705 ILCS 405/5-715(2)]:

- Refraining from violating any local, state, or federal laws, including curfew violations, traffic violations, and using alcohol or drugs
- Possessing or discharging a firearm
- Not leaving Illinois without permission of the court or the probation officer
- Attending school or obtaining employment
- Attending all scheduled visits with probation officer
- Counseling

- Restitution
- Community service
- Home confinement
- Paying a probation fee

Youth on probation are required to reside in the home of their parent or guardian unless otherwise specified. Also, youth found guilty of a felony are required to submit a DNA buccal (cheek) swab sample.

### **Intensive probation supervision**

Intensive probation supervision (IPS) allows conditional release of a youth under strict probation guidelines. Typically, a sentence of IPS may last for the first year of a multiyear probation sentence. It also may be applied when a youth receives probation for a more serious offense or when the youth has had multiple findings of delinquency. IPS is often used as a last resort before a youth is committed to the Illinois Department of Juvenile Justice for noncompliance when traditional probation services have been exhausted. Under IPS, the youth meets more frequently with a probation officer and has stricter conditions than those set in standard probation cases, such as additional curfews, electronic monitoring, and regular drug testing.

### **Conditional discharge**

Conditional discharge orders a youth to comply with specific court mandates without the supervision of a probation officer. If the youth complies with set conditions, such as refraining from further law violating behavior, during the allotted time, he or she will be discharged from the system.

### **Periodic imprisonment**

With periodic imprisonment, the offender must report to a county detention center daily for a set period of time, typically overnight and on weekends. This allows the youth to remain in school or maintain employment, causing less disruption while serving a sentence. This sentencing practice is much more common among adults.

### **Detention**

Although detention centers are more often used pre-trial, youth detention centers also are used for short periods of detention as part of a sentence. Juvenile detention facilities provide short-term secure confinement. Juvenile detention sentences may not exceed 30 days [705 ILCS 405/5-710-1(a)(v)].

### **Home confinement**

Home confinement is typically used prior to trial in conjunction with electronic monitoring. However, youth may be sentenced to home confinement, which requires that the juvenile remain at his or her own residence, with the exception of approved leave. Home confinement is

monitored by probation officers who use a variety of methods to confirm youth are in their designated places. Home confinement also may be used when a youth is awaiting a violation of probation or probation revocation hearing.

### **Electronic monitoring**

Electronic monitoring uses telemetry devices to verify that offenders are at specified locations. The devices, commonly used in conjunction with home confinement, assist probation officers in ensuring offenders are at approved locations (usually school, work, or home) during specified times.

### **Treatment**

Youth may be sentenced to attend treatment programs or counseling for drug and alcohol abuse, sex offenders, or for mental health or medical problems. Treatment sentences may include stays in a residential facility. Oftentimes, sentences of treatment are conditions of probation or conditional release. However, some youth may receive a sentence of treatment alone.

### **Incarceration**

Juveniles may be adjudicated a ward of the state and remanded to the custody of the Illinois Department of Juvenile Justice (IDJJ), the state agency that operates Illinois' juvenile correctional facilities. Sentences to incarceration within a IDJJ facility are the most restrictive sentences and are reserved for more serious offenders and habitual offenders. Youth may only be committed to IDJJ if they are at least 13 years old, and they may remain in IDJJ custody until their 21<sup>st</sup> birthdays.

IDJJ operates eight Illinois Youth Centers (IYCs). IYC-Warrenville and IYC-Pere Marquette serve females. The remaining six facilities serve male offenders.

IYC-Kewanee serves male youth with special treatment needs, specifically sex offenders and those with severe mental health problems, medical problems, substance abuse problems.

IDJJ also operates a juvenile boot camp, sometimes referred to as an impact incarceration program, at IYC-Murphysboro. IDJJ makes the determination as to whether the youth is eligible for IYC-Murphysboro after sentencing. Boot camp programs are typically used for first-time, non-violent offenders as an alternative to longer incarceration and last 30 to 90 days. Boot camps include a range of physical activity and structured activities that resemble the strict environments of military training. Recently, IDJJ has begun to phase out the para-military structure in place at IYC-Murphysboro and is moving toward a structured program which includes a strong education program, a skill-based curriculum, therapeutic interaction techniques between staff and youth, and evidenced-based programming for youth development.

Sentences to IDJJ are indeterminate, so no set length of time of incarceration is established, except that the youth must be released by his or her 21<sup>st</sup> birthday, or by the maximum time an adult would serve for the same charge [705 *ILCS* 405/5-710(7)]. Offender release dates are

recommended by IDJJ according to preset guidelines and are ultimately determined by the Prisoner Review Board during an administrative review date (ARD). The ARD is set within 10 days of a youth's arrival at an IYC and must occur before 11 months of incarceration has passed. The ARD is set based on the offense. Parole release decisions are based on the offender's behavior during incarceration, criminal history, whether the offender is deemed rehabilitated, and other factors. Average length of stay is six to nine months.

While IDJJ sentences are indeterminate, a committed youth may receive credits that allow for reductions in time served. Good time credits are earned for good behavior and participating in education and self-improvement programs.

When a youth is committed to IDJJ, they enter via a Reception and Classification Center (R&C). R&Cs operate as subdivisions of IYC facilities, and upon entry youth are separated from the general population of the IYC.

R&Cs are designed to provide evaluations and assessments of youth to gauge their specific needs and risk levels. These evaluations help administrators determine where the youth will be sent to serve his or her sentence. Facility decisions are based on their specialized needs, security level, and facility availability. However, IDJJ may move youth to different IYC facilities at any time during their stay.

IYC-St. Charles is the northern male R&C, IYC-Warrenville is the northern female R&C, IYC-Harrisburg is the southern male R&C, and IYC-Pere Marquette is the southern female R&C.

*Appendix D* provides IYC locations.

### **Court evaluations and bring-back orders**

Youth may be temporarily committed to IDJJ for court evaluations. Court evaluations are 30, 60, or 90-day commitments used to assess the youth's needs so a judge can make a more informed sentencing decision. After the temporary commitment period expires, the court determines the youth's sentence. They may be released from IDJJ custody by a judge with a vacated sentence, or returned to an IYC to serve an indeterminate sentence.

Bring-back orders, used only in Cook County, are temporary commitments to IDJJ with review dates determined by the judge. After the review, the judge may vacate the youth's sentence or impose a formal sentence.

### **Sentences of incarceration for youth tried in adult criminal court**

Youth under the age of 17 convicted in adult criminal court and sentenced to incarceration will begin to serve their sentences in IDJJ facilities. As of January 1, 2010, youth 17 years of age charged with misdemeanor offenses are tried in the juvenile court. Youth convicted in the juvenile court of misdemeanor offenses do not typically receive sentences of incarceration unless there are aggravating circumstances, (e.g., the youth has an extensive criminal history). In the adult criminal court, the maximum penalty for a misdemeanor conviction is up to one year in confinement, which is served in a county jail and not in a correctional facility.

Juveniles tried in adult criminal court and sentenced to corrections receive determinate sentences in which the release date is known. Typically, a youth tried as an adult will be transferred to an adult prison when they turn 17 years old. However, in some circumstances, IDJJ may request to keep the youth in its facilities beyond his or her 17<sup>th</sup> birthday, particularly if the youth is vulnerable.

### **Release and post-incarceration supervision**

While IDJJ administrators will recommend youth for parole, the Prison Review Board (PRB) makes the final decision on whether to grant parole and sets the conditions of a youth's parole.

The PRB consists of 15 full-time members who are appointed by the governor with the advice and consent of State Senate [730 ILCS 5/3-3-1(b)]. At least six members of the PRB must have had at least three years experience in the field of juvenile matters [730 ILCS 5/3-3-1(b)]. PRB hearings may be conducted with three or more members on the panel [730 ILCS 5/-3-3-5(a)]. PRB hearings of youth committed to IDJJ must have the majority of its members on the panel with experience in juvenile matters [730 ILCS 5/3-3-5(a)].

A youth's parole conditions typically include attending school, attaining a degree or gainful employment, refraining from law-violating behavior, abstinence from drugs and/or alcohol, and obeying curfew. Youth are monitored by a parole officer. Currently, in Illinois, most parole officers are adult parole officers. However, some districts in Illinois have parole officers with only juvenile caseloads. While on parole, the youth is still considered to be in the custody of IDJJ. Therefore, a youth will remain on parole until their 21<sup>st</sup> birthday unless IDJJ administrators or the PRB requests that the court discharge the youth from custody (including early discharge from supervision) if they determine that the youth is rehabilitated, not a threat to public safety, and has successfully complied with the conditions of supervised release.

*Appendix F* provides a complete flowchart of the process of commitment to IDJJ.

## Successful completion of sentence

If a youth successfully completes the sentence, in that he or she does not violate any of the conditions of the sentence or community supervision, the youth will be discharged from the juvenile justice system. All juvenile records are sealed. Many youth are eligible for juvenile record expungement.

## Unsuccessful completion of sentence

A youth who does not comply with the conditions of a sentence may have their probation, parole, or other sentence revoked, or re-enter the juvenile justice system for new offenses.

## Violations of probation and revocation

Probation is viewed as a community-based alternative to incarceration, but a sentence of probation is considered a privilege. Probation may be revoked for noncompliance with sentence conditions, such as attending school or obtaining employment, and are referred to as technical violations. If a youth is alleged to have violated the conditions of probation, the probation officer files a violation of probation petition with the court of the sentencing judge. The judge will conduct a probation revocation hearing, in which evidence of the violation alleged in the petition will be heard. A youth has the right to counsel at these hearings [705 *ILCS* 405/5-720(3)]. At the hearing, the judge may find insufficient evidence of a violation and the youth will continue with his or her probation as ordered. If there is enough evidence to determine there was a violation of the probation orders, the judge may impose or change the conditions of the youth's probation, or revoke probation and re-sentence the youth.

Probation officers also have diversionary options available to them. When a youth violates probation, the probation officer may choose to provide the youth with intermediate sanctions [705 *ILCS* 405/5-720(7)]. Intermediate sanctions are adopted by the chief judge of each circuit court. Intermediate sanctions include, but are not limited to, home confinement, electronic monitoring, and intensive probation supervision.

## Violations of parole and revocation

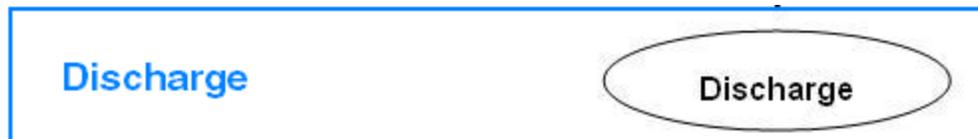
Parole is the supervised early release of a youth from incarceration. Youth released from IDJJ in advance of their 21<sup>st</sup> birthday are automatically placed on parole, unless they have had their sentences vacated by a judge. Parole supervision requires compliance with specific conditions of release determined by the PRB. If there is an alleged violation of parole, the youth is entitled to a probable cause hearing within 10 days of apprehension [20 *IL ADC* 1610.140(b)(3)]. However, a hearing officer can continue the preliminary hearing for up to an additional two weeks to permit the production of witnesses and materials relevant to the hearing [20 *IL ADC* 1610.140(b)(3)]. During this time, the youth's case will be scheduled to be heard at the next scheduled PRB hearing at the facility in which the youth is confined, provided that the youth's re-incarceration was at least 30 days prior to the next scheduled meeting [20 *IL ADC* 1610.150].

If probable cause is found, the youth will receive a final revocation hearing, conducted before at least three members of the panel to determine if the allegations are true. The interview for the parole revocation of a juvenile must be conducted by a member qualified in juvenile matters [20 *IL ADC* 1610.10(c)(2)]. The member will interview the youth, any witnesses, and any persons who appear in support of the charge [20 *IL ADC* 1610.150]. If the PRB determines that there was a violation of the youth's parole, they may change or impose additional conditions of parole or revoke parole.

As established in *Goldberg v Kelly*, youth have the right to have counsel at both the preliminary and parole revocation hearings [397 *U.S.* 254 (1970); 20 *IL ADC* 1610.140(c)]. However, the state is not required to provide counsel for those who cannot obtain their own [*Gagnon v Scarpelli*, 411 *U.S.* 778, 790 (1973)].

Parole can be revoked for committing a new offense or for technical violations, such as failing to attend school or abiding by curfew. Youth who commit and are adjudicated delinquent for new offenses while on parole may lose parole and be re-committed to the custody of IDJJ. However, if the judge and the PRB agree, the youth may receive an additional sentence while continuing on parole.

Parole agents also have graduated sanctions available to them, such as electronic monitoring and home confinement. IDJJ also operates a Halfway Back program in its IYC-Chicago facility. The Halfway Back program allows youth who have committed minor violations of their parole (such as curfew violations or absences from school) to return to IDJJ for a short stay and be re-released on parole, if the parole agent chooses to offer this intermediate sanction to the youth. Decisions of entrance into the program are determined by IDJJ and the PRB.



## VI. Discharge

If all the conditions of the sentence imposed are met successfully, the juvenile will be discharged from court wardship. However, violations of conditions of the sentence can result in revocation of the sentence, additional sentences, re-entering the juvenile justice system, and receiving additional and/or stricter conditions. Juvenile court jurisdiction originates for youth who are alleged to have committed offenses prior to their 17<sup>th</sup> birthdays, or prior to their 18<sup>th</sup> birthdays for misdemeanor offenses that are alleged to have occurred after January 1, 2010.

Juveniles tried and sentenced in the juvenile court prior to their 17<sup>th</sup> or 18<sup>th</sup> birthdays can remain under court jurisdiction for the remainder of their sentence. However, if at any time prior to their 17<sup>th</sup> birthday they are transferred and convicted in an adult criminal court, any future law violating behavior will result in the adult criminal court being the original court of jurisdiction.

On the youth's 21<sup>st</sup> birthday, juvenile court wardship will terminate, regardless of the youth's sentencing status [705 *ILCS* 405/5-755(1)]. Once youth are discharged from the juvenile justice system, their records are sealed.

## VII. Expungement

All juvenile records are sealed to ensure that juvenile criminal history records will not be available to certain entities, such as potential employers, once the juvenile becomes an adult. Sealed records are still available to law enforcement, judges, state's attorneys, the military, and other specific individuals. However, some youth are eligible to expunge their juvenile criminal records, removing them in their entirety from any court or law enforcement systems [705 *ILCS* 405/5-915].

A youth's records are eligible for expungement if the youth is at least 17 years of age (or 18 years of age for misdemeanors after January 1, 2010) and the youth:

- Was arrested and not charged.
- Was charged but not adjudicated delinquent.
- Successfully completed court supervision.
- Was adjudicated delinquent for an offense that would be a misdemeanor, petty, or business offense if committed by an adult.

Felony records may not be expunged except for those showing charges of Class 4 drug possession of cannabis (less than 500 grams), Class 4 possession of a controlled substance, Class 4 prostitution convictions, and Class 4 convictions under the Methamphetamine Precursor Control Act [720 *ILCS* 648/15] or the Steroid Control Act.

Youth may qualify to expunge their juvenile criminal records if they were arrested but not convicted of first degree murder or any felony sex offenses. If a youth was arrested but not convicted for the aforementioned offenses, they may expunge their juvenile records if they are at least 21 years of age and:

- Have not been convicted for any offense since their 17<sup>th</sup> birthdays,.
- It has been at least five years since their last juvenile court proceeding.
- If committed to IDJJ, been at least five years since discharge from IDJJ.

The steps to expunge juvenile records include filing three forms with the court and paying a fee. Forms include:

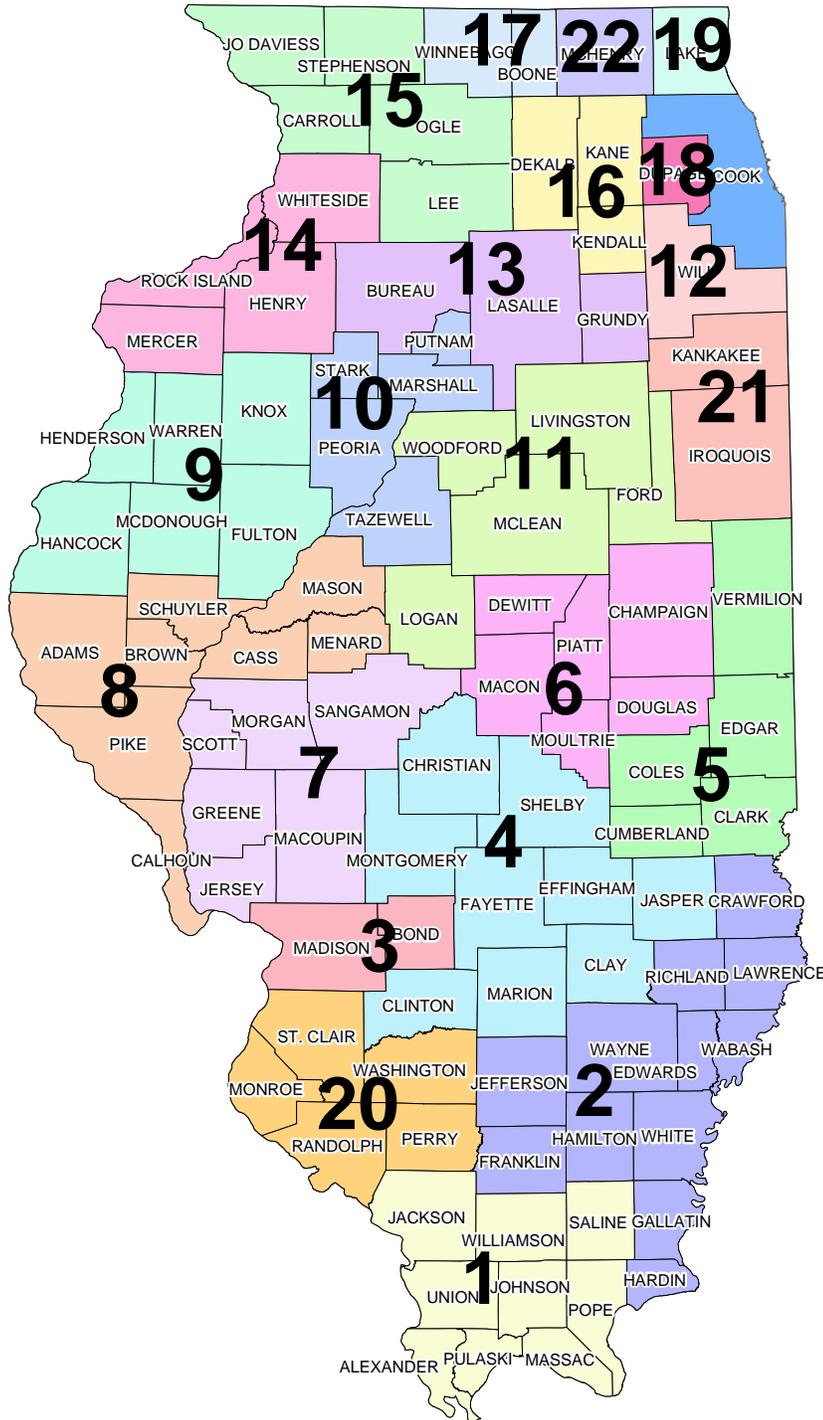
- 1) A petition for expungement.
- 2) A notice of expungement.
- 3) An order with the clerk of the circuit court within which the youth was convicted.

After 45 days, the youth must contact the clerk to determine the status of their petition. During these 45 days, judges and state's attorneys have the ability to challenge the youth's petition for expungement. If the court grants the petition for expungement, the juvenile will pay a fee and the Illinois State Police will remove the youth's records. However, expungement statutes do not require state's attorneys or other prosecutor's offices to destroy internal office records, files, or databases. Additionally, law enforcement, state's attorneys, other prosecutors, and the Illinois Department of Corrections may require disclosure of expunged juvenile records if an individual applies for employment with these agencies [705 *ILCS* 405/5-915(8)(a)].

In 2009, Illinois passed legislation making all juveniles charged with misdemeanors eligible for expungement, regardless of the outcome of the case. For youth charged with misdemeanors, a motion for expungement must be filed by the youth's counsel within 30 days of the judgment on the case. If a motion for expungement is filed, the court will set an expungement review hearing to occur within a month of the youth's 18<sup>th</sup> birthday or within a month of completion of the sentence, whichever is later.

The Office of the State Appellate Defender maintains a website that assists youth in expungement: <http://www.state.il.us/defender/exp.html>.

# Appendix A: Map of Illinois judicial circuits



# Appendix B: Juvenile Arrest Card

(All fields marked in BOLD are mandatory)

**JUVENILE ARREST CARD**

Document Control Number **L24287837** Ref. DCN \_\_\_\_\_ Arresting Agency ORI - NCIC **IL 01600000** Transaction Control Number **FRM0130L19740815**

Subjects Last Name **JONES** First Name **JOHN** Middle Name / Suffix **JAY**

Date of Birth **11 / 04 / 1986** Place of Birth **IL** Sex **M** Race **W** Height **5 0 4** Weight **1 2 5** Hair **BLN** Eye **BLU**

Social Security Number **100 10 6000** Drivers License Number \_\_\_\_\_ DL State \_\_\_\_\_ Basis For Caution: \_\_\_\_\_

Alias Last Name \_\_\_\_\_ First Name \_\_\_\_\_ Middle Name / Suffix \_\_\_\_\_ Alias Date of Birth \_\_\_\_\_

Occupation \_\_\_\_\_ Employer \_\_\_\_\_ Employer Address \_\_\_\_\_ Employer Phone \_\_\_\_\_

Residence of Person Fingerprinted **460 GRANDVIEW LANE, POE, IL 88448** Agency Case Number (unique) **JV524** Juvenile Case Number \_\_\_\_\_

School Name **POE HIGH SCHOOL** Date of Arrest **12 / 04 / 2000** Time of Arrest (HRS) **18:00** Juvenile Officer Badge # **456** City of Prosecution **016**

Arrest Disposition (choose one):  
 Informal Station Adjustment  Formal Station Adjustment  Released Without Charging  Petition / Referral to Court

Adjustment Term **CLXR** Length of Term y/m/d/hrs **25h** Date Fingerprinted: **03 / 04 / 2000**

(See Back for appropriate Code)

Count	Statute Citation / AOIC Code	C S A O D	C L A S S	Offense Description	County Issuing Warrant	Warrant / Court Case Number	State Use Only
<b>001</b>	<b>720 ILCS 5/16A-3-A</b>	<b>0</b>	<b>A</b>	<b>RETAIL THEFT</b>			
<b>001</b>	Date of Offense <b>03 / 04 / 2000</b>	Domestic Violence (Please check) <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		Arrest Type (See Back) <input checked="" type="checkbox"/> V			
<b>002</b>							
<b>002</b>	Date of Offense <b>/ /</b>	Domestic Violence (Please check) <input type="checkbox"/> Yes <input type="checkbox"/> No		Arrest Type (See Back) <input type="checkbox"/>			
<b>003</b>							
<b>003</b>	Date of Offense <b>/ /</b>	Domestic Violence (Please check) <input type="checkbox"/> Yes <input type="checkbox"/> No		Arrest Type (See Back) <input type="checkbox"/>			

Page Number \_\_\_\_\_ of \_\_\_\_\_

COPY #4 BUREAU OF IDENTIFICATION COPY ISP 6-037 (08)

Source: Illinois State Police

# Appendix C: Detention screening instrument

Minor: \_\_\_\_\_  
 Screener: \_\_\_\_\_

Date: \_\_\_/\_\_\_/\_\_\_

REFER TO POINT VALUES PAGE	(SCORE EACH ITEM)	SCORE
<b>A. Most Serious Alleged Current Offense.....</b>	<b>0 – 12</b>	_____
(Choose only one item indicating the most serious charge)		
Charge: _____		
<b>B. Additional Current Offenses</b>		
Two or more additional current felonies.....	3	
One additional felony.....	2	
One or more additional misdemeanors.....	1	
None.....	0	_____
<b>C. Prior Arrests</b>		
Two or more prior major offenses (those with 10 or 12 points).....	5	
One prior major felony; two or more other felonies.....	3	
One other felony.....	2	
Two or more prior misdemeanors; one prior misdemeanor weapons offense.....	1	
None.....	0	_____
<b>D. SUBTOTAL I (Sum of A, B, and C)</b>		_____
<b>E. Risk of Failure to Appear</b>		
Active delinquent warrant/request for apprehension/delinquent offense while on court-ordered home detention.....	12	
Absconded from court-ordered residential placement or violated home detention.....	8	
Habitual absconder or history of absconding to avoid court appearances.....	6	
Prior delinquent warrant issued.....	3	
None of the above.....	0	_____
<b>F. SUBTOTAL II (Enter the larger of D or E)</b>		_____
<b>G. Legal Status</b>		
On probation, parole, or supervision.....	2	
Pending court; pending prior referrals to S.A. for petition requests.....	1	
None of the above.....	0	_____
<b>H. Circumstances of Minor/Aggravating Factors (Increase by 0 to 3 points)</b>		
Strong gang affiliation; serious injury to victim; senior, very young or disabled victim, specific threats to witness/victim, victim resides in household.....	0 – 3	
Factor(s): _____		_____
<b>I. SUBTOTAL III (Sum of F, G, and H)</b>		_____
<b>J. Circumstances of Minor/Mitigating Factors (Decrease by 0 to 2 points)</b>		
No significant offense history; parents or guardian have a supervision plan.....	0 – 2	
Factor(s): _____		_____
<b>K. TOTAL SCORE (difference of I – J)</b>		_____

**AUTO HOLD – ALL CHARGES IN THE 12 CATEGORY, WARRANT, OR REQUEST FOR APPREHENSION REGARDLESS OF MITIGATING FACTORS**

**SCORING:**

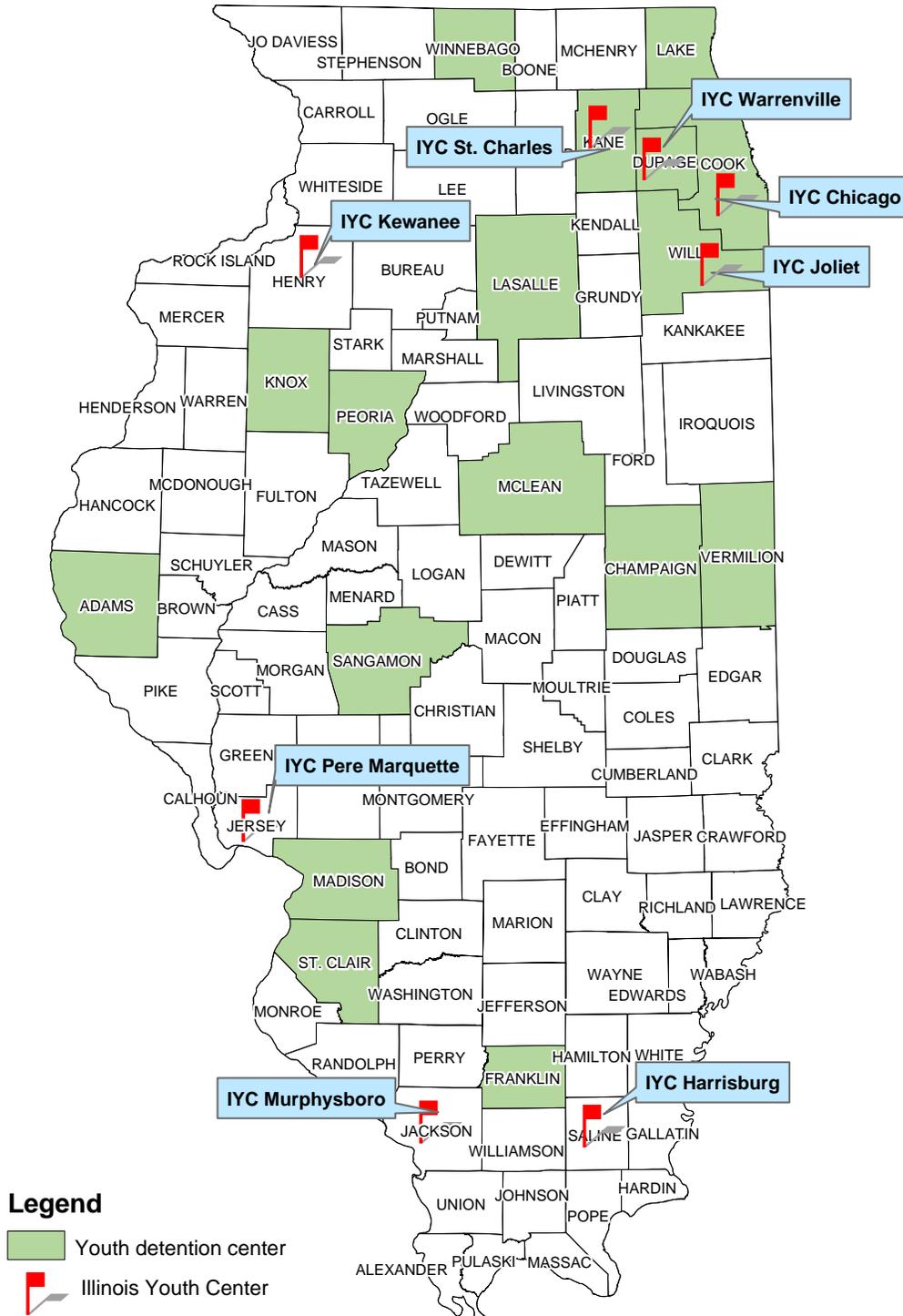
- 12 and up..... Detain
- 7 to 11 .....Release (non-secure options can be utilized, if feasible and appropriate).
- 0 to 6.....Release to parent or guardian or to a responsible adult relative.

**Screener:** If you are uneasy about the action prescribed by this instrument regarding this particular case, or if you are being subjected to pressure in the process of screening this referral, contact your supervisor for consultation prior to taking action.

FINAL DECISION:        ( ) DETAIN                                ( ) RELEASE W/ CONDITIONS                                ( ) RELEASE

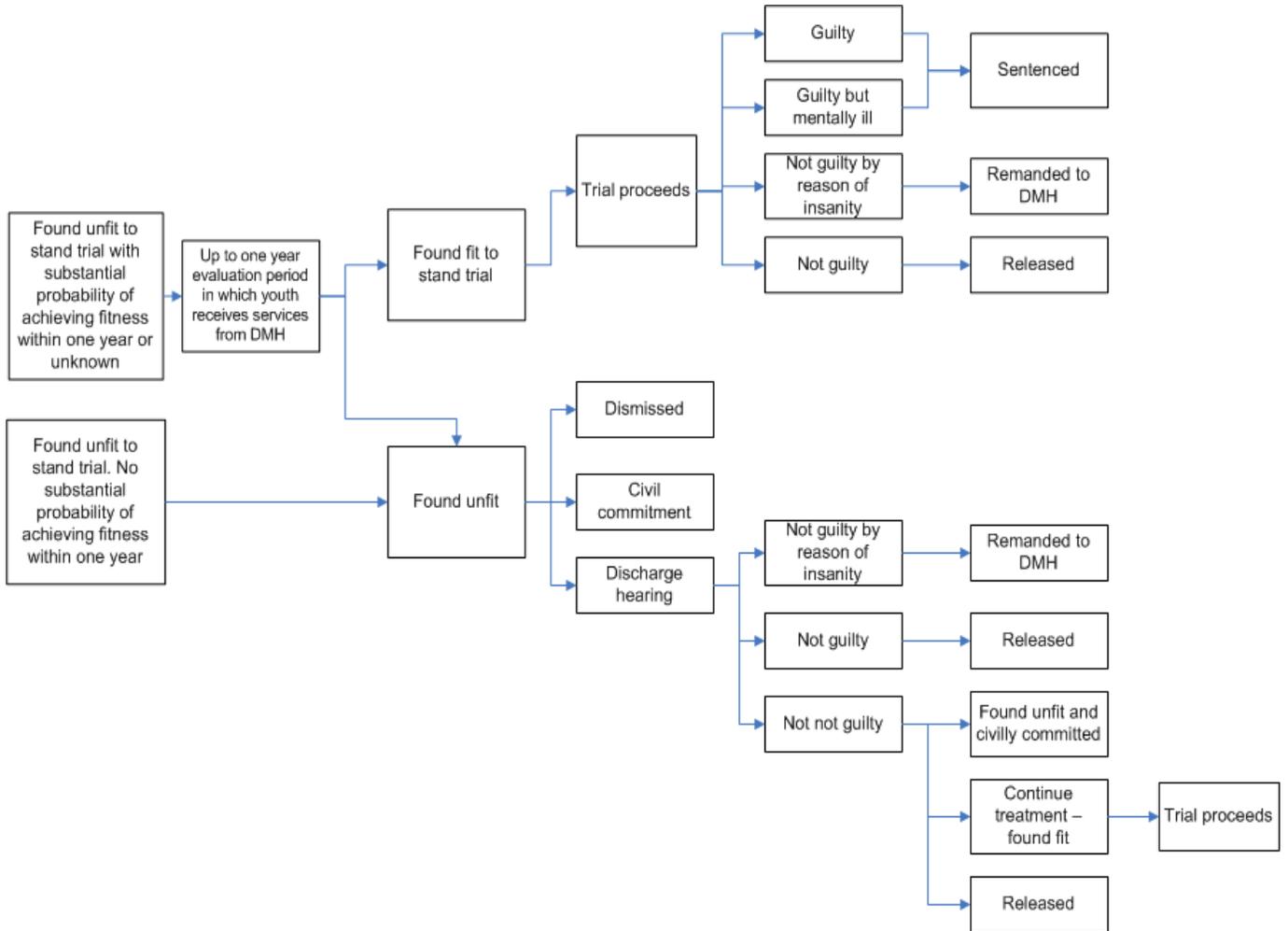
- 12 - Homicide, Aggravated Kidnapping, Aggravated Criminal Sexual Assault, Armed Robbery, Drug Manufacturing or Delivery on Public Housing or School Property, Excluded Jurisdiction Offenses, Aggravated Assault with Firearm Discharged, Armed Violence, Home Invasion, Other Class X Felonies, Domestic Battery w/ Bodily Harm, Any offense where the juvenile is in possession of a loaded firearm
- 10 - Arson, Kidnapping, Criminal Sexual Assault, Aggravated Criminal Sexual Abuse, Felony Unlawful Use of Weapons
- 8 - Aggravated Battery, Compelling Gang Membership, Felony Drug Offenses, Residential Burglary
- 6 - Aggravated Assault, Robbery
- 5 - Burglary, Offenses Related to Motor Vehicle (Felony), Theft/Possession of Stolen Motor Vehicle, Felony Mob Action
- 4 - Theft Over \$300, False Fire Alarm/Bomb Threat (Felony Disorderly Conduct), Criminal Damage to Property Over \$300, Misdemeanor Criminal Sexual Abuse, Misdemeanor Domestic Battery, Misdemeanor Battery
- 3 - Forgery, Unlawful Use of Credit Cards, Resisting Arrest, Obstructing Justice
- 2 - Misdemeanor Offenses (i.e. Assault, Resisting a Peace Officer, Disorderly Conduct, Criminal Damage to Property, Criminal Trespass to Vehicle)
- 0 - Status Offense

## Appendix D: Map of Illinois Department of Juvenile Justice facilities and county detention centers



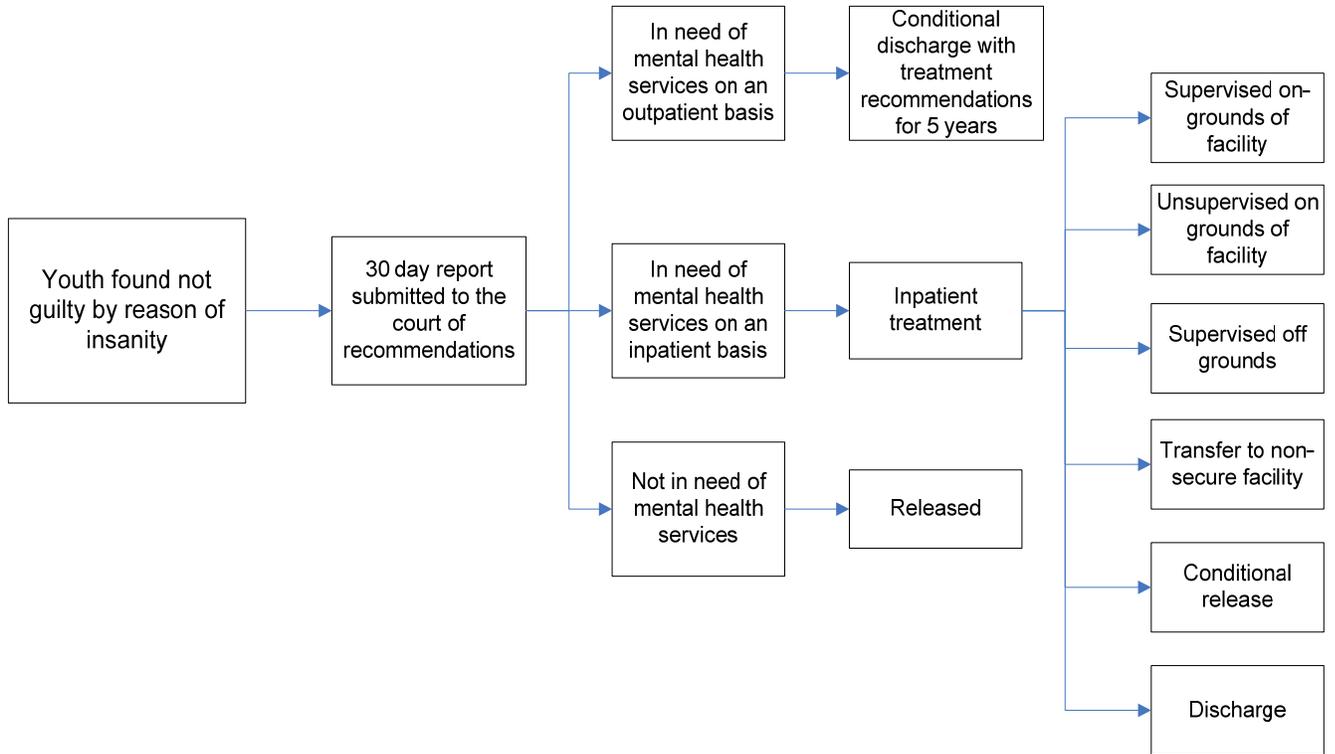
Note: The flags do not indicate the exact location of the IYCs within the County.

## Appendix E: Flowchart of process after youth is found unfit to stand trial



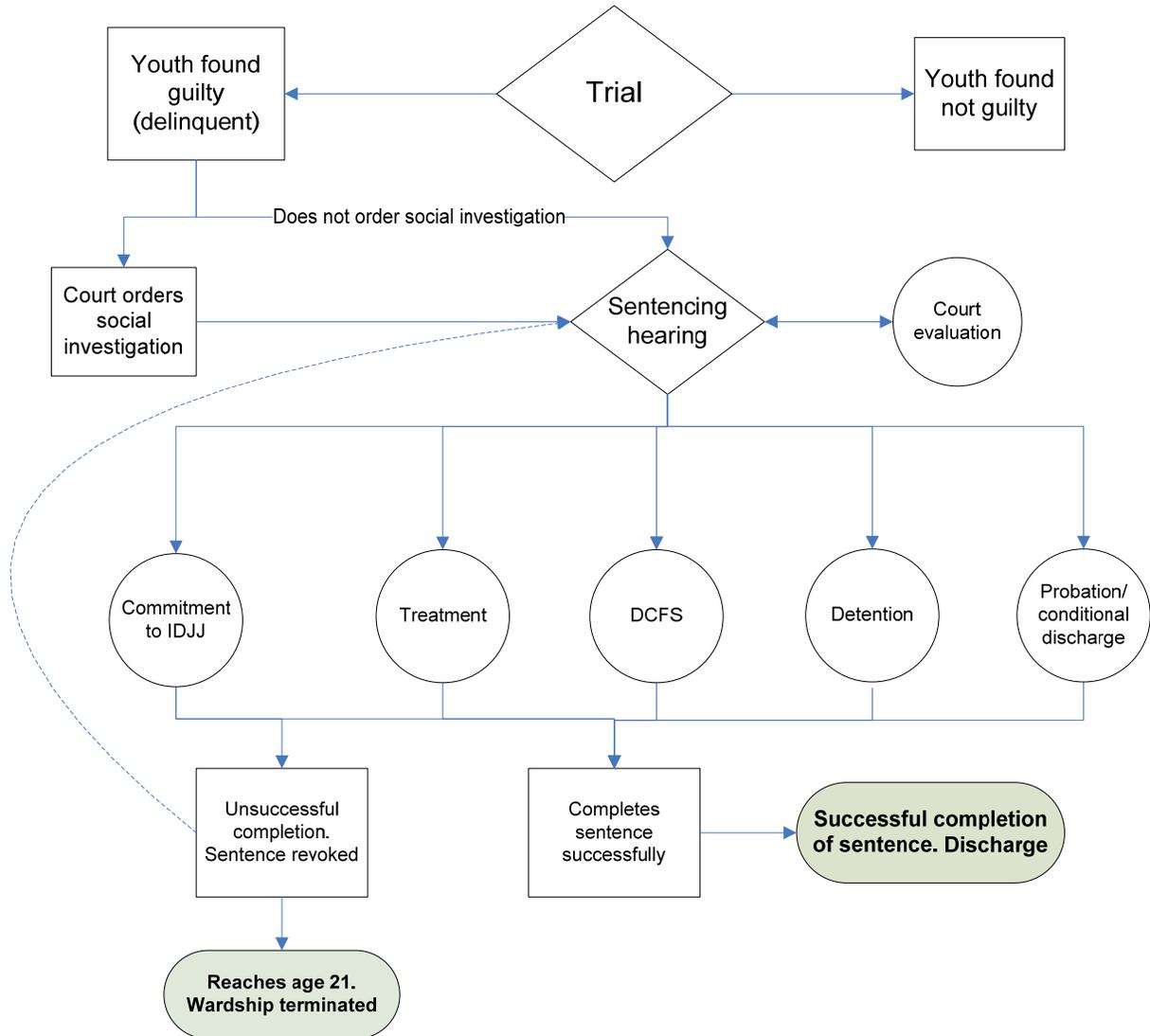
Source: Adapted from Ferguson, D. (2010). Illinois Department of Human Services, Division of Mental Health.

## Appendix F: Flowchart of process of youth found not guilty by reason of insanity



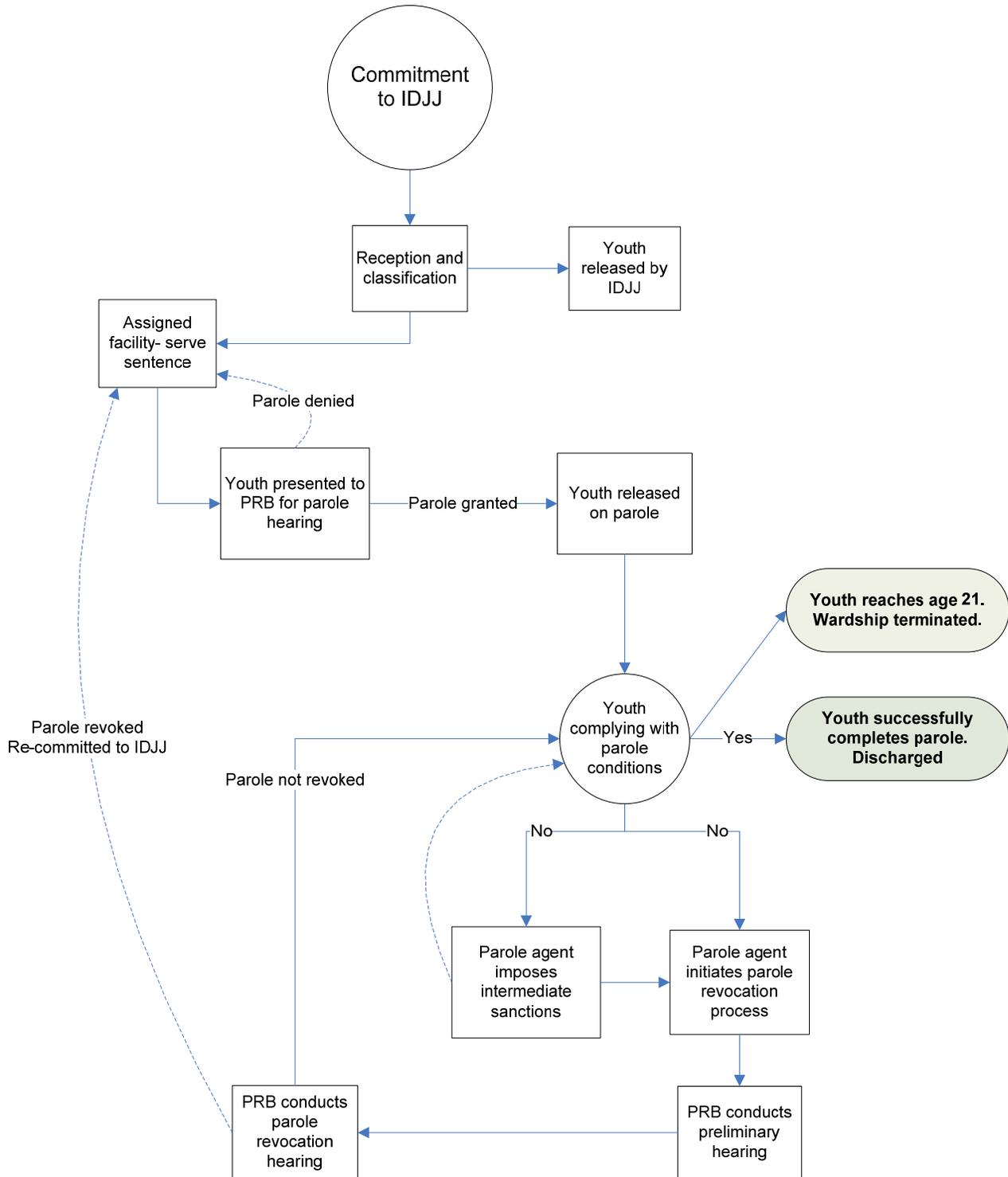
Source: Adapted from Ferguson, D. (2010). Illinois Department of Human Services, Division of Mental Health.

## Appendix G: Flowchart of sentencing options



Adapted from: Jones, K. (2010). *Illinois juvenile justice: Post-dispositional statutory and regulatory framework*. Children and Family Justice Center, Bluhm Legal Clinic, Northwestern University School of Law.

## Appendix H: Flowchart of IDJJ commitment



Adapted from: Jones, K. (2010). *Illinois juvenile justice: Post-dispositional statutory and regulatory framework*. Children and Family Justice Center, Bluhm Legal Clinic, Northwestern University School of Law.





**Illinois Criminal Justice Information Authority**

300 W. Adams Street, Suite 200

Chicago, Illinois 60606

Phone: 312.793.8408

Fax: 312.793.8422

TDD: 312.793.4170

*Visit us online: [www.icjia.state.il.us](http://www.icjia.state.il.us)*