

DuPage Juvenile Officers' Association and DuPage Bar Association Juvenile Law Update, January 2008

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Sex Offenders and Registration

A person who becomes subject to registration under the **Sex Offender Registration Act** or Child, Murderer and Violent Offender against Youth Registration Act who has previously been subject to registration under either of those Acts or similar registration requirements of another jurisdiction must register for the period of his or her natural life if not confined to a penal institution, hospital, or other institutional facility, and if confined, for the period of his or her natural life after parole, discharge or release from any such facility. **730 ILCS 150/7 and 730 ILCS 154/40, PA 95-169, effective 8/14/07**

It is now unlawful for any child sex offender to knowingly operate, manage, be employed by or be associated with any **county fair** when persons under the age of 18 are present. **720 ILCS 5/11-9.4(c-5), PA 95-32, effective 1/1/08**

Libraries are now included in the places that are entitled to notification under the Community Notification of Sex Offender requirements. **730 ILCS 152/120, PA 95-278, effective 8/17/07**

Sex offenders must now include all **email addresses**, instant messaging identities, chat room identities, and other Internet communications identities that the sex offender uses or plans to use, all Uniform Resource Locator (URLs) registered or used by the sex offender, all blogs and other Internet sites maintained by the sex offender or to which the sex offender has uploaded any content or posted any messages or information. **730 ILCS 150/3(a), PA 95-229, effective 8/16/07**

Amendments to the **Sex Offender Registration Act** did not exempt the defendant from registering for the crime of unlawful restraint where he was required to register at the time of his conviction. **People v. Craig, 312 Ill.Dec. 873, 871 N.E.2d 273(2007)** The requirement that a defendant register as a **sex offender** after being convicted of the unlawful restraint of a child did not violate the defendant's right to due process. **People v. Doll, 309 Ill.Dec. 675, 864 N.E.2d 916(2007)** Even though the **Sex Offender Registration Act** has been amended, the legislature had the power to require offenders who committed the offense of aggravated kidnapping to register as sex offenders. The court found that the state had a rational basis for requiring the defendant to register under the Act whether or not the offense was sexually motivated. **People v. Johnson, 225 Ill.2d 573, 312 Ill.Dec. 350, 870 N.E.2d 415(2007).**

A defendant was properly convicted of failing to register as a sex offender in **People v. Evans, 302 Ill.Dec. 646, 849 N.E.2d 438(2006)**. The evidence showed that the defendant lived in a municipality for a total period of ten or more days. The manager of the apartment building where the defendant's girlfriend lived testified that the defendant had moved in with the girlfriend on October 26. He then testified that he saw the defendant there all the time. The defendant used that address on traffic tickets obtained November 7 and 9. The police had also gone to the apartment on November 9 and November 16 for a domestic disturbance involving the defendant. The defendant did not register as a sex offender until December 8 at which time he used that same address.

In order to plead an **affirmative defense** in cases for soliciting for a juvenile prostitute, the person must reasonably believe that the person was over the age of 17 at the time of the act. **720 ILCS 5.11-15.1, PA 95-95, effective 1/1/08**

Sovereign immunity did not bar an attorney's request for **attorney's fees** for representing a sexually dangerous person. The court properly ordered the Department of Corrections to pay the fees. **People v. Downs, 309 Ill.Dec. 454, 864 N.E.2d 320(2007)**

Sex Offenses

Parole officers and probation officers may now have access to law enforcement records subject to the Privacy of Child Victims of Criminal Sexual Offenses Act. **725 ILCS 190/3, PA 95-69, effective 1/1/08**

Indecent solicitation of a child may now be committed by knowingly discussing an act of sexual conduct or sexual penetration with a child or with one whom he or she believes to be a child by means of the internet with the intent that the offense of aggravated criminal sexual assault, predatory criminal sexual assault of a child or aggravated criminal sexual abuse be committed. It is not a defense to the charge that the person did not solicit the child to perform sexual conduct or sexual penetration with the person. **720 ILCS 5/11-6(a-5)(a-6)** The offense is a Class 4 felony. **720 ILCS 5/11-6(c), PA 95-143, effective 1/1/08**

The **indecent solicitation of an adult** statute making it a felony for a person to arrange for someone over the age of 17 to commit an act of sexual penetration or other sexual conduct with a child under the age of 13 or between the ages of 13 and 17 does not violate due process by failing to require a culpable mental state or knowledge of the participant's ages or by converting misdemeanor conduct into a felony. Therefore, the statute applies to a 16-year-old juvenile who solicited an 18-year-old female student to perform a sex act on a sixteen-year-old male student. **In re: M.T., 221 Ill.2d 517, 304 Ill.Dec. 336, 852 N.E.2d 792(2006)**

Gangs

The offense, **unlawful contact with street gang members**, occurs if the person knowingly has direct or indirect contact with a street gang member after having been ordered by a judge in any non-criminal proceedings to refrain from direct or indirect contact with a street gang member or he or she knowingly has direct or indirect contact with a street gang member after having been released from the Illinois Department of Corrections on a condition of parole or mandatory supervised release that he or she refrain from direct or indirect contact with a street gang member or members. **720 ILCS 5/25-1.1(a)(3)(4), PA 95-45, effective 1/1/08.**

Traffic

As of January 1, 2008, drivers under the age of 21, drivers who have a graduated driver's license, and the attorneys who represent them must deal with quite a few changes to the Illinois Vehicle Code, some of which substantially change the way the courts deal with young violators. For example, **court supervision** is not available to a defendant under the age of 21 years of age charged with an offense against traffic regulations governing the movement of vehicles, any violation of the graduated license statute, or the seatbelt law unless the defendant, upon payment of the fines, penalties and costs provided by law, agree to attend and successfully complete a traffic safety program approved by the court. If they fail to complete the traffic safety program, before the termination date of the supervision, the supervision is to be summarily revoked and a conviction entered. **730 ILCS 5/5-6-1(h-1).**

Anyone under the age of 18 years of age who commits an offense against traffic regulations governing the movement of vehicles, any violation of the graduated license statute or the seatbelt law cannot get court supervision unless he or she makes a **personal appearance** in court and upon the written consent of the defendant's parents or guardian executed before the presiding judge. A presiding judge has the authority to waive the requirement upon a showing of good cause by the defendant. **730 ILCS 5/5-6-1(m), PA 95-310**

A **graduated driver's license** may not be issued to any applicant under the age of 18 years of age for nine months after the person has committed and subsequently been convicted of an offense against traffic regulations governing the movement of vehicles, any violation of the graduated license statute or the seat belt law in the Illinois Vehicle Code. **625 ILCS 5/6-107(d).**

A person under the age of 18 holding a graduated driver's license may not, for the first twelve months he or she holds the license or until he or she reaches the age of 18, whichever occurs sooner, may not operate a motor vehicle with **more than one passenger** in the vehicle who is under the age of 20, unless the additional passenger or passengers are siblings, step-siblings, children or step-children of the driver. This restriction applies to a person with a graduated driver's license who reaches the age of 18 if he or she commits an offense against traffic regulations governing the movement of vehicles or any violation of the graduated license law or the seatbelt law during the first 12 months that the license is held and is subsequently convicted of the violation. **625 ILCS 5/6-107(g)** This extension of time also applies to the seatbelt requirement that each passenger in the back seat have a seat safety belt. **625 ILCS 5/6-107(e).**

It is now an offense for a person that is age 15 but under the age of 20 **to be a passenger** in a vehicle operated by a driver holding a graduated driver's license during the first twelve months the driver holds the license or until the driver reaches the age of 18, which ever occurs sooner, if another passenger under the age of 20 is present, excluding a sibling, step-sibling, child or step-child of the driver. **625 ILCS 5/6-107(h)**

An **instruction permit** issued to a person under the age of 18 is invalid during the following times: (1) Between 11:00 p.m. Friday and 6:00 a.m. Saturday; (2) Between 11:00 p.m. Saturday and 6:00 a.m. on Sunday; and (3) Between 10:00 p.m. on Sunday to Thursday, inclusive, and 6:00 a.m. on the following day.

However, the instruction permit is not invalid for a person under the age of 18 if the older was: (1) accompanied by the minor's parent or guardian or other person in custody or control of the minor; (2) on an errand at the direction of the minor's parent or guardian, without any detour or stop; (3) in a motor vehicle involved in interstate travel; (4) going to or returning home from an employment activity, without any detour or stop; (5) involved in an emergency; (6) going to or returning home from, without any detour or stop, an official school, religious, or other recreational activity supervised by adults and sponsored by a government or governmental agency, a civic organization, or another similar entity that takes responsibility for the licensee, without any detour or stop; (7) exercising First Amendment rights protected by the United States Constitution, such as the free exercise of religion, freedom of speech, and the right of assembly; or (8) married or had been married or is an emancipated minor under the Emancipation of Minors Act. **625 ILCS 5/6-107.1(b)**

A **driver's license** is invalid for a person under the age of 18 unless an exception applies during the following hours: (A) Between 11:00 p.m. Friday and 6:00 a.m. Saturday; (B) Between 11:00 p.m. Saturday and 6:00 a.m. on Sunday; and (C) Between 10:00 p.m. on Sunday to Thursday, inclusive, and 6:00 a.m. on the following day.

However, the license is not invalid if the driver under the age of 18 was: (1) accompanied by the licensee's parent or guardian or other person in custody or control of the minor; (2) on an errand at the direction of the minor's parent or guardian, without any detour or stop; (3) in a motor vehicle involved in interstate travel; (4) going to or returning home from an employment activity, without any detour or stop; (5) involved in an emergency; (6) going to or returning home from, without any detour or stop, an official school, religious, or other recreational activity supervised by adults and sponsored by a government or governmental agency, a civic organization, or another similar entity that takes responsibility for the licensee, without any detour or stop; (7) exercising First Amendment rights protected by the United States Constitution, such as the free exercise of religion, freedom of speech, and the right of assembly; or (8) married or had been married or is an emancipated minor under the Emancipation of Minors Act. **625 ILCS 5/6-110(a-1).**

Restrictions on a graduated driver's license holder continues past the age of 18 if the person commits an offense against traffic regulations governing the movement of vehicles, any violation of the graduated

licensing statute or a violation of the seatbelt law in the six months prior to the holder's 18th birthday and is subsequently convicted of the offense. In that case, the **restrictions** apply for a period of six consecutive months without additional violations and subsequent convictions. **625 ILCS 5/6-110(a-3).**

A person under the age of 21 years of age at the time of the arrest is subject to a **discretionary suspension** by the Secretary of State when the person has been convicted of an offense against traffic regulations governing the movement of vehicles after having previously been suspended or revoked for committing two offenses against traffic regulations governing the movement of vehicles within any 24 month period while under the age of 21. **625 ILCS 5/6-206(a)(43)**

The regulations for **transporting children** under the age of 8 years of age with a child restraint system now apply to any trucks or truck tractors that are equipped with safety seatbelts. **625 ILCS 25/4, PA 94-254, effective 1/1/08.**

On a school day when **school children** are present and so close thereto that a potential hazard exists because of the close proximity of the motorized traffic and when traffic control signals are not in place or not in operation, the driver of a vehicle must yield the right-of-way, slowing down or stopping if need be to yield to a pedestrian crossing the roadway within a crosswalk when the pedestrian is upon the half of the roadway upon which the vehicle is traveling, or when the pedestrian is approaching so closely from the opposite half of the roadway as to be in danger. A school day begins at 7:00 a.m. and concludes at 4:00 p.m. This section doesn't apply unless appropriate signs are posted in accordance with 11-605. **625 ILCS 5/11-1002.5, PA 95-302, effective 1/1/08.**

A person under the age of 19 in a vehicle being driven by a person over the age of 18 who has committed an offense against traffic regulations governing the movement of vehicles or any violation of the seatbelt statute or the graduated license law within 6 months prior to the drivers 18th birthday and was subsequently convicted of the violation, must wear a properly adjusted and fastened safety seatbelt until 6 consecutive months have passed without the driver receiving an additional violation and subsequent convicting of an offense against the traffic regulations governing the movement of vehicles or any violation of the seatbelt statute or the graduated license law. How a passenger would know of the driver's background with regard to this regulation is anyone's guess. **625 ILCS 5/12-603.1**

A person 19 years of age with an instruction permit or who hold a graduated driver's license may not drive a vehicle on a roadway while using a **wireless phone**. **625 ILCS 5/12-610.1, PA 95-338.**

The regulations regarding the ban on persons under the age of 19 years of using a wireless telephone while driving now apply to a graduated driver license holder over the age of 18 who has committed an offense against traffic regulations governing the movement of vehicles or any violation of the graduated license law or the seatbelt statute in the 6 months prior to the graduated driver's license holder's 18th birthday and was subsequently convicted of that violation. In that case, there is 6 consecutive months added on to the period of time during which the person cannot use a wireless telephone. **625 ILCS 5/12-610.1(d), effective 1/1/08, PA 95-310.**

This 6 month extension also applies to driver's under the age of 18 who violates the seat belt provision regarding transporting children 8 years of age or older but under the age of 19 by failing to make sure that the child wears a properly adjusted and fastened seatbelt. **625 ILCS 25/4(b), PA 95-310.**

Parents have the right to view their child's **Secretary of State abstract** if the child is under the age of 18 and holds an instruction permit or a graduated driver's license. **625 ILCS 5/2-123(g).** There is no cost for this and they may view it online through a computer connection. This also applies to information regarding summary suspension or a zero tolerance suspension. **625 ILCS 5/11-501.1(e) and 625 ILCS 5.11-501.8(d), effective 1/1/08, PA 95-201.**

New offenses have been created by the Illinois Legislature forbidding **street racing** and **aggravated street racing**. It is a crime to engage in street racing on any street or highway of this State or for the owner of a vehicle to acquiesce or permit his or her vehicle to be used by another for the purpose of street

racing. “Acquiesce” or “permit” means actual knowledge that the motor vehicle is to be used for the purpose of street racing.

Street racing means: (1) The operation of 2 or more vehicles from a point side by side at accelerating speeds in a competitive attempt to outdistance each other; or (2) The operation of one or more vehicles over a common selected course, each starting at the same point, for the purpose of comparing the relative speeds or power of acceleration of such vehicle or vehicles within a certain distance or time limit; or (3) The use of one or more vehicles in an attempt to out gain or outdistance another vehicle; or (4) The use of one or more vehicles to prevent another vehicle from passing; or (5) The use of one or more vehicles to arrive at a given destination ahead of another vehicle or vehicles; or (6) The use of one or more vehicles to test the physical stamina or endurance of drivers over long-distance driving routes.

The first offense is a Class A misdemeanor and is subject to a minimum fine of \$250. A second or subsequent offense is a Class 4 felony with a minimum fine of \$500. In addition, the driver’s license of any person convicted of street racing must be revoked by the Secretary of State. A person who allows his vehicle to be used for street racing is guilty of a Class B misdemeanor, and a second or subsequent offense is a Class A misdemeanor.

If the vehicle is involved in a motor vehicle accident that results in great bodily harm or permanent disability or disfigurement to another person where the violation was a proximate cause of the injury, the crime is aggravated street racing. Aggravated street racing is a Class 4 felony for which the defendant must be sentenced to not less than one year nor more than 12 years in jail. **625 ILCS 5/11-506, effective 1/1/08.**

Whenever a police officer issues a ticket for street racing, the arresting officer may have the vehicle that the person was operating at the time of the arrest impounded for a period of five days after the arrest. The impounding agency must release the motor vehicle impounded to the registered owner of the vehicle under the following circumstances: (1) If the vehicle is a stolen vehicle; or (2) If the person ticketed for a violation of subsection (a) of Section 11- 506 of this Code was not authorized by the registered owner of the vehicle to operate the vehicle at the time of the violation; or (3) If the registered owner of the vehicle was neither the driver nor a passenger in the vehicle at the time of the violation or was unaware that the driver was using the vehicle to engage in street racing; or (4) If the legal owner or registered owner of the vehicle is a rental car agency; or (5) If, prior to the expiration of the impoundment period specified above, the citation is dismissed or the defendant is found not guilty of the offense. **625 ILCS 5/4-203(h)**

Any violation of the street racing law results in the immediate invalidity of a restricted driving permit. **625 ILCS 5/6-113(f)(5)** The street racing statute or a similar provision of local ordinance requires a mandatory revocation of the driver’s license. **625 ILCS 5/6-205(14)**

Confessions

A 15-year-old murder defendant’s confession was **voluntary** in **People v. Minniti, 311 Ill.Dec. 251, 867 N.E.2d 1237(2007)**. The defendant was of average intelligence, the detention was legal and the length of time was reasonable. The defendant was informed of his Miranda rights a number of times and indicated that he understood them. While the police overstated the evidence against him, they did not frustrate his ability to speak with his father.

A defendant’s confession in a sexual offense prosecution was deemed involuntary in **People v. Westmorland, 310 Ill.Dec. 447, 866 N.E.2d 608(2007)**. The evidence showed that the defendant was somewhat immature and frightened. The officers did not make any attempt to locate the defendant’s parents when he was arrested or before he was interviewed, the officers denied both of the defendant’s requests to speak with his mother, and the officer raised his voice when speaking with the defendant and told him “I don’t give a shit if you go to jail or not”. The court did use the totality of the circumstances test in coming to this conclusion.

The request by a father of his sixteen-year-old defendant to call his attorney was not sufficient to invoke the defendant’s right to counsel during a murder investigation. **People v. Young, 302 Ill.Dec. 847, 850 N.E.2d 284(2006)**. The statement was ambiguous because it cannot be determined whom the attorney

would have represented or for what purpose because the defendant's father had two sons in custody when he made the statement.

A defendant's confession was voluntary in **People v. Macias, 309 Ill.Dec. 144, 863 N.E.2d 776(2007)** where the defendant was 18 years old with 8 prior arrests. The defendant was interviewed three times over the course of 57 hours but they were all of a short duration. The defendant was given Miranda warnings and was allowed to eat and sleep and the defendant said he was treated fine when questioned by an assistant state's attorney.

Arrest, Search and Seizure

A passenger in a vehicle that is stopped for a traffic violation may contest the stop of the vehicle said the United States Supreme Court said in **Brendon v. California, 127 S.Ct. 2400(2007)**. The Fourth Amendment applies when a passenger is seized when the vehicle is stopped. Because the person is seized, he or she is entitled to challenge the government's action when officers, by physical force or a show of authority, terminate or restrain the person's freedom of movement through means intentionally applied. The passenger in this case was seized because no reasonable person in his position when the vehicle was stopped would have believed himself free to terminate the encounter between the police and himself. In this particular case, the officers had stopped the vehicle to check its registration without a reason to believe it was being operated unlawfully. One of the officers recognized the defendant who was a passenger in the car. The officer then verified that the defendant was a parole violator and the officers arrested him and searched him, the driver and the car, during which they found other things including methamphetamine paraphernalia. The defendant was then charged with possession and manufacture of the substance. The defendant had moved to suppress the evidence obtained in searching his person and car arguing that the officers lacked probable cause or reasonable suspicion to make the traffic stop. The court found that the defendant was seized because no reasonable person in his position would have believed he was free to terminate the encounter when the car was stopped. Any reasonable passenger would understand that the officers were exercising control to the point that no one in the car was free to leave without permission. The court found that a traffic stop curtails a passenger's travels just as much as it stops the driver. The case was remanded to the State Court to determine whether the suppression should be granted based on the facts of the case.

An officer had **probable cause** to arrest a juvenile suspect after the person disobeyed the officer's order to stop. The juvenile had been approaching a large group engaged in a fight situation so the officer was within his authority to order him to halt. **In re Jerome S., 372 Ill.App.3d. 642, 311 Ill.Dec. 220, 867 N.E.2d 1206(2007)**.

An officer had a reasonable suspicion for a **Terry stop** in **People v. Barker, 369 Ill.App.3d. 670, 311 Ill.Dec. 35, 867 N.E.2d 1021(2007)**, where the officer had conducted a traffic stop, finished the stop, and then asked the defendant if he had any open containers of beer in the car and whether he could search it. The officer had seen a 12-pack of beer in the backseat of the car with some of the containers missing and had believed that the person had been drinking and driving.

An officer should not have conducted a **background check** of a defendant who was a passenger in a vehicle stopped for a traffic violation in **People v. Andrews, 310 Ill.Dec. 829, 867 N.E.2d 520(2007)**. The officer checks showed a body attachment. Based on the information, the officer conducted a search incident to arrest and found cannabis in his backpack. The court said that because the officer's conduct was not related to the stop itself, it was impermissible.

An officer properly asked for **consent to search a vehicle** based on information he got during a traffic stop. The officer became aware that one passenger was involved in illegal drug activities, the officer asked whether there was any alcohol or loaded weapons in the vehicle and while the defendant responded to that question, he refused to answer whether there were drugs in the vehicle. **People v. Roberts, 374 Ill.App.3d. 490, 313 Ill.Dec. 399, 872 N.E.2d 382(2007)**.

Police had **probable cause to seize** a defendant's computer in **People v. Shinohara, 313 Ill.Dec. 513, 872 N.E.2d 498(2007)** where the defendant admitted having digital images on the computer. Officers had personally viewed images on the computer that indicated that the defendant had committed the offense of child pornography.

Underage consumption of alcohol

The liquor commissioner of a municipality has a duty to notify the Secretary of State of any conviction or dispositions of court supervision for a violation of Section 6-20 of the **Liquor Control Act** or a similar provision of local ordinance. The State then has the discretionary authority to suspend or revoke the driver's license of the person who has received the disposition of court supervision for a violation of 6-20, subsection (a), (d) or (e) of the Liquor Control Act or similar provision of local ordinance. **235 ILCS 5/4-4, effective 1/1/08, PA 95-166.**

It is unlawful for any parent or guardian to knowingly permit his or her residence to be used by an invitee of the parent's child or the guardian's ward, if the invitee is under the age of 21, in a manner that constitutes a violation of 235 ILCS 5/6-16. A parent or guardian is deemed to have knowingly permitted his or her residence to be used in violation of this statute if he or she knowingly authorizes, enables or permits consumption of alcohol by underage invitees. **235 ILCS 5/6-16(a-1).** Where a violation of (a-1) directly or indirectly results in great bodily harm or death to any person, the crime is a Class 4 felony. **PA 95-563, effective 8/31/07.**

Child witnesses

A **child's statement** to a mandated reporter in the course of gathering information in a criminal sexual assault case could not be used as evidence because the application of the Crawford v. Washington case which was applied retroactively. **People v. Stechly, 225 Ill.2d 246, 312 Ill.Dec. 268, 870 N.E.2d 333(2007).** However, a statement made by the child to her mother was not testimonial in nature so it could be used. The child had made the statement in the back seat of the car on the ride to the hospital. The mother had asked the child what had happened and the child was telling her the reason for the trip to the hospital and could not have anticipated that the statement might be used by the prosecution.

A four-year-old witness was not available to testify under 725 ILCS 5/115-10. Where a witness is unwilling or unable to testify because of fear, unable to communicate in a courtroom setting, or declared incompetent because she is incapable of expressing herself so as to be understood about the subject of the trial, the requirements of the statute are not met. The fact that the witness was present and there was general testimony does not allow the victim's hearsay out of court statements to be introduced into evidence pursuant to the statute. **People v. Learn, 309 Ill.Dec. 276, 863 N.E.2d 1173(2007).** The girl became upset when she was testifying on the stand and was in tears repeatedly.

Hearsay statements that were ruled admissible pursuant to a pre-trial hearing were not rendered inadmissible when the stepchildren failed to corroborate the statements at trial. **People v. Monroe, Ill.App.3d.304 Ill.Dec. 432, 852 N.E.2d 888(2006)**

Juvenile Procedure

In cases where the **law enforcement records or juvenile court records** concerning a pending juvenile court case are sought, the party seeking to inspect the records must provide actual notice to the attorney or guardian ad litem of the minor whose records are sought. In cases where the records concern a juvenile court case that is no longer pending, the party seeking to inspect the records must provide actual notice to the minor or the minor's parent or legal guardian, and the matter must be referred to the chief judge presiding over matters pursuant to the Juvenile Court Act. In determining whether the records should be available for inspection, the court must consider the minor's interest in confidentiality and rehabilitation over the moving party's interest in obtaining the information. Any records obtained in violation of the Act are not admissible in any criminal or civil proceeding, or may not operate to disqualify a minor from subsequently holding public office or securing employment, or may not operate as a forfeiture of any public benefit, right, privilege, or right to receive any license granted by public authority. A civil

subpoena is not an order of court. In the case of juvenile court records, the State's Attorney, the minor, and the minor's parents, guardian and counsel at all times have the right to examine the court files and records. **705 ILCS 405/1-7(C) and 705 ILCS 405/1-8(C), PA 95-123, effective 8/13/07**

A minor was entitled to a new **transfer hearing** because the statutory provisions that authorized his transfer were enacted as part of a Safe Neighborhoods Law, a statute that was later found unconstitutional. The judgment against him was void and so the argument could be raised at any time. **People v. Brown, 225 Ill.2d 188, 310 Ill.Dec. 561, 866 N.E.2d 1163(2007).**

In **In re Gilberto G.-P., 313 Ill.Dec. 910, 873 N.E.2d 534(2007)** the defendant initially admitted a petition for delinquency, that alleged that he committed the offense of armed robbery when he was 16 years old. The court dismissed the petition and the State filed an information charging the defendant with armed robbery. The defendant attacked the indictment on the basis of double jeopardy. The court found that the Juvenile Court lacked **jurisdiction** over the defendant on the wardship petition because armed robbery involving minors who are at least 15 years of age were specifically excluded from the Juvenile Court Act.

If an adult defendant testifies in court falsely or inconsistently, his or her **juvenile adjudication** may become admissible for the limited purpose of impeachment. Therefore, in **People v. Harris, 313 Ill.Dec. 960, 873 N.E.2d 584(2007)** the defendant's prior juvenile adjudication was admissible as rebuttal evidence. The defendant had taken the stand and made false statements trying to portray his character as something other than it was.

The court found in **In re Randall M., 313 Ill.Dec. 356, 872 N.E.2d 116(2007)** that the Juvenile Court Act does not authorize the **automatic transfer of a minor** with pending delinquency matters from a juvenile detention facility to an adult detention facility when the minor reaches his 17th birthday. The court said that juveniles 17 years of age or older who have pending delinquency petitions and who are housed in a county jail in a county with fewer than three million inhabitants must be separated from the adult population.

A minor may not appeal the denial of a **motion to dismiss** a criminal proceeding on grounds of former jeopardy unlike their adult counterparts. Supreme Court Rule 604(f) does not apply to juvenile delinquency proceedings. Therefore, the interlocutory appeal on this basis was denied in **In re Olivia C. 311 Ill.Dec. 307 868 N.E.2d 307(2007).**

A adult defendant's juvenile adjudication may become admissible for the limited purpose of impeachment in limited circumstances. Therefore, in **People v. Harris, 313 Ill.Dec. 960, 873 N.E.2d 584(2007)** the defendant's prior juvenile adjudication was admissible as rebuttal evidence. The defendant had taken the stand and made false statements trying to portray his character as something other than it was.

The statutory requirement that a juvenile adjudicated delinquent for possession of a controlled substance must submit to a saliva test for **DNA** does not violate the Fourth Amendment. **In Re Clifton R., 306 Ill.Dec. 444, 857 N.E.2d 843(2006)**

A juvenile court has no jurisdiction to continue a juvenile's probation beyond his or her **21st** birthday. **In re Jaime P., 223 Ill.2d 526, 308 Ill.Dec. 393, 861 N.E.2d 958(2006)**

The statute allowing the court to place an adjudicated delinquent in the guardianship of DCFS only if the minor is under 13 does not violate the **proportionate penalties** clause of State Constitution. **In re Rodney H., 223 Ill.2d 510, 308 Ill.Dec. 292, 861 N.E.2d 623(2006)**

Abuse and Neglect

All **reports received by DCFS** alleging the death of a child, serious injury to a child including, but not limited to, brain damage, skull fractures, subdural hematomas, and internal injuries, torture of a child,

malnutrition of a child, and sexual abuse to a child, including, but not limited to, sexual intercourse, sexual exploitation, sexual molestation, and sexually transmitted disease in a child age 12 and under, shall also be immediately transmitted by the Department to the appropriate local law enforcement agency. **325 ILCS 5/7, PA 95-57, effective 8/10/07** Notwithstanding any other provision of the Act, the Department must adopt rules expressly allowing law enforcement personnel to investigate reports of suspected child abuse or neglect concurrently with the Department, without regard to whether the Department determines a report to be "indicated" or "unfounded" or deems a report to be "undetermined". **325 ILCS 5/7.3(b), PA 95-57, effective 8/10/07**

Counties that have a **Children's Advocacy Center** may assess a mandatory fee between \$5 and \$30 to be paid by defendants on a judgment of guilty or for court supervision for any felony, Class A, B or C misdemeanor, for a petty offense and for a business offense. **55 ILCS 5/5-1101(f-5), PA 95-103, effective 1/1/08.**

Every hospital, fire station, emergency medical facility and police station is required to post a conspicuous sign on the exterior of the building housing the facility informing persons that **newborn infants** may be relinquished at the facility. **325 ILCS 2/22, PA 95-275, effective 8/17/07.**

In re Tyrese J., 815 Ill.Dec. 478, 876 N.E.2d 1068(2007) State should have been allowed to amend its pleading to conform to the evidence. Court erred in finding no neglect where child was born exposed to heroin.

In re R.W. and S.W., 309 Ill.Dec. 766, 864 N.E.2d 1007(2007) A trial court's oral pronouncement takes precedence over a written order when the two conflict. While a trial court may reserve the issue of a respondent's fitness at the dispositional phase, the trial court cannot make a finding of "fit but reserved".

In re S.B., 310 Ill.Dec. 684, 866 N.E.2d 1286(2007) The appellate court lacked jurisdiction to review a permanency review order because it is not a final order.

In the Interests of Gabriel E., Jr., 310 Ill.Dec. 746, 867 N.E.2d 59(2007) Finding of neglect for injurious environment was upheld because of the mother's continuing exposure of her son to harmful conduct.

In re Stephen K., 310 Ill.Dec. 768, 867 N.E.2d 81(2007) Finding of medical neglect upheld where child was malnourished lived in an injurious environment and suffered a physical risk of harm from the parents.

In re Niki K., 313 Ill.Dec. 212, 871 N.E.2d 939(2007) The court's find that there was no probable cause for a finding of neglect or dependency was upheld where parents had made a provision for shelter for their child for over 24 hours when they were arrested. The parents were held by the police longer than they had been originally been advised and were willing to care for the children upon their release from jail.

In re A.W., 311 Ill.Dec. 400, 868 N.E.2d 400(2007) The doctrine of collateral estoppel barred a father from introducing evidence to rebut allegations of sexual abuse. The court previously had found that the state had to prove the allegations of sexual molestation by a preponderance of the evidence. However, the father's constitutional rights against self-incrimination were violated when he was barred from completing sex offender's therapy because he would not admit to the sexual offense.

In re Ryan B., 305 Ill.Dec. 381, 855 N.E.2d 272(2006) A finding of wardship was reversed where there was insufficient proof that the father's home was not a safe and nurturing environment for a child.

In re Terrell L., 307 Ill.Dec. 113, 859 N.E.2d 113(2006) The trial court does not need to make a finding that a guardian is unfit before modifying a prior guardianship order.

In Re P.M.C., 315 Ill.Dec. 471, 876 N.E.2d 1061(2007) Father could not be found unfit solely on his denial of the sexual abuse of his child.

Termination of Parental Rights

In Re A.E., 307 Ill.Dec. 350, 859 N.E.2d 639(2006). A trial court has authority to terminate parental rights of a minor who is under the age of 21 as long as the minor was adjudicated abused, neglected or dependent, and a dispositional order was entered while the minor was under the age of 18 years of age.

In re Janira T., 307 Ill.Dec. 369, 859 N.E.2d 1046(2007). Parental rights terminated after a mother failed to complete recommended services.

In re Altwan L., 307 Ill.Dec. 408 859 N.E.2d 1085(2006). The state's failure to timely serve the father by publication in an involuntary termination of parental rights action did not deprive the trial court of subject matter jurisdiction over the termination of parental rights. The father waived the issue of whether the state's failure to timely serve him deprives the court of personal jurisdiction because he appeared in court without filing a motion challenging the court's jurisdiction over him.

In re Daphnie E., 307 Ill.Dec. 123, 859 N.E.2d 123(2006) Parental rights terminated for failure to maintain a reasonable degree of interest in the child's welfare.

In re C.C., 307 Ill.Dec. 170, 859 N.E.2d 170(2006) Termination of parental rights upheld where the defendant disappeared for a long period of time, and failed to participate in drug treatment programs and parenting classes.

In re Reiny S., 313 Ill.Dec. 108, 871 N.E.2d 835(2007) Evidence was sufficient to show that the father made reasonable progress towards the reunification. Petition to terminate parental rights had to be reversed. The father made efforts to schedule visits around his work schedule with the children.

In re Veronica J., 311 Ill.Dec. 148, 867 N.E.2d 1134(2007) Termination of parental rights upheld where a mother was aware of drugs being sold from her home while the child was present and the mother was unable to abide by certain standards of conduct in order to get her daughter back.

In re Taylor D., 306 Ill.Dec. 903, 858 N.E.2d 961(2006) After a mother executed a final and irrevocable consent to adoption by a specific person, the court terminated her parental rights and gave DCFS the power to consent to the adoption who then placed her with her foster parents instead of the child's uncle. The court found that the child's best interests were served by being placed with the foster parents who had cared for her all her life.

In re S.J., 307 Ill.Dec. 281, 859 N.E.2d 281(2006) The court's determination that the child's return home to the mother was not feasible was against the manifest weight of the evidence.

In re Mark W., 308 Ill.Dec. 656 862 N.E.2d 589(2006) The juvenile court could not appoint a guardian ad litem for a child's mentally disabled mother during a termination of parental rights hearing because the mother was represented by a plenary guardian of the person who had complete authority to act on her behalf before the parental rights proceedings began.