Ill. Admin. Code tit. 20, § 1610.10

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West's Illinois Administrative Code Currentness
Title 20: Corrections, Criminal Justice, and Law Enforcement
Chapter IV. Prisoner Review Board
Part 1610. Prisoner Review Board (Refs & Annos)
1610.10 Administration

a) By action of the members of the Prisoner Review Board, orders of parole or conditions of parole as well as statutory parole and mandatory releases and all continuances ordered by the former Parole and Pardon Board are adopted.

b) Duties of the Chairman

1) Full administrative authority for conducting the business of the Illinois Prisoner Review Board shall be vested in the Chairman, including but not limited to the time and place of assignments, time and place of Board conferences, opening and adjournment times of Board meetings, caucuses and conferences, and such other general administrative powers as shall be necessary to effectively carry out the work of said Board.

2) The Chairman shall preside at meetings of the Board and may appoint another member as Acting Chairman in the event of his absence. He shall also name presiding members of panels of the Board.

3) Upon the request of three members of the Board he shall schedule a special meeting of the Board at a reasonable time and at a suitable location.

c) Hearing Panels

1) Adult panels. The Board may meet and order its actions in panels for purposes of granting and revoking parole. The action of a majority of a panel shall be the action of the Board. Each panel shall consist of at least three members of the Board except as otherwise required by the Unified Code of Corrections (Ill. Rev. Stat. 1983, ch. 38, par. 3-3-2(a)(2)).

2) Juvenile panels. The authority of the Board for persons in the custody of the Juvenile Division shall be exercised by a panel of at least three members except as otherwise required by the Unified Code of Corrections (Ill. Rev. Stat. 1983, ch. 38, par. 3-3-2(a)(2)). At least a majority of the members of the panel deciding a case must be experienced in the field of juvenile matters. The interview for parole revocation of a juvenile shall be conducted by a member qualified in juvenile matters.

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3) In any instance where a tie vote shall result, the matter under consideration shall be referred to the full Board for determination.

AGENCY NOTE: Any use of the terms “he”, “his” or “him” is intended to be gender neutral.

(Source: Amended at 9 Ill. Reg. 16257, effective October 10, 1985)

20 ILAC § 1610.10, 20 IL ADC 1610.10

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West's Illinois Administrative Code Currentness
Title 20: Corrections, Criminal Justice, and Law Enforcement
Chapter IV. Prisoner Review Board
Part 1610. Prisoner Review Board (Refs & Annos)
1610.20 Eligibility for Parole

a) Adult division. Every person serving one or more indeterminate terms of imprisonment for felony charges in the custody of the Department of Corrections shall be eligible for parole when he has served:

1) the minimum term or terms of indeterminate sentences, less "good time" or 20 years, less "good time," whichever is less, or

2) twenty years of a life sentence imposed prior to the law in effect on February 1, 1978, less "good time," or

3) one-third of a definite sentence imposed prior to January 1, 1962, less "good time," or 20 years less "good time," whichever is less.

4) In each case, "good time" shall be deducted as prescribed by the regulations of the Department of Corrections, providing for the diminution of sentences as required by statute.

5)

A) Persons sentenced or adjudicated under the provisions of the Unified Code of Corrections in effect January 1, 1973, but prior to February 1, 1978, if not sooner released on parole shall be granted parole according to the following schedule:

i) A person who has served his maximum term of imprisonment, less "good time" shall be released to serve the statutorily prescribed period of parole.

ii) A first offender under the Juvenile Court Act (Ill. Rev. Stat. 1981, ch. 37, pars. 701-1 et seq.) shall be released on parole on or before his 20th birthday.

B) Persons sentenced or adjudicated under the law in effect on and after February 1, 1978, or who have accepted release dates set by the Board in accordance with prescribed procedure shall be released on

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their release dates provided they agree in writing to accept conditions or such other sanctions as prescribed by the Board.

6) Indeterminate consecutive sentences which may be aggregated will be treated as one long sentence for purposes of parole eligibility. Such persons will be eligible for parole when they have served 20 years less "good time" or sooner according to the schedule set forth above.

b) Juveniles. Every person serving a juvenile commitment to the Department of Corrections as a delinquent shall be eligible for parole without regard to the length of time the person has been confined or whether the person has served any minimum term imposed. Such juveniles may be presented to the Board for parole consideration upon proper notification of a request for consideration to the Department of Corrections and the Board. Juveniles serving felony sentences imposed in accordance with law effective October 1, 1977, shall attain parole eligibility as prescribed for adults above.

20 ILAC § 1610.20, 20 IL ADC 1610.20

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Title 20: Corrections, Criminal Justice, and Law Enforcement
Chapter IV. Prisoner Review Board
Part 1610. Prisoner Review Board (Refs & Annos)
1610.35 Juvenile Parole

a) Juveniles serving felony sentences shall be docketed as prescribed in Section 1610.30.

1) Alleged juvenile parole violators returned to the custody of the Department of Corrections shall be docketed and heard at the next scheduled hearing for that institution following the compilation of all documentation related to the alleged parole violation.

2) Persons committed to the Department of Corrections as delinquents shall be presented to the Board for parole consideration before 11 months of the commitment have expired.

b) Reasons for Parole Denial. The Board grants parole as an exercise of grace and executive discretion. The decision is a subjective determination based upon available relevant information. Persons committed to the Department of Corrections as delinquents shall not be paroled, if the Board determines, on the basis of the factors outlined in Section 1610.35(c), that:

1) The youth is in need of further institutional programs.

2) Parole would not be in the best interests of the youth or the community.

c) Factors to be Considered in the Parole Decision. In determining whether to grant or deny parole, the Board looks primarily to the following factors, although the decision is not limited to these factors when other relevant, compelling information is presented.

1) Behavior outside of custody.

A) Prior criminal activity, as evidenced by official records.

B) Adjustment in school, as evidenced by documented reports specifying grades, disciplinary actions, school activities or any school-related accomplishments.

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C) Adjustment to release from custody as evidenced by reports on any Department of Corrections Authorized Absence, as authorized by the Unified Code of Corrections (Ill. Rev. Stat. 1983, ch. 38, par. 3-9-4).

D) Employment History.

E) Support of family and community, as evidenced by oral or written expressions.

F) Associates in the community, as evidenced by reports from police and school officials or statements of the juvenile or his family.

G) Goals for the future as expressed by the juvenile.

2) Institutional Behavior.

A) Any recent disciplinary actions.

B) Performance in institutional programs as evidenced by reports from counselors or teachers.

C) Defiance to established authority, as evidenced by demeanor and conduct at hearing or by institutional reports.

D) Lack of remorse for criminal activities, as evidenced by demeanor and conduct at hearing or by institutional reports.

E) Resolve to avoid re-incarceration, as evidenced by demeanor and conduct at hearing or by institutional reports.

F) Positive response to institutional programming, as evidenced by demeanor and conduct at hearing or by institutional reports.

d) Parole Denial

In the event of parole denial of a youth committed under the provisions of the Juvenile Court Act (Ill. Rev. Stat. 1983, ch. 37), the case may be resubmitted by the Department of Corrections to the Board for further consideration within 90 days.

e) Parole Plans

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Parole plans shall be prepared by the clinical staff in conjunction with the youth. Such plans shall include where and with whom he will live, location in terms of employment or school attendance and family relationships and obligations to be assumed on release.

(Source: Added at 9 Ill. Reg. 16257, effective October 10, 1985)

20 ILAC § 1610.35, 20 IL ADC 1610.35

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Westlaw Delivery Summary Report for GRADY,SARAH C

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West's Illinois Administrative Code Currentness
Title 20: Corrections, Criminal Justice, and Law Enforcement
Chapter IV. Prisoner Review Board
Part 1610. Prisoner Review Board (Refs & Annos)
1610.100 Rehearing

a)

1) A rehearing will be granted only by the affirmative action of the Board in conference.

2) After a parole is denied, a rehearing may be requested by the person who was denied parole or another in his behalf. Such request must be made in writing and must set forth new facts or extraordinary circumstances which could not have been known to the parole applicant at the time of his interview by the Board member, or new facts or extraordinary circumstances which have arisen subsequent to the time of the interview, or both, which have not been previously considered.

b) Oral arguments in support of the request for rehearing will not be permitted.

c) When a rehearing request is granted by the Board, the person making the request shall be notified in writing and the case shall be placed on a subsequent docket for hearing.

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1610.140 Revocation Procedure

a) Preliminary Hearing. When it is charged that the parolee has violated a condition of his parole agreement, he shall be given a written notice informing him of the conditions of parole which have allegedly been violated and the manner in which they were violated. He shall be informed of the date, time, and place at which he will be called before a hearing officer authorized by the Prisoner Review Board for a preliminary hearing on the alleged violation.

b)

1) At the preliminary hearing, the parolee may appear and speak in his own behalf; he may bring letters, documents, or individuals who can give relevant information to the hearing officer. On request of the parolee, persons who have given adverse information on which parole revocation is to be based shall be made available for questioning in his presence. However, if the hearing officer determines that the informant would be subjected to risk or harm if his identity were disclosed, he need not be subjected to confrontation and cross-examination. The hearing officer shall not be bound by the strict rules of evidence.

2) If the officer finds from the information presented at the preliminary hearing that there is reasonable ground to believe that the alleged violation did occur, and that there is probable cause to hold the parolee for a final decision of the Prisoner Review Board on revocation, the parolee shall be returned to the institution or facility from which he was released on parole or to another facility of the Department of Corrections. The officer shall state in writing the reasons for his determination and indicate the basis for the determination. If the officer finds that there is reasonable ground to believe that the alleged violation did not occur, the parolee will be released to continue serving his parole.

3) The preliminary hearing shall be held within 10 days of the parolee's apprehension unless continued by the hearing officer for up to an additional two weeks to permit the production of witnesses or materials relevant to the hearing.

c) As per Goldberg vs. Kelly, a parolee shall have the right to retain counsel at both the preliminary and revocation hearing.

d) All witnesses called must be sworn under oath.

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e) All parolees have a right to a transcript or proceedings. A court reporter may be provided at the parolee's expense.

f) Subpoenas. The Prisoner Review Board or parolee who has allegedly violated his parole may request by subpoena the attendance and testimony of witnesses and the production of documentary evidence relating to any matter under investigation or hearing. The Chairman of the Prisoner Review Board may sign subpoenas when, in his judgment, the relevance of testimony of the witness is substantial. Subpoenas shall be served by any agent or public official authorized by the Chairman of the Illinois Prisoner Review Board, or by any person lawfully authorized to serve a subpoena under the laws of the State of Illinois. The attendance of witnesses, and the production of documentary evidence, may be required from any place in the state to a hearing location within 150 miles of the place where the violation is alleged to have occurred, and before the Chairman of the Illinois Prisoner Review Board or his designated agent or agents or any duly constituted committee or subcommittee of the Board. Witnesses so summoned shall be paid the same fees and mileage that are paid witnesses in the circuit courts of the state, and witnesses whose depositions are taken and the persons taking those depositions are each entitled to the same fees as are paid for like services in actions in the circuit courts of the state. Fees and mileage shall be vouchered for payment when the witness is discharged from further attendance. In cases of disobedience to a subpoena, the Board may petition any circuit court of the state for an order requiring the attendance and testimony of witnesses or the production of documentary evidence or both. A copy of such petition shall be served by personal service or by registered or certified mail upon the person who has failed to obey the subpoena, and such person shall be advised in writing that a hearing upon the petition will be requested in a court room to be designated in such notice before the judge hearing motions or extraordinary remedies at a specified time, on a specified date, not less than 10 nor more than 15 days after the deposit of the copy of the written notice and petition in the U.S. mails addressed to the person at his last known address or after the personal service of the copy of the notice and petition upon such person. The court upon the filing of such a petition, may order the person refusing to obey the subpoena to appear at an investigation or hearing, or to there produce documentary evidence, if so ordered, or to give evidence relative to the subject matter of the investigation or hearing. Any failure to obey such order of the circuit court may be punished by that court as a contempt of court.

20 ILAC § 1610.140, 20 IL ADC 1610.140

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Ill. Admin. Code tit. 20, § 1610.150

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West's Illinois Administrative Code Currentness
Title 20: Corrections, Criminal Justice, and Law Enforcement
Chapter IV. Prisoner Review Board
Part 1610. Prisoner Review Board (Refs & Annos)
1610.150 Revocation Hearing

a) If a parolee is returned to the institution or facility for an alleged violation of the terms of his parole agreement his name shall be placed on the next regular hearing docket at the institution or facility where he is confined, provided that his return to the institution or facility is at least 30 days prior to the next scheduled meeting of a panel of the Board at the institution or facility.

b) The parolee having received written notice setting forth the alleged violation of his parole agreement which has been charged against him shall be entitled to disclosure of evidence against him, opportunity to be heard in person and to present witnesses and documentary evidence and shall have the right to confront and cross-examine adverse witnesses (unless the panel member specifically finds good cause for not allowing confrontation).

c) A hearing on revocation shall be conducted before at least one member of the panel. The member will interview the parolee, any witnesses, and any persons who appear in support of the charge of violation. Each member of the Board shall have the power to administer oaths and to take the testimony of persons under oath.

d) The member will also consider all reports and written affidavits submitted on behalf of the parolee or in support of the charge against him.

e) The member shall make a record of the hearing including a summary of the statements of the parolee and any persons who appear at the hearing. The member shall not be bound by the strict rules of evidence in conducting the hearing.

f) The members of the panel will decide in closed conference the cases of any persons alleged to have violated their parole agreements. The action of a panel will be the action of the Board.

g) The Board may revoke parole for violation of a condition occurring before the expiration of the parole term even though a determination of the alleged violation cannot be reasonably made until after the expiration of the parole term.

h) The issuance of a warrant for an alleged violation of the conditions of parole shall toll the running of the

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term of parole until the final determination of the charge, but if parole is not revoked, that period shall be credited as time served on parole.

i) If a panel determines that the parolee has violated any of the terms and conditions of parole, it shall issue a written statement as to the evidence relied on and the reasons for revoking parole. The parolee shall receive a copy of this statement.

20 ILAC § 1610.150, 20 IL ADC 1610.150

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Formerly cited as IL ST CH 37 ¶ 802-27

Effective: January 1, 2010

West's Smith-Hurd Illinois Compiled Statutes Annotated Currentness
Chapter 705. Courts (Refs & Annos)
Juvenile Courts
Act 405. Juvenile Court Act of 1987 (Refs & Annos)
Article II. Abused, Neglected or Dependent Minors (Refs & Annos)
405/2-27. Placement; legal custody or guardianship

§ 2-27. Placement; legal custody or guardianship.

(1) If the court determines and puts in writing the factual basis supporting the determination of whether the parents, guardian, or legal custodian of a minor adjudged a ward of the court are unfit or are unable, for some reason other than financial circumstances alone, to care for, protect, train or discipline the minor or are unwilling to do so, and that the health, safety, and best interest of the minor will be jeopardized if the minor remains in the custody of his or her parents, guardian or custodian, the court may at this hearing and at any later point:

(a) place the minor in the custody of a suitable relative or other person as legal custodian or guardian;

(a-5) with the approval of the Department of Children and Family Services, place the minor in the subsidized guardianship of a suitable relative or other person as legal guardian; "subsidized guardianship" means a private guardianship arrangement for children for whom the permanency goals of return home and adoption have been ruled out and who meet the qualifications for subsidized guardianship as defined by the Department of Children and Family Services in administrative rules;

(b) place the minor under the guardianship of a probation officer;

(c) commit the minor to an agency for care or placement, except an institution under the authority of the Department of Corrections or of the Department of Children and Family Services;

(d) commit the minor to the Department of Children and Family Services for care and service; however, a minor charged with a criminal offense under the Criminal Code of 1961 or adjudicated delinquent shall not be placed in the custody of or committed to the Department of Children and Family Services by any court, except (i) a minor less than 15 years of age and committed to the Department of Children and Family Services under Section 5-710 of this Act, (ii) a minor for whom an independent basis of abuse, neglect, or dependency exists, or (iii) a minor for whom the court has granted a supplemental petition to reinstate wardship pursuant to subsection (2) of Section 2-33 of this Act. An independent basis exists when the allegations or adjudication of ab-

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use, neglect, or dependency do not arise from the same facts, incident, or circumstances which give rise to a charge or adjudication of delinquency. The Department shall be given due notice of the pendency of the action and the Guardianship Administrator of the Department of Children and Family Services shall be appointed guardian of the person of the minor. Whenever the Department seeks to discharge a minor from its care and service, the Guardianship Administrator shall petition the court for an order terminating guardianship. The Guardianship Administrator may designate one or more other officers of the Department, appointed as Department officers by administrative order of the Department Director, authorized to affix the signature of the Guardianship Administrator to documents affecting the guardian-ward relationship of children for whom he or she has been appointed guardian at such times as he or she is unable to perform the duties of his or her office. The signature authorization shall include but not be limited to matters of consent of marriage, enlistment in the armed forces, legal proceedings, adoption, major medical and surgical treatment and application for driver's license. Signature authorizations made pursuant to the provisions of this paragraph shall be filed with the Secretary of State and the Secretary of State shall provide upon payment of the customary fee, certified copies of the authorization to any court or individual who requests a copy.

(1.5) In making a determination under this Section, the court shall also consider whether, based on health, safety, and the best interests of the minor,

(a) appropriate services aimed at family preservation and family reunification have been unsuccessful in rectifying the conditions that have led to a finding of unfitness or inability to care for, protect, train, or discipline the minor, or

(b) no family preservation or family reunification services would be appropriate,

and if the petition or amended petition contained an allegation that the parent is an unfit person as defined in subdivision (D) of Section 1 of the Adoption Act, [FN1] and the order of adjudication recites that parental unfitness was established by clear and convincing evidence, the court shall, when appropriate and in the best interest of the minor, enter an order terminating parental rights and appointing a guardian with power to consent to adoption in accordance with Section 2-29.

When making a placement, the court, wherever possible, shall require the Department of Children and Family Services to select a person holding the same religious belief as that of the minor or a private agency controlled by persons of like religious faith of the minor and shall require the Department to otherwise comply with Section 7 of the Children and Family Services Act [FN2] in placing the child. In addition, whenever alternative plans for placement are available, the court shall ascertain and consider, to the extent appropriate in the particular case, the views and preferences of the minor.

(2) When a minor is placed with a suitable relative or other person pursuant to item (a) of subsection (1), the court shall appoint him or her the legal custodian or guardian of the person of the minor. When a minor is committed to any agency, the court shall appoint the proper officer or representative thereof as legal custodian or guardian of the person of the minor. Legal custodians and guardians of the person of the minor have the respective rights and duties set forth in subsection (9) of Section 1-3 except as otherwise provided by order of court; but

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no guardian of the person may consent to adoption of the minor unless that authority is conferred upon him or her in accordance with Section 2-29. An agency whose representative is appointed guardian of the person or legal custodian of the minor may place the minor in any child care facility, but the facility must be licensed under the Child Care Act of 1969 [FN3] or have been approved by the Department of Children and Family Services as meeting the standards established for such licensing. No agency may place a minor adjudicated under Sections 2-3 or 2-4 in a child care facility unless the placement is in compliance with the rules and regulations for placement under this Section promulgated by the Department of Children and Family Services under Section 5 of the Children and Family Services Act. [FN4] Like authority and restrictions shall be conferred by the court upon any probation officer who has been appointed guardian of the person of a minor.

(3) No placement by any probation officer or agency whose representative is appointed guardian of the person or legal custodian of a minor may be made in any out of State child care facility unless it complies with the Interstate Compact on the Placement of Children. [FN5] Placement with a parent, however, is not subject to that Interstate Compact.

(4) The clerk of the court shall issue to the legal custodian or guardian of the person a certified copy of the order of court, as proof of his authority. No other process is necessary as authority for the keeping of the minor.

(5) Custody or guardianship granted under this Section continues until the court otherwise directs, but not after the minor reaches the age of 19 years except as set forth in Section 2-31, or if the minor was previously committed to the Department of Children and Family Services for care and service and the court has granted a supplemental petition to reinstate wardship pursuant to subsection (2) of Section 2-33.

(6) (Blank).

CREDIT(S)

P.A. 85-601, Art. II, § 2-27, eff. Jan. 1, 1988. Amended by P.A. 87-14, Art. 2, § 2-6, eff. July 24, 1991; P.A. 88-7, § 15, eff. June 24, 1993; P.A. 88-487, § 50, eff. Sept. 10, 1993; P.A. 88-614, § 110, eff. Sept. 7, 1994; P.A. 88-670, Art. 2, § 2-63, eff. Dec. 2, 1994; P.A. 89-21, Art. 15, § 15-15, eff. July 1, 1995; P.A. 89-422, § 3, eff. Dec. 4, 1995; P.A. 89-626, Art. 2, § 2-68, eff. Aug. 9, 1996; P.A. 90-27, § 30, eff. Jan. 1, 1998; P.A. 90-28, Art. 10, § 10-20, eff. Jan. 1, 1998; P.A. 90-512, § 13, eff. Aug. 22, 1997; P.A. 90-590, Art. 2001, § 2001-10, eff. Jan. 1, 1999; P.A. 90-608, § 30, eff. June 30, 1998; P.A. 90-655, § 156, eff. July 30, 1998; P.A. 91-357, § 236, eff. July 29, 1999; P.A. 95-642, § 10, eff. June 1, 2008; P.A. 96-581, § 15, eff. Jan. 1, 2010.

Formerly Ill.Rev.Stat.1991, ch. 37, ¶ 802-27.

[FN1] 750 ILCS 50/1.

[FN2] 20 ILCS 505/7.

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Formerly cited as IL ST CH 37 ¶ 802-27

[FN3] 225 ILCS 10/1 et seq.

[FN4] 20 ILCS 505/5.

[FN5] 45 ILCS 15/0.01 et seq.

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Effective:[See Text Amendments]

West's Smith-Hurd Illinois Compiled Statutes Annotated Currentness
Chapter 705. Courts (Refs & Annos)
Juvenile Courts
Act 405. Juvenile Court Act of 1987 (Refs & Annos)
Article V. Delinquent Minors (Refs & Annos)
Part 1. General Provisions (Refs & Annos)
405/5-101. Purpose and policy

§ 5-101. Purpose and policy.

(1) It is the intent of the General Assembly to promote a juvenile justice system capable of dealing with the problem of juvenile delinquency, a system that will protect the community, impose accountability for violations of law and equip juvenile offenders with competencies to live responsibly and productively. To effectuate this intent, the General Assembly declares the following to be important purposes of this Article:

(a) To protect citizens from juvenile crime.

(b) To hold each juvenile offender directly accountable for his or her acts.

(c) To provide an individualized assessment of each alleged and adjudicated delinquent juvenile, in order to rehabilitate and to prevent further delinquent behavior through the development of competency in the juvenile offender. As used in this Section, "competency" means the development of educational, vocational, social, emotional and basic life skills which enable a minor to mature into a productive member of society.

(d) To provide due process, as required by the Constitutions of the United States and the State of Illinois, through which each juvenile offender and all other interested parties are assured fair hearings at which legal rights are recognized and enforced.

(2) To accomplish these goals, juvenile justice policies developed pursuant to this Article shall be designed to:

(a) Promote the development and implementation of community-based programs designed to prevent unlawful and delinquent behavior and to effectively minimize the depth and duration of the minor's involvement in the juvenile justice system;

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(b) Provide secure confinement for minors who present a danger to the community and make those minors understand that sanctions for serious crimes, particularly violent felonies, should be commensurate with the seriousness of the offense and merit strong punishment;

(c) Protect the community from crimes committed by minors;

(d) Provide programs and services that are community-based and that are in close proximity to the minor's home;

(e) Allow minors to reside within their homes whenever possible and appropriate and provide support necessary to make this possible;

(f) Base probation treatment planning upon individual case management plans;

(g) Include the minor's family in the case management plan;

(h) Provide supervision and service coordination where appropriate; implement and monitor the case management plan in order to discourage recidivism;

(i) Provide post-release services to minors who are returned to their families and communities after detention;

(j) Hold minors accountable for their unlawful behavior and not allow minors to think that their delinquent acts have no consequence for themselves and others.

(3) In all procedures under this Article, minors shall have all the procedural rights of adults in criminal proceedings, unless specifically precluded by laws that enhance the protection of such minors. Minors shall not have the right to a jury trial unless specifically provided by this Article.

CREDIT(S)

P.A. 85-601, Art. V, § 5-101, added by P.A. 90-590, Art. 2001, § 2001-10, eff. Jan. 1, 1999.

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Chapter 705. Courts (Refs & Annos)
Juvenile Courts
Act 405. Juvenile Court Act of 1987 (Refs & Annos)
Article V. Delinquent Minors (Refs & Annos)
Part 7. Proceedings After Trial, Sentencing (Refs & Annos)
405/5-705. Sentencing hearing; evidence; continuance

§ 5-705. Sentencing hearing; evidence; continuance.

(1) At the sentencing hearing, the court shall determine whether it is in the best interests of the minor or the public that he or she be made a ward of the court, and, if he or she is to be made a ward of the court, the court shall determine the proper disposition best serving the interests of the minor and the public. All evidence helpful in determining these questions, including oral and written reports, may be admitted and may be relied upon to the extent of its probative value, even though not competent for the purposes of the trial. A record of a prior continuance under supervision under Section 5-615, whether successfully completed or not, is admissible at the sentencing hearing. No order of commitment to the Department of Juvenile Justice shall be entered against a minor before a written report of social investigation, which has been completed within the previous 60 days, is presented to and considered by the court.

(2) Once a party has been served in compliance with Section 5-525, no further service or notice must be given to that party prior to proceeding to a sentencing hearing. Before imposing sentence the court shall advise the State's Attorney and the parties who are present or their counsel of the factual contents and the conclusions of the reports prepared for the use of the court and considered by it, and afford fair opportunity, if requested, to controvert them. Factual contents, conclusions, documents and sources disclosed by the court under this paragraph shall not be further disclosed without the express approval of the court.

(3) On its own motion or that of the State's Attorney, a parent, guardian, legal custodian, or counsel, the court may adjourn the hearing for a reasonable period to receive reports or other evidence and, in such event, shall make an appropriate order for detention of the minor or his or her release from detention subject to supervision by the court during the period of the continuance. In the event the court shall order detention hereunder, the period of the continuance shall not exceed 30 court days. At the end of such time, the court shall release the minor from detention unless notice is served at least 3 days prior to the hearing on the continued date that the State will be seeking an extension of the period of detention, which notice shall state the reason for the request for the extension. The extension of detention may be for a maximum period of an additional 15 court days or a lesser number of days at the discretion of the court. However, at the expiration of the period of extension, the court shall release the minor from detention if a further continuance is granted. In scheduling investigations and hear-

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ings, the court shall give priority to proceedings in which a minor is in detention or has otherwise been removed from his or her home before a sentencing order has been made.

(4) When commitment to the Department of Juvenile Justice is ordered, the court shall state the basis for selecting the particular disposition, and the court shall prepare such a statement for inclusion in the record.

CREDIT(S)

P.A. 85-601, Art. V, § 5-705, added by P.A. 90-590, Art. 2001, § 2001-10, eff. Jan. 1, 1999. Amended by P.A. 94-696, § 20, eff. June 1, 2006.

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Article V. Delinquent Minors (Refs & Annos)
Part 7. Proceedings After Trial, Sentencing (Refs & Annos)
405/5-710. Kinds of sentencing orders

§ 5-710. Kinds of sentencing orders.

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

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

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

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

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

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

(v) placed in detention for a period not to exceed 30 days, either as the exclusive order of disposition or, where appropriate, in conjunction with any other order of disposition issued under this paragraph, provided that any such detention shall be in a juvenile detention home and the minor so detained shall be 10 years of

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age or older. However, the 30-day limitation may be extended by further order of the court for a minor under age 15 committed to the Department of Children and Family Services if the court finds that the minor is a danger to himself or others. The minor shall be given credit on the sentencing order of detention for time spent in detention under Sections 5-501, 5-601, 5-710, or 5-720 of this Article as a result of the offense for which the sentencing order was imposed. The court may grant credit on a sentencing order of detention entered under a violation of probation or violation of conditional discharge under Section 5-720 of this Article for time spent in detention before the filing of the petition alleging the violation. A minor shall not be deprived of credit for time spent in detention before the filing of a violation of probation or conditional discharge alleging the same or related act or acts;

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

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

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

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

(x) placed in electronic home detention under Part 7A of this Article.

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

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

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

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

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

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

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

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

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

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

(9) In addition to any other sentencing order, the court shall order any minor found to be guilty for an act which

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would constitute, predatory criminal sexual assault of a child, aggravated criminal sexual assault, criminal sexual assault, aggravated criminal sexual abuse, or criminal sexual abuse if committed by an adult to undergo medical testing to determine whether the defendant has any sexually transmissible disease including a test for infection with human immunodeficiency virus (HIV) or any other identified causative agency of acquired immunodeficiency syndrome (AIDS). Any medical test shall be performed only by appropriately licensed medical practitioners and may include an analysis of any bodily fluids as well as an examination of the minor's person. Except as otherwise provided by law, the results of the test shall be kept strictly confidential by all medical personnel involved in the testing and must be personally delivered in a sealed envelope to the judge of the court in which the sentencing order was entered for the judge's inspection in camera. Acting in accordance with the best interests of the victim and the public, the judge shall have the discretion to determine to whom the results of the testing may be revealed. The court shall notify the minor of the results of the test for infection with the human immunodeficiency virus (HIV). The court shall also notify the victim if requested by the victim, and if the victim is under the age of 15 and if requested by the victim's parents or legal guardian, the court shall notify the victim's parents or the legal guardian, of the results of the test for infection with the human immunodeficiency virus (HIV). The court shall provide information on the availability of HIV testing and counseling at the Department of Public Health facilities to all parties to whom the results of the testing are revealed. The court shall order that the cost of any test shall be paid by the county and may be taxed as costs against the minor.

(10) When a court finds a minor to be guilty the court shall, before entering a sentencing order under this Section, make a finding whether the offense committed either: (a) was related to or in furtherance of the criminal activities of an organized gang or was motivated by the minor's membership in or allegiance to an organized gang, or (b) involved a violation of subsection (a) of Section 12-7.1 of the Criminal Code of 1961, a violation of any Section of Article 24 of the Criminal Code of 1961, or a violation of any statute that involved the wrongful use of a firearm. If the court determines the question in the affirmative, and the court does not commit the minor to the Department of Juvenile Justice, the court shall order the minor to perform community service for not less than 30 hours nor more than 120 hours, provided that community service is available in the jurisdiction and is funded and approved by the county board of the county where the offense was committed. The community service shall include, but need not be limited to, the cleanup and repair of any damage caused by a violation of Section 21-1.3 of the Criminal Code of 1961 and similar damage to property located in the municipality or county in which the violation occurred. When possible and reasonable, the community service shall be performed in the minor's neighborhood. This order shall be in addition to any other order authorized by this Section except for an order to place the minor in the custody of the Department of Juvenile Justice. For the purposes of this Section, "organized gang" has the meaning ascribed to it in Section 10 of the Illinois Streetgang Terrorism Omnibus Prevention Act.

(11) If the court determines that the offense was committed in furtherance of the criminal activities of an organized gang, as provided in subsection (10), and that the offense involved the operation or use of a motor vehicle or the use of a driver's license or permit, the court shall notify the Secretary of State of that determination and of the period for which the minor shall be denied driving privileges. If, at the time of the determination, the minor does not hold a driver's license or permit, the court shall provide that the minor shall not be issued a driver's license or permit until his or her 18th birthday. If the minor holds a driver's license or permit at the time of the determination, the court shall provide that the minor's driver's license or permit shall be revoked until his or her 21st birthday, or until a later date or occurrence determined by the court. If the minor holds a driver's license at the time of the determination, the court may direct the Secretary of State to issue the minor a judicial driving

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permit, also known as a JDP. The JDP shall be subject to the same terms as a JDP issued under Section 6-206.1 of the Illinois Vehicle Code, except that the court may direct that the JDP be effective immediately.

(12) If a minor is found to be guilty of a violation of subsection (a-7) of Section 1 of the Prevention of Tobacco Use by Minors Act, the court may, in its discretion, and upon recommendation by the State's Attorney, order that minor and his or her parents or legal guardian to attend a smoker's education or youth diversion program as defined in that Act if that program is available in the jurisdiction where the offender resides. Attendance at a smoker's education or youth diversion program shall be time-credited against any community service time imposed for any first violation of subsection (a-7) of Section 1 of that Act. In addition to any other penalty that the court may impose for a violation of subsection (a-7) of Section 1 of that Act, the court, upon request by the State's Attorney, may in its discretion require the offender to remit a fee for his or her attendance at a smoker's education or youth diversion program.

For purposes of this Section, “smoker's education program” or “youth diversion program” includes, but is not limited to, a seminar designed to educate a person on the physical and psychological effects of smoking tobacco products and the health consequences of smoking tobacco products that can be conducted with a locality's youth diversion program.

In addition to any other penalty that the court may impose under this subsection (12):

(a) If a minor violates subsection (a-7) of Section 1 of the Prevention of Tobacco Use by Minors Act, the court may impose a sentence of 15 hours of community service or a fine of $25 for a first violation.

(b) A second violation by a minor of subsection (a-7) of Section 1 of that Act that occurs within 12 months after the first violation is punishable by a fine of $50 and 25 hours of community service.

(c) A third or subsequent violation by a minor of subsection (a-7) of Section 1 of that Act that occurs within 12 months after the first violation is punishable by a $100 fine and 30 hours of community service.

(d) Any second or subsequent violation not within the 12-month time period after the first violation is punishable as provided for a first violation.

CREDIT(S)

P.A. 85-601, Art. V, § 5-710, added by P.A. 90-590, Art. 2001, § 2001-10, eff. Jan. 1, 1999. Amended by P.A. 91-98, § 5, eff. Jan. 1, 2000; P.A. 92-454, § 15, eff. Jan. 1, 2002; P.A. 94-556, § 1050, eff. Sept. 11, 2005; P.A. 94-696, § 20, eff. June 1, 2006; P.A. 95-337, § 10, eff. June 1, 2008; P.A. 95-642, § 10, eff. June 1, 2008; P.A. 95-844, § 10, eff. Aug. 15, 2008; P.A. 95-876, § 310, eff. Aug. 21, 2008; P.A. 96-179, § 10, eff. Aug. 10, 2009; P.A. 96-293, § 5, eff. Jan. 1, 2010; P.A. 96-1000, § 590, eff. July 2, 2010.

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Article V. Delinquent Minors (Refs & Annos)
Part 7. Proceedings After Trial, Sentencing (Refs & Annos)
405/5-715. Probation

§ 5-715. Probation.

(1) The period of probation or conditional discharge shall not exceed 5 years or until the minor has attained the age of 21 years, whichever is less, except as provided in this Section for a minor who is found to be guilty for an offense which is first degree murder, a Class X felony or a forcible felony. The juvenile court may terminate probation or conditional discharge and discharge the minor at any time if warranted by the conduct of the minor and the ends of justice; provided, however, that the period of probation for a minor who is found to be guilty for an offense which is first degree murder, a Class X felony, or a forcible felony shall be at least 5 years.

(2) The court may as a condition of probation or of conditional discharge require that the minor:

(a) not violate any criminal statute of any jurisdiction;

(b) make a report to and appear in person before any person or agency as directed by the court;

(c) work or pursue a course of study or vocational training;

(d) undergo medical or psychiatric treatment, rendered by a psychiatrist or psychological treatment rendered by a clinical psychologist or social work services rendered by a clinical social worker, or treatment for drug addiction or alcoholism;

(e) attend or reside in a facility established for the instruction or residence of persons on probation;

(f) support his or her dependents, if any;

(g) refrain from possessing a firearm or other dangerous weapon, or an automobile;

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(h) permit the probation officer to visit him or her at his or her home or elsewhere;

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

(j) attend school;

(j-5) with the consent of the superintendent of the facility, attend an educational program at a facility other than the school in which the offense was committed if he or she committed a crime of violence as defined in Section 2 of the Crime Victims Compensation Act {FN1} in a school, on the real property comprising a school, or within 1,000 feet of the real property comprising a school;

(k) attend a non-residential program for youth;

(l) make restitution under the terms of subsection (4) of Section 5-710;

(m) contribute to his or her own support at home or in a foster home;

(n) perform some reasonable public or community service;

(o) participate with community corrections programs including unified delinquency intervention services administered by the Department of Human Services subject to Section 5 of the Children and Family Services Act; {FN2}

(p) pay costs;

(q) serve a term of home confinement. In addition to any other applicable condition of probation or conditional discharge, the conditions of home confinement shall be that the minor:

(i) remain within the interior premises of the place designated for his or her confinement during the hours designated by the court;

(ii) admit any person or agent designated by the court into the minor's place of confinement at any time for purposes of verifying the minor's compliance with the conditions of his or her confinement; and

(iii) use an approved electronic monitoring device if ordered by the court subject to Article 8A of Chapter V of the Unified Code of Corrections; {FN3}

(r) refrain from entering into a designated geographic area except upon terms as the court finds appropriate.

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The terms may include consideration of the purpose of the entry, the time of day, other persons accompanying the minor, and advance approval by a probation officer, if the minor has been placed on probation, or advance approval by the court, if the minor has been placed on conditional discharge;

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

(s-5) undergo a medical or other procedure to have a tattoo symbolizing allegiance to a street gang removed from his or her body;

(t) refrain from having in his or her body the presence of any illicit drug prohibited by the Cannabis Control Act, [FN4] the Illinois Controlled Substances Act, [FN5] or the Methamphetamine Control and Community Protection Act, unless prescribed by a physician, and shall submit samples of his or her blood or urine or both for tests to determine the presence of any illicit drug; or

(u) comply with other conditions as may be ordered by the court.

(3) The court may as a condition of probation or of conditional discharge require that a minor found guilty on any alcohol, cannabis, methamphetamine, or controlled substance violation, refrain from acquiring a driver's license during the period of probation or conditional discharge. If the minor is in possession of a permit or license, the court may require that the minor refrain from driving or operating any motor vehicle during the period of probation or conditional discharge, except as may be necessary in the course of the minor's lawful employment.

(3.5) The court shall, as a condition of probation or of conditional discharge, require that a minor found to be guilty and placed on probation for reasons that include a violation of Section 3.02 or Section 3.03 of the Humane Care for Animals Act [FN6] or paragraph (d) of subsection (1) of Section 21-1 of the Criminal Code of 1961 [FN7] undergo medical or psychiatric treatment rendered by a psychiatrist or psychological treatment rendered by a clinical psychologist. The condition may be in addition to any other condition.

(3.10) The court shall order that a minor placed on probation or conditional discharge for a sex offense as defined in the Sex Offender Management Board Act undergo and successfully complete sex offender treatment. The treatment shall be in conformance with the standards developed under the Sex Offender Management Board Act and conducted by a treatment provider approved by the Board. The treatment shall be at the expense of the person evaluated based upon that person's ability to pay for the treatment.

(4) A minor on probation or conditional discharge shall be given a certificate setting forth the conditions upon which he or she is being released.

(5) The court shall impose upon a minor placed on probation or conditional discharge, as a condition of the pro-

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bation or conditional discharge, a fee of $25 for each month of probation or conditional discharge supervision ordered by the court, unless after determining the inability of the minor placed on probation or conditional discharge to pay the fee, the court assesses a lesser amount. The court may not impose the fee on a minor who is made a ward of the State under this Act while the minor is in placement. The fee shall be imposed only upon a minor who is actively supervised by the probation and court services department. The court may order the parent, guardian, or legal custodian of the minor to pay some or all of the fee on the minor's behalf.

(6) The General Assembly finds that in order to protect the public, the juvenile justice system must compel compliance with the conditions of probation by responding to violations with swift, certain, and fair punishments and intermediate sanctions. The Chief Judge of each circuit shall adopt a system of structured, intermediate sanctions for violations of the terms and conditions of a sentence of supervision, probation or conditional discharge, under this Act.

The court shall provide as a condition of a disposition of probation, conditional discharge, or supervision, that the probation agency may invoke any sanction from the list of intermediate sanctions adopted by the chief judge of the circuit court for violations of the terms and conditions of the sentence of probation, conditional discharge, or supervision, subject to the provisions of Section 5-720 of this Act.

CREDIT(S)

P.A. 85-601, Art. V, § 5-715, added by P.A. 90-590, Art. 2001, § 2001-10, eff. Jan. 1, 1999. Amended by P.A. 91-98, § 5, eff. Jan. 1, 2000; P.A. 92-282, § 5, eff. Aug. 7, 2001; P.A. 92-454, § 15, eff. Jan. 1, 2002; P.A. 92-651, § 80, eff. July 11, 2002; P.A. 93-616, § 10, eff. Jan. 1, 2004; P.A. 94-556, § 1050, eff. Sept. 11, 2005.

[FN1] 740 ILCS 45/2.

[FN2] 20 ILCS 505/5.

[FN3] 730 ILCS 5/5-8A-1 et seq.

[FN4] 720 ILCS 550/1 et seq.

[FN5] 720 ILCS 570/100 et seq.

[FN6] 510 ILCS 70/3.02 or 70/3.03.

[FN7] 720 ILCS 5/21-1.

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Article V. Delinquent Minors (Refs & Annos)
Part 7. Proceedings After Trial, Sentencing (Refs & Annos)
405/5-750. Commitment to the Department of Juvenile Justice

§ 5-750. Commitment to the Department of Juvenile Justice.

(1) Except as provided in subsection (2) of this Section, when any delinquent has been adjudged a ward of the court under this Act, the court may commit him or her to the Department of Juvenile Justice, if it finds that (a) his or her parents, guardian or legal custodian are unfit or are unable, for some reason other than financial circumstances alone, to care for, protect, train or discipline the minor, or are unwilling to do so, and the best interests of the minor and the public will not be served by placement under Section 5-740 or; (b) it is necessary to ensure the protection of the public from the consequences of criminal activity of the delinquent.

(2) When a minor of the age of at least 13 years is adjudged delinquent for the offense of first degree murder, the court shall declare the minor a ward of the court and order the minor committed to the Department of Juvenile Justice until the minor's 21st birthday, without the possibility of parole, furlough, or non-emergency authorized absence for a period of 5 years from the date the minor was committed to the Department of Juvenile Justice, except that the time that a minor spent in custody for the instant offense before being committed to the Department of Juvenile Justice shall be considered as time credited towards that 5 year period. Nothing in this subsection (2) shall preclude the State's Attorney from seeking to prosecute a minor as an adult as an alternative to proceeding under this Act.

(3) Except as provided in subsection (2), the commitment of a delinquent to the Department of Juvenile Justice shall be for an indeterminate term which shall automatically terminate upon the delinquent attaining the age of 21 years unless the delinquent is sooner discharged from parole or custodianship is otherwise terminated in accordance with this Act or as otherwise provided for by law.

(4) When the court commits a minor to the Department of Juvenile Justice, it shall order him or her conveyed forthwith to the appropriate reception station or other place designated by the Department of Juvenile Justice, and shall appoint the Director of Juvenile Justice legal custodian of the minor. The clerk of the court shall issue to the Director of Juvenile Justice a certified copy of the order, which constitutes proof of the Director's authority. No other process need issue to warrant the keeping of the minor.

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(5) If a minor is committed to the Department of Juvenile Justice, the clerk of the court shall forward to the Department:

(a) the disposition ordered;

(b) all reports;

(c) the court's statement of the basis for ordering the disposition; and

(d) all additional matters which the court directs the clerk to transmit.

(6) Whenever the Department of Juvenile Justice lawfully discharges from its custody and control a minor committed to it, the Director of Juvenile Justice shall petition the court for an order terminating his or her custodianship. The custodianship shall terminate automatically 30 days after receipt of the petition unless the court orders otherwise.

CREDIT(S)

P.A. 85-601, Art. V, § 5-750, added by P.A. 90-590, Art. 2001, § 2001-10, eff. Jan. 1, 1999. Amended by P.A. 94-696, § 20, eff. June 1, 2006.

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Part 7. Proceedings After Trial, Sentencing (Refs & Annos)
405/5-755. Duration of wardship and discharge of proceedings

§ 5-755. Duration of wardship and discharge of proceedings.

(1) All proceedings under this Act in respect of any minor for whom a petition was filed on or after the effective date of this amendatory Act of 1998 automatically terminate upon his or her attaining the age of 21 years except that provided in Section 5-810.

(2) Whenever the court finds that the best interests of the minor and the public no longer require the wardship of the court, the court shall order the wardship terminated and all proceedings under this Act respecting that minor finally closed and discharged. The court may at the same time continue or terminate any custodianship or guardianship previously ordered but the termination must be made in compliance with Section 5-745.

(3) The wardship of the minor and any legal custodianship or guardianship respecting the minor for whom a petition was filed on or after the effective date of this amendatory Act of 1998 automatically terminates when he or she attains the age of 21 years except as set forth in subsection (1) of this Section. The clerk of the court shall at that time record all proceedings under this Act as finally closed and discharged for that reason.

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P.A. 85-601, Art. V, § 5-755, added by P.A. 90-590, Art. 2001, § 2001-10, eff. Jan. 1, 1999.

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Chapter 730. Corrections
Act 5. Unified Code of Corrections (Refs & Annos)
Chapter III. Department of Corrections
Article 2.5. Department of Juvenile Justice
5/3-2.5-20. General powers and duties

§ 3-2.5-20. General powers and duties.

(a) In addition to the powers, duties, and responsibilities which are otherwise provided by law or transferred to the Department as a result of this Article, the Department, as determined by the Director, shall have, but are not limited to, the following rights, powers, functions and duties:

(1) To accept juveniles committed to it by the courts of this State for care, custody, treatment, and rehabilitation.

(2) To maintain and administer all State juvenile correctional institutions previously under the control of the Juvenile and Women's & Children Divisions of the Department of Corrections, and to establish and maintain institutions as needed to meet the needs of the youth committed to its care.

(3) To identify the need for and recommend the funding and implementation of an appropriate mix of programs and services within the juvenile justice continuum, including but not limited to prevention, nonresidential and residential commitment programs, day treatment, and conditional release programs and services, with the support of educational, vocational, alcohol, drug abuse, and mental health services where appropriate.

(4) To establish and provide transitional and post-release treatment programs for juveniles committed to the Department. Services shall include but are not limited to:

(i) family and individual counseling and treatment placement;

(ii) referral services to any other State or local agencies;

(iii) mental health services;

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(iv) educational services;

(v) family counseling services; and

(vi) substance abuse services.

(5) To access vital records of juveniles for the purposes of providing necessary documentation for transitional services such as obtaining identification, educational enrollment, employment, and housing.

(6) To develop staffing and workload standards and coordinate staff development and training appropriate for juvenile populations.

(7) To develop, with the approval of the Office of the Governor and the Governor's Office of Management and Budget, annual budget requests.

(8) To administer the Interstate Compact for Juveniles, with respect to all juveniles under its jurisdiction, and to cooperate with the Department of Human Services with regard to all non-offender juveniles subject to the Interstate Compact for Juveniles.

(b) The Department may employ personnel in accordance with the Personnel Code and Section 3-2.5-15 of this Code, provide facilities, contract for goods and services, and adopt rules as necessary to carry out its functions and purposes, all in accordance with applicable State and federal law.

CREDIT(S)

P.A. 77-2097, § 3-2.5-20, added by P.A. 94-696, § 25, eff. June 1, 2006. Amended by P.A. 95-937, § 80, eff. Aug. 26, 2008.

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Effective: July 11, 2005

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Chapter 730. Corrections
Act 5. Unified Code of Corrections (Refs & Annos)
Chapter III. Department of Corrections
Article 3. Parole and Pardon Board (Refs & Annos)
5/3-3-1. Establishment and Appointment of Prisoner Review Board

§ 3-3-1. Establishment and Appointment of Prisoner Review Board.

(a) There shall be a Prisoner Review Board independent of the Department of Corrections which shall be:

(1) the paroling authority for persons sentenced under the law in effect prior to the effective date of this amendatory Act of 1977;

(2) the board of review for cases involving the revocation of good conduct credits or a suspension or reduction in the rate of accumulating such credit;

(3) the board of review and recommendation for the exercise of executive clemency by the Governor;

(4) the authority for establishing release dates for certain prisoners sentenced under the law in existence prior to the effective date of this amendatory Act of 1977, in accordance with Section 3-3-2.1 of this Code;

(5) the authority for setting conditions for parole, mandatory supervised release under Section 5-8-1(a) of this Code, and determining whether a violation of those conditions warrant revocation of parole or mandatory supervised release or the imposition of other sanctions.

(b) The Board shall consist of 15 persons appointed by the Governor by and with the advice and consent of the Senate. One member of the Board shall be designated by the Governor to be Chairman and shall serve as Chairman at the pleasure of the Governor. The members of the Board shall have had at least 5 years of actual experience in the fields of penology, corrections work, law enforcement, sociology, law, education, social work, medicine, psychology, other behavioral sciences, or a combination thereof. At least 6 members so appointed must have had at least 3 years experience in the field of juvenile matters. No more than 8 Board members may be members of the same political party.

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Each member of the Board shall serve on a full-time basis and shall not hold any other salaried public office, whether elective or appointive, nor any other office or position of profit, nor engage in any other business, employment, or vocation. The Chairman of the Board shall receive $35,000 a year, or an amount set by the Compensation Review Board, whichever is greater, and each other member $30,000, or an amount set by the Compensation Review Board, whichever is greater.

(c) Notwithstanding any other provision of this Section, the term of each member of the Board who was appointed by the Governor and is in office on June 30, 2003 shall terminate at the close of business on that date or when all of the successor members to be appointed pursuant to this amendatory Act of the 93rd General Assembly have been appointed by the Governor, whichever occurs later. As soon as possible, the Governor shall appoint persons to fill the vacancies created by this amendatory Act.

Of the initial members appointed under this amendatory Act of the 93rd General Assembly, the Governor shall appoint 5 members whose terms shall expire on the third Monday in January 2005, 5 members whose terms shall expire on the third Monday in January 2007, and 5 members whose terms shall expire on the third Monday in January 2009. Their respective successors shall be appointed for terms of 6 years from the third Monday in January of the year of appointment. Each member shall serve until his successor is appointed and qualified.

Any member may be removed by the Governor for incompetence, neglect of duty, malfeasance or inability to serve.

(d) The Chairman of the Board shall be its chief executive and administrative officer. The Board may have an Executive Director; if so, the Executive Director shall be appointed by the Governor with the advice and consent of the Senate. The salary and duties of the Executive Director shall be fixed by the Board.

CREDIT(S)

P.A. 77-2097, § 3-3-1, eff. Jan. 1, 1973. Amended by P.A. 78-939, § 1, eff. July 1, 1974; P.A. 80-1099, § 3, eff. Feb. 1, 1978; P.A. 83-1177, § 14, eff. July 17, 1984; P.A. 84-115, § 2, eff. July 29, 1985; P.A. 84-1240, Art. II, § 3, eff. Jan. 1, 1987; P.A. 85-1433, § 5, eff. Jan. 11, 1989; P.A. 91-798, § 110, eff. July 9, 2000; P.A. 91-946, § 5, eff. Feb. 9, 2001; P.A. 93-509, § 730-5, eff. Aug. 11, 2003; P.A. 94-165, § 5, eff. July 11, 2005.

Formerly Ill.Rev.Stat.1991, ch. 38, ¶ 1003-3-1.

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Chapter 730. Corrections
Act 5. Unified Code of Corrections (Refs & Annos)
Chapter III. Department of Corrections
Article 3. Parole and Pardon Board (Refs & Annos)
5/3-3-4. Preparation for Parole Hearing

§ 3-3-4. Preparation for Parole Hearing.

(a) The Prisoner Review Board shall consider the parole of each eligible person committed to the Adult Division at least 30 days prior to the date he shall first become eligible for parole, and shall consider the parole of each person committed to the Department of Juvenile Justice as a delinquent at least 30 days prior to the expiration of the first year of confinement.

(b) A person eligible for parole shall, no less than 15 days in advance of his parole interview, prepare a parole plan in accordance with the rules of the Prisoner Review Board. The person shall be assisted in preparing his parole plan by personnel of the Department of Corrections, or the Department of Juvenile Justice in the case of a person committed to that Department, and may, for this purpose, be released on furlough under Article 11 or on authorized absence under Section 3-9-4. The appropriate Department shall also provide assistance in obtaining information and records helpful to the individual for his parole hearing. If the person eligible for parole has a petition or any written submissions prepared on his or her behalf by an attorney or other representative, the attorney or representative for the person eligible for parole must serve by certified mail the State's Attorney of the county where he or she was prosecuted with the petition or any written submissions 15 days after his or her parole interview. The State's Attorney shall provide the attorney for the person eligible for parole with a copy of his or her letter in opposition to parole via certified mail within 5 business days of the en banc hearing.

(c) Any member of the Board shall have access at all reasonable times to any committed person and to his master record file within the Department, and the Department shall furnish such a report to the Board concerning the conduct and character of any such person prior to his or her parole interview.

(d) In making its determination of parole, the Board shall consider:

(1) material transmitted to the Department of Juvenile Justice [FN1] by the clerk of the committing court under Section 5-4-1 or Section 5-10 of the Juvenile Court Act or Section 5-750 of the Juvenile Court Act of 1987; [FN2]

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(2) the report under Section 3-8-2 or 3-10-2;

(3) a report by the Department and any report by the chief administrative officer of the institution or facility;

(4) a parole progress report;

(5) a medical and psychological report, if requested by the Board;

(6) material in writing, or on film, video tape or other electronic means in the form of a recording submitted by the person whose parole is being considered; and

(7) material in writing, or on film, video tape or other electronic means in the form of a recording or testimony submitted by the State's Attorney and the victim or a concerned citizen pursuant to the Rights of Crime Victims and Witnesses Act. [FN3]

(e) The prosecuting State's Attorney's office shall receive from the Board reasonable written notice not less than 30 days prior to the parole interview and may submit relevant information by oral argument or testimony of victims and concerned citizens, or both, in writing, or on film, video tape or other electronic means or in the form of a recording to the Board for its consideration. Upon written request of the State's Attorney's office, the Prisoner Review Board shall hear protests to parole, except in counties of 1,500,000 or more inhabitants where there shall be standing objections to all such petitions. If a State's Attorney who represents a county of less than 1,500,000 inhabitants requests a protest hearing, the inmate's counsel or other representative shall also receive notice of such request. This hearing shall take place the month following the inmate's parole interview. If the inmate's parole interview is rescheduled then the Prisoner Review Board shall promptly notify the State's Attorney of the new date. The person eligible for parole shall be heard at the next scheduled en banc hearing date. If the case is to be continued, the State's Attorney's office and the attorney or representative for the person eligible for parole will be notified of any continuance within 5 business days. The State's Attorney may waive the written notice.

(f) The victim of the violent crime for which the prisoner has been sentenced shall receive notice of a parole hearing as provided in paragraph (4) of subsection (d) of Section 4.5 of the Rights of Crime Victims and Witnesses Act. [FN4]

(g) Any recording considered under the provisions of subsection (d)(6), (d)(7) or (e) of this Section shall be in the form designated by the Board. Such recording shall be both visual and aural. Every voice on the recording and person present shall be identified and the recording shall contain either a visual or aural statement of the person submitting such recording, the date of the recording and the name of the person whose parole eligibility is being considered. Such recordings shall be retained by the Board and shall be deemed to be submitted at any subsequent parole hearing if the victim or State's Attorney submits in writing a declaration clearly identifying such recording as representing the present position of the victim or State's Attorney regarding the issues to be considered at the parole hearing.

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Formerly cited as IL ST CH 38 ¶ 1003-3-4

CREDIT(S)

P.A. 77-2097, § 3-3-4, eff. Jan. 1, 1973. Amended by P.A. 78-939, § 1, eff. July 1, 1974; P.A. 80-1099, § 3, eff. Feb. 1, 1978; P.A. 83-1433, § 1, eff. Jan. 1, 1985; P.A. 83-1449, § 1, eff. Sept. 17, 1984; P.A. 83-1499, § 2, eff. Dec. 27, 1984; P.A. 83-1528, Art. II, § 7, eff. Jan. 17, 1985; P.A. 85-1209, Art. III, § 3-36, eff. Aug. 30, 1988; P.A. 86-642, § 1, eff. Jan. 1, 1990; P.A. 90-590, Art. 2001, § 2001-40, eff. Jan. 1, 1999; P.A. 92-651, § 83, eff. July 11, 2002; P.A. 94-696, § 25, eff. June 1, 2006; P.A. 96-875, § 10, eff. Jan. 22, 2010.

Formerly Ill.Rev.Stat.1991, ch. 38, ¶ 1003-3-4.

[FN1] Former Ill.Rev.Stat. ch. 37, ¶ 705-10 (repealed).

[FN2] 705 ILCS 405/5-750.

[FN3] 725 ILCS 120/1 et seq.

[FN4] 725 ILCS 120/4.

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Chapter 730. Corrections
Act 5. Unified Code of Corrections (Refs & Annos)
Chapter III. Department of Corrections
Article 3. Parole and Pardon Board (Refs & Annos)
5/3-3-5. Hearing and Determination

§ 3-3-5. Hearing and Determination.

(a) The Prisoner Review Board shall meet as often as need requires to consider the cases of persons eligible for parole. Except as otherwise provided in paragraph (2) of subsection (a) of Section 3-3-2 of this Act, the Prisoner Review Board may meet and order its actions in panels of 3 or more members. The action of a majority of the panel shall be the action of the Board. In consideration of persons committed to the Department of Juvenile Justice, the panel shall have at least a majority of members experienced in juvenile matters.

(b) If the person under consideration for parole is in the custody of the Department, at least one member of the Board shall interview him, and a report of that interview shall be available for the Board's consideration. However, in the discretion of the Board, the interview need not be conducted if a psychiatric examination determines that the person could not meaningfully contribute to the Board's consideration. The Board may in its discretion parole a person who is then outside the jurisdiction on his record without an interview. The Board need not hold a hearing or interview a person who is paroled under paragraphs (d) or (e) of this Section or released on Mandatory release under Section 3-3-10.

(c) The Board shall not parole a person eligible for parole if it determines that:

(1) there is a substantial risk that he will not conform to reasonable conditions of parole; or

(2) his release at that time would deprecate the seriousness of his offense or promote disrespect for the law; or

(3) his release would have a substantially adverse effect on institutional discipline.

(d) A person committed under the Juvenile Court Act [FN1] or the Juvenile Court Act of 1987 [FN2] who has not been sooner released shall be paroled on or before his 20th birthday to begin serving a period of parole under Section 3-3-8.

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(e) A person who has served the maximum term of imprisonment imposed at the time of sentencing less time credit for good behavior shall be released on parole to serve a period of parole under Section 5-8-1.

(f) The Board shall render its decision within a reasonable time after hearing and shall state the basis therefor both in the records of the Board and in written notice to the person on whose application it has acted. In its decision, the Board shall set the person's time for parole, or if it denies parole it shall provide for a rehearing not less frequently than once every year, except that the Board may, after denying parole, schedule a rehearing no later than 3 years from the date of the parole denial, if the Board finds that it is not reasonable to expect that parole would be granted at a hearing prior to the scheduled rehearing date. If the Board shall parole a person, and, if he is not released within 90 days from the effective date of the order granting parole, the matter shall be returned to the Board for review.

(g) The Board shall maintain a registry of decisions in which parole has been granted, which shall include the name and case number of the prisoner, the highest charge for which the prisoner was sentenced, the length of sentence imposed, the date of the sentence, the date of the parole, and the basis for the decision of the Board to grant parole and the vote of the Board on any such decisions. The registry shall be made available for public inspection and copying during business hours and shall be a public record pursuant to the provisions of the Freedom of Information Act.

(h) The Board shall promulgate rules regarding the exercise of its discretion under this Section.

CREDIT(S)

P.A. 77-2097, § 3-3-5, eff. Jan. 1, 1973. Amended by P.A. 78-939, § 1, eff. July 1, 1974; P.A. 80-362, § 1, eff. Oct. 1, 1977; P.A. 80-1099, § 3, eff. Feb. 1, 1978; P.A. 83-621, § 1, eff. Sept. 19, 1983; P.A. 83-1433, § 1, eff. Jan. 1, 1985; P.A. 83-1449, § 1, eff. Sept. 17, 1984; P.A. 83-1499, § 2, eff. Dec. 27, 1984; P.A. 85-255, § 1, eff. Jan. 1, 1988; P.A. 85-548, § 1, eff. Jan. 1, 1988; P.A. 85-1209, Art. II, § 2-25, eff. Aug. 30, 1988; P.A. 89-428, Art. 5, § 505, eff. Dec. 13, 1995. Reenacted and amended by P.A. 89-689, § 100, eff. Dec. 31, 1996. Amended by P.A. 91-798, § 110, eff. July 9, 2000; P.A. 91-946, § 5, eff. Feb. 9, 2001; P.A. 94-696, § 25, eff. June 1, 2006 ; P.A. 96-875, § 10, eff. Jan. 22, 2010.

Formerly Ill.Rev.Stat.1991, ch. 38, ¶ 1003-3-5.

[FN1] Former Ill.Rev.Stat. ch. 37, ¶ 707-2 (repealed).

[FN2] 705 ILCS 405/1-1 et seq.

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Formerly cited as IL ST CH 38 ¶ 1003-3-8

Effective:[See Text Amendments]

West's Smith-Hurd Illinois Compiled Statutes Annotated Currentness
Chapter 730. Corrections
Act 5. Unified Code of Corrections (Refs & Annos)
Chapter III. Department of Corrections
Article 3. Parole and Pardon Board (Refs & Annos)
5/3-3-8. Length of parole and mandatory supervised release; discharge

§ 3-3-8. Length of parole and mandatory supervised release; discharge.

(a) The length of parole for a person sentenced under the law in effect prior to the effective date of this amendatory Act of 1977 and the length of mandatory supervised release for those sentenced under the law in effect on and after such effective date shall be as set out in Section 5-8-1 unless sooner terminated under paragraph (b) of this Section. The parole period of a juvenile committed to the Department under the Juvenile Court Act [FN1] or the Juvenile Court Act of 1987 [FN2] shall extend until he is 21 years of age unless sooner terminated under paragraph (b) of this Section.

(b) The Prisoner Review Board may enter an order releasing and discharging one from parole or mandatory supervised release, and his commitment to the Department, when it determines that he is likely to remain at liberty without committing another offense.

(c) The order of discharge shall become effective upon entry of the order of the Board. The Board shall notify the clerk of the committing court of the order. Upon receipt of such copy, the clerk shall make an entry on the record judgment that the sentence or commitment has been satisfied pursuant to the order.

(d) Rights of the person discharged under this Section shall be restored under Section 5-5-5. This Section is subject to Section 5-750 of the Juvenile Court Act of 1987. [FN3]

CREDIT(S)

P.A. 77-2097, § 3-3-8, eff. Jan. 1, 1973. Amended by P.A. 77-2827, § 1, eff. Jan. 1, 1973; P.A. 78-255, § 61, eff. Oct. 1, 1973; P.A. 79-813, § 1, eff. Oct. 1, 1975; P.A. 80-1099, § 3, eff. Feb. 1, 1978; P.A. 84-1301, § 1, eff. Aug. 19, 1986; P.A. 85-1209, Art. III, § 3-36, eff. Aug. 30, 1988; P.A. 90-590, Art. 2001, § 2001-40, eff. Jan. 1, 1999.

Formerly Ill.Rev.Stat.1991, ch. 38, ¶ 1003-3-8.

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Formerly cited as IL ST CH 38 ¶ 1003-3-8

[FN1] Former Ill.Rev.Stat. ch. 37, ¶ 701-1 et seq. (repealed).

[FN2] 705 ILCS 405/1-1 et seq.

[FN3] 705 ILCS 405/5-750.

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Formerly cited as IL ST CH 38 ¶ 1003-3-9

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Chapter 730. Corrections
Act 5. Unified Code of Corrections (Refs & Annos)
Chapter III. Department of Corrections
Article 3. Parole and Pardon Board (Refs & Annos)
5/3-3-9. Violations; changes of conditions; preliminary hearing; revocation of parole or mandatory supervised release; revocation hearing

<Text of section effective until Jan. 1, 2011. See, also, section effective Jan. 1, 2011.>

§ 3-3-9. Violations; changes of conditions; preliminary hearing; revocation of parole or mandatory supervised release; revocation hearing.

(a) If prior to expiration or termination of the term of parole or mandatory supervised release, a person violates a condition set by the Prisoner Review Board or a condition of parole or mandatory supervised release under Section 3-3-7 of this Code to govern that term, the Board may:

(1) continue the existing term, with or without modifying or enlarging the conditions; or

(2) parole or release the person to a half-way house; or

(3) revoke the parole or mandatory supervised release and reconfine the person for a term computed in the following manner:

(i)(A) For those sentenced under the law in effect prior to this amendatory Act of 1977, the recommitment shall be for any portion of the imposed maximum term of imprisonment or confinement which had not been served at the time of parole and the parole term, less the time elapsed between the parole of the person and the commission of the violation for which parole was revoked;

(B) Except as set forth in paragraph (C), for those subject to mandatory supervised release under paragraph (d) of Section 5-8-1 of this Code, the recommitment shall be for the total mandatory supervised release term, less the time elapsed between the release of the person and the commission of the violation for which mandatory supervised release is revoked. The Board may also order that a prisoner serve up to one year of the sentence imposed by the court which was not served due to the accumulation of good conduct credit;

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(C) For those subject to sex offender supervision under clause (d)(4) of Section 5-8-1 of this Code, the reconfinement period for violations of clauses (a)(3) through (b-1)(15) of Section 3-3-7 shall not exceed 2 years from the date of reconfinement.

(ii) the person shall be given credit against the term of reimprisonment or reconfinement for time spent in custody since he was paroled or released which has not been credited against another sentence or period of confinement;

(iii) persons committed under the Juvenile Court Act or the Juvenile Court Act of 1987 shall be recommitted until the age of 21;

(iv) this Section is subject to the release under supervision and the reparole and rerelease provisions of Section 3-3-10.

(b) The Board may revoke parole or mandatory supervised release for violation of a condition for the duration of the term and for any further period which is reasonably necessary for the adjudication of matters arising before its expiration. The issuance of a warrant of arrest for an alleged violation of the conditions of parole or mandatory supervised release shall toll the running of the term until the final determination of the charge. When parole or mandatory supervised release is not revoked that period shall be credited to the term, unless a community-based sanction is imposed as an alternative to revocation and reincarceration, including a diversion established by the Illinois Department of Corrections Parole Services Unit prior to the holding of a preliminary parole revocation hearing. Parolees who are diverted to a community-based sanction shall serve the entire term of parole or mandatory supervised release, if otherwise appropriate.

(b-5) The Board shall revoke parole or mandatory supervised release for violation of the conditions prescribed in paragraph (7.6) of subsection (a) of Section 3-3-7.

(c) A person charged with violating a condition of parole or mandatory supervised release shall have a preliminary hearing before a hearing officer designated by the Board to determine if there is cause to hold the person for a revocation hearing. However, no preliminary hearing need be held when revocation is based upon new criminal charges and a court finds probable cause on the new criminal charges or when the revocation is based upon a new criminal conviction and a certified copy of that conviction is available.

(d) Parole or mandatory supervised release shall not be revoked without written notice to the offender setting forth the violation of parole or mandatory supervised release charged against him.

(e) A hearing on revocation shall be conducted before at least one member of the Prisoner Review Board. The Board may meet and order its actions in panels of 3 or more members. The action of a majority of the panel shall be the action of the Board. In consideration of persons committed to the Department of Juvenile Justice, the member hearing the matter and at least a majority of the panel shall be experienced in juvenile matters. A record of the hearing shall be made. At the hearing the offender shall be permitted to:

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(1) appear and answer the charge; and

(2) bring witnesses on his behalf.

(f) The Board shall either revoke parole or mandatory supervised release or order the person's term continued with or without modification or enlargement of the conditions.

(g) Parole or mandatory supervised release shall not be revoked for failure to make payments under the conditions of parole or release unless the Board determines that such failure is due to the offender's willful refusal to pay.

CREDIT(S)

P.A. 77-2097, § 3-3-9, eff. Jan. 1, 1973. Amended by P.A. 77-2827, § 1, eff. Jan. 1, 1973; P.A. 78-255, § 61, eff. Oct. 1, 1973; P.A. 80-1099, § 3, eff. Feb. 1, 1978; P.A. 84-1301, § 1, eff. Aug. 19, 1986; P.A. 85-1209, Art. III, § 3-36, eff. Aug. 30, 1988; P.A. 92-460, § 5, eff. Jan. 1, 2002; P.A. 94-161, § 5, eff. July 11, 2005; P.A. 94-165, § 5, eff. July 11, 2005; P.A. 94-696, § 25, eff. June 1, 2006; P.A. 95-82, § 5, eff. Aug. 13, 2007.

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