



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

HB3645

by Rep. Juliana Stratton

SYNOPSIS AS INTRODUCED:

705 ILCS 405/5-120
705 ILCS 405/5-822
705 ILCS 405/5-905
705 ILCS 405/5-130 rep.
725 ILCS 5/115-10.5

Amends the Juvenile Court Act of 1987. Repeals the automatic transfer of a case to adult court for prosecution under the criminal laws of the State of a minor who at the time of an offense was at least 16 years of age and who is charged with first degree murder, aggravated criminal sexual assault, or aggravated battery with a firearm where the minor personally discharged the firearm and caused injury to another person, and all other charges arising out of the same incident as the murder, sexual assault, or aggravated battery with a firearm. Makes conforming changes.

LRB100 06168 SLF 16202 b

1 AN ACT concerning courts.

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

4 Section 5. The Juvenile Court Act of 1987 is amended by
5 changing Sections 5-120, 5-822, and 5-905 as follows:

6 (705 ILCS 405/5-120)

7 Sec. 5-120. Exclusive jurisdiction. Proceedings may be
8 instituted under the provisions of this Article concerning any
9 minor who prior to his or her 18th birthday has violated or
10 attempted to violate, regardless of where the act occurred, any
11 federal, State, county or municipal law or ordinance. Except as
12 provided in Sections 5-125, ~~5-130~~, 5-805, and 5-810 of this
13 Article, no minor who was under 18 years of age at the time of
14 the alleged offense may be prosecuted under the criminal laws
15 of this State.

16 The changes made to this Section by this amendatory Act of
17 the 98th General Assembly apply to violations or attempted
18 violations committed on or after the effective date of this
19 amendatory Act.

20 (Source: P.A. 98-61, eff. 1-1-14.)

21 (705 ILCS 405/5-822)

22 Sec. 5-822. Data collection. On the effective date of this

1 amendatory Act of the 99th General Assembly:

2 (1) The Clerk of the Circuit Court of every county in
3 this State, shall track the filing, processing, and
4 disposition of all cases:

5 (a) (blank) ~~initiated in criminal court under~~
6 ~~Section 5-130 of this Act;~~

7 (b) in which a motion to transfer was filed by the
8 State under Section 5-805 of this Act;

9 (c) in which a motion for extended jurisdiction was
10 filed by the State under Section 5-810 of this Act;

11 (d) in which a designation is sought of a Habitual
12 Juvenile Offender under Section 5-815 of this Act; and

13 (e) in which a designation is sought of a Violent
14 Juvenile Offender under Section 5-820 of this Act.

15 (2) For each category of case listed in subsection (1),
16 the clerk shall collect the following:

17 (a) age of the defendant and of the victim or
18 victims at the time of offense;

19 (b) race and ethnicity of the defendant and the
20 victim or victims;

21 (c) gender of the defendant and the victim or
22 victims;

23 (d) the offense or offenses charged;

24 (e) date filed and the date of final disposition;

25 (f) the final disposition;

26 (g) for those cases resulting in a finding or plea

1 of guilty:

2 (i) charge or charges for which they are
3 convicted;

4 (ii) sentence for each charge;

5 (h) for cases under paragraph (c) of subsection
6 (1), the clerk shall report if the adult sentence is
7 applied due to non-compliance with the juvenile
8 sentence.

9 (3) On January 15 and June 15 of each year beginning 6
10 months after the effective date of this amendatory Act of
11 the 99th General Assembly, the Clerk of each county shall
12 submit a report outlining all of the information from
13 subsection (2) to the General Assembly and the county board
14 of the clerk's respective county.

15 (4) No later than 2 months after the effective date of
16 this amendatory Act of the 99th General Assembly, the
17 standards, confidentiality protocols, format, and data
18 depository for the semi-annual reports described in this
19 Section shall be identified by the State Advisory Group on
20 Juvenile Justice and Delinquency Prevention and
21 distributed to the General Assembly, county boards, and
22 county clerks' offices.

23 (Source: P.A. 99-258, eff. 1-1-16.)

24 (705 ILCS 405/5-905)

25 Sec. 5-905. Law enforcement records.

1 (1) Law Enforcement Records. Inspection and copying of law
2 enforcement records maintained by law enforcement agencies
3 that relate to a minor who has been investigated, arrested, or
4 taken into custody before his or her 18th birthday shall be
5 restricted to the following and when necessary for the
6 discharge of their official duties:

7 (a) A judge of the circuit court and members of the
8 staff of the court designated by the judge;

9 (b) Law enforcement officers, probation officers or
10 prosecutors or their staff, or, when necessary for the
11 discharge of its official duties in connection with a
12 particular investigation of the conduct of a law
13 enforcement officer, an independent agency or its staff
14 created by ordinance and charged by a unit of local
15 government with the duty of investigating the conduct of
16 law enforcement officers;

17 (c) The minor, the minor's parents or legal guardian
18 and their attorneys, but only when the juvenile has been
19 charged with an offense;

20 (d) Adult and Juvenile Prisoner Review Boards;

21 (e) Authorized military personnel;

22 (f) Persons engaged in bona fide research, with the
23 permission of the judge of juvenile court and the chief
24 executive of the agency that prepared the particular
25 recording: provided that publication of such research
26 results in no disclosure of a minor's identity and protects

1 the confidentiality of the record;

2 (g) Individuals responsible for supervising or
3 providing temporary or permanent care and custody of minors
4 pursuant to orders of the juvenile court or directives from
5 officials of the Department of Children and Family Services
6 or the Department of Human Services who certify in writing
7 that the information will not be disclosed to any other
8 party except as provided under law or order of court;

9 (h) The appropriate school official only if the agency
10 or officer believes that there is an imminent threat of
11 physical harm to students, school personnel, or others who
12 are present in the school or on school grounds.

13 (A) Inspection and copying shall be limited to law
14 enforcement records transmitted to the appropriate
15 school official or officials whom the school has
16 determined to have a legitimate educational or safety
17 interest by a local law enforcement agency under a
18 reciprocal reporting system established and maintained
19 between the school district and the local law
20 enforcement agency under Section 10-20.14 of the
21 School Code concerning a minor enrolled in a school
22 within the school district who has been arrested or
23 taken into custody for any of the following offenses:

24 (i) any violation of Article 24 of the Criminal
25 Code of 1961 or the Criminal Code of 2012;

26 (ii) a violation of the Illinois Controlled

- 1 Substances Act;
- 2 (iii) a violation of the Cannabis Control Act;
- 3 (iv) a forcible felony as defined in Section
- 4 2-8 of the Criminal Code of 1961 or the Criminal
- 5 Code of 2012;
- 6 (v) a violation of the Methamphetamine Control
- 7 and Community Protection Act;
- 8 (vi) a violation of Section 1-2 of the
- 9 Harassing and Obscene Communications Act;
- 10 (vii) a violation of the Hazing Act; or
- 11 (viii) a violation of Section 12-1, 12-2,
- 12 12-3, 12-3.05, 12-3.1, 12-3.2, 12-3.4, 12-3.5,
- 13 12-5, 12-7.3, 12-7.4, 12-7.5, 25-1, or 25-5 of the
- 14 Criminal Code of 1961 or the Criminal Code of 2012.

15 The information derived from the law enforcement

16 records shall be kept separate from and shall not

17 become a part of the official school record of that

18 child and shall not be a public record. The information

19 shall be used solely by the appropriate school official

20 or officials whom the school has determined to have a

21 legitimate educational or safety interest to aid in the

22 proper rehabilitation of the child and to protect the

23 safety of students and employees in the school. If the

24 designated law enforcement and school officials deem

25 it to be in the best interest of the minor, the student

26 may be referred to in-school or community based social

1 services if those services are available.
2 "Rehabilitation services" may include interventions by
3 school support personnel, evaluation for eligibility
4 for special education, referrals to community-based
5 agencies such as youth services, behavioral healthcare
6 service providers, drug and alcohol prevention or
7 treatment programs, and other interventions as deemed
8 appropriate for the student.

9 (B) Any information provided to appropriate school
10 officials whom the school has determined to have a
11 legitimate educational or safety interest by local law
12 enforcement officials about a minor who is the subject
13 of a current police investigation that is directly
14 related to school safety shall consist of oral
15 information only, and not written law enforcement
16 records, and shall be used solely by the appropriate
17 school official or officials to protect the safety of
18 students and employees in the school and aid in the
19 proper rehabilitation of the child. The information
20 derived orally from the local law enforcement
21 officials shall be kept separate from and shall not
22 become a part of the official school record of the
23 child and shall not be a public record. This limitation
24 on the use of information about a minor who is the
25 subject of a current police investigation shall in no
26 way limit the use of this information by prosecutors in

1 pursuing criminal charges arising out of the
2 information disclosed during a police investigation of
3 the minor. For purposes of this paragraph,
4 "investigation" means an official systematic inquiry
5 by a law enforcement agency into actual or suspected
6 criminal activity;

7 (i) The president of a park district. Inspection and
8 copying shall be limited to law enforcement records
9 transmitted to the president of the park district by the
10 Illinois State Police under Section 8-23 of the Park
11 District Code or Section 16a-5 of the Chicago Park District
12 Act concerning a person who is seeking employment with that
13 park district and who has been adjudicated a juvenile
14 delinquent for any of the offenses listed in subsection (c)
15 of Section 8-23 of the Park District Code or subsection (c)
16 of Section 16a-5 of the Chicago Park District Act.

17 (2) Information identifying victims and alleged victims of
18 sex offenses, shall not be disclosed or open to public
19 inspection under any circumstances. Nothing in this Section
20 shall prohibit the victim or alleged victim of any sex offense
21 from voluntarily disclosing his or her identity.

22 (2.5) If the minor is a victim of aggravated battery,
23 battery, attempted first degree murder, or other non-sexual
24 violent offense, the identity of the victim may be disclosed to
25 appropriate school officials, for the purpose of preventing
26 foreseeable future violence involving minors, by a local law

1 enforcement agency pursuant to an agreement established
2 between the school district and a local law enforcement agency
3 subject to the approval by the presiding judge of the juvenile
4 court.

5 (3) Relevant information, reports and records shall be made
6 available to the Department of Juvenile Justice when a juvenile
7 offender has been placed in the custody of the Department of
8 Juvenile Justice.

9 (4) Nothing in this Section shall prohibit the inspection
10 or disclosure to victims and witnesses of photographs contained
11 in the records of law enforcement agencies when the inspection
12 or disclosure is conducted in the presence of a law enforcement
13 officer for purposes of identification or apprehension of any
14 person in the course of any criminal investigation or
15 prosecution.

16 (5) The records of law enforcement officers, or of an
17 independent agency created by ordinance and charged by a unit
18 of local government with the duty of investigating the conduct
19 of law enforcement officers, concerning all minors under 18
20 years of age must be maintained separate from the records of
21 adults and may not be open to public inspection or their
22 contents disclosed to the public except by order of the court
23 or when the institution of criminal proceedings has been
24 permitted under Section ~~5-130~~ or 5-805 or required under
25 Section ~~5-130~~ or 5-805 or such a person has been convicted of a
26 crime and is the subject of pre-sentence investigation or when

1 provided by law.

2 (6) Except as otherwise provided in this subsection (6),
3 law enforcement officers, and personnel of an independent
4 agency created by ordinance and charged by a unit of local
5 government with the duty of investigating the conduct of law
6 enforcement officers, may not disclose the identity of any
7 minor in releasing information to the general public as to the
8 arrest, investigation or disposition of any case involving a
9 minor. Any victim or parent or legal guardian of a victim may
10 petition the court to disclose the name and address of the
11 minor and the minor's parents or legal guardian, or both. Upon
12 a finding by clear and convincing evidence that the disclosure
13 is either necessary for the victim to pursue a civil remedy
14 against the minor or the minor's parents or legal guardian, or
15 both, or to protect the victim's person or property from the
16 minor, then the court may order the disclosure of the
17 information to the victim or to the parent or legal guardian of
18 the victim only for the purpose of the victim pursuing a civil
19 remedy against the minor or the minor's parents or legal
20 guardian, or both, or to protect the victim's person or
21 property from the minor.

22 (7) Nothing contained in this Section shall prohibit law
23 enforcement agencies when acting in their official capacity
24 from communicating with each other by letter, memorandum,
25 teletype or intelligence alert bulletin or other means the
26 identity or other relevant information pertaining to a person

1 under 18 years of age. The information provided under this
2 subsection (7) shall remain confidential and shall not be
3 publicly disclosed, except as otherwise allowed by law.

4 (8) No person shall disclose information under this Section
5 except when acting in his or her official capacity and as
6 provided by law or order of court.

7 (9) The changes made to this Section by Public Act 98-61
8 apply to law enforcement records of a minor who has been
9 arrested or taken into custody on or after January 1, 2014 (the
10 effective date of Public Act 98-61).

11 (Source: P.A. 98-61, eff. 1-1-14; 98-756, eff. 7-16-14; 99-298,
12 eff. 8-6-15.)

13 (705 ILCS 405/5-130 rep.)

14 Section 10. The Juvenile Court Act of 1987 is amended by
15 repealing Section 5-130.

16 Section 15. The Code of Criminal Procedure of 1963 is
17 amended by changing Section 115-10.5 as follows:

18 (725 ILCS 5/115-10.5)

19 Sec. 115-10.5. Hearsay exception regarding safe zone
20 testimony.

21 (a) In any prosecution for any offense charged as a
22 violation of Section 407 of the Illinois Controlled Substances
23 Act or Section 55 of the Methamphetamine Control and Community

1 Protection Act, ~~or Section 5-130 of the Juvenile Court Act of~~
2 ~~1987~~ the following evidence shall be admitted as an exception
3 to the hearsay rule any testimony by any qualified individual
4 regarding the status of any property as:

5 (1) a truck stop or safety rest area, or

6 (2) a school or conveyance owned, leased or contracted
7 by a school to transport students to or from school, or

8 (3) residential property owned, operated, and managed
9 by a public housing agency, or

10 (4) a public park, or

11 (5) the real property comprising any church,
12 synagogue, or other building, structure, or place used
13 primarily for religious worship, or

14 (6) the real property comprising any of the following
15 places, buildings, or structures used primarily for
16 housing or providing space for activities for senior
17 citizens: nursing homes, assisted-living centers, senior
18 citizen housing complexes, or senior centers oriented
19 toward daytime activities.

20 (b) As used in this Section, "qualified individual" means
21 any person who (i) lived or worked within the territorial
22 jurisdiction where the offense took place when the offense took
23 place; and (ii) is familiar with various public places within
24 the territorial jurisdiction where the offense took place when
25 the offense took place.

26 (c) For the purposes of this Section, "qualified

1 individual" includes any peace officer, or any member of any
2 duly organized State, county, or municipal peace unit, assigned
3 to the territorial jurisdiction where the offense took place
4 when the offense took place.

5 (d) This Section applies to all prosecutions pending at the
6 time this amendatory Act of the 91st General Assembly takes
7 effect and to all prosecutions commencing on or after its
8 effective date.

9 (Source: P.A. 94-556, eff. 9-11-05.)