



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

HB2567

by Rep. Robyn Gabel

SYNOPSIS AS INTRODUCED:

705 ILCS 405/5-410
705 ILCS 405/5-501
705 ILCS 405/5-710
705 ILCS 405/5-720

Amends the Juvenile Court Act of 1987. Raises the minimum age for detention of a delinquent or alleged delinquent minor from 10 years of age to 13 years of age. Raises the minimum age in which a minor may be detained in a county jail or a municipal lockup from 12 to 13 years of age.

LRB099 05754 RLC 25798 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 Section 5-410, 5-501, 5-710, and 5-720 as follows:

6 (705 ILCS 405/5-410)

7 Sec. 5-410. Non-secure custody or detention.

8 (1) Any minor arrested or taken into custody pursuant to
9 this Act who requires care away from his or her home but who
10 does not require physical restriction shall be given temporary
11 care in a foster family home or other shelter facility
12 designated by the court.

13 (2) (a) Any minor 13 ~~14~~ years of age or older arrested
14 pursuant to this Act where there is probable cause to believe
15 that the minor is a delinquent minor and that (i) secured
16 custody is a matter of immediate and urgent necessity for the
17 protection of the minor or of the person or property of
18 another, (ii) the minor is likely to flee the jurisdiction of
19 the court, or (iii) the minor was taken into custody under a
20 warrant, may be kept or detained in an authorized detention
21 facility. No minor under 13 ~~12~~ years of age shall be detained
22 in a county jail or a municipal lockup ~~for more than 6 hours.~~

23 (b) The written authorization of the probation officer or

1 detention officer (or other public officer designated by the
2 court in a county having 3,000,000 or more inhabitants)
3 constitutes authority for the superintendent of any juvenile
4 detention home to detain and keep a minor for up to 40 hours,
5 excluding Saturdays, Sundays and court-designated holidays.
6 These records shall be available to the same persons and
7 pursuant to the same conditions as are law enforcement records
8 as provided in Section 5-905.

9 (b-4) The consultation required by subsection (b-5) shall
10 not be applicable if the probation officer or detention officer
11 (or other public officer designated by the court in a county
12 having 3,000,000 or more inhabitants) utilizes a scorable
13 detention screening instrument, which has been developed with
14 input by the State's Attorney, to determine whether a minor
15 should be detained, however, subsection (b-5) shall still be
16 applicable where no such screening instrument is used or where
17 the probation officer, detention officer (or other public
18 officer designated by the court in a county having 3,000,000 or
19 more inhabitants) deviates from the screening instrument.

20 (b-5) Subject to the provisions of subsection (b-4), if a
21 probation officer or detention officer (or other public officer
22 designated by the court in a county having 3,000,000 or more
23 inhabitants) does not intend to detain a minor for an offense
24 which constitutes one of the following offenses he or she shall
25 consult with the State's Attorney's Office prior to the release
26 of the minor: first degree murder, second degree murder,

1 involuntary manslaughter, criminal sexual assault, aggravated
2 criminal sexual assault, aggravated battery with a firearm as
3 described in Section 12-4.2 or subdivision (e)(1), (e)(2),
4 (e)(3), or (e)(4) of Section 12-3.05, aggravated or heinous
5 battery involving permanent disability or disfigurement or
6 great bodily harm, robbery, aggravated robbery, armed robbery,
7 vehicular hijacking, aggravated vehicular hijacking, vehicular
8 invasion, arson, aggravated arson, kidnapping, aggravated
9 kidnapping, home invasion, burglary, or residential burglary.

10 (c) Except as otherwise provided in paragraph (a), (d), or
11 (e), no minor shall be detained in a county jail or municipal
12 lockup for more than 12 hours, unless the offense is a crime of
13 violence in which case the minor may be detained up to 24
14 hours. For the purpose of this paragraph, "crime of violence"
15 has the meaning ascribed to it in Section 1-10 of the
16 Alcoholism and Other Drug Abuse and Dependency Act.

17 (i) The period of detention is deemed to have begun
18 once the minor has been placed in a locked room or cell or
19 handcuffed to a stationary object in a building housing a
20 county jail or municipal lockup. Time spent transporting a
21 minor is not considered to be time in detention or secure
22 custody.

23 (ii) Any minor so confined shall be under periodic
24 supervision and shall not be permitted to come into or
25 remain in contact with adults in custody in the building.

26 (iii) Upon placement in secure custody in a jail or

1 lockup, the minor shall be informed of the purpose of the
2 detention, the time it is expected to last and the fact
3 that it cannot exceed the time specified under this Act.

4 (iv) A log shall be kept which shows the offense which
5 is the basis for the detention, the reasons and
6 circumstances for the decision to detain and the length of
7 time the minor was in detention.

8 (v) Violation of the time limit on detention in a
9 county jail or municipal lockup shall not, in and of
10 itself, render inadmissible evidence obtained as a result
11 of the violation of this time limit. Minors under 18 years
12 of age shall be kept separate from confined adults and may
13 not at any time be kept in the same cell, room or yard with
14 adults confined pursuant to criminal law. Persons 18 years
15 of age and older who have a petition of delinquency filed
16 against them may be confined in an adult detention
17 facility. In making a determination whether to confine a
18 person 18 years of age or older who has a petition of
19 delinquency filed against the person, these factors, among
20 other matters, shall be considered:

21 (A) The age of the person;

22 (B) Any previous delinquent or criminal history of
23 the person;

24 (C) Any previous abuse or neglect history of the
25 person; and

26 (D) Any mental health or educational history of the

1 person, or both.

2 (d) (i) If a minor 13 ~~12~~ years of age or older is confined
3 in a county jail in a county with a population below 3,000,000
4 inhabitants, then the minor's confinement shall be implemented
5 in such a manner that there will be no contact by sight, sound
6 or otherwise between the minor and adult prisoners. Minors 13
7 ~~12~~ years of age or older must be kept separate from confined
8 adults and may not at any time be kept in the same cell, room,
9 or yard with confined adults. This paragraph (d) (i) shall only
10 apply to confinement pending an adjudicatory hearing and shall
11 not exceed 40 hours, excluding Saturdays, Sundays and court
12 designated holidays. To accept or hold minors during this time
13 period, county jails shall comply with all monitoring standards
14 adopted by the Department of Corrections and training standards
15 approved by the Illinois Law Enforcement Training Standards
16 Board.

17 (ii) To accept or hold minors, 13 ~~12~~ years of age or older,
18 after the time period prescribed in paragraph (d) (i) of this
19 subsection (2) of this Section but not exceeding 7 days
20 including Saturdays, Sundays and holidays pending an
21 adjudicatory hearing, county jails shall comply with all
22 temporary detention standards adopted by the Department of
23 Corrections and training standards approved by the Illinois Law
24 Enforcement Training Standards Board.

25 (iii) To accept or hold minors 13 ~~12~~ years of age or older,
26 after the time period prescribed in paragraphs (d) (i) and

1 (d) (ii) of this subsection (2) of this Section, county jails
2 shall comply with all county juvenile detention standards
3 adopted by the Department of Juvenile Justice.

4 (e) When a minor who is at least 15 years of age is
5 prosecuted under the criminal laws of this State, the court may
6 enter an order directing that the juvenile be confined in the
7 county jail. However, any juvenile confined in the county jail
8 under this provision shall be separated from adults who are
9 confined in the county jail in such a manner that there will be
10 no contact by sight, sound or otherwise between the juvenile
11 and adult prisoners.

12 (f) For purposes of appearing in a physical lineup, the
13 minor may be taken to a county jail or municipal lockup under
14 the direct and constant supervision of a juvenile police
15 officer. During such time as is necessary to conduct a lineup,
16 and while supervised by a juvenile police officer, the sight
17 and sound separation provisions shall not apply.

18 (g) For purposes of processing a minor, the minor may be
19 taken to a County Jail or municipal lockup under the direct and
20 constant supervision of a law enforcement officer or
21 correctional officer. During such time as is necessary to
22 process the minor, and while supervised by a law enforcement
23 officer or correctional officer, the sight and sound separation
24 provisions shall not apply.

25 (3) If the probation officer or State's Attorney (or such
26 other public officer designated by the court in a county having

1 3,000,000 or more inhabitants) determines that the minor may be
2 a delinquent minor as described in subsection (3) of Section
3 5-105, and should be retained in custody but does not require
4 physical restriction, the minor may be placed in non-secure
5 custody for up to 40 hours pending a detention hearing.

6 (4) Any minor taken into temporary custody, not requiring
7 secure detention, may, however, be detained in the home of his
8 or her parent or guardian subject to such conditions as the
9 court may impose.

10 (5) The changes made to this Section by Public Act 98-61
11 apply to a minor who has been arrested or taken into custody on
12 or after January 1, 2014 (the effective date of Public Act
13 98-61).

14 (Source: P.A. 98-61, eff. 1-1-14; 98-685, eff. 1-1-15; 98-756,
15 eff. 7-16-14.)

16 (705 ILCS 405/5-501)

17 Sec. 5-501. Detention or shelter care hearing. At the
18 appearance of the minor before the court at the detention or
19 shelter care hearing, the court shall receive all relevant
20 information and evidence, including affidavits concerning the
21 allegations made in the petition. Evidence used by the court in
22 its findings or stated in or offered in connection with this
23 Section may be by way of proffer based on reliable information
24 offered by the State or minor. All evidence shall be admissible
25 if it is relevant and reliable regardless of whether it would

1 be admissible under the rules of evidence applicable at a
2 trial. No hearing may be held unless the minor is represented
3 by counsel and no hearing shall be held until the minor has had
4 adequate opportunity to consult with counsel.

5 (1) If the court finds that there is not probable cause to
6 believe that the minor is a delinquent minor it shall release
7 the minor and dismiss the petition.

8 (2) If the court finds that there is probable cause to
9 believe that the minor is a delinquent minor, the minor, his or
10 her parent, guardian, custodian and other persons able to give
11 relevant testimony may be examined before the court. The court
12 may also consider any evidence by way of proffer based upon
13 reliable information offered by the State or the minor. All
14 evidence, including affidavits, shall be admissible if it is
15 relevant and reliable regardless of whether it would be
16 admissible under the rules of evidence applicable at trial.
17 After such evidence is presented, the court may enter an order
18 that the minor shall be released upon the request of a parent,
19 guardian or legal custodian if the parent, guardian or
20 custodian appears to take custody.

21 If the court finds that it is a matter of immediate and
22 urgent necessity for the protection of the minor or of the
23 person or property of another that the minor be detained or
24 placed in a shelter care facility or that he or she is likely
25 to flee the jurisdiction of the court, the court may prescribe
26 detention or shelter care and order that the minor be kept in a

1 suitable place designated by the court or in a shelter care
2 facility designated by the Department of Children and Family
3 Services or a licensed child welfare agency; otherwise it shall
4 release the minor from custody. If the court prescribes shelter
5 care, then in placing the minor, the Department or other agency
6 shall, to the extent compatible with the court's order, comply
7 with Section 7 of the Children and Family Services Act. In
8 making the determination of the existence of immediate and
9 urgent necessity, the court shall consider among other matters:

10 (a) the nature and seriousness of the alleged offense; (b) the
11 minor's record of delinquency offenses, including whether the
12 minor has delinquency cases pending; (c) the minor's record of
13 willful failure to appear following the issuance of a summons
14 or warrant; (d) the availability of non-custodial
15 alternatives, including the presence of a parent, guardian or
16 other responsible relative able and willing to provide
17 supervision and care for the minor and to assure his or her
18 compliance with a summons. If the minor is ordered placed in a
19 shelter care facility of a licensed child welfare agency, the
20 court shall, upon request of the agency, appoint the
21 appropriate agency executive temporary custodian of the minor
22 and the court may enter such other orders related to the
23 temporary custody of the minor as it deems fit and proper.

24 The order together with the court's findings of fact in
25 support of the order shall be entered of record in the court.

26 Once the court finds that it is a matter of immediate and

1 urgent necessity for the protection of the minor that the minor
2 be placed in a shelter care facility, the minor shall not be
3 returned to the parent, custodian or guardian until the court
4 finds that the placement is no longer necessary for the
5 protection of the minor.

6 (3) Only when there is reasonable cause to believe that the
7 minor taken into custody is a delinquent minor may the minor be
8 kept or detained in a facility authorized for juvenile
9 detention. This Section shall in no way be construed to limit
10 subsection (4).

11 (4) Minors 13 ~~12~~ years of age or older must be kept
12 separate from confined adults and may not at any time be kept
13 in the same cell, room or yard with confined adults. This
14 paragraph (4):

15 (a) shall only apply to confinement pending an
16 adjudicatory hearing and shall not exceed 40 hours,
17 excluding Saturdays, Sundays, and court designated
18 holidays. To accept or hold minors during this time period,
19 county jails shall comply with all monitoring standards
20 adopted by the Department of Corrections and training
21 standards approved by the Illinois Law Enforcement
22 Training Standards Board.

23 (b) To accept or hold minors, 13 ~~12~~ years of age or
24 older, after the time period prescribed in clause (a) of
25 subsection (4) of this Section but not exceeding 7 days
26 including Saturdays, Sundays, and holidays, pending an

1 adjudicatory hearing, county jails shall comply with all
2 temporary detention standards adopted by the Department of
3 Corrections and training standards approved by the
4 Illinois Law Enforcement Training Standards Board.

5 (c) To accept or hold minors 13 ~~12~~ years of age or
6 older, after the time period prescribed in clause (a) and
7 (b), of this subsection county jails shall comply with all
8 county juvenile detention standards adopted by the
9 Department of Juvenile Justice.

10 (5) If the minor is not brought before a judicial officer
11 within the time period as specified in Section 5-415 the minor
12 must immediately be released from custody.

13 (6) If neither the parent, guardian or legal custodian
14 appears within 24 hours to take custody of a minor released
15 from detention or shelter care, then the clerk of the court
16 shall set the matter for rehearing not later than 7 days after
17 the original order and shall issue a summons directed to the
18 parent, guardian or legal custodian to appear. At the same time
19 the probation department shall prepare a report on the minor.
20 If a parent, guardian or legal custodian does not appear at
21 such rehearing, the judge may enter an order prescribing that
22 the minor be kept in a suitable place designated by the
23 Department of Human Services or a licensed child welfare
24 agency. The time during which a minor is in custody after being
25 released upon the request of a parent, guardian or legal
26 custodian shall be considered as time spent in detention for

1 purposes of scheduling the trial.

2 (7) Any party, including the State, the temporary
3 custodian, an agency providing services to the minor or family
4 under a service plan pursuant to Section 8.2 of the Abused and
5 Neglected Child Reporting Act, foster parent, or any of their
6 representatives, may file a motion to modify or vacate a
7 temporary custody order or vacate a detention or shelter care
8 order on any of the following grounds:

9 (a) It is no longer a matter of immediate and urgent
10 necessity that the minor remain in detention or shelter
11 care; or

12 (b) There is a material change in the circumstances of
13 the natural family from which the minor was removed; or

14 (c) A person, including a parent, relative or legal
15 guardian, is capable of assuming temporary custody of the
16 minor; or

17 (d) Services provided by the Department of Children and
18 Family Services or a child welfare agency or other service
19 provider have been successful in eliminating the need for
20 temporary custody.

21 The clerk shall set the matter for hearing not later than
22 14 days after such motion is filed. In the event that the court
23 modifies or vacates a temporary order but does not vacate its
24 finding of probable cause, the court may order that appropriate
25 services be continued or initiated in behalf of the minor and
26 his or her family.

1 (8) Whenever a petition has been filed under Section 5-520
2 the court can, at any time prior to trial or sentencing, order
3 that the minor be placed in detention or a shelter care
4 facility after the court conducts a hearing and finds that the
5 conduct and behavior of the minor may endanger the health,
6 person, welfare, or property of himself or others or that the
7 circumstances of his or her home environment may endanger his
8 or her health, person, welfare or property.

9 (Source: P.A. 98-685, eff. 1-1-15.)

10 (705 ILCS 405/5-710)

11 Sec. 5-710. Kinds of sentencing orders.

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

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

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

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

1 discharge;

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

5 (iv) on and after the effective date of this
6 amendatory Act of the 98th General Assembly and before
7 January 1, 2017, placed in the guardianship of the
8 Department of Children and Family Services, but only if
9 the delinquent minor is under 16 years of age or,
10 pursuant to Article II of this Act, a minor for whom an
11 independent basis of abuse, neglect, or dependency
12 exists. On and after January 1, 2017, placed in the
13 guardianship of the Department of Children and Family
14 Services, but only if the delinquent minor is under 15
15 years of age or, pursuant to Article II of this Act, a
16 minor for whom an independent basis of abuse, neglect,
17 or dependency exists. An independent basis exists when
18 the allegations or adjudication of abuse, neglect, or
19 dependency do not arise from the same facts, incident,
20 or circumstances which give rise to a charge or
21 adjudication of delinquency;

22 (v) placed in detention for a period not to exceed
23 30 days, either as the exclusive order of disposition
24 or, where appropriate, in conjunction with any other
25 order of disposition issued under this paragraph,
26 provided that any such detention shall be in a juvenile

1 detention home and the minor so detained shall be 13 ~~14~~
2 years of age or older. However, the 30-day limitation
3 may be extended by further order of the court for a
4 minor under age 15 committed to the Department of
5 Children and Family Services if the court finds that
6 the minor is a danger to himself or others. The minor
7 shall be given credit on the sentencing order of
8 detention for time spent in detention under Sections
9 5-501, 5-601, 5-710, or 5-720 of this Article as a
10 result of the offense for which the sentencing order
11 was imposed. The court may grant credit on a sentencing
12 order of detention entered under a violation of
13 probation or violation of conditional discharge under
14 Section 5-720 of this Article for time spent in
15 detention before the filing of the petition alleging
16 the violation. A minor shall not be deprived of credit
17 for time spent in detention before the filing of a
18 violation of probation or conditional discharge
19 alleging the same or related act or acts. The
20 limitation that the minor shall only be placed in a
21 juvenile detention home does not apply as follows:

22 Persons 18 years of age and older who have a
23 petition of delinquency filed against them may be
24 confined in an adult detention facility. In making a
25 determination whether to confine a person 18 years of
26 age or older who has a petition of delinquency filed

1 against the person, these factors, among other
2 matters, shall be considered:

3 (A) the age of the person;

4 (B) any previous delinquent or criminal
5 history of the person;

6 (C) any previous abuse or neglect history of
7 the person;

8 (D) any mental health history of the person;

9 and

10 (E) any educational history of the person;

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

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

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

26 (ix) ordered to undergo a medical or other

1 procedure to have a tattoo symbolizing allegiance to a
2 street gang removed from his or her body; or

3 (x) placed in electronic home detention under Part
4 7A of this Article.

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

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

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

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

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

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

26 (6) Whenever the sentencing order requires the minor to

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

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

15 (8) A minor found to be guilty for reasons that include a
16 violation of Section 21-1.3 of the Criminal Code of 1961 or the
17 Criminal Code of 2012 shall be ordered to perform community
18 service for not less than 30 and not more than 120 hours, if
19 community service is available in the jurisdiction. The
20 community service shall include, but need not be limited to,
21 the cleanup and repair of the damage that was caused by the
22 violation or similar damage to property located in the
23 municipality or county in which the violation occurred. The
24 order may be in addition to any other order authorized by this
25 Section.

26 (8.5) A minor found to be guilty for reasons that include a

1 violation of Section 3.02 or Section 3.03 of the Humane Care
2 for Animals Act or paragraph (d) of subsection (1) of Section
3 21-1 of the Criminal Code of 1961 or paragraph (4) of
4 subsection (a) of Section 21-1 of the Criminal Code of 2012
5 shall be ordered to undergo medical or psychiatric treatment
6 rendered by a psychiatrist or psychological treatment rendered
7 by a clinical psychologist. The order may be in addition to any
8 other order authorized by this Section.

9 (9) In addition to any other sentencing order, the court
10 shall order any minor found to be guilty for an act which would
11 constitute, predatory criminal sexual assault of a child,
12 aggravated criminal sexual assault, criminal sexual assault,
13 aggravated criminal sexual abuse, or criminal sexual abuse if
14 committed by an adult to undergo medical testing to determine
15 whether the defendant has any sexually transmissible disease
16 including a test for infection with human immunodeficiency
17 virus (HIV) or any other identified causative agency of
18 acquired immunodeficiency syndrome (AIDS). Any medical test
19 shall be performed only by appropriately licensed medical
20 practitioners and may include an analysis of any bodily fluids
21 as well as an examination of the minor's person. Except as
22 otherwise provided by law, the results of the test shall be
23 kept strictly confidential by all medical personnel involved in
24 the testing and must be personally delivered in a sealed
25 envelope to the judge of the court in which the sentencing
26 order was entered for the judge's inspection in camera. Acting

1 in accordance with the best interests of the victim and the
2 public, the judge shall have the discretion to determine to
3 whom the results of the testing may be revealed. The court
4 shall notify the minor of the results of the test for infection
5 with the human immunodeficiency virus (HIV). The court shall
6 also notify the victim if requested by the victim, and if the
7 victim is under the age of 15 and if requested by the victim's
8 parents or legal guardian, the court shall notify the victim's
9 parents or the legal guardian, of the results of the test for
10 infection with the human immunodeficiency virus (HIV). The
11 court shall provide information on the availability of HIV
12 testing and counseling at the Department of Public Health
13 facilities to all parties to whom the results of the testing
14 are revealed. The court shall order that the cost of any test
15 shall be paid by the county and may be taxed as costs against
16 the minor.

17 (10) When a court finds a minor to be guilty the court
18 shall, before entering a sentencing order under this Section,
19 make a finding whether the offense committed either: (a) was
20 related to or in furtherance of the criminal activities of an
21 organized gang or was motivated by the minor's membership in or
22 allegiance to an organized gang, or (b) involved a violation of
23 subsection (a) of Section 12-7.1 of the Criminal Code of 1961
24 or the Criminal Code of 2012, a violation of any Section of
25 Article 24 of the Criminal Code of 1961 or the Criminal Code of
26 2012, or a violation of any statute that involved the wrongful

1 use of a firearm. If the court determines the question in the
2 affirmative, and the court does not commit the minor to the
3 Department of Juvenile Justice, the court shall order the minor
4 to perform community service for not less than 30 hours nor
5 more than 120 hours, provided that community service is
6 available in the jurisdiction and is funded and approved by the
7 county board of the county where the offense was committed. The
8 community service shall include, but need not be limited to,
9 the cleanup and repair of any damage caused by a violation of
10 Section 21-1.3 of the Criminal Code of 1961 or the Criminal
11 Code of 2012 and similar damage to property located in the
12 municipality or county in which the violation occurred. When
13 possible and reasonable, the community service shall be
14 performed in the minor's neighborhood. This order shall be in
15 addition to any other order authorized by this Section except
16 for an order to place the minor in the custody of the
17 Department of Juvenile Justice. For the purposes of this
18 Section, "organized gang" has the meaning ascribed to it in
19 Section 10 of the Illinois Streetgang Terrorism Omnibus
20 Prevention Act.

21 (11) If the court determines that the offense was committed
22 in furtherance of the criminal activities of an organized gang,
23 as provided in subsection (10), and that the offense involved
24 the operation or use of a motor vehicle or the use of a
25 driver's license or permit, the court shall notify the
26 Secretary of State of that determination and of the period for

1 which the minor shall be denied driving privileges. If, at the
2 time of the determination, the minor does not hold a driver's
3 license or permit, the court shall provide that the minor shall
4 not be issued a driver's license or permit until his or her
5 18th birthday. If the minor holds a driver's license or permit
6 at the time of the determination, the court shall provide that
7 the minor's driver's license or permit shall be revoked until
8 his or her 21st birthday, or until a later date or occurrence
9 determined by the court. If the minor holds a driver's license
10 at the time of the determination, the court may direct the
11 Secretary of State to issue the minor a judicial driving
12 permit, also known as a JDP. The JDP shall be subject to the
13 same terms as a JDP issued under Section 6-206.1 of the
14 Illinois Vehicle Code, except that the court may direct that
15 the JDP be effective immediately.

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

1 penalty that the court may impose for a violation of subsection
2 (a-7) of Section 1 of that Act, the court, upon request by the
3 State's Attorney, may in its discretion require the offender to
4 remit a fee for his or her attendance at a smoker's education
5 or youth diversion program.

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

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

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

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

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

26 (d) Any second or subsequent violation not within the

1 12-month time period after the first violation is
2 punishable as provided for a first violation.

3 (Source: P.A. 97-1150, eff. 1-25-13; 98-536, eff. 8-23-13;
4 98-803, eff. 1-1-15.)

5 (705 ILCS 405/5-720)

6 Sec. 5-720. Probation revocation.

7 (1) If a petition is filed charging a violation of a
8 condition of probation or of conditional discharge, the court
9 shall:

10 (a) order the minor to appear; or

11 (b) order the minor's detention if the court finds that
12 the detention is a matter of immediate and urgent necessity
13 for the protection of the minor or of the person or
14 property of another or that the minor is likely to flee the
15 jurisdiction of the court, provided that any such detention
16 shall be in a juvenile detention home and the minor so
17 detained shall be 13 ~~10~~ years of age or older; and

18 (c) notify the persons named in the petition under
19 Section 5-520, in accordance with the provisions of Section
20 5-530.

21 In making its detention determination under paragraph (b)
22 of this subsection (1) of this Section, the court may use
23 information in its findings offered at such a hearing by way of
24 proffer based upon reliable information presented by the State,
25 probation officer, or the minor. The filing of a petition for

1 violation of a condition of probation or of conditional
2 discharge shall toll the period of probation or of conditional
3 discharge until the final determination of the charge, and the
4 term of probation or conditional discharge shall not run until
5 the hearing and disposition of the petition for violation.

6 (2) The court shall conduct a hearing of the alleged
7 violation of probation or of conditional discharge. The minor
8 shall not be held in detention longer than 15 days pending the
9 determination of the alleged violation.

10 (3) At the hearing, the State shall have the burden of
11 going forward with the evidence and proving the violation by a
12 preponderance of the evidence. The evidence shall be presented
13 in court with the right of confrontation, cross-examination,
14 and representation by counsel.

15 (4) If the court finds that the minor has violated a
16 condition at any time prior to the expiration or termination of
17 the period of probation or conditional discharge, it may
18 continue him or her on the existing sentence, with or without
19 modifying or enlarging the conditions, or may revoke probation
20 or conditional discharge and impose any other sentence that was
21 available under Section 5-710 at the time of the initial
22 sentence.

23 (5) The conditions of probation and of conditional
24 discharge may be reduced or enlarged by the court on motion of
25 the probation officer or on its own motion or at the request of
26 the minor after notice and hearing under this Section.

1 (6) Sentencing after revocation of probation or of
2 conditional discharge shall be under Section 5-705.

3 (7) Instead of filing a violation of probation or of
4 conditional discharge, the probation officer, with the
5 concurrence of his or her supervisor, may serve on the minor a
6 notice of intermediate sanctions. The notice shall contain the
7 technical violation or violations involved, the date or dates
8 of the violation or violations, and the intermediate sanctions
9 to be imposed. Upon receipt of the notice, the minor shall
10 immediately accept or reject the intermediate sanctions. If the
11 sanctions are accepted, they shall be imposed immediately. If
12 the intermediate sanctions are rejected or the minor does not
13 respond to the notice, a violation of probation or of
14 conditional discharge shall be immediately filed with the
15 court. The State's Attorney and the sentencing court shall be
16 notified of the notice of sanctions. Upon successful completion
17 of the intermediate sanctions, a court may not revoke probation
18 or conditional discharge or impose additional sanctions for the
19 same violation. A notice of intermediate sanctions may not be
20 issued for any violation of probation or conditional discharge
21 which could warrant an additional, separate felony charge.

22 (Source: P.A. 90-590, eff. 1-1-99.)