



Rep. Justin Slaughter

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10400HB5270ham001

LRB104 19740 RLC 36515 a

1 AMENDMENT TO HOUSE BILL 5270

2 AMENDMENT NO. _____. Amend House Bill 5270 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Juvenile Court Act of 1987 is amended by
5 adding Part 5A to Article V as follows:

6 (705 ILCS 405/Art. V Pt. 5A heading new)

7 PART 5A. FITNESS TO STAND TRIAL

8 (705 ILCS 405/5-5A-101 new)

9 Sec. 5-5A-101. Purpose. This Part recognizes that minors
10 are substantially different from adults and therefore creates
11 procedures to establish fitness to stand trial that
12 accommodate these differences. Currently in Illinois, minors
13 of any age can be arrested, charged, and prosecuted. This
14 approach is inconsistent with developmental science, which
15 overwhelmingly finds that minors are limited in their ability

1 to understand the consequences of their actions, manage
2 impulses and peer influence, and to plan for the future.
3 Modern neuroscience explains both limitations on culpability
4 for minors, defined as an individual's blameworthiness or
5 responsibility for a criminal action, as well as limitations
6 on the ability to assist with and make critical decisions
7 regarding one's own legal defense. Accordingly, prosecutors,
8 defense counsel, and courts must carefully consider
9 chronological immaturity, relative immaturity, and the impact
10 of trauma, as well as other relevant factors, in considering
11 the fitness of a minor to be tried, adjudicated or convicted,
12 and sentenced. These factors should be given significant
13 weight when determining the fitness of a minor under the age of
14 14.

15 This Part is intended to support minors through practices
16 that are trauma-informed and that protect a minor's rights and
17 dignity; questions of interpretation shall be resolved in line
18 with these practices. This Part recognizes that the ability to
19 understand charges and to participate meaningfully in one's
20 own defense evolve gradually throughout childhood and early
21 adulthood and that each minor shall receive developmentally
22 appropriate responses that reflect the best understanding of
23 the minor's current abilities.

24 (705 ILCS 405/5-5A-105 new)

25 Sec. 5-5A-105. Definitions. As used in this Part:

1 "Child traumatic stress" means exposure to one or more
2 traumatic events over the course of a minor's life that
3 results in that minor developing reactions that persist and
4 that interfere with the minor's functional, social, adaptive,
5 or intellectual ability.

6 "Chronological immaturity" means a lack of functional,
7 social, adaptive, or intellectual ability due to chronological
8 age.

9 "Developmental disability" means a disability that is
10 attributable to an intellectual disability, cerebral palsy,
11 epilepsy, autism, a learning disability, or any other
12 condition that results in impaired functional, social,
13 adaptive, or intellectual ability.

14 "Mental illness" means a mental or emotional disorder that
15 substantially impairs a person's thought, perception of
16 reality, emotional process, judgment, behavior, or ability to
17 cope with the ordinary demands of life.

18 "Minor" means a person under the age of 21 who was under 18
19 years of age at the time of the alleged offense initiating the
20 petition or charge. "Relative immaturity" means a lack of
21 functional, social, adaptive, or intellectual ability when a
22 minor is compared to other minors of the same chronological
23 age. "Substance use disorder" has the meaning given to that
24 term in Section 1-10 of the Substance Use Disorder Act.

1 Sec. 5-5A-110. Unfitness standard.

2 (a) A minor is unfit when the minor:

3 (1) lacks sufficient present ability to consult with
4 the minor's attorney with a reasonable degree of rational
5 understanding, as evidenced by deficits in the ability to
6 disclose to the attorney facts pertinent to the
7 proceedings at issue and to assist in the minor's defense;
8 or

9 (2) has deficits in the ability to understand the
10 proceedings against the minor, as demonstrated by, but not
11 limited to, one or more of the following:

12 (A) deficits in the ability to identify who the
13 participants are and understand their roles, including
14 the judge, minor's attorney, State's Attorney, or
15 qualified expert;

16 (B) deficits in the ability to appreciate the
17 range of possible dispositions that may be imposed in
18 the proceedings and how those dispositions will affect
19 the minor; or

20 (C) deficits in the ability to use the factual
21 understandings and factors in subparagraphs (A) and
22 (B) of this paragraph to make rational decisions and
23 display appropriate courtroom behavior.

24 (b) The presence of any condition or confluence of
25 conditions, including, but not limited to, physical condition,
26 mental illness, developmental disability, chronological

1 immaturity, relative immaturity, or child traumatic stress may
2 be considered in determining whether the minor meets the
3 unfitness standard. Substance use disorder may also be
4 considered as a co-occurring issue.

5 (c) A diagnosis is not required for a finding of
6 unfitness.

7 (705 ILCS 405/5-5A-115 new)

8 Sec. 5-5A-115. Raising the issue of unfitness.

9 (a) The issue of the minor's fitness to stand trial, to
10 plead, or to be sentenced may be raised by the minor's
11 attorney, the State, or the court at any time before a plea is
12 entered or before, during, or after trial. If the issue of
13 fitness is raised by the State, the State has the burden of
14 proving a bona fide doubt of the minor's fitness has been
15 raised. If the issue of fitness is raised by the minor's
16 attorney, that attorney has the burden of proving a bona fide
17 doubt of the minor's fitness has been raised. When a bona fide
18 doubt of the minor's fitness is raised, the court shall order a
19 determination of the issue of fitness before proceeding
20 further.

21 (b) Upon request of the minor's attorney that a qualified
22 expert be appointed to examine the minor to determine prior to
23 trial or adjudicatory hearing if a bona fide doubt as to a
24 minor's fitness to stand trial or plead may be raised, the
25 court shall order an appropriate examination. However, no

1 order entered pursuant to this subsection shall prevent
2 further proceedings in the case. An expert so appointed shall
3 examine the minor and make a report as provided in Section
4 5-5A-125. Such report shall only be tendered to the minor's
5 attorney. If the minor's attorney raises the issue of fitness
6 based on the report, that report shall be provided to the court
7 and the State. If the court finds a bona fide doubt of fitness
8 has been raised pursuant to this subsection, the matter shall
9 proceed to a hearing pursuant to Section 5-5A-160 before
10 proceeding further. Upon the filing with the court of a
11 verified statement of services rendered, the court shall order
12 the county board to pay such expert a reasonable fee stated in
13 the order.

14 (c) Nothing in this Section operates to extinguish any
15 rights of a minor established by attorney-client privilege.

16 (d) In all proceedings under this Act, the juvenile court
17 shall apply the fitness standards as set forth in this Part.
18 When a minor is being prosecuted under the criminal laws of
19 this State, the criminal court shall apply the fitness
20 standards in this Part.

21 (705 ILCS 405/5-5A-120 new)

22 Sec. 5-5A-120. Burdens and presumptions. In making
23 determinations concerning a minor's fitness, the following
24 burdens of proof and presumptions shall apply:

25 (1) for the purposes of this Section, a minor is

1 presumed to be fit to stand trial or to plead and be
2 sentenced. A minor is unfit based on the unfitness
3 standard set forth in Section 5-5A-110;

4 (2) except as set forth in paragraph (3), when the
5 court finds a bona fide doubt as to the fitness of a minor
6 under Section 5-5A-115, the State bears the burden of
7 proving that the minor is fit by a preponderance of the
8 evidence;

9 (3) when the court finds a bona fide doubt as to the
10 fitness of a minor under the age of 14 under Section
11 5-5A-115, the State bears the burden of proving that the
12 minor is fit by clear and convincing evidence; and

13 (4) a minor who is receiving medication shall not be
14 presumed to be fit or unfit to stand trial solely by virtue
15 of the receipt of that medication.

16 (705 ILCS 405/5-5A-125 new)

17 Sec. 5-5A-125. Fitness evaluation. When the court orders a
18 fitness evaluation under subsection (b) of Section 5-5A-115 or
19 a bona fide doubt of fitness is raised, the court must appoint
20 one or more qualified experts under Section 5-5A-135. Each
21 expert shall evaluate whether the minor is fit and submit a
22 report of the expert's findings to the court under Section
23 5-5A-155. No expert employed or contracted by the Department
24 of Human Services shall be ordered to perform, in the expert's
25 official capacity, an initial fitness examination under this

1 Section. Upon request of the minor's attorney, the court may
2 permit the minor's attorney to be present at the evaluation.

3 (705 ILCS 405/5-5A-130 new)

4 Sec. 5-5A-130. Location of evaluation. A fitness
5 evaluation must be conducted in the least restrictive
6 environment for the minor. The evaluation must be conducted in
7 person whenever possible. Video technology for a remote
8 evaluation may be used only as a last resort. If video
9 technology is used, it must be a secure platform. No facility
10 of the Department of Human Services shall be utilized for this
11 purpose.

12 (705 ILCS 405/5-5A-135 new)

13 Sec. 5-5A-135. Qualification of experts. An expert
14 evaluating the minor under Section 5-5A-125 or Section
15 5-5A-220 must either be a licensed clinical psychologist or
16 psychiatrist with training and experience in forensics, child
17 development, and child trauma.

18 (705 ILCS 405/5-5A-140 new)

19 Sec. 5-5A-140. Timeline for evaluation. The fitness
20 evaluation and report written under Section 5-5A-155 must be
21 completed within 30 days of a court order entered pursuant to
22 subsection (b) of Section 5-5A-115 or a bona fide doubt is
23 raised under subsection (a) of Section 5-5A-115. The time for

1 completion of the fitness evaluation may be extended an
2 additional 30 days for good cause shown.

3 (705 ILCS 405/5-5A-145 new)

4 Sec. 5-5A-145. Statements made during evaluation. No
5 statement made by the minor during the evaluation conducted
6 under Section 5-5A-125 shall be used against the minor in the
7 current court proceedings or in any future proceedings unless
8 the minor raises the defense of insanity or the defense of
9 intoxicated or drugged condition. No statement made by the
10 minor relating to the alleged offense or other offenses shall
11 be included in the report required under Section 5-5A-155. The
12 court must advise the minor before the evaluation takes place
13 that no statement made during the evaluation shall be used
14 against the minor.

15 (705 ILCS 405/5-5A-150 new)

16 Sec. 5-5A-150. Recordings of evaluations and privacy.

17 (a) An evaluation of the minor conducted under Section
18 5-5A-125 shall be video recorded.

19 (b) Subject to subsection (b) of Section 5-5A-115, the
20 video recording of a fitness evaluation is confidential and
21 may be viewed only by the court, the expert conducting the
22 evaluation defined in Section 5-5A-125, the minor's attorney,
23 the State, and any other expert in the proceedings deemed
24 necessary by the court and under Section 5-910.

1 (705 ILCS 405/5-5A-155 new)

2 Sec. 5-5A-155. Contents of evaluation report.

3 (a) Subject to subsection (b) of Section 5-5A-115, when an
4 evaluation is conducted under Section 5-5A-125, the appointed
5 expert must submit a written report of the findings to the
6 court. The evaluation report must detail the methods and tools
7 used during the evaluation and be made in writing.

8 (b) The evaluation report shall address the minor's
9 capacity and ability to:

10 (1) Appreciate the allegations of the petition;

11 (2) Appreciate the nature of the adversarial process,
12 including:

13 (A) Having a factual understanding of the
14 participants in the minor's proceeding including the
15 judge, defense counsel, prosecutor, witnesses, and
16 mental health expert; and

17 (B) Having a rational understanding of the role of
18 each participant in the proceeding;

19 (3) Appreciate the range of possible dispositions that
20 may be imposed in the proceedings and how these will
21 affect the minor;

22 (4) Disclose to counsel facts pertinent to the
23 proceedings at issue including:

24 (A) Ability to articulate thoughts;

25 (B) Ability to articulate emotions;

1 (C) Ability to accurately and reliably relate to a
2 sequence of events;

3 (D) Display logical and autonomous decision
4 making;

5 (E) Display appropriate courtroom behavior;

6 (F) Testify relevantly at proceedings; and

7 (G) Demonstrate any other capacity or ability
8 either separately identified by the court or
9 determined by the examiner to be relevant to the
10 court's determination.

11 (c) In assessing the minor's fitness, the expert shall
12 compare the minor being examined to juvenile norms that are
13 broadly defined as those skills typically possessed by a minor
14 of average intelligence and maturity.

15 (d) The expert shall determine and report if the minor
16 suffers from mental illness, substance use disorder,
17 developmental disability, chronological immaturity, or
18 relative immaturity.

19 (e) If the minor suffers from mental illness,
20 developmental disability, chronological immaturity, or
21 relative immaturity, the expert shall report the severity of
22 the impairment and its potential effect on the minor's fitness
23 to proceed.

24 (f) If the expert determines that the minor suffers from
25 chronological immaturity or relative immaturity, the expert
26 shall report a comparison of the minor to a minor of average

1 intelligence and maturity.

2 (g) If the expert determines that the minor suffers from a
3 mental illness, the expert shall provide the following
4 information:

5 (1) the prognosis of the mental illness; and

6 (2) whether the minor is taking any medication and, if
7 so, what medication.

8 (h) The report shall include:

9 (1) whether the expert, based on the evaluation and in
10 the expert's professional judgment believes the minor is
11 fit;

12 (2) if the expert believes the minor is unfit, whether
13 there is a substantial probability that the minor will
14 attain fitness within the statutory period to attain
15 fitness;

16 (3) if the expert believes the minor is unfit, the
17 report shall include an assessment of the minor's risk and
18 mediating supportive factors to guide placement and
19 recommendations for treatment. Recommendations for
20 treatment shall include:

21 (A) services that would help the minor attain
22 fitness;

23 (B) the most appropriate placement for treatment
24 considering the results of the risk assessment,
25 mediating supportive factors, and the least
26 restrictive alternative for placement, either on an

1 inpatient or outpatient basis; and

2 (C) if the evaluator recommends treatment on an
3 inpatient basis, the qualified expert must provide a
4 clearly articulated basis for such, including but not
5 limited to: severity of psychiatric symptoms, risk of
6 harm to self or others related to the severity of
7 psychiatric symptoms, need for structured,
8 trauma-informed care to stabilize symptoms, prior lack
9 of compliance with treatment on an outpatient basis,
10 lack of stable supportive parent or guardian in the
11 community, or other relevant data that would support
12 why fitness restoration could not be conducted safely;

13 (4) opinions on:

14 (A) the likelihood of the success of services
15 recommended; and

16 (B) the length of time anticipated to attain
17 fitness.

18 (i) If the report indicates that the minor is not fit to
19 stand trial or plead because of a disability, the report shall
20 include an opinion as to the likelihood of the minor attaining
21 fitness within a period of time from the date of the finding of
22 unfitness if provided with a course of treatment.

23 (705 ILCS 405/5-5A-160 new)

24 Sec. 5-5A-160. Hearing to determine fitness.

25 (a) After a bona fide doubt of fitness has been raised and

1 an evaluation conducted, the court shall conduct a hearing to
2 determine the issue of the minor's fitness within 30 days of
3 receipt of the evaluation report described in Section
4 5-5A-155, unless the timeline is waived by the minor's
5 attorney or good cause is shown.

6 (b) The minor has the right to be present at every hearing
7 on the issue of the minor's fitness.

8 (c) On the basis of the evidence before it, the court must
9 determine whether the minor is unfit to stand trial pursuant
10 to Section 5-5A-110. If the court finds that the minor is
11 unfit, the court shall determine:

12 (1) whether in-court assistance under Section 5-5A-190
13 would render the minor fit; and

14 (2) whether there is a substantial probability that
15 the minor, if provided with services to attain fitness
16 under Section 5-5A-165, will attain fitness within the
17 period to attain fitness set forth in Section 5-5A-175.

18 (d) If the court finds that the minor is unfit and there is
19 not a substantial probability the minor will attain fitness
20 within the statutory period as set forth in Section 5-5A-175,
21 the court shall proceed under subsection (d) of Section
22 5-5A-175.

23 (e) If the court finds the minor is unfit but that there is
24 a substantial probability that the minor will become fit
25 within the period to attain fitness set forth in Section
26 5-5A-175, or if the court is unable to determine whether a

1 substantial probability exists, the court shall order the
2 minor to receive services to attain fitness on either an
3 inpatient or outpatient basis. If the court is unable to
4 determine whether a substantial probability exists and orders
5 the minor to receive services to attain fitness, the court
6 shall conduct a hearing as soon as possible following the
7 receipt of the report filed under Section 5-5A-180 to
8 determine whether there is a substantial probability that the
9 minor will attain fitness within the statutory period.

10 (f) If the court finds that the minor is unfit to stand
11 trial, it shall proceed under this Act. If the court finds that
12 the minor could be rendered fit with in-court assistance, the
13 court shall order in-court assistance pursuant to Section
14 5-5A-190.

15 (g) An order finding the minor unfit to stand trial is a
16 final order for purposes of appeal by the State or the minor.

17 (705 ILCS 405/5-5A-165 new)

18 Sec. 5-5A-165. Services to attain fitness.

19 (a) When the court orders services to attain fitness under
20 Section 5-5A-160, the court shall determine if the minor will
21 receive services on an inpatient or outpatient basis. If
22 inpatient, the minor shall be placed at a facility designated
23 by the Department of Human Services to provide restoration
24 care and treatment. Inpatient placement may only be ordered if
25 the minor is found unfit due to a mental illness or

1 developmental disability and exhibits clinical needs
2 warranting a hospital level of care. If the court orders the
3 minor to receive services on an outpatient basis, such
4 services shall be rendered in the community. If the minor is
5 found unfit due to mental illness or developmental disability,
6 the outpatient placement may be at a program designated by the
7 Department of Human Services to provide restoration care and
8 treatment. Court-ordered services and placements shall
9 consider the recommendations in the evaluation report. All
10 services shall, to the extent practical, be trauma-informed,
11 developmentally appropriate, and provided in the least
12 restrictive environment considering the needs and best
13 interests of the minor.

14 (b) Minors 18 years of age or older at the time services
15 are ordered may be treated as adults for the purposes of
16 placement and service delivery.

17 (c) Within 5 days of a court order for services to attain
18 fitness entered under Section 5-5A-160, the clerk of the
19 circuit court shall transmit to the Department of Human
20 Services, and any other agency or institution providing
21 services to attain fitness to the minor, the following:

22 (1) a certified copy of the order to receive services
23 and the complete copy of any report on the minor's fitness
24 prepared under this Part;

25 (2) the county and municipality in which the alleged
26 offense occurred;

1 (3) the county and municipality in which the arrest
2 took place;

3 (4) a copy of the arrest report, charges, and arrest
4 record; and

5 (5) all additional matters that the court directs the
6 clerk to transmit.

7 (705 ILCS 405/5-5A-170 new)

8 Sec. 5-5A-170. Pretrial motions. Following a finding of
9 unfitness, the court may hear and rule on any pretrial motion
10 or motions if the minor's presence is not essential to a fair
11 determination of the issues. A motion may be reheard upon a
12 showing that evidence is available which was not available,
13 due to the minor's unfitness, when the motion was first
14 decided.

15 (705 ILCS 405/5-5A-175 new)

16 Sec. 5-5A-175. Period to attain fitness.

17 (a) For a minor charged with a felony, the maximum total
18 time a court may order a minor to receive services to attain
19 fitness shall be one year.

20 (b) For a minor charged with a misdemeanor, the maximum
21 total period a court may order a minor to receive services to
22 attain fitness shall be no longer than the length of the
23 sentence that could be imposed if the minor were adjudicated
24 delinquent or found guilty of the misdemeanor offense for

1 which the minor was charged, or one year, whichever is
2 shorter.

3 (c) The period to attain fitness shall begin with the
4 court's first finding of unfitness during a fitness hearing
5 under Section 5-5A-160.

6 (d) If the minor cannot attain fitness to stand trial and
7 the court determines that the minor cannot be rendered fit
8 with in-court assistance pursuant to Section 5-5A-190, then
9 the case shall proceed in the following manner:

10 (1) Upon the determination that there is not a
11 substantial probability that the minor will attain fitness
12 within the time period set forth in this Section, the
13 court shall hold a juvenile discharge hearing within 60
14 days, unless good cause is shown for the delay.

15 (2) If at any time the court determines that there is
16 not a substantial probability that the minor will become
17 fit to stand trial or to plead within the time period set
18 forth in this Section, or if at the end of the time period
19 set forth in this Section the court finds the minor still
20 unfit and cannot be rendered fit with in-court assistance
21 pursuant to Section 5-5A-190, the State shall request the
22 court:

23 (A) To set the matter for hearing pursuant to
24 Section 5-5A-210 unless a hearing has already been
25 held pursuant to paragraph (1) of this subsection; or

26 (B) To release the minor from custody and to

1 dismiss with prejudice the charges against the minor;

2 or

3 (C) To order a hearing to be conducted pursuant to
4 the provisions of the Mental Health and Developmental
5 Disabilities Code. Placement, if appropriate, shall be
6 based on the minor's eligibility under the Code and
7 the availability of services consistent with the
8 minor's age and clinical needs. Any petitions or
9 certificates required under that Code shall be
10 prepared and filed in accordance with its provisions.
11 If the minor is committed pursuant to such hearing,
12 the court having jurisdiction over the criminal matter
13 shall dismiss the charges against the minor, with the
14 leave to reinstate. In such cases the facility or
15 entity responsible for the minor's treatment shall
16 notify the court, the State's Attorney, and the
17 minor's attorney upon the discharge of the minor. A
18 former minor so committed shall be treated in the same
19 manner as any other civilly committed patient for all
20 purposes including admission, selection of the place
21 of treatment and the treatment modalities, entitlement
22 to rights and privileges, transfer, and discharge. A
23 minor who is not committed shall be remanded to the
24 court having jurisdiction of the criminal matter for
25 disposition pursuant to subparagraph (A) or (B) of
26 paragraph (2) of this subsection.

1 (3) If the minor is restored to fitness and the
2 original charges against the minor are reinstated, the
3 speedy trial provisions of Section 5-601 shall commence to
4 run.

5 (705 ILCS 405/5-5A-180 new)

6 Sec. 5-5A-180. Initial and subsequent progress reports.

7 (a) Within 30 days of entry of an order to receive services
8 to attain fitness under Sections 5-5A-165 and 5-5A-175, the
9 person in charge of supervising the minor's services shall
10 file with the court an initial report assessing the program's
11 capacity to provide appropriate services for the minor and
12 indicating the person's opinion as to the probability of the
13 minor attaining fitness within the period to attain fitness
14 provided in Section 5-5A-175. If the initial report indicates
15 that there is a substantial probability that the minor will
16 attain fitness within the allowed statutory period, the
17 supervisor shall also file a services plan which shall
18 include: (1) a description of the goals of services with
19 respect to rendering the minor fit, a specification of the
20 proposed modalities of services, and an estimated timetable
21 for attainment of the goals; and (2) an identification of the
22 person in charge of supervising the minor's services.

23 (b) The supervisor shall submit a subsequent written
24 progress report to the court at least 7 days prior to the date
25 of any hearing on the issue of the minor's fitness.

1 (c) If the supervisor determines that any of the following
2 circumstances are met, the supervisor shall notify the court
3 in writing as soon as possible but no later than 7 days after
4 the determination is made:

5 (1) if the supervisor believes that the minor has
6 attained fitness;

7 (2) if the supervisor believes that there is not a
8 substantial probability that the minor will attain
9 fitness, with services, within the period to attain
10 fitness under Section 5-5A-175; or

11 (3) if the supervisor believes a change in services or
12 placement is necessary.

13 (d) The initial and subsequent progress reports shall
14 contain:

15 (1) the clinical findings of the supervisor and the
16 facts upon which the findings are based;

17 (2) the opinion of the supervisor as to whether the
18 minor has attained fitness and as to whether the minor is
19 making progress, with services, toward attaining fitness
20 within the period set in Section 5-5A-175;

21 (3) whether the current services to attain fitness and
22 placement continue to be in the least restrictive
23 environment necessary, whether a different level of care
24 is needed, and the basis for that recommendation; and

25 (4) any other changes in recommendations of services
26 to attain fitness.

1 (e) If the supervisor of the minor's services determines,
2 under paragraph (3) of subsection (d) of this Section, that
3 the minor is not in the least restrictive environment
4 necessary to attain fitness, upon receipt of the progress
5 report, the court shall ensure that the minor is immediately
6 moved to the least restrictive environment necessary.

7 (705 ILCS 405/5-5A-185 new)

8 Sec. 5-5A-185. Periodic hearings. Upon entry or
9 continuation of any order to receive services to attain
10 fitness, the court shall set a date for hearing to reexamine
11 the issue of the minor's fitness not more than 90 days
12 thereafter. In addition, whenever the court receives a report
13 from the supervisor of the minor's services under subsection
14 (c) of Section 5-5A-180, the court shall set the matter for a
15 hearing within 14 days unless good cause is demonstrated why
16 the hearing cannot be held. On the date set, the court shall
17 conduct a hearing to redetermine the minor's fitness under
18 Section 5-5A-160.

19 (705 ILCS 405/5-5A-190 new)

20 Sec. 5-5A-190. In-court assistance to render a minor fit.
21 (a) If the court determines that the minor could be
22 rendered fit with in-court assistance under Section 5-5A-160,
23 the court shall order in-court assistance under subsection
24 (b). A minor found unfit because of chronological immaturity

1 cannot be rendered fit with in-court assistance. A minor found
2 unfit because of relative immaturity or child traumatic stress
3 cannot be rendered fit solely with in-court assistance.

4 (b) In-court assistance may include, but is not limited
5 to:

6 (1) appointment of a qualified translator who shall
7 simultaneously translate all court proceedings into a
8 language understood by the minor; and

9 (2) appointment of an expert qualified to assist a
10 minor who, because of a disability, is unable to
11 communicate with the minor's attorney.

12 (c) If in-court assistance is provided, the case may
13 proceed to trial only if the court determines that in-court
14 assistance renders the minor fit. In such cases, the court
15 shall state for the record the following:

16 (1) the qualifications and experience of the experts
17 or other persons appointed to provide in-court assistance
18 to the minor;

19 (2) the court's reasons for selecting or appointing
20 the particular experts or other persons to provide the
21 in-court assistance to the minor;

22 (3) how the appointment of the particular expert or
23 other persons will serve the goal of rendering the minor
24 fit, based on the appointee's qualifications and
25 experience, and the lack of functional, social, adaptive,
26 or intellectual abilities of the minor; and

1 (4) any other factors considered by the court in
2 appointing the experts or other persons.

3 (d) A minor adjudicated delinquent or found guilty
4 following a trial conducted with in-court assistance provided
5 under this Section shall not be sentenced before a written
6 report of social investigation is presented to and considered
7 by the court. The written report of social investigation shall
8 be prepared under Section 5-701 or the presentence report
9 prepared pursuant to Section 5-3-2 of the Unified Code of
10 Corrections and shall include a physical and mental
11 examination unless the court finds that the reports of prior
12 physical and mental examinations conducted under this Part are
13 adequate and recent enough to render additional examinations
14 unnecessary.

15 (705 ILCS 405/5-5A-195 new)

16 Sec. 5-5A-195. Time credit. A sentence imposed on the
17 minor in the pending case or in any other case arising out of
18 the same conduct shall be reduced by time spent:

19 (1) in custody under orders issued under Section
20 5-5A-165 or under a commitment to the Department of Human
21 Services following a finding of unfitness under this Part;

22 (2) in any court-ordered out-of-home placement;
23 including, but not limited to, a detention facility,
24 rehabilitation center, or inpatient hospital; or

25 (3) home detention or electronic monitoring pursuant

1 to Section 5-7A-110.

2 (705 ILCS 405/5-5A-200 new)

3 Sec. 5-5A-200. Court organization of records. Any report
4 filed with the court concerning diagnosis, evaluation,
5 progress, or services made under this Part shall not be placed
6 in the minor's court record but shall be maintained separately
7 by the clerk of the court and shall be available only to the
8 court or an appellate court, the State, the minor, the minor's
9 attorney, the minor's parent or guardian, or a facility or
10 program that provides services to the minor under an order of
11 the court. These records of the minor shall be privileged and
12 shall not be disclosed except under the conditions set forth
13 in Section 5-910. Nothing in this Section operates to
14 extinguish any rights of a minor established by law,
15 including, but not limited to: attorney-client,
16 physician-patient, psychologist-client, or social
17 worker-client privilege, except as otherwise provided by law.

18 (705 ILCS 405/5-5A-205 new)

19 Sec. 5-5A-205. Sentencing guidelines for a minor who
20 attains fitness. The court shall not impose a commitment to
21 the Department of Juvenile Justice or the Department of
22 Corrections upon the minor if the court believes that, because
23 of the minor's condition, such a sentence would not be in the
24 interests of society and the minor or would subject the minor

1 to excessive hardship. In addition to any other conditions of
2 a sentence of conditional discharge or probation, the court
3 may require that the minor receive additional services for the
4 minor's condition.

5 (705 ILCS 405/5-5A-210 new)

6 Sec. 5-5A-210. Juvenile discharge hearing.

7 (a) As provided for in paragraph (1) of subsection (d) of
8 Section 5-5A-175 and subparagraph (A) of paragraph (2) of
9 subsection (d) of Section 5-5A-175 a hearing to determine the
10 sufficiency of the evidence shall be held. Such hearing shall
11 be conducted by the court without a jury. The State and the
12 minor's attorney may introduce evidence relevant to the
13 question of the minor's guilt of the crime charged.

14 The court may admit hearsay or affidavit evidence on
15 secondary matters such as testimony to establish the chain of
16 possession of physical evidence, laboratory reports,
17 authentication of transcripts taken by official reporters,
18 court and business records, and public documents.

19 (b) If the evidence does not prove the minor guilty beyond
20 a reasonable doubt, the court shall enter a judgment of
21 acquittal; however nothing herein shall prevent the State from
22 requesting the court to commit the minor under the provisions
23 of the Mental Health and Developmental Disabilities Code.

24 (c) If the minor is found not guilty by reason of insanity,
25 the court shall enter a judgment of acquittal and the

1 proceedings after acquittal by reason of insanity under
2 Section 5-2-4 of the Unified Code of Corrections shall apply.

3 (d) If the juvenile discharge hearing does not result in
4 an acquittal of the charge, the minor may be remanded for
5 further treatment and the one-year time limit set forth in
6 Section 5-5A-175 shall be extended as follows:

7 (1) If the most serious charge upon which the State
8 sustained its burden of proof was a Class 1 or Class X
9 felony, the treatment period may be extended up to a
10 maximum treatment period of 2 years; if a Class 2, 3, or 4
11 felony, the treatment period may be extended up to a
12 maximum of 15 months;

13 (2) If the State sustained its burden of proof on a
14 charge of first degree murder, the treatment period may be
15 extended up to a maximum treatment period of 5 years.

16 (e) Transcripts of testimony taken at a juvenile discharge
17 hearing may be admitted in evidence at a subsequent trial of
18 the case, subject to the rules of evidence, if the witness who
19 gave such testimony is legally unavailable at the time of
20 subsequent trial.

21 (f) If the court fails to enter an order of acquittal the
22 minor's attorney may appeal from such judgment in the same
23 manner provided for an appeal from a conviction in a criminal
24 case or final judgments in delinquent minor proceedings
25 arising under this Act.

26 (g) At the expiration of an extended period of treatment

1 ordered pursuant to this Section:

2 (1) Upon a finding that the minor is fit or can be
3 rendered fit consistent with Section 5-5A-190, the court
4 may proceed with trial.

5 (2) If the minor continues to be unfit to stand trial,
6 the court shall determine whether the minor is subject to
7 involuntary admission under the Mental Health and
8 Developmental Disabilities Code or constitutes a serious
9 threat to the public safety. If so found, the court may
10 order the minor to receive treatment in an appropriate
11 setting consistent with the minor's eligibility under the
12 Code and the minor's age, clinical needs, and the
13 availability of services. The minor shall be treated in
14 the same manner as a civilly committed patient for all
15 purposes, except that the original court having
16 jurisdiction over the minor shall be required to approve
17 any conditional release or discharge of the minor, for the
18 period of commitment equal to the maximum sentence to
19 which the minor would have been subject had the minor been
20 convicted in a criminal proceeding or the maximum sentence
21 available for those subject to the exclusive jurisdiction
22 of this Act. During this period of commitment, the
23 original court having jurisdiction over the minor shall
24 hold hearings under clause (i) of this paragraph (2).
25 However, if the minor is remanded to the Department of
26 Human Services, the minor shall be placed in a secure

1 setting unless the court determines that there are
2 compelling reasons why such a placement is not necessary.

3 If the minor does not have a current treatment plan,
4 then within 3 days of admission under this paragraph
5 (g) (2), a treatment plan shall be prepared for each minor
6 and entered into the minor's record. The plan shall
7 include (i) an assessment of the minor's treatment needs,
8 (ii) a description of the services recommended for
9 treatment, (iii) the goals of each type of element of
10 service, (iv) an anticipated timetable for the
11 accomplishment of the goals, and (v) a designation of the
12 qualified professional responsible for the implementation
13 of the plan. The plan shall be reviewed and updated as the
14 clinical condition warrants, but not less than every 30
15 days.

16 Every 90 days after the initial admission under this
17 paragraph (g) (2), the facility director shall file a typed
18 treatment plan report with the original court having
19 jurisdiction over the minor. The report shall include an
20 opinion as to whether the minor is fit to stand trial and
21 whether the minor is currently subject to involuntary
22 admission, in need of mental health services on an
23 inpatient basis, or in need of mental health services on
24 an outpatient basis. The report shall also summarize the
25 basis for those findings and provide a current summary of
26 the 5 items required in a treatment plan. A copy of the

1 report shall be forwarded to the clerk of the court, the
2 State's Attorney, and the minor's attorney.

3 The court on its own motion may order a hearing to
4 review the treatment plan. The minor, the minor's
5 attorney, or the State's Attorney may request a treatment
6 plan review every 90 days and the court shall review the
7 current treatment plan to determine whether the plan
8 complies with the requirements of this Section. The court
9 may order an independent examination on its own initiative
10 and shall order such an evaluation if either the recipient
11 or the State's Attorney so requests and has demonstrated
12 to the court that the plan cannot be effectively reviewed
13 by the court without such an examination. Under no
14 circumstances shall the court be required to order an
15 independent examination pursuant to this Section more than
16 once each year. The examination shall be conducted by an
17 expert as defined in Section 5-5A-135 who is not in the
18 employ of the Department of Human Services.

19 If, during the period within which the minor is
20 confined in a secure setting, the court enters an order
21 that requires the minor to appear, the court shall timely
22 transmit a copy of the order or writ to the director of the
23 particular Department of Human Services facility where the
24 minor resides authorizing the transportation of the minor
25 to the court for the purpose of the hearing.

26 (A) 180 days after a minor is remanded to the

1 Department of Human Services, under this paragraph
2 (2), and every 180 days thereafter for so long as the
3 minor is confined under the order entered thereunder,
4 the court shall set a hearing and shall direct that
5 notice of the time and place of the hearing be served
6 upon the minor, the facility director, the State's
7 Attorney, and the minor's attorney. If requested by
8 either the State, the minor, or the minor's attorney
9 or if the court determines that it is appropriate, an
10 impartial examination of the minor by an expert as
11 defined in Section 5-5A-135 who is not in the employ of
12 the Department of Human Services shall be ordered, and
13 the report considered at the time of the hearing. If
14 the minor is not currently represented by an attorney,
15 the court shall appoint the public defender to
16 represent the minor at the hearing. The court shall
17 make a finding as to whether the minor is:

18 (i) a person subject to involuntary admission
19 on an inpatient basis; or

20 (ii) in need of mental health services in the
21 form of inpatient care; or

22 (iii) in need of mental health services but
23 not subject to involuntary admission nor inpatient
24 care. The findings of the court shall be
25 established by clear and convincing evidence and
26 the burden of proof and the burden of going

1 forward with the evidence shall rest with the
2 State's Attorney. Upon finding by the court, the
3 court shall enter its findings and an appropriate
4 order.

5 (B) "Person subject to involuntary admission on an
6 inpatient basis" has the meaning ascribed to it in
7 Section 1-119 of the Mental Health and Developmental
8 Disabilities Code.

9 (C) "In need of mental health services in the form
10 of inpatient care" and "in need of mental health
11 services but not subject to involuntary admission nor
12 inpatient care" have the meanings ascribed to them in
13 clause (d) of Section 5-2-4 of the Unified Code of
14 Corrections.

15 (3) If the minor is not committed pursuant to this
16 Section, the minor shall be released.

17 (4) In no event may the treatment period be extended
18 to exceed the maximum sentence to which a minor would have
19 been subject had the minor been convicted in a criminal
20 proceeding or the maximum sentence available for those
21 subject to the exclusive jurisdiction of this Act.

22 (705 ILCS 405/5-5A-215 new)

23 Sec. 5-5A-215. Juvenile Discharge Hearing Task Force.

24 (a) The Juvenile Discharge Hearing Task Force is created
25 to examine the juvenile discharge hearing process, compare

1 Illinois' process with those of other states with juvenile
2 fitness standards, and recommend reforms to the process that
3 ensures minors receive meaningful treatment for existing
4 mental health needs. The recommendations shall include updates
5 to Section 5-5A-210 and whether the juvenile discharge hearing
6 should take place on the same timeframe as discharge hearings
7 for adult offenders.

8 (b) The Task Force shall consist of the following members,
9 all of whom shall serve without compensation:

10 (1) the Commission Chair of the Illinois Juvenile
11 Justice Commission, or the Commission Chair's designee,
12 who shall serve as a co-chair of the Task Force;

13 (2) the Secretary of Human Services, or the
14 Secretary's Designee, who shall serve as a co-chair of the
15 Task Force;

16 (3) one member of the General Assembly, appointed by
17 the President of the Senate;

18 (4) one member of the General Assembly, appointed by
19 the Minority Leader of the Senate;

20 (5) one member of the General Assembly, appointed by
21 the Speaker of the House of Representatives;

22 (6) one member of the General Assembly, appointed by
23 the House Minority Leader;

24 (7) the Director of the Administrative Office of the
25 Illinois Courts, or the Director's designee;

26 (8) the Cook County State's Attorney, or the State's

1 Attorney's designee;

2 (9) a member nominated by the State Appellate
3 Prosecutor and appointed by the Governor;

4 (10) the Cook County Public Defender, or the Public
5 Defender's designee;

6 (11) a member nominated by the State Appellate
7 Defender and appointed by the Governor;

8 (12) one expert fitness evaluator, appointed by the
9 Governor;

10 (13) one representative of an Illinois organization
11 that advocates for currently and formerly incarcerated
12 youth, appointed by the Governor;

13 (14) one representative from a statewide organization
14 that advocates on behalf of the community-based services
15 for children and families, appointed by the Governor; and

16 (15) one representative of a statewide organization
17 that advocates for youth living with mental health
18 conditions, appointed by the Governor.

19 (c) Within 60 days of the effective date of this
20 amendatory Act of the 104th General Assembly, the co-chairs
21 shall establish the Task Force. The Task Force will meet at the
22 call of the co-chairs and shall hold its first meeting no later
23 than December 1, 2026. The Department of Human Services shall
24 provide administrative support to the Task Force.

25 (d) The Task Force may meet in person or virtually and
26 shall issue a written report of its findings and

1 recommendations to the General Assembly on or before January
2 1, 2028.

3 (e) The Task Force shall be dissolved following the
4 submission of its report.

5 (705 ILCS 405/5-5A-220 new)

6 Sec. 5-5A-220. Follow-up data collection recommendations.
7 The Illinois Juvenile Justice Commission shall identify
8 relevant data and recommend mechanisms to collect and analyze
9 data, disaggregated by race, ethnicity, gender, geography,
10 age, and socioeconomic status, resulting from the
11 implementation of this Part. The report and recommendations
12 shall be submitted to the General Assembly by January 1, 2029.

13 (705 ILCS 405/5-5A-225 new)

14 Sec. 5-5A-225. Annual reports on minors receiving fitness
15 restoration services. No later than December 31, 2027, and on
16 December 31 of each year thereafter, the Department of Human
17 Services shall prepare and post on the Department of Human
18 Services' website an annual report, covering the previous
19 fiscal year, on youth receiving fitness restoration services.
20 This report shall include de-identified data on numbers,
21 characteristics, and outcomes of minors receiving fitness
22 restoration services through the Department of Human Services
23 and through programs contracted by the Department of Human
24 Services. The data in the report should be disaggregated by

1 age and geography.

2 Section 997. Severability. The provisions of this Act are
3 severable under Section 1.31 of the Statute on Statutes.

4 Section 999. Effective date. This Act takes effect July 1,
5 2026.".