



Rep. Justin Slaughter

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1 AMENDMENT TO SENATE BILL 3942

2 AMENDMENT NO. _____. Amend Senate Bill 3942 on page 1, by
3 replacing lines 4 and 5 with the following:

4 "Section 5. The Juvenile Court Act of 1987 is amended by
5 changing Sections 5-745 and 5-750 and by adding Part 5A to
6 Article V as follows:"; and

7 on page 17, immediately below line 5, by inserting the
8 following:

9 "(705 ILCS 405/Art. V Pt. 5A heading new)

10 PART 5A. FITNESS TO STAND TRIAL

11 (705 ILCS 405/5-551 new)

12 Sec. 5-551. Purpose. This Part recognizes that minors are
13 substantially different from adults and, therefore, creates
14 procedures to establish fitness to stand trial that

1 accommodate these differences. Currently, in Illinois, minors
2 of any age can be arrested, charged, and prosecuted. This
3 approach is inconsistent with developmental science, which
4 overwhelmingly finds that minors are limited in their ability
5 to understand the consequences of their actions, to manage
6 impulses and peer influence, and to plan for the future.
7 Modern neuroscience explains both limitations on culpability
8 for minors, defined as an individual's blameworthiness or
9 responsibility for a criminal action, and limitations on the
10 ability to assist with and make critical decisions regarding
11 one's own legal defense. Accordingly, prosecutors, defense
12 counsel, and courts must carefully consider chronological
13 immaturity, relative immaturity, and the impact of trauma, as
14 well as other relevant factors, in considering the fitness of
15 a minor to be tried, adjudicated or convicted, and sentenced.
16 These factors should be given significant weight when
17 determining the fitness of a minor under the age of 14.

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

1 (705 ILCS 405/5-552 new)

2 Sec. 5-552. Definitions. As used in this Part:

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

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

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

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

20 "Minor" means a person under the age of 21 who was under
21 the age of 18 at the time of the alleged offense initiating the
22 petition or charge.

23 "Relative immaturity" means a lack of functional, social,
24 adaptive, or intellectual ability when a minor is compared to
25 other minors of the same chronological age.

1 "Substance use disorder" has the meaning given to that
2 term in Section 1-10 of the Substance Use Disorder Act.

3 (705 ILCS 405/5-553 new)

4 Sec. 5-553. Unfitness standard.

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

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

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

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

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

23 (C) deficits in the ability to use the factual
24 understandings and factors in subparagraphs (A) and
25 (B) of this paragraph to make rational decisions and

1 display appropriate courtroom behavior.

2 (b) The presence of any condition or confluence of
3 conditions, including, but not limited to, physical
4 conditions, mental illness, developmental disability,
5 chronological immaturity, relative immaturity, or child
6 traumatic stress may be considered in determining whether the
7 minor meets the unfitness standard. Substance use disorder may
8 also be considered as a co-occurring issue.

9 (c) A diagnosis is not required for a finding of
10 unfitness.

11 (705 ILCS 405/5-554 new)

12 Sec. 5-554. Raising the issue of unfitness.

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

25 (b) Upon request of the minor's attorney that a qualified

1 expert be appointed to examine the minor to determine prior to
2 trial or adjudicatory hearing if a bona fide doubt as to a
3 minor's fitness to stand trial or plead may be raised, the
4 court shall order an appropriate examination. However, no
5 order entered pursuant to this subsection shall prevent
6 further proceedings in the case. An expert so appointed shall
7 examine the minor and make a report as provided in Section
8 5-556. The report shall be tendered only to the minor's
9 attorney. If the minor's attorney raises the issue of fitness
10 based on the report, the report shall be provided to the court
11 and the State. If the court finds a bona fide doubt of fitness
12 has been raised under this subsection, the matter shall
13 proceed to a hearing under Section 5-563 before proceeding
14 further. Upon the filing with the court of a verified
15 statement of services rendered, the court shall order the
16 county board to pay the expert a reasonable fee stated in the
17 order.

18 (c) Nothing in this Section operates to extinguish any
19 rights of a minor established by the attorney-client
20 privilege.

21 (d) In all proceedings under this Act, the juvenile court
22 shall apply the fitness standards as set forth in this Part.
23 When a minor is being prosecuted under the criminal laws of
24 this State, the criminal court shall apply the fitness
25 standards in this Part.

1 (705 ILCS 405/5-555 new)

2 Sec. 5-555. Burdens and presumptions. In making
3 determinations concerning a minor's fitness, all the following
4 burdens of proof and presumptions shall apply:

5 (1) A minor is presumed to be fit to stand trial or to
6 plead and be sentenced. A minor may be found unfit based on
7 the unfitness standard set forth in Section 5-553.

8 (2) Except as set forth in paragraph (3), when the
9 court finds a bona fide doubt as to the fitness of a minor
10 under Section 5-554, the State bears the burden of proving
11 that the minor is fit by a preponderance of the evidence.

12 (3) When the court finds a bona fide doubt as to the
13 fitness of a minor under the age of 14 under Section 5-554,
14 the State bears the burden of proving that the minor is fit
15 by clear and convincing evidence.

16 (4) A minor who is receiving medication shall not be
17 presumed to be fit or unfit to stand trial solely by virtue
18 of the receipt of that medication.

19 (705 ILCS 405/5-556 new)

20 Sec. 5-556. Fitness evaluation. When the court orders a
21 fitness evaluation under subsection (b) of Section 5-554 or
22 the raising of a bona fide doubt of fitness, the court must
23 appoint one or more qualified experts under Section 5-558.
24 Each expert shall evaluate whether the minor is fit and submit
25 a report of the expert's findings to the court under Section

1 5-562. No expert employed or contracted by the Department of
2 Human Services shall be ordered to perform, in the expert's
3 official capacity, an initial fitness examination under this
4 Section. Upon request of the minor's attorney, the court may
5 permit the minor's attorney to be present at the evaluation.

6 (705 ILCS 405/5-557 new)

7 Sec. 5-557. Location of evaluation. A fitness evaluation
8 must be conducted in the least restrictive environment for the
9 minor. The evaluation must be conducted in person whenever
10 possible. Video technology for a remote evaluation may be used
11 only as a last resort. If video technology is used, it must be
12 a secure platform. No facility of the Department of Human
13 Services shall be used for this purpose.

14 (705 ILCS 405/5-558 new)

15 Sec. 5-558. Qualification of experts. An expert evaluating
16 the minor under Section 5-556 or Section 5-573 must either be a
17 licensed clinical psychologist or psychiatrist with training
18 and experience in forensics, child development, and child
19 trauma.

20 (705 ILCS 405/5-559 new)

21 Sec. 5-559. Timeline for evaluation. The fitness
22 evaluation and report written under Section 5-562 must be
23 completed within 30 days of a court order entered pursuant to

1 subsection (b) of Section 5-554 or a bona fide doubt is raised
2 under subsection (a) of Section 5-554. The time for completion
3 of the fitness evaluation may be extended an additional 30
4 days for good cause shown.

5 (705 ILCS 405/5-560 new)

6 Sec. 5-560. Statements made during evaluation. No
7 statement made by the minor during the evaluation conducted
8 under Section 5-556 shall be used against the minor in the
9 current court proceedings or in any future proceedings unless
10 the minor raises the defense of insanity or the defense of
11 intoxicated or drugged condition. No statement made by the
12 minor relating to the alleged offense or other offenses shall
13 be included in the report required under Section 5-562. The
14 court must advise the minor before the evaluation takes place
15 that no statement made during the evaluation shall be used
16 against the minor.

17 (705 ILCS 405/5-561 new)

18 Sec. 5-561. Recordings of evaluations and privacy.

19 (a) An evaluation of the minor conducted under Section
20 5-556 shall be video recorded.

21 (b) Subject to subsection (b) of Section 5-554, the video
22 recording of a fitness evaluation is confidential and may be
23 viewed only by the court, the expert conducting the evaluation
24 defined in Section 5-556, the minor's attorney, the State, and

1 any other expert in the proceedings deemed necessary by the
2 court and under Section 5-910.

3 (705 ILCS 405/5-562 new)

4 Sec. 5-562. Contents of evaluation report.

5 (a) Subject to subsection (b) of Section 5-554, when an
6 evaluation is conducted under Section 5-556, the appointed
7 expert must submit a written report of the findings to the
8 court. The evaluation report must detail the methods and tools
9 used during the evaluation and be made in writing.

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

12 (1) appreciate the allegations of the petition;

13 (2) appreciate the nature of the adversarial process,
14 including:

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

19 (B) having a rational understanding of the role of
20 each participant in the proceeding;

21 (3) appreciate the range of possible dispositions that
22 may be imposed in the proceedings and how these will
23 affect the minor;

24 (4) disclose to counsel facts pertinent to the
25 proceedings at issue, including:

1 (A) the ability to articulate thoughts;

2 (B) the ability to articulate emotions;

3 (C) the ability to accurately and reliably relate
4 a sequence of events;

5 (5) display logical and autonomous decision-making;

6 (6) display appropriate courtroom behavior;

7 (7) testify relevantly at the proceedings; and

8 (8) demonstrate any other capacity or ability either
9 separately identified by the court or determined by the
10 examiner to be relevant to the 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, an
17 assessment of the minor's risk and mediating supportive
18 factors to guide placement and recommendations for
19 treatment, which shall include:

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

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

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

11 (4) opinions on:

12 (A) the likelihood of the success of services
13 recommended; and

14 (B) the length of time anticipated to attain
15 fitness.

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

21 (705 ILCS 405/5-563 new)

22 Sec. 5-563. Hearing to determine fitness.

23 (a) After a bona fide doubt of fitness has been raised and
24 an evaluation conducted, the court shall conduct a hearing to
25 determine the issue of the minor's fitness within 30 days of

1 receipt of the evaluation report described in Section 5-562,
2 unless the timeline is waived by the minor's attorney or good
3 cause is shown.

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

6 (c) On the basis of the evidence before it, the court must
7 determine whether the minor is unfit to stand trial pursuant
8 to Section 5-553. If the court finds that the minor is unfit,
9 the court shall determine:

10 (1) whether in-court assistance under Section 5-569
11 would render the minor fit; and

12 (2) whether there is a substantial probability that
13 the minor, if provided with services to attain fitness
14 under Section 5-564, will attain fitness within the period
15 to attain fitness set forth in Section 5-566.

16 (d) If the court finds that the minor is unfit and there is
17 not a substantial probability the minor will attain fitness
18 within the statutory period as set forth in Section 5-566, the
19 court shall proceed under subsection (d) of Section 5-566.

20 (e) If the court finds the minor is unfit but that there is
21 a substantial probability that the minor will become fit
22 within the period to attain fitness set forth in Section
23 5-566, or if the court is unable to determine whether a
24 substantial probability exists, the court shall order the
25 minor to receive services to attain fitness on either an
26 inpatient or outpatient basis. If the court is unable to

1 determine whether a substantial probability exists and orders
2 the minor to receive services to attain fitness, the court
3 shall conduct a hearing as soon as possible following the
4 receipt of the report filed under Section 5-567 to determine
5 whether there is a substantial probability that the minor will
6 attain fitness within the statutory period.

7 (f) If the court finds that the minor is unfit to stand
8 trial, it shall proceed under this Act. If the court finds that
9 the minor could be rendered fit with in-court assistance, the
10 court shall order in-court assistance pursuant to Section
11 5-569.

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

14 (705 ILCS 405/5-564 new)

15 Sec. 5-564. Services to attain fitness.

16 (a) When the court orders services to attain fitness under
17 Section 5-563, the court shall determine if the minor will
18 receive services on an inpatient or outpatient basis. If
19 inpatient, the minor shall be placed at a facility designated
20 by the Department of Human Services to provide restoration
21 care and treatment. Inpatient placement may be ordered only if
22 the minor is found unfit due to a mental illness or
23 developmental disability and exhibits clinical needs
24 warranting a hospital level of care. If the court orders the
25 minor to receive services on an outpatient basis, the services

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

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

14 (c) Within 5 days of a court order for services to attain
15 fitness entered under Section 5-563, the clerk of the circuit
16 court shall transmit to the Department of Human Services, as
17 well as any other agency or institution providing services to
18 attain fitness to the minor, the following:

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

22 (2) the county and municipality in which the alleged
23 offense occurred;

24 (3) the county and municipality in which the arrest
25 took place;

26 (4) a copy of the arrest report, charges, and arrest

1 record; and

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

4 (705 ILCS 405/5-565 new)

5 Sec. 5-565. Pretrial motions. Following a finding of
6 unfitness, the court may hear and rule on any pretrial motion
7 or motions if the minor's presence is not essential to a fair
8 determination of the issues. A motion may be reheard upon a
9 showing that evidence is available which was not available,
10 due to the minor's unfitness, when the motion was first
11 decided.

12 (705 ILCS 405/5-566 new)

13 Sec. 5-566. Period to attain fitness.

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

17 (b) For a minor charged with a misdemeanor, the maximum
18 total period a court may order a minor to receive services to
19 attain fitness shall be no longer than the length of the
20 sentence that could be imposed if the minor were adjudicated
21 delinquent or found guilty of the misdemeanor offense for
22 which the minor was charged, or one year, whichever is
23 shorter.

24 (c) The period to attain fitness shall begin with the

1 court's first finding of unfitness during a fitness hearing
2 under Section 5-563.

3 (d) If the minor cannot attain fitness to stand trial and
4 the court determines that the minor cannot be rendered fit
5 with in-court assistance pursuant to Section 5-569, then the
6 case shall proceed in the following manner:

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

12 (2) If at any time the court determines that there is
13 not a substantial probability that the minor will become
14 fit to stand trial or to plead within the time period set
15 forth in this Section, or if at the end of the time period
16 set forth in this Section the court finds the minor still
17 unfit and cannot be rendered fit with in-court assistance
18 pursuant to Section 5-569, the State shall request the
19 court:

20 (A) to set the matter for hearing pursuant to
21 Section 5-573 unless a hearing has already been held
22 pursuant to paragraph (1) of this subsection; or

23 (B) to release the minor from custody and to
24 dismiss with prejudice the charges against the minor;
25 or

26 (C) to order a hearing to be conducted pursuant to

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

24 (3) If the minor is restored to fitness and the
25 original charges against the minor are reinstated, the
26 speedy trial provisions of Section 5-601 shall commence to

1 run.

2 (705 ILCS 405/5-567 new)

3 Sec. 5-567. Initial and subsequent progress reports.

4 (a) Within 30 days of entry of an order to receive services
5 to attain fitness under Sections 5-564 and 5-566, the person
6 in charge of supervising the minor's services shall file with
7 the court an initial report assessing the program's capacity
8 to provide appropriate services for the minor and indicating
9 the person's opinion as to the probability of the minor
10 attaining fitness within the period to attain fitness provided
11 in Section 5-566. If the initial report indicates that there
12 is a substantial probability that the minor will attain
13 fitness within the allowed statutory period, the supervisor
14 shall also file a services plan, which shall include:

15 (1) a description of the goals of services with
16 respect to rendering the minor fit, a specification of the
17 proposed modalities of services, and an estimated
18 timetable for attainment of the goals; and

19 (2) an identification of the person in charge of
20 supervising the minor's services.

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

24 (c) The supervisor shall notify the court in writing as
25 soon as possible but no later than 7 days after a determination

1 is made if the supervisor determines that:

2 (1) the minor has attained fitness;

3 (2) there is not a substantial probability the minor
4 will attain fitness, with services, within the period to
5 attain fitness under Section 5-566; or

6 (3) a change in services or placement is necessary.

7 (d) The initial and subsequent progress reports shall
8 contain:

9 (1) the clinical findings of the supervisor and the
10 facts upon which the findings are based;

11 (2) the opinion of the supervisor as to whether the
12 minor has attained fitness and as to whether the minor is
13 making progress, with services, toward attaining fitness
14 within the period set in Section 5-566;

15 (3) a description of whether the current services to
16 attain fitness and placement continue to be in the least
17 restrictive environment necessary, whether a different
18 level of care is needed, and the basis for that
19 recommendation; and

20 (4) any other changes in recommendations of services
21 to attain fitness.

22 (e) If the supervisor of the minor's services determines,
23 under paragraph (3) of subsection (d) of this Section, that
24 the minor is not in the least restrictive environment
25 necessary to attain fitness, upon receipt of the progress
26 report, the court shall ensure that the minor is immediately

1 moved to the least restrictive environment necessary.

2 (705 ILCS 405/5-568 new)

3 Sec. 5-568. Periodic hearings. Upon entry or continuation
4 of any order to receive services to attain fitness, the court
5 shall set a date for hearing to reexamine the issue of the
6 minor's fitness not more than 90 days thereafter. In addition,
7 whenever the court receives a report from the supervisor of
8 the minor's services under subsection (c) of Section 5-567,
9 the court shall set the matter for a hearing within 14 days
10 unless good cause is demonstrated why the hearing cannot be
11 held. On the date set, the court shall conduct a hearing to
12 redetermine the minor's fitness under Section 5-563.

13 (705 ILCS 405/5-569 new)

14 Sec. 5-569. In-court assistance to render a minor fit.

15 (a) If the court determines that the minor could be
16 rendered fit with in-court assistance under Section 5-563, the
17 court shall order in-court assistance under subsection (b). A
18 minor found unfit because of chronological immaturity cannot
19 be rendered fit with in-court assistance. A minor found unfit
20 because of relative immaturity or child traumatic stress
21 cannot be rendered fit solely with in-court assistance.

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

24 (1) appointment of a qualified translator who shall

1 simultaneously translate all court proceedings into a
2 language understood by the minor; and

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

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

10 (1) the qualifications and experience of the experts
11 or other persons appointed to provide in-court assistance
12 to the minor;

13 (2) the court's reasons for selecting or appointing
14 the particular experts or other persons to provide the
15 in-court assistance to the minor;

16 (3) how the appointment of the particular expert or
17 other persons will serve the goal of rendering the minor
18 fit, based on the appointee's qualifications and
19 experience, and the lack of functional, social, adaptive,
20 or intellectual abilities of the minor; and

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

23 (d) A minor adjudicated delinquent or found guilty
24 following a trial conducted with in-court assistance provided
25 under this Section shall not be sentenced before a written
26 report of social investigation is presented to and considered

1 by the court. The written report of social investigation shall
2 be prepared under Section 5-701 or the presentence report
3 prepared pursuant to Section 5-3-2 of the Unified Code of
4 Corrections and shall include a physical and mental
5 examination unless the court finds that the reports of prior
6 physical and mental examinations conducted under this Part are
7 adequate and recent enough to render additional examinations
8 unnecessary.

9 (705 ILCS 405/5-570 new)

10 Sec. 5-570. Time credit. A sentence imposed on the minor
11 in the pending case or in any other case arising out of the
12 same conduct shall be reduced by time spent in:

13 (1) custody under orders issued under Section 5-564 or
14 under a commitment to the Department of Human Services
15 following a finding of unfitness under this Part;

16 (2) any court-ordered out-of-home placement,
17 including, but not limited to, a detention facility,
18 rehabilitation center, or inpatient hospital; or

19 (3) home detention or electronic monitoring pursuant
20 to Section 5-7A-110.

21 (705 ILCS 405/5-571 new)

22 Sec. 5-571. Court organization of records. Any report
23 filed with the court concerning diagnosis, evaluation,
24 progress, or services made under this Part shall not be placed

1 in the minor's court record but shall be maintained separately
2 by the clerk of the court and shall be available only to the
3 court or an appellate court, the State, the minor, the minor's
4 attorney, the minor's parent or guardian, or a facility or
5 program that provides services to the minor under an order of
6 the court. These records of the minor shall be privileged and
7 shall not be disclosed except under the conditions set forth
8 in Section 5-910. Nothing in this Section operates to
9 extinguish any rights of a minor established by law,
10 including, but not limited to: attorney-client,
11 physician-patient, psychologist-client, or social
12 worker-client privilege, except as otherwise provided by law.

13 (705 ILCS 405/5-572 new)

14 Sec. 5-572. Sentencing guidelines for a minor who attains
15 fitness. The court shall not impose a commitment to the
16 Department of Juvenile Justice or the Department of
17 Corrections upon the minor if the court believes that, because
18 of the minor's condition, such a sentence would not be in the
19 interests of society and the minor or would subject the minor
20 to excessive hardship. In addition to any other conditions of
21 a sentence of conditional discharge or probation, the court
22 may require that the minor receive additional services for the
23 minor's condition.

24 (705 ILCS 405/5-573 new)

1 Sec. 5-573. Juvenile discharge hearing.

2 (a) As provided for in paragraph (1) of subsection (d) of
3 Section 5-566 and subparagraph (A) of paragraph (2) of
4 subsection (d) of Section 5-566, a hearing to determine the
5 sufficiency of the evidence shall be held. Such hearing shall
6 be conducted by the court without a jury. The State and the
7 minor's attorney may introduce evidence relevant to the
8 question of the minor's guilt of the crime charged.

9 The court may admit hearsay or affidavit evidence on
10 secondary matters, such as testimony to establish the chain of
11 possession of physical evidence, laboratory reports,
12 authentication of transcripts taken by official reporters,
13 court and business records, and public documents.

14 (b) If the evidence does not prove the minor guilty beyond
15 a reasonable doubt, the court shall enter a judgment of
16 acquittal; however, nothing shall prevent the State from
17 requesting the court to commit the minor under the provisions
18 of the Mental Health and Developmental Disabilities Code.

19 (c) If the minor is found not guilty by reason of insanity,
20 the court shall enter a judgment of acquittal and the
21 proceedings after acquittal by reason of insanity under
22 Section 5-2-4 of the Unified Code of Corrections shall apply.

23 (d) If the juvenile discharge hearing does not result in
24 an acquittal of the charge, the minor may be remanded for
25 further treatment, and the one-year time limit set forth in
26 Section 5-566 shall be extended as follows:

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

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

10 (e) Transcripts of testimony taken at a juvenile discharge
11 hearing may be admitted in evidence at a subsequent trial of
12 the case, subject to the rules of evidence, if the witness who
13 gave such testimony is legally unavailable at the time of
14 subsequent trial.

15 (f) If the court fails to enter an order of acquittal, the
16 minor's attorney may appeal from the judgment in the same
17 manner provided for an appeal from a conviction in a criminal
18 case or final judgments in delinquent minor proceedings
19 arising under this Act.

20 (g) At the expiration of an extended period of treatment
21 ordered pursuant to this Section:

22 (1) Upon a finding that the minor is fit or can be
23 rendered fit consistent with Section 5-569, the court may
24 proceed with trial.

25 (2) If the minor continues to be unfit to stand trial,
26 the court shall determine whether the minor is subject to

1 involuntary admission under the Mental Health and
2 Developmental Disabilities Code or constitutes a serious
3 threat to the public safety. If so found, the court may
4 order the minor to receive treatment in an appropriate
5 setting consistent with the minor's eligibility under the
6 Code and the minor's age, clinical needs, and the
7 availability of services. The minor shall be treated in
8 the same manner as a civilly committed patient for all
9 purposes, except that the original court having
10 jurisdiction over the minor shall be required to approve
11 any conditional release or discharge of the minor, for the
12 period of commitment equal to the maximum sentence to
13 which the minor would have been subject had the minor been
14 convicted in a criminal proceeding or the maximum sentence
15 available for those subject to the exclusive jurisdiction
16 of this Act. During this period of commitment, the
17 original court having jurisdiction over the minor shall
18 hold hearings under clause (i) of this paragraph (2).
19 However, if the minor is remanded to the Department of
20 Human Services, the minor shall be placed in a secure
21 setting unless the court determines that there are
22 compelling reasons why such a placement is not necessary.

23 If the minor does not have a current treatment plan,
24 then within 3 days of admission under this paragraph
25 (g) (2), a treatment plan shall be prepared for each minor
26 and entered into the minor's record. The plan shall

1 include (i) an assessment of the minor's treatment needs,
2 (ii) a description of the services recommended for
3 treatment, (iii) the goals of each element of service,
4 (iv) an anticipated timetable for the accomplishment of
5 the goals, and (v) a designation of the qualified
6 professional responsible for the implementation of the
7 plan. The plan shall be reviewed and updated as the
8 clinical condition warrants, but not less than every 30
9 days.

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

23 The court, on its own motion, may order a hearing to
24 review the treatment plan. The minor, the minor's
25 attorney, or the State's Attorney may request a treatment
26 plan review every 90 days, and the court shall review the

1 current treatment plan to determine whether the plan
2 complies with the requirements of this Section. The court
3 may order an independent examination on its own initiative
4 and shall order such an evaluation if either the recipient
5 or the State's Attorney so requests and has demonstrated
6 to the court that the plan cannot be effectively reviewed
7 by the court without such an examination. Under no
8 circumstances shall the court be required to order an
9 independent examination pursuant to this Section more than
10 once each year. The examination shall be conducted by an
11 expert as defined in Section 5-558 who is not in the employ
12 of the Department of Human Services.

13 If, during the period within which the minor is
14 confined in a secure setting, the court enters an order
15 that requires the minor to appear, the court shall timely
16 transmit a copy of the order or writ to the director of the
17 particular Department of Human Services facility where the
18 minor resides authorizing the transportation of the minor
19 to the court for the purpose of the hearing.

20 (A) Within 180 days after a minor is remanded to
21 the Department of Human Services under this paragraph
22 (2) and every 180 days thereafter for so long as the
23 minor is confined under the order, the court shall set
24 a hearing and shall direct that notice of the time and
25 place of the hearing be served upon the minor, the
26 facility director, the State's Attorney, and the

1 minor's attorney. If requested by either the State,
2 the minor, or the minor's attorney or if the court
3 determines that it is appropriate, an impartial
4 examination of the minor by an expert as defined in
5 Section 5-558 who is not in the employ of the
6 Department of Human Services shall be ordered, and the
7 report considered at the time of the hearing. If the
8 minor is not currently represented by an attorney, the
9 court shall appoint the public defender to represent
10 the minor at the hearing. The court shall make a
11 finding as to whether the minor is:

12 (i) a person subject to involuntary admission
13 on an inpatient basis; or

14 (ii) in need of mental health services in the
15 form of inpatient care; or

16 (iii) in need of mental health services but
17 not subject to involuntary admission nor inpatient
18 care.

19 The findings of the court shall be established by
20 clear and convincing evidence and the burden of proof
21 and the burden of going forward with the evidence
22 shall rest with the State's Attorney. Upon a finding
23 by the court, the court shall enter its findings and an
24 appropriate order.

25 (B) "Person subject to involuntary admission on an
26 inpatient basis" has the meaning ascribed to it in

1 Section 1-119 of the Mental Health and Developmental
2 Disabilities Code.

3 (C) "In need of mental health services in the form
4 of inpatient care" and "in need of mental health
5 services but not subject to involuntary admission nor
6 inpatient care" have the meanings ascribed to them in
7 clause (d) of Section 5-2-4 of the Unified Code of
8 Corrections.

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

11 (4) In no event may the treatment period be extended
12 to exceed the maximum sentence to which a minor would have
13 been subject had the minor been convicted in a criminal
14 proceeding or the maximum sentence available for those
15 subject to the exclusive jurisdiction of this Act.

16 (705 ILCS 405/5-574 new)

17 Sec. 5-574. Juvenile Discharge Hearing Task Force.

18 (a) The Juvenile Discharge Hearing Task Force is created
19 to examine the juvenile discharge hearing process, compare
20 Illinois' process with those of other states with juvenile
21 fitness standards, and recommend reforms to the process that
22 ensure minors receive meaningful treatment for existing mental
23 health needs. The recommendations shall include updates to
24 Section 5-573 and whether the juvenile discharge hearing
25 should take place on the same timeframe as discharge hearings

1 for adult offenders.

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

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

7 (2) the Secretary of Human Services or the Secretary's
8 designee, who shall serve as a co-chair of the Task Force;

9 (3) one member of the General Assembly, appointed by
10 the President of the Senate;

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

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

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

17 (7) the Director of the Administrative Office of the
18 Illinois Courts or the Director's designee;

19 (8) the Cook County State's Attorney or the State's
20 Attorney's designee;

21 (9) a member nominated by the State Appellate
22 Prosecutor and appointed by the Governor;

23 (10) the Cook County Public Defender or the Public
24 Defender's designee;

25 (11) a member nominated by the State Appellate
26 Defender and appointed by the Governor;

1 (12) one expert fitness evaluator, appointed by the
2 Governor;

3 (13) one representative of an Illinois organization
4 that advocates for currently and formerly incarcerated
5 youth, appointed by the Governor;

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

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

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

18 (d) The Task Force may meet in person or virtually and
19 shall issue a written report of its findings and
20 recommendations to the General Assembly on or before January
21 1, 2028.

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

24 (705 ILCS 405/5-575 new)

25 Sec. 5-575. Follow-up data collection recommendations. The

1 Illinois Juvenile Justice Commission shall identify relevant
2 data and recommend mechanisms to collect and analyze data,
3 disaggregated by race, ethnicity, gender, geography, age, and
4 socioeconomic status, resulting from the implementation of
5 this Part. The report and recommendations shall be submitted
6 to the General Assembly by January 1, 2029.

7 (705 ILCS 405/5-576 new)

8 Sec. 5-576. Annual reports on minors receiving fitness
9 restoration services. By December 31, 2027, and by December 31
10 of each year thereafter, the Department of Human Services
11 shall prepare and post on the Department of Human Services'
12 website an annual report, covering the previous fiscal year,
13 on youth receiving fitness restoration services. This report
14 shall include deidentified data on numbers, characteristics,
15 and outcomes of minors receiving fitness restoration services
16 through the Department of Human Services and through programs
17 contracted by the Department of Human Services. The data in
18 the report should be disaggregated by age and geography."; and

19 on page 17, line 6, by replacing "Section 95" with "Section
20 995"; and

21 on page 17, immediately below line 12, by inserting the
22 following:

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

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