



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

HB4671

Introduced 1/21/2022, by Rep. Kelly M. Cassidy

SYNOPSIS AS INTRODUCED:

705 ILCS 405/5-710

Amends the Juvenile Court Act of 1987. Eliminates provision that permits a guilty minor to be committed to the Department of Juvenile Justice for an offense that is a Class 3 or Class 4 felony violation of the Illinois Controlled Substances Act if the commitment occurs upon a third or subsequent judicial finding of a violation of probation for substantial noncompliance with court-ordered treatment or programming. Effective immediately.

LRB102 23252 RLC 32417 b

1 AN ACT concerning courts.

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

4 Section 5. The Juvenile Court Act of 1987 is amended by
5 changing Section 5-710 as follows:

6 (705 ILCS 405/5-710)

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

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

10 (a) Except as provided in Sections 5-805, 5-810, and
11 5-815, a minor who is found guilty under Section 5-620 may
12 be:

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

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

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

4 (iv) on and after January 1, 2015 (the effective
5 date of Public Act 98-803) and before January 1, 2017,
6 placed in the guardianship of the Department of
7 Children and Family Services, but only if the
8 delinquent minor is under 16 years of age or, pursuant
9 to Article II of this Act, a minor under the age of 18
10 for whom an independent basis of abuse, neglect, or
11 dependency exists. On and after January 1, 2017,
12 placed in the guardianship of the Department of
13 Children and Family Services, but only if the
14 delinquent minor is under 15 years of age or, pursuant
15 to Article II of this Act, a minor for whom an
16 independent basis of abuse, neglect, or dependency
17 exists. An independent basis exists when the
18 allegations or adjudication of abuse, neglect, or
19 dependency do not arise from the same facts, incident,
20 or circumstances which give rise to a charge or
21 adjudication of delinquency;

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

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

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

1 age or older who has a petition of delinquency filed
2 against the person, these factors, among other
3 matters, shall be considered:

4 (A) the age of the person;

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

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

9 (D) any mental health history of the person;
10 and

11 (E) any educational history of the person;

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

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

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

1 law;

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

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

7 (b) A minor found to be guilty may be committed to the
8 Department of Juvenile Justice under Section 5-750 if the
9 minor is at least 13 years and under 20 years of age,
10 provided that the commitment to the Department of Juvenile
11 Justice shall be made only if the minor was found guilty of
12 a felony offense or first degree murder. The court shall
13 include in the sentencing order any pre-custody credits
14 the minor is entitled to under Section 5-4.5-100 of the
15 Unified Code of Corrections. The time during which a minor
16 is in custody before being released upon the request of a
17 parent, guardian or legal custodian shall also be
18 considered as time spent in custody.

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

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

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

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

22 (5) Any sentencing order where the minor is committed or
23 placed in accordance with Section 5-740 shall provide for the
24 parents or guardian of the estate of the minor to pay to the
25 legal custodian or guardian of the person of the minor such
26 sums as are determined by the custodian or guardian of the

1 person of the minor as necessary for the minor's needs. The
2 payments may not exceed the maximum amounts provided for by
3 Section 9.1 of the Children and Family Services Act.

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

15 (7) In no event shall a guilty minor be committed to the
16 Department of Juvenile Justice for a period of time in excess
17 of that period for which an adult could be committed for the
18 same act. The court shall include in the sentencing order a
19 limitation on the period of confinement not to exceed the
20 maximum period of imprisonment the court could impose under
21 Chapter V of the Unified Code of Corrections.

22 (7.5) In no event shall a guilty minor be committed to the
23 Department of Juvenile Justice or placed in detention when the
24 act for which the minor was adjudicated delinquent would not
25 be illegal if committed by an adult.

26 (7.6) In no event shall a guilty minor be committed to the

1 Department of Juvenile Justice for an offense which is a Class
2 4 felony under Section 19-4 (criminal trespass to a
3 residence), 21-1 (criminal damage to property), 21-1.01
4 (criminal damage to government supported property), 21-1.3
5 (criminal defacement of property), 26-1 (disorderly conduct),
6 or 31-4 (obstructing justice) of the Criminal Code of 2012.

7 (7.75) In no event shall a guilty minor be committed to the
8 Department of Juvenile Justice for an offense that is a Class 3
9 or Class 4 felony violation of the Illinois Controlled
10 Substances Act ~~unless the commitment occurs upon a third or~~
11 ~~subsequent judicial finding of a violation of probation for~~
12 ~~substantial noncompliance with court ordered treatment or~~
13 ~~programming.~~

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

25 (8.5) A minor found to be guilty for reasons that include a
26 violation of Section 3.02 or Section 3.03 of the Humane Care

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

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

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

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

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

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

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

15 (12) (Blank).

16 (Source: P.A. 101-2, eff. 7-1-19; 101-79, eff. 7-12-19;
17 101-159, eff. 1-1-20; 102-558, eff. 8-20-21.)

18 Section 99. Effective date. This Act takes effect upon
19 becoming law.