

1 AN ACT concerning criminal law.

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

4 Section 5. The Juvenile Court Act of 1987 is amended by  
5 changing Sections 5-805 and 5-810 as follows:

6 (705 ILCS 405/5-805)

7 Sec. 5-805. Transfer of jurisdiction.

8 (1) (Blank).

9 (2) Presumptive transfer.

10 (a) If the State's Attorney files a petition, at any  
11 time prior to commencement of the minor's trial, to permit  
12 prosecution under the criminal laws and the petition  
13 alleges a minor 15 years of age or older of an act that  
14 constitutes a forcible felony under the laws of this  
15 State, and if a motion by the State's Attorney to  
16 prosecute the minor under the criminal laws of Illinois  
17 for the alleged forcible felony alleges that (i) the minor  
18 has previously been adjudicated delinquent or found guilty  
19 for commission of an act that constitutes a forcible  
20 felony under the laws of this State or any other state and  
21 (ii) the act that constitutes the offense was committed in  
22 furtherance of criminal activity by an organized gang,  
23 and, if the juvenile judge assigned to hear and determine

1 motions to transfer a case for prosecution in the criminal  
2 court determines that there is probable cause to believe  
3 that the allegations in the petition and motion are true,  
4 there is a rebuttable presumption that the minor is not a  
5 fit and proper subject to be dealt with under the Juvenile  
6 Justice Reform Provisions of 1998 (Public Act 90-590), and  
7 that, except as provided in paragraph (b), the case should  
8 be transferred to the criminal court.

9 (b) The judge shall enter an order permitting  
10 prosecution under the criminal laws of Illinois unless the  
11 judge makes a finding based on clear and convincing  
12 evidence that the minor would be amenable to the care,  
13 treatment, and training programs available through the  
14 facilities of the juvenile court based on an evaluation of  
15 the following:

16 (i) the age of the minor;

17 (ii) the history of the minor, including:

18 (A) any previous delinquent or criminal  
19 history of the minor,

20 (B) any previous abuse or neglect history of  
21 the minor, ~~and~~

22 (C) any mental health, physical or educational  
23 history of the minor or combination of these  
24 factors, ~~and~~

25 (D) any involvement of the minor in the child  
26 welfare system;

- 1 (iii) the circumstances of the offense, including:
- 2 (A) the seriousness of the offense,
- 3 (B) whether the minor is charged through
- 4 accountability,
- 5 (C) whether there is evidence the offense was
- 6 committed in an aggressive and premeditated
- 7 manner,
- 8 (D) whether there is evidence the offense
- 9 caused serious bodily harm,
- 10 (E) whether there is evidence the minor
- 11 possessed a deadly weapon,~~+~~
- 12 (F) whether there is evidence the minor was
- 13 subjected to outside pressure, including peer
- 14 pressure, familial pressure, or negative
- 15 influences, and
- 16 (G) the minor's degree of participation and
- 17 specific role in the offense;
- 18 (iv) the advantages of treatment within the
- 19 juvenile justice system including whether there are
- 20 facilities or programs, or both, particularly
- 21 available in the juvenile system;
- 22 (v) whether the security of the public requires
- 23 sentencing under Chapter V of the Unified Code of
- 24 Corrections:
- 25 (A) the minor's history of services, including
- 26 the minor's willingness to participate

1           meaningfully in available services;

2                   (B) whether there is a reasonable likelihood  
3           that the minor can be rehabilitated before the  
4           expiration of the juvenile court's jurisdiction;  
5           and

6                   (C) the adequacy of the punishment or  
7           services.

8           In considering these factors, the court shall give  
9           greater weight to the seriousness of the alleged offense  
10          and the minor's prior record of delinquency than to the  
11          other factors listed in this subsection.

12          (3) Discretionary transfer.

13                  (a) If a petition alleges commission by a minor 13  
14          years of age or over of an act that constitutes a crime  
15          under the laws of this State and, on motion of the State's  
16          Attorney to permit prosecution of the minor under the  
17          criminal laws, a Juvenile Judge assigned by the Chief  
18          Judge of the Circuit to hear and determine those motions,  
19          after hearing but before commencement of the trial, finds  
20          that there is probable cause to believe that the  
21          allegations in the motion are true and that it is not in  
22          the best interests of the public to proceed under this  
23          Act, the court may enter an order permitting prosecution  
24          under the criminal laws.

25                  (b) In making its determination on the motion to  
26          permit prosecution under the criminal laws, the court

1 shall consider among other matters:

2 (i) the age of the minor;

3 (ii) the history of the minor, including:

4 (A) any previous delinquent or criminal  
5 history of the minor,

6 (B) any previous abuse or neglect history of  
7 the minor, ~~and~~

8 (C) any mental health, physical, or  
9 educational history of the minor or combination of  
10 these factors, ~~and~~

11 (D) any involvement of the minor in the child  
12 welfare system;

13 (iii) the circumstances of the offense, including:

14 (A) the seriousness of the offense,

15 (B) whether the minor is charged through  
16 accountability,

17 (C) whether there is evidence the offense was  
18 committed in an aggressive and premeditated  
19 manner,

20 (D) whether there is evidence the offense  
21 caused serious bodily harm,

22 (E) whether there is evidence the minor  
23 possessed a deadly weapon, ~~+~~

24 (F) whether there is evidence the minor was  
25 subjected to outside pressure, including peer  
26 pressure, familial pressure, or negative

1           influences, and

2           (G) the minor's degree of participation and  
3           specific role in the offense;

4           (iv) the advantages of treatment within the  
5 juvenile justice system including whether there are  
6 facilities or programs, or both, particularly  
7 available in the juvenile system;

8           (v) whether the security of the public requires  
9 sentencing under Chapter V of the Unified Code of  
10 Corrections:

11           (A) the minor's history of services, including  
12 the minor's willingness to participate  
13 meaningfully in available services;

14           (B) whether there is a reasonable likelihood  
15 that the minor can be rehabilitated before the  
16 expiration of the juvenile court's jurisdiction;  
17 and

18           (C) the adequacy of the punishment or  
19 services.

20           In considering these factors, the court shall give  
21 greater weight to the seriousness of the alleged offense,  
22 the minor's prior record of delinquency than to the other  
23 factors listed in this subsection.

24           (4) The rules of evidence for this hearing shall be the  
25 same as under Section 5-705 of this Act. A minor must be  
26 represented in court by counsel before the hearing may be

1 commenced.

2 (5) If criminal proceedings are instituted, the petition  
3 for adjudication of wardship shall be dismissed insofar as the  
4 act or acts involved in the criminal proceedings. Taking of  
5 evidence in a trial on petition for adjudication of wardship  
6 is a bar to criminal proceedings based upon the conduct  
7 alleged in the petition.

8 (6) When criminal prosecution is permitted under this  
9 Section and a finding of guilt is entered, the criminal court  
10 shall sentence the minor under Section 5-4.5-105 of the  
11 Unified Code of Corrections.

12 (7) The changes made to this Section by this amendatory  
13 Act of the 99th General Assembly apply to a minor who has been  
14 taken into custody on or after the effective date of this  
15 amendatory Act of the 99th General Assembly.

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

17 (705 ILCS 405/5-810)

18 Sec. 5-810. Extended jurisdiction juvenile prosecutions.

19 (1) (a) If the State's Attorney files a petition, at any  
20 time prior to commencement of the minor's trial, to designate  
21 the proceeding as an extended jurisdiction juvenile  
22 prosecution and the petition alleges the commission by a minor  
23 13 years of age or older of any offense which would be a felony  
24 if committed by an adult, and, if the juvenile judge assigned  
25 to hear and determine petitions to designate the proceeding as

1 an extended jurisdiction juvenile prosecution determines that  
2 there is probable cause to believe that the allegations in the  
3 petition and motion are true, there is a rebuttable  
4 presumption that the proceeding shall be designated as an  
5 extended jurisdiction juvenile proceeding.

6 (b) The judge shall enter an order designating the  
7 proceeding as an extended jurisdiction juvenile proceeding  
8 unless the judge makes a finding based on clear and convincing  
9 evidence that sentencing under the Chapter V of the Unified  
10 Code of Corrections would not be appropriate for the minor  
11 based on an evaluation of the following factors:

12 (i) the age of the minor;

13 (ii) the history of the minor, including:

14 (A) any previous delinquent or criminal history of  
15 the minor,

16 (B) any previous abuse or neglect history of the  
17 minor, ~~and~~

18 (C) any mental health, physical and/or educational  
19 history of the minor, and

20 (D) any involvement of the minor in the child  
21 welfare system;

22 (iii) the circumstances of the offense, including:

23 (A) the seriousness of the offense,

24 (B) whether the minor is charged through  
25 accountability,

26 (C) whether there is evidence the offense was



1 committed in an aggressive and premeditated manner,

2 (D) whether there is evidence the offense caused  
3 serious bodily harm,

4 (E) whether there is evidence the minor possessed  
5 a deadly weapon,~~†~~

6 (F) whether there is evidence the minor was  
7 subjected to outside pressure, including peer  
8 pressure, familial pressure, or negative influences,  
9 and

10 (G) the minor's degree of participation and  
11 specific role in the offense;

12 (iv) the advantages of treatment within the juvenile  
13 justice system including whether there are facilities or  
14 programs, or both, particularly available in the juvenile  
15 system;

16 (v) whether the security of the public requires  
17 sentencing under Chapter V of the Unified Code of  
18 Corrections:

19 (A) the minor's history of services, including the  
20 minor's willingness to participate meaningfully in  
21 available services;

22 (B) whether there is a reasonable likelihood that  
23 the minor can be rehabilitated before the expiration  
24 of the juvenile court's jurisdiction;

25 (C) the adequacy of the punishment or services.

26 In considering these factors, the court shall give greater

1 weight to the seriousness of the alleged offense, and the  
2 minor's prior record of delinquency than to other factors  
3 listed in this subsection.

4 (2) Procedures for extended jurisdiction juvenile  
5 prosecutions. The State's Attorney may file a written motion  
6 for a proceeding to be designated as an extended juvenile  
7 jurisdiction prior to commencement of trial. Notice of the  
8 motion shall be in compliance with Section 5-530. When the  
9 State's Attorney files a written motion that a proceeding be  
10 designated an extended jurisdiction juvenile prosecution, the  
11 court shall commence a hearing within 30 days of the filing of  
12 the motion for designation, unless good cause is shown by the  
13 prosecution or the minor as to why the hearing could not be  
14 held within this time period. If the court finds good cause has  
15 been demonstrated, then the hearing shall be held within 60  
16 days of the filing of the motion. The hearings shall be open to  
17 the public unless the judge finds that the hearing should be  
18 closed for the protection of any party, victim or witness. If  
19 the Juvenile Judge assigned to hear and determine a motion to  
20 designate an extended jurisdiction juvenile prosecution  
21 determines that there is probable cause to believe that the  
22 allegations in the petition and motion are true the court  
23 shall grant the motion for designation. Information used by  
24 the court in its findings or stated in or offered in connection  
25 with this Section may be by way of proffer based on reliable  
26 information offered by the State or the minor. All evidence

1 shall be admissible if it is relevant and reliable regardless  
2 of whether it would be admissible under the rules of evidence.

3 (3) Trial. A minor who is subject of an extended  
4 jurisdiction juvenile prosecution has the right to trial by  
5 jury. Any trial under this Section shall be open to the public.

6 (4) Sentencing. If an extended jurisdiction juvenile  
7 prosecution under subsection (1) results in a guilty plea, a  
8 verdict of guilty, or a finding of guilt, the court shall  
9 impose the following:

10 (i) one or more juvenile sentences under Section  
11 5-710; and

12 (ii) an adult criminal sentence in accordance with the  
13 provisions of Section 5-4.5-105 of the Unified Code of  
14 Corrections, the execution of which shall be stayed on the  
15 condition that the offender not violate the provisions of  
16 the juvenile sentence.

17 Any sentencing hearing under this Section shall be open to the  
18 public.

19 (5) If, after an extended jurisdiction juvenile  
20 prosecution trial, a minor is convicted of a lesser-included  
21 offense or of an offense that the State's Attorney did not  
22 designate as an extended jurisdiction juvenile prosecution,  
23 the State's Attorney may file a written motion, within 10 days  
24 of the finding of guilt, that the minor be sentenced as an  
25 extended jurisdiction juvenile prosecution offender. The court  
26 shall rule on this motion using the factors found in paragraph

1 (1) (b) of Section 5-805. If the court denies the State's  
2 Attorney's motion for sentencing under the extended  
3 jurisdiction juvenile prosecution provision, the court shall  
4 proceed to sentence the minor under Section 5-710.

5 (6) When it appears that a minor convicted in an extended  
6 jurisdiction juvenile prosecution under subsection (1) has  
7 violated the conditions of his or her sentence, or is alleged  
8 to have committed a new offense upon the filing of a petition  
9 to revoke the stay, the court may, without notice, issue a  
10 warrant for the arrest of the minor. After a hearing, if the  
11 court finds by a preponderance of the evidence that the minor  
12 committed a new offense, the court shall order execution of  
13 the previously imposed adult criminal sentence. After a  
14 hearing, if the court finds by a preponderance of the evidence  
15 that the minor committed a violation of his or her sentence  
16 other than by a new offense, the court may order execution of  
17 the previously imposed adult criminal sentence or may continue  
18 him or her on the existing juvenile sentence with or without  
19 modifying or enlarging the conditions. Upon revocation of the  
20 stay of the adult criminal sentence and imposition of that  
21 sentence, the minor's extended jurisdiction juvenile status  
22 shall be terminated. The on-going jurisdiction over the  
23 minor's case shall be assumed by the adult criminal court and  
24 juvenile court jurisdiction shall be terminated and a report  
25 of the imposition of the adult sentence shall be sent to the  
26 Department of State Police.

1           (7) Upon successful completion of the juvenile sentence  
2 the court shall vacate the adult criminal sentence.

3           (8) Nothing in this Section precludes the State from  
4 filing a motion for transfer under Section 5-805.

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

6           Section 10. The Unified Code of Corrections is amended by  
7 changing Section 5-4.5-105 as follows:

8           (730 ILCS 5/5-4.5-105)

9           Sec. 5-4.5-105. SENTENCING OF INDIVIDUALS UNDER THE AGE OF  
10 18 AT THE TIME OF THE COMMISSION OF AN OFFENSE.

11           (a) On or after the effective date of this amendatory Act  
12 of the 99th General Assembly, when a person commits an offense  
13 and the person is under 18 years of age at the time of the  
14 commission of the offense, the court, at the sentencing  
15 hearing conducted under Section 5-4-1, shall consider the  
16 following additional factors in mitigation in determining the  
17 appropriate sentence:

18           (1) the person's age, impetuosity, and level of  
19 maturity at the time of the offense, including the ability  
20 to consider risks and consequences of behavior, and the  
21 presence of cognitive or developmental disability, or  
22 both, if any;

23           (2) whether the person was subjected to outside  
24 pressure, including peer pressure, familial pressure, or

1 negative influences;

2 (3) the person's family, home environment, educational  
3 and social background, including any history of parental  
4 neglect, domestic or sexual violence, sexual exploitation,  
5 physical abuse, or other childhood trauma including  
6 adverse childhood experiences (or ACEs);

7 (4) the person's potential for rehabilitation or  
8 evidence of rehabilitation, or both;

9 (5) the circumstances of the offense;

10 (6) the person's degree of participation and specific  
11 role in the offense, including the level of planning by  
12 the defendant before the offense;

13 (7) whether the person was able to meaningfully  
14 participate in his or her defense;

15 (8) the person's prior juvenile or criminal history;

16 ~~and~~

17 (9) the person's involvement in the child welfare  
18 system;

19 (10) involvement of the person in the community;

20 (11) if a comprehensive mental health evaluation of  
21 the person was conducted by a qualified mental health  
22 professional, the outcome of the evaluation; and

23 12 ~~(9)~~ any other information the court finds relevant  
24 and reliable, including an expression of remorse, if  
25 appropriate. However, if the person, on advice of counsel  
26 chooses not to make a statement, the court shall not

1 consider a lack of an expression of remorse as an  
2 aggravating factor.

3 (b) The trial judge shall specify on the record its  
4 consideration of the factors under subsection (a) of this  
5 Section.

6 (c) Notwithstanding any other provision of law, if the  
7 court determines by clear and convincing evidence that the  
8 individual against whom the person is convicted of committing  
9 the offense previously committed a crime under Section 10-9,  
10 Section 11-1.20, Section 11-1.30, Section 11-1.40, Section  
11 11-1.50, Section 11-1.60, Section 11-6, Section 11-6.5,  
12 Section 11-6.6, Section 11-9.1, Section 11-14.3, Section  
13 11-14.4 or Section 11-18.1 under Criminal Code of 2012 against  
14 the person within 3 years before the offense in which the  
15 person was convicted, the court may, in its discretion:

16 (1) transfer the person to juvenile court for  
17 sentencing under Section 5-710 of the Juvenile Court Act  
18 of 1987;

19 (2) depart from any mandatory minimum sentence,  
20 maximum sentence, or sentencing enhancement; or

21 (3) suspend any portion of an otherwise applicable  
22 sentence.

23 (d) Subsection (c) shall be construed as prioritizing the  
24 successful treatment and rehabilitation of persons under 18  
25 years of age who are sex crime victims who commit acts of  
26 violence against their abusers. It is the General Assembly's

1 intent that these persons be viewed as victims and provided  
2 treatment and services in the community, juvenile or family  
3 court system.

4 (e) ~~(b)~~ Except as provided in subsection (f) ~~(e)~~, the  
5 court may sentence the defendant to any disposition authorized  
6 for the class of the offense of which he or she was found  
7 guilty as described in Article 4.5 of this Code, and may, in  
8 its discretion, decline to impose any otherwise applicable  
9 sentencing enhancement based upon firearm possession,  
10 possession with personal discharge, or possession with  
11 personal discharge that proximately causes great bodily harm,  
12 permanent disability, permanent disfigurement, or death to  
13 another person.

14 (f) ~~(e)~~ Notwithstanding any other provision of law, if the  
15 defendant is convicted of first degree murder and would  
16 otherwise be subject to sentencing under clause (iii), (iv),  
17 (v), or (vii) of subparagraph (c) of paragraph (1) of  
18 subsection (a) of Section 5-8-1 of this Code based on the  
19 category of persons identified therein, the court shall impose  
20 a sentence of not less than 40 years of imprisonment, except  
21 for persons convicted of first degree murder where subsection  
22 (c) applies. In addition, the court may, in its discretion,  
23 decline to impose the sentencing enhancements based upon the  
24 possession or use of a firearm during the commission of the  
25 offense included in subsection (d) of Section 5-8-1.

26 (Source: P.A. 99-69, eff. 1-1-16; 99-258, eff. 1-1-16; 99-875,



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1 eff. 1-1-17.)