

1 AN ACT in relation to minors.

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 5-130 as follows:

6 (705 ILCS 405/5-130)

7 Sec. 5-130. Excluded jurisdiction.

8 (1) (a) The definition of delinquent minor under Section  
9 5-120 of this Article shall not apply to any minor who at the  
10 time of an offense was at least 15 years of age and who is  
11 charged with first degree murder, aggravated criminal sexual  
12 assault, aggravated battery with a firearm committed in a  
13 school, on the real property comprising a school, within  
14 1,000 feet of the real property comprising a school, at a  
15 school related activity, or on, boarding, or departing from  
16 any conveyance owned, leased, or contracted by a school or  
17 school district to transport students to or from school or a  
18 school related activity regardless of the time of day or time  
19 of year that the offense was committed, armed robbery when  
20 the armed robbery was committed with a firearm, or aggravated  
21 vehicular hijacking when the hijacking was committed with a  
22 firearm.

23 These charges and all other charges arising out of the  
24 same incident shall be prosecuted under the criminal laws of  
25 this State.

26 For purposes of this paragraph (a) of subsection (1):

27 "School" means a public or private elementary or  
28 secondary school, community college, college, or university.

29 "School related activity" means any sporting, social,  
30 academic or other activity for which students' attendance or  
31 participation is sponsored, organized, or funded in whole or

1 in part by a school or school district.

2 (b) (i) If before trial or plea an information or  
3 indictment is filed that does not charge an offense specified  
4 in paragraph (a) of this subsection (1) the State's Attorney  
5 may proceed on any lesser charge or charges, but only in  
6 Juvenile Court under the provisions of this Article. The  
7 State's Attorney may proceed under the Criminal Code of 1961  
8 on a lesser charge if before trial the minor defendant  
9 knowingly and with advice of counsel waives, in writing, his  
10 or her right to have the matter proceed in Juvenile Court.

11 (ii) If before trial or plea an information or  
12 indictment is filed that includes one or more charges  
13 specified in paragraph (a) of this subsection (1) and  
14 additional charges that are not specified in that paragraph,  
15 all of the charges arising out of the same incident shall be  
16 prosecuted under the Criminal Code of 1961.

17 (c) (i) If after trial or plea the minor is convicted of  
18 any offense covered by paragraph (a) of this subsection (1),  
19 then, in sentencing the minor, the court shall have available  
20 any or all dispositions prescribed for that offense under  
21 Chapter V of the Unified Code of Corrections.

22 (ii) If after trial or plea the court finds that the  
23 minor committed an offense not covered by paragraph (a) of  
24 this subsection (1), that finding shall not invalidate the  
25 verdict or the prosecution of the minor under the criminal  
26 laws of the State; however, unless the State requests a  
27 hearing for the purpose of sentencing the minor under Chapter  
28 V of the Unified Code of Corrections, the Court must proceed  
29 under Sections 5-705 and 5-710 of this Article. To request a  
30 hearing, the State must file a written motion within 10 days  
31 following the entry of a finding or the return of a verdict.  
32 Reasonable notice of the motion shall be given to the minor  
33 or his or her counsel. If the motion is made by the State,  
34 the court shall conduct a hearing to determine if the minor

1 should be sentenced under Chapter V of the Unified Code of  
2 Corrections. In making its determination, the court shall  
3 consider among other matters: (a) whether there is evidence  
4 that the offense was committed in an aggressive and  
5 premeditated manner; (b) the age of the minor; (c) the  
6 previous history of the minor; (d) whether there are  
7 facilities particularly available to the Juvenile Court or  
8 the Department of Corrections, Juvenile Division, for the  
9 treatment and rehabilitation of the minor; (e) whether the  
10 security of the public requires sentencing under Chapter V of  
11 the Unified Code of Corrections; and (f) whether the minor  
12 possessed a deadly weapon when committing the offense. The  
13 rules of evidence shall be the same as if at trial. If after  
14 the hearing the court finds that the minor should be  
15 sentenced under Chapter V of the Unified Code of Corrections,  
16 then the court shall sentence the minor accordingly having  
17 available to it any or all dispositions so prescribed.

18 (2) (a) The definition of a delinquent minor under  
19 Section 5-120 of this Article shall not apply to any minor  
20 who at the time of the offense was at least 15 years of age  
21 and who is charged with an offense under Section 401 of the  
22 Illinois Controlled Substances Act, while in a school,  
23 regardless of the time of day or the time of year, or any  
24 conveyance owned, leased or contracted by a school to  
25 transport students to or from school or a school related  
26 activity, or residential property owned, operated or managed  
27 by a public housing agency or leased by a public housing  
28 agency as part of a scattered site or mixed-income  
29 development, on the real property comprising any school,  
30 regardless of the time of day or the time of year, or  
31 residential property owned, operated or managed by a public  
32 housing agency or leased by a public housing agency as part  
33 of a scattered site or mixed-income development, or on a  
34 public way within 1,000 feet of the real property comprising

1 any school, regardless of the time of day or the time of  
2 year, or residential property owned, operated or managed by a  
3 public housing agency or leased by a public housing agency as  
4 part of a scattered site or mixed-income development. School  
5 is defined, for the purposes of this Section, as any public  
6 or private elementary or secondary school, community college,  
7 college, or university. These charges and all other charges  
8 arising out of the same incident shall be prosecuted under  
9 the criminal laws of this State.

10 (b) (i) If before trial or plea an information or  
11 indictment is filed that does not charge an offense specified  
12 in paragraph (a) of this subsection (2) the State's Attorney  
13 may proceed on any lesser charge or charges, but only in  
14 Juvenile Court under the provisions of this Article. The  
15 State's Attorney may proceed under the criminal laws of this  
16 State on a lesser charge if before trial the minor defendant  
17 knowingly and with advice of counsel waives, in writing, his  
18 or her right to have the matter proceed in Juvenile Court.

19 (ii) If before trial or plea an information or  
20 indictment is filed that includes one or more charges  
21 specified in paragraph (a) of this subsection (2) and  
22 additional charges that are not specified in that paragraph,  
23 all of the charges arising out of the same incident shall be  
24 prosecuted under the criminal laws of this State.

25 (c) (i) If after trial or plea the minor is convicted of  
26 any offense covered by paragraph (a) of this subsection (2),  
27 then, in sentencing the minor, the court shall have available  
28 any or all dispositions prescribed for that offense under  
29 Chapter V of the Unified Code of Corrections.

30 (ii) If after trial or plea the court finds that the  
31 minor committed an offense not covered by paragraph (a) of  
32 this subsection (2), that finding shall not invalidate the  
33 verdict or the prosecution of the minor under the criminal  
34 laws of the State; however, unless the State requests a

1 hearing for the purpose of sentencing the minor under Chapter  
2 V of the Unified Code of Corrections, the Court must proceed  
3 under Sections 5-705 and 5-710 of this Article. To request a  
4 hearing, the State must file a written motion within 10 days  
5 following the entry of a finding or the return of a verdict.  
6 Reasonable notice of the motion shall be given to the minor  
7 or his or her counsel. If the motion is made by the State,  
8 the court shall conduct a hearing to determine if the minor  
9 should be sentenced under Chapter V of the Unified Code of  
10 Corrections. In making its determination, the court shall  
11 consider among other matters: (a) whether there is evidence  
12 that the offense was committed in an aggressive and  
13 premeditated manner; (b) the age of the minor; (c) the  
14 previous history of the minor; (d) whether there are  
15 facilities particularly available to the Juvenile Court or  
16 the Department of Corrections, Juvenile Division, for the  
17 treatment and rehabilitation of the minor; (e) whether the  
18 security of the public requires sentencing under Chapter V of  
19 the Unified Code of Corrections; and (f) whether the minor  
20 possessed a deadly weapon when committing the offense. The  
21 rules of evidence shall be the same as if at trial. If after  
22 the hearing the court finds that the minor should be  
23 sentenced under Chapter V of the Unified Code of Corrections,  
24 then the court shall sentence the minor accordingly having  
25 available to it any or all dispositions so prescribed.

26 (3) (a) The definition of delinquent minor under Section  
27 5-120 of this Article shall not apply to any minor who at the  
28 time of the offense was at least 15 years of age and who is  
29 charged with a violation of the provisions of paragraph (1),  
30 (3), (4), or (10) of subsection (a) of Section 24-1 of the  
31 Criminal Code of 1961 while in school, regardless of the time  
32 of day or the time of year, or on the real property  
33 comprising any school, regardless of the time of day or the  
34 time of year. School is defined, for purposes of this

1 Section as any public or private elementary or secondary  
2 school, community college, college, or university. These  
3 charges and all other charges arising out of the same  
4 incident shall be prosecuted under the criminal laws of this  
5 State.

6 (b) (i) If before trial or plea an information or  
7 indictment is filed that does not charge an offense specified  
8 in paragraph (a) of this subsection (3) the State's Attorney  
9 may proceed on any lesser charge or charges, but only in  
10 Juvenile Court under the provisions of this Article. The  
11 State's Attorney may proceed under the criminal laws of this  
12 State on a lesser charge if before trial the minor defendant  
13 knowingly and with advice of counsel waives, in writing, his  
14 or her right to have the matter proceed in Juvenile Court.

15 (ii) If before trial or plea an information or  
16 indictment is filed that includes one or more charges  
17 specified in paragraph (a) of this subsection (3) and  
18 additional charges that are not specified in that paragraph,  
19 all of the charges arising out of the same incident shall be  
20 prosecuted under the criminal laws of this State.

21 (c) (i) If after trial or plea the minor is convicted of  
22 any offense covered by paragraph (a) of this subsection (3),  
23 then, in sentencing the minor, the court shall have available  
24 any or all dispositions prescribed for that offense under  
25 Chapter V of the Unified Code of Corrections.

26 (ii) If after trial or plea the court finds that the  
27 minor committed an offense not covered by paragraph (a) of  
28 this subsection (3), that finding shall not invalidate the  
29 verdict or the prosecution of the minor under the criminal  
30 laws of the State; however, unless the State requests a  
31 hearing for the purpose of sentencing the minor under Chapter  
32 V of the Unified Code of Corrections, the Court must proceed  
33 under Sections 5-705 and 5-710 of this Article. To request a  
34 hearing, the State must file a written motion within 10 days

1 following the entry of a finding or the return of a verdict.  
2 Reasonable notice of the motion shall be given to the minor  
3 or his or her counsel. If the motion is made by the State,  
4 the court shall conduct a hearing to determine if the minor  
5 should be sentenced under Chapter V of the Unified Code of  
6 Corrections. In making its determination, the court shall  
7 consider among other matters: (a) whether there is evidence  
8 that the offense was committed in an aggressive and  
9 premeditated manner; (b) the age of the minor; (c) the  
10 previous history of the minor; (d) whether there are  
11 facilities particularly available to the Juvenile Court or  
12 the Department of Corrections, Juvenile Division, for the  
13 treatment and rehabilitation of the minor; (e) whether the  
14 security of the public requires sentencing under Chapter V of  
15 the Unified Code of Corrections; and (f) whether the minor  
16 possessed a deadly weapon when committing the offense. The  
17 rules of evidence shall be the same as if at trial. If after  
18 the hearing the court finds that the minor should be  
19 sentenced under Chapter V of the Unified Code of Corrections,  
20 then the court shall sentence the minor accordingly having  
21 available to it any or all dispositions so prescribed.

22 (4) (a) The definition of delinquent minor under Section  
23 5-120 of this Article shall not apply to any minor who at the  
24 time of an offense was at least 13 years of age and who is  
25 charged with first degree murder committed during the course  
26 of either aggravated criminal sexual assault, criminal sexual  
27 assault, or aggravated kidnaping. However, this subsection  
28 (4) does not include a minor charged with first degree murder  
29 based exclusively upon the accountability provisions of the  
30 Criminal Code of 1961.

31 (b) (i) If before trial or plea an information or  
32 indictment is filed that does not charge first degree murder  
33 committed during the course of aggravated criminal sexual  
34 assault, criminal sexual assault, or aggravated kidnaping,

1 the State's Attorney may proceed on any lesser charge or  
2 charges, but only in Juvenile Court under the provisions of  
3 this Article. The State's Attorney may proceed under the  
4 criminal laws of this State on a lesser charge if before  
5 trial the minor defendant knowingly and with advice of  
6 counsel waives, in writing, his or her right to have the  
7 matter proceed in Juvenile Court.

8 (ii) If before trial or plea an information or  
9 indictment is filed that includes first degree murder  
10 committed during the course of aggravated criminal sexual  
11 assault, criminal sexual assault, or aggravated kidnaping,  
12 and additional charges that are not specified in paragraph  
13 (a) of this subsection, all of the charges arising out of the  
14 same incident shall be prosecuted under the criminal laws of  
15 this State.

16 (c) (i) If after trial or plea the minor is convicted of  
17 first degree murder committed during the course of aggravated  
18 criminal sexual assault, criminal sexual assault, or  
19 aggravated kidnaping, in sentencing the minor, the court  
20 shall have available any or all dispositions prescribed for  
21 that offense under Chapter V of the Unified Code of  
22 Corrections.

23 (ii) If the minor was not yet 15 years of age at the  
24 time of the offense, and if after trial or plea the court  
25 finds that the minor committed an offense other than first  
26 degree murder committed during the course of either  
27 aggravated criminal sexual assault, criminal sexual assault,  
28 or aggravated kidnaping, the finding shall not invalidate  
29 the verdict or the prosecution of the minor under the  
30 criminal laws of the State; however, unless the State  
31 requests a hearing for the purpose of sentencing the minor  
32 under Chapter V of the Unified Code of Corrections, the Court  
33 must proceed under Sections 5-705 and 5-710 of this Article.  
34 To request a hearing, the State must file a written motion



1 within 10 days following the entry of a finding or the return  
2 of a verdict. Reasonable notice of the motion shall be given  
3 to the minor or his or her counsel. If the motion is made by  
4 the State, the court shall conduct a hearing to determine  
5 whether the minor should be sentenced under Chapter V of the  
6 Unified Code of Corrections. In making its determination,  
7 the court shall consider among other matters: (a) whether  
8 there is evidence that the offense was committed in an  
9 aggressive and premeditated manner; (b) the age of the  
10 minor; (c) the previous delinquent history of the minor;  
11 (d) whether there are facilities particularly available to  
12 the Juvenile Court or the Department of Corrections, Juvenile  
13 Division, for the treatment and rehabilitation of the minor;  
14 (e) whether the best interest of the minor and the security  
15 of the public require sentencing under Chapter V of the  
16 Unified Code of Corrections; and (f) whether the minor  
17 possessed a deadly weapon when committing the offense. The  
18 rules of evidence shall be the same as if at trial. If after  
19 the hearing the court finds that the minor should be  
20 sentenced under Chapter V of the Unified Code of Corrections,  
21 then the court shall sentence the minor accordingly having  
22 available to it any or all dispositions so prescribed.

23 (5) (a) The definition of delinquent minor under Section  
24 5-120 of this Article shall not apply to any minor who is  
25 charged with a violation of subsection (a) of Section 31-6 or  
26 Section 32-10 of the Criminal Code of 1961 when the minor is  
27 subject to prosecution under the criminal laws of this State  
28 as a result of the application of the provisions of Section  
29 5-125, or subsection (1) or (2) of this Section. These  
30 charges and all other charges arising out of the same  
31 incident shall be prosecuted under the criminal laws of this  
32 State.

33 (b) (i) If before trial or plea an information or  
34 indictment is filed that does not charge an offense specified

1 in paragraph (a) of this subsection (5), the State's Attorney  
2 may proceed on any lesser charge or charges, but only in  
3 Juvenile Court under the provisions of this Article. The  
4 State's Attorney may proceed under the criminal laws of this  
5 State on a lesser charge if before trial the minor defendant  
6 knowingly and with advice of counsel waives, in writing, his  
7 or her right to have the matter proceed in Juvenile Court.

8 (ii) If before trial or plea an information or  
9 indictment is filed that includes one or more charges  
10 specified in paragraph (a) of this subsection (5) and  
11 additional charges that are not specified in that paragraph,  
12 all of the charges arising out of the same incident shall be  
13 prosecuted under the criminal laws of this State.

14 (c) (i) If after trial or plea the minor is convicted of  
15 any offense covered by paragraph (a) of this subsection (5),  
16 then, in sentencing the minor, the court shall have available  
17 any or all dispositions prescribed for that offense under  
18 Chapter V of the Unified Code of Corrections.

19 (ii) If after trial or plea the court finds that the  
20 minor committed an offense not covered by paragraph (a) of  
21 this subsection (5), the conviction shall not invalidate the  
22 verdict or the prosecution of the minor under the criminal  
23 laws of this State; however, unless the State requests a  
24 hearing for the purpose of sentencing the minor under Chapter  
25 V of the Unified Code of Corrections, the Court must proceed  
26 under Sections 5-705 and 5-710 of this Article. To request a  
27 hearing, the State must file a written motion within 10 days  
28 following the entry of a finding or the return of a verdict.  
29 Reasonable notice of the motion shall be given to the minor  
30 or his or her counsel. If the motion is made by the State,  
31 the court shall conduct a hearing to determine if whether the  
32 minor should be sentenced under Chapter V of the Unified Code  
33 of Corrections. In making its determination, the court shall  
34 consider among other matters: (a) whether there is evidence

1 that the offense was committed in an aggressive and  
2 premeditated manner; (b) the age of the minor; (c) the  
3 previous delinquent history of the minor; (d) whether there  
4 are facilities particularly available to the Juvenile Court  
5 or the Department of Corrections, Juvenile Division, for the  
6 treatment and rehabilitation of the minor; (e) whether the  
7 security of the public requires sentencing under Chapter V of  
8 the Unified Code of Corrections; and (f) whether the minor  
9 possessed a deadly weapon when committing the offense. The  
10 rules of evidence shall be the same as if at trial. If after  
11 the hearing the court finds that the minor should be  
12 sentenced under Chapter V of the Unified Code of Corrections,  
13 then the court shall sentence the minor accordingly having  
14 available to it any or all dispositions so prescribed.

15 (6) The definition of delinquent minor under Section  
16 5-120 of this Article shall not apply to any minor who,  
17 pursuant to subsection (1), (2), or (3) or Section 5-805, or  
18 5-810, has previously been placed under the jurisdiction of  
19 the criminal court and has been convicted of a crime under an  
20 adult criminal or penal statute. Such a minor shall be  
21 subject to prosecution under the criminal laws of this State.

22 (7) The procedures set out in this Article for the  
23 investigation, arrest and prosecution of juvenile offenders  
24 shall not apply to minors who are excluded from jurisdiction  
25 of the Juvenile Court, except that minors under 17 years of  
26 age shall be kept separate from confined adults.

27 (8) Nothing in this Act prohibits or limits the  
28 prosecution of any minor for an offense committed on or after  
29 his or her 17th birthday even though he or she is at the time  
30 of the offense a ward of the court.

31 (9) If an original petition for adjudication of wardship  
32 alleges the commission by a minor 13 years of age or over of  
33 an act that constitutes a crime under the laws of this State,  
34 the minor, with the consent of his or her counsel, may, at

1 any time before commencement of the adjudicatory hearing,  
 2 file with the court a motion that criminal prosecution be  
 3 ordered and that the petition be dismissed insofar as the act  
 4 or acts involved in the criminal proceedings are concerned.  
 5 If such a motion is filed as herein provided, the court shall  
 6 enter its order accordingly.

7 (10) If a minor is subject to any of the provisions of  
 8 ~~subsection (2) of this Section, other than a minor charged~~  
 9 ~~with a Class X felony violation of the Illinois Controlled~~  
 10 ~~Substances Act~~, any party including the minor or the court  
 11 sua sponte may, before trial, move for a hearing for the  
 12 purpose of trying and sentencing the minor as a delinquent  
 13 minor. To request a hearing, the party must file a motion  
 14 prior to trial. Reasonable notice of the motion shall be  
 15 given to all parties. On its own motion or upon the filing of  
 16 a motion by one of the parties including the minor, the court  
 17 shall conduct a hearing to determine whether the minor should  
 18 be tried and sentenced as a delinquent minor under this  
 19 Article. In making its determination, the court shall  
 20 consider among other matters:

- 21 (a) The age of the minor;
- 22 (b) Any previous delinquent or criminal history of the  
 23 minor;
- 24 (c) Any previous abuse or neglect history of the minor;
- 25 (d) Any mental health or educational history of the  
 26 minor, or both; and
- 27 (e) Whether there is probable cause to support the  
 28 charge, whether the minor is charged through accountability,  
 29 and whether there is evidence the minor possessed a deadly  
 30 weapon or caused serious bodily harm during the offense.

31 Any material that is relevant and reliable shall be  
 32 admissible at the hearing. In all cases, the judge shall  
 33 enter an order permitting prosecution under the criminal laws  
 34 of Illinois unless the judge makes a finding based on a

1 preponderance of the evidence that the minor would be  
2 amenable to the care, treatment, and training programs  
3 available through the facilities of the juvenile court based  
4 on an evaluation of the factors listed in this subsection  
5 (10).

6 (Source: P.A. 91-15, eff. 1-1-00; 91-673, eff. 12-22-99;  
7 92-16, eff. 6-28-01; 92-665, eff. 1-1-03.)