



Rep. Annazette Collins

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09400HB2096ham001

LRB094 03050 RLC 44771 a

1 AMENDMENT TO HOUSE BILL 2096

2 AMENDMENT NO. _____. Amend House Bill 2096 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Unified Code of Corrections is amended by
5 changing Sections 5-130, 5-805, and 5-810 and by adding Section
6 5-821 as follows:

7 (705 ILCS 405/5-130)

8 Sec. 5-130. Excluded jurisdiction.

9 (1) (a) The definition of delinquent minor under Section
10 5-120 of this Article shall not apply to any minor who at the
11 time of an offense was at least 15 years of age and who is
12 charged with: (i) first degree murder, (ii) aggravated criminal
13 sexual assault, (iii) aggravated battery with a firearm
14 ~~committed in a school, on the real property comprising a~~
15 ~~school, within 1,000 feet of the real property comprising a~~
16 ~~school, at a school related activity, or on, boarding, or~~
17 ~~departing from any conveyance owned, leased, or contracted by a~~
18 ~~school or school district to transport students to or from~~
19 ~~school or a school related activity regardless of the time of~~
20 ~~day or time of year that the offense was committed, where the~~
21 minor personally discharged a firearm as defined in Section
22 2-15.5 of the Criminal Code of 1961, (iv) armed robbery when
23 the armed robbery was committed with a firearm, or (v)
24 aggravated vehicular hijacking when the hijacking was

1 committed with a firearm.

2 These charges and all other charges arising out of the same
3 incident shall be prosecuted under the criminal laws of this
4 State.

5 ~~For purposes of this paragraph (a) of subsection (1):~~

6 ~~"School" means a public or private elementary or secondary~~
7 ~~school, community college, college, or university.~~

8 ~~"School related activity" means any sporting, social,~~
9 ~~academic or other activity for which students' attendance or~~
10 ~~participation is sponsored, organized, or funded in whole or in~~
11 ~~part by a school or school district.~~

12 (b) (i) If before trial or plea an information or
13 indictment is filed that does not charge an offense specified
14 in paragraph (a) of this subsection (1) the State's Attorney
15 may proceed on any lesser charge or charges, but only in
16 Juvenile Court under the provisions of this Article. The
17 State's Attorney may proceed under the Criminal Code of 1961 on
18 a lesser charge if before trial the minor defendant knowingly
19 and with advice of counsel waives, in writing, his or her right
20 to have the matter proceed in Juvenile Court.

21 (ii) If before trial or plea an information or indictment
22 is filed that includes one or more charges specified in
23 paragraph (a) of this subsection (1) and additional charges
24 that are not specified in that paragraph, all of the charges
25 arising out of the same incident shall be prosecuted under the
26 Criminal Code of 1961.

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

32 (ii) If after trial or plea the court finds that the minor
33 committed an offense not covered by paragraph (a) of this
34 subsection (1), that finding shall not invalidate the verdict

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

28 (2) (Blank). ~~(a) The definition of a delinquent minor under~~
29 ~~Section 5-120 of this Article shall not apply to any minor who~~
30 ~~at the time of the offense was at least 15 years of age and who~~
31 ~~is charged with an offense under Section 401 of the Illinois~~
32 ~~Controlled Substances Act, while in a school, regardless of the~~
33 ~~time of day or the time of year, or any conveyance owned,~~
34 ~~leased or contracted by a school to transport students to or~~

1 ~~from school or a school related activity, or residential~~
2 ~~property owned, operated or managed by a public housing agency~~
3 ~~or leased by a public housing agency as part of a scattered~~
4 ~~site or mixed income development, on the real property~~
5 ~~comprising any school, regardless of the time of day or the~~
6 ~~time of year, or residential property owned, operated or~~
7 ~~managed by a public housing agency or leased by a public~~
8 ~~housing agency as part of a scattered site or mixed income~~
9 ~~development, or on a public way within 1,000 feet of the real~~
10 ~~property comprising any school, regardless of the time of day~~
11 ~~or the time of year, or residential property owned, operated or~~
12 ~~managed by a public housing agency or leased by a public~~
13 ~~housing agency as part of a scattered site or mixed income~~
14 ~~development. School is defined, for the purposes of this~~
15 ~~Section, as any public or private elementary or secondary~~
16 ~~school, community college, college, or university. These~~
17 ~~charges and all other charges arising out of the same incident~~
18 ~~shall be prosecuted under the criminal laws of this State.~~

19 ~~(b) (i) If before trial or plea an information or~~
20 ~~indictment is filed that does not charge an offense specified~~
21 ~~in paragraph (a) of this subsection (2) the State's Attorney~~
22 ~~may proceed on any lesser charge or charges, but only in~~
23 ~~Juvenile Court under the provisions of this Article. The~~
24 ~~State's Attorney may proceed under the criminal laws of this~~
25 ~~State on a lesser charge if before trial the minor defendant~~
26 ~~knowingly and with advice of counsel waives, in writing, his or~~
27 ~~her right to have the matter proceed in Juvenile Court.~~

28 ~~(ii) If before trial or plea an information or indictment~~
29 ~~is filed that includes one or more charges specified in~~
30 ~~paragraph (a) of this subsection (2) and additional charges~~
31 ~~that are not specified in that paragraph, all of the charges~~
32 ~~arising out of the same incident shall be prosecuted under the~~
33 ~~criminal laws of this State.~~

34 ~~(c) (i) If after trial or plea the minor is convicted of~~

1 ~~any offense covered by paragraph (a) of this subsection (2),~~
2 ~~then, in sentencing the minor, the court shall have available~~
3 ~~any or all dispositions prescribed for that offense under~~
4 ~~Chapter V of the Unified Code of Corrections.~~

5 ~~(ii) If after trial or plea the court finds that the minor~~
6 ~~committed an offense not covered by paragraph (a) of this~~
7 ~~subsection (2), that finding shall not invalidate the verdict~~
8 ~~or the prosecution of the minor under the criminal laws of the~~
9 ~~State; however, unless the State requests a hearing for the~~
10 ~~purpose of sentencing the minor under Chapter V of the Unified~~
11 ~~Code of Corrections, the Court must proceed under Sections~~
12 ~~5-705 and 5-710 of this Article. To request a hearing, the~~
13 ~~State must file a written motion within 10 days following the~~
14 ~~entry of a finding or the return of a verdict. Reasonable~~
15 ~~notice of the motion shall be given to the minor or his or her~~
16 ~~counsel. If the motion is made by the State, the court shall~~
17 ~~conduct a hearing to determine if the minor should be sentenced~~
18 ~~under Chapter V of the Unified Code of Corrections. In making~~
19 ~~its determination, the court shall consider among other~~
20 ~~matters: (a) whether there is evidence that the offense was~~
21 ~~committed in an aggressive and premeditated manner; (b) the age~~
22 ~~of the minor; (c) the previous history of the minor; (d)~~
23 ~~whether there are facilities particularly available to the~~
24 ~~Juvenile Court or the Department of Corrections, Juvenile~~
25 ~~Division, for the treatment and rehabilitation of the minor;~~
26 ~~(e) whether the security of the public requires sentencing~~
27 ~~under Chapter V of the Unified Code of Corrections; and (f)~~
28 ~~whether the minor possessed a deadly weapon when committing the~~
29 ~~offense. The rules of evidence shall be the same as if at~~
30 ~~trial. If after the hearing the court finds that the minor~~
31 ~~should be sentenced under Chapter V of the Unified Code of~~
32 ~~Corrections, then the court shall sentence the minor~~
33 ~~accordingly having available to it any or all dispositions so~~
34 ~~prescribed.~~

1 (3) (a) The definition of delinquent minor under Section
2 5-120 of this Article shall not apply to any minor who at the
3 time of the offense was at least 15 years of age and who is
4 charged with a violation of the provisions of paragraph (1),
5 (3), (4), or (10) of subsection (a) of Section 24-1 of the
6 Criminal Code of 1961 while in school, regardless of the time
7 of day or the time of year, or on the real property comprising
8 any school, regardless of the time of day or the time of year.
9 School is defined, for purposes of this Section as any public
10 or private elementary or secondary school, community college,
11 college, or university. These charges and all other charges
12 arising out of the same incident shall be prosecuted under the
13 criminal laws of this State.

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

23 (ii) If before trial or plea an information or indictment
24 is filed that includes one or more charges specified in
25 paragraph (a) of this subsection (3) and additional charges
26 that are not specified in that paragraph, all of the charges
27 arising out of the same incident shall be prosecuted under the
28 criminal laws of this State.

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

34 (ii) If after trial or plea the court finds that the minor

1 committed an offense not covered by paragraph (a) of this
2 subsection (3), that finding shall not invalidate the verdict
3 or the prosecution of the minor under the criminal laws of the
4 State; however, unless the State requests a hearing for the
5 purpose of sentencing the minor under Chapter V of the Unified
6 Code of Corrections, the Court must proceed under Sections
7 5-705 and 5-710 of this Article. To request a hearing, the
8 State must file a written motion within 10 days following the
9 entry of a finding or the return of a verdict. Reasonable
10 notice of the motion shall be given to the minor or his or her
11 counsel. If the motion is made by the State, the court shall
12 conduct a hearing to determine if the minor should be sentenced
13 under Chapter V of the Unified Code of Corrections. In making
14 its determination, the court shall consider among other
15 matters: (a) whether there is evidence that the offense was
16 committed in an aggressive and premeditated manner; (b) the age
17 of the minor; (c) the previous history of the minor; (d)
18 whether there are facilities particularly available to the
19 Juvenile Court or the Department of Corrections, Juvenile
20 Division, for the treatment and rehabilitation of the minor;
21 (e) whether the security of the public requires sentencing
22 under Chapter V of the Unified Code of Corrections; and (f)
23 whether the minor possessed a deadly weapon when committing the
24 offense. The rules of evidence shall be the same as if at
25 trial. If after the hearing the court finds that the minor
26 should be sentenced under Chapter V of the Unified Code of
27 Corrections, then the court shall sentence the minor
28 accordingly having available to it any or all dispositions so
29 prescribed.

30 (4) (a) The definition of delinquent minor under Section
31 5-120 of this Article shall not apply to any minor who at the
32 time of an offense was at least 13 years of age and who is
33 charged with first degree murder committed during the course of
34 either aggravated criminal sexual assault, criminal sexual

1 assault, or aggravated kidnaping. However, this subsection (4)
2 does not include a minor charged with first degree murder based
3 exclusively upon the accountability provisions of the Criminal
4 Code of 1961.

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

16 (ii) If before trial or plea an information or indictment
17 is filed that includes first degree murder committed during the
18 course of aggravated criminal sexual assault, criminal sexual
19 assault, or aggravated kidnaping, and additional charges that
20 are not specified in paragraph (a) of this subsection, all of
21 the charges arising out of the same incident shall be
22 prosecuted under the criminal laws of this State.

23 (c) (i) If after trial or plea the minor is convicted of
24 first degree murder committed during the course of aggravated
25 criminal sexual assault, criminal sexual assault, or
26 aggravated kidnaping, in sentencing the minor, the court shall
27 have available any or all dispositions prescribed for that
28 offense under Chapter V of the Unified Code of Corrections.

29 (ii) If the minor was not yet 15 years of age at the time of
30 the offense, and if after trial or plea the court finds that
31 the minor committed an offense other than first degree murder
32 committed during the course of either aggravated criminal
33 sexual assault, criminal sexual assault, or aggravated
34 kidnaping, the finding shall not invalidate the verdict or the

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

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

1 other charges arising out of the same incident shall be
2 prosecuted under the criminal laws of this State.

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

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

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

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

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

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

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

31 (8) Nothing in this Act prohibits or limits the prosecution
32 of any minor for an offense committed on or after his or her
33 17th birthday even though he or she is at the time of the
34 offense a ward of the court.

1 (9) If an original petition for adjudication of wardship
2 alleges the commission by a minor 13 years of age or over of an
3 act that constitutes a crime under the laws of this State, the
4 minor, with the consent of his or her counsel, may, at any time
5 before commencement of the adjudicatory hearing, file with the
6 court a motion that criminal prosecution be ordered and that
7 the petition be dismissed insofar as the act or acts involved
8 in the criminal proceedings are concerned. If such a motion is
9 filed as herein provided, the court shall enter its order
10 accordingly.

11 (10) If prior to the effective date of this amendatory Act
12 of the 94th General Assembly, a minor is charged with a
13 violation of Section 401 of the Illinois Controlled Substances
14 Act under the criminal laws of this State ~~subject to the~~
15 ~~provisions of subsection (2) of this Section,~~ other than a
16 minor charged with a Class X felony violation of the Illinois
17 Controlled Substances Act, any party including the minor or the
18 court sua sponte may, before trial, move for a hearing for the
19 purpose of trying and sentencing the minor as a delinquent
20 minor. To request a hearing, the party must file a motion prior
21 to trial. Reasonable notice of the motion shall be given to all
22 parties. On its own motion or upon the filing of a motion by
23 one of the parties including the minor, the court shall conduct
24 a hearing to determine whether the minor should be tried and
25 sentenced as a delinquent minor under this Article. In making
26 its determination, the court shall consider among other
27 matters:

28 (a) The age of the minor;

29 (b) Any previous delinquent or criminal history of the
30 minor;

31 (c) Any previous abuse or neglect history of the minor;

32 (d) Any mental health or educational history of the minor,
33 or both; and

34 (e) Whether there is probable cause to support the charge,

1 whether the minor is charged through accountability, and
2 whether there is evidence the minor possessed a deadly weapon
3 or caused serious bodily harm during the offense.

4 Any material that is relevant and reliable shall be
5 admissible at the hearing. In all cases, the judge shall enter
6 an order permitting prosecution under the criminal laws of
7 Illinois unless the judge makes a finding based on a
8 preponderance of the evidence that the minor would be amenable
9 to the care, treatment, and training programs available through
10 the facilities of the juvenile court based on an evaluation of
11 the factors listed in this subsection (10).

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

14 (705 ILCS 405/5-805)

15 Sec. 5-805. Transfer of jurisdiction.

16 (1) Mandatory transfers.

17 (a) If a petition alleges commission by a minor 15
18 years of age or older of an act that constitutes a forcible
19 felony under the laws of this State, and if a motion by the
20 State's Attorney to prosecute the minor under the criminal
21 laws of Illinois for the alleged forcible felony alleges
22 that (i) the minor has previously been adjudicated
23 delinquent or found guilty for commission of an act that
24 constitutes a felony under the laws of this State or any
25 other state and (ii) the act that constitutes the offense
26 was committed in furtherance of criminal activity by an
27 organized gang, the Juvenile Judge assigned to hear and
28 determine those motions shall, upon determining that there
29 is probable cause that both allegations are true, enter an
30 order permitting prosecution under the criminal laws of
31 Illinois.

32 (b) If a petition alleges commission by a minor 15
33 years of age or older of an act that constitutes a felony

1 under the laws of this State, and if a motion by a State's
2 Attorney to prosecute the minor under the criminal laws of
3 Illinois for the alleged felony alleges that (i) the minor
4 has previously been adjudicated delinquent or found guilty
5 for commission of an act that constitutes a forcible felony
6 under the laws of this State or any other state and (ii)
7 the act that constitutes the offense was committed in
8 furtherance of criminal activities by an organized gang,
9 the Juvenile Judge assigned to hear and determine those
10 motions shall, upon determining that there is probable
11 cause that both allegations are true, enter an order
12 permitting prosecution under the criminal laws of
13 Illinois.

14 (c) If a petition alleges commission by a minor 15
15 years of age or older of: (i) an act that constitutes an
16 offense enumerated in the presumptive transfer provisions
17 of subsection (2); and (ii) the minor has previously been
18 adjudicated delinquent or found guilty of a forcible
19 felony, the Juvenile Judge designated to hear and determine
20 those motions shall, upon determining that there is
21 probable cause that both allegations are true, enter an
22 order permitting prosecution under the criminal laws of
23 Illinois.

24 (d) If a petition alleges commission by a minor 15
25 years of age or older of an act that constitutes the
26 offense of aggravated discharge of a firearm committed in a
27 school, on the real property comprising a school, within
28 1,000 feet of the real property comprising a school, at a
29 school related activity, or on, boarding, or departing from
30 any conveyance owned, leased, or contracted by a school or
31 school district to transport students to or from school or
32 a school related activity, regardless of the time of day or
33 the time of year, the juvenile judge designated to hear and
34 determine those motions shall, upon determining that there

1 is probable cause that the allegations are true, enter an
2 order permitting prosecution under the criminal laws of
3 Illinois.

4 For purposes of this paragraph (d) of subsection (1):

5 "School" means a public or private elementary or
6 secondary school, community college, college, or
7 university.

8 "School related activity" means any sporting, social,
9 academic, or other activity for which students' attendance
10 or participation is sponsored, organized, or funded in
11 whole or in part by a school or school district.

12 (2) Presumptive transfer.

13 (a) If the State's Attorney files a petition, at any
14 time prior to commencement of the minor's trial, to permit
15 prosecution under the criminal laws and the petition
16 alleges the commission by a minor 15 years of age or older
17 of: (i) a Class X felony other than armed violence; (ii)
18 aggravated discharge of a firearm; (iii) armed violence
19 with a firearm when the predicate offense is a Class 1 or
20 Class 2 felony and the State's Attorney's motion to
21 transfer the case alleges that the offense committed is in
22 furtherance of the criminal activities of an organized
23 gang; (iv) armed violence with a firearm when the predicate
24 offense is a violation of the Illinois Controlled
25 Substances Act or a violation of the Cannabis Control Act;
26 (v) armed violence when the weapon involved was a machine
27 gun or other weapon described in subsection (a)(7) of
28 Section 24-1 of the Criminal Code of 1961; (vi) an act in
29 violation of Section 401 of the Illinois Controlled
30 Substances Act which is a Class X felony, while in a
31 school, regardless of the time of day or the time of year,
32 or on any conveyance owned, leased, or contracted by a
33 school to transport students to or from school or a school
34 related activity, or on residential property owned,

1 operated, or managed by a public housing agency or leased
2 by a public housing agency as part of a scattered site or
3 mixed-income development; or (vii) an act in violation of
4 Section 401 of the Illinois Controlled Substances Act and
5 the offense is alleged to have occurred while in a school
6 or on a public way within 1,000 feet of the real property
7 comprising any school, regardless of the time of day or the
8 time of year when the delivery or intended delivery of any
9 amount of the controlled substance is to a person under 17
10 years of age, (to qualify for a presumptive transfer under
11 paragraph (vi) or (vii) of this clause (2) (a), the
12 violation cannot be based upon subsection (b) of Section
13 407 of the Illinois Controlled Substances Act), and, if the
14 juvenile judge assigned to hear and determine motions to
15 transfer a case for prosecution in the criminal court
16 determines that there is probable cause to believe that the
17 allegations in the petition and motion are true, there is a
18 rebuttable presumption that the minor is not a fit and
19 proper subject to be dealt with under the Juvenile Justice
20 Reform Provisions of 1998 (Public Act 90-590), and that,
21 except as provided in paragraph (b), the case should be
22 transferred to the criminal court.

23 (b) The judge shall enter an order permitting
24 prosecution under the criminal laws of Illinois unless the
25 judge makes a finding based on clear and convincing
26 evidence that the minor would be amenable to the care,
27 treatment, and training programs available through the
28 facilities of the juvenile court based on an evaluation of
29 the following:

30 (i) the age of the minor;

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

32 (a) any previous delinquent or criminal history of
33 the minor,

34 (b) any previous abuse or neglect history of the

1 minor, and

2 (c) any mental health, physical or educational
3 history of the minor or combination of these factors;

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

5 (a) the seriousness of the offense,

6 (b) whether the minor is charged through
7 accountability,

8 (c) whether there is evidence the offense was
9 committed in an aggressive and premeditated manner,

10 (d) whether there is evidence the offense caused
11 serious bodily harm,

12 (e) whether there is evidence the minor possessed a
13 deadly weapon;

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

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

21 (a) the minor's history of services, including the
22 minor's willingness to participate meaningfully in
23 available services;

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

27 (c) the adequacy of the punishment or services.

28 ~~(i) The seriousness of the alleged offense;~~

29 ~~(ii) The minor's history of delinquency;~~

30 ~~(iii) The age of the minor;~~

31 ~~(iv) The culpability of the minor in committing the~~
32 ~~alleged offense;~~

33 ~~(v) Whether the offense was committed in an aggressive~~
34 ~~or premeditated manner;~~

1 ~~(vi) Whether the minor used or possessed a deadly~~
2 ~~weapon when committing the alleged offense;~~

3 ~~(vii) The minor's history of services, including the~~
4 ~~minor's willingness to participate meaningfully in~~
5 ~~available services;~~

6 ~~(viii) Whether there is a reasonable likelihood that~~
7 ~~the minor can be rehabilitated before the expiration of the~~
8 ~~juvenile court's jurisdiction;~~

9 ~~(ix) The adequacy of the punishment or services~~
10 ~~available in the juvenile justice system.~~

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

15 For purposes of clauses (2) (a) (vi) and (vii):

16 "School" means a public or private elementary or
17 secondary school, community college, college, or
18 university.

19 "School related activity" means any sporting,
20 social, academic, or other activity for which
21 students' attendance or participation is sponsored,
22 organized, or funded in whole or in part by a school or
23 school district.

24 (3) Discretionary transfer.

25 (a) If a petition alleges commission by a minor 13
26 years of age or over of an act that constitutes a crime
27 under the laws of this State and, on motion of the State's
28 Attorney to permit prosecution of the minor under the
29 criminal laws, a Juvenile Judge assigned by the Chief Judge
30 of the Circuit to hear and determine those motions, after
31 hearing but before commencement of the trial, finds that
32 there is probable cause to believe that the allegations in
33 the motion are true and that it is not in the best
34 interests of the public to proceed under this Act, the

1 court may enter an order permitting prosecution under the
2 criminal laws.

3 (b) In making its determination on the motion to permit
4 prosecution under the criminal laws, the court shall
5 consider among other matters:

6 (i) the age of the minor;

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

8 (a) any previous delinquent or criminal history of
9 the minor,

10 (b) any previous abuse or neglect history of the
11 minor, and

12 (c) any mental health, physical, or educational
13 history of the minor or combination of these factors;

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

15 (a) the seriousness of the offense,

16 (b) whether the minor is charged through
17 accountability,

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

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

22 (e) whether there is evidence the minor possessed a
23 deadly weapon;

24 (iv) the advantages of treatment within the juvenile
25 justice system including whether there are facilities or
26 programs, or both, particularly available in the juvenile
27 system;

28 (v) whether the security of the public requires
29 sentencing under Chapter V of the Unified Code of
30 Corrections:

31 (a) the minor's history of services, including the
32 minor's willingness to participate meaningfully in
33 available services;

34 (b) whether there is a reasonable likelihood that

1 the minor can be rehabilitated before the expiration of
2 the juvenile court's jurisdiction;

3 (c) the adequacy of the punishment or services.

4 ~~(i) The seriousness of the alleged offense;~~

5 ~~(ii) The minor's history of delinquency;~~

6 ~~(iii) The age of the minor;~~

7 ~~(iv) The culpability of the minor in committing the~~
8 ~~alleged offense;~~

9 ~~(v) Whether the offense was committed in an aggressive~~
10 ~~or premeditated manner;~~

11 ~~(vi) Whether the minor used or possessed a deadly~~
12 ~~weapon when committing the alleged offense;~~

13 ~~(vii) The minor's history of services, including the~~
14 ~~minor's willingness to participate meaningfully in~~
15 ~~available services;~~

16 ~~(viii) The adequacy of the punishment or services~~
17 ~~available in the juvenile justice system.~~

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

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

26 (5) If criminal proceedings are instituted, the petition
27 for adjudication of wardship shall be dismissed insofar as the
28 act or acts involved in the criminal proceedings. Taking of
29 evidence in a trial on petition for adjudication of wardship is
30 a bar to criminal proceedings based upon the conduct alleged in
31 the petition.

32 (Source: P.A. 90-590, eff. 1-1-99; 91-15, eff. 1-1-00; 91-357,
33 eff. 7-29-99.)

1 (705 ILCS 405/5-810)

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

3 (1) If the State's Attorney files a petition, at any time
4 prior to commencement of the minor's trial, to designate the
5 proceeding as an extended jurisdiction juvenile prosecution
6 and the petition alleges the commission by a minor 13 years of
7 age or older of any offense which would be a felony if
8 committed by an adult, and, if the juvenile judge assigned to
9 hear and determine petitions to designate the proceeding as an
10 extended jurisdiction juvenile prosecution determines that
11 there is probable cause to believe that the allegations in the
12 petition and motion are true, there is a rebuttable presumption
13 that the proceeding shall be designated as an extended
14 jurisdiction juvenile proceeding.

15 (b) The judge shall enter an order designating the
16 proceeding as an extended jurisdiction juvenile proceeding
17 unless the judge makes a finding based on clear and convincing
18 evidence that sentencing under the Chapter V of the Unified
19 Code of Corrections would not be appropriate for the minor
20 based on an evaluation of the following factors:

21 (i) the age of the minor;

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

23 (a) any previous delinquent or criminal history of
24 the minor,

25 (b) any previous abuse or neglect history of the
26 minor, and

27 (c) any mental health, physical and/or educational
28 history of the minor;

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

30 (a) the seriousness of the offense,

31 (b) whether the minor is charged through
32 accountability,

33 (c) whether there is evidence the offense was
34 committed in an aggressive and premeditated manner,

1 (d) whether there is evidence the offense caused
2 serious bodily harm,

3 (e) whether there is evidence the minor possessed a
4 deadly weapon;

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

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

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

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

18 (c) the adequacy of the punishment or services.

19 ~~(i) The seriousness of the alleged offense;~~

20 ~~(ii) The minor's history of delinquency;~~

21 ~~(iii) The age of the minor;~~

22 ~~(iv) The culpability of the minor in committing the~~
23 ~~alleged offense;~~

24 ~~(v) Whether the offense was committed in an aggressive~~
25 ~~or premeditated manner;~~

26 ~~(vi) Whether the minor used or possessed a deadly~~
27 ~~weapon when committing the alleged offense.~~

28 In considering these factors, the court shall give greater
29 weight to the seriousness of the alleged offense and the
30 minor's prior record of delinquency than to other factors
31 listed in this subsection.

32 (2) Procedures for extended jurisdiction juvenile
33 prosecutions.

34 (a) The State's Attorney may file a written motion for

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

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

29 (4) Sentencing. If an extended jurisdiction juvenile
30 prosecution under subsections (1) results in a guilty plea, a
31 verdict of guilty, or a finding of guilt, the court shall
32 impose the following:

33 (i) one or more juvenile sentences under Section 5-710;

34 and

1 (ii) an adult criminal sentence in accordance with the
2 provisions of Chapter V of the Unified Code of Corrections,
3 the execution of which shall be stayed on the condition
4 that the offender not violate the provisions of the
5 juvenile sentence.

6 Any sentencing hearing under this Section shall be open to the
7 public.

8 (5) If, after an extended jurisdiction juvenile
9 prosecution trial, a minor is convicted of a lesser-included
10 offense or of an offense that the State's Attorney did not
11 designate as an extended jurisdiction juvenile prosecution,
12 the State's Attorney may file a written motion, within 10 days
13 of the finding of guilt, that the minor be sentenced as an
14 extended jurisdiction juvenile prosecution offender. The court
15 shall rule on this motion using the factors found in paragraph
16 (1) (b) of Section 5-805. If the court denies the State's
17 Attorney's motion for sentencing under the extended
18 jurisdiction juvenile prosecution provision, the court shall
19 proceed to sentence the minor under Section 5-710.

20 (6) When it appears that a minor convicted in an extended
21 jurisdiction juvenile prosecution under subsection (1) has
22 violated the conditions of his or her sentence, or is alleged
23 to have committed a new offense upon the filing of a petition
24 to revoke the stay, the court may, without notice, issue a
25 warrant for the arrest of the minor. After a hearing, if the
26 court finds by a preponderance of the evidence that the minor
27 committed a new offense, the court shall order execution of the
28 previously imposed adult criminal sentence. After a hearing, if
29 the court finds by a preponderance of the evidence that the
30 minor committed a violation of his or her sentence other than
31 by a new offense, the court may order execution of the
32 previously imposed adult criminal sentence or may continue him
33 or her on the existing juvenile sentence with or without
34 modifying or enlarging the conditions. Upon revocation of the

1 stay of the adult criminal sentence and imposition of that
2 sentence, the minor's extended jurisdiction juvenile status
3 shall be terminated. The on-going jurisdiction over the minor's
4 case shall be assumed by the adult criminal court and juvenile
5 court jurisdiction shall be terminated and a report of the
6 imposition of the adult sentence shall be sent to the
7 Department of State Police.

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

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

12 (Source: P.A. 90-590, eff. 1-1-99.)

13 (705 ILCS 405/5-821 new)

14 Sec. 5-821. Legislative report. The General Assembly
15 recognizes that the issue of trial of youth in adult court
16 continues to command the General Assembly's attention. The
17 intent of the General Assembly is to encourage the use of
18 appropriate transfer to adult court for youth. It is further
19 the intent of the General Assembly to have the changes in this
20 amendatory Act of the 94th General Assembly studied to
21 determine the impact of this amendatory Act on the youth in
22 Illinois. The General Assembly authorizes the Illinois
23 Juvenile Justice Commission to commission a study on the
24 changes in jurisdiction made in this amendatory Act and
25 requests that the Illinois Juvenile Justice Commission provide
26 a written report to the General Assembly 3 years after the
27 effective date of this amendatory Act of the 94th General
28 Assembly.

29 Section 99. Effective date. This Act takes effect upon
30 becoming law."