



## 101ST GENERAL ASSEMBLY

### State of Illinois

2019 and 2020

SB1280

Introduced 2/7/2019, by Sen. Chuck Weaver

#### SYNOPSIS AS INTRODUCED:

705 ILCS 405/5-710

Amends the Juvenile Court Act of 1987. Provides that a minor found to be guilty for reasons that include a violation of criminal damage to property, criminal damage to government supported property, and institutional vandalism shall be ordered to perform community service for not less than 30 and not more than 120 hours (removes "if community service is available in the jurisdiction"). Provides that the minor's sentence shall not be considered discharged until the cleanup and repair of the damage caused by the minor is complete.

LRB101 06786 SLF 51813 b

1 AN ACT concerning courts.

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

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

6 (705 ILCS 405/5-710)

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

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

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

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

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

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

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

21 (v) placed in detention for a period not to exceed  
22 30 days, either as the exclusive order of disposition  
23 or, where appropriate, in conjunction with any other  
24 order of disposition issued under this paragraph,  
25 provided that any such detention shall be in a juvenile  
26 detention home and the minor so detained shall be 10

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

21 Persons 18 years of age and older who have a  
22 petition of delinquency filed against them may be  
23 confined in an adult detention facility. In making a  
24 determination whether to confine a person 18 years of  
25 age or older who has a petition of delinquency filed  
26 against the person, these factors, among other

1 matters, shall be considered:

2 (A) the age of the person;

3 (B) any previous delinquent or criminal  
4 history of the person;

5 (C) any previous abuse or neglect history of  
6 the person;

7 (D) any mental health history of the person;

8 and

9 (E) any educational history of the person;

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

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

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

25 (ix) ordered to undergo a medical or other  
26 procedure to have a tattoo symbolizing allegiance to a

1 street gang removed from his or her body; or  
2 (x) placed in electronic monitoring or home  
3 detention under Part 7A of this Article.

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

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

24 (2) Any sentencing order other than commitment to the  
25 Department of Juvenile Justice may provide for protective  
26 supervision under Section 5-725 and may include an order of

1 protection under Section 5-730.

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

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

19 (5) Any sentencing order where the minor is committed or  
20 placed in accordance with Section 5-740 shall provide for the  
21 parents or guardian of the estate of the minor to pay to the  
22 legal custodian or guardian of the person of the minor such  
23 sums as are determined by the custodian or guardian of the  
24 person of the minor as necessary for the minor's needs. The  
25 payments may not exceed the maximum amounts provided for by  
26 Section 9.1 of the Children and Family Services Act.

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

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

19           (7.5) In no event shall a guilty minor be committed to the  
20 Department of Juvenile Justice or placed in detention when the  
21 act for which the minor was adjudicated delinquent would not be  
22 illegal if committed by an adult.

23           (7.6) In no event shall a guilty minor be committed to the  
24 Department of Juvenile Justice for an offense which is a Class  
25 4 felony under Section 19-4 (criminal trespass to a residence),  
26 21-1 (criminal damage to property), 21-1.01 (criminal damage to



1 government supported property), 21-1.3 (criminal defacement of  
2 property), 26-1 (disorderly conduct), or 31-4 (obstructing  
3 justice) of the Criminal Code of 2012.

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

11 (8) A minor found to be guilty for reasons that include a  
12 violation of Section 21-1, 21-1.01, 21-1.2, or 21-1.3 of the  
13 Criminal Code of 1961 or the Criminal Code of 2012 shall be  
14 ordered to perform community service for not less than 30 and  
15 not more than 120 hours, ~~if community service is available in~~  
16 ~~the jurisdiction~~. The community service shall include, but need  
17 not be limited to, the cleanup and repair of the damage that  
18 was caused by the violation or similar damage to property  
19 located in the municipality or county in which the violation  
20 occurred. The order may be in addition to any other order  
21 authorized by this Section. The minor's sentence shall not be  
22 considered discharged until the cleanup and repair of the  
23 damage caused by the minor is complete.

24 (8.5) A minor found to be guilty for reasons that include a  
25 violation of Section 3.02 or Section 3.03 of the Humane Care  
26 for Animals Act or paragraph (d) of subsection (1) of Section

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

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

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

15 (10) When a court finds a minor to be guilty the court  
16 shall, before entering a sentencing order under this Section,  
17 make a finding whether the offense committed either: (a) was  
18 related to or in furtherance of the criminal activities of an  
19 organized gang or was motivated by the minor's membership in or  
20 allegiance to an organized gang, or (b) involved a violation of  
21 subsection (a) of Section 12-7.1 of the Criminal Code of 1961  
22 or the Criminal Code of 2012, a violation of any Section of  
23 Article 24 of the Criminal Code of 1961 or the Criminal Code of  
24 2012, or a violation of any statute that involved the wrongful  
25 use of a firearm. If the court determines the question in the  
26 affirmative, and the court does not commit the minor to the

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

19 (11) If the court determines that the offense was committed  
20 in furtherance of the criminal activities of an organized gang,  
21 as provided in subsection (10), and that the offense involved  
22 the operation or use of a motor vehicle or the use of a  
23 driver's license or permit, the court shall notify the  
24 Secretary of State of that determination and of the period for  
25 which the minor shall be denied driving privileges. If, at the  
26 time of the determination, the minor does not hold a driver's

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

14 (12) If a minor is found to be guilty of a violation of  
15 subsection (a-7) of Section 1 of the Prevention of Tobacco Use  
16 by Minors Act, the court may, in its discretion, and upon  
17 recommendation by the State's Attorney, order that minor and  
18 his or her parents or legal guardian to attend a smoker's  
19 education or youth diversion program as defined in that Act if  
20 that program is available in the jurisdiction where the  
21 offender resides. Attendance at a smoker's education or youth  
22 diversion program shall be time-credited against any community  
23 service time imposed for any first violation of subsection  
24 (a-7) of Section 1 of that Act. In addition to any other  
25 penalty that the court may impose for a violation of subsection  
26 (a-7) of Section 1 of that Act, the court, upon request by the

1 State's Attorney, may in its discretion require the offender to  
2 remit a fee for his or her attendance at a smoker's education  
3 or youth diversion program.

4 For purposes of this Section, "smoker's education program"  
5 or "youth diversion program" includes, but is not limited to, a  
6 seminar designed to educate a person on the physical and  
7 psychological effects of smoking tobacco products and the  
8 health consequences of smoking tobacco products that can be  
9 conducted with a locality's youth diversion program.

10 In addition to any other penalty that the court may impose  
11 under this subsection (12):

12 (a) If a minor violates subsection (a-7) of Section 1  
13 of the Prevention of Tobacco Use by Minors Act, the court  
14 may impose a sentence of 15 hours of community service or a  
15 fine of \$25 for a first violation.

16 (b) A second violation by a minor of subsection (a-7)  
17 of Section 1 of that Act that occurs within 12 months after  
18 the first violation is punishable by a fine of \$50 and 25  
19 hours of community service.

20 (c) A third or subsequent violation by a minor of  
21 subsection (a-7) of Section 1 of that Act that occurs  
22 within 12 months after the first violation is punishable by  
23 a \$100 fine and 30 hours of community service.

24 (d) Any second or subsequent violation not within the  
25 12-month time period after the first violation is  
26 punishable as provided for a first violation.

1 (Source: P.A. 99-268, eff. 1-1-16; 99-628, eff. 1-1-17; 99-879,  
2 eff. 1-1-17; 100-201, eff. 8-18-17; 100-431, eff. 8-25-17;  
3 100-759, eff. 1-1-19.)