

SB1691



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

SB1691

Introduced 2/15/2019, by Sen. Steve McClure

SYNOPSIS AS INTRODUCED:

705 ILCS 405/5-130

Amends the Juvenile Court Act of 1987. Provides that a minor who at the time of the offense was at least 16 years of age and who is charged with certain aggravated vehicular hijacking violations or certain armed robbery violations is not subject to the Act and shall be prosecuted under the criminal laws of the State.

LRB101 11068 SLF 56272 b

A BILL FOR

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 5-130 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 16 years of age and who is
11 charged with: (i) first degree murder, (ii) aggravated criminal
12 sexual assault, ~~or~~ (iii) aggravated battery with a firearm as
13 described in Section 12-4.2 or subdivision (e)(1), (e)(2),
14 (e)(3), or (e)(4) of Section 12-3.05 where the minor personally
15 discharged a firearm as defined in Section 2-15.5 of the
16 Criminal Code of 1961 or the Criminal Code of 2012, (iv)
17 aggravated vehicular hijacking under subdivision (a)(4),
18 (a)(5), or (a)(6) under Section 18-4 of the Criminal Code of
19 2012, or (v) armed robbery under subdivision (a)(2), (a)(3), or
20 (a)(4) under Section 18-2 of the Criminal Code of 2012.

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

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

9 (ii) If before trial or plea an information or indictment
10 is filed that includes one or more charges specified in
11 paragraph (a) of this subsection (1) and additional charges
12 that are not specified in that paragraph, all of the charges
13 arising out of the same incident shall be prosecuted under the
14 Criminal Code of 1961 or the Criminal Code of 2012.

15 (c) (i) If after trial or plea the minor is convicted of any
16 offense covered by paragraph (a) of this subsection (1), then,
17 in sentencing the minor, the court shall sentence the minor
18 under Section 5-4.5-105 of the Unified Code of Corrections.

19 (ii) If after trial or plea the court finds that the minor
20 committed an offense not covered by paragraph (a) of this
21 subsection (1), that finding shall not invalidate the verdict
22 or the prosecution of the minor under the criminal laws of the
23 State; however, unless the State requests a hearing for the
24 purpose of sentencing the minor under Chapter V of the Unified
25 Code of Corrections, the Court must proceed under Sections
26 5-705 and 5-710 of this Article. To request a hearing, the

1 State must file a written motion within 10 days following the
2 entry of a finding or the return of a verdict. Reasonable
3 notice of the motion shall be given to the minor or his or her
4 counsel. If the motion is made by the State, the court shall
5 conduct a hearing to determine if the minor should be sentenced
6 under Chapter V of the Unified Code of Corrections. In making
7 its determination, the court shall consider among other
8 matters: (a) whether there is evidence that the offense was
9 committed in an aggressive and premeditated manner; (b) the age
10 of the minor; (c) the previous history of the minor; (d)
11 whether there are facilities particularly available to the
12 Juvenile Court or the Department of Juvenile Justice 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 sentenced
19 under Chapter V of the Unified Code of Corrections, then the
20 court shall sentence the minor under Section 5-4.5-105 of the
21 Unified Code of Corrections.

22 (2) (Blank).

23 (3) (Blank).

24 (4) (Blank).

25 (5) (Blank).

26 (6) (Blank).

1 (7) The procedures set out in this Article for the
2 investigation, arrest and prosecution of juvenile offenders
3 shall not apply to minors who are excluded from jurisdiction of
4 the Juvenile Court, except that minors under 18 years of age
5 shall be kept separate from confined adults.

6 (8) Nothing in this Act prohibits or limits the prosecution
7 of any minor for an offense committed on or after his or her
8 18th birthday even though he or she is at the time of the
9 offense a ward of the court.

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

20 (10) If, prior to August 12, 2005 (the effective date of
21 Public Act 94-574), a minor is charged with a violation of
22 Section 401 of the Illinois Controlled Substances Act under the
23 criminal laws of this State, other than a minor charged with a
24 Class X felony violation of the Illinois Controlled Substances
25 Act or the Methamphetamine Control and Community Protection
26 Act, any party including the minor or the court sua sponte may,

1 before trial, move for a hearing for the purpose of trying and
2 sentencing the minor as a delinquent minor. To request a
3 hearing, the party must file a motion prior to trial.
4 Reasonable notice of the motion shall be given to all parties.
5 On its own motion or upon the filing of a motion by one of the
6 parties including the minor, the court shall conduct a hearing
7 to determine whether the minor should be tried and sentenced as
8 a delinquent minor under this Article. In making its
9 determination, the court shall consider among other matters:

10 (a) The age of the minor;

11 (b) Any previous delinquent or criminal history of the
12 minor;

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

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

16 (e) Whether there is probable cause to support the
17 charge, whether the minor is charged through
18 accountability, and whether there is evidence the minor
19 possessed a deadly weapon or caused serious bodily harm
20 during the offense.

21 Any material that is relevant and reliable shall be
22 admissible at the hearing. In all cases, the judge shall enter
23 an order permitting prosecution under the criminal laws of
24 Illinois unless the judge makes a finding based on a
25 preponderance of the evidence that the minor would be amenable
26 to the care, treatment, and training programs available through

1 the facilities of the juvenile court based on an evaluation of
2 the factors listed in this subsection (10).

3 (11) The changes made to this Section by Public Act 98-61
4 apply to a minor who has been arrested or taken into custody on
5 or after January 1, 2014 (the effective date of Public Act
6 98-61).

7 (Source: P.A. 98-61, eff. 1-1-14; 98-756, eff. 7-16-14; 99-258,
8 eff. 1-1-16.)