



Sen. James F. Clayborne, Jr.

Filed: 5/9/2013

09800HB3172sam001

LRB098 08458 MRW 45608 a

1 AMENDMENT TO HOUSE BILL 3172

2 AMENDMENT NO. _____. Amend House Bill 3172 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Juvenile Court Act of 1987 is amended by
5 changing Section 5-615 as follows:

6 (705 ILCS 405/5-615)

7 Sec. 5-615. Continuance under supervision.

8 (1) The court may enter an order of continuance under
9 supervision for an offense other than first degree murder, a
10 Class X felony or a forcible felony:

11 (a) upon an admission or stipulation by the appropriate
12 respondent or minor respondent of the facts supporting the
13 petition and before the court makes a finding of
14 delinquency ~~proceeding to adjudication, or after hearing~~
15 ~~the evidence at the trial, and (b) in the absence of~~
16 objection made in open court by the minor, his or her

1 parent, guardian, or legal custodian, the minor's attorney
2 or the State's Attorney; or-

3 (b) upon a finding of delinquency and after considering
4 the circumstances of the offense and the history,
5 character, and condition of the minor, if the court is of
6 the opinion that:

7 (i) the minor is not likely to commit further
8 crimes;

9 (ii) the minor and the public would be best served
10 if the minor were not to receive a criminal record; and

11 (iii) in the best interests of justice an order of
12 continuance under supervision is more appropriate than
13 a sentence otherwise permitted under this Act.

14 (2) (Blank). If the minor, his or her parent, guardian, or
15 legal custodian, the minor's attorney or State's Attorney
16 objects in open court to any continuance and insists upon
17 proceeding to findings and adjudication, the court shall so
18 proceed.

19 (3) Nothing in this Section limits the power of the court
20 to order a continuance of the hearing for the production of
21 additional evidence or for any other proper reason.

22 (4) When a hearing where a minor is alleged to be a
23 delinquent is continued pursuant to this Section, the period of
24 continuance under supervision may not exceed 24 months. The
25 court may terminate a continuance under supervision at any time
26 if warranted by the conduct of the minor and the ends of

1 justice or vacate the finding of delinquency or both.

2 (5) When a hearing where a minor is alleged to be
3 delinquent is continued pursuant to this Section, the court
4 may, as conditions of the continuance under supervision,
5 require the minor to do any of the following:

6 (a) not violate any criminal statute of any
7 jurisdiction;

8 (b) make a report to and appear in person before any
9 person or agency as directed by the court;

10 (c) work or pursue a course of study or vocational
11 training;

12 (d) undergo medical or psychotherapeutic treatment
13 rendered by a therapist licensed under the provisions of
14 the Medical Practice Act of 1987, the Clinical Psychologist
15 Licensing Act, or the Clinical Social Work and Social Work
16 Practice Act, or an entity licensed by the Department of
17 Human Services as a successor to the Department of
18 Alcoholism and Substance Abuse, for the provision of drug
19 addiction and alcoholism treatment;

20 (e) attend or reside in a facility established for the
21 instruction or residence of persons on probation;

22 (f) support his or her dependents, if any;

23 (g) pay costs;

24 (h) refrain from possessing a firearm or other
25 dangerous weapon, or an automobile;

26 (i) permit the probation officer to visit him or her at

1 his or her home or elsewhere;

2 (j) reside with his or her parents or in a foster home;

3 (k) attend school;

4 (k-5) with the consent of the superintendent of the
5 facility, attend an educational program at a facility other
6 than the school in which the offense was committed if he or
7 she committed a crime of violence as defined in Section 2
8 of the Crime Victims Compensation Act in a school, on the
9 real property comprising a school, or within 1,000 feet of
10 the real property comprising a school;

11 (l) attend a non-residential program for youth;

12 (m) contribute to his or her own support at home or in
13 a foster home;

14 (n) perform some reasonable public or community
15 service;

16 (o) make restitution to the victim, in the same manner
17 and under the same conditions as provided in subsection (4)
18 of Section 5-710, except that the "sentencing hearing"
19 referred to in that Section shall be the adjudicatory
20 hearing for purposes of this Section;

21 (p) comply with curfew requirements as designated by
22 the court;

23 (q) refrain from entering into a designated geographic
24 area except upon terms as the court finds appropriate. The
25 terms may include consideration of the purpose of the
26 entry, the time of day, other persons accompanying the

1 minor, and advance approval by a probation officer;

2 (r) refrain from having any contact, directly or
3 indirectly, with certain specified persons or particular
4 types of persons, including but not limited to members of
5 street gangs and drug users or dealers;

6 (r-5) undergo a medical or other procedure to have a
7 tattoo symbolizing allegiance to a street gang removed from
8 his or her body;

9 (s) refrain from having in his or her body the presence
10 of any illicit drug prohibited by the Cannabis Control Act,
11 the Illinois Controlled Substances Act, or the
12 Methamphetamine Control and Community Protection Act,
13 unless prescribed by a physician, and submit samples of his
14 or her blood or urine or both for tests to determine the
15 presence of any illicit drug; or

16 (t) comply with any other conditions as may be ordered
17 by the court.

18 (6) A minor whose case is continued under supervision under
19 subsection (5) shall be given a certificate setting forth the
20 conditions imposed by the court. Those conditions may be
21 reduced, enlarged, or modified by the court on motion of the
22 probation officer or on its own motion, or that of the State's
23 Attorney, or, at the request of the minor after notice and
24 hearing.

25 (7) If a petition is filed charging a violation of a
26 condition of the continuance under supervision, the court shall

1 conduct a hearing. If the court finds that a condition of
2 supervision has not been fulfilled, the court may proceed to
3 findings, ~~and~~ adjudication, ~~and~~ disposition or adjudication
4 and disposition. The filing of a petition for violation of a
5 condition of the continuance under supervision shall toll the
6 period of continuance under supervision until the final
7 determination of the charge, and the term of the continuance
8 under supervision shall not run until the hearing and
9 disposition of the petition for violation; provided where the
10 petition alleges conduct that does not constitute a criminal
11 offense, the hearing must be held within 30 days of the filing
12 of the petition unless a delay shall continue the tolling of
13 the period of continuance under supervision for the period of
14 the delay.

15 (8) When a hearing in which a minor is alleged to be a
16 delinquent for reasons that include a violation of Section
17 21-1.3 of the Criminal Code of 1961 or the Criminal Code of
18 2012 is continued under this Section, the court shall, as a
19 condition of the continuance under supervision, require the
20 minor to perform community service for not less than 30 and not
21 more than 120 hours, if community service is available in the
22 jurisdiction. The community service shall include, but need not
23 be limited to, the cleanup and repair of the damage that was
24 caused by the alleged violation or similar damage to property
25 located in the municipality or county in which the alleged
26 violation occurred. The condition may be in addition to any

1 other condition.

2 (8.5) When a hearing in which a minor is alleged to be a
3 delinquent for reasons that include a violation of Section 3.02
4 or Section 3.03 of the Humane Care for Animals Act or paragraph
5 (d) of subsection (1) of Section 21-1 of the Criminal Code of
6 1961 or paragraph (4) of subsection (a) of Section 21-1 or the
7 Criminal Code of 2012 is continued under this Section, the
8 court shall, as a condition of the continuance under
9 supervision, require the minor to undergo medical or
10 psychiatric treatment rendered by a psychiatrist or
11 psychological treatment rendered by a clinical psychologist.
12 The condition may be in addition to any other condition.

13 (9) When a hearing in which a minor is alleged to be a
14 delinquent is continued under this Section, the court, before
15 continuing the case, shall make a finding whether the offense
16 alleged to have been committed either: (i) was related to or in
17 furtherance of the activities of an organized gang or was
18 motivated by the minor's membership in or allegiance to an
19 organized gang, or (ii) is a violation of paragraph (13) of
20 subsection (a) of Section 12-2 or paragraph (2) of subsection
21 (c) of Section 12-2 of the Criminal Code of 1961 or the
22 Criminal Code of 2012, a violation of any Section of Article 24
23 of the Criminal Code of 1961 or the Criminal Code of 2012, or a
24 violation of any statute that involved the unlawful use of a
25 firearm. If the court determines the question in the
26 affirmative the court shall, as a condition of the continuance

1 under supervision and as part of or in addition to any other
2 condition of the supervision, require the minor to perform
3 community service for not less than 30 hours, provided that
4 community service is available in the jurisdiction and is
5 funded and approved by the county board of the county where the
6 offense was committed. The community service shall include, but
7 need not be limited to, the cleanup and repair of any damage
8 caused by an alleged violation of Section 21-1.3 of the
9 Criminal Code of 1961 or the Criminal Code of 2012 and similar
10 damage to property located in the municipality or county in
11 which the alleged violation occurred. When possible and
12 reasonable, the community service shall be performed in the
13 minor's neighborhood. For the purposes of this Section,
14 "organized gang" has the meaning ascribed to it in Section 10
15 of the Illinois Streetgang Terrorism Omnibus Prevention Act.

16 (10) The court shall impose upon a minor placed on
17 supervision, as a condition of the supervision, a fee of \$50
18 for each month of supervision ordered by the court, unless
19 after determining the inability of the minor placed on
20 supervision to pay the fee, the court assesses a lesser amount.
21 The court may not impose the fee on a minor who is made a ward
22 of the State under this Act while the minor is in placement.
23 The fee shall be imposed only upon a minor who is actively
24 supervised by the probation and court services department. A
25 court may order the parent, guardian, or legal custodian of the
26 minor to pay some or all of the fee on the minor's behalf.

1 (11) If a minor is placed on supervision for a violation of
2 subsection (a-7) of Section 1 of the Prevention of Tobacco Use
3 by Minors Act, the court may, in its discretion, and upon
4 recommendation by the State's Attorney, order that minor and
5 his or her parents or legal guardian to attend a smoker's
6 education or youth diversion program as defined in that Act if
7 that program is available in the jurisdiction where the
8 offender resides. Attendance at a smoker's education or youth
9 diversion program shall be time-credited against any community
10 service time imposed for any first violation of subsection
11 (a-7) of Section 1 of that Act. In addition to any other
12 penalty that the court may impose for a violation of subsection
13 (a-7) of Section 1 of that Act, the court, upon request by the
14 State's Attorney, may in its discretion require the offender to
15 remit a fee for his or her attendance at a smoker's education
16 or youth diversion program.

17 For purposes of this Section, "smoker's education program"
18 or "youth diversion program" includes, but is not limited to, a
19 seminar designed to educate a person on the physical and
20 psychological effects of smoking tobacco products and the
21 health consequences of smoking tobacco products that can be
22 conducted with a locality's youth diversion program.

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

25 (a) If a minor violates subsection (a-7) of Section 1
26 of the Prevention of Tobacco Use by Minors Act, the court

1 may impose a sentence of 15 hours of community service or a
2 fine of \$25 for a first violation.

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

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

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

14 (Source: P.A. 96-179, eff. 8-10-09; 96-1414, eff. 1-1-11;
15 97-1150, eff. 1-25-13.)".