

AN ACT concerning courts.

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

Section 5. The Juvenile Court Act of 1987 is amended by changing Section 5-710 and by adding Part 7A to Article V as follows:

(705 ILCS 405/5-710)

Sec. 5-710. Kinds of sentencing orders.

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

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

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

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

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

(iv) placed in the guardianship of the Department of Children and Family Services, but only if the delinquent minor is under 15 years of age or, pursuant to Article II of this Act, a minor for whom an independent basis of abuse, neglect, or dependency exists. An independent basis exists when the allegations or adjudication of abuse, neglect, or dependency do not arise from the same facts, incident, or circumstances which give rise to a charge or adjudication of delinquency;

(v) placed in detention for a period not to exceed 30 days, either as the exclusive order of disposition or, where appropriate, in conjunction with any other order of disposition issued under this paragraph, provided that any such detention shall be in a juvenile detention home and the minor so detained shall be 10 years of age or older. However, the 30-day limitation may be extended by further order of the court for a minor under age 15 committed to the Department of Children and Family Services if the court finds that the minor is a danger to himself or others. The minor shall be given credit on the sentencing order of detention for time spent in detention under Sections

5-501, 5-601, 5-710, or 5-720 of this Article as a result of the offense for which the sentencing order was imposed. The court may grant credit on a sentencing order of detention entered under a violation of probation or violation of conditional discharge under Section 5-720 of this Article for time spent in detention before the filing of the petition alleging the violation. A minor shall not be deprived of credit for time spent in detention before the filing of a violation of probation or conditional discharge alleging the same or related act or acts;

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

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

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

(ix) ordered to undergo a medical or other procedure to have a tattoo symbolizing allegiance to a street gang removed from his or her body; or -

(x) placed in electronic home detention under Part 7A of this Article.

(b) A minor found to be guilty may be committed to the Department of Juvenile Justice under Section 5-750 if the minor is 13 years of age or older, provided that the commitment to the Department of Juvenile Justice shall be made only if a term of incarceration is permitted by law for adults found guilty of the offense for which the minor was adjudicated delinquent. The time during which a minor is in custody before being released upon the request of a parent, guardian or legal custodian shall be considered as time spent in detention.

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

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

protection under Section 5-730.

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

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

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

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

(7) In no event shall a guilty minor be committed to the Department of Juvenile Justice for a period of time in excess of that period for which an adult could be committed for the same act.

(8) A minor found to be guilty for reasons that include a violation of Section 21-1.3 of the Criminal Code of 1961 shall be ordered to perform community service for not less than 30 and not more than 120 hours, if community service is available in the jurisdiction. The community service shall include, but need not be limited to, the cleanup and repair of the damage that was caused by the violation or similar damage to property located in the municipality or county in which the violation occurred. The order may be in addition to any other order authorized by this Section.

(8.5) A minor found to be guilty for reasons that include a

violation of Section 3.02 or Section 3.03 of the Humane Care for Animals Act or paragraph (d) of subsection (1) of Section 21-1 of the Criminal Code of 1961 shall be ordered to undergo medical or psychiatric treatment rendered by a psychiatrist or psychological treatment rendered by a clinical psychologist. The order may be in addition to any other order authorized by this Section.

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

public, the judge shall have the discretion to determine to whom the results of the testing may be revealed. The court shall notify the minor of the results of the test for infection with the human immunodeficiency virus (HIV). The court shall also notify the victim if requested by the victim, and if the victim is under the age of 15 and if requested by the victim's parents or legal guardian, the court shall notify the victim's parents or the legal guardian, of the results of the test for infection with the human immunodeficiency virus (HIV). The court shall provide information on the availability of HIV testing and counseling at the Department of Public Health facilities to all parties to whom the results of the testing are revealed. The court shall order that the cost of any test shall be paid by the county and may be taxed as costs against the minor.

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

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

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

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

(Source: P.A. 94-556, eff. 9-11-05; 94-696, eff. 6-1-06; 95-337, eff. 6-1-08; 95-642, eff. 6-1-08; 95-844, eff. 8-15-08; 95-876, eff. 8-21-08.)

(705 ILCS 405/Art. V, Part 7A heading new)

PART 7A. JUVENILE ELECTRONIC HOME DETENTION LAW

(705 ILCS 405/5-7A-101 new)

Sec. 5-7A-101. Short title. This Part may be cited as the Juvenile Electronic Home Detention Law.

(705 ILCS 405/5-7A-105 new)

Sec. 5-7A-105. Definitions. As used in this Article:

(a) "Approved electronic monitoring device" means a device

approved by the supervising authority that is primarily intended to record or transmit information as to the minor's presence or nonpresence in the home. An approved electronic monitoring device may record or transmit: oral or wire communications or an auditory sound; visual images; or information regarding the minor's activities while inside the offender's home. These devices are subject to the required consent as set forth in Section 5-7A-125 of this Article. An approved electronic monitoring device may be used to record a conversation between the participant and the monitoring device, or the participant and the person supervising the participant solely for the purpose of identification and not for the purpose of eavesdropping or conducting any other illegally intrusive monitoring.

(b) "Excluded offenses" means any act if committed by an adult would constitute first degree murder, escape, aggravated criminal sexual assault, criminal sexual assault, aggravated battery with a firearm, bringing or possessing a firearm, ammunition, or explosive in a penal institution, any "Super-X" drug offense or calculated criminal drug conspiracy or streetgang criminal drug conspiracy, or any predecessor or successor offenses with the same or substantially the same elements, or any inchoate offenses relating to the foregoing offenses.

(c) "Home detention" means the confinement of a minor adjudicated delinquent or subject to an adjudicatory hearing

under Article V for an act that if committed by an adult would be an offense to his or her place of residence under the terms and conditions established by the supervising authority.

(d) "Participant" means a minor placed into an electronic monitoring program.

(e) "Supervising authority" means the Department of Juvenile Justice, probation supervisory authority, sheriff, superintendent of a juvenile detention center, or any other officer or agency charged with authorizing and supervising home detention.

(f) "Super-X drug offense" means a violation of clause (a)(1)(B), (C), or (D) of Section 401; clause (a)(2)(B), (C), or (D) of Section 401; clause (a)(3)(B), (C), or (D) of Section 401; or clause (a)(7)(B), (C), or (D) of Section 401 of the Illinois Controlled Substances Act.

(705 ILCS 405/5-7A-110 new)

Sec. 5-7A-110. Application.

(a) Except as provided in subsection (d), a minor subject to an adjudicatory hearing or adjudicated delinquent for an act that if committed by an adult would be an excluded offense may not be placed in an electronic home detention program, except upon order of the court upon good cause shown.

(b) A minor adjudicated delinquent for an act that if committed by an adult would be a Class 1 felony, other than an excluded offense, may be placed in an electronic home detention

program.

(c) A minor adjudicated delinquent for an act that if committed by an adult would be a Class X felony, other than an excluded offense, may be placed in an electronic home detention program, provided that the person was sentenced on or after the effective date of this amendatory Act of the 96th General Assembly and provided that the court has not prohibited the program for the minor in the sentencing order.

(d) Applications for electronic home detention may include the following:

- (1) pre-adjudicatory detention;
- (2) probation;
- (3) furlough;
- (4) post-trial incarceration; or
- (5) any other disposition under this Article.

(705 ILCS 405/5-7A-115 new)

Sec. 5-7A-115. Program description. The supervising authority may promulgate rules that prescribe reasonable guidelines under which an electronic home detention program shall operate. These rules shall include, but not be limited, to the following:

(A) The participant shall remain within the interior premises or within the property boundaries of his or her residence at all times during the hours designated by the supervising authority. Such instances of approved absences

from the home may include, but are not limited to, the following:

(1) working or employment approved by the court or traveling to or from approved employment;

(2) unemployed and seeking employment approved for the participant by the court;

(3) undergoing medical, psychiatric, mental health treatment, counseling, or other treatment programs approved for the participant by the court;

(4) attending an educational institution or a program approved for the participant by the court;

(5) attending a regularly scheduled religious service at a place of worship;

(6) participating in community work release or community service programs approved for the participant by the supervising authority; or

(7) for another compelling reason consistent with the public interest, as approved by the supervising authority.

(B) The participant shall admit any person or agent designated by the supervising authority into his or her residence at any time for purposes of verifying the participant's compliance with the conditions of his or her detention.

(C) The participant shall make the necessary arrangements to allow for any person or agent designated by

the supervising authority to visit the participant's place of education or employment at any time, based upon the approval of the educational institution or employer or both, for the purpose of verifying the participant's compliance with the conditions of his or her detention.

(D) The participant shall acknowledge and participate with the approved electronic monitoring device as designated by the supervising authority at any time for the purpose of verifying the participant's compliance with the conditions of his or her detention.

(E) The participant shall maintain the following:

(1) a working telephone in the participant's home;

(2) a monitoring device in the participant's home, or on the participant's person, or both; and

(3) a monitoring device in the participant's home and on the participant's person in the absence of a telephone.

(F) The participant shall obtain approval from the supervising authority before the participant changes residence or the schedule described in paragraph (A) of this Section.

(G) The participant shall not commit another act that if committed by an adult would constitute a crime during the period of home detention ordered by the court.

(H) Notice to the participant that violation of the order for home detention may subject the participant to an

adjudicatory hearing for escape as described in Section 5-7A-120.

(I) The participant shall abide by other conditions as set by the supervising authority.

(705 ILCS 405/7A-120 new)

Sec. 7A-120. Escape; failure to comply with a condition of the juvenile electronic home monitoring detention program. A minor charged with or adjudicated delinquent for an act that, if committed by an adult, would constitute a felony or misdemeanor, conditionally released from the supervising authority through a juvenile electronic home monitoring detention program, who knowingly violates a condition of the juvenile electronic home monitoring detention program shall be adjudicated a delinquent minor for such act and shall be subject to an additional sentencing order under Section 5-710.

(705 ILCS 405/7A-125 new)

Sec. 7A-125. Consent of the participant. Before entering an order for commitment for juvenile electronic home detention, the supervising authority shall inform the participant and other persons residing in the home of the nature and extent of the approved electronic monitoring devices by doing the following:

(A) Securing the written consent of the participant in the program to comply with the rules and regulations of the

program as stipulated in paragraphs (A) through (I) of Section 5-7A-115.

(B) Where possible, securing the written consent of other persons residing in the home of the participant, including the parent or legal guardian of the minor and of the person in whose name the telephone is registered, at the time of the order or commitment for electronic home detention is entered and acknowledge the nature and extent of approved electronic monitoring devices.

(C) Ensure that the approved electronic devices are minimally intrusive upon the privacy of the participant and other persons residing in the home while remaining in compliance with paragraphs (B) through (D) of Section 5-7A-115.