



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

HB4402

by Rep. Anthony DeLuca

SYNOPSIS AS INTRODUCED:

705 ILCS 405/5-715
705 ILCS 405/5-750

Amends the Juvenile Court Act of 1987. Provides that if a minor has previously been placed on probation for an offense that involves the use or possession of a firearm, the court may not place the minor on probation for any subsequent offense involving the use or possession of a firearm. Provides that a minor convicted of a subsequent offense involving the use or possession of a firearm shall result in a mandatory sentence of no less than 6 months confinement to the Department of Juvenile Justice with the Department providing services including, but not limited to, education, mental health, drug treatment, and mentoring.

LRB100 18483 SLF 33699 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 Sections 5-715 and 5-750 as follows:

6 (705 ILCS 405/5-715)

7 Sec. 5-715. Probation.

8 (1) The period of probation or conditional discharge shall
9 not exceed 5 years or until the minor has attained the age of
10 21 years, whichever is less, except as provided in this Section
11 for a minor who is found to be guilty for an offense which is
12 first degree murder. The juvenile court may terminate probation
13 or conditional discharge and discharge the minor at any time if
14 warranted by the conduct of the minor and the ends of justice;
15 provided, however, that the period of probation for a minor who
16 is found to be guilty for an offense which is first degree
17 murder shall be at least 5 years.

18 (1.5) The period of probation for a minor who is found
19 guilty of aggravated criminal sexual assault, criminal sexual
20 assault, or aggravated battery with a firearm shall be at least
21 36 months. The period of probation for a minor who is found to
22 be guilty of any other Class X felony shall be at least 24
23 months. The period of probation for a Class 1 or Class 2

1 forcible felony shall be at least 18 months. Regardless of the
2 length of probation ordered by the court, for all offenses
3 under this paragraph (1.5), the court shall schedule hearings
4 to determine whether it is in the best interest of the minor
5 and public safety to terminate probation after the minimum
6 period of probation has been served. In such a hearing, there
7 shall be a rebuttable presumption that it is in the best
8 interest of the minor and public safety to terminate probation.

9 (2) The court may as a condition of probation or of
10 conditional discharge require that the minor:

11 (a) not violate any criminal statute of any
12 jurisdiction;

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

15 (c) work or pursue a course of study or vocational
16 training;

17 (d) undergo medical or psychiatric treatment, rendered
18 by a psychiatrist or psychological treatment rendered by a
19 clinical psychologist or social work services rendered by a
20 clinical social worker, or treatment for drug addiction or
21 alcoholism;

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

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

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

1 (h) permit the probation officer to visit him or her at
2 his or her home or elsewhere;

3 (i) reside with his or her parents or in a foster home;

4 (j) attend school;

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

12 (k) attend a non-residential program for youth;

13 (l) make restitution under the terms of subsection (4)
14 of Section 5-710;

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

17 (n) perform some reasonable public or community
18 service;

19 (o) participate with community corrections programs
20 including unified delinquency intervention services
21 administered by the Department of Human Services subject to
22 Section 5 of the Children and Family Services Act;

23 (p) pay costs;

24 (q) serve a term of home confinement. In addition to
25 any other applicable condition of probation or conditional
26 discharge, the conditions of home confinement shall be that

1 the minor:

2 (i) remain within the interior premises of the
3 place designated for his or her confinement during the
4 hours designated by the court;

5 (ii) admit any person or agent designated by the
6 court into the minor's place of confinement at any time
7 for purposes of verifying the minor's compliance with
8 the conditions of his or her confinement; and

9 (iii) use an approved electronic monitoring device
10 if ordered by the court subject to Article 8A of
11 Chapter V of the Unified Code of Corrections;

12 (r) refrain from entering into a designated geographic
13 area except upon terms as the court finds appropriate. The
14 terms may include consideration of the purpose of the
15 entry, the time of day, other persons accompanying the
16 minor, and advance approval by a probation officer, if the
17 minor has been placed on probation, or advance approval by
18 the court, if the minor has been placed on conditional
19 discharge;

20 (s) refrain from having any contact, directly or
21 indirectly, with certain specified persons or particular
22 types of persons, including but not limited to members of
23 street gangs and drug users or dealers;

24 (s-5) undergo a medical or other procedure to have a
25 tattoo symbolizing allegiance to a street gang removed from
26 his or her body;

1 (t) refrain from having in his or her body the presence
2 of any illicit drug prohibited by the Cannabis Control Act,
3 the Illinois Controlled Substances Act, or the
4 Methamphetamine Control and Community Protection Act,
5 unless prescribed by a physician, and shall submit samples
6 of his or her blood or urine or both for tests to determine
7 the presence of any illicit drug; or

8 (u) comply with other conditions as may be ordered by
9 the court.

10 (3) The court may as a condition of probation or of
11 conditional discharge require that a minor found guilty on any
12 alcohol, cannabis, methamphetamine, or controlled substance
13 violation, refrain from acquiring a driver's license during the
14 period of probation or conditional discharge. If the minor is
15 in possession of a permit or license, the court may require
16 that the minor refrain from driving or operating any motor
17 vehicle during the period of probation or conditional
18 discharge, except as may be necessary in the course of the
19 minor's lawful employment.

20 (3.5) The court shall, as a condition of probation or of
21 conditional discharge, require that a minor found to be guilty
22 and placed on probation for reasons that include a violation of
23 Section 3.02 or Section 3.03 of the Humane Care for Animals Act
24 or paragraph (4) of subsection (a) of Section 21-1 of the
25 Criminal Code of 2012 undergo medical or psychiatric treatment
26 rendered by a psychiatrist or psychological treatment rendered

1 by a clinical psychologist. The condition may be in addition to
2 any other condition.

3 (3.10) The court shall order that a minor placed on
4 probation or conditional discharge for a sex offense as defined
5 in the Sex Offender Management Board Act undergo and
6 successfully complete sex offender treatment. The treatment
7 shall be in conformance with the standards developed under the
8 Sex Offender Management Board Act and conducted by a treatment
9 provider approved by the Board. The treatment shall be at the
10 expense of the person evaluated based upon that person's
11 ability to pay for the treatment.

12 (4) A minor on probation or conditional discharge shall be
13 given a certificate setting forth the conditions upon which he
14 or she is being released.

15 (5) The court shall impose upon a minor placed on probation
16 or conditional discharge, as a condition of the probation or
17 conditional discharge, a fee of \$50 for each month of probation
18 or conditional discharge supervision ordered by the court,
19 unless after determining the inability of the minor placed on
20 probation or conditional discharge to pay the fee, the court
21 assesses a lesser amount. The court may not impose the fee on a
22 minor who is placed in the guardianship or custody of the
23 Department of Children and Family Services under this Act while
24 the minor is in placement. The fee shall be imposed only upon a
25 minor who is actively supervised by the probation and court
26 services department. The court may order the parent, guardian,

1 or legal custodian of the minor to pay some or all of the fee on
2 the minor's behalf.

3 (5.5) Jurisdiction over an offender may be transferred from
4 the sentencing court to the court of another circuit with the
5 concurrence of both courts. Further transfers or retransfers of
6 jurisdiction are also authorized in the same manner. The court
7 to which jurisdiction has been transferred shall have the same
8 powers as the sentencing court. The probation department within
9 the circuit to which jurisdiction has been transferred, or
10 which has agreed to provide supervision, may impose probation
11 fees upon receiving the transferred offender, as provided in
12 subsection (i) of Section 5-6-3 of the Unified Code of
13 Corrections. For all transfer cases, as defined in Section 9b
14 of the Probation and Probation Officers Act, the probation
15 department from the original sentencing court shall retain all
16 probation fees collected prior to the transfer. After the
17 transfer, all probation fees shall be paid to the probation
18 department within the circuit to which jurisdiction has been
19 transferred.

20 If the transfer case originated in another state and has
21 been transferred under the Interstate Compact for Juveniles to
22 the jurisdiction of an Illinois circuit court for supervision
23 by an Illinois probation department, probation fees may be
24 imposed only if permitted by the Interstate Commission for
25 Juveniles.

26 (6) The General Assembly finds that in order to protect the

1 public, the juvenile justice system must compel compliance with
2 the conditions of probation by responding to violations with
3 swift, certain, and fair punishments and intermediate
4 sanctions. The Chief Judge of each circuit shall adopt a system
5 of structured, intermediate sanctions for violations of the
6 terms and conditions of a sentence of supervision, probation or
7 conditional discharge, under this Act.

8 The court shall provide as a condition of a disposition of
9 probation, conditional discharge, or supervision, that the
10 probation agency may invoke any sanction from the list of
11 intermediate sanctions adopted by the chief judge of the
12 circuit court for violations of the terms and conditions of the
13 sentence of probation, conditional discharge, or supervision,
14 subject to the provisions of Section 5-720 of this Act.

15 (7) If a minor has previously been placed on probation for
16 an offense that involves the use or possession of a firearm,
17 the court may not place the minor on probation for any
18 subsequent offense involving the use or possession of a
19 firearm.

20 (Source: P.A. 99-879, eff. 1-1-17; 100-159, eff. 8-18-17.)

21 (705 ILCS 405/5-750)

22 Sec. 5-750. Commitment to the Department of Juvenile
23 Justice.

24 (1) Except as provided in subsection (2) of this Section,
25 when any delinquent has been adjudged a ward of the court under

1 this Act, the court may commit him or her to the Department of
2 Juvenile Justice, if it finds that (a) his or her parents,
3 guardian or legal custodian are unfit or are unable, for some
4 reason other than financial circumstances alone, to care for,
5 protect, train, or discipline the minor, or are unwilling to do
6 so, and the best interests of the minor and the public will not
7 be served by placement under Section 5-740, or it is necessary
8 to ensure the protection of the public from the consequences of
9 criminal activity of the delinquent; and (b) commitment to the
10 Department of Juvenile Justice is the least restrictive
11 alternative based on evidence that efforts were made to locate
12 less restrictive alternatives to secure confinement and the
13 reasons why efforts were unsuccessful in locating a less
14 restrictive alternative to secure confinement. Before the
15 court commits a minor to the Department of Juvenile Justice, it
16 shall make a finding that secure confinement is necessary,
17 following a review of the following individualized factors:

18 (A) Age of the minor.

19 (B) Criminal background of the minor.

20 (C) Review of results of any assessments of the minor,
21 including child centered assessments such as the CANS.

22 (D) Educational background of the minor, indicating
23 whether the minor has ever been assessed for a learning
24 disability, and if so what services were provided as well
25 as any disciplinary incidents at school.

26 (E) Physical, mental and emotional health of the minor,

1 indicating whether the minor has ever been diagnosed with a
2 health issue and if so what services were provided and
3 whether the minor was compliant with services.

4 (F) Community based services that have been provided to
5 the minor, and whether the minor was compliant with the
6 services, and the reason the services were unsuccessful.

7 (G) Services within the Department of Juvenile Justice
8 that will meet the individualized needs of the minor.

9 (1.5) Before the court commits a minor to the Department of
10 Juvenile Justice, the court must find reasonable efforts have
11 been made to prevent or eliminate the need for the minor to be
12 removed from the home, or reasonable efforts cannot, at this
13 time, for good cause, prevent or eliminate the need for
14 removal, and removal from home is in the best interests of the
15 minor, the minor's family, and the public.

16 (2) When a minor of the age of at least 13 years is
17 adjudged delinquent for the offense of first degree murder, the
18 court shall declare the minor a ward of the court and order the
19 minor committed to the Department of Juvenile Justice until the
20 minor's 21st birthday, without the possibility of aftercare
21 release, furlough, or non-emergency authorized absence for a
22 period of 5 years from the date the minor was committed to the
23 Department of Juvenile Justice, except that the time that a
24 minor spent in custody for the instant offense before being
25 committed to the Department of Juvenile Justice shall be
26 considered as time credited towards that 5 year period. Upon

1 release from a Department facility, a minor adjudged delinquent
2 for first degree murder shall be placed on aftercare release
3 until the age of 21, unless sooner discharged from aftercare
4 release or custodianship is otherwise terminated in accordance
5 with this Act or as otherwise provided for by law. Nothing in
6 this subsection (2) shall preclude the State's Attorney from
7 seeking to prosecute a minor as an adult as an alternative to
8 proceeding under this Act.

9 (2.5) A minor convicted of a subsequent offense involving
10 the use or possession of a firearm shall result in a mandatory
11 sentence of no less than 6 months confinement to the Department
12 of Juvenile Justice with the Department providing services
13 including, but not limited to, education, mental health, drug
14 treatment, and mentoring.

15 (3) Except as provided in subsections ~~subsection~~ (2) and
16 (2.5), the commitment of a delinquent to the Department of
17 Juvenile Justice shall be for an indeterminate term which shall
18 automatically terminate upon the delinquent attaining the age
19 of 21 years or upon completion of that period for which an
20 adult could be committed for the same act, whichever occurs
21 sooner, unless the delinquent is sooner discharged from
22 aftercare release or custodianship is otherwise terminated in
23 accordance with this Act or as otherwise provided for by law.

24 (3.5) Every delinquent minor committed to the Department of
25 Juvenile Justice under this Act shall be eligible for aftercare
26 release without regard to the length of time the minor has been

1 confined or whether the minor has served any minimum term
2 imposed. Aftercare release shall be administered by the
3 Department of Juvenile Justice, under the direction of the
4 Director. Unless sooner discharged, the Department of Juvenile
5 Justice shall discharge a minor from aftercare release upon
6 completion of the following aftercare release terms:

7 (a) One and a half years from the date a minor is
8 released from a Department facility, if the minor was
9 committed for a Class X felony;

10 (b) One year from the date a minor is released from a
11 Department facility, if the minor was committed for a Class
12 1 or 2 felony; and

13 (c) Six months from the date a minor is released from a
14 Department facility, if the minor was committed for a Class
15 3 felony or lesser offense.

16 (4) When the court commits a minor to the Department of
17 Juvenile Justice, it shall order him or her conveyed forthwith
18 to the appropriate reception station or other place designated
19 by the Department of Juvenile Justice, and shall appoint the
20 Director of Juvenile Justice legal custodian of the minor. The
21 clerk of the court shall issue to the Director of Juvenile
22 Justice a certified copy of the order, which constitutes proof
23 of the Director's authority. No other process need issue to
24 warrant the keeping of the minor.

25 (5) If a minor is committed to the Department of Juvenile
26 Justice, the clerk of the court shall forward to the

1 Department:

2 (a) the sentencing order;

3 (b) all reports;

4 (c) the court's statement of the basis for ordering the
5 disposition;

6 (d) any sex offender evaluations;

7 (e) any risk assessment or substance abuse treatment
8 eligibility screening and assessment of the minor by an
9 agent designated by the State to provide assessment
10 services for the courts;

11 (f) the number of days, if any, which the minor has
12 been in custody and for which he or she is entitled to
13 credit against the sentence, which information shall be
14 provided to the clerk by the sheriff;

15 (g) any medical or mental health records or summaries
16 of the minor;

17 (h) the municipality where the arrest of the minor
18 occurred, the commission of the offense occurred, and the
19 minor resided at the time of commission; and

20 (i) all additional matters which the court directs the
21 clerk to transmit.

22 (6) Whenever the Department of Juvenile Justice lawfully
23 discharges from its custody and control a minor committed to
24 it, the Director of Juvenile Justice shall petition the court
25 for an order terminating his or her custodianship. The
26 custodianship shall terminate automatically 30 days after

1 receipt of the petition unless the court orders otherwise.

2 (7) If, while on aftercare release, a minor committed to
3 the Department of Juvenile Justice is charged under the
4 criminal laws of this State with an offense that could result
5 in a sentence of imprisonment within the Department of
6 Corrections, the commitment to the Department of Juvenile
7 Justice and all rights and duties created by that commitment
8 are automatically suspended pending final disposition of the
9 criminal charge. If the minor is found guilty of the criminal
10 charge and sentenced to a term of imprisonment in the
11 penitentiary system of the Department of Corrections, the
12 commitment to the Department of Juvenile Justice shall be
13 automatically terminated. If the criminal charge is dismissed,
14 the minor is found not guilty, or the minor completes a
15 criminal sentence other than imprisonment within the
16 Department of Corrections, the previously imposed commitment
17 to the Department of Juvenile Justice and the full aftercare
18 release term shall be automatically reinstated unless
19 custodianship is sooner terminated. Nothing in this subsection
20 (7) shall preclude the court from ordering another sentence
21 under Section 5-710 of this Act or from terminating the
22 Department's custodianship while the commitment to the
23 Department is suspended.

24 (Source: P.A. 98-558, eff. 1-1-14; 99-268, eff. 1-1-16.)