



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

HB4610

Introduced 2/5/2020, by Rep. Justin Slaughter

SYNOPSIS AS INTRODUCED:

705 ILCS 405/5-710
705 ILCS 405/5-750

Amends the Juvenile Court Act of 1987. Provides that an adjudged delinquent for the offense of first degree murder may be committed to the Department of Juvenile Justice when he or she is 14 years old (rather than 13 years old).

LRB101 15588 RLC 64934 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 5-710 and 5-750 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 January 1, 2015 (the effective
5 date of Public Act 98-803) ~~this amendatory Act of the~~
6 ~~98th General Assembly~~ and before January 1, 2017,
7 placed in the guardianship of the Department of
8 Children and Family Services, but only if the
9 delinquent minor is under 16 years of age or, pursuant
10 to Article II of this Act, a minor under the age of 18
11 for whom an independent basis of abuse, neglect, or
12 dependency exists. On and after January 1, 2017, placed
13 in the guardianship of the Department of Children and
14 Family Services, but only if the delinquent minor is
15 under 15 years of age or, pursuant to Article II of
16 this Act, a minor for whom an independent basis of
17 abuse, neglect, or dependency exists. An independent
18 basis exists when the allegations or adjudication of
19 abuse, neglect, or dependency do not arise from the
20 same facts, incident, or circumstances which give rise
21 to a charge or adjudication of delinquency;

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

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

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

1 against the person, these factors, among other
2 matters, shall be considered:

3 (A) the age of the person;

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

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

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

9 and

10 (E) any educational history of the person;

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

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

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

26 (ix) ordered to undergo a medical or other

1 procedure to have a tattoo symbolizing allegiance to a
2 street gang removed from his or her body; or

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

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

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

25 (2) Any sentencing order other than commitment to the
26 Department of Juvenile Justice may provide for protective

1 supervision under Section 5-725 and may include an order of
2 protection under Section 5-730.

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

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

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

1 Section 9.1 of the Children and Family Services Act.

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

13 (7) In no event shall a guilty minor be committed to the
14 Department of Juvenile Justice for a period of time in excess
15 of that period for which an adult could be committed for the
16 same act. The court shall include in the sentencing order a
17 limitation on the period of confinement not to exceed the
18 maximum period of imprisonment the court could impose under
19 Chapter V 5 of the Unified Code of Corrections.

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

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

1 21-1 (criminal damage to property), 21-1.01 (criminal damage to
2 government supported property), 21-1.3 (criminal defacement of
3 property), 26-1 (disorderly conduct), or 31-4 (obstructing
4 justice) of the Criminal Code of 2012.

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

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

23 (8.5) A minor found to be guilty for reasons that include a
24 violation of Section 3.02 or Section 3.03 of the Humane Care
25 for Animals Act or paragraph (d) of subsection (1) of Section
26 21-1 of the Criminal Code of 1961 or paragraph (4) of

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

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

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

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

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

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

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

13 (12) (Blank).

14 (Source: P.A. 100-201, eff. 8-18-17; 100-431, eff. 8-25-17;
15 100-759, eff. 1-1-19; 101-2, eff. 7-1-19; 101-79, eff. 7-12-19;
16 101-159, eff. 1-1-20; revised 8-8-19.)

17 (705 ILCS 405/5-750)

18 Sec. 5-750. Commitment to the Department of Juvenile
19 Justice.

20 (1) Except as provided in subsection (2) of this Section,
21 when any delinquent has been adjudged a ward of the court under
22 this Act, the court may commit him or her to the Department of
23 Juvenile Justice, if it finds that (a) his or her parents,
24 guardian or legal custodian are unfit or are unable, for some
25 reason other than financial circumstances alone, to care for,

1 protect, train or discipline the minor, or are unwilling to do
2 so, and the best interests of the minor and the public will not
3 be served by placement under Section 5-740, or it is necessary
4 to ensure the protection of the public from the consequences of
5 criminal activity of the delinquent; and (b) commitment to the
6 Department of Juvenile Justice is the least restrictive
7 alternative based on evidence that efforts were made to locate
8 less restrictive alternatives to secure confinement and the
9 reasons why efforts were unsuccessful in locating a less
10 restrictive alternative to secure confinement. Before the
11 court commits a minor to the Department of Juvenile Justice, it
12 shall make a finding that secure confinement is necessary,
13 following a review of the following individualized factors:

14 (A) Age of the minor.

15 (B) Criminal background of the minor.

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

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

22 (E) Physical, mental and emotional health of the minor,
23 indicating whether the minor has ever been diagnosed with a
24 health issue and if so what services were provided and
25 whether the minor was compliant with services.

26 (F) Community based services that have been provided to

1 the minor, and whether the minor was compliant with the
2 services, and the reason the services were unsuccessful.

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

5 (1.5) Before the court commits a minor to the Department of
6 Juvenile Justice, the court must find reasonable efforts have
7 been made to prevent or eliminate the need for the minor to be
8 removed from the home, or reasonable efforts cannot, at this
9 time, for good cause, prevent or eliminate the need for
10 removal, and removal from home is in the best interests of the
11 minor, the minor's family, and the public.

12 (2) When a minor of the age of at least 14 ~~13~~ years is
13 adjudged delinquent for the offense of first degree murder, the
14 court shall declare the minor a ward of the court and order the
15 minor committed to the Department of Juvenile Justice until the
16 minor's 21st birthday, without the possibility of aftercare
17 release, furlough, or non-emergency authorized absence for a
18 period of 5 years from the date the minor was committed to the
19 Department of Juvenile Justice, except that the time that a
20 minor spent in custody for the instant offense before being
21 committed to the Department of Juvenile Justice shall be
22 considered as time credited towards that 5 year period. Upon
23 release from a Department facility, a minor adjudged delinquent
24 for first degree murder shall be placed on aftercare release
25 until the age of 21, unless sooner discharged from aftercare
26 release or custodianship is otherwise terminated in accordance

1 with this Act or as otherwise provided for by law. Nothing in
2 this subsection (2) shall preclude the State's Attorney from
3 seeking to prosecute a minor as an adult as an alternative to
4 proceeding under this Act.

5 (3) Except as provided in subsection (2), the commitment of
6 a delinquent to the Department of Juvenile Justice shall be for
7 an indeterminate term which shall automatically terminate upon
8 the delinquent attaining the age of 21 years or upon completion
9 of that period for which an adult could be committed for the
10 same act, whichever occurs sooner, unless the delinquent is
11 sooner discharged from aftercare release or custodianship is
12 otherwise terminated in accordance with this Act or as
13 otherwise provided for by law.

14 (3.5) Every delinquent minor committed to the Department of
15 Juvenile Justice under this Act shall be eligible for aftercare
16 release without regard to the length of time the minor has been
17 confined or whether the minor has served any minimum term
18 imposed. Aftercare release shall be administered by the
19 Department of Juvenile Justice, under the direction of the
20 Director. Unless sooner discharged, the Department of Juvenile
21 Justice shall discharge a minor from aftercare release upon
22 completion of the following aftercare release terms:

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

26 (b) One year from the date a minor is released from a

1 Department facility, if the minor was committed for a Class
2 1 or 2 felony; and

3 (c) Six months from the date a minor is released from a
4 Department facility, if the minor was committed for a Class
5 3 felony or lesser offense.

6 (4) When the court commits a minor to the Department of
7 Juvenile Justice, it shall order him or her conveyed forthwith
8 to the appropriate reception station or other place designated
9 by the Department of Juvenile Justice, and shall appoint the
10 Director of Juvenile Justice legal custodian of the minor. The
11 clerk of the court shall issue to the Director of Juvenile
12 Justice a certified copy of the order, which constitutes proof
13 of the Director's authority. No other process need issue to
14 warrant the keeping of the minor.

15 (5) If a minor is committed to the Department of Juvenile
16 Justice, the clerk of the court shall forward to the
17 Department:

18 (a) the sentencing order and copies of committing
19 petition;

20 (b) all reports;

21 (c) the court's statement of the basis for ordering the
22 disposition;

23 (d) any sex offender evaluations;

24 (e) any risk assessment or substance abuse treatment
25 eligibility screening and assessment of the minor by an
26 agent designated by the State to provide assessment

1 services for the courts;

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

6 (g) any medical or mental health records or summaries
7 of the minor;

8 (h) the municipality where the arrest of the minor
9 occurred, the commission of the offense occurred, and the
10 minor resided at the time of commission;

11 (h-5) a report detailing the minor's criminal history
12 in a manner and form prescribed by the Department of
13 Juvenile Justice; and

14 (i) all additional matters which the court directs the
15 clerk to transmit.

16 (6) Whenever the Department of Juvenile Justice lawfully
17 discharges from its custody and control a minor committed to
18 it, the Director of Juvenile Justice shall petition the court
19 for an order terminating his or her custodianship. The
20 custodianship shall terminate automatically 30 days after
21 receipt of the petition unless the court orders otherwise.

22 (7) If, while on aftercare release, a minor committed to
23 the Department of Juvenile Justice who resides in this State is
24 charged under the criminal laws of this State, the criminal
25 laws of any other state, or federal law with an offense that
26 could result in a sentence of imprisonment within the

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

22 (Source: P.A. 100-765, eff. 8-10-18; 101-159, eff. 1-1-20.)