



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

HB1849

Introduced 2/17/2021, 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 possession or discharge of a firearm not causing any injury shall be referred to social service programs through Juvenile Probation for no less than 3 months. Provides that if the minor does not complete the referral recommendations, the minor shall be committed to the Department of Juvenile Justice to complete the recommended services. Provides that a minor convicted of a subsequent offense involving the use of a firearm causing serious injury, great bodily harm, or death shall be committed to the Department of Juvenile Justice with the Department providing services including, but not limited to, education, mental health, drug treatment, and mentoring.

LRB102 04274 RLC 21117 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
11 Section for a minor who is found to be guilty for an offense
12 which is first degree murder. The juvenile court may terminate
13 probation or conditional discharge and discharge the minor at
14 any time if warranted by the conduct of the minor and the ends
15 of justice; provided, however, that the period of probation
16 for a minor who is found to be guilty for an offense which is
17 first degree 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
21 least 36 months. The period of probation for a minor who is
22 found to be guilty of any other Class X felony shall be at
23 least 24 months. The period of probation for a Class 1 or Class

1 2 forcible felony shall be at least 18 months. Regardless of
2 the 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
9 probation.

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

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

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

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

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

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

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

26 (g) refrain from possessing a firearm or other

1 dangerous weapon, or an automobile;

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

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

5 (j) attend school;

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

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

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

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

19 (n) perform some reasonable public or community
20 service;

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

25 (p) pay costs;

26 (q) serve a term of home confinement. In addition to

1 any other applicable condition of probation or conditional
2 discharge, the conditions of home confinement shall be
3 that the minor:

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

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

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

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

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

26 (s-5) undergo a medical or other procedure to have a

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

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

10 (u) comply with other conditions as may be ordered by
11 the court.

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

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

1 Criminal Code of 2012 undergo medical or psychiatric treatment
2 rendered by a psychiatrist or psychological treatment rendered
3 by a clinical psychologist. The condition may be in addition
4 to any other condition.

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

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

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

1 be imposed only upon a minor who is actively supervised by the
2 probation and court services department. The court may order
3 the parent, guardian, or legal custodian of the minor to pay
4 some or all of the fee on the minor's behalf.

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

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

1 Juveniles.

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

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

18 (7) If a minor has previously been placed on probation for
19 an offense that involves the use or possession of a firearm,
20 the court may not place the minor on probation for any
21 subsequent offense involving the use or possession of a
22 firearm. A minor convicted of a subsequent offense involving
23 the possession or discharge of a firearm not causing any
24 injury shall be referred to social service programs through
25 Juvenile Probation for no less than 3 months. If the minor does
26 not complete the referral recommendations, the minor shall be

1 committed to the Department of Juvenile Justice to complete
2 the recommended services.

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

4 (705 ILCS 405/5-750)

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

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

1 (A) Age of the minor.

2 (B) Criminal background of the minor.

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

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

9 (E) Physical, mental and emotional health of the
10 minor, indicating whether the minor has ever been
11 diagnosed with a health issue and if so what services were
12 provided and whether the minor was compliant with
13 services.

14 (F) Community based services that have been provided
15 to the minor, and whether the minor was compliant with the
16 services, and the reason the services were unsuccessful.

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

19 (1.5) Before the court commits a minor to the Department
20 of Juvenile Justice, the court must find reasonable efforts
21 have been made to prevent or eliminate the need for the minor
22 to be removed from the home, or reasonable efforts cannot, at
23 this time, for good cause, prevent or eliminate the need for
24 removal, and removal from home is in the best interests of the
25 minor, the minor's family, and the public.

26 (2) When a minor of the age of at least 13 years is

1 adjudged delinquent for the offense of first degree murder,
2 the court shall declare the minor a ward of the court and order
3 the minor committed to the Department of Juvenile Justice
4 until the minor's 21st birthday, without the possibility of
5 aftercare release, furlough, or non-emergency authorized
6 absence for a period of 5 years from the date the minor was
7 committed to the Department of Juvenile Justice, except that
8 the time that a minor spent in custody for the instant offense
9 before being committed to the Department of Juvenile Justice
10 shall be considered as time credited towards that 5 year
11 period. Upon release from a Department facility, a minor
12 adjudged delinquent for first degree murder shall be placed on
13 aftercare release until the age of 21, unless sooner
14 discharged from aftercare release or custodianship is
15 otherwise terminated in accordance with this Act or as
16 otherwise provided for by law. Nothing in this subsection (2)
17 shall preclude the State's Attorney from seeking to prosecute
18 a minor as an adult as an alternative to proceeding under this
19 Act.

20 (2.5) A minor convicted of a subsequent offense involving
21 the use or possession of a firearm causing serious injury,
22 great bodily harm, or death shall be confined to the
23 Department of Juvenile Justice with the Department providing
24 services including, but not limited to, education, mental
25 health, drug treatment, and mentoring.

26 (3) Except as provided in subsections ~~subsection~~ (2) and

1 (2.5), the commitment of a delinquent to the Department of
2 Juvenile Justice shall be for an indeterminate term which
3 shall automatically terminate upon the delinquent attaining
4 the age of 21 years or upon completion of that period for which
5 an adult could be committed for the same act, whichever occurs
6 sooner, unless the delinquent is sooner discharged from
7 aftercare release or custodianship is otherwise terminated in
8 accordance with this Act or as otherwise provided for by law.

9 (3.5) Every delinquent minor committed to the Department
10 of Juvenile Justice under this Act shall be eligible for
11 aftercare release without regard to the length of time the
12 minor has been confined or whether the minor has served any
13 minimum term imposed. Aftercare release shall be administered
14 by the Department of Juvenile Justice, under the direction of
15 the Director. Unless sooner discharged, the Department of
16 Juvenile Justice shall discharge a minor from aftercare
17 release upon completion of the following aftercare release
18 terms:

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

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

25 (c) Six months from the date a minor is released from a
26 Department facility, if the minor was committed for a

1 Class 3 felony or lesser offense.

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

11 (5) If a minor is committed to the Department of Juvenile
12 Justice, the clerk of the court shall forward to the
13 Department:

14 (a) the sentencing order and copies of committing
15 petition;

16 (b) all reports;

17 (c) the court's statement of the basis for ordering
18 the disposition;

19 (d) any sex offender evaluations;

20 (e) any risk assessment or substance abuse treatment
21 eligibility screening and assessment of the minor by an
22 agent designated by the State to provide assessment
23 services for the courts;

24 (f) the number of days, if any, which the minor has
25 been in custody and for which he or she is entitled to
26 credit against the sentence, which information shall be

1 provided to the clerk by the sheriff;

2 (g) any medical or mental health records or summaries
3 of the minor;

4 (h) the municipality where the arrest of the minor
5 occurred, the commission of the offense occurred, and the
6 minor resided at the time of commission;

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

10 (i) all additional matters which the court directs the
11 clerk to transmit.

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

18 (7) If, while on aftercare release, a minor committed to
19 the Department of Juvenile Justice who resides in this State
20 is charged under the criminal laws of this State, the criminal
21 laws of any other state, or federal law with an offense that
22 could result in a sentence of imprisonment within the
23 Department of Corrections, the penal system of any state, or
24 the federal Bureau of Prisons, the commitment to the
25 Department of Juvenile Justice and all rights and duties
26 created by that commitment are automatically suspended pending

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

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