



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

HB3767

Introduced 2/22/2021, by Rep. Robyn Gabel

SYNOPSIS AS INTRODUCED:

20 ILCS 505/17a-9 from Ch. 23, par. 5017a-9
705 ILCS 405/5-410
705 ILCS 405/5-710
705 ILCS 405/5-720

Amends the Children and Family Services Act. Provides that the Illinois Juvenile Justice Commission shall study and make recommendations to the General Assembly regarding the availability of youth services to reduce the use of detention and prevent deeper criminal involvement. Amends the Juvenile Court Act of 1987. Provides that it is the goal of the Act to ensure that detention is the last resort and for as short a time as possible. Provides that on and after July 1, 2021, any minor 13 years of age or older arrested under this Act where there is probable cause to believe that the minor is a delinquent minor and that (i) secure custody is a matter of immediate and urgent necessity in light of a serious threat to the physical safety of a person or persons in the community or to secure the presence of the minor at the next hearing, as evidenced by a demonstrable record of willful failure to appear at a scheduled court hearing within the last 12 months, may be kept or detained in an authorized detention facility. Provides that a minor must be at least 13 (rather than 10) years of age to be placed in detention. Effective immediately.

LRB102 15041 KMF 20396 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 Children and Family Services Act is amended
5 by changing Section 17a-9 as follows:

6 (20 ILCS 505/17a-9) (from Ch. 23, par. 5017a-9)

7 Sec. 17a-9. Illinois Juvenile Justice Commission.

8 (a) There is hereby created the Illinois Juvenile Justice
9 Commission which shall consist of 25 persons appointed by the
10 Governor. The Chairperson of the Commission shall be appointed
11 by the Governor. Of the initial appointees, 8 shall serve a
12 one-year term, 8 shall serve a two-year term and 9 shall serve
13 a three-year term. Thereafter, each successor shall serve a
14 three-year term. Vacancies shall be filled in the same manner
15 as original appointments. Once appointed, members shall serve
16 until their successors are appointed and qualified. Members
17 shall serve without compensation, except they shall be
18 reimbursed for their actual expenses in the performance of
19 their duties. The Commission shall carry out the rights,
20 powers and duties established in subparagraph (3) of paragraph
21 (a) of Section 223 of the Federal "Juvenile Justice and
22 Delinquency Prevention Act of 1974", as now or hereafter
23 amended. The Commission shall determine the priorities for

1 expenditure of funds made available to the State by the
2 Federal Government pursuant to that Act. The Commission shall
3 have the following powers and duties:

4 (1) Development, review and final approval of the
5 State's juvenile justice plan for funds under the Federal
6 "Juvenile Justice and Delinquency Prevention Act of 1974";

7 (2) Review and approve or disapprove juvenile justice
8 and delinquency prevention grant applications to the
9 Department for federal funds under that Act;

10 (3) Annual submission of recommendations to the
11 Governor and the General Assembly concerning matters
12 relative to its function;

13 (4) Responsibility for the review of funds allocated
14 to Illinois under the "Juvenile Justice and Delinquency
15 Prevention Act of 1974" to ensure compliance with all
16 relevant federal laws and regulations;

17 (5) Function as the advisory committee for the State
18 Youth and Community Services Program as authorized under
19 Section 17 of this Act, and in that capacity be authorized
20 and empowered to assist and advise the Secretary of Human
21 Services on matters related to juvenile justice and
22 delinquency prevention programs and services; ~~and~~

23 (5.5) Study and make recommendations to the General
24 Assembly regarding the availability of youth services to
25 reduce the use of detention and prevent deeper criminal
26 involvement; and

1 (6) Study the impact of, develop timelines, and
2 propose a funding structure to accommodate the expansion
3 of the jurisdiction of the Illinois Juvenile Court to
4 include youth age 17 under the jurisdiction of the
5 Juvenile Court Act of 1987. The Commission shall submit a
6 report by December 31, 2011 to the General Assembly with
7 recommendations on extending juvenile court jurisdiction
8 to youth age 17 charged with felony offenses.

9 (b) On the effective date of this amendatory Act of the
10 96th General Assembly, the Illinois Juvenile Jurisdiction Task
11 Force created by Public Act 95-1031 is abolished and its
12 duties are transferred to the Illinois Juvenile Justice
13 Commission as provided in paragraph (6) of subsection (a) of
14 this Section.

15 (Source: P.A. 96-1199, eff. 1-1-11.)

16 Section 10. The Juvenile Court Act of 1987 is amended by
17 changing Sections 5-410, 5-710, and 5-720 as follows:

18 (705 ILCS 405/5-410)

19 Sec. 5-410. Non-secure custody or detention.

20 (1) Placement of a minor away from his or her home must be
21 the last resort and be the least restrictive alternative
22 available. Any minor arrested or taken into custody pursuant
23 to this Act who requires care away from his or her home but who
24 does not require physical restriction shall be given temporary

1 care in a foster family home or other shelter facility
2 designated by the court.

3 (2) (a) Prior to July 1, 2021, any ~~Any~~ minor 10 years of
4 age or older arrested pursuant to this Act where there is
5 probable cause to believe that the minor is a delinquent minor
6 and that (i) secure custody is a matter of immediate and urgent
7 necessity for the protection of the minor or of the person or
8 property of another, (ii) the minor is likely to flee the
9 jurisdiction of the court, or (iii) the minor was taken into
10 custody under a warrant, may be kept or detained in an
11 authorized detention facility. Prior to July 1, 2021, a ~~A~~
12 minor under 13 years of age shall not be admitted, kept, or
13 detained in a detention facility unless a local youth service
14 provider, ~~including a provider through the Comprehensive~~
15 ~~Community Based Youth Services network,~~ has been contacted and
16 has not been able to accept the minor for services. No minor
17 under 12 years of age shall be detained in a county jail or a
18 municipal lockup for more than 6 hours. The provisions of
19 paragraph (a) of this subsection (2), other than this
20 sentence, are inoperative on and after July 1, 2021.

21 (a-5) For a minor arrested or taken into custody for
22 vehicular hijacking or aggravated vehicular hijacking, a
23 previous finding of delinquency for vehicular hijacking or
24 aggravated vehicular hijacking shall be given greater weight
25 in determining whether secured custody of a minor is a matter
26 of immediate and urgent necessity for the protection of the

1 minor or of the person or property of another.

2 (a-10) It is the goal of this Act to ensure that detention
3 is the last resort and for as short a time as possible. On and
4 after July 1, 2021, any minor 13 years of age or older arrested
5 under this Act where there is probable cause to believe that
6 the minor is a delinquent minor and that (i) secure custody is
7 a matter of immediate and urgent necessity in light of a
8 serious threat to the physical safety of a person or persons in
9 the community or to secure the presence of the minor at the
10 next hearing, as evidenced by a demonstrable record of willful
11 failure to appear at a scheduled court hearing within the last
12 12 months, may be kept or detained in an authorized detention
13 facility.

14 (b) The written authorization of the probation officer or
15 detention officer (or other public officer designated by the
16 court in a county having 3,000,000 or more inhabitants)
17 constitutes authority for the superintendent of any juvenile
18 detention home to detain and keep a minor for up to 40 hours,
19 excluding Saturdays, Sundays, and court-designated holidays.
20 These records shall be available to the same persons and
21 pursuant to the same conditions as are law enforcement records
22 as provided in Section 5-905.

23 (b-4) The consultation required by paragraph (b-5) shall
24 not be applicable if the probation officer or detention
25 officer (or other public officer designated by the court in a
26 county having 3,000,000 or more inhabitants) utilizes a

1 scorable detention screening instrument, which has been
2 developed with input by the State's Attorney, to determine
3 whether a minor should be detained, however, paragraph (b-5)
4 shall still be applicable where no such screening instrument
5 is used or where the probation officer, detention officer (or
6 other public officer designated by the court in a county
7 having 3,000,000 or more inhabitants) deviates from the
8 screening instrument.

9 (b-5) Subject to the provisions of paragraph (b-4), if a
10 probation officer or detention officer (or other public
11 officer designated by the court in a county having 3,000,000
12 or more inhabitants) does not intend to detain a minor for an
13 offense which constitutes one of the following offenses he or
14 she shall consult with the State's Attorney's Office prior to
15 the release of the minor: first degree murder, second degree
16 murder, involuntary manslaughter, criminal sexual assault,
17 aggravated criminal sexual assault, aggravated battery with a
18 firearm as described in Section 12-4.2 or subdivision (e)(1),
19 (e)(2), (e)(3), or (e)(4) of Section 12-3.05, aggravated or
20 heinous battery involving permanent disability or
21 disfigurement or great bodily harm, robbery, aggravated
22 robbery, armed robbery, vehicular hijacking, aggravated
23 vehicular hijacking, vehicular invasion, arson, aggravated
24 arson, kidnapping, aggravated kidnapping, home invasion,
25 burglary, or residential burglary.

26 (c) Except as otherwise provided in paragraph (a), (d), or

1 (e), no minor shall be detained in a county jail or municipal
2 lockup for more than 12 hours, unless the offense is a crime of
3 violence in which case the minor may be detained up to 24
4 hours. For the purpose of this paragraph, "crime of violence"
5 has the meaning ascribed to it in Section 1-10 of the
6 Alcoholism and Other Drug Abuse and Dependency Act.

7 (i) The period of detention is deemed to have begun
8 once the minor has been placed in a locked room or cell or
9 handcuffed to a stationary object in a building housing a
10 county jail or municipal lockup. Time spent transporting a
11 minor is not considered to be time in detention or secure
12 custody.

13 (ii) Any minor so confined shall be under periodic
14 supervision and shall not be permitted to come into or
15 remain in contact with adults in custody in the building.

16 (iii) Upon placement in secure custody in a jail or
17 lockup, the minor shall be informed of the purpose of the
18 detention, the time it is expected to last and the fact
19 that it cannot exceed the time specified under this Act.

20 (iv) A log shall be kept which shows the offense which
21 is the basis for the detention, the reasons and
22 circumstances for the decision to detain, and the length
23 of time the minor was in detention.

24 (v) Violation of the time limit on detention in a
25 county jail or municipal lockup shall not, in and of
26 itself, render inadmissible evidence obtained as a result

1 of the violation of this time limit. Minors under 18 years
2 of age shall be kept separate from confined adults and may
3 not at any time be kept in the same cell, room, or yard
4 with adults confined pursuant to criminal law. Persons 18
5 years of age and older who have a petition of delinquency
6 filed against them may be confined in an adult detention
7 facility. In making a determination whether to confine a
8 person 18 years of age or older who has a petition of
9 delinquency filed against the person, these factors, among
10 other matters, shall be considered:

11 (A) the age of the person;

12 (B) any previous delinquent or criminal history of
13 the person;

14 (C) any previous abuse or neglect history of the
15 person; and

16 (D) any mental health or educational history of
17 the person, or both.

18 (d) (i) If prior to July 1, 2021 a minor 12 years of age or
19 older or on and after July 1, 2021 a minor 13 years of age or
20 older is confined in a county jail in a county with a
21 population below 3,000,000 inhabitants, then the minor's
22 confinement shall be implemented in such a manner that there
23 will be no contact by sight, sound, or otherwise between the
24 minor and adult prisoners. The minor ~~Minors 12 years of age or~~
25 ~~older~~ must be kept separate from confined adults and may not at
26 any time be kept in the same cell, room, or yard with confined

1 adults. This paragraph (d)(i) shall only apply to confinement
2 pending an adjudicatory hearing and shall not exceed 40 hours,
3 excluding Saturdays, Sundays, and court-designated holidays.
4 To accept or hold minors during this time period, county jails
5 shall comply with all monitoring standards adopted by the
6 Department of Corrections and training standards approved by
7 the Illinois Law Enforcement Training Standards Board.

8 (ii) To accept or hold minors, ~~12 years of age or older,~~
9 after the time period prescribed in paragraph (d)(i) of this
10 subsection (2) of this Section but not exceeding 7 days
11 including Saturdays, Sundays, and holidays pending an
12 adjudicatory hearing, county jails shall comply with all
13 temporary detention standards adopted by the Department of
14 Corrections and training standards approved by the Illinois
15 Law Enforcement Training Standards Board.

16 (iii) To accept or hold minors ~~12 years of age or older,~~
17 after the time period prescribed in paragraphs (d)(i) and
18 (d)(ii) of this subsection (2) of this Section, county jails
19 shall comply with all county juvenile detention standards
20 adopted by the Department of Juvenile Justice.

21 (e) When a minor who is at least 15 years of age is
22 prosecuted under the criminal laws of this State, the court
23 may enter an order directing that the juvenile be confined in
24 the county jail. However, any juvenile confined in the county
25 jail under this provision shall be separated from adults who
26 are confined in the county jail in such a manner that there

1 will be no contact by sight, sound or otherwise between the
2 juvenile and adult prisoners.

3 (f) For purposes of appearing in a physical lineup, the
4 minor may be taken to a county jail or municipal lockup under
5 the direct and constant supervision of a juvenile police
6 officer. During such time as is necessary to conduct a lineup,
7 and while supervised by a juvenile police officer, the sight
8 and sound separation provisions shall not apply.

9 (g) For purposes of processing a minor, the minor may be
10 taken to a county jail or municipal lockup under the direct and
11 constant supervision of a law enforcement officer or
12 correctional officer. During such time as is necessary to
13 process the minor, and while supervised by a law enforcement
14 officer or correctional officer, the sight and sound
15 separation provisions shall not apply.

16 (3) If the probation officer or State's Attorney (or such
17 other public officer designated by the court in a county
18 having 3,000,000 or more inhabitants) determines that the
19 minor may be a delinquent minor as described in subsection (3)
20 of Section 5-105, and should be retained in custody but does
21 not require physical restriction, the minor may be placed in
22 non-secure custody for up to 40 hours pending a detention
23 hearing.

24 (4) Any minor taken into temporary custody, not requiring
25 secure detention, may, however, be detained in the home of his
26 or her parent or guardian subject to such conditions as the

1 court may impose.

2 (5) The changes made to this Section by Public Act 98-61
3 apply to a minor who has been arrested or taken into custody on
4 or after January 1, 2014 (the effective date of Public Act
5 98-61).

6 (Source: P.A. 100-745, eff. 8-10-18; 101-81, eff. 7-12-19.)

7 (705 ILCS 405/5-710)

8 Sec. 5-710. Kinds of sentencing orders.

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

11 (a) Except as provided in Sections 5-805, 5-810, and
12 5-815, a minor who is found guilty under Section 5-620 may
13 be:

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

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

25 (iii) required to undergo a substance abuse

1 assessment conducted by a licensed provider and
2 participate in the indicated clinical level of care;

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

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

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

1 age or older who has a petition of delinquency filed
2 against the person, these factors, among other
3 matters, shall be considered:

4 (A) the age of the person;

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

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

9 (D) any mental health history of the person;
10 and

11 (E) any educational history of the person;

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

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

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

1 law;

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

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

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

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

1 (2) Any sentencing order other than commitment to the
2 Department of Juvenile Justice may provide for protective
3 supervision under Section 5-725 and may include an order of
4 protection under Section 5-730.

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

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

22 (5) Any sentencing order where the minor is committed or
23 placed in accordance with Section 5-740 shall provide for the
24 parents or guardian of the estate of the minor to pay to the
25 legal custodian or guardian of the person of the minor such
26 sums as are determined by the custodian or guardian of the

1 person of the minor as necessary for the minor's needs. The
2 payments may not exceed the maximum amounts provided for by
3 Section 9.1 of the Children and Family Services Act.

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

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

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

26 (7.6) In no event shall a guilty minor be committed to the

1 Department of Juvenile Justice for an offense which is a Class
2 4 felony under Section 19-4 (criminal trespass to a
3 residence), 21-1 (criminal damage to property), 21-1.01
4 (criminal damage to government supported property), 21-1.3
5 (criminal defacement of property), 26-1 (disorderly conduct),
6 or 31-4 (obstructing justice) of the Criminal Code of 2012.

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

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

25 (8.5) A minor found to be guilty for reasons that include a
26 violation of Section 3.02 or Section 3.03 of the Humane Care

1 for Animals Act or paragraph (d) of subsection (1) of Section
2 21-1 of the Criminal Code of 1961 or paragraph (4) of
3 subsection (a) of Section 21-1 of the Criminal Code of 2012
4 shall be ordered to undergo medical or psychiatric treatment
5 rendered by a psychiatrist or psychological treatment rendered
6 by a clinical psychologist. The order may be in addition to any
7 other order authorized by this Section.

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

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

16 (10) When a court finds a minor to be guilty the court
17 shall, before entering a sentencing order under this Section,
18 make a finding whether the offense committed either: (a) was
19 related to or in furtherance of the criminal activities of an
20 organized gang or was motivated by the minor's membership in
21 or allegiance to an organized gang, or (b) involved a
22 violation of subsection (a) of Section 12-7.1 of the Criminal
23 Code of 1961 or the Criminal Code of 2012, a violation of any
24 Section of Article 24 of the Criminal Code of 1961 or the
25 Criminal Code of 2012, or a violation of any statute that
26 involved the wrongful use of a firearm. If the court

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

20 (11) If the court determines that the offense was
21 committed in furtherance of the criminal activities of an
22 organized gang, as provided in subsection (10), and that the
23 offense involved the operation or use of a motor vehicle or the
24 use of a driver's license or permit, the court shall notify the
25 Secretary of State of that determination and of the period for
26 which the minor shall be denied driving privileges. If, at the

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

15 (12) (Blank).

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

19 (705 ILCS 405/5-720)

20 Sec. 5-720. Probation revocation.

21 (1) If a petition is filed charging a violation of a
22 condition of probation or of conditional discharge, the court
23 shall:

24 (a) order the minor to appear; or

25 (b) order the minor's detention if the court finds

1 that the detention is a matter of immediate and urgent
2 necessity for the protection of the minor or of the person
3 or property of another or that the minor is likely to flee
4 the jurisdiction of the court, provided that any such
5 detention shall be in a juvenile detention home and the
6 minor so detained shall be 13 ~~14~~ years of age or older; and

7 (c) notify the persons named in the petition under
8 Section 5-520, in accordance with the provisions of
9 Section 5-530.

10 In making its detention determination under paragraph (b)
11 of this subsection (1) of this Section, the court may use
12 information in its findings offered at such a hearing by way of
13 proffer based upon reliable information presented by the
14 State, probation officer, or the minor. The filing of a
15 petition for violation of a condition of probation or of
16 conditional discharge shall toll the period of probation or of
17 conditional discharge until the final determination of the
18 charge, and the term of probation or conditional discharge
19 shall not run until the hearing and disposition of the
20 petition for violation.

21 (2) The court shall conduct a hearing of the alleged
22 violation of probation or of conditional discharge. The minor
23 shall not be held in detention longer than 15 days pending the
24 determination of the alleged violation.

25 (3) At the hearing, the State shall have the burden of
26 going forward with the evidence and proving the violation by a

1 preponderance of the evidence. The evidence shall be presented
2 in court with the right of confrontation, cross-examination,
3 and representation by counsel.

4 (4) If the court finds that the minor has violated a
5 condition at any time prior to the expiration or termination
6 of the period of probation or conditional discharge, it may
7 continue him or her on the existing sentence, with or without
8 modifying or enlarging the conditions, or may revoke probation
9 or conditional discharge and impose any other sentence that
10 was available under Section 5-710 at the time of the initial
11 sentence.

12 (5) The conditions of probation and of conditional
13 discharge may be reduced or enlarged by the court on motion of
14 the probation officer or on its own motion or at the request of
15 the minor after notice and hearing under this Section.

16 (6) Sentencing after revocation of probation or of
17 conditional discharge shall be under Section 5-705.

18 (7) Instead of filing a violation of probation or of
19 conditional discharge, the probation officer, with the
20 concurrence of his or her supervisor, may serve on the minor a
21 notice of intermediate sanctions. The notice shall contain the
22 technical violation or violations involved, the date or dates
23 of the violation or violations, and the intermediate sanctions
24 to be imposed. Upon receipt of the notice, the minor shall
25 immediately accept or reject the intermediate sanctions. If
26 the sanctions are accepted, they shall be imposed immediately.

1 If the intermediate sanctions are rejected or the minor does
2 not respond to the notice, a violation of probation or of
3 conditional discharge shall be immediately filed with the
4 court. The State's Attorney and the sentencing court shall be
5 notified of the notice of sanctions. Upon successful
6 completion of the intermediate sanctions, a court may not
7 revoke probation or conditional discharge or impose additional
8 sanctions for the same violation. A notice of intermediate
9 sanctions may not be issued for any violation of probation or
10 conditional discharge which could warrant an additional,
11 separate felony charge.

12 (Source: P.A. 90-590, eff. 1-1-99.)

13 Section 99. Effective date. This Act takes effect upon
14 becoming law.