



## 103RD GENERAL ASSEMBLY

### State of Illinois

### 2023 and 2024

### SB3610

Introduced 2/9/2024, by Sen. Robert F. Martwick

#### SYNOPSIS AS INTRODUCED:

105 ILCS 5/13-44.4  
705 ILCS 405/5-710

from Ch. 122, par. 13-44.4

Amends the School Code. Deletes provisions stating that: the Department of Juvenile Justice School District Board of Education shall adopt an annual budget for the use of education moneys for the next school year which it deems necessary to defray all necessary expenses and liabilities of the district; the budget shall contain a statement of cash on hand at the beginning of the fiscal year, an estimate of the cash expected to be received during such fiscal year from all sources, an estimate of the expenditure contemplated for such fiscal year, and a statement of the estimated cash expected to be on hand at the end of such year; and this budget shall be submitted to the Department of Corrections and the State Board of Education for incorporation. Amends the Juvenile Court Act of 1987. Deletes a provision that permits a guilty minor to be committed to the Department of Juvenile Justice for an offense that is a Class 3 or Class 4 felony violation of the Illinois Controlled Substances Act if the commitment occurs upon a third or subsequent judicial finding of a violation of probation for substantial noncompliance with court-ordered treatment or programming. Effective immediately.

LRB103 36295 RLC 66392 b

1 AN ACT concerning juveniles.

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

4 Section 5. The School Code is amended by changing Section  
5 13-44.4 as follows:

6 (105 ILCS 5/13-44.4) (from Ch. 122, par. 13-44.4)

7 Sec. 13-44.4. Department of Corrections Reimbursement and  
8 Education Fund; budget. All moneys received from the Common  
9 School Fund, federal aid and grants, vocational and  
10 educational funds and grants, and gifts and grants by  
11 individuals, foundations and corporations for educational  
12 purposes shall be deposited into the Department of Corrections  
13 Reimbursement and Education Fund in the State Treasury. Moneys  
14 in the Department of Corrections Reimbursement and Education  
15 Fund may be used, subject to appropriation, to pay the expense  
16 of the schools and school district of the Department of  
17 Corrections together with and supplemental to regular  
18 appropriations to the Department for educational purposes,  
19 including, but not limited to, the cost of teacher salaries,  
20 supplies and materials, building upkeep and costs,  
21 transportation, scholarships, non-academic salaries,  
22 equipment and other school costs.

23 ~~Beginning in 1972, the Board of Education shall, by~~

1 ~~November 15, adopt an annual budget for the use of education~~  
2 ~~moneys for the next school year which it deems necessary to~~  
3 ~~defray all necessary expenses and liabilities of the district,~~  
4 ~~and in such annual budget shall specify the objects and~~  
5 ~~purposes of each item and the amount needed for each object or~~  
6 ~~purpose. The budget shall contain a statement of cash on hand~~  
7 ~~at the beginning of the fiscal year, an estimate of the cash~~  
8 ~~expected to be received during such fiscal year from all~~  
9 ~~sources, an estimate of the expenditure contemplated for such~~  
10 ~~fiscal year, and a statement of the estimated cash expected to~~  
11 ~~be on hand at the end of such year. Prior to the adoption of~~  
12 ~~the annual educational budget, this budget shall be submitted~~  
13 ~~to the Department of Corrections and the State Board of~~  
14 ~~Education for incorporation.~~

15 (Source: P.A. 90-9, eff. 7-1-97; 90-587, eff. 7-1-98.)

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

18 (705 ILCS 405/5-710)

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

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

22 (a) Except as provided in Sections 5-805, 5-810, and  
23 5-815, a minor who is found guilty under Section 5-620 may  
24 be:

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

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

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

15           (iv) on and after January 1, 2015 (the effective  
16 date of Public Act 98-803) and before January 1, 2017,  
17 placed in the guardianship of the Department of  
18 Children and Family Services, but only if the  
19 delinquent minor is under 16 years of age or, pursuant  
20 to Article II of this Act, a minor under the age of 18  
21 for whom an independent basis of abuse, neglect, or  
22 dependency exists. On and after January 1, 2017,  
23 placed in the guardianship of the Department of  
24 Children and Family Services, but only if the  
25 delinquent minor is under 15 years of age or, pursuant  
26 to Article II of this Act, a minor for whom an

1 independent basis of abuse, neglect, or dependency  
2 exists. An independent basis exists when the  
3 allegations or adjudication of abuse, neglect, or  
4 dependency do not arise from the same facts, incident,  
5 or circumstances which give rise to a charge or  
6 adjudication of delinquency;

7 (v) placed in detention for a period not to exceed  
8 30 days, either as the exclusive order of disposition  
9 or, where appropriate, in conjunction with any other  
10 order of disposition issued under this paragraph,  
11 provided that any such detention shall be in a  
12 juvenile detention home and the minor so detained  
13 shall be 10 years of age or older. However, the 30-day  
14 limitation may be extended by further order of the  
15 court for a minor under age 15 committed to the  
16 Department of Children and Family Services if the  
17 court finds that the minor is a danger to the minor or  
18 others. The minor shall be given credit on the  
19 sentencing order of detention for time spent in  
20 detention under Sections 5-501, 5-601, 5-710, or 5-720  
21 of this Article as a result of the offense for which  
22 the sentencing order was imposed. The court may grant  
23 credit on a sentencing order of detention entered  
24 under a violation of probation or violation of  
25 conditional discharge under Section 5-720 of this  
26 Article for time spent in detention before the filing

1 of the petition alleging the violation. A minor shall  
2 not be deprived of credit for time spent in detention  
3 before the filing of a violation of probation or  
4 conditional discharge alleging the same or related act  
5 or acts. The limitation that the minor shall only be  
6 placed in a juvenile detention home does not apply as  
7 follows:

8 Persons 18 years of age and older who have a  
9 petition of delinquency filed against them may be  
10 confined in an adult detention facility. In making a  
11 determination whether to confine a person 18 years of  
12 age or older who has a petition of delinquency filed  
13 against the person, these factors, among other  
14 matters, shall be considered:

15 (A) the age of the person;

16 (B) any previous delinquent or criminal  
17 history of the person;

18 (C) any previous abuse or neglect history of  
19 the person;

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

21 and

22 (E) any educational history of the person;

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

26 (vii) subject to having the minor's driver's

1 license or driving privileges suspended for such time  
2 as determined by the court but only until the minor  
3 attains 18 years of age;

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

13 (ix) ordered to undergo a medical or other  
14 procedure to have a tattoo symbolizing allegiance to a  
15 street gang removed from the minor's body; or

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

18 (b) A minor found to be guilty may be committed to the  
19 Department of Juvenile Justice under Section 5-750 if the  
20 minor is at least 13 years and under 20 years of age,  
21 provided that the commitment to the Department of Juvenile  
22 Justice shall be made only if the minor was found guilty of  
23 a felony offense or first degree murder. The court shall  
24 include in the sentencing order any pre-custody credits  
25 the minor is entitled to under Section 5-4.5-100 of the  
26 Unified Code of Corrections. The time during which a minor

1 is in custody before being released upon the request of a  
2 parent, guardian or legal custodian shall also be  
3 considered as time spent in custody.

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

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

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

20 (4) In addition to any other sentence, the court may order  
21 any minor found to be delinquent to make restitution, in  
22 monetary or non-monetary form, under the terms and conditions  
23 of Section 5-5-6 of the Unified Code of Corrections, except  
24 that the "presentencing hearing" referred to in that Section  
25 shall be the sentencing hearing for purposes of this Section.  
26 The parent, guardian or legal custodian of the minor may be



1 ordered by the court to pay some or all of the restitution on  
2 the minor's behalf, pursuant to the Parental Responsibility  
3 Law. The State's Attorney is authorized to act on behalf of any  
4 victim in seeking restitution in proceedings under this  
5 Section, up to the maximum amount allowed in Section 5 of the  
6 Parental Responsibility Law.

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

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

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

1 Department of Juvenile Justice for a period of time in excess  
2 of that period for which an adult could be committed for the  
3 same act. The court shall include in the sentencing order a  
4 limitation on the period of confinement not to exceed the  
5 maximum period of imprisonment the court could impose under  
6 Chapter V of the Unified Code of Corrections.

7 (7.5) In no event shall a guilty minor be committed to the  
8 Department of Juvenile Justice or placed in detention when the  
9 act for which the minor was adjudicated delinquent would not  
10 be illegal if committed by an adult.

11 (7.6) In no event shall a guilty minor be committed to the  
12 Department of Juvenile Justice for an offense which is a Class  
13 4 felony under Section 19-4 (criminal trespass to a  
14 residence), 21-1 (criminal damage to property), 21-1.01  
15 (criminal damage to government supported property), 21-1.3  
16 (criminal defacement of property), 26-1 (disorderly conduct),  
17 or 31-4 (obstructing justice) of the Criminal Code of 2012.

18 (7.75) In no event shall a guilty minor be committed to the  
19 Department of Juvenile Justice for an offense that is a Class 3  
20 or Class 4 felony violation of the Illinois Controlled  
21 Substances Act ~~unless the commitment occurs upon a third or~~  
22 ~~subsequent judicial finding of a violation of probation for~~  
23 ~~substantial noncompliance with court ordered treatment or~~  
24 ~~programming.~~

25 (8) A minor found to be guilty for reasons that include a  
26 violation of Section 21-1.3 of the Criminal Code of 1961 or the

1 Criminal Code of 2012 shall be ordered to perform community  
2 service for not less than 30 and not more than 120 hours, if  
3 community service is available in the jurisdiction. The  
4 community service shall include, but need not be limited to,  
5 the cleanup and repair of the damage that was caused by the  
6 violation or similar damage to property located in the  
7 municipality or county in which the violation occurred. The  
8 order may be in addition to any other order authorized by this  
9 Section. Community service shall not interfere with the school  
10 hours, school-related activities, or work commitments of the  
11 minor or the minor's parent, guardian, or legal custodian.

12 (8.5) A minor found to be guilty for reasons that include a  
13 violation of Section 3.02 or Section 3.03 of the Humane Care  
14 for Animals Act or paragraph (d) of subsection (1) of Section  
15 21-1 of the Criminal Code of 1961 or paragraph (4) of  
16 subsection (a) of Section 21-1 of the Criminal Code of 2012  
17 shall be ordered to undergo medical or psychiatric treatment  
18 rendered by a psychiatrist or psychological treatment rendered  
19 by a clinical psychologist. The order may be in addition to any  
20 other order authorized by this Section.

21 (9) In addition to any other sentencing order, the court  
22 shall order any minor found to be guilty for an act which would  
23 constitute, predatory criminal sexual assault of a child,  
24 aggravated criminal sexual assault, criminal sexual assault,  
25 aggravated criminal sexual abuse, or criminal sexual abuse if  
26 committed by an adult to undergo medical testing to determine

1 whether the defendant has any sexually transmissible disease  
2 including a test for infection with human immunodeficiency  
3 virus (HIV) or any other identified causative agency of  
4 acquired immunodeficiency syndrome (AIDS). Any medical test  
5 shall be performed only by appropriately licensed medical  
6 practitioners and may include an analysis of any bodily fluids  
7 as well as an examination of the minor's person. Except as  
8 otherwise provided by law, the results of the test shall be  
9 kept strictly confidential by all medical personnel involved  
10 in the testing and must be personally delivered in a sealed  
11 envelope to the judge of the court in which the sentencing  
12 order was entered for the judge's inspection in camera. Acting  
13 in accordance with the best interests of the victim and the  
14 public, the judge shall have the discretion to determine to  
15 whom the results of the testing may be revealed. The court  
16 shall notify the minor of the results of the test for infection  
17 with the human immunodeficiency virus (HIV). The court shall  
18 also notify the victim if requested by the victim, and if the  
19 victim is under the age of 15 and if requested by the victim's  
20 parents or legal guardian, the court shall notify the victim's  
21 parents or the legal guardian, of the results of the test for  
22 infection with the human immunodeficiency virus (HIV). The  
23 court shall provide information on the availability of HIV  
24 testing and counseling at the Department of Public Health  
25 facilities to all parties to whom the results of the testing  
26 are revealed. The court shall order that the cost of any test

1 shall be paid by the county.

2 (10) When a court finds a minor to be guilty the court  
3 shall, before entering a sentencing order under this Section,  
4 make a finding whether the offense committed either: (a) was  
5 related to or in furtherance of the criminal activities of an  
6 organized gang or was motivated by the minor's membership in  
7 or allegiance to an organized gang, or (b) involved a  
8 violation of subsection (a) of Section 12-7.1 of the Criminal  
9 Code of 1961 or the Criminal Code of 2012, a violation of any  
10 Section of Article 24 of the Criminal Code of 1961 or the  
11 Criminal Code of 2012, or a violation of any statute that  
12 involved the wrongful use of a firearm. If the court  
13 determines the question in the affirmative, and the court does  
14 not commit the minor to the Department of Juvenile Justice,  
15 the court shall order the minor to perform community service  
16 for not less than 30 hours nor more than 120 hours, provided  
17 that community service is available in the jurisdiction and is  
18 funded and approved by the county board of the county where the  
19 offense was committed. The community service shall include,  
20 but need not be limited to, the cleanup and repair of any  
21 damage caused by a violation of Section 21-1.3 of the Criminal  
22 Code of 1961 or the Criminal Code of 2012 and similar damage to  
23 property located in the municipality or county in which the  
24 violation occurred. When possible and reasonable, the  
25 community service shall be performed in the minor's  
26 neighborhood. This order shall be in addition to any other

1 order authorized by this Section except for an order to place  
2 the minor in the custody of the Department of Juvenile  
3 Justice. Community service shall not interfere with the school  
4 hours, school-related activities, or work commitments of the  
5 minor or the minor's parent, guardian, or legal custodian. For  
6 the purposes of this Section, "organized gang" has the meaning  
7 ascribed to it in Section 10 of the Illinois Streetgang  
8 Terrorism Omnibus Prevention Act.

9 (11) If the court determines that the offense was  
10 committed in furtherance of the criminal activities of an  
11 organized gang, as provided in subsection (10), and that the  
12 offense involved the operation or use of a motor vehicle or the  
13 use of a driver's license or permit, the court shall notify the  
14 Secretary of State of that determination and of the period for  
15 which the minor shall be denied driving privileges. If, at the  
16 time of the determination, the minor does not hold a driver's  
17 license or permit, the court shall provide that the minor  
18 shall not be issued a driver's license or permit until the  
19 minor's 18th birthday. If the minor holds a driver's license  
20 or permit at the time of the determination, the court shall  
21 provide that the minor's driver's license or permit shall be  
22 revoked until the minor's 21st birthday, or until a later date  
23 or occurrence determined by the court. If the minor holds a  
24 driver's license at the time of the determination, the court  
25 may direct the Secretary of State to issue the minor a judicial  
26 driving permit, also known as a JDP. The JDP shall be subject

1 to the same terms as a JDP issued under Section 6-206.1 of the  
2 Illinois Vehicle Code, except that the court may direct that  
3 the JDP be effective immediately.

4 (12) (Blank).

5 (13) Fines and assessments, including any fee or  
6 administrative cost authorized under Section 5-4.5-105,  
7 5-5-10, 5-6-3, 5-6-3.1, 5-7-6, 5-9-1.4, or 5-9-1.9 of the  
8 Unified Code of Corrections, relating to any sentencing order  
9 shall not be ordered or imposed on a minor or the minor's  
10 parent, guardian, or legal custodian. The inability of a  
11 minor, or minor's parent, guardian, or legal custodian, to  
12 cover the costs associated with an appropriate sentencing  
13 order shall not be the basis for the court to enter a  
14 sentencing order incongruent with the court's findings  
15 regarding the offense on which the minor was adjudicated or  
16 the mitigating factors.

17 (Source: P.A. 102-558, eff. 8-20-21; 103-22, eff. 8-8-23;  
18 103-379, eff. 7-28-23; revised 8-25-23.)

19 Section 99. Effective date. This Act takes effect upon  
20 becoming law.