

1                                    AMENDMENT TO HOUSE BILL 416

2                    AMENDMENT NO. \_\_\_\_\_. Amend House Bill 416, AS AMENDED, by  
3 replacing the title with the following:

4                    "AN ACT in relation to minors."; and

5 by replacing everything after the enacting clause with the  
6 following:

7                    "Section 5. The Juvenile Court Act of 1987 is amended by  
8 changing Sections 5-130 and 5-407 as follows:

9                    (705 ILCS 405/5-130)

10                    Sec. 5-130. Excluded jurisdiction.

11                    (1) (a) The definition of delinquent minor under Section  
12 5-120 of this Article shall not apply to any minor who at the  
13 time of an offense was at least 15 years of age and who is  
14 charged with first degree murder, aggravated criminal sexual  
15 assault, or aggravated battery with a firearm committed in a  
16 school, on the real property comprising a school, within  
17 1,000 feet of the real property comprising a school, at a  
18 school related activity, or on, boarding, or departing from  
19 any conveyance owned, leased, or contracted by a school or  
20 school district to transport students to or from school or a  
21 school related activity regardless of the time of day or time

1 of year that the offense was committed, ~~armed robbery when~~  
2 ~~the armed robbery was committed with a firearm, or aggravated~~  
3 ~~vehicular hijacking when the hijacking was committed with a~~  
4 ~~firearm.~~

5 These charges and all other charges arising out of the  
6 same incident shall be prosecuted under the criminal laws of  
7 this State.

8 For purposes of this paragraph (a) of subsection (1):

9 "School" means a public or private elementary or  
10 secondary school, community college, college, or university.

11 "School related activity" means any sporting, social,  
12 academic or other activity for which students' attendance or  
13 participation is sponsored, organized, or funded in whole or  
14 in part by a school or school district.

15 (b) (i) If before trial or plea an information or  
16 indictment is filed that does not charge an offense specified  
17 in paragraph (a) of this subsection (1) the State's Attorney  
18 may proceed on any lesser charge or charges, but only in  
19 Juvenile Court under the provisions of this Article. The  
20 State's Attorney may proceed under the Criminal Code of 1961  
21 on a lesser charge if before trial the minor defendant  
22 knowingly and with advice of counsel waives, in writing, his  
23 or her right to have the matter proceed in Juvenile Court.

24 (ii) If before trial or plea an information or  
25 indictment is filed that includes one or more charges  
26 specified in paragraph (a) of this subsection (1) and  
27 additional charges that are not specified in that paragraph,  
28 all of the charges arising out of the same incident shall be  
29 prosecuted under the Criminal Code of 1961.

30 (c) (i) If after trial or plea the minor is convicted of  
31 any offense covered by paragraph (a) of this subsection (1),  
32 then, in sentencing the minor, the court shall have available  
33 any or all dispositions prescribed for that offense under  
34 Chapter V of the Unified Code of Corrections.

1 (ii) If after trial or plea the court finds that the  
2 minor committed an offense not covered by paragraph (a) of  
3 this subsection (1), that finding shall not invalidate the  
4 verdict or the prosecution of the minor under the criminal  
5 laws of the State; however, unless the State requests a  
6 hearing for the purpose of sentencing the minor under Chapter  
7 V of the Unified Code of Corrections, the Court must proceed  
8 under Sections 5-705 and 5-710 of this Article. To request a  
9 hearing, the State must file a written motion within 10 days  
10 following the entry of a finding or the return of a verdict.  
11 Reasonable notice of the motion shall be given to the minor  
12 or his or her counsel. If the motion is made by the State,  
13 the court shall conduct a hearing to determine if the minor  
14 should be sentenced under Chapter V of the Unified Code of  
15 Corrections. In making its determination, the court shall  
16 consider among other matters: (a) whether there is evidence  
17 that the offense was committed in an aggressive and  
18 premeditated manner; (b) the age of the minor; (c) the  
19 previous history of the minor; (d) whether there are  
20 facilities particularly available to the Juvenile Court or  
21 the Department of Corrections, Juvenile Division, for the  
22 treatment and rehabilitation of the minor; (e) whether the  
23 security of the public requires sentencing under Chapter V of  
24 the Unified Code of Corrections; and (f) whether the minor  
25 possessed a deadly weapon when committing the offense. The  
26 rules of evidence shall be the same as if at trial. If after  
27 the hearing the court finds that the minor should be  
28 sentenced under Chapter V of the Unified Code of Corrections,  
29 then the court shall sentence the minor accordingly having  
30 available to it any or all dispositions so prescribed.

31 (2) (Blank). ~~(a) The definition of a delinquent minor~~  
32 ~~under Section 5-120 of this Article shall not apply to any~~  
33 ~~minor who at the time of the offense was at least 15 years of~~  
34 ~~age and who is charged with an offense under Section 401 of~~

1 the-Illinois-Controlled-Substances-Act, while--in--a--school,  
 2 regardless--of--the--time--of-day-or-the-time-of-year, or-any  
 3 conveyance--owned,--leased--or--contracted--by--a--school--to  
 4 transport-students-to-or-from--school--or--a--school--related  
 5 activity,--or-residential-property-owned, operated-or-managed  
 6 by-a-public-housing-agency-or--leased--by--a--public--housing  
 7 agency---as---part---of--a--scattered--site--or--mixed-income  
 8 development, on-the--real--property--comprising--any--school,  
 9 regardless--of--the--time--of--day--or--the--time-of-year, or  
 10 residential-property-owned, operated-or-managed-by--a--public  
 11 housing--agency--or-leased-by-a-public-housing-agency-as-part  
 12 of-a-scattered-site-or--mixed-income--development,--or--on--a  
 13 public--way-within-1,000-feet-of-the-real-property-comprising  
 14 any-school, regardless-of-the-time-of--day--or--the--time--of  
 15 year, or-residential-property-owned, operated-or-managed-by-a  
 16 public-housing-agency-or-leased-by-a-public-housing-agency-as  
 17 part-of-a-scattered-site-or-mixed-income-development.--School  
 18 is--defined,--for-the-purposes-of-this-Section, as-any-public  
 19 or-private-elementary-or-secondary-school, community-college,  
 20 college, or-university.--These-charges-and-all-other--charges  
 21 arising--out--of--the-same-incident-shall-be-prosecuted-under  
 22 the-criminal-laws-of-this-State.

23 (b)-(i)--If--before--trial--or--plea--an--information--or  
 24 indictment-is-filed-that-does-not-charge-an-offense-specified  
 25 in-paragraph-(a)-of-this-subsection-(2)-the-State's--Attorney  
 26 may--proceed--on--any--lesser--charge-or-charges, but-only-in  
 27 Juvenile-Court-under-the-provisions--of--this--Article.---The  
 28 State's--Attorney-may-proceed-under-the-criminal-laws-of-this  
 29 State-on-a-lesser-charge-if-before-trial-the-minor--defendant  
 30 knowingly--and-with-advice-of-counsel-waives, in-writing, his  
 31 or-her-right-to-have-the-matter-proceed-in-Juvenile-Court.

32 (ii)--If--before--trial--or--plea--an--information--or  
 33 indictment--is--filed--that--includes--one--or--more--charges  
 34 specified--in--paragraph--(a)--of--this--subsection--(2)--and

1 additional--charges-that-are-not-specified-in-that-paragraph,  
2 all-of-the-charges-arising-out-of-the-same-incident-shall--be  
3 prosecuted-under-the-criminal-laws-of-this-State.

4 (e)-(i)--If-after-trial-or-plea-the-minor-is-convicted-of  
5 any--offense-covered-by-paragraph-(a)-of-this-subsection-(2),  
6 then,--in-sentencing-the-minor,--the-court-shall-have-available  
7 any-or-all-dispositions-prescribed--for--that--offense--under  
8 Chapter-V-of-the-Unified-Code-of-Corrections.

9 (ii)--If--after--trial--or--plea--the-court-finds-that-the  
10 minor-committed-an-offense-not-covered-by--paragraph--(a)--of  
11 this--subsection--(2),--that-finding-shall-not-invalidate-the  
12 verdict-or-the-prosecution-of-the-minor--under--the--criminal  
13 laws--of--the--State;--however,--unless-the-State-requests-a  
14 hearing-for-the-purpose-of-sentencing-the-minor-under-Chapter  
15 V-of-the-Unified-Code-of-Corrections,--the-Court-must--proceed  
16 under-Sections-5-705-and-5-710-of-this-Article.--To-request-a  
17 hearing,--the-State-must-file-a-written-motion-within-10-days  
18 following-the-entry-of-a-finding-or-the-return-of-a--verdict.  
19 Reasonable--notice--of-the-motion-shall-be-given-to-the-minor  
20 or-his-or-her-counsel.--If-the-motion-is-made-by--the--State,  
21 the--court--shall-conduct-a-hearing-to-determine-if-the-minor  
22 should-be-sentenced-under-Chapter-V-of-the--Unified--Code--of  
23 Corrections;--In--making--its-determination,--the-court-shall  
24 consider-among-other-matters:--(a)-whether-there--is--evidence  
25 that--the--offense--was--committed--in--an--aggressive--and  
26 premeditated-manner;--(b)--the--age--of--the--minor;--(c)--the  
27 previous--history--of--the--minor;--(d)--whether--there--are  
28 facilities-particularly-available-to-the--Juvenile--Court--or  
29 the--Department--of--Corrections,--Juvenile-Division,--for-the  
30 treatment-and-rehabilitation-of-the-minor;--(e)--whether--the  
31 security-of-the-public-requires-sentencing-under-Chapter-V-of  
32 the--Unified--Code--of-Corrections;--and--(f)--whether-the-minor  
33 possessed-a-deadly-weapon-when-committing-the--offense.--The  
34 rules-of-evidence-shall-be-the-same-as-if-at-trial.--If-after

1 the hearing the court finds that the minor should be  
 2 sentenced under Chapter V of the Unified Code of Corrections,  
 3 then the court shall sentence the minor accordingly having  
 4 available to it any or all dispositions so prescribed.

5 (3) (Blank). (a) The definition of delinquent minor  
 6 under Section 5-120 of this Article shall not apply to any  
 7 minor who at the time of the offense was at least 15 years of  
 8 age and who is charged with a violation of the provisions of  
 9 paragraph (1), (3), (4), or (10) of subsection (a) of Section  
 10 24-1 of the Criminal Code of 1961 while in school, regardless  
 11 of the time of day or the time of year, or on the real  
 12 property comprising any school, regardless of the time of day  
 13 or the time of year. School is defined, for purposes of this  
 14 Section as any public or private elementary or secondary  
 15 school, community college, college, or university. These  
 16 charges and all other charges arising out of the same  
 17 incident shall be prosecuted under the criminal laws of this  
 18 State.

19 (b) (i) If before trial or plea an information or  
 20 indictment is filed that does not charge an offense specified  
 21 in paragraph (a) of this subsection (3) the State's Attorney  
 22 may proceed on any lesser charge or charges, but only in  
 23 Juvenile Court under the provisions of this Article. The  
 24 State's Attorney may proceed under the criminal laws of this  
 25 State on a lesser charge if before trial the minor defendant  
 26 knowingly and with advice of counsel waives, in writing, his  
 27 or her right to have the matter proceed in Juvenile Court.

28 (ii) If before trial or plea an information or  
 29 indictment is filed that includes one or more charges  
 30 specified in paragraph (a) of this subsection (3) and  
 31 additional charges that are not specified in that paragraph,  
 32 all of the charges arising out of the same incident shall be  
 33 prosecuted under the criminal laws of this State.

34 (c) (i) If after trial or plea the minor is convicted of

1 any offense covered by paragraph (a) of this subsection (3),  
2 then, in sentencing the minor, the court shall have available  
3 any or all dispositions prescribed for that offense under  
4 Chapter V of the Unified Code of Corrections.

5 (ii) If after trial or plea the court finds that the  
6 minor committed an offense not covered by paragraph (a) of  
7 this subsection (3), that finding shall not invalidate the  
8 verdict or the prosecution of the minor under the criminal  
9 laws of the State; however, unless the State requests a  
10 hearing for the purpose of sentencing the minor under Chapter  
11 V of the Unified Code of Corrections, the Court must proceed  
12 under Sections 5-705 and 5-710 of this Article. To request a  
13 hearing, the State must file a written motion within 10 days  
14 following the entry of a finding or the return of a verdict.  
15 Reasonable notice of the motion shall be given to the minor  
16 or his or her counsel. If the motion is made by the State,  
17 the court shall conduct a hearing to determine if the minor  
18 should be sentenced under Chapter V of the Unified Code of  
19 Corrections. In making its determination, the court shall  
20 consider among other matters: (a) whether there is evidence  
21 that the offense was committed in an aggressive and  
22 premeditated manner; (b) the age of the minor; (c) the  
23 previous history of the minor; (d) whether there are  
24 facilities particularly available to the Juvenile Court or  
25 the Department of Corrections, Juvenile Division, for the  
26 treatment and rehabilitation of the minor; (e) whether the  
27 security of the public requires sentencing under Chapter V of  
28 the Unified Code of Corrections; and (f) whether the minor  
29 possessed a deadly weapon when committing the offense. The  
30 rules of evidence shall be the same as if at trial. If after  
31 the hearing the court finds that the minor should be  
32 sentenced under Chapter V of the Unified Code of Corrections,  
33 then the court shall sentence the minor accordingly having  
34 available to it any or all dispositions so prescribed.

1           (4) (a) The definition of delinquent minor under Section  
2 5-120 of this Article shall not apply to any minor who at the  
3 time of an offense was at least 13 years of age and who is  
4 charged with first degree murder committed during the course  
5 of either aggravated criminal sexual assault, criminal sexual  
6 assault, or aggravated kidnaping. However, this subsection  
7 (4) does not include a minor charged with first degree murder  
8 based exclusively upon the accountability provisions of the  
9 Criminal Code of 1961.

10           (b) (i) If before trial or plea an information or  
11 indictment is filed that does not charge first degree murder  
12 committed during the course of aggravated criminal sexual  
13 assault, criminal sexual assault, or aggravated kidnaping,  
14 the State's Attorney may proceed on any lesser charge or  
15 charges, but only in Juvenile Court under the provisions of  
16 this Article. The State's Attorney may proceed under the  
17 criminal laws of this State on a lesser charge if before  
18 trial the minor defendant knowingly and with advice of  
19 counsel waives, in writing, his or her right to have the  
20 matter proceed in Juvenile Court.

21           (ii) If before trial or plea an information or  
22 indictment is filed that includes first degree murder  
23 committed during the course of aggravated criminal sexual  
24 assault, criminal sexual assault, or aggravated kidnaping,  
25 and additional charges that are not specified in paragraph  
26 (a) of this subsection, all of the charges arising out of the  
27 same incident shall be prosecuted under the criminal laws of  
28 this State.

29           (c) (i) If after trial or plea the minor is convicted of  
30 first degree murder committed during the course of aggravated  
31 criminal sexual assault, criminal sexual assault, or  
32 aggravated kidnaping, in sentencing the minor, the court  
33 shall have available any or all dispositions prescribed for  
34 that offense under Chapter V of the Unified Code of



1 Corrections.

2 (ii) If the minor was not yet 15 years of age at the  
3 time of the offense, and if after trial or plea the court  
4 finds that the minor committed an offense other than first  
5 degree murder committed during the course of either  
6 aggravated criminal sexual assault, criminal sexual assault,  
7 or aggravated kidnapping, the finding shall not invalidate  
8 the verdict or the prosecution of the minor under the  
9 criminal laws of the State; however, unless the State  
10 requests a hearing for the purpose of sentencing the minor  
11 under Chapter V of the Unified Code of Corrections, the Court  
12 must proceed under Sections 5-705 and 5-710 of this Article.  
13 To request a hearing, the State must file a written motion  
14 within 10 days following the entry of a finding or the return  
15 of a verdict. Reasonable notice of the motion shall be given  
16 to the minor or his or her counsel. If the motion is made by  
17 the State, the court shall conduct a hearing to determine  
18 whether the minor should be sentenced under Chapter V of the  
19 Unified Code of Corrections. In making its determination,  
20 the court shall consider among other matters: (a) whether  
21 there is evidence that the offense was committed in an  
22 aggressive and premeditated manner; (b) the age of the  
23 minor; (c) the previous delinquent history of the minor;  
24 (d) whether there are facilities particularly available to  
25 the Juvenile Court or the Department of Corrections, Juvenile  
26 Division, for the treatment and rehabilitation of the minor;  
27 (e) whether the best interest of the minor and the security  
28 of the public require sentencing under Chapter V of the  
29 Unified Code of Corrections; and (f) whether the minor  
30 possessed a deadly weapon when committing the offense. The  
31 rules of evidence shall be the same as if at trial. If after  
32 the hearing the court finds that the minor should be  
33 sentenced under Chapter V of the Unified Code of Corrections,  
34 then the court shall sentence the minor accordingly having

1 available to it any or all dispositions so prescribed.

2 (5) (a) The definition of delinquent minor under Section  
3 5-120 of this Article shall not apply to any minor who is  
4 charged with a violation of subsection (a) of Section 31-6 or  
5 Section 32-10 of the Criminal Code of 1961 when the minor is  
6 subject to prosecution under the criminal laws of this State  
7 as a result of the application of the provisions of Section  
8 5-125, or subsection (1) ~~or~~ (2) of this Section. These  
9 charges and all other charges arising out of the same  
10 incident shall be prosecuted under the criminal laws of this  
11 State.

12 (b) (i) If before trial or plea an information or  
13 indictment is filed that does not charge an offense specified  
14 in paragraph (a) of this subsection (5), the State's Attorney  
15 may proceed on any lesser charge or charges, but only in  
16 Juvenile Court under the provisions of this Article. The  
17 State's Attorney may proceed under the criminal laws of this  
18 State on a lesser charge if before trial the minor defendant  
19 knowingly and with advice of counsel waives, in writing, his  
20 or her right to have the matter proceed in Juvenile Court.

21 (ii) If before trial or plea an information or  
22 indictment is filed that includes one or more charges  
23 specified in paragraph (a) of this subsection (5) and  
24 additional charges that are not specified in that paragraph,  
25 all of the charges arising out of the same incident shall be  
26 prosecuted under the criminal laws of this State.

27 (c) (i) If after trial or plea the minor is convicted of  
28 any offense covered by paragraph (a) of this subsection (5),  
29 then, in sentencing the minor, the court shall have available  
30 any or all dispositions prescribed for that offense under  
31 Chapter V of the Unified Code of Corrections.

32 (ii) If after trial or plea the court finds that the  
33 minor committed an offense not covered by paragraph (a) of  
34 this subsection (5), the conviction shall not invalidate the

1 verdict or the prosecution of the minor under the criminal  
2 laws of this State; however, unless the State requests a  
3 hearing for the purpose of sentencing the minor under Chapter  
4 V of the Unified Code of Corrections, the Court must proceed  
5 under Sections 5-705 and 5-710 of this Article. To request a  
6 hearing, the State must file a written motion within 10 days  
7 following the entry of a finding or the return of a verdict.  
8 Reasonable notice of the motion shall be given to the minor  
9 or his or her counsel. If the motion is made by the State,  
10 the court shall conduct a hearing to determine if whether the  
11 minor should be sentenced under Chapter V of the Unified Code  
12 of Corrections. In making its determination, the court shall  
13 consider among other matters: (a) whether there is evidence  
14 that the offense was committed in an aggressive and  
15 premeditated manner; (b) the age of the minor; (c) the  
16 previous delinquent history of the minor; (d) whether there  
17 are facilities particularly available to the Juvenile Court  
18 or the Department of Corrections, Juvenile Division, for the  
19 treatment and rehabilitation of the minor; (e) whether the  
20 security of the public requires sentencing under Chapter V of  
21 the Unified Code of Corrections; and (f) whether the minor  
22 possessed a deadly weapon when committing the offense. The  
23 rules of evidence shall be the same as if at trial. If after  
24 the hearing the court finds that the minor should be  
25 sentenced under Chapter V of the Unified Code of Corrections,  
26 then the court shall sentence the minor accordingly having  
27 available to it any or all dispositions so prescribed.

28 (6) The definition of delinquent minor under Section  
29 5-120 of this Article shall not apply to any minor who,  
30 pursuant to subsection (1)~~,-(2),-or-(3)~~ or Section 5-805, or  
31 5-810, has previously been placed under the jurisdiction of  
32 the criminal court and has been convicted of a crime under an  
33 adult criminal or penal statute. Such a minor shall be  
34 subject to prosecution under the criminal laws of this State.

1 (7) The procedures set out in this Article for the  
 2 investigation, arrest and prosecution of juvenile offenders  
 3 shall not apply to minors who are excluded from jurisdiction  
 4 of the Juvenile Court, except that minors under 17 years of  
 5 age shall be kept separate from confined adults.

6 (8) Nothing in this Act prohibits or limits the  
 7 prosecution of any minor for an offense committed on or after  
 8 his or her 18th ~~17th~~ birthday even though he or she is at the  
 9 time of the offense a ward of the court.

10 (9) If an original petition for adjudication of wardship  
 11 alleges the commission by a minor 13 years of age or over of  
 12 an act that constitutes a crime under the laws of this State,  
 13 the minor, with the consent of his or her counsel, may, at  
 14 any time before commencement of the adjudicatory hearing,  
 15 file with the court a motion that criminal prosecution be  
 16 ordered and that the petition be dismissed insofar as the act  
 17 or acts involved in the criminal proceedings are concerned.  
 18 If such a motion is filed as herein provided, the court shall  
 19 enter its order accordingly.

20 (10) (Blank). ~~If a minor is subject to the provisions of~~  
 21 ~~subsection (2) of this Section, other than a minor charged~~  
 22 ~~with a Class X felony violation of the Illinois Controlled~~  
 23 ~~Substances Act, any party including the minor or the court~~  
 24 ~~sua sponte may, before trial, move for a hearing for the~~  
 25 ~~purpose of trying and sentencing the minor as a delinquent~~  
 26 ~~minor. To request a hearing, the party must file a motion~~  
 27 ~~prior to trial. Reasonable notice of the motion shall be~~  
 28 ~~given to all parties. On its own motion or upon the filing of~~  
 29 ~~a motion by one of the parties including the minor, the court~~  
 30 ~~shall conduct a hearing to determine whether the minor should~~  
 31 ~~be tried and sentenced as a delinquent minor under this~~  
 32 ~~Article. In making its determination, the court shall~~  
 33 ~~consider among other matters:~~

34 (a) ~~The age of the minor;~~

1           (b) -- Any -- previous -- delinquent -- or -- criminal -- history -- of -- the  
2    minor;

3           (c) -- Any -- previous -- abuse -- or -- neglect -- history -- of -- the -- minor;

4           (d) -- Any -- mental -- health -- or -- educational -- history -- of -- the  
5    minor, -- or -- both; -- and

6           (e) -- Whether -- there -- is -- probable -- cause -- to -- support -- the  
7    charge, -- whether -- the -- minor -- is -- charged -- through -- accountability,  
8    and -- whether -- there -- is -- evidence -- the -- minor -- possessed -- a -- deadly  
9    weapon -- or -- caused -- serious -- bodily -- harm -- during -- the -- offense.

10           Any -- material -- that -- is -- relevant -- and -- reliable -- shall -- be  
11    admissible -- at -- the -- hearing. --- In -- all -- cases, -- the -- judge -- shall  
12    enter -- an -- order -- permitting -- prosecution -- under -- the -- criminal -- laws  
13    of -- Illinois -- unless -- the -- judge -- makes -- a -- finding -- based -- on -- a  
14    preponderance -- of -- the -- evidence -- that -- the -- minor -- would -- be  
15    amenable -- to -- the -- care, -- treatment, -- and -- training -- programs  
16    available -- through -- the -- facilities -- of -- the -- juvenile -- court -- based  
17    on -- an -- evaluation -- of -- the -- factors -- listed -- in -- this -- subsection  
18    (10).

19           (Source: P.A. 91-15, eff. 1-1-00; 91-673, eff. 12-22-99;  
20    92-16, eff. 6-28-01; 92-665, eff. 1-1-03.)

21           (705 ILCS 405/5-407)

22           Sec. 5-407. Processing of juvenile in possession of a  
23    firearm.

24           (a) If a law enforcement officer detains a minor  
25    pursuant to Section 10-27.1A of the School Code, the officer  
26    shall deliver the minor to the nearest juvenile officer, in  
27    the manner prescribed by subsection (2) of Section 5-405 of  
28    this Act. The juvenile officer shall deliver the minor  
29    without unnecessary delay to the court or to the place  
30    designated by rule or order of court for the reception of  
31    minors. In no event shall the minor be eligible for any  
32    other disposition by the juvenile police officer,  
33    notwithstanding the provisions of subsection (3) of Section

1 5-405 of this Act.

2 (b) ~~Minors not-excluded--from--this--Act's--jurisdiction~~  
3 ~~under-subsection-(3)(a)-of-Section-5-130-of-this-Act~~ shall be  
4 brought before a judicial officer within 40 hours, exclusive  
5 of Saturdays, Sundays, and court-designated holidays, for a  
6 detention hearing to determine whether he or she shall be  
7 further held in custody. If the court finds that there is  
8 probable cause to believe that the minor is a delinquent  
9 minor by virtue of his or her violation of item (4) of  
10 subsection (a) of Section 24-1 of the Criminal Code of 1961  
11 while on school grounds, that finding shall create a  
12 presumption that immediate and urgent necessity exists under  
13 subdivision (2) of Section 5-501 of this Act. Once the  
14 presumption of immediate and urgent necessity has been  
15 raised, the burden of demonstrating the lack of immediate and  
16 urgent necessity shall be on any party that is opposing  
17 detention for the minor. Should the court order detention  
18 pursuant to this Section, the minor shall be detained,  
19 pending the results of a court-ordered psychological  
20 evaluation to determine if the minor is a risk to himself,  
21 herself, or others. Upon receipt of the psychological  
22 evaluation, the court shall review the determination  
23 regarding the existence of urgent and immediate necessity.  
24 The court shall consider the psychological evaluation in  
25 conjunction with the other factors identified in subdivision  
26 (2) of Section 5-501 of this Act in order to make a de novo  
27 determination regarding whether it is a matter of immediate  
28 and urgent necessity for the protection of the minor or of  
29 the person or property of another that the minor be detained  
30 or placed in a shelter care facility. In addition to the  
31 pre-trial conditions found in Section 5-505 of this Act, the  
32 court may order the minor to receive counseling and any other  
33 services recommended by the psychological evaluation as a  
34 condition for release of the minor.

1 (c) Upon making a determination that the student  
2 presents a risk to himself, herself, or others, the court  
3 shall issue an order restraining the student from entering  
4 the property of the school if he or she has been suspended or  
5 expelled from the school as a result of possessing a firearm.  
6 The order shall restrain the student from entering the school  
7 and school owned or leased property, including any conveyance  
8 owned, leased, or contracted by the school to transport  
9 students to or from school or a school-related activity. The  
10 order shall remain in effect until such time as the court  
11 determines that the student no longer presents a risk to  
12 himself, herself, or others.

13 (d) Psychological evaluations ordered pursuant to  
14 subsection (b) of this Section and statements made by the  
15 minor during the course of these evaluations, shall not be  
16 admissible on the issue of delinquency during the course of  
17 any adjudicatory hearing held under this Act.

18 (e) In this Section:

19 "School" means any public or private elementary or  
20 secondary school.

21 "School grounds" includes the real property comprising  
22 any school, any conveyance owned, leased, or contracted by a  
23 school to transport students to or from school or a  
24 school-related activity, or any public way within 1,000 feet  
25 of the real property comprising any school.

26 (Source: P.A. 91-11, eff. 6-4-99.)

27 Section 99. Effective date. This Act takes effect upon  
28 becoming law."