

1 AN ACT in relation to minors.

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 5-130 and 5-407 as follows:

6 (705 ILCS 405/5-130)

7 Sec. 5-130. Excluded jurisdiction.

8 (1) (a) The definition of delinquent minor under Section
9 5-120 of this Article shall not apply to any minor who at the
10 time of an offense was at least 15 years of age and who is
11 charged with first degree murder, aggravated criminal sexual
12 assault, or aggravated battery with a firearm committed in a
13 school, on the real property comprising a school, within
14 1,000 feet of the real property comprising a school, at a
15 school related activity, or on, boarding, or departing from
16 any conveyance owned, leased, or contracted by a school or
17 school district to transport students to or from school or a
18 school related activity regardless of the time of day or time
19 of year that the offense was committed, ~~armed-robbery-when~~
20 ~~the-armed-robbery-was-committed-with-a-firearm, or aggravated~~
21 ~~vehicular-hijacking-when-the-hijacking-was-committed--with--a~~
22 ~~firearm.~~

23 These charges and all other charges arising out of the
24 same incident shall be prosecuted under the criminal laws of
25 this State.

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

27 "School" means a public or private elementary or
28 secondary school, community college, college, or university.

29 "School related activity" means any sporting, social,
30 academic or other activity for which students' attendance or
31 participation is sponsored, organized, or funded in whole or

1 in part by a school or school district.

2 (b) (i) If before trial or plea an information or
3 indictment is filed that does not charge an offense specified
4 in paragraph (a) of this subsection (1) the State's Attorney
5 may proceed on any lesser charge or charges, but only in
6 Juvenile Court under the provisions of this Article. The
7 State's Attorney may proceed under the Criminal Code of 1961
8 on a lesser charge if before trial the minor defendant
9 knowingly and with advice of counsel waives, in writing, his
10 or her right to have the matter proceed in Juvenile Court.

11 (ii) If before trial or plea an information or
12 indictment is filed that includes one or more charges
13 specified in paragraph (a) of this subsection (1) and
14 additional charges that are not specified in that paragraph,
15 all of the charges arising out of the same incident shall be
16 prosecuted under the Criminal Code of 1961.

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

22 (ii) If after trial or plea the court finds that the
23 minor committed an offense not covered by paragraph (a) of
24 this subsection (1), that finding shall not invalidate the
25 verdict or the prosecution of the minor under the criminal
26 laws of the State; however, unless the State requests a
27 hearing for the purpose of sentencing the minor under Chapter
28 V of the Unified Code of Corrections, the Court must proceed
29 under Sections 5-705 and 5-710 of this Article. To request a
30 hearing, the State must file a written motion within 10 days
31 following the entry of a finding or the return of a verdict.
32 Reasonable notice of the motion shall be given to the minor
33 or his or her counsel. If the motion is made by the State,
34 the court shall conduct a hearing to determine if the minor

1 should be sentenced under Chapter V of the Unified Code of
 2 Corrections. In making its determination, the court shall
 3 consider among other matters: (a) whether there is evidence
 4 that the offense was committed in an aggressive and
 5 premeditated manner; (b) the age of the minor; (c) the
 6 previous history of the minor; (d) whether there are
 7 facilities particularly available to the Juvenile Court or
 8 the Department of Corrections, Juvenile Division, for the
 9 treatment and rehabilitation of the minor; (e) whether the
 10 security of the public requires sentencing under Chapter V of
 11 the Unified Code of Corrections; and (f) whether the minor
 12 possessed a deadly weapon when committing the offense. The
 13 rules of evidence shall be the same as if at trial. If after
 14 the hearing the court finds that the minor should be
 15 sentenced under Chapter V of the Unified Code of Corrections,
 16 then the court shall sentence the minor accordingly having
 17 available to it any or all dispositions so prescribed.

18 (2) (Blank). ~~(a) The definition of a delinquent minor~~
 19 ~~under Section 5-120 of this Article shall not apply to any~~
 20 ~~minor who at the time of the offense was at least 15 years of~~
 21 ~~age and who is charged with an offense under Section 401 of~~
 22 ~~the Illinois Controlled Substances Act, while in a school,~~
 23 ~~regardless of the time of day or the time of year, or any~~
 24 ~~conveyance owned, leased or contracted by a school to~~
 25 ~~transport students to or from school or a school-related~~
 26 ~~activity, or residential property owned, operated or managed~~
 27 ~~by a public housing agency or leased by a public housing~~
 28 ~~agency as part of a scattered site or mixed-income~~
 29 ~~development, on the real property comprising any school,~~
 30 ~~regardless of the time of day or the time of year, or~~
 31 ~~residential property owned, operated or managed by a public~~
 32 ~~housing agency or leased by a public housing agency as part~~
 33 ~~of a scattered site or mixed-income development, or on a~~
 34 ~~public way within 1,000 feet of the real property comprising~~

1 any-school, regardless-of-the-time-of-day-or-the-time-of
 2 year, or-residential-property-owned, operated-or-managed-by-a
 3 public-housing-agency-or-leased-by-a-public-housing-agency-as
 4 part-of-a-scattered-site-or-mixed-income-development.--School
 5 is--defined, for-the-purposes-of-this-Section, as-any-public
 6 or-private-elementary-or-secondary-school, community-college,
 7 college, or-university.--These-charges-and-all-other-charges
 8 arising-out-of-the-same-incident-shall-be-prosecuted-under
 9 the-criminal-laws-of-this-State.

10 (b)-(i)--If-before-trial-or-plea-an-information-or
 11 indictment-is-filed-that-does-not-charge-an-offense-specified
 12 in-paragraph-(a)-of-this-subsection-(2)-the-State's-Attorney
 13 may-proceed-on-any-lesser-charge-or-charges, but-only-in
 14 Juvenile-Court-under-the-provisions-of-this-Article.--The
 15 State's-Attorney-may-proceed-under-the-criminal-laws-of-this
 16 State-on-a-lesser-charge-if-before-trial-the-minor-defendant
 17 knowingly-and-with-advice-of-counsel-waives, in-writing, his
 18 or-her-right-to-have-the-matter-proceed-in-Juvenile-Court.

19 (ii)--If-before-trial-or-plea-an-information-or
 20 indictment-is-filed-that-includes-one-or-more-charges
 21 specified-in-paragraph-(a)-of-this-subsection-(2)-and
 22 additional-charges-that-are-not-specified-in-that-paragraph,
 23 all-of-the-charges-arising-out-of-the-same-incident-shall-be
 24 prosecuted-under-the-criminal-laws-of-this-State.

25 (c)-(i)--If-after-trial-or-plea-the-minor-is-convicted-of
 26 any-offense-covered-by-paragraph-(a)-of-this-subsection-(2),
 27 then, in-sentencing-the-minor, the-court-shall-have-available
 28 any-or-all-dispositions-prescribed-for-that-offense-under
 29 Chapter-V-of-the-Unified-Code-of-Corrections.

30 (ii)--If-after-trial-or-plea-the-court-finds-that-the
 31 minor-committed-an-offense-not-covered-by-paragraph-(a)-of
 32 this-subsection-(2), that-finding-shall-not-invalidate-the
 33 verdict-or-the-prosecution-of-the-minor-under-the-criminal
 34 laws-of-the-State; however, unless-the-State-requests-a

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

26 (3) (Blank). (a)--The--definition--of--delinquent--minor
27 under-Section-5-120-of-this-Article-shall-not--apply--to--any
28 minor-who-at-the-time-of-the-offense-was-at-least-15-years-of
29 age--and-who-is-charged-with-a-violation-of-the-provisions-of
30 paragraph-(1),-(3),-(4),-or-(10)-of-subsection-(a)-of-Section
31 24-1-of-the-Criminal-Code-of-1961-while-in-school, regardless
32 of-the-time-of-day-or-the--time--of--year,--or--on--the--real
33 property-comprising-any-school, regardless-of-the-time-of-day
34 or-the-time-of-year.--School-is-defined, for-purposes-of-this

1 Section--as--any--public--or--private--elementary--or--secondary
 2 school,--community--college,--college,--or--university.---These
 3 charges--and--all--other--charges--arising--out--of--the--same
 4 incident--shall--be--prosecuted--under--the--criminal--laws--of--this
 5 State.

6 (b)-(i)--If--before--trial--or--plea--an--information--or
 7 indictment--is--filed--that--does--not--charge--an--offense--specified
 8 in--paragraph--(a)--of--this--subsection--(3)--the--State's--Attorney
 9 may--proceed--on--any--lesser--charge--or--charges,--but--only--in
 10 Juvenile--Court--under--the--provisions--of--this--Article.---The
 11 State's--Attorney--may--proceed--under--the--criminal--laws--of--this
 12 State--on--a--lesser--charge--if--before--trial--the--minor--defendant
 13 knowingly--and--with--advice--of--counsel--waives,--in--writing,--his
 14 or--her--right--to--have--the--matter--proceed--in--Juvenile--Court.

15 (ii)--If--before--trial--or--plea--an--information--or
 16 indictment--is--filed--that--includes--one--or--more--charges
 17 specified--in--paragraph--(a)--of--this--subsection--(3)--and
 18 additional--charges--that--are--not--specified--in--that--paragraph,
 19 all--of--the--charges--arising--out--of--the--same--incident--shall--be
 20 prosecuted--under--the--criminal--laws--of--this--State.

21 (c)-(i)--If--after--trial--or--plea--the--minor--is--convicted--of
 22 any--offense--covered--by--paragraph--(a)--of--this--subsection--(3),
 23 then,--in--sentencing--the--minor,--the--court--shall--have--available
 24 any--or--all--dispositions--prescribed--for--that--offense--under
 25 Chapter--V--of--the--Unified--Code--of--Corrections.

26 (ii)--If--after--trial--or--plea--the--court--finds--that--the
 27 minor--committed--an--offense--not--covered--by--paragraph--(a)--of
 28 this--subsection--(3),--that--finding--shall--not--invalidate--the
 29 verdict--or--the--prosecution--of--the--minor--under--the--criminal
 30 laws--of--the--State;--however,--unless--the--State--requests--a
 31 hearing--for--the--purpose--of--sentencing--the--minor--under--Chapter
 32 V--of--the--Unified--Code--of--Corrections,--the--Court--must--proceed
 33 under--Sections--5--705--and--5--710--of--this--Article.---To--request--a
 34 hearing,--the--State--must--file--a--written--motion--within--10--days

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

22 (4) (a) The definition of delinquent minor under Section
 23 5-120 of this Article shall not apply to any minor who at the
 24 time of an offense was at least 13 years of age and who is
 25 charged with first degree murder committed during the course
 26 of either aggravated criminal sexual assault, criminal sexual
 27 assault, or aggravated kidnaping. However, this subsection
 28 (4) does not include a minor charged with first degree murder
 29 based exclusively upon the accountability provisions of the
 30 Criminal Code of 1961.

31 (b) (i) If before trial or plea an information or
 32 indictment is filed that does not charge first degree murder
 33 committed during the course of aggravated criminal sexual
 34 assault, criminal sexual assault, or aggravated kidnaping,

1 the State's Attorney may proceed on any lesser charge or
2 charges, but only in Juvenile Court under the provisions of
3 this Article. The State's Attorney may proceed under the
4 criminal laws of this State on a lesser charge if before
5 trial the minor defendant knowingly and with advice of
6 counsel waives, in writing, his or her right to have the
7 matter proceed in Juvenile Court.

8 (ii) If before trial or plea an information or
9 indictment is filed that includes first degree murder
10 committed during the course of aggravated criminal sexual
11 assault, criminal sexual assault, or aggravated kidnaping,
12 and additional charges that are not specified in paragraph
13 (a) of this subsection, all of the charges arising out of the
14 same incident shall be prosecuted under the criminal laws of
15 this State.

16 (c) (i) If after trial or plea the minor is convicted of
17 first degree murder committed during the course of aggravated
18 criminal sexual assault, criminal sexual assault, or
19 aggravated kidnaping, in sentencing the minor, the court
20 shall have available any or all dispositions prescribed for
21 that offense under Chapter V of the Unified Code of
22 Corrections.

23 (ii) If the minor was not yet 15 years of age at the
24 time of the offense, and if after trial or plea the court
25 finds that the minor committed an offense other than first
26 degree murder committed during the course of either
27 aggravated criminal sexual assault, criminal sexual assault,
28 or aggravated kidnaping, the finding shall not invalidate
29 the verdict or the prosecution of the minor under the
30 criminal laws of the State; however, unless the State
31 requests a hearing for the purpose of sentencing the minor
32 under Chapter V of the Unified Code of Corrections, the Court
33 must proceed under Sections 5-705 and 5-710 of this Article.
34 To request a hearing, the State must file a written motion

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

23 (5) (a) The definition of delinquent minor under Section
24 5-120 of this Article shall not apply to any minor who is
25 charged with a violation of subsection (a) of Section 31-6 or
26 Section 32-10 of the Criminal Code of 1961 when the minor is
27 subject to prosecution under the criminal laws of this State
28 as a result of the application of the provisions of Section
29 5-125, or subsection (1) ~~or~~ (2) of this Section. These
30 charges and all other charges arising out of the same
31 incident shall be prosecuted under the criminal laws of this
32 State.

33 (b) (i) If before trial or plea an information or
34 indictment is filed that does not charge an offense specified

1 in paragraph (a) of this subsection (5), the State's Attorney
2 may proceed on any lesser charge or charges, but only in
3 Juvenile Court under the provisions of this Article. The
4 State's Attorney may proceed under the criminal laws of this
5 State on a lesser charge if before trial the minor defendant
6 knowingly and with advice of counsel waives, in writing, his
7 or her right to have the matter proceed in Juvenile Court.

8 (ii) If before trial or plea an information or
9 indictment is filed that includes one or more charges
10 specified in paragraph (a) of this subsection (5) and
11 additional charges that are not specified in that paragraph,
12 all of the charges arising out of the same incident shall be
13 prosecuted under the criminal laws of this State.

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

19 (ii) If after trial or plea the court finds that the
20 minor committed an offense not covered by paragraph (a) of
21 this subsection (5), the conviction shall not invalidate the
22 verdict or the prosecution of the minor under the criminal
23 laws of this State; however, unless the State requests a
24 hearing for the purpose of sentencing the minor under Chapter
25 V of the Unified Code of Corrections, the Court must proceed
26 under Sections 5-705 and 5-710 of this Article. To request a
27 hearing, the State must file a written motion within 10 days
28 following the entry of a finding or the return of a verdict.
29 Reasonable notice of the motion shall be given to the minor
30 or his or her counsel. If the motion is made by the State,
31 the court shall conduct a hearing to determine if whether the
32 minor should be sentenced under Chapter V of the Unified Code
33 of Corrections. In making its determination, the court shall
34 consider among other matters: (a) whether there is evidence

1 that the offense was committed in an aggressive and
2 premeditated manner; (b) the age of the minor; (c) the
3 previous delinquent history of the minor; (d) whether there
4 are facilities particularly available to the Juvenile Court
5 or the Department of Corrections, Juvenile Division, for the
6 treatment and rehabilitation of the minor; (e) whether the
7 security of the public requires sentencing under Chapter V of
8 the Unified Code of Corrections; and (f) whether the minor
9 possessed a deadly weapon when committing the offense. The
10 rules of evidence shall be the same as if at trial. If after
11 the hearing the court finds that the minor should be
12 sentenced under Chapter V of the Unified Code of Corrections,
13 then the court shall sentence the minor accordingly having
14 available to it any or all dispositions so prescribed.

15 (6) The definition of delinquent minor under Section
16 5-120 of this Article shall not apply to any minor who,
17 pursuant to subsection (1)~~,-(2),-or-(3)~~ or Section 5-805, or
18 5-810, has previously been placed under the jurisdiction of
19 the criminal court and has been convicted of a crime under an
20 adult criminal or penal statute. Such a minor shall be
21 subject to prosecution under the criminal laws of this State.

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

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

31 (9) If an original petition for adjudication of wardship
32 alleges the commission by a minor 13 years of age or over of
33 an act that constitutes a crime under the laws of this State,
34 the minor, with the consent of his or her counsel, may, at

1 any time before commencement of the adjudicatory hearing,
 2 file with the court a motion that criminal prosecution be
 3 ordered and that the petition be dismissed insofar as the act
 4 or acts involved in the criminal proceedings are concerned.
 5 If such a motion is filed as herein provided, the court shall
 6 enter its order accordingly.

7 (10) (Blank). If a minor is subject to the provisions of
 8 subsection (2) of this Section, other than a minor charged
 9 with a Class X felony violation of the Illinois Controlled
 10 Substances Act, any party including the minor or the court
 11 sua sponte may, before trial, move for a hearing for the
 12 purpose of trying and sentencing the minor as a delinquent
 13 minor. To request a hearing, the party must file a motion
 14 prior to trial. Reasonable notice of the motion shall be
 15 given to all parties. On its own motion or upon the filing of
 16 a motion by one of the parties including the minor, the court
 17 shall conduct a hearing to determine whether the minor should
 18 be tried and sentenced as a delinquent minor under this
 19 Article. In making its determination, the court shall
 20 consider among other matters:

- 21 (a) The age of the minor;
- 22 (b) Any previous delinquent or criminal history of the
 23 minor;
- 24 (c) Any previous abuse or neglect history of the minor;
- 25 (d) Any mental health or educational history of the
 26 minor, or both; and
- 27 (e) Whether there is probable cause to support the
 28 charge, whether the minor is charged through accountability,
 29 and whether there is evidence the minor possessed a deadly
 30 weapon or caused serious bodily harm during the offense.

31 Any material that is relevant and reliable shall be
 32 admissible at the hearing. In all cases, the judge shall
 33 enter an order permitting prosecution under the criminal laws
 34 of Illinois unless the judge makes a finding based on a

1 preponderance--of--the--evidence--that--the--minor--would--be
 2 amenable--to--the--care,--treatment,--and--training--programs
 3 available--through-the-facilities-of-the-juvenile-court-based
 4 on-an-evaluation-of-the-factors--listed--in--this--subsection
 5 (10):

6 (Source: P.A. 91-15, eff. 1-1-00; 91-673, eff. 12-22-99;
 7 92-16, eff. 6-28-01; 92-665, eff. 1-1-03.)

8 (705 ILCS 405/5-407)

9 Sec. 5-407. Processing of juvenile in possession of a
 10 firearm.

11 (a) If a law enforcement officer detains a minor
 12 pursuant to Section 10-27.1A of the School Code, the officer
 13 shall deliver the minor to the nearest juvenile officer, in
 14 the manner prescribed by subsection (2) of Section 5-405 of
 15 this Act. The juvenile officer shall deliver the minor
 16 without unnecessary delay to the court or to the place
 17 designated by rule or order of court for the reception of
 18 minors. In no event shall the minor be eligible for any
 19 other disposition by the juvenile police officer,
 20 notwithstanding the provisions of subsection (3) of Section
 21 5-405 of this Act.

22 (b) ~~Minors not excluded--from--this--Act's--jurisdiction~~
 23 ~~under-subsection-(3)(a)-of-Section-5-130-of-this-Act~~ shall be
 24 brought before a judicial officer within 40 hours, exclusive
 25 of Saturdays, Sundays, and court-designated holidays, for a
 26 detention hearing to determine whether he or she shall be
 27 further held in custody. If the court finds that there is
 28 probable cause to believe that the minor is a delinquent
 29 minor by virtue of his or her violation of item (4) of
 30 subsection (a) of Section 24-1 of the Criminal Code of 1961
 31 while on school grounds, that finding shall create a
 32 presumption that immediate and urgent necessity exists under
 33 subdivision (2) of Section 5-501 of this Act. Once the

1 presumption of immediate and urgent necessity has been
2 raised, the burden of demonstrating the lack of immediate and
3 urgent necessity shall be on any party that is opposing
4 detention for the minor. Should the court order detention
5 pursuant to this Section, the minor shall be detained,
6 pending the results of a court-ordered psychological
7 evaluation to determine if the minor is a risk to himself,
8 herself, or others. Upon receipt of the psychological
9 evaluation, the court shall review the determination
10 regarding the existence of urgent and immediate necessity.
11 The court shall consider the psychological evaluation in
12 conjunction with the other factors identified in subdivision
13 (2) of Section 5-501 of this Act in order to make a de novo
14 determination regarding whether it is a matter of immediate
15 and urgent necessity for the protection of the minor or of
16 the person or property of another that the minor be detained
17 or placed in a shelter care facility. In addition to the
18 pre-trial conditions found in Section 5-505 of this Act, the
19 court may order the minor to receive counseling and any other
20 services recommended by the psychological evaluation as a
21 condition for release of the minor.

22 (c) Upon making a determination that the student
23 presents a risk to himself, herself, or others, the court
24 shall issue an order restraining the student from entering
25 the property of the school if he or she has been suspended or
26 expelled from the school as a result of possessing a firearm.
27 The order shall restrain the student from entering the school
28 and school owned or leased property, including any conveyance
29 owned, leased, or contracted by the school to transport
30 students to or from school or a school-related activity. The
31 order shall remain in effect until such time as the court
32 determines that the student no longer presents a risk to
33 himself, herself, or others.

34 (d) Psychological evaluations ordered pursuant to

1 subsection (b) of this Section and statements made by the
2 minor during the course of these evaluations, shall not be
3 admissible on the issue of delinquency during the course of
4 any adjudicatory hearing held under this Act.

5 (e) In this Section:

6 "School" means any public or private elementary or
7 secondary school.

8 "School grounds" includes the real property comprising
9 any school, any conveyance owned, leased, or contracted by a
10 school to transport students to or from school or a
11 school-related activity, or any public way within 1,000 feet
12 of the real property comprising any school.

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

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