



94TH GENERAL ASSEMBLY

State of Illinois

2005 and 2006

HB0371

Introduced 1/21/2005, by Rep. Chapin Rose

SYNOPSIS AS INTRODUCED:

705 ILCS 405/5-710

705 ILCS 405/5-720

Amends the Juvenile Court Act of 1987. Provides that a minor who has been adjudicated delinquent and made a ward of the court may be placed in a juvenile detention home for a period not to exceed 30 days if the minor is at least 10 years of age and under 21 years of age. Provides that the court may sentence a delinquent minor who has attained 17 years of age to confinement in a county jail. Provides that the court may sentence a minor who is at least 17 years of age and who has violated the terms of his or her probation to a county jail for a period of time not to exceed 6 months.

LRB094 02476 RLC 32477 b

1 AN ACT concerning juvenile delinquents.

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 5-710 and 5-720 as follows:

6 (705 ILCS 405/5-710)

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

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

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

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

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

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

26 (iv) placed in the guardianship of the Department
27 of Children and Family Services, but only if the
28 delinquent minor is under 13 years of age;

29 (v) placed in detention for a period not to exceed
30 30 days, either as the exclusive order of disposition
31 or, where appropriate, in conjunction with any other
32 order of disposition issued under this paragraph,

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

21 (vi) ordered partially or completely emancipated
22 in accordance with the provisions of the Emancipation
23 of ~~Mature~~ Minors Act;

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

28 (viii) put on probation or conditional discharge
29 and placed in detention under Section 3-6039 of the
30 Counties Code for a period not to exceed the period of
31 incarceration permitted by law for adults found guilty
32 of the same offense or offenses for which the minor was
33 adjudicated delinquent, and in any event no longer than
34 upon attainment of age 21; this subdivision (viii)
35 notwithstanding any contrary provision of the law; ~~or~~

36 (ix) ordered to undergo a medical or other

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

3 (x) if the minor is 17 years of age or older,
4 committed to a term of confinement in a county jail.

5 (b) A minor found to be guilty may be committed to the
6 Department of Corrections, Juvenile Division, under
7 Section 5-750 if the minor is 13 years of age or older,
8 provided that the commitment to the Department of
9 Corrections, Juvenile Division, shall be made only if a
10 term of incarceration is permitted by law for adults found
11 guilty of the offense for which the minor was adjudicated
12 delinquent. The time during which a minor is in custody
13 before being released upon the request of a parent,
14 guardian or legal custodian shall be considered as time
15 spent in detention.

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

23 (2) Any sentencing order other than commitment to the
24 Department of Corrections, Juvenile Division, may provide for
25 protective supervision under Section 5-725 and may include an
26 order of protection under Section 5-730.

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

31 (4) In addition to any other sentence, the court may order
32 any minor found to be delinquent to make restitution, in
33 monetary or non-monetary form, under the terms and conditions
34 of Section 5-5-6 of the Unified Code of Corrections, except
35 that the "presentencing hearing" referred to in that Section
36 shall be the sentencing hearing for purposes of this Section.

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

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

16 (6) Whenever the sentencing order requires the minor to
17 attend school or participate in a program of training, the
18 truant officer or designated school official shall regularly
19 report to the court if the minor is a chronic or habitual
20 truant under Section 26-2a of the School Code.

21 (7) In no event shall a guilty minor be committed to the
22 Department of Corrections, Juvenile Division for a period of
23 time in excess of that period for which an adult could be
24 committed for the same act.

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 shall
27 be ordered to perform community service for not less than 30
28 and not more than 120 hours, if community service is available
29 in the jurisdiction. The community service shall include, but
30 need not be limited to, the cleanup and repair of the damage
31 that was caused by the violation or similar damage to property
32 located in the municipality or county in which the violation
33 occurred. The order may be in addition to any other order
34 authorized by this Section.

35 (8.5) A minor found to be guilty for reasons that include a
36 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 shall be ordered to undergo
3 medical or psychiatric treatment rendered by a psychiatrist or
4 psychological treatment rendered by a clinical psychologist.
5 The order may be in addition to any other order authorized by
6 this Section.

7 (9) In addition to any other sentencing order, the court
8 shall order any minor found to be guilty for an act which would
9 constitute, predatory criminal sexual assault of a child,
10 aggravated criminal sexual assault, criminal sexual assault,
11 aggravated criminal sexual abuse, or criminal sexual abuse if
12 committed by an adult to undergo medical testing to determine
13 whether the defendant has any sexually transmissible disease
14 including a test for infection with human immunodeficiency
15 virus (HIV) or any other identified causative agency of
16 acquired immunodeficiency syndrome (AIDS). Any medical test
17 shall be performed only by appropriately licensed medical
18 practitioners and may include an analysis of any bodily fluids
19 as well as an examination of the minor's person. Except as
20 otherwise provided by law, the results of the test shall be
21 kept strictly confidential by all medical personnel involved in
22 the testing and must be personally delivered in a sealed
23 envelope to the judge of the court in which the sentencing
24 order was entered for the judge's inspection in camera. Acting
25 in accordance with the best interests of the victim and the
26 public, the judge shall have the discretion to determine to
27 whom the results of the testing may be revealed. The court
28 shall notify the minor of the results of the test for infection
29 with the human immunodeficiency virus (HIV). The court shall
30 also notify the victim if requested by the victim, and if the
31 victim is under the age of 15 and if requested by the victim's
32 parents or legal guardian, the court shall notify the victim's
33 parents or the legal guardian, of the results of the test for
34 infection with the human immunodeficiency virus (HIV). The
35 court shall provide information on the availability of HIV
36 testing and counseling at the Department of Public Health

1 facilities to all parties to whom the results of the testing
2 are revealed. The court shall order that the cost of any test
3 shall be paid by the county and may be taxed as costs against
4 the minor.

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

34 (Source: P.A. 91-98, eff. 1-1-00; 92-454, eff. 1-1-02; revised
35 10-9-03.)

1 (705 ILCS 405/5-720)

2 Sec. 5-720. Probation revocation.

3 (1) If a petition is filed charging a violation of a
4 condition of probation or of conditional discharge, the court
5 shall:

6 (a) order the minor to appear; or

7 (b) order the minor's detention if the court finds that
8 the detention is a matter of immediate and urgent necessity
9 for the protection of the minor or of the person or
10 property of another or that the minor is likely to flee the
11 jurisdiction of the court, provided that any such detention
12 shall be in a juvenile detention home and the minor so
13 detained shall be 10 years of age or older and under 21
14 years of age; and

15 (c) notify the persons named in the petition under
16 Section 5-520, in accordance with the provisions of Section
17 5-530.

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

28 (2) The court shall conduct a hearing of the alleged
29 violation of probation or of conditional discharge. The minor
30 shall not be held in detention longer than 15 days pending the
31 determination of the alleged violation.

32 (3) At the hearing, the State shall have the burden of
33 going forward with the evidence and proving the violation by a
34 preponderance of the evidence. The evidence shall be presented
35 in court with the right of confrontation, cross-examination,
36 and representation by counsel.

1 (4) If the court finds that the minor has violated a
2 condition at any time prior to the expiration or termination of
3 the period of probation or conditional discharge, it may
4 continue him or her on the existing sentence, with or without
5 modifying or enlarging the conditions, or may revoke probation
6 or conditional discharge and impose any other sentence that was
7 available under Section 5-710 at the time of the initial
8 sentence, including sentencing the minor to a term of
9 confinement in a county jail for a period not to exceed 6
10 months if the minor is 17 years of age or older.

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

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

17 (7) Instead of filing a violation of probation or of
18 conditional discharge, the probation officer, with the
19 concurrence of his or her supervisor, may serve on the minor a
20 notice of intermediate sanctions. The notice shall contain the
21 technical violation or violations involved, the date or dates
22 of the violation or violations, and the intermediate sanctions
23 to be imposed. Upon receipt of the notice, the minor shall
24 immediately accept or reject the intermediate sanctions. If the
25 sanctions are accepted, they shall be imposed immediately. If
26 the intermediate sanctions are rejected or the minor does not
27 respond to the notice, a violation of probation or of
28 conditional discharge shall be immediately filed with the
29 court. The State's Attorney and the sentencing court shall be
30 notified of the notice of sanctions. Upon successful completion
31 of the intermediate sanctions, a court may not revoke probation
32 or conditional discharge or impose additional sanctions for the
33 same violation. A notice of intermediate sanctions may not be
34 issued for any violation of probation or conditional discharge
35 which could warrant an additional, separate felony charge.

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