

1 AN ACT concerning criminal law.

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

4 Section 5. The Unified Code of Corrections is amended by
5 changing Sections 5-130, 5-805, and 5-810 and by adding Section
6 5-821 as follows:

7 (705 ILCS 405/5-130)

8 Sec. 5-130. Excluded jurisdiction.

9 (1) (a) The definition of delinquent minor under Section
10 5-120 of this Article shall not apply to any minor who at the
11 time of an offense was at least 15 years of age and who is
12 charged with: (i) first degree murder, (ii) aggravated criminal
13 sexual assault, (iii) aggravated battery with a firearm
14 ~~committed in a school, on the real property comprising a~~
15 ~~school, within 1,000 feet of the real property comprising a~~
16 ~~school, at a school related activity, or on, boarding, or~~
17 ~~departing from any conveyance owned, leased, or contracted by a~~
18 ~~school or school district to transport students to or from~~
19 ~~school or a school related activity regardless of the time of~~
20 ~~day or time of year that the offense was committed, where the~~
21 ~~minor personally discharged a firearm as defined in Section~~
22 ~~2-15.5 of the Criminal Code of 1961,~~ (iv) armed robbery when
23 the armed robbery was committed with a firearm, or (v)
24 aggravated vehicular hijacking when the hijacking was
25 committed with a firearm.

26 These charges and all other charges arising out of the same
27 incident shall be prosecuted under the criminal laws of this
28 State.

29 ~~For purposes of this paragraph (a) of subsection (1):~~

30 ~~"School" means a public or private elementary or secondary~~
31 ~~school, community college, college, or university.~~

32 ~~"School related activity" means any sporting, social,~~

1 ~~academic or other activity for which students' attendance or~~
2 ~~participation is sponsored, organized, or funded in whole or in~~
3 ~~part by a school or school district.~~

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

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

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

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

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

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

1 ~~housing agency as part of a scattered site or mixed income~~
2 ~~development. School is defined, for the purposes of this~~
3 ~~Section, as any public or private elementary or secondary~~
4 ~~school, community college, college, or university. These~~
5 ~~charges and all other charges arising out of the same incident~~
6 ~~shall be prosecuted under the criminal laws of this State.~~

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

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

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

27 ~~(ii) If after trial or plea the court finds that the minor~~
28 ~~committed an offense not covered by paragraph (a) of this~~
29 ~~subsection (2), that finding shall not invalidate the verdict~~
30 ~~or the prosecution of the minor under the criminal laws of the~~
31 ~~State; however, unless the State requests a hearing for the~~
32 ~~purpose of sentencing the minor under Chapter V of the Unified~~
33 ~~Code of Corrections, the Court must proceed under Sections~~
34 ~~5-705 and 5-710 of this Article. To request a hearing, the~~
35 ~~State must file a written motion within 10 days following the~~
36 ~~entry of a finding or the return of a verdict. Reasonable~~

~~notice of the motion shall be given to the minor or his or her
counsel. If the motion is made by the State, the court shall
conduct a hearing to determine if the minor should be sentenced
under Chapter V of the Unified Code of Corrections. In making
its determination, the court shall consider among other
matters: (a) whether there is evidence that the offense was
committed in an aggressive and premeditated manner; (b) the age
of the minor; (c) the previous history of the minor; (d)
whether there are facilities particularly available to the
Juvenile Court or the Department of Corrections, Juvenile
Division, for the treatment and rehabilitation of the minor;
(e) whether the security of the public requires sentencing
under Chapter V of the Unified Code of Corrections; and (f)
whether the minor possessed a deadly weapon when committing the
offense. The rules of evidence shall be the same as if at
trial. If after the hearing the court finds that the minor
should be sentenced under Chapter V of the Unified Code of
Corrections, then the court shall sentence the minor
accordingly having available to it any or all dispositions so
prescribed.~~

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

(b) (i) If before trial or plea an information or indictment is filed that does not charge an offense specified in paragraph (a) of this subsection (3) the State's Attorney

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

7 (ii) If before trial or plea an information or indictment
8 is filed that includes one or more charges specified in
9 paragraph (a) of this subsection (3) and additional charges
10 that are not specified in that paragraph, all of the charges
11 arising out of the same incident shall be prosecuted under the
12 criminal laws of this State.

13 (c) (i) If after trial or plea the minor is convicted of
14 any offense covered by paragraph (a) of this subsection (3),
15 then, in sentencing the minor, the court shall have available
16 any or all dispositions prescribed for that offense under
17 Chapter V of the Unified Code of Corrections.

18 (ii) If after trial or plea the court finds that the minor
19 committed an offense not covered by paragraph (a) of this
20 subsection (3), that finding shall not invalidate the verdict
21 or the prosecution of the minor under the criminal laws of the
22 State; however, unless the State requests a hearing for the
23 purpose of sentencing the minor under Chapter V of the Unified
24 Code of Corrections, the Court must proceed under Sections
25 5-705 and 5-710 of this Article. To request a hearing, the
26 State must file a written motion within 10 days following the
27 entry of a finding or the return of a verdict. Reasonable
28 notice of the motion shall be given to the minor or his or her
29 counsel. If the motion is made by the State, the court shall
30 conduct a hearing to determine if the minor should be sentenced
31 under Chapter V of the Unified Code of Corrections. In making
32 its determination, the court shall consider among other
33 matters: (a) whether there is evidence that the offense was
34 committed in an aggressive and premeditated manner; (b) the age
35 of the minor; (c) the previous history of the minor; (d)
36 whether there are facilities particularly available to the

1 Juvenile Court or the Department of Corrections, Juvenile
2 Division, for the treatment and rehabilitation of the minor;
3 (e) whether the security of the public requires sentencing
4 under Chapter V of the Unified Code of Corrections; and (f)
5 whether the minor possessed a deadly weapon when committing the
6 offense. The rules of evidence shall be the same as if at
7 trial. If after the hearing the court finds that the minor
8 should be sentenced under Chapter V of the Unified Code of
9 Corrections, then the court shall sentence the minor
10 accordingly having available to it any or all dispositions so
11 prescribed.

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

21 (b) (i) If before trial or plea an information or
22 indictment is filed that does not charge first degree murder
23 committed during the course of aggravated criminal sexual
24 assault, criminal sexual assault, or aggravated kidnaping, the
25 State's Attorney may proceed on any lesser charge or charges,
26 but only in Juvenile Court under the provisions of this
27 Article. The State's Attorney may proceed under the criminal
28 laws of this State on a lesser charge if before trial the minor
29 defendant knowingly and with advice of counsel waives, in
30 writing, his or her right to have the matter proceed in
31 Juvenile Court.

32 (ii) If before trial or plea an information or indictment
33 is filed that includes first degree murder committed during the
34 course of aggravated criminal sexual assault, criminal sexual
35 assault, or aggravated kidnaping, and additional charges that
36 are not specified in paragraph (a) of this subsection, all of

1 the charges arising out of the same incident shall be
2 prosecuted under the criminal laws of this State.

3 (c) (i) If after trial or plea the minor is convicted of
4 first degree murder committed during the course of aggravated
5 criminal sexual assault, criminal sexual assault, or
6 aggravated kidnaping, in sentencing the minor, the court shall
7 have available any or all dispositions prescribed for that
8 offense under Chapter V of the Unified Code of Corrections.

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

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

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

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 (5), 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 laws of this
21 State on a lesser charge if before trial the minor defendant
22 knowingly and with advice of counsel waives, in writing, his or
23 her right to have the matter proceed in Juvenile Court.

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

30 (c) (i) If after trial or plea the minor is convicted of
31 any offense covered by paragraph (a) of this subsection (5),
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.

35 (ii) If after trial or plea the court finds that the minor
36 committed an offense not covered by paragraph (a) of this

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

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

36 (7) The procedures set out in this Article for the

1 investigation, arrest and prosecution of juvenile offenders
2 shall not apply to minors who are excluded from jurisdiction of
3 the Juvenile Court, except that minors under 17 years of age
4 shall be kept separate from confined adults.

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

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

19 (10) If prior to the effective date of this amendatory Act
20 of the 94th General Assembly, a minor is charged with a
21 violation of Section 401 of the Illinois Controlled Substances
22 Act under the criminal laws of this State ~~subject to the~~
23 ~~provisions of subsection (2) of this Section,~~ other than a
24 minor charged with a Class X felony violation of the Illinois
25 Controlled Substances Act, any party including the minor or the
26 court sua sponte may, before trial, move for a hearing for the
27 purpose of trying and sentencing the minor as a delinquent
28 minor. To request a hearing, the party must file a motion prior
29 to trial. Reasonable notice of the motion shall be given to all
30 parties. On its own motion or upon the filing of a motion by
31 one of the parties including the minor, the court shall conduct
32 a hearing to determine whether the minor should be tried and
33 sentenced as a delinquent minor under this Article. In making
34 its determination, the court shall consider among other
35 matters:

36 (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 minor,
5 or both; and

6 (e) Whether there is probable cause to support the charge,
7 whether the minor is charged through accountability, and
8 whether there is evidence the minor possessed a deadly weapon
9 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 enter
12 an order permitting prosecution under the criminal laws of
13 Illinois unless the judge makes a finding based on a
14 preponderance of the evidence that the minor would be amenable
15 to the care, treatment, and training programs available through
16 the facilities of the juvenile court based on an evaluation of
17 the factors listed in this subsection (10).

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

20 (705 ILCS 405/5-805)

21 Sec. 5-805. Transfer of jurisdiction.

22 (1) Mandatory transfers.

23 (a) If a petition alleges commission by a minor 15
24 years of age or older of an act that constitutes a forcible
25 felony under the laws of this State, and if a motion by the
26 State's Attorney to prosecute the minor under the criminal
27 laws of Illinois for the alleged forcible felony alleges
28 that (i) the minor has previously been adjudicated
29 delinquent or found guilty for commission of an act that
30 constitutes a felony under the laws of this State or any
31 other state and (ii) the act that constitutes the offense
32 was committed in furtherance of criminal activity by an
33 organized gang, the Juvenile Judge assigned to hear and
34 determine those motions shall, upon determining that there
35 is probable cause that both allegations are true, enter an

1 order permitting prosecution under the criminal laws of
2 Illinois.

3 (b) If a petition alleges commission by a minor 15
4 years of age or older of an act that constitutes a felony
5 under the laws of this State, and if a motion by a State's
6 Attorney to prosecute the minor under the criminal laws of
7 Illinois for the alleged felony alleges that (i) the minor
8 has previously been adjudicated delinquent or found guilty
9 for commission of an act that constitutes a forcible felony
10 under the laws of this State or any other state and (ii)
11 the act that constitutes the offense was committed in
12 furtherance of criminal activities by an organized gang,
13 the Juvenile Judge assigned to hear and determine those
14 motions shall, upon determining that there is probable
15 cause that both allegations are true, enter an order
16 permitting prosecution under the criminal laws of
17 Illinois.

18 (c) If a petition alleges commission by a minor 15
19 years of age or older of: (i) an act that constitutes an
20 offense enumerated in the presumptive transfer provisions
21 of subsection (2); and (ii) the minor has previously been
22 adjudicated delinquent or found guilty of a forcible
23 felony, the Juvenile Judge designated to hear and determine
24 those motions shall, upon determining that there is
25 probable cause that both allegations are true, enter an
26 order permitting prosecution under the criminal laws of
27 Illinois.

28 (d) If a petition alleges commission by a minor 15
29 years of age or older of an act that constitutes the
30 offense of aggravated discharge of a firearm committed in a
31 school, on the real property comprising a school, within
32 1,000 feet of the real property comprising a school, at a
33 school related activity, or on, boarding, or departing from
34 any conveyance owned, leased, or contracted by a school or
35 school district to transport students to or from school or
36 a school related activity, regardless of the time of day or

1 the time of year, the juvenile judge designated to hear and
2 determine those motions shall, upon determining that there
3 is probable cause that the allegations are true, enter an
4 order permitting prosecution under the criminal laws of
5 Illinois.

6 For purposes of this paragraph (d) of subsection (1):

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

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

14 (2) Presumptive transfer.

15 (a) If the State's Attorney files a petition, at any
16 time prior to commencement of the minor's trial, to permit
17 prosecution under the criminal laws and the petition
18 alleges the commission by a minor 15 years of age or older
19 of: (i) a Class X felony other than armed violence; (ii)
20 aggravated discharge of a firearm; (iii) armed violence
21 with a firearm when the predicate offense is a Class 1 or
22 Class 2 felony and the State's Attorney's motion to
23 transfer the case alleges that the offense committed is in
24 furtherance of the criminal activities of an organized
25 gang; (iv) armed violence with a firearm when the predicate
26 offense is a violation of the Illinois Controlled
27 Substances Act or a violation of the Cannabis Control Act;
28 (v) armed violence when the weapon involved was a machine
29 gun or other weapon described in subsection (a)(7) of
30 Section 24-1 of the Criminal Code of 1961; (vi) an act in
31 violation of Section 401 of the Illinois Controlled
32 Substances Act which is a Class X felony, while in a
33 school, regardless of the time of day or the time of year,
34 or on any conveyance owned, leased, or contracted by a
35 school to transport students to or from school or a school
36 related activity, or on residential property owned,

1 operated, or managed by a public housing agency or leased
2 by a public housing agency as part of a scattered site or
3 mixed-income development; or (vii) an act in violation of
4 Section 401 of the Illinois Controlled Substances Act and
5 the offense is alleged to have occurred while in a school
6 or on a public way within 1,000 feet of the real property
7 comprising any school, regardless of the time of day or the
8 time of year when the delivery or intended delivery of any
9 amount of the controlled substance is to a person under 17
10 years of age, (to qualify for a presumptive transfer under
11 paragraph (vi) or (vii) of this clause (2) (a), the
12 violation cannot be based upon subsection (b) of Section
13 407 of the Illinois Controlled Substances Act), and, if the
14 juvenile judge assigned to hear and determine motions to
15 transfer a case for prosecution in the criminal court
16 determines that there is probable cause to believe that the
17 allegations in the petition and motion are true, there is a
18 rebuttable presumption that the minor is not a fit and
19 proper subject to be dealt with under the Juvenile Justice
20 Reform Provisions of 1998 (Public Act 90-590), and that,
21 except as provided in paragraph (b), the case should be
22 transferred to the criminal court.

23 (b) The judge shall enter an order permitting
24 prosecution under the criminal laws of Illinois unless the
25 judge makes a finding based on clear and convincing
26 evidence that the minor would be amenable to the care,
27 treatment, and training programs available through the
28 facilities of the juvenile court based on an evaluation of
29 the following:

30 (i) the age of the minor;

31 (ii) the history of the minor, including:

32 (a) any previous delinquent or criminal history of
33 the minor,

34 (b) any previous abuse or neglect history of the
35 minor, and

36 (c) any mental health, physical or educational

1 history of the minor or combination of these factors;

2 (iii) the circumstances of the offense, including:

3 (a) the seriousness of the offense,

4 (b) whether the minor is charged through
5 accountability,

6 (c) whether there is evidence the offense was
7 committed in an aggressive and premeditated manner,

8 (d) whether there is evidence the offense caused
9 serious bodily harm,

10 (e) whether there is evidence the minor possessed a
11 deadly weapon;

12 (iv) the advantages of treatment within the juvenile
13 justice system including whether there are facilities or
14 programs, or both, particularly available in the juvenile
15 system;

16 (v) whether the security of the public requires
17 sentencing under Chapter V of the Unified Code of
18 Corrections:

19 (a) the minor's history of services, including the
20 minor's willingness to participate meaningfully in
21 available services;

22 (b) whether there is a reasonable likelihood that
23 the minor can be rehabilitated before the expiration of
24 the juvenile court's jurisdiction;

25 (c) the adequacy of the punishment or services.

26 ~~(i) The seriousness of the alleged offense;~~

27 ~~(ii) The minor's history of delinquency;~~

28 ~~(iii) The age of the minor;~~

29 ~~(iv) The culpability of the minor in committing the~~
30 ~~alleged offense;~~

31 ~~(v) Whether the offense was committed in an aggressive~~
32 ~~or premeditated manner;~~

33 ~~(vi) Whether the minor used or possessed a deadly~~
34 ~~weapon when committing the alleged offense;~~

35 ~~(vii) The minor's history of services, including the~~
36 ~~minor's willingness to participate meaningfully in~~

1 ~~available services;~~

2 ~~(viii) Whether there is a reasonable likelihood that~~
3 ~~the minor can be rehabilitated before the expiration of the~~
4 ~~juvenile court's jurisdiction;~~

5 ~~(ix) The adequacy of the punishment or services~~
6 ~~available in the juvenile justice system.~~

7 In considering these factors, the court shall give greater
8 weight to the seriousness of the alleged offense and the
9 minor's prior record of delinquency than to the other factors
10 listed in this subsection.

11 For purposes of clauses (2) (a) (vi) and (vii):

12 "School" means a public or private elementary or
13 secondary school, community college, college, or
14 university.

15 "School related activity" means any sporting,
16 social, academic, or other activity for which
17 students' attendance or participation is sponsored,
18 organized, or funded in whole or in part by a school or
19 school district.

20 (3) Discretionary transfer.

21 (a) If a petition alleges commission by a minor 13
22 years of age or over of an act that constitutes a crime
23 under the laws of this State and, on motion of the State's
24 Attorney to permit prosecution of the minor under the
25 criminal laws, a Juvenile Judge assigned by the Chief Judge
26 of the Circuit to hear and determine those motions, after
27 hearing but before commencement of the trial, finds that
28 there is probable cause to believe that the allegations in
29 the motion are true and that it is not in the best
30 interests of the public to proceed under this Act, the
31 court may enter an order permitting prosecution under the
32 criminal laws.

33 (b) In making its determination on the motion to permit
34 prosecution under the criminal laws, the court shall
35 consider among other matters:

36 (i) the age of the minor;

- 1 (ii) the history of the minor, including:
- 2 (a) any previous delinquent or criminal history of
- 3 the minor,
- 4 (b) any previous abuse or neglect history of the
- 5 minor, and
- 6 (c) any mental health, physical, or educational
- 7 history of the minor or combination of these factors;
- 8 (iii) the circumstances of the offense, including:
- 9 (a) the seriousness of the offense,
- 10 (b) whether the minor is charged through
- 11 accountability,
- 12 (c) whether there is evidence the offense was
- 13 committed in an aggressive and premeditated manner,
- 14 (d) whether there is evidence the offense caused
- 15 serious bodily harm,
- 16 (e) whether there is evidence the minor possessed a
- 17 deadly weapon;
- 18 (iv) the advantages of treatment within the juvenile
- 19 justice system including whether there are facilities or
- 20 programs, or both, particularly available in the juvenile
- 21 system;
- 22 (v) whether the security of the public requires
- 23 sentencing under Chapter V of the Unified Code of
- 24 Corrections:
- 25 (a) the minor's history of services, including the
- 26 minor's willingness to participate meaningfully in
- 27 available services;
- 28 (b) whether there is a reasonable likelihood that
- 29 the minor can be rehabilitated before the expiration of
- 30 the juvenile court's jurisdiction;
- 31 (c) the adequacy of the punishment or services.
- 32 ~~(i) The seriousness of the alleged offense;~~
- 33 ~~(ii) The minor's history of delinquency;~~
- 34 ~~(iii) The age of the minor;~~
- 35 ~~(iv) The culpability of the minor in committing the~~
- 36 ~~alleged offense;~~

1 ~~(v) Whether the offense was committed in an aggressive~~
2 ~~or premeditated manner;~~

3 ~~(vi) Whether the minor used or possessed a deadly~~
4 ~~weapon when committing the alleged offense;~~

5 ~~(vii) The minor's history of services, including the~~
6 ~~minor's willingness to participate meaningfully in~~
7 ~~available services;~~

8 ~~(viii) The adequacy of the punishment or services~~
9 ~~available in the juvenile justice system.~~

10 In considering these factors, the court shall give greater
11 weight to the seriousness of the alleged offense and the
12 minor's prior record of delinquency than to the other factors
13 listed in this subsection.

14 (4) The rules of evidence for this hearing shall be the
15 same as under Section 5-705 of this Act. A minor must be
16 represented in court by counsel before the hearing may be
17 commenced.

18 (5) If criminal proceedings are instituted, the petition
19 for adjudication of wardship shall be dismissed insofar as the
20 act or acts involved in the criminal proceedings. Taking of
21 evidence in a trial on petition for adjudication of wardship is
22 a bar to criminal proceedings based upon the conduct alleged in
23 the petition.

24 (Source: P.A. 90-590, eff. 1-1-99; 91-15, eff. 1-1-00; 91-357,
25 eff. 7-29-99.)

26 (705 ILCS 405/5-810)

27 Sec. 5-810. Extended jurisdiction juvenile prosecutions.

28 (1) If the State's Attorney files a petition, at any time
29 prior to commencement of the minor's trial, to designate the
30 proceeding as an extended jurisdiction juvenile prosecution
31 and the petition alleges the commission by a minor 13 years of
32 age or older of any offense which would be a felony if
33 committed by an adult, and, if the juvenile judge assigned to
34 hear and determine petitions to designate the proceeding as an
35 extended jurisdiction juvenile prosecution determines that

1 there is probable cause to believe that the allegations in the
2 petition and motion are true, there is a rebuttable presumption
3 that the proceeding shall be designated as an extended
4 jurisdiction juvenile proceeding.

5 (b) The judge shall enter an order designating the
6 proceeding as an extended jurisdiction juvenile proceeding
7 unless the judge makes a finding based on clear and convincing
8 evidence that sentencing under the Chapter V of the Unified
9 Code of Corrections would not be appropriate for the minor
10 based on an evaluation of the following factors:

11 (i) the age of the minor;

12 (ii) the history of the minor, including:

13 (a) any previous delinquent or criminal history of
14 the minor,

15 (b) any previous abuse or neglect history of the
16 minor, and

17 (c) any mental health, physical and/or educational
18 history of the minor;

19 (iii) the circumstances of the offense, including:

20 (a) the seriousness of the offense,

21 (b) whether the minor is charged through
22 accountability,

23 (c) whether there is evidence the offense was
24 committed in an aggressive and premeditated manner,

25 (d) whether there is evidence the offense caused
26 serious bodily harm,

27 (e) whether there is evidence the minor possessed a
28 deadly weapon;

29 (iv) the advantages of treatment within the juvenile
30 justice system including whether there are facilities or
31 programs, or both, particularly available in the juvenile
32 system;

33 (v) whether the security of the public requires
34 sentencing under Chapter V of the Unified Code of
35 Corrections:

36 (a) the minor's history of services, including the

1 minor's willingness to participate meaningfully in
2 available services;

3 (b) whether there is a reasonable likelihood that
4 the minor can be rehabilitated before the expiration of
5 the juvenile court's jurisdiction;

6 (c) the adequacy of the punishment or services.

7 ~~(i) The seriousness of the alleged offense;~~

8 ~~(ii) The minor's history of delinquency;~~

9 ~~(iii) The age of the minor;~~

10 ~~(iv) The culpability of the minor in committing the~~
11 ~~alleged offense;~~

12 ~~(v) Whether the offense was committed in an aggressive~~
13 ~~or premeditated manner;~~

14 ~~(vi) Whether the minor used or possessed a deadly~~
15 ~~weapon when committing the alleged offense.~~

16 In considering these factors, the court shall give greater
17 weight to the seriousness of the alleged offense and the
18 minor's prior record of delinquency than to other factors
19 listed in this subsection.

20 (2) Procedures for extended jurisdiction juvenile
21 prosecutions.

22 (a) The State's Attorney may file a written motion for
23 a proceeding to be designated as an extended juvenile
24 jurisdiction prior to commencement of trial. Notice of the
25 motion shall be in compliance with Section 5-530. When the
26 State's Attorney files a written motion that a proceeding
27 be designated an extended jurisdiction juvenile
28 prosecution, the court shall commence a hearing within 30
29 days of the filing of the motion for designation, unless
30 good cause is shown by the prosecution or the minor as to
31 why the hearing could not be held within this time period.
32 If the court finds good cause has been demonstrated, then
33 the hearing shall be held within 60 days of the filing of
34 the motion. The hearings shall be open to the public unless
35 the judge finds that the hearing should be closed for the
36 protection of any party, victim or witness. If the Juvenile

1 Judge assigned to hear and determine a motion to designate
2 an extended jurisdiction juvenile prosecution determines
3 that there is probable cause to believe that the
4 allegations in the petition and motion are true the court
5 shall grant the motion for designation. Information used by
6 the court in its findings or stated in or offered in
7 connection with this Section may be by way of proffer based
8 on reliable information offered by the State or the minor.
9 All evidence shall be admissible if it is relevant and
10 reliable regardless of whether it would be admissible under
11 the rules of evidence.

12 (3) Trial. A minor who is subject of an extended
13 jurisdiction juvenile prosecution has the right to trial by
14 jury. Any trial under this Section shall be open to the public.

15 (4) Sentencing. If an extended jurisdiction juvenile
16 prosecution under subsections (1) results in a guilty plea, a
17 verdict of guilty, or a finding of guilt, the court shall
18 impose the following:

19 (i) one or more juvenile sentences under Section 5-710;
20 and

21 (ii) an adult criminal sentence in accordance with the
22 provisions of Chapter V of the Unified Code of Corrections,
23 the execution of which shall be stayed on the condition
24 that the offender not violate the provisions of the
25 juvenile sentence.

26 Any sentencing hearing under this Section shall be open to the
27 public.

28 (5) If, after an extended jurisdiction juvenile
29 prosecution trial, a minor is convicted of a lesser-included
30 offense or of an offense that the State's Attorney did not
31 designate as an extended jurisdiction juvenile prosecution,
32 the State's Attorney may file a written motion, within 10 days
33 of the finding of guilt, that the minor be sentenced as an
34 extended jurisdiction juvenile prosecution offender. The court
35 shall rule on this motion using the factors found in paragraph
36 (1) (b) of Section 5-805. If the court denies the State's

1 Attorney's motion for sentencing under the extended
2 jurisdiction juvenile prosecution provision, the court shall
3 proceed to sentence the minor under Section 5-710.

4 (6) When it appears that a minor convicted in an extended
5 jurisdiction juvenile prosecution under subsection (1) has
6 violated the conditions of his or her sentence, or is alleged
7 to have committed a new offense upon the filing of a petition
8 to revoke the stay, the court may, without notice, issue a
9 warrant for the arrest of the minor. After a hearing, if the
10 court finds by a preponderance of the evidence that the minor
11 committed a new offense, the court shall order execution of the
12 previously imposed adult criminal sentence. After a hearing, if
13 the court finds by a preponderance of the evidence that the
14 minor committed a violation of his or her sentence other than
15 by a new offense, the court may order execution of the
16 previously imposed adult criminal sentence or may continue him
17 or her on the existing juvenile sentence with or without
18 modifying or enlarging the conditions. Upon revocation of the
19 stay of the adult criminal sentence and imposition of that
20 sentence, the minor's extended jurisdiction juvenile status
21 shall be terminated. The on-going jurisdiction over the minor's
22 case shall be assumed by the adult criminal court and juvenile
23 court jurisdiction shall be terminated and a report of the
24 imposition of the adult sentence shall be sent to the
25 Department of State Police.

26 (7) Upon successful completion of the juvenile sentence the
27 court shall vacate the adult criminal sentence.

28 (8) Nothing in this Section precludes the State from filing
29 a motion for transfer under Section 5-805.

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

31 (705 ILCS 405/5-821 new)

32 Sec. 5-821. Legislative report. The General Assembly
33 recognizes that the issue of trial of youth in adult court
34 continues to command the General Assembly's attention. The
35 intent of the General Assembly is to encourage the use of

1 appropriate transfer to adult court for youth. It is further
2 the intent of the General Assembly to have the changes in this
3 amendatory Act of the 94th General Assembly studied to
4 determine the impact of this amendatory Act on the youth in
5 Illinois. The General Assembly authorizes the Illinois
6 Criminal Justice Information Authority to commission a study on
7 the changes in jurisdiction made in this amendatory Act and
8 requests that the Illinois Criminal Justice Information
9 Authority provide a written report to the General Assembly 3
10 years after the effective date of this amendatory Act of the
11 94th General Assembly.

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