

HB0437



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

HB0437

Introduced 1/26/2007, by Rep. Dave Winters - Ruth Munson -
Timothy L. Schmitz

SYNOPSIS AS INTRODUCED:

705 ILCS 405/5-710

Amends the Juvenile Court Act of 1987. Provides that, in addition to any other sentence, the court shall order any minor found to be delinquent to be enrolled in a streetgang workshop detention program of at least 12 hours operated by the Department of Juvenile Justice. Provides that the program shall instruct the delinquent minor in the dangers of streetgangs and streetgang related activities and on how to avoid joining a streetgang.

LRB095 03711 RLC 23738 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning courts.

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 Section 5-710 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 Juvenile Justice
16 under this subsection and who is found to be a
17 delinquent for an offense which is first degree murder,
18 a Class X felony, or a forcible felony shall be placed
19 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

1 assessment conducted by a licensed provider and
2 participate in the indicated clinical level of care;

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

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

1 for time spent in detention before the filing of a
2 violation of probation or conditional discharge
3 alleging the same or related act or acts;

4 (vi) ordered partially or completely emancipated
5 in accordance with the provisions of the Emancipation
6 of Minors Act;

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

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

19 (ix) ordered to undergo a medical or other
20 procedure to have a tattoo symbolizing allegiance to a
21 street gang removed from his or her body.

22 (b) A minor found to be guilty may be committed to the
23 Department of Juvenile Justice under Section 5-750 if the
24 minor is 13 years of age or older, provided that the
25 commitment to the Department of Juvenile Justice shall be
26 made only if a term of incarceration is permitted by law

1 for adults found guilty of the offense for which the minor
2 was adjudicated delinquent. The time during which a minor
3 is in custody before being released upon the request of a
4 parent, guardian or legal custodian shall be considered as
5 time spent in detention.

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

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

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

22 (4) In addition to any other sentence, the court may order
23 any minor found to be delinquent to make restitution, in
24 monetary or non-monetary form, under the terms and conditions
25 of Section 5-5-6 of the Unified Code of Corrections, except
26 that the "presentencing hearing" referred to in that Section

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

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

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

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

26 (8) A minor found to be guilty for reasons that include a

1 violation of Section 21-1.3 of the Criminal Code of 1961 shall
2 be ordered to perform community service for not less than 30
3 and not more than 120 hours, if community service is available
4 in the jurisdiction. The community service shall include, but
5 need not be limited to, the cleanup and repair of the damage
6 that was caused by the violation or similar damage to property
7 located in the municipality or county in which the violation
8 occurred. The order may be in addition to any other order
9 authorized by this Section.

10 (8.5) A minor found to be guilty for reasons that include a
11 violation of Section 3.02 or Section 3.03 of the Humane Care
12 for Animals Act or paragraph (d) of subsection (1) of Section
13 21-1 of the Criminal Code of 1961 shall be ordered to undergo
14 medical or psychiatric treatment rendered by a psychiatrist or
15 psychological treatment rendered by a clinical psychologist.
16 The order may be in addition to any other order authorized by
17 this Section.

18 (9) In addition to any other sentencing order, the court
19 shall order any minor found to be guilty for an act which would
20 constitute, predatory criminal sexual assault of a child,
21 aggravated criminal sexual assault, criminal sexual assault,
22 aggravated criminal sexual abuse, or criminal sexual abuse if
23 committed by an adult to undergo medical testing to determine
24 whether the defendant has any sexually transmissible disease
25 including a test for infection with human immunodeficiency
26 virus (HIV) or any other identified causative agency of

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

26 (10) When a court finds a minor to be guilty the court

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

1 Terrorism Omnibus Prevention Act.

2 (11) In addition to any other sentence, the court shall
3 order any minor found to be delinquent to be enrolled in a
4 streetgang workshop detention program of at least 12 hours
5 operated by the Department of Juvenile Justice. The program
6 shall instruct the delinquent minor in the dangers of
7 streetgangs and streetgang related activities and on how to
8 avoid joining a streetgang. For the purposes of this subsection
9 (11), "streetgang" and "streetgang related" have the meanings
10 ascribed to them in Section 10 of the Illinois Streetgang
11 Terrorism Omnibus Prevention Act.

12 (Source: P.A. 94-556, eff. 9-11-05; 94-696, eff. 6-1-06.)