



## 95TH GENERAL ASSEMBLY

### State of Illinois

2007 and 2008

**HB4477**

by Rep. Ronald A. Wait

#### SYNOPSIS AS INTRODUCED:

235 ILCS 5/6-16.1	
705 ILCS 405/5-615	
705 ILCS 405/5-710	
720 ILCS 675/Act title	
720 ILCS 675/0.01	from Ch. 23, par. 2356.9
720 ILCS 675/1	from Ch. 23, par. 2357
720 ILCS 675/2	from Ch. 23, par. 2358
720 ILCS 677/15	

Amends the Juvenile Court Act of 1987. Provides that, if a minor violates the provisions prohibiting minors from possessing any cigars, cigarettes, smokeless tobacco, or tobacco in any of its forms, the court may in its discretion, and upon recommendation by the State's Attorney, order the minor and his or her parents or legal guardian to attend a smoker's education or youth diversion program if that program is available in the jurisdiction where the offender resides. Provides that attendance at a smoker's education or youth diversion program shall be time-credited against any community service time imposed for a violation of the provision prohibiting tobacco possession by a minor. Imposes several penalties for a violation of the provision prohibiting tobacco possession by a minor. Amends the Sale of Tobacco to Minors Act. Changes the short title of the Act to the Prevention of Tobacco Use by Minors Act. Prohibits the possession of tobacco by minors and makes violation a petty offense. Amends other Acts to change references to the short title of the Prevention of Tobacco Use by Minors Act. Makes other changes. Effective immediately.

LRB095 18625 RLC 44711 b

1 AN ACT concerning minors.

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

4 Section 5. The Liquor Control Act of 1934 is amended by  
5 changing Section 6-16.1 as follows:

6 (235 ILCS 5/6-16.1)

7 Sec. 6-16.1. Enforcement actions.

8 (a) A licensee or an officer, associate, member,  
9 representative, agent, or employee of a licensee may sell,  
10 give, or deliver alcoholic liquor to a person under the age of  
11 21 years or authorize the sale, gift, or delivery of alcoholic  
12 liquor to a person under the age of 21 years pursuant to a plan  
13 or action to investigate, patrol, or otherwise conduct a "sting  
14 operation" or enforcement action against a person employed by  
15 the licensee or on any licensed premises if the licensee or  
16 officer, associate, member, representative, agent, or employee  
17 of the licensee provides written notice, at least 14 days  
18 before the "sting operation" or enforcement action, unless  
19 governing body of the municipality or county having  
20 jurisdiction sets a shorter period by ordinance, to the law  
21 enforcement agency having jurisdiction, the local liquor  
22 control commissioner, or both. Notice provided under this  
23 Section shall be valid for a "sting operation" or enforcement

1 action conducted within 60 days of the provision of that  
2 notice, unless the governing body of the municipality or county  
3 having jurisdiction sets a shorter period by ordinance.

4 (b) A local liquor control commission or unit of local  
5 government that conducts alcohol and tobacco compliance  
6 operations shall establish a policy and standards for alcohol  
7 and tobacco compliance operations to investigate whether a  
8 licensee is furnishing (1) alcoholic liquor to persons under 21  
9 years of age in violation of this Act or (2) tobacco to persons  
10 in violation of the Prevention of Tobacco Use by Sale of  
11 ~~Tobacco to~~ Minors Act.

12 (c) The Illinois Law Enforcement Training Standards Board  
13 shall develop a model policy and guidelines for the operation  
14 of alcohol and tobacco compliance checks by local law  
15 enforcement officers. The Illinois Law Enforcement Training  
16 Standards Board shall also require the supervising officers of  
17 such compliance checks to have met a minimum training standard  
18 as determined by the Board. The Board shall have the right to  
19 waive any training based on current written policies and  
20 procedures for alcohol and tobacco compliance check operations  
21 and in-service training already administered by the local law  
22 enforcement agency, department, or office.

23 (d) The provisions of subsections (b) and (c) do not apply  
24 to a home rule unit with more than 2,000,000 inhabitants.

25 (e) A home rule unit, other than a home rule unit with more  
26 than 2,000,000 inhabitants, may not regulate enforcement

1 actions in a manner inconsistent with the regulation of  
2 enforcement actions under this Section. This subsection (e) is  
3 a limitation under subsection (i) of Section 6 of Article VII  
4 of the Illinois Constitution on the concurrent exercise by home  
5 rule units of powers and functions exercised by the State.

6 (f) A licensee who is the subject of an enforcement action  
7 or "sting operation" under this Section and is found, pursuant  
8 to the enforcement action, to be in compliance with this Act  
9 shall be notified by the enforcement agency action that no  
10 violation was found within 30 days after the finding.

11 (Source: P.A. 92-503, eff. 1-1-02; 93-1057, eff. 12-2-04.)

12 Section 10. The Juvenile Court Act of 1987 is amended by  
13 changing Sections 5-615 and 5-710 as follows:

14 (705 ILCS 405/5-615)

15 Sec. 5-615. Continuance under supervision.

16 (1) The court may enter an order of continuance under  
17 supervision for an offense other than first degree murder, a  
18 Class X felony or a forcible felony (a) upon an admission or  
19 stipulation by the appropriate respondent or minor respondent  
20 of the facts supporting the petition and before proceeding to  
21 adjudication, or after hearing the evidence at the trial, and  
22 (b) in the absence of objection made in open court by the  
23 minor, his or her parent, guardian, or legal custodian, the  
24 minor's attorney or the State's Attorney.

1           (2) If the minor, his or her parent, guardian, or legal  
2 custodian, the minor's attorney or State's Attorney objects in  
3 open court to any continuance and insists upon proceeding to  
4 findings and adjudication, the court shall so proceed.

5           (3) Nothing in this Section limits the power of the court  
6 to order a continuance of the hearing for the production of  
7 additional evidence or for any other proper reason.

8           (4) When a hearing where a minor is alleged to be a  
9 delinquent is continued pursuant to this Section, the period of  
10 continuance under supervision may not exceed 24 months. The  
11 court may terminate a continuance under supervision at any time  
12 if warranted by the conduct of the minor and the ends of  
13 justice.

14           (5) When a hearing where a minor is alleged to be  
15 delinquent is continued pursuant to this Section, the court  
16 may, as conditions of the continuance under supervision,  
17 require the minor to do any of the following:

18                 (a) not violate any criminal statute of any  
19 jurisdiction;

20                 (b) make a report to and appear in person before any  
21 person or agency as directed by the court;

22                 (c) work or pursue a course of study or vocational  
23 training;

24                 (d) undergo medical or psychotherapeutic treatment  
25 rendered by a therapist licensed under the provisions of  
26 the Medical Practice Act of 1987, the Clinical Psychologist

1       Licensing Act, or the Clinical Social Work and Social Work  
2       Practice Act, or an entity licensed by the Department of  
3       Human Services as a successor to the Department of  
4       Alcoholism and Substance Abuse, for the provision of drug  
5       addiction and alcoholism treatment;

6           (e) attend or reside in a facility established for the  
7       instruction or residence of persons on probation;

8           (f) support his or her dependents, if any;

9           (g) pay costs;

10          (h) refrain from possessing a firearm or other  
11       dangerous weapon, or an automobile;

12          (i) permit the probation officer to visit him or her at  
13       his or her home or elsewhere;

14          (j) reside with his or her parents or in a foster home;

15          (k) attend school;

16          (k-5) with the consent of the superintendent of the  
17       facility, attend an educational program at a facility other  
18       than the school in which the offense was committed if he or  
19       she committed a crime of violence as defined in Section 2  
20       of the Crime Victims Compensation Act in a school, on the  
21       real property comprising a school, or within 1,000 feet of  
22       the real property comprising a school;

23          (l) attend a non-residential program for youth;

24          (m) contribute to his or her own support at home or in  
25       a foster home;

26          (n) perform some reasonable public or community

1 service;

2 (o) make restitution to the victim, in the same manner  
3 and under the same conditions as provided in subsection (4)  
4 of Section 5-710, except that the "sentencing hearing"  
5 referred to in that Section shall be the adjudicatory  
6 hearing for purposes of this Section;

7 (p) comply with curfew requirements as designated by  
8 the court;

9 (q) refrain from entering into a designated geographic  
10 area except upon terms as the court finds appropriate. The  
11 terms may include consideration of the purpose of the  
12 entry, the time of day, other persons accompanying the  
13 minor, and advance approval by a probation officer;

14 (r) refrain from having any contact, directly or  
15 indirectly, with certain specified persons or particular  
16 types of persons, including but not limited to members of  
17 street gangs and drug users or dealers;

18 (r-5) undergo a medical or other procedure to have a  
19 tattoo symbolizing allegiance to a street gang removed from  
20 his or her body;

21 (s) refrain from having in his or her body the presence  
22 of any illicit drug prohibited by the Cannabis Control Act,  
23 the Illinois Controlled Substances Act, or the  
24 Methamphetamine Control and Community Protection Act,  
25 unless prescribed by a physician, and submit samples of his  
26 or her blood or urine or both for tests to determine the

1 presence of any illicit drug; or

2 (t) comply with any other conditions as may be ordered  
3 by the court.

4 (6) A minor whose case is continued under supervision under  
5 subsection (5) shall be given a certificate setting forth the  
6 conditions imposed by the court. Those conditions may be  
7 reduced, enlarged, or modified by the court on motion of the  
8 probation officer or on its own motion, or that of the State's  
9 Attorney, or, at the request of the minor after notice and  
10 hearing.

11 (7) If a petition is filed charging a violation of a  
12 condition of the continuance under supervision, the court shall  
13 conduct a hearing. If the court finds that a condition of  
14 supervision has not been fulfilled, the court may proceed to  
15 findings and adjudication and disposition. The filing of a  
16 petition for violation of a condition of the continuance under  
17 supervision shall toll the period of continuance under  
18 supervision until the final determination of the charge, and  
19 the term of the continuance under supervision shall not run  
20 until the hearing and disposition of the petition for  
21 violation; provided where the petition alleges conduct that  
22 does not constitute a criminal offense, the hearing must be  
23 held within 30 days of the filing of the petition unless a  
24 delay shall continue the tolling of the period of continuance  
25 under supervision for the period of the delay.

26 (8) When a hearing in which a minor is alleged to be a



1 delinquent for reasons that include a violation of Section  
2 21-1.3 of the Criminal Code of 1961 is continued under this  
3 Section, the court shall, as a condition of the continuance  
4 under supervision, require the minor to perform community  
5 service for not less than 30 and not more than 120 hours, if  
6 community service is available in the jurisdiction. The  
7 community service shall include, but need not be limited to,  
8 the cleanup and repair of the damage that was caused by the  
9 alleged violation or similar damage to property located in the  
10 municipality or county in which the alleged violation occurred.  
11 The condition may be in addition to any other condition.

12 (8.5) When a hearing in which a minor is alleged to be a  
13 delinquent for reasons that include a violation of Section 3.02  
14 or Section 3.03 of the Humane Care for Animals Act or paragraph  
15 (d) of subsection (1) of Section 21-1 of the Criminal Code of  
16 1961 is continued under this Section, the court shall, as a  
17 condition of the continuance under supervision, require the  
18 minor to undergo medical or psychiatric treatment rendered by a  
19 psychiatrist or psychological treatment rendered by a clinical  
20 psychologist. The condition may be in addition to any other  
21 condition.

22 (9) When a hearing in which a minor is alleged to be a  
23 delinquent is continued under this Section, the court, before  
24 continuing the case, shall make a finding whether the offense  
25 alleged to have been committed either: (i) was related to or in  
26 furtherance of the activities of an organized gang or was

1 motivated by the minor's membership in or allegiance to an  
2 organized gang, or (ii) is a violation of paragraph (13) of  
3 subsection (a) of Section 12-2 of the Criminal Code of 1961, a  
4 violation of any Section of Article 24 of the Criminal Code of  
5 1961, or a violation of any statute that involved the unlawful  
6 use of a firearm. If the court determines the question in the  
7 affirmative the court shall, as a condition of the continuance  
8 under supervision and as part of or in addition to any other  
9 condition of the supervision, require the minor to perform  
10 community service for not less than 30 hours, provided that  
11 community service is available in the jurisdiction and is  
12 funded and approved by the county board of the county where the  
13 offense was committed. The community service shall include, but  
14 need not be limited to, the cleanup and repair of any damage  
15 caused by an alleged violation of Section 21-1.3 of the  
16 Criminal Code of 1961 and similar damage to property located in  
17 the municipality or county in which the alleged violation  
18 occurred. When possible and reasonable, the community service  
19 shall be performed in the minor's neighborhood. For the  
20 purposes of this Section, "organized gang" has the meaning  
21 ascribed to it in Section 10 of the Illinois Streetgang  
22 Terrorism Omnibus Prevention Act.

23 (10) The court shall impose upon a minor placed on  
24 supervision, as a condition of the supervision, a fee of \$25  
25 for each month of supervision ordered by the court, unless  
26 after determining the inability of the minor placed on

1 supervision to pay the fee, the court assesses a lesser amount.  
2 The court may not impose the fee on a minor who is made a ward  
3 of the State under this Act while the minor is in placement.  
4 The fee shall be imposed only upon a minor who is actively  
5 supervised by the probation and court services department. A  
6 court may order the parent, guardian, or legal custodian of the  
7 minor to pay some or all of the fee on the minor's behalf.

8 (11) If a minor is placed on supervision for a violation of  
9 subsection (b) of Section 1 of the Prevention of Tobacco Use by  
10 Minors Act, the court may, in its discretion, and upon  
11 recommendation by the State's Attorney, order that minor and  
12 his or her parents or legal guardian to attend a smoker's  
13 education or youth diversion program as defined in that Act if  
14 that program is available in the jurisdiction where the  
15 offender resides. Attendance at a smoker's education or youth  
16 diversion program shall be time-credited against any community  
17 service time imposed for any first violation of subsection (b)  
18 of Section 1 of that Act. In addition to any other penalty that  
19 the court may impose for a violation of subsection (b) of  
20 Section 1 of that Act, the court, upon request by the State's  
21 Attorney, may in its discretion require the offender to remit a  
22 fee for his or her attendance at a smoker's education or youth  
23 diversion program.

24 For purposes of this Section, "smoker's education program"  
25 or "youth diversion program" includes, but is not limited to, a  
26 seminar designed to educate a person on the physical and

1 psychological effects of smoking tobacco products and the  
2 health consequences of smoking tobacco products that can be  
3 conducted with a locality's youth diversion program.

4 In addition to any other penalty that the court may impose  
5 under this subsection (11):

6 (a) If a minor violates subsection (b) of Section 1 of the  
7 Prevention of Tobacco Use by Minors Act, the court may impose a  
8 sentence of 15 hours of community service or a fine of \$25 for  
9 a first violation.

10 (b) A second violation by a minor of subsection (b) of  
11 Section 1 of that Act that occurs within 12 months after the  
12 first violation is punishable by a fine of \$50 and 25 hours of  
13 community service.

14 (c) A third or subsequent violation by a minor of  
15 subsection (b) of Section 1 of that Act that occurs within 12  
16 months after the first violation is punishable by a \$100 fine  
17 and 30 hours of community service.

18 (d) Any second or subsequent violation not within the  
19 12-month time period after the first violation is punishable as  
20 provided for a first violation.

21 (Source: P.A. eff. 1-1-00; 94-556, eff. 9-11-05.)

22 (705 ILCS 405/5-710)

23 (Text of Section before amendment by P.A. 95-337 and  
24 95-642)

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

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

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

5           (i) put on probation or conditional discharge and  
6 released to his or her parents, guardian or legal  
7 custodian, provided, however, that any such minor who  
8 is not committed to the Department of Juvenile Justice  
9 under this subsection and who is found to be a  
10 delinquent for an offense which is first degree murder,  
11 a Class X felony, or a forcible felony shall be placed  
12 on probation;

13           (ii) placed in accordance with Section 5-740, with  
14 or without also being put on probation or conditional  
15 discharge;

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

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

22           (v) placed in detention for a period not to exceed  
23 30 days, either as the exclusive order of disposition  
24 or, where appropriate, in conjunction with any other  
25 order of disposition issued under this paragraph,  
26 provided that any such detention shall be in a juvenile

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

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

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

1           (viii) put on probation or conditional discharge  
2           and placed in detention under Section 3-6039 of the  
3           Counties Code for a period not to exceed the period of  
4           incarceration permitted by law for adults found guilty  
5           of the same offense or offenses for which the minor was  
6           adjudicated delinquent, and in any event no longer than  
7           upon attainment of age 21; this subdivision (viii)  
8           notwithstanding any contrary provision of the law; or

9           (ix) ordered to undergo a medical or other  
10          procedure to have a tattoo symbolizing allegiance to a  
11          street gang removed from his or her body.

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

22          (c) When a minor is found to be guilty for an offense  
23          which is a violation of the Illinois Controlled Substances  
24          Act, the Cannabis Control Act, or the Methamphetamine  
25          Control and Community Protection Act and made a ward of the  
26          court, the court may enter a disposition order requiring

1 the minor to undergo assessment, counseling or treatment in  
2 a substance abuse program approved by the Department of  
3 Human Services.

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

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

12 (4) In addition to any other sentence, the court may order  
13 any minor found to be delinquent to make restitution, in  
14 monetary or non-monetary form, under the terms and conditions  
15 of Section 5-5-6 of the Unified Code of Corrections, except  
16 that the "presentencing hearing" referred to in that Section  
17 shall be the sentencing hearing for purposes of this Section.  
18 The parent, guardian or legal custodian of the minor may be  
19 ordered by the court to pay some or all of the restitution on  
20 the minor's behalf, pursuant to the Parental Responsibility  
21 Law. The State's Attorney is authorized to act on behalf of any  
22 victim in seeking restitution in proceedings under this  
23 Section, up to the maximum amount allowed in Section 5 of the  
24 Parental Responsibility Law.

25 (5) Any sentencing order where the minor is committed or  
26 placed in accordance with Section 5-740 shall provide for the



1 parents or guardian of the estate of the minor to pay to the  
2 legal custodian or guardian of the person of the minor such  
3 sums as are determined by the custodian or guardian of the  
4 person of the minor as necessary for the minor's needs. The  
5 payments may not exceed the maximum amounts provided for by  
6 Section 9.1 of the Children and Family Services Act.

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

12 (7) In no event shall a guilty minor be committed to the  
13 Department of Juvenile Justice for a period of time in excess  
14 of that period for which an adult could be committed for the  
15 same act.

16 (8) A minor found to be guilty for reasons that include a  
17 violation of Section 21-1.3 of the Criminal Code of 1961 shall  
18 be ordered to perform community service for not less than 30  
19 and not more than 120 hours, if community service is available  
20 in the jurisdiction. The community service shall include, but  
21 need not be limited to, the cleanup and repair of the damage  
22 that was caused by the violation or similar damage to property  
23 located in the municipality or county in which the violation  
24 occurred. The order may be in addition to any other order  
25 authorized by this Section.

26 (8.5) A minor found to be guilty for reasons that include a

1 violation of Section 3.02 or Section 3.03 of the Humane Care  
2 for Animals Act or paragraph (d) of subsection (1) of Section  
3 21-1 of the Criminal Code of 1961 shall be ordered to undergo  
4 medical or psychiatric treatment rendered by a psychiatrist or  
5 psychological treatment rendered by a clinical psychologist.  
6 The order may be in addition to any other order authorized by  
7 this Section.

8 (9) In addition to any other sentencing order, the court  
9 shall order any minor found to be guilty for an act which would  
10 constitute, predatory criminal sexual assault of a child,  
11 aggravated criminal sexual assault, criminal sexual assault,  
12 aggravated criminal sexual abuse, or criminal sexual abuse if  
13 committed by an adult to undergo medical testing to determine  
14 whether the defendant has any sexually transmissible disease  
15 including a test for infection with human immunodeficiency  
16 virus (HIV) or any other identified causative agency of  
17 acquired immunodeficiency syndrome (AIDS). Any medical test  
18 shall be performed only by appropriately licensed medical  
19 practitioners and may include an analysis of any bodily fluids  
20 as well as an examination of the minor's person. Except as  
21 otherwise provided by law, the results of the test shall be  
22 kept strictly confidential by all medical personnel involved in  
23 the testing and must be personally delivered in a sealed  
24 envelope to the judge of the court in which the sentencing  
25 order was entered for the judge's inspection in camera. Acting  
26 in accordance with the best interests of the victim and the

1 public, the judge shall have the discretion to determine to  
2 whom the results of the testing may be revealed. The court  
3 shall notify the minor of the results of the test for infection  
4 with the human immunodeficiency virus (HIV). The court shall  
5 also notify the victim if requested by the victim, and if the  
6 victim is under the age of 15 and if requested by the victim's  
7 parents or legal guardian, the court shall notify the victim's  
8 parents or the legal guardian, of the results of the test for  
9 infection with the human immunodeficiency virus (HIV). The  
10 court shall provide information on the availability of HIV  
11 testing and counseling at the Department of Public Health  
12 facilities to all parties to whom the results of the testing  
13 are revealed. The court shall order that the cost of any test  
14 shall be paid by the county and may be taxed as costs against  
15 the minor.

16 (10) When a court finds a minor to be guilty the court  
17 shall, before entering a sentencing order under this Section,  
18 make a finding whether the offense committed either: (a) was  
19 related to or in furtherance of the criminal activities of an  
20 organized gang or was motivated by the minor's membership in or  
21 allegiance to an organized gang, or (b) involved a violation of  
22 subsection (a) of Section 12-7.1 of the Criminal Code of 1961,  
23 a violation of any Section of Article 24 of the Criminal Code  
24 of 1961, or a violation of any statute that involved the  
25 wrongful use of a firearm. If the court determines the question  
26 in the affirmative, and the court does not commit the minor to

1 the Department of Juvenile Justice, the court shall order the  
2 minor to perform community service for not less than 30 hours  
3 nor more than 120 hours, provided that community service is  
4 available in the jurisdiction and is funded and approved by the  
5 county board of the county where the offense was committed. The  
6 community service shall include, but need not be limited to,  
7 the cleanup and repair of any damage caused by a violation of  
8 Section 21-1.3 of the Criminal Code of 1961 and similar damage  
9 to property located in the municipality or county in which the  
10 violation occurred. When possible and reasonable, the  
11 community service shall be performed in the minor's  
12 neighborhood. This order shall be in addition to any other  
13 order authorized by this Section except for an order to place  
14 the minor in the custody of the Department of Juvenile Justice.  
15 For the purposes of this Section, "organized gang" has the  
16 meaning ascribed to it in Section 10 of the Illinois Streetgang  
17 Terrorism Omnibus Prevention Act.

18 (12) If a minor is found to be guilty of a violation of  
19 subsection (b) of Section 1 of the Prevention of Tobacco Use by  
20 Minors Act, the court may, in its discretion, and upon  
21 recommendation by the State's Attorney, order that minor and  
22 his or her parents or legal guardian to attend a smoker's  
23 education or youth diversion program as defined in that Act if  
24 that program is available in the jurisdiction where the  
25 offender resides. Attendance at a smoker's education or youth  
26 diversion program shall be time-credited against any community

1 service time imposed for any first violation of subsection (b)  
2 of Section 1 of that Act. In addition to any other penalty that  
3 the court may impose for a violation of subsection (b) of  
4 Section 1 of that Act, the court, upon request by the State's  
5 Attorney, may in its discretion require the offender to remit a  
6 fee for his or her attendance at a smoker's education or youth  
7 diversion program.

8 For purposes of this Section, "smoker's education program"  
9 or "youth diversion program" includes, but is not limited to, a  
10 seminar designed to educate a person on the physical and  
11 psychological effects of smoking tobacco products and the  
12 health consequences of smoking tobacco products that can be  
13 conducted with a locality's youth diversion program.

14 In addition to any other penalty that the court may impose  
15 under this subsection (12):

16 (a) If a minor violates subsection (b) of Section 1 of the  
17 Prevention of Tobacco Use by Minors Act, the court may impose a  
18 sentence of 15 hours of community service or a fine of \$25 for  
19 a first violation.

20 (b) A second violation by a minor of subsection (b) of  
21 Section 1 of that Act that occurs within 12 months after the  
22 first violation is punishable by a fine of \$50 and 25 hours of  
23 community service.

24 (c) A third or subsequent violation by a minor of  
25 subsection (b) of Section 1 of that Act that occurs within 12  
26 months after the first violation is punishable by a \$100 fine

1 and 30 hours of community service.

2 (d) Any second or subsequent violation not within the  
3 12-month time period after the first violation is punishable as  
4 provided for a first violation.

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

6 (Text of Section after amendment by P.A. 95-337 and 95-642)  
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  
24 assessment conducted by a licensed provider and  
25 participate in the indicated clinical level of care;

1 (iv) placed in the guardianship of the Department  
2 of Children and Family Services, but only if the  
3 delinquent minor is under 15 years of age or, pursuant  
4 to Article II of this Act, a minor for whom an  
5 independent basis of abuse, neglect, or dependency  
6 exists. An independent basis exists when the  
7 allegations or adjudication of abuse, neglect, or  
8 dependency do not arise from the same facts, incident,  
9 or circumstances which give rise to a charge or  
10 adjudication of delinquency;

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

1 order of detention entered under a violation of  
2 probation or violation of conditional discharge under  
3 Section 5-720 of this Article for time spent in  
4 detention before the filing of the petition alleging  
5 the violation. A minor shall not be deprived of credit  
6 for time spent in detention before the filing of a  
7 violation of probation or conditional discharge  
8 alleging the same or related act or acts;

9 (vi) ordered partially or completely emancipated  
10 in accordance with the provisions of the Emancipation  
11 of Minors Act;

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

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

24 (ix) ordered to undergo a medical or other  
25 procedure to have a tattoo symbolizing allegiance to a  
26 street gang removed from his or her body.



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

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

19 (2) Any sentencing order other than commitment to the  
20 Department of Juvenile Justice may provide for protective  
21 supervision under Section 5-725 and may include an order of  
22 protection under Section 5-730.

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

1           (4) In addition to any other sentence, the court may order  
2 any minor found to be delinquent to make restitution, in  
3 monetary or non-monetary form, under the terms and conditions  
4 of Section 5-5-6 of the Unified Code of Corrections, except  
5 that the "presentencing hearing" referred to in that Section  
6 shall be the sentencing hearing for purposes of this Section.  
7 The parent, guardian or legal custodian of the minor may be  
8 ordered by the court to pay some or all of the restitution on  
9 the minor's behalf, pursuant to the Parental Responsibility  
10 Law. The State's Attorney is authorized to act on behalf of any  
11 victim in seeking restitution in proceedings under this  
12 Section, up to the maximum amount allowed in Section 5 of the  
13 Parental Responsibility Law.

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

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

1           (7) In no event shall a guilty minor be committed to the  
2 Department of Juvenile Justice for a period of time in excess  
3 of that period for which an adult could be committed for the  
4 same act.

5           (8) A minor found to be guilty for reasons that include a  
6 violation of Section 21-1.3 of the Criminal Code of 1961 shall  
7 be ordered to perform community service for not less than 30  
8 and not more than 120 hours, if community service is available  
9 in the jurisdiction. The community service shall include, but  
10 need not be limited to, the cleanup and repair of the damage  
11 that was caused by the violation or similar damage to property  
12 located in the municipality or county in which the violation  
13 occurred. The order may be in addition to any other order  
14 authorized by this Section.

15           (8.5) A minor found to be guilty for reasons that include a  
16 violation of Section 3.02 or Section 3.03 of the Humane Care  
17 for Animals Act or paragraph (d) of subsection (1) of Section  
18 21-1 of the Criminal Code of 1961 shall be ordered to undergo  
19 medical or psychiatric treatment rendered by a psychiatrist or  
20 psychological treatment rendered by a clinical psychologist.  
21 The order may be in addition to any other order authorized by  
22 this Section.

23           (9) In addition to any other sentencing order, the court  
24 shall order any minor found to be guilty for an act which would  
25 constitute, predatory criminal sexual assault of a child,  
26 aggravated criminal sexual assault, criminal sexual assault,

1 aggravated criminal sexual abuse, or criminal sexual abuse if  
2 committed by an adult to undergo medical testing to determine  
3 whether the defendant has any sexually transmissible disease  
4 including a test for infection with human immunodeficiency  
5 virus (HIV) or any other identified causative agency of  
6 acquired immunodeficiency syndrome (AIDS). Any medical test  
7 shall be performed only by appropriately licensed medical  
8 practitioners and may include an analysis of any bodily fluids  
9 as well as an examination of the minor's person. Except as  
10 otherwise provided by law, the results of the test shall be  
11 kept strictly confidential by all medical personnel involved in  
12 the testing and must be personally delivered in a sealed  
13 envelope to the judge of the court in which the sentencing  
14 order was entered for the judge's inspection in camera. Acting  
15 in accordance with the best interests of the victim and the  
16 public, the judge shall have the discretion to determine to  
17 whom the results of the testing may be revealed. The court  
18 shall notify the minor of the results of the test for infection  
19 with the human immunodeficiency virus (HIV). The court shall  
20 also notify the victim if requested by the victim, and if the  
21 victim is under the age of 15 and if requested by the victim's  
22 parents or legal guardian, the court shall notify the victim's  
23 parents or the legal guardian, of the results of the test for  
24 infection with the human immunodeficiency virus (HIV). The  
25 court shall provide information on the availability of HIV  
26 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 Juvenile Justice, the court shall order the  
17 minor to perform community service for not less than 30 hours  
18 nor more than 120 hours, provided that community service is  
19 available in the jurisdiction and is funded and approved by the  
20 county board of the county where the offense was committed. The  
21 community service shall include, but need not be limited to,  
22 the cleanup and repair of any damage caused by a violation of  
23 Section 21-1.3 of the Criminal Code of 1961 and similar damage  
24 to property located in the municipality or county in which the  
25 violation occurred. When possible and reasonable, the  
26 community service shall be performed in the minor's

1 neighborhood. This order shall be in addition to any other  
2 order authorized by this Section except for an order to place  
3 the minor in the custody of the Department of Juvenile Justice.  
4 For the purposes of this Section, "organized gang" has the  
5 meaning ascribed to it in Section 10 of the Illinois Streetgang  
6 Terrorism Omnibus Prevention Act.

7 (11) If the court determines that the offense was committed  
8 in furtherance of the criminal activities of an organized gang,  
9 as provided in subsection (10), and that the offense involved  
10 the operation or use of a motor vehicle or the use of a  
11 driver's license or permit, the court shall notify the  
12 Secretary of State of that determination and of the period for  
13 which the minor shall be denied driving privileges. If, at the  
14 time of the determination, the minor does not hold a driver's  
15 license or permit, the court shall provide that the minor shall  
16 not be issued a driver's license or permit until his or her  
17 18th birthday. If the minor holds a driver's license or permit  
18 at the time of the determination, the court shall provide that  
19 the minor's driver's license or permit shall be revoked until  
20 his or her 21st birthday, or until a later date or occurrence  
21 determined by the court. If the minor holds a driver's license  
22 at the time of the determination, the court may direct the  
23 Secretary of State to issue the minor a judicial driving  
24 permit, also known as a JDP. The JDP shall be subject to the  
25 same terms as a JDP issued under Section 6-206.1 of the  
26 Illinois Vehicle Code, except that the court may direct that

1 the JDP be effective immediately.

2 (12) If a minor is found to be guilty of a violation of  
3 subsection (b) of Section 1 of the Prevention of Tobacco Use by  
4 Minors Act, the court may, in its discretion, and upon  
5 recommendation by the State's Attorney, order that minor and  
6 his or her parents or legal guardian to attend a smoker's  
7 education or youth diversion program as defined in that Act if  
8 that program is available in the jurisdiction where the  
9 offender resides. Attendance at a smoker's education or youth  
10 diversion program shall be time-credited against any community  
11 service time imposed for any first violation of subsection (b)  
12 of Section 1 of that Act. In addition to any other penalty that  
13 the court may impose for a violation of subsection (b) of  
14 Section 1 of that Act, the court, upon request by the State's  
15 Attorney, may in its discretion require the offender to remit a  
16 fee for his or her attendance at a smoker's education or youth  
17 diversion program.

18 For purposes of this Section, "smoker's education program"  
19 or "youth diversion program" includes, but is not limited to, a  
20 seminar designed to educate a person on the physical and  
21 psychological effects of smoking tobacco products and the  
22 health consequences of smoking tobacco products that can be  
23 conducted with a locality's youth diversion program.

24 In addition to any other penalty that the court may impose  
25 under this subsection (12):

26 (a) If a minor violates subsection (b) of Section 1 of the

1 Prevention of Tobacco Use by Minors Act, the court may impose a  
2 sentence of 15 hours of community service or a fine of \$25 for  
3 a first violation.

4 (b) A second violation by a minor of subsection (b) of  
5 Section 1 of that Act that occurs within 12 months after the  
6 first violation is punishable by a fine of \$50 and 25 hours of  
7 community service.

8 (c) A third or subsequent violation by a minor of  
9 subsection (b) of Section 1 of that Act that occurs within 12  
10 months after the first violation is punishable by a \$100 fine  
11 and 30 hours of community service.

12 (d) Any second or subsequent violation not within the  
13 12-month time period after the first violation is punishable as  
14 provided for a first violation.

15 (Source: P.A. 94-556, eff. 9-11-05; 94-696, eff. 6-1-06;  
16 95-337, eff. 6-1-08; 95-642, eff. 6-1-08; revised 11-19-07.)

17 Section 15. The Sale of Tobacco to Minors Act is amended by  
18 changing the title of the Act and Sections 0.01, 1, and 2 as  
19 follows:

20 (720 ILCS 675/Act title)

21 An Act to prohibit minors from buying, ~~or~~ selling, or  
22 possessing tobacco in any of its forms, to prohibit selling,  
23 giving or furnishing tobacco, in any of its forms, to minors,  
24 and providing penalties therefor.



1 (720 ILCS 675/0.01) (from Ch. 23, par. 2356.9)

2 Sec. 0.01. Short title. This Act may be cited as the  
3 Prevention of Tobacco Use by ~~Sale of Tobacco to~~ Minors Act.

4 (Source: P.A. 86-1324.)

5 (720 ILCS 675/1) (from Ch. 23, par. 2357)

6 Sec. 1. Prohibition on sale to and possession of tobacco by  
7 ~~to~~ minors; vending machines; lunch wagons.

8 (a) No minor under 18 years of age shall buy any cigar,  
9 cigarette, smokeless tobacco or tobacco in any of its forms. No  
10 person shall sell, buy for, distribute samples of or furnish  
11 any cigar, cigarette, smokeless tobacco or tobacco in any of  
12 its forms, to any minor under 18 years of age.

13 (a-5) No minor under 16 years of age may sell any cigar,  
14 cigarette, smokeless tobacco, or tobacco in any of its forms at  
15 a retail establishment selling tobacco products. This  
16 subsection does not apply to a sales clerk in a family-owned  
17 business which can prove that the sales clerk is in fact a son  
18 or daughter of the owner.

19 (b) No minor under 18 years of age shall possess any cigar,  
20 cigarette, smokeless tobacco, or tobacco in any of its forms.

21 (c) For the purpose of this Section, "smokeless tobacco"  
22 means any tobacco products that are suitable for dipping or  
23 chewing.

24 (d) ~~(b)~~ Tobacco products listed in this Section ~~above~~ may

1 be sold through a vending machine only in the following  
2 locations:

3 (1) Factories, businesses, offices, private clubs, and  
4 other places not open to the general public.

5 (2) Places to which minors under 18 years of age are  
6 not permitted access.

7 (3) Places where alcoholic beverages are sold and  
8 consumed on the premises.

9 (4) Places where the vending machine is under the  
10 direct supervision of the owner of the establishment or an  
11 employee over 18 years of age. The sale of tobacco products  
12 from a vending machine under direct supervision of the  
13 owner or an employee of the establishment is considered a  
14 sale of tobacco products by that person. As used in this  
15 subdivision, "direct supervision" means that the owner or  
16 employee has an unimpeded line of sight to the vending  
17 machine.

18 (5) Places where the vending machine can only be  
19 operated by the owner or an employee over age 18 either  
20 directly or through a remote control device if the device  
21 is inaccessible to all customers.

22 (e) ~~(e)~~ The sale or distribution at no charge of cigarettes  
23 from a lunch wagon engaging in any sales activity within 1,000  
24 feet of any public or private elementary or secondary school  
25 grounds is prohibited.

26 (f) It is not a violation of this Act for a person under 18

1 years of age to purchase or possess a cigar, cigarette,  
2 smokeless tobacco or tobacco in any of its forms if the person  
3 under the age of 18 purchases or is given the cigar, cigarette,  
4 smokeless tobacco or tobacco in any of its forms from a retail  
5 seller of tobacco products or an employee of the retail seller  
6 pursuant to a plan or action to investigate, patrol, or  
7 otherwise conduct a "sting operation" or enforcement action  
8 against a retail seller of tobacco products or a person  
9 employed by the retail seller of tobacco products or on any  
10 premises authorized to sell tobacco products to determine if  
11 tobacco products are being sold or given to persons under 18  
12 years of age if the "sting operation" or enforcement action is  
13 approved by the Department of State Police, the county sheriff,  
14 a municipal police department, the Department of Public Health,  
15 or a local health department.

16 For the purpose of this Section, "lunch wagon" means a  
17 mobile vehicle designed and constructed to transport food and  
18 from which food is sold to the general public.

19 (Source: P.A. 93-284, eff. 1-1-04; 93-886, eff. 1-1-05.)

20 (720 ILCS 675/2) (from Ch. 23, par. 2358)

21 Sec. 2. (a) Any person who violates subsection (a) or (a-5)  
22 of Section 1 ~~any provision~~ of this Act is guilty of a petty  
23 offense and for the first offense shall be fined \$200, \$400 for  
24 the second offense in a 12-month period, and \$600 for the third  
25 or any subsequent offense in a 12-month period.

1       (b) If a minor violates subsection (b) of Section 1 he or  
2       she is guilty of a petty offense and the court may impose a  
3       sentence of 15 hours of community service or a fine of \$25 for  
4       a first violation.

5       (c) A second violation by a minor of subsection (b) of  
6       Section 1 that occurs within 12 months after the first  
7       violation is punishable by a fine of \$50 and 25 hours of  
8       community service.

9       (d) A third or subsequent violation by a minor of  
10       subsection (b) of Section 1 that occurs within 12 months after  
11       the first violation is punishable by a \$100 fine and 30 hours  
12       of community service.

13       (e) Any second or subsequent violation not within the  
14       12-month time period after the first violation is punishable as  
15       provided for a first violation.

16       (f) If a minor is convicted of or placed on supervision for  
17       a violation of subsection (b) of Section 1, the court may, in  
18       its discretion, and upon recommendation by the State's  
19       Attorney, order that minor and his or her parents or legal  
20       guardian to attend a smoker's education or youth diversion  
21       program if that program is available in the jurisdiction where  
22       the offender resides. Attendance at a smoker's education or  
23       youth diversion program shall be time-credited against any  
24       community service time imposed for any first violation of  
25       subsection (b) of Section 1. In addition to any other penalty  
26       that the court may impose for a violation of subsection (b) of

1 Section 1, the court, upon request by the State's Attorney, may  
2 in its discretion require the offender to remit a fee for his  
3 or her attendance at a smoker's education or youth diversion  
4 program.

5 (g) For purposes of this Section, "smoker's education  
6 program" or "youth diversion program" includes, but is not  
7 limited to, a seminar designed to educate a person on the  
8 physical and psychological effects of smoking tobacco products  
9 and the health consequences of smoking tobacco products that  
10 can be conducted with a locality's youth diversion program.

11 (h) All moneys collected as fines for violations of  
12 subsection (a), (a-5), or (b) of Section 1 shall be distributed  
13 in the following manner:

14 (1) one-half of each fine shall be distributed to the  
15 unit of local government or other entity that successfully  
16 prosecuted the offender; and

17 (2) one-half shall be remitted to the State to be used  
18 for enforcing this Act. One half of each fine collected  
19 under this Section shall be distributed to the unit of  
20 local government or other entity that successfully  
21 prosecuted the offender and one half shall be remitted to  
22 the State to be used for enforcing this Act.

23 (Source: P.A. 88-418.)

24 Section 20. The Display of Tobacco Products Act is amended  
25 by changing Section 15 as follows:

1 (720 ILCS 677/15)

2 Sec. 15. Vending machines. This Act does not prohibit the  
3 sale of tobacco products from vending machines if the location  
4 of the vending machines are in compliance with the provisions  
5 of Section 1 of the Prevention of Tobacco Use by Sale of  
6 ~~Tobacco to~~ Minors Act.

7 (Source: P.A. 93-886, eff. 1-1-05.)

8 Section 95. No acceleration or delay. Where this Act makes  
9 changes in a statute that is represented in this Act by text  
10 that is not yet or no longer in effect (for example, a Section  
11 represented by multiple versions), the use of that text does  
12 not accelerate or delay the taking effect of (i) the changes  
13 made by this Act or (ii) provisions derived from any other  
14 Public Act.

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