



Sen. Michael Bond

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09500SB2042sam001

LRB095 18874 NHT 49048 a

1 AMENDMENT TO SENATE BILL 2042

2 AMENDMENT NO. _____. Amend Senate Bill 2042 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The School Code is amended by changing Sections
5 10-20.12a, 14-1.11, 14-1.11a, and 14-7.03 and by adding Section
6 14-7.05 as follows:

7 (105 ILCS 5/10-20.12a) (from Ch. 122, par. 10-20.12a)
8 Sec. 10-20.12a. Tuition for non-resident pupils.

9 (a) To charge non-resident pupils who attend the schools of
10 the district tuition in an amount not exceeding 110% of the per
11 capita cost of maintaining the schools of the district for the
12 preceding school year.

13 Such per capita cost shall be computed by dividing the
14 total cost of conducting and maintaining the schools of the
15 district by the average daily attendance, including tuition
16 pupils. Depreciation on the buildings and equipment of the

1 schools of the district, and the amount of annual depreciation
2 on such buildings and equipment shall be dependent upon the
3 useful life of such property.

4 The tuition charged shall in no case exceed 110% of the per
5 capita cost of conducting and maintaining the schools of the
6 district attended, as determined with reference to the most
7 recent audit prepared under Section 3-7 which is available at
8 the commencement of the current school year. Non-resident
9 pupils attending the schools of the district for less than the
10 school term shall have their tuition apportioned, however
11 pupils who become non-resident during a school term shall not
12 be charged tuition for the remainder of the school term in
13 which they became non-resident pupils.

14 (b) Unless otherwise agreed to by the parties involved and
15 where the educational services are not otherwise provided for,
16 educational services for an Illinois student under the age of
17 21 (and not eligible for services pursuant to Article 14 of
18 this Code) in any ~~a~~ residential program ~~designed to correct~~
19 ~~alcohol or other drug dependencies~~ shall be provided by the
20 district in which the facility is located and financed as
21 follows. The cost of educational services shall be paid by the
22 district in which the student resides in an amount equal to the
23 cost of providing educational services in the residential ~~a~~
24 ~~treatment~~ facility. Payments shall be made by the district of
25 the student's residence and shall be made to the district
26 wherein the facility is located no less than once per month

1 unless otherwise agreed to by the parties.

2 The funding provision of this subsection (b) applies to all
3 Illinois students under the age of 21 (and not eligible for
4 services pursuant to Article 14 of this Code) receiving
5 educational services in residential facilities, irrespective
6 of whether the student was placed therein pursuant to this Code
7 or the Juvenile Court Act of 1987 or by an Illinois public
8 agency or a court. Nothing in this Section shall be construed
9 to relieve the district of the student's residence of financial
10 responsibility based on the manner in which the student was
11 placed at the facility. The changes to this subsection (b) made
12 by this amendatory Act of the 95th General Assembly apply to
13 all placements in effect on July 1, 2007 and all placements
14 thereafter. For purposes of this subsection (b), a student's
15 district of residence shall be determined in accordance with
16 subsection (a) of Section 10-20.12b of this Code. The placement
17 of a student in a residential facility shall not affect the
18 residency of the student. When a dispute arises over the
19 determination of the district of residence under this
20 subsection (b), any person or entity, including without
21 limitation a school district or residential facility, may make
22 a written request for a residency decision to the State
23 Superintendent of Education, who, upon review of materials
24 submitted and any other items or information he or she may
25 request for submission, shall issue his or her decision in
26 writing. The decision of the State Superintendent of Education

1 is final.

2 (Source: P.A. 89-397, eff. 8-20-95; 90-649, eff. 7-24-98.)

3 (105 ILCS 5/14-1.11) (from Ch. 122, par. 14-1.11)

4 Sec. 14-1.11. Resident district; parent; legal guardian.

5 The resident district is the school district in which the
6 parent or guardian, or both parent and guardian, of the student
7 reside when:

8 (1) the parent has legal guardianship of the student
9 and resides within Illinois; or

10 (2) an individual guardian has been appointed by the
11 courts and resides within Illinois; or

12 (3) an Illinois public agency has legal guardianship
13 and the student resides either in the home of the parent or
14 within the same district as the parent; or

15 (4) an Illinois court orders a residential placement
16 but the parents retain any legal rights or guardianship and
17 have not been subject to a termination of parental rights
18 order.

19 In cases of divorced or separated parents, when only one
20 parent has legal guardianship or custody, the district in which
21 the parent having legal guardianship or custody resides is the
22 resident district. When both parents retain legal guardianship
23 or custody, the resident district is the district in which
24 either parent who provides the student's primary regular fixed
25 night-time abode resides; provided, that the election of

1 resident district may be made only one time per school year.

2 When the parent has legal guardianship and lives outside of
3 the State of Illinois, or when the individual legal guardian
4 other than the natural parent lives outside the State of
5 Illinois, the parent, legal guardian, or other placing agent is
6 responsible for making arrangements to pay the Illinois school
7 district serving the child for the educational services
8 provided. Those service costs shall be determined in accordance
9 with Section 14-7.01.

10 (Source: P.A. 89-698, eff. 1-14-97.)

11 (105 ILCS 5/14-1.11a) (from Ch. 122, par. 14-1.11a)

12 Sec. 14-1.11a. Resident district; student. The resident
13 district is the school district in which the student resides
14 when:

15 (1) the parent has legal guardianship but the location
16 of the parent is unknown; or

17 (2) an individual guardian has been appointed but the
18 location of the guardian is unknown; or

19 (3) the student is 18 years of age or older and no
20 legal guardian has been appointed; or

21 (4) the student is legally an emancipated minor; or

22 (5) an Illinois public agency has legal guardianship
23 and such agency or any court in this State has placed the
24 student residentially outside of the school district in
25 which the parent lives.

1 In cases where an Illinois public agency has legal
2 guardianship and has placed the student residentially outside
3 of Illinois, the last school district that provided at least 45
4 days of educational service to the student shall continue to be
5 the district of residence until the student is no longer under
6 guardianship of an Illinois public agency or until the student
7 is returned to Illinois.

8 The resident district of a homeless student is the Illinois
9 district in which the student enrolls for educational services.
10 Homeless students include individuals as defined in the Stewart
11 B. McKinney Homeless Assistance Act.

12 (Source: P.A. 87-1117; 88-134.)

13 (105 ILCS 5/14-7.03) (from Ch. 122, par. 14-7.03)

14 Sec. 14-7.03. Special Education Classes for Children from
15 Orphanages, Foster Family Homes, Children's Homes, or in State
16 Housing Units. If a school district maintains special education
17 classes on the site of orphanages and children's homes, or if
18 children from the orphanages, children's homes, foster family
19 homes, other State agencies, or State residential units for
20 children attend classes for children with disabilities in which
21 the school district is a participating member of a joint
22 agreement, or if the children from the orphanages, children's
23 homes, foster family homes, other State agencies, or State
24 residential units attend classes for the children with
25 disabilities maintained by the school district, then

1 reimbursement shall be paid to eligible districts in accordance
2 with the provisions of this Section by the Comptroller as
3 directed by the State Superintendent of Education.

4 The amount of tuition for such children shall be determined
5 by the actual cost of maintaining such classes, using the per
6 capita cost formula set forth in Section 14-7.01, such program
7 and cost to be pre-approved by the State Superintendent of
8 Education.

9 On forms prepared by the State Superintendent of Education,
10 the district shall certify to the regional superintendent the
11 following:

12 (1) The name of the home or State residential unit with
13 the name of the owner or proprietor and address of those
14 maintaining it;

15 (2) That no service charges or other payments
16 authorized by law were collected in lieu of taxes therefrom
17 or on account thereof during either of the calendar years
18 included in the school year for which claim is being made;

19 (3) The number of children qualifying under this Act in
20 special education classes for instruction on the site of
21 the orphanages and children's homes;

22 (4) The number of children attending special education
23 classes for children with disabilities in which the
24 district is a participating member of a special education
25 joint agreement;

26 (5) The number of children attending special education

1 classes for children with disabilities maintained by the
2 district;

3 (6) The computed amount of tuition payment claimed as
4 due, as approved by the State Superintendent of Education,
5 for maintaining these classes.

6 If a school district makes a claim for reimbursement under
7 Section 18-3 or 18-4 of this Act it shall not include in any
8 claim filed under this Section a claim for such children.
9 Payments authorized by law, including State or federal grants
10 for education of children included in this Section, shall be
11 deducted in determining the tuition amount.

12 Nothing in this Act shall be construed so as to prohibit
13 reimbursement for the tuition of children placed in for profit
14 facilities. Private facilities shall provide adequate space at
15 the facility for special education classes provided by a school
16 district or joint agreement for children with disabilities who
17 are residents of the facility at no cost to the school district
18 or joint agreement upon request of the school district or joint
19 agreement. If such a private facility provides space at no cost
20 to the district or joint agreement for special education
21 classes provided to children with disabilities who are
22 residents of the facility, the district or joint agreement
23 shall not include any costs for the use of those facilities in
24 its claim for reimbursement.

25 Reimbursement for tuition may include the cost of providing
26 summer school programs for children with severe and profound

1 disabilities served under this Section. Claims for that
2 reimbursement shall be filed by November 1 and shall be paid on
3 or before December 15 from appropriations made for the purposes
4 of this Section.

5 The State Board of Education shall establish such rules and
6 regulations as may be necessary to implement the provisions of
7 this Section.

8 Claims filed on behalf of programs operated under this
9 Section housed in a jail, detention center, or county-owned
10 shelter care facility shall be on an individual student basis
11 only for eligible students with disabilities. These claims
12 shall be in accordance with applicable rules.

13 Each district claiming reimbursement for a program
14 operated as a group program shall have an approved budget on
15 file with the State Board of Education prior to the initiation
16 of the program's operation. On September 30, December 31, and
17 March 31, the State Board of Education shall voucher payments
18 to group programs based upon the approved budget during the
19 year of operation. Final claims for group payments shall be
20 filed on or before July 15. Final claims for group programs
21 received at the State Board of Education on or before June 15
22 shall be vouchered by June 30. Final claims received at the
23 State Board of Education between June 16 and July 15 shall be
24 vouchered by August 30. Claims for group programs received
25 after July 15 shall not be honored.

26 Each district claiming reimbursement for individual

1 students shall have the eligibility of those students verified
2 by the State Board of Education. On September 30, December 31,
3 and March 31, the State Board of Education shall voucher
4 payments for individual students based upon an estimated cost
5 calculated from the prior year's claim. Final claims for
6 individual students for the regular school term must be
7 received at the State Board of Education by July 15. Claims for
8 individual students received after July 15 shall not be
9 honored. Final claims for individual students shall be
10 vouchered by August 30.

11 Reimbursement shall be made based upon approved group
12 programs or individual students. The State Superintendent of
13 Education shall direct the Comptroller to pay a specified
14 amount to the district by the 30th day of September, December,
15 March, June, or August, respectively. However, notwithstanding
16 any other provisions of this Section or the School Code,
17 beginning with fiscal year 1994 and each fiscal year
18 thereafter, if the amount appropriated for any fiscal year is
19 less than the amount required for purposes of this Section, the
20 amount required to eliminate any insufficient reimbursement
21 for each district claim under this Section shall be reimbursed
22 on August 30 of the next fiscal year. Payments required to
23 eliminate any insufficiency for prior fiscal year claims shall
24 be made before any claims are paid for the current fiscal year.

25 The claim of a school district otherwise eligible to be
26 reimbursed in accordance with Section 14-12.01 for the 1976-77

1 school year but for this amendatory Act of 1977 shall not be
2 paid unless the district ceases to maintain such classes for
3 one entire school year.

4 If a school district's current reimbursement payment for
5 the 1977-78 school year only is less than the prior year's
6 reimbursement payment owed, the district shall be paid the
7 amount of the difference between the payments in addition to
8 the current reimbursement payment, and the amount so paid shall
9 be subtracted from the amount of prior year's reimbursement
10 payment owed to the district.

11 Regional superintendents may operate special education
12 classes for children from orphanages, foster family homes,
13 children's homes or State housing units located within the
14 educational services region upon consent of the school board
15 otherwise so obligated. In electing to assume the powers and
16 duties of a school district in providing and maintaining such a
17 special education program, the regional superintendent may
18 enter into joint agreements with other districts and may
19 contract with public or private schools or the orphanage,
20 foster family home, children's home or State housing unit for
21 provision of the special education program. The regional
22 superintendent exercising the powers granted under this
23 Section shall claim the reimbursement authorized by this
24 Section directly from the State Board of Education.

25 Any child who is not a resident of Illinois who is placed
26 in a child welfare institution, private facility, foster family

1 home, State operated program, orphanage or children's home
2 shall have the payment for his educational tuition and any
3 related services assured by the placing agent.

4 ~~For Commencing July 1, 1992, for~~ each disabled student who
5 is placed in a residential facility by an Illinois public
6 ~~residentially by a State agency or by any court in this State~~
7 ~~the courts for care or custody or both care and custody,~~
8 ~~welfare, medical or mental health treatment or both medical and~~
9 ~~mental health treatment, rehabilitation, and protection,~~
10 ~~whether placed there on, before, or after July 1, 1992,~~ the
11 costs for educating the student are eligible for reimbursement
12 under this Section ~~providing the placing agency or court has~~
13 ~~notified the appropriate school district authorities of the~~
14 ~~status of student residency where applicable prior to or upon~~
15 ~~placement. Subject to appropriation, school districts shall be~~
16 ~~reimbursed under this Section for the eligible costs of~~
17 ~~educating all disabled students residentially placed by a State~~
18 ~~agency or the courts or placed and paid for by a State agency~~
19 ~~for any of the reasons listed in this paragraph. Reimbursements~~
20 ~~under this paragraph shall first be provided for claims made~~
21 ~~for the 2007-2008 school year payable in fiscal year 2008.~~

22 The district of residence of the ~~parent, guardian, or~~
23 disabled student as defined in Section ~~Sections 14-1.11 and~~
24 14-1.11a is responsible for the actual costs of the student's
25 special education program and is eligible for reimbursement
26 under this Section when placement is made by a State agency or

1 the courts. ~~Payments shall be made by the resident district to~~
2 ~~the district wherein the facility is located no less than once~~
3 ~~per quarter unless otherwise agreed to in writing by the~~
4 ~~parties.~~

5 When a dispute arises over the determination of the
6 district of residence under this Section, the district or
7 districts may appeal the decision in writing to the State
8 Superintendent of Education, who, upon review of materials
9 submitted and any other items or information he or she may
10 request for submission, shall issue a written decision on the
11 matter. The decision of the State Superintendent of Education
12 shall be final.

13 In the event a district does not make a tuition payment to
14 another district that is providing the special education
15 program and services, the State Board of Education shall
16 immediately withhold 125% of the then remaining annual tuition
17 cost from the State aid or categorical aid payment due to the
18 school district that is determined to be the resident school
19 district. All funds withheld by the State Board of Education
20 shall immediately be forwarded to the school district where the
21 student is being served.

22 When a child eligible for services under this Section
23 14-7.03 must be placed in a nonpublic facility, that facility
24 shall meet the programmatic requirements of Section 14-7.02 and
25 its regulations, and the educational services shall be funded
26 only in accordance with this Section 14-7.03.

1 (Source: P.A. 95-313, eff. 8-20-07.)

2 (105 ILCS 5/14-7.05 new)

3 Sec. 14-7.05. Placement in residential facility; payment
4 of educational costs. For any student with a disability in a
5 residential facility placement made or paid for by an Illinois
6 public State agency or made by any court in this State, the
7 school district of residence as determined pursuant to this
8 Article is responsible for the costs of educating the child and
9 shall be reimbursed for those costs in accordance with this
10 Code. Payments shall be made by the resident district to the
11 entity providing the educational services, whether the entity
12 is the residential facility or the school district wherein the
13 facility is located, no less than once per quarter unless
14 otherwise agreed to in writing by the parties.

15 When a dispute arises over the determination of the
16 district of residence under this Section, any person or entity,
17 including without limitation a school district or residential
18 facility, may make a written request for a residency decision
19 to the State Superintendent of Education, who, upon review of
20 materials submitted and any other items of information he or
21 she may request for submission, shall issue his or her decision
22 in writing. The decision of the State Superintendent of
23 Education is final.

24 Section 10. The Juvenile Court Act of 1987 is amended by

1 changing Section 5-710 as follows:

2 (705 ILCS 405/5-710)

3 (Text of Section before amendment by P.A. 95-337 and
4 95-642)

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

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

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

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

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

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

24 (iv) placed in the guardianship of the Department
25 of Children and Family Services, but only if the

1 delinquent minor is under 13 years of age;

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

26 (vi) ordered partially or completely emancipated

1 in accordance with the provisions of the Emancipation
2 of Minors Act;

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

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

15 (ix) ordered to undergo a medical or other
16 procedure to have a tattoo symbolizing allegiance to a
17 street gang removed from his or her body.

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

1 time spent in detention.

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

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

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

18 (4) In addition to any other sentence, the court may order
19 any minor found to be delinquent to make restitution, in
20 monetary or non-monetary form, under the terms and conditions
21 of Section 5-5-6 of the Unified Code of Corrections, except
22 that the "presentencing hearing" referred to in that Section
23 shall be the sentencing hearing for purposes of this Section.
24 The parent, guardian or legal custodian of the minor may be
25 ordered by the court to pay some or all of the restitution on
26 the minor's behalf, pursuant to the Parental Responsibility

1 Law. The State's Attorney is authorized to act on behalf of any
2 victim in seeking restitution in proceedings under this
3 Section, up to the maximum amount allowed in Section 5 of the
4 Parental Responsibility Law.

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

13 (6) Whenever the sentencing order requires the minor to
14 attend school or participate in a program of training, the
15 truant officer or designated school official shall regularly
16 report to the court if the minor is a chronic or habitual
17 truant under Section 26-2a of the School Code. Notwithstanding
18 any other provision of this Act, in instances in which
19 educational services are to be provided to a minor in a
20 residential facility where the minor has been placed by the
21 court, costs incurred in the provision of those educational
22 services must be allocated based on the requirements of the
23 School Code.

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

1 same act.

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

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

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

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

1 the minor.

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

1 For the purposes of this Section, "organized gang" has the
2 meaning ascribed to it in Section 10 of the Illinois Streetgang
3 Terrorism Omnibus Prevention Act.

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

5 (Text of Section after amendment by P.A. 95-337 and 95-642)
6 Sec. 5-710. Kinds of sentencing orders.

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

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

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

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

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

25 (iv) placed in the guardianship of the Department

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

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

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

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

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

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

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

26 (b) A minor found to be guilty may be committed to the

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

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

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

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

26 (4) In addition to any other sentence, the court may order

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

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

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

1 educational services are to be provided to a minor in a
2 residential facility where the minor has been placed by the
3 court, costs incurred in the provision of those educational
4 services must be allocated based on the requirements of the
5 School Code.

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

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

20 (8.5) A minor found to be guilty for reasons that include a
21 violation of Section 3.02 or Section 3.03 of the Humane Care
22 for Animals Act or paragraph (d) of subsection (1) of Section
23 21-1 of the Criminal Code of 1961 shall be ordered to undergo
24 medical or psychiatric treatment rendered by a psychiatrist or
25 psychological treatment rendered by a clinical psychologist.
26 The order may be in addition to any other order authorized by

1 this Section.

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

1 parents or legal guardian, the court shall notify the victim's
2 parents or the legal guardian, of the results of the test for
3 infection with the human immunodeficiency virus (HIV). The
4 court shall provide information on the availability of HIV
5 testing and counseling at the Department of Public Health
6 facilities to all parties to whom the results of the testing
7 are revealed. The court shall order that the cost of any test
8 shall be paid by the county and may be taxed as costs against
9 the minor.

10 (10) When a court finds a minor to be guilty the court
11 shall, before entering a sentencing order under this Section,
12 make a finding whether the offense committed either: (a) was
13 related to or in furtherance of the criminal activities of an
14 organized gang or was motivated by the minor's membership in or
15 allegiance to an organized gang, or (b) involved a violation of
16 subsection (a) of Section 12-7.1 of the Criminal Code of 1961,
17 a violation of any Section of Article 24 of the Criminal Code
18 of 1961, or a violation of any statute that involved the
19 wrongful use of a firearm. If the court determines the question
20 in the affirmative, and the court does not commit the minor to
21 the Department of Juvenile Justice, the court shall order the
22 minor to perform community service for not less than 30 hours
23 nor more than 120 hours, provided that community service is
24 available in the jurisdiction and is funded and approved by the
25 county board of the county where the offense was committed. The
26 community service shall include, but need not be limited to,

1 the cleanup and repair of any damage caused by a violation of
2 Section 21-1.3 of the Criminal Code of 1961 and similar damage
3 to property located in the municipality or county in which the
4 violation occurred. When possible and reasonable, the
5 community service shall be performed in the minor's
6 neighborhood. This order shall be in addition to any other
7 order authorized by this Section except for an order to place
8 the minor in the custody of the Department of Juvenile Justice.
9 For the purposes of this Section, "organized gang" has the
10 meaning ascribed to it in Section 10 of the Illinois Streetgang
11 Terrorism Omnibus Prevention Act.

12 (11) If the court determines that the offense was committed
13 in furtherance of the criminal activities of an organized gang,
14 as provided in subsection (10), and that the offense involved
15 the operation or use of a motor vehicle or the use of a
16 driver's license or permit, the court shall notify the
17 Secretary of State of that determination and of the period for
18 which the minor shall be denied driving privileges. If, at the
19 time of the determination, the minor does not hold a driver's
20 license or permit, the court shall provide that the minor shall
21 not be issued a driver's license or permit until his or her
22 18th birthday. If the minor holds a driver's license or permit
23 at the time of the determination, the court shall provide that
24 the minor's driver's license or permit shall be revoked until
25 his or her 21st birthday, or until a later date or occurrence
26 determined by the court. If the minor holds a driver's license

1 at the time of the determination, the court may direct the
2 Secretary of State to issue the minor a judicial driving
3 permit, also known as a JDP. The JDP shall be subject to the
4 same terms as a JDP issued under Section 6-206.1 of the
5 Illinois Vehicle Code, except that the court may direct that
6 the JDP be effective immediately.

7 (Source: P.A. 94-556, eff. 9-11-05; 94-696, eff. 6-1-06;
8 95-337, eff. 6-1-08; 95-642, eff. 6-1-08; revised 11-19-07.)

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

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