



## 96TH GENERAL ASSEMBLY

### State of Illinois

2009 and 2010

HB2298

Introduced 2/18/2009, by Rep. Annazette Collins

#### SYNOPSIS AS INTRODUCED:

705 ILCS 405/5-615

705 ILCS 405/5-715

Amends the Juvenile Court Act of 1987. Eliminates the provision that the State's Attorney may object to a court order of continuance under supervision. Provides that at the successful completion of probation, a minor may move to vacate a finding of delinquency. Provides that unless good cause is shown, such motion to vacate must be filed within 30 days of the entry of the order terminating probation or discharging the minor. Establishes conditions and factors under which a court may vacate a finding of delinquency. Provides that once a motion to vacate a finding of delinquency has been granted, the case shall be treated as if it never occurred and, the person may not be required to disclose that he or she had a juvenile record. Provides that the amendatory Act shall govern all motions pending at the time of its effective date. Effective immediately.

LRB096 09991 RLC 20155 b

1 AN ACT concerning courts.

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

4 Section 5. The Juvenile Court Act of 1987 is amended by  
5 changing Sections 5-615 and 5-715 as follows:

6 (705 ILCS 405/5-615)

7 Sec. 5-615. Continuance under supervision.

8 (1) The court may enter an order of continuance under  
9 supervision for an offense other than first degree murder, a  
10 Class X felony or a forcible felony (a) upon an admission or  
11 stipulation by the appropriate respondent or minor respondent  
12 of the facts supporting the petition and before proceeding to  
13 adjudication, or after hearing the evidence at the trial, and  
14 (b) in the absence of objection made in open court by the  
15 minor, his or her parent, guardian, or legal custodian, or the  
16 minor's attorney ~~or the State's Attorney~~.

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

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

1           (4) When a hearing where a minor is alleged to be a  
2 delinquent is continued pursuant to this Section, the period of  
3 continuance under supervision may not exceed 24 months. The  
4 court may terminate a continuance under supervision at any time  
5 if warranted by the conduct of the minor and the ends of  
6 justice.

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

11           (a) not violate any criminal statute of any  
12 jurisdiction;

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

15           (c) work or pursue a course of study or vocational  
16 training;

17           (d) undergo medical or psychotherapeutic treatment  
18 rendered by a therapist licensed under the provisions of  
19 the Medical Practice Act of 1987, the Clinical Psychologist  
20 Licensing Act, or the Clinical Social Work and Social Work  
21 Practice Act, or an entity licensed by the Department of  
22 Human Services as a successor to the Department of  
23 Alcoholism and Substance Abuse, for the provision of drug  
24 addiction and alcoholism treatment;

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

- 1 (f) support his or her dependents, if any;
- 2 (g) pay costs;
- 3 (h) refrain from possessing a firearm or other  
4 dangerous weapon, or an automobile;
- 5 (i) permit the probation officer to visit him or her at  
6 his or her home or elsewhere;
- 7 (j) reside with his or her parents or in a foster home;
- 8 (k) attend school;
- 9 (k-5) with the consent of the superintendent of the  
10 facility, attend an educational program at a facility other  
11 than the school in which the offense was committed if he or  
12 she committed a crime of violence as defined in Section 2  
13 of the Crime Victims Compensation Act in a school, on the  
14 real property comprising a school, or within 1,000 feet of  
15 the real property comprising a school;
- 16 (l) attend a non-residential program for youth;
- 17 (m) contribute to his or her own support at home or in  
18 a foster home;
- 19 (n) perform some reasonable public or community  
20 service;
- 21 (o) make restitution to the victim, in the same manner  
22 and under the same conditions as provided in subsection (4)  
23 of Section 5-710, except that the "sentencing hearing"  
24 referred to in that Section shall be the adjudicatory  
25 hearing for purposes of this Section;
- 26 (p) comply with curfew requirements as designated by

1 the court;

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

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

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

14 (s) refrain from having in his or her body the presence  
15 of any illicit drug prohibited by the Cannabis Control Act,  
16 the Illinois Controlled Substances Act, or the  
17 Methamphetamine Control and Community Protection Act,  
18 unless prescribed by a physician, and submit samples of his  
19 or her blood or urine or both for tests to determine the  
20 presence of any illicit drug; or

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

23 (6) A minor whose case is continued under supervision under  
24 subsection (5) shall be given a certificate setting forth the  
25 conditions imposed by the court. Those conditions may be  
26 reduced, enlarged, or modified by the court on motion of the

1 probation officer or on its own motion, or that of the State's  
2 Attorney, or, at the request of the minor after notice and  
3 hearing.

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

19 (8) When a hearing in which a minor is alleged to be a  
20 delinquent for reasons that include a violation of Section  
21 21-1.3 of the Criminal Code of 1961 is continued under this  
22 Section, the court shall, as a condition of the continuance  
23 under supervision, require the minor to perform community  
24 service for not less than 30 and not more than 120 hours, if  
25 community service is available in the jurisdiction. The  
26 community service shall include, but need not be limited to,

1 the cleanup and repair of the damage that was caused by the  
2 alleged violation or similar damage to property located in the  
3 municipality or county in which the alleged violation occurred.  
4 The condition may be in addition to any other condition.

5 (8.5) When a hearing in which a minor is alleged to be a  
6 delinquent for reasons that include a violation of Section 3.02  
7 or Section 3.03 of the Humane Care for Animals Act or paragraph  
8 (d) of subsection (1) of Section 21-1 of the Criminal Code of  
9 1961 is continued under this Section, the court shall, as a  
10 condition of the continuance under supervision, require the  
11 minor to undergo medical or psychiatric treatment rendered by a  
12 psychiatrist or psychological treatment rendered by a clinical  
13 psychologist. The condition may be in addition to any other  
14 condition.

15 (9) When a hearing in which a minor is alleged to be a  
16 delinquent is continued under this Section, the court, before  
17 continuing the case, shall make a finding whether the offense  
18 alleged to have been committed either: (i) was related to or in  
19 furtherance of the activities of an organized gang or was  
20 motivated by the minor's membership in or allegiance to an  
21 organized gang, or (ii) is a violation of paragraph (13) of  
22 subsection (a) of Section 12-2 of the Criminal Code of 1961, a  
23 violation of any Section of Article 24 of the Criminal Code of  
24 1961, or a violation of any statute that involved the unlawful  
25 use of a firearm. If the court determines the question in the  
26 affirmative the court shall, as a condition of the continuance

1 under supervision and as part of or in addition to any other  
2 condition of the supervision, require the minor to perform  
3 community service for not less than 30 hours, provided that  
4 community service is available in the jurisdiction and is  
5 funded and approved by the county board of the county where the  
6 offense was committed. The community service shall include, but  
7 need not be limited to, the cleanup and repair of any damage  
8 caused by an alleged violation of Section 21-1.3 of the  
9 Criminal Code of 1961 and similar damage to property located in  
10 the municipality or county in which the alleged violation  
11 occurred. When possible and reasonable, the community service  
12 shall be performed in the minor's neighborhood. For the  
13 purposes of this Section, "organized gang" has the meaning  
14 ascribed to it in Section 10 of the Illinois Streetgang  
15 Terrorism Omnibus Prevention Act.

16 (10) The court shall impose upon a minor placed on  
17 supervision, as a condition of the supervision, a fee of \$25  
18 for each month of supervision ordered by the court, unless  
19 after determining the inability of the minor placed on  
20 supervision to pay the fee, the court assesses a lesser amount.  
21 The court may not impose the fee on a minor who is made a ward  
22 of the State under this Act while the minor is in placement.  
23 The fee shall be imposed only upon a minor who is actively  
24 supervised by the probation and court services department. A  
25 court may order the parent, guardian, or legal custodian of the  
26 minor to pay some or all of the fee on the minor's behalf.



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

2 (705 ILCS 405/5-715)

3 Sec. 5-715. Probation.

4 (1) The period of probation or conditional discharge shall  
5 not exceed 5 years or until the minor has attained the age of  
6 21 years, whichever is less, except as provided in this Section  
7 for a minor who is found to be guilty for an offense which is  
8 first degree murder, a Class X felony or a forcible felony. The  
9 juvenile court may terminate probation or conditional  
10 discharge and discharge the minor at any time if warranted by  
11 the conduct of the minor and the ends of justice; provided,  
12 however, that the period of probation for a minor who is found  
13 to be guilty for an offense which is first degree murder, a  
14 Class X felony, or a forcible felony shall be at least 5 years.

15 (2) The court may as a condition of probation or of  
16 conditional discharge require that the minor:

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

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

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

23 (d) undergo medical or psychiatric treatment, rendered  
24 by a psychiatrist or psychological treatment rendered by a  
25 clinical psychologist or social work services rendered by a

1 clinical social worker, or treatment for drug addiction or  
2 alcoholism;

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

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

6 (g) refrain from possessing a firearm or other  
7 dangerous weapon, or an automobile;

8 (h) permit the probation officer to visit him or her at  
9 his or her home or elsewhere;

10 (i) reside with his or her parents or in a foster home;

11 (j) attend school;

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

19 (k) attend a non-residential program for youth;

20 (l) make restitution under the terms of subsection (4)  
21 of Section 5-710;

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

24 (n) perform some reasonable public or community  
25 service;

26 (o) participate with community corrections programs

1 including unified delinquency intervention services  
2 administered by the Department of Human Services subject to  
3 Section 5 of the Children and Family Services Act;

4 (p) pay costs;

5 (q) serve a term of home confinement. In addition to  
6 any other applicable condition of probation or conditional  
7 discharge, the conditions of home confinement shall be that  
8 the minor:

9 (i) remain within the interior premises of the  
10 place designated for his or her confinement during the  
11 hours designated by the court;

12 (ii) admit any person or agent designated by the  
13 court into the minor's place of confinement at any time  
14 for purposes of verifying the minor's compliance with  
15 the conditions of his or her confinement; and

16 (iii) use an approved electronic monitoring device  
17 if ordered by the court subject to Article 8A of  
18 Chapter V of the Unified Code of Corrections;

19 (r) refrain from entering into a designated geographic  
20 area except upon terms as the court finds appropriate. The  
21 terms may include consideration of the purpose of the  
22 entry, the time of day, other persons accompanying the  
23 minor, and advance approval by a probation officer, if the  
24 minor has been placed on probation, or advance approval by  
25 the court, if the minor has been placed on conditional  
26 discharge;

1           (s) refrain from having any contact, directly or  
2 indirectly, with certain specified persons or particular  
3 types of persons, including but not limited to members of  
4 street gangs and drug users or dealers;

5           (s-5) undergo a medical or other procedure to have a  
6 tattoo symbolizing allegiance to a street gang removed from  
7 his or her body;

8           (t) refrain from having in his or her body the presence  
9 of any illicit drug prohibited by the Cannabis Control Act,  
10 the Illinois Controlled Substances Act, or the  
11 Methamphetamine Control and Community Protection Act,  
12 unless prescribed by a physician, and shall submit samples  
13 of his or her blood or urine or both for tests to determine  
14 the presence of any illicit drug; or

15           (u) comply with other conditions as may be ordered by  
16 the court.

17           (3) The court may as a condition of probation or of  
18 conditional discharge require that a minor found guilty on any  
19 alcohol, cannabis, methamphetamine, or controlled substance  
20 violation, refrain from acquiring a driver's license during the  
21 period of probation or conditional discharge. If the minor is  
22 in possession of a permit or license, the court may require  
23 that the minor refrain from driving or operating any motor  
24 vehicle during the period of probation or conditional  
25 discharge, except as may be necessary in the course of the  
26 minor's lawful employment.

1           (3.5) The court shall, as a condition of probation or of  
2 conditional discharge, require that a minor found to be guilty  
3 and placed on probation for reasons that include a violation of  
4 Section 3.02 or Section 3.03 of the Humane Care for Animals Act  
5 or paragraph (d) of subsection (1) of Section 21-1 of the  
6 Criminal Code of 1961 undergo medical or psychiatric treatment  
7 rendered by a psychiatrist or psychological treatment rendered  
8 by a clinical psychologist. The condition may be in addition to  
9 any other condition.

10          (3.10) The court shall order that a minor placed on  
11 probation or conditional discharge for a sex offense as defined  
12 in the Sex Offender Management Board Act undergo and  
13 successfully complete sex offender treatment. The treatment  
14 shall be in conformance with the standards developed under the  
15 Sex Offender Management Board Act and conducted by a treatment  
16 provider approved by the Board. The treatment shall be at the  
17 expense of the person evaluated based upon that person's  
18 ability to pay for the treatment.

19          (4) A minor on probation or conditional discharge shall be  
20 given a certificate setting forth the conditions upon which he  
21 or she is being released.

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

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

9 (6) The General Assembly finds that in order to protect the  
10 public, the juvenile justice system must compel compliance with  
11 the conditions of probation by responding to violations with  
12 swift, certain, and fair punishments and intermediate  
13 sanctions. The Chief Judge of each circuit shall adopt a system  
14 of structured, intermediate sanctions for violations of the  
15 terms and conditions of a sentence of supervision, probation or  
16 conditional discharge, under this Act.

17 The court shall provide as a condition of a disposition of  
18 probation, conditional discharge, or supervision, that the  
19 probation agency may invoke any sanction from the list of  
20 intermediate sanctions adopted by the chief judge of the  
21 circuit court for violations of the terms and conditions of the  
22 sentence of probation, conditional discharge, or supervision,  
23 subject to the provisions of Section 5-720 of this Act.

24 (7) At the successful completion of probation, a minor may  
25 move to vacate a finding of delinquency. Unless good cause is  
26 shown, such motion to vacate must be filed within 30 days of

1 the entry of the order terminating probation or discharging the  
2 minor. The court shall on its own motion or on motion of the  
3 minor, his or her parent, guardian, or legal custodian vacate  
4 any finding made in the course of a proceeding under this  
5 Article.

6 (8) A motion to vacate a finding of delinquency under this  
7 Section is limited to minors:

8 (A) with no previous findings of delinquency;

9 (B) who have successfully completed the terms and  
10 conditions of probation;

11 (C) with no other matters pending; and

12 (D) without any other findings or convictions.

13 This subsection (8) does not apply to adjudications based  
14 upon first degree murder or sex offenses which would be  
15 felonies if committed by an adult.

16 (9) The Court shall consider among other factors:

17 (A) the nature and seriousness of the alleged offense;

18 (B) history and characteristics of the defendant;

19 (C) academic performance and recommendations;

20 (D) work performance and recommendations;

21 (E) recommendations from treatment or service  
22 providers;

23 (F) restitution;

24 (G) maturity;

25 (H) age at the time of the offense; and

26 (I) probation or youth officer recommendation, or

1       both.

2       (10) Once a motion to vacate a finding of delinquency has  
3 been granted, the case shall be treated as if it never  
4 occurred, and the person may not be required to disclose that  
5 he or she had a juvenile record.

6       (11) This amendatory Act of the 96th General Assembly shall  
7 govern all motions pending at the time of its effective date.

8       (Source: P.A. 93-616, eff. 1-1-04; 94-556, eff. 9-11-05.)

9       Section 99. Effective date. This Act takes effect upon  
10 becoming law.