

HB6310



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

HB6310

Introduced 2/11/2016, by Rep. Kelly M. Cassidy

SYNOPSIS AS INTRODUCED:

705 ILCS 405/5-750

Amends the Juvenile Court Act of 1987. Provides that commitment to the Department of Juvenile Justice shall only be entered at the original sentencing hearing where the juvenile was found guilty of a felony offense, and not as a sentence for revocation of probation. Provides that the length of commitment to the Department of Juvenile Justice shall be proportionate to the underlying offense, and proportionate to sentences for minors who are similarly situated.

LRB099 18839 SLF 43224 b

A BILL FOR

1 AN ACT concerning courts.

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

4 Section 5. The Juvenile Court Act of 1987 is amended by
5 changing Section 5-750 as follows:

6 (705 ILCS 405/5-750)

7 Sec. 5-750. Commitment to the Department of Juvenile
8 Justice.

9 (1) Except as provided in subsection (2) of this Section,
10 when any delinquent has been adjudged a ward of the court under
11 this Act, the court may commit him or her to the Department of
12 Juvenile Justice, if it finds that (a) his or her parents,
13 guardian or legal custodian are unfit or are unable, for some
14 reason other than financial circumstances alone, to care for,
15 protect, train or discipline the minor, or are unwilling to do
16 so, and the best interests of the minor and the public will not
17 be served by placement under Section 5-740, or it is necessary
18 to ensure the protection of the public from the consequences of
19 criminal activity of the delinquent; and (b) commitment to the
20 Department of Juvenile Justice is the least restrictive
21 alternative based on evidence that efforts were made to locate
22 less restrictive alternatives to secure confinement and the
23 reasons why efforts were unsuccessful in locating a less

1 restrictive alternative to secure confinement. Commitment to
2 the Department of Juvenile Justice shall only be entered at the
3 sentencing hearing from an original finding of delinquency,
4 based on a finding of guilty of a felony offense, and not as a
5 sentence for revocation of probation. The length of commitment
6 to the Department of Juvenile Justice shall be proportionate to
7 the underlying offense, and proportionate to sentences for
8 minors who are similarly situated. Before the court commits a
9 minor to the Department of Juvenile Justice, it shall make a
10 finding that secure confinement is necessary, following a
11 review of the following individualized factors:

12 (A) Age of the minor.

13 (B) Criminal background of the minor.

14 (C) Review of results of any assessments of the minor,
15 including child centered assessments such as the CANS.

16 (D) Educational background of the minor, indicating
17 whether the minor has ever been assessed for a learning
18 disability, and if so what services were provided as well
19 as any disciplinary incidents at school.

20 (E) Physical, mental and emotional health of the minor,
21 indicating whether the minor has ever been diagnosed with a
22 health issue and if so what services were provided and
23 whether the minor was compliant with services.

24 (F) Community based services that have been provided to
25 the minor, and whether the minor was compliant with the
26 services, and the reason the services were unsuccessful.

1 (G) Services within the Department of Juvenile Justice
2 that will meet the individualized needs of the minor.

3 (1.5) Before the court commits a minor to the Department of
4 Juvenile Justice, the court must find reasonable efforts have
5 been made to prevent or eliminate the need for the minor to be
6 removed from the home, or reasonable efforts cannot, at this
7 time, for good cause, prevent or eliminate the need for
8 removal, and removal from home is in the best interests of the
9 minor, the minor's family, and the public.

10 (2) When a minor of the age of at least 13 years is
11 adjudged delinquent for the offense of first degree murder, the
12 court shall declare the minor a ward of the court and order the
13 minor committed to the Department of Juvenile Justice until the
14 minor's 21st birthday, without the possibility of aftercare
15 release, furlough, or non-emergency authorized absence for a
16 period of 5 years from the date the minor was committed to the
17 Department of Juvenile Justice, except that the time that a
18 minor spent in custody for the instant offense before being
19 committed to the Department of Juvenile Justice shall be
20 considered as time credited towards that 5 year period. Upon
21 release from a Department facility, a minor adjudged delinquent
22 for first degree murder shall be placed on aftercare release
23 until the age of 21, unless sooner discharged from aftercare
24 release or custodianship is otherwise terminated in accordance
25 with this Act or as otherwise provided for by law. Nothing in
26 this subsection (2) shall preclude the State's Attorney from

1 seeking to prosecute a minor as an adult as an alternative to
2 proceeding under this Act.

3 (3) Except as provided in subsection (2), the commitment of
4 a delinquent to the Department of Juvenile Justice shall be for
5 an indeterminate term which shall automatically terminate upon
6 the delinquent attaining the age of 21 years or upon completion
7 of that period for which an adult could be committed for the
8 same act, whichever occurs sooner, unless the delinquent is
9 sooner discharged from aftercare release or custodianship is
10 otherwise terminated in accordance with this Act or as
11 otherwise provided for by law.

12 (3.5) Every delinquent minor committed to the Department of
13 Juvenile Justice under this Act shall be eligible for aftercare
14 release without regard to the length of time the minor has been
15 confined or whether the minor has served any minimum term
16 imposed. Aftercare release shall be administered by the
17 Department of Juvenile Justice, under the direction of the
18 Director. Unless sooner discharged, the Department of Juvenile
19 Justice shall discharge a minor from aftercare release upon
20 completion of the following aftercare release terms:

21 (a) One and a half years from the date a minor is
22 released from a Department facility, if the minor was
23 committed for a Class X felony;

24 (b) One year from the date a minor is released from a
25 Department facility, if the minor was committed for a Class
26 1 or 2 felony; and

1 (c) Six months from the date a minor is released from a
2 Department facility, if the minor was committed for a Class
3 3 felony or lesser offense.

4 (4) When the court commits a minor to the Department of
5 Juvenile Justice, it shall order him or her conveyed forthwith
6 to the appropriate reception station or other place designated
7 by the Department of Juvenile Justice, and shall appoint the
8 Director of Juvenile Justice legal custodian of the minor. The
9 clerk of the court shall issue to the Director of Juvenile
10 Justice a certified copy of the order, which constitutes proof
11 of the Director's authority. No other process need issue to
12 warrant the keeping of the minor.

13 (5) If a minor is committed to the Department of Juvenile
14 Justice, the clerk of the court shall forward to the
15 Department:

16 (a) the sentencing order;

17 (b) all reports;

18 (c) the court's statement of the basis for ordering the
19 disposition;

20 (d) any sex offender evaluations;

21 (e) any risk assessment or substance abuse treatment
22 eligibility screening and assessment of the minor by an
23 agent designated by the State to provide assessment
24 services for the courts;

25 (f) the number of days, if any, which the minor has
26 been in custody and for which he or she is entitled to

1 credit against the sentence, which information shall be
2 provided to the clerk by the sheriff;

3 (g) any medical or mental health records or summaries
4 of the minor;

5 (h) the municipality where the arrest of the minor
6 occurred, the commission of the offense occurred, and the
7 minor resided at the time of commission; and

8 (i) all additional matters which the court directs the
9 clerk to transmit.

10 (6) Whenever the Department of Juvenile Justice lawfully
11 discharges from its custody and control a minor committed to
12 it, the Director of Juvenile Justice shall petition the court
13 for an order terminating his or her custodianship. The
14 custodianship shall terminate automatically 30 days after
15 receipt of the petition unless the court orders otherwise.

16 (7) If, while on aftercare release, a minor committed to
17 the Department of Juvenile Justice is charged under the
18 criminal laws of this State with an offense that could result
19 in a sentence of imprisonment within the Department of
20 Corrections, the commitment to the Department of Juvenile
21 Justice and all rights and duties created by that commitment
22 are automatically suspended pending final disposition of the
23 criminal charge. If the minor is found guilty of the criminal
24 charge and sentenced to a term of imprisonment in the
25 penitentiary system of the Department of Corrections, the
26 commitment to the Department of Juvenile Justice shall be

1 automatically terminated. If the criminal charge is dismissed,
2 the minor is found not guilty, or the minor completes a
3 criminal sentence other than imprisonment within the
4 Department of Corrections, the previously imposed commitment
5 to the Department of Juvenile Justice and the full aftercare
6 release term shall be automatically reinstated unless
7 custodianship is sooner terminated. Nothing in this subsection
8 (7) shall preclude the court from ordering another sentence
9 under Section 5-710 of this Act or from terminating the
10 Department's custodianship while the commitment to the
11 Department is suspended.

12 (Source: P.A. 98-558, eff. 1-1-14; 99-268, eff. 1-1-16.)