

1 AN ACT in relation to minors.

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 5-130 as follows:

6 (705 ILCS 405/5-130)

7 Sec. 5-130. Excluded jurisdiction.

8 (1) (a) The definition of delinquent minor under Section  
9 5-120 of this Article shall not apply to any minor who at the  
10 time of an offense was at least 15 years of age and who is  
11 charged with first degree murder, aggravated criminal sexual  
12 assault, aggravated battery with a firearm committed in a  
13 school, on the real property comprising a school, within  
14 1,000 feet of the real property comprising a school, at a  
15 school related activity, or on, boarding, or departing from  
16 any conveyance owned, leased, or contracted by a school or  
17 school district to transport students to or from school or a  
18 school related activity regardless of the time of day or time  
19 of year that the offense was committed, armed robbery when  
20 the armed robbery was committed with a firearm, or aggravated  
21 vehicular hijacking when the hijacking was committed with a  
22 firearm.

23 These charges and all other charges arising out of the  
24 same incident shall be prosecuted under the criminal laws of  
25 this State.

26 For purposes of this paragraph (a) of subsection (1):

27 "School" means a public or private elementary or  
28 secondary school, community college, college, or university.

29 "School related activity" means any sporting, social,  
30 academic or other activity for which students' attendance or  
31 participation is sponsored, organized, or funded in whole or

1 in part by a school or school district.

2 (b) (i) If before trial or plea an information or  
3 indictment is filed that does not charge an offense specified  
4 in paragraph (a) of this subsection (1) the State's Attorney  
5 may proceed on any lesser charge or charges, but only in  
6 Juvenile Court under the provisions of this Article. The  
7 State's Attorney may proceed under the Criminal Code of 1961  
8 on a lesser charge if before trial the minor defendant  
9 knowingly and with advice of counsel waives, in writing, his  
10 or her right to have the matter proceed in Juvenile Court.

11 (ii) If before trial or plea an information or  
12 indictment is filed that includes one or more charges  
13 specified in paragraph (a) of this subsection (1) and  
14 additional charges that are not specified in that paragraph,  
15 all of the charges arising out of the same incident shall be  
16 prosecuted under the Criminal Code of 1961.

17 (c) (i) If after trial or plea the minor is convicted of  
18 any offense covered by paragraph (a) of this subsection (1),  
19 then, in sentencing the minor, the court shall have available  
20 any or all dispositions prescribed for that offense under  
21 Chapter V of the Unified Code of Corrections.

22 (ii) If after trial or plea the court finds that the  
23 minor committed an offense not covered by paragraph (a) of  
24 this subsection (1), that finding shall not invalidate the  
25 verdict or the prosecution of the minor under the criminal  
26 laws of the State; however, unless the State requests a  
27 hearing for the purpose of sentencing the minor under Chapter  
28 V of the Unified Code of Corrections, the Court must proceed  
29 under Sections 5-705 and 5-710 of this Article. To request a  
30 hearing, the State must file a written motion within 10 days  
31 following the entry of a finding or the return of a verdict.  
32 Reasonable notice of the motion shall be given to the minor  
33 or his or her counsel. If the motion is made by the State,  
34 the court shall conduct a hearing to determine if the minor

1 should be sentenced under Chapter V of the Unified Code of  
 2 Corrections. In making its determination, the court shall  
 3 consider among other matters: (a) whether there is evidence  
 4 that the offense was committed in an aggressive and  
 5 premeditated manner; (b) the age of the minor; (c) the  
 6 previous history of the minor; (d) whether there are  
 7 facilities particularly available to the Juvenile Court or  
 8 the Department of Corrections, Juvenile Division, for the  
 9 treatment and rehabilitation of the minor; (e) whether the  
 10 security of the public requires sentencing under Chapter V of  
 11 the Unified Code of Corrections; and (f) whether the minor  
 12 possessed a deadly weapon when committing the offense. The  
 13 rules of evidence shall be the same as if at trial. If after  
 14 the hearing the court finds that the minor should be  
 15 sentenced under Chapter V of the Unified Code of Corrections,  
 16 then the court shall sentence the minor accordingly having  
 17 available to it any or all dispositions so prescribed.

18 (2) (Blank). ~~(a) -- The definition of a delinquent minor~~  
 19 ~~under Section 5-120 of this Article shall not apply to any~~  
 20 ~~minor who at the time of the offense was at least 15 years of~~  
 21 ~~age and who is charged with an offense under Section 401 of~~  
 22 ~~the Illinois Controlled Substances Act, while in a school,~~  
 23 ~~regardless of the time of day or the time of year, or any~~  
 24 ~~conveyance owned, leased or contracted by a school to~~  
 25 ~~transport students to or from school or a school-related~~  
 26 ~~activity, or residential property owned, operated or managed~~  
 27 ~~by a public housing agency or leased by a public housing~~  
 28 ~~agency as part of a scattered site or mixed-income~~  
 29 ~~development, on the real property comprising any school,~~  
 30 ~~regardless of the time of day or the time of year, or~~  
 31 ~~residential property owned, operated or managed by a public~~  
 32 ~~housing agency or leased by a public housing agency as part~~  
 33 ~~of a scattered site or mixed-income development, or on a~~  
 34 ~~public way within 1,000 feet of the real property comprising~~

1 any--school,--regardless--of--the--time-of-day-or-the-time-of  
2 year,--or-residential-property-owned,--operated-or-managed-by-a  
3 public-housing-agency-or-leased-by-a-public-housing-agency-as  
4 part-of-a-scattered-site-or-mixed-income-development.--School  
5 is--defined,--for-the-purposes-of-this-Section,--as-any-public  
6 or-private-elementary-or-secondary-school,--community-college,  
7 college,--or-university.--These-charges-and-all-other--charges  
8 arising--out--of--the-same-incident-shall-be-prosecuted-under  
9 the-criminal-laws-of-this-State.

10 (b)-(i)--If--before--trial--or--plea--an--information--or  
11 indictment-is-filed-that-does-not-charge-an-offense-specified  
12 in-paragraph-(a)-of-this-subsection-(2)-the-State's--Attorney  
13 may--proceed--on--any--lesser--charge-or-charges,--but-only-in  
14 Juvenile-Court-under-the-provisions--of--this--Article.---The  
15 State's--Attorney-may-proceed-under-the-criminal-laws-of-this  
16 State-on-a-lesser-charge-if-before-trial-the-minor--defendant  
17 knowingly--and-with-advice-of-counsel-waives,--in-writing,--his  
18 or-her-right-to-have-the-matter-proceed-in-Juvenile-Court.

19 (ii)--If--before--trial--or--plea--an--information--or  
20 indictment--is--filed--that--includes--one--or--more--charges  
21 specified--in--paragraph--(a)--of--this--subsubsection--(2)--and  
22 additional--charges-that-are-not-specified-in-that-paragraph,  
23 all-of-the-charges-arising-out-of-the-same-incident-shall--be  
24 prosecuted-under-the-criminal-laws-of-this-State.

25 (c)-(i)--If-after-trial-or-plea-the-minor-is-convicted-of  
26 any--offense-covered-by-paragraph-(a)-of-this-subsubsection-(2),  
27 then,--in-sentencing-the-minor,--the-court-shall-have-available  
28 any-or-all-dispositions-prescribed--for--that--offense--under  
29 Chapter-V-of-the-Unified-Code-of-Corrections.

30 (ii)--If--after--trial--or--plea-the-court-finds-that-the  
31 minor-committed-an-offense-not-covered-by--paragraph--(a)--of  
32 this--subsubsection--(2),--that-finding-shall-not-invalidate-the  
33 verdict-or-the-prosecution-of-the-minor--under--the--criminal  
34 laws--of--the--State;--however,--unless-the-State-requests-a

1 hearing for the purpose of sentencing the minor under Chapter  
2 V of the Unified Code of Corrections, the Court must proceed  
3 under Sections 5-705 and 5-710 of this Article. To request a  
4 hearing, the State must file a written motion within 10 days  
5 following the entry of a finding or the return of a verdict.  
6 Reasonable notice of the motion shall be given to the minor  
7 or his or her counsel. If the motion is made by the State,  
8 the court shall conduct a hearing to determine if the minor  
9 should be sentenced under Chapter V of the Unified Code of  
10 Corrections. In making its determination, the court shall  
11 consider among other matters: (a) whether there is evidence  
12 that the offense was committed in an aggressive and  
13 premeditated manner; (b) the age of the minor; (c) the  
14 previous history of the minor; (d) whether there are  
15 facilities particularly available to the Juvenile Court or  
16 the Department of Corrections, Juvenile Division, for the  
17 treatment and rehabilitation of the minor; (e) whether the  
18 security of the public requires sentencing under Chapter V of  
19 the Unified Code of Corrections; and (f) whether the minor  
20 possessed a deadly weapon when committing the offense. The  
21 rules of evidence shall be the same as if at trial. If after  
22 the hearing the court finds that the minor should be  
23 sentenced under Chapter V of the Unified Code of Corrections,  
24 then the court shall sentence the minor accordingly having  
25 available to it any or all dispositions so prescribed.

26 (3) (a) The definition of delinquent minor under Section  
27 5-120 of this Article shall not apply to any minor who at the  
28 time of the offense was at least 15 years of age and who is  
29 charged with a violation of the provisions of paragraph (1),  
30 (3), (4), or (10) of subsection (a) of Section 24-1 of the  
31 Criminal Code of 1961 while in school, regardless of the time  
32 of day or the time of year, or on the real property  
33 comprising any school, regardless of the time of day or the  
34 time of year. School is defined, for purposes of this Section

1 as any public or private elementary or secondary school,  
2 community college, college, or university. These charges and  
3 all other charges arising out of the same incident shall be  
4 prosecuted under the criminal laws of this State.

5 (b) (i) If before trial or plea an information or  
6 indictment is filed that does not charge an offense specified  
7 in paragraph (a) of this subsection (3) the State's Attorney  
8 may proceed on any lesser charge or charges, but only in  
9 Juvenile Court under the provisions of this Article. The  
10 State's Attorney may proceed under the criminal laws of this  
11 State on a lesser charge if before trial the minor defendant  
12 knowingly and with advice of counsel waives, in writing, his  
13 or her right to have the matter proceed in Juvenile Court.

14 (ii) If before trial or plea an information or  
15 indictment is filed that includes one or more charges  
16 specified in paragraph (a) of this subsection (3) and  
17 additional charges that are not specified in that paragraph,  
18 all of the charges arising out of the same incident shall be  
19 prosecuted under the criminal laws of this State.

20 (c) (i) If after trial or plea the minor is convicted of  
21 any offense covered by paragraph (a) of this subsection (3),  
22 then, in sentencing the minor, the court shall have available  
23 any or all dispositions prescribed for that offense under  
24 Chapter V of the Unified Code of Corrections.

25 (ii) If after trial or plea the court finds that the  
26 minor committed an offense not covered by paragraph (a) of  
27 this subsection (3), that finding shall not invalidate the  
28 verdict or the prosecution of the minor under the criminal  
29 laws of the State; however, unless the State requests a  
30 hearing for the purpose of sentencing the minor under Chapter  
31 V of the Unified Code of Corrections, the Court must proceed  
32 under Sections 5-705 and 5-710 of this Article. To request a  
33 hearing, the State must file a written motion within 10 days  
34 following the entry of a finding or the return of a verdict.

1 Reasonable notice of the motion shall be given to the minor  
2 or his or her counsel. If the motion is made by the State,  
3 the court shall conduct a hearing to determine if the minor  
4 should be sentenced under Chapter V of the Unified Code of  
5 Corrections. In making its determination, the court shall  
6 consider among other matters: (a) whether there is evidence  
7 that the offense was committed in an aggressive and  
8 premeditated manner; (b) the age of the minor; (c) the  
9 previous history of the minor; (d) whether there are  
10 facilities particularly available to the Juvenile Court or  
11 the Department of Corrections, Juvenile Division, for the  
12 treatment and rehabilitation of the minor; (e) whether the  
13 security of the public requires sentencing under Chapter V of  
14 the Unified Code of Corrections; and (f) whether the minor  
15 possessed a deadly weapon when committing the offense. The  
16 rules of evidence shall be the same as if at trial. If after  
17 the hearing the court finds that the minor should be  
18 sentenced under Chapter V of the Unified Code of Corrections,  
19 then the court shall sentence the minor accordingly having  
20 available to it any or all dispositions so prescribed.

21 (4) (a) The definition of delinquent minor under Section  
22 5-120 of this Article shall not apply to any minor who at the  
23 time of an offense was at least 13 years of age and who is  
24 charged with first degree murder committed during the course  
25 of either aggravated criminal sexual assault, criminal sexual  
26 assault, or aggravated kidnaping. However, this subsection  
27 (4) does not include a minor charged with first degree murder  
28 based exclusively upon the accountability provisions of the  
29 Criminal Code of 1961.

30 (b) (i) If before trial or plea an information or  
31 indictment is filed that does not charge first degree murder  
32 committed during the course of aggravated criminal sexual  
33 assault, criminal sexual assault, or aggravated kidnaping,  
34 the State's Attorney may proceed on any lesser charge or

1 charges, but only in Juvenile Court under the provisions of  
2 this Article. The State's Attorney may proceed under the  
3 criminal laws of this State on a lesser charge if before  
4 trial the minor defendant knowingly and with advice of  
5 counsel waives, in writing, his or her right to have the  
6 matter proceed in Juvenile Court.

7 (ii) If before trial or plea an information or  
8 indictment is filed that includes first degree murder  
9 committed during the course of aggravated criminal sexual  
10 assault, criminal sexual assault, or aggravated kidnaping,  
11 and additional charges that are not specified in paragraph  
12 (a) of this subsection, all of the charges arising out of the  
13 same incident shall be prosecuted under the criminal laws of  
14 this State.

15 (c) (i) If after trial or plea the minor is convicted of  
16 first degree murder committed during the course of aggravated  
17 criminal sexual assault, criminal sexual assault, or  
18 aggravated kidnaping, in sentencing the minor, the court  
19 shall have available any or all dispositions prescribed for  
20 that offense under Chapter V of the Unified Code of  
21 Corrections.

22 (ii) If the minor was not yet 15 years of age at the  
23 time of the offense, and if after trial or plea the court  
24 finds that the minor committed an offense other than first  
25 degree murder committed during the course of either  
26 aggravated criminal sexual assault, criminal sexual assault,  
27 or aggravated kidnaping, the finding shall not invalidate  
28 the verdict or the prosecution of the minor under the  
29 criminal laws of the State; however, unless the State  
30 requests a hearing for the purpose of sentencing the minor  
31 under Chapter V of the Unified Code of Corrections, the Court  
32 must proceed under Sections 5-705 and 5-710 of this Article.  
33 To request a hearing, the State must file a written motion  
34 within 10 days following the entry of a finding or the return



1 of a verdict. Reasonable notice of the motion shall be given  
2 to the minor or his or her counsel. If the motion is made by  
3 the State, the court shall conduct a hearing to determine  
4 whether the minor should be sentenced under Chapter V of the  
5 Unified Code of Corrections. In making its determination,  
6 the court shall consider among other matters: (a) whether  
7 there is evidence that the offense was committed in an  
8 aggressive and premeditated manner; (b) the age of the  
9 minor; (c) the previous delinquent history of the minor;  
10 (d) whether there are facilities particularly available to  
11 the Juvenile Court or the Department of Corrections, Juvenile  
12 Division, for the treatment and rehabilitation of the minor;  
13 (e) whether the best interest of the minor and the security  
14 of the public require sentencing under Chapter V of the  
15 Unified Code of Corrections; and (f) whether the minor  
16 possessed a deadly weapon when committing the offense. The  
17 rules of evidence shall be the same as if at trial. If after  
18 the hearing the court finds that the minor should be  
19 sentenced under Chapter V of the Unified Code of Corrections,  
20 then the court shall sentence the minor accordingly having  
21 available to it any or all dispositions so prescribed.

22 (5) (a) The definition of delinquent minor under Section  
23 5-120 of this Article shall not apply to any minor who is  
24 charged with a violation of subsection (a) of Section 31-6 or  
25 Section 32-10 of the Criminal Code of 1961 when the minor is  
26 subject to prosecution under the criminal laws of this State  
27 as a result of the application of the provisions of Section  
28 5-125, or subsection (1) or (2) of this Section. These  
29 charges and all other charges arising out of the same  
30 incident shall be prosecuted under the criminal laws of this  
31 State.

32 (b) (i) If before trial or plea an information or  
33 indictment is filed that does not charge an offense specified  
34 in paragraph (a) of this subsection (5), the State's Attorney

1 may proceed on any lesser charge or charges, but only in  
2 Juvenile Court under the provisions of this Article. The  
3 State's Attorney may proceed under the criminal laws of this  
4 State on a lesser charge if before trial the minor defendant  
5 knowingly and with advice of counsel waives, in writing, his  
6 or her right to have the matter proceed in Juvenile Court.

7 (ii) If before trial or plea an information or  
8 indictment is filed that includes one or more charges  
9 specified in paragraph (a) of this subsection (5) and  
10 additional charges that are not specified in that paragraph,  
11 all of the charges arising out of the same incident shall be  
12 prosecuted under the criminal laws of this State.

13 (c) (i) If after trial or plea the minor is convicted of  
14 any offense covered by paragraph (a) of this subsection (5),  
15 then, in sentencing the minor, the court shall have available  
16 any or all dispositions prescribed for that offense under  
17 Chapter V of the Unified Code of Corrections.

18 (ii) If after trial or plea the court finds that the  
19 minor committed an offense not covered by paragraph (a) of  
20 this subsection (5), the conviction shall not invalidate the  
21 verdict or the prosecution of the minor under the criminal  
22 laws of this State; however, unless the State requests a  
23 hearing for the purpose of sentencing the minor under Chapter  
24 V of the Unified Code of Corrections, the Court must proceed  
25 under Sections 5-705 and 5-710 of this Article. To request a  
26 hearing, the State must file a written motion within 10 days  
27 following the entry of a finding or the return of a verdict.  
28 Reasonable notice of the motion shall be given to the minor  
29 or his or her counsel. If the motion is made by the State,  
30 the court shall conduct a hearing to determine if whether the  
31 minor should be sentenced under Chapter V of the Unified Code  
32 of Corrections. In making its determination, the court shall  
33 consider among other matters: (a) whether there is evidence  
34 that the offense was committed in an aggressive and

1 premeditated manner; (b) the age of the minor; (c) the  
2 previous delinquent history of the minor; (d) whether there  
3 are facilities particularly available to the Juvenile Court  
4 or the Department of Corrections, Juvenile Division, for the  
5 treatment and rehabilitation of the minor; (e) whether the  
6 security of the public requires sentencing under Chapter V of  
7 the Unified Code of Corrections; and (f) whether the minor  
8 possessed a deadly weapon when committing the offense. The  
9 rules of evidence shall be the same as if at trial. If after  
10 the hearing the court finds that the minor should be  
11 sentenced under Chapter V of the Unified Code of Corrections,  
12 then the court shall sentence the minor accordingly having  
13 available to it any or all dispositions so prescribed.

14 (6) The definition of delinquent minor under Section  
15 5-120 of this Article shall not apply to any minor who,  
16 pursuant to subsection (1), (2), or (3) or Section 5-805, or  
17 5-810, has previously been placed under the jurisdiction of  
18 the criminal court and has been convicted of a crime under an  
19 adult criminal or penal statute. Such a minor shall be  
20 subject to prosecution under the criminal laws of this State.

21 (7) The procedures set out in this Article for the  
22 investigation, arrest and prosecution of juvenile offenders  
23 shall not apply to minors who are excluded from jurisdiction  
24 of the Juvenile Court, except that minors under 17 years of  
25 age shall be kept separate from confined adults.

26 (8) Nothing in this Act prohibits or limits the  
27 prosecution of any minor for an offense committed on or after  
28 his or her 17th birthday even though he or she is at the time  
29 of the offense a ward of the court.

30 (9) If an original petition for adjudication of wardship  
31 alleges the commission by a minor 13 years of age or over of  
32 an act that constitutes a crime under the laws of this State,  
33 the minor, with the consent of his or her counsel, may, at  
34 any time before commencement of the adjudicatory hearing,

1 file with the court a motion that criminal prosecution be  
2 ordered and that the petition be dismissed insofar as the act  
3 or acts involved in the criminal proceedings are concerned.  
4 If such a motion is filed as herein provided, the court shall  
5 enter its order accordingly.

6 (Source: P.A. 90-590, eff. 1-1-99; 91-15, eff. 1-1-00;  
7 91-673, eff. 12-22-99; revised 1-7-00.)

8 Section 99. Effective date. This Act takes effect July  
9 1, 2001.