

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) (a) The definition of a delinquent minor under
19 Section 5-120 of this Article shall not apply to any minor
20 who at the time of the offense was at least 15 years of age
21 and who is charged with an offense under Section 401 of the
22 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 subsection (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 subsection (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 subsection (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

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

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

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

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

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

1 following the entry of a finding or the return of a verdict.
2 Reasonable notice of the motion shall be given to the minor
3 or his or her counsel. If the motion is made by the State,
4 the court shall conduct a hearing to determine if the minor
5 should be sentenced under Chapter V of the Unified Code of
6 Corrections. In making its determination, the court shall
7 consider among other matters: (a) whether there is evidence
8 that the offense was committed in an aggressive and
9 premeditated manner; (b) the age of the minor; (c) the
10 previous history of the minor; (d) whether there are
11 facilities particularly available to the Juvenile Court or
12 the Department of Corrections, Juvenile Division, for the
13 treatment and rehabilitation of the minor; (e) whether the
14 security of the public requires sentencing under Chapter V of
15 the 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 (4) (a) The definition of delinquent minor under Section
23 5-120 of this Article shall not apply to any minor who at the
24 time of an offense was at least 13 years of age and who is
25 charged with first degree murder committed during the course
26 of either aggravated criminal sexual assault, criminal sexual
27 assault, or aggravated kidnaping. However, this subsection
28 (4) does not include a minor charged with first degree murder
29 based exclusively upon the accountability provisions of the
30 Criminal Code of 1961.

31 (b) (i) If before trial or plea an information or
32 indictment is filed that does not charge first degree murder
33 committed during the course of aggravated criminal sexual
34 assault, criminal sexual assault, or aggravated kidnaping,

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

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

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

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

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

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

33 (b) (i) If before trial or plea an information or
34 indictment is filed that does not charge an offense specified

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

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

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

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

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

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

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

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

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

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

7 (10) Before trial, any party including the minor or the
8 court sua sponte may move for a hearing for the purpose of
9 trying and sentencing the minor as a delinquent minor. To
10 request a hearing, the party must file a motion prior to
11 trial. Reasonable notice of the motion shall be given to all
12 parties. On its own motion or upon the filing of a motion by
13 one of the parties including the minor, the court shall
14 conduct a hearing to determine whether the minor should be
15 tried and sentenced as a delinquent minor under this Article.
16 In making its determination, the court shall consider among
17 other matters:

18 (a) The age of the minor;

19 (b) Any previous delinquent or criminal history of the
20 minor;

21 (c) Any previous abuse or neglect history of the minor;

22 (d) Any mental health or educational history of the
23 minor, or both;

24 (e) Whether there is probable cause to support the
25 charge, whether the minor is charged through accountability,
26 and whether there is evidence the minor possessed a deadly
27 weapon or caused serious bodily harm during the offense;

28 (f) Whether there are resources particularly available
29 to the Juvenile Court or the Department of Corrections,
30 Juvenile Division for the treatment and rehabilitation of the
31 minor.

32 The rules of evidence shall be the same as if at trial.
33 If after hearing the evidence the court finds that the minor
34 has no previous delinquent or criminal history and the minor

1 is charged with an offense under Section 401 of the Illinois
2 Controlled Substances Act, there is a rebuttable presumption
3 that the minor is a fit and proper subject to be dealt with
4 as a delinquent minor under this Article. In all other cases,
5 the judge shall enter an order permitting prosecution under
6 the criminal laws of Illinois unless the judge makes a
7 finding based on a preponderance of the evidence that the
8 minor would be amenable to the care, treatment, and training
9 programs available through the facilities of the juvenile
10 court based on an evaluation of the factors listed in this
11 subsection (10).

12 (Source: P.A. 91-15, eff. 1-1-00; 91-673, eff. 12-22-99;
13 92-16, eff. 6-28-01.)