

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. This subsection (1) does not apply to a minor
23 charged with aggravated battery with a firearm based
24 exclusively upon the accountability provisions of Section 5-2
25 of the Criminal Code of 1961.

26 These charges and all other charges arising out of the
27 same incident shall be prosecuted under the criminal laws of
28 this State.

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

30 "School" means a public or private elementary or
31 secondary school, community college, college, or university.

1 "School related activity" means any sporting, social,
2 academic or other activity for which students' attendance or
3 participation is sponsored, organized, or funded in whole or
4 in part by a school or school district.

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 (1) 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 Code of 1961
11 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 (1) 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 Code of 1961.

20 (c) (i) If after trial or plea the minor is convicted of
21 any offense covered by paragraph (a) of this subsection (1),
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 (1), 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 (2) (a) The definition of a delinquent minor under
22 Section 5-120 of this Article shall not apply to any minor
23 who at the time of the offense was at least 15 years of age
24 and who is charged with an offense under Section 401 of the
25 Illinois Controlled Substances Act when that offense is
26 committed by delivering a controlled substance, or who is
27 charged with an offense under Section 401.1, Section 405, or
28 Section 405.1 of the Illinois Controlled Substances Act,
29 while in a school, regardless of the time of day or the time
30 of year, or any conveyance owned, leased or contracted by a
31 school to transport students to or from school or a school
32 related activity, or residential property owned, operated or
33 managed by a public housing agency or leased by a public
34 housing agency as part of a scattered site or mixed-income

1 development, on the real property comprising any school,
2 regardless of the time of day or the time of year, or
3 residential property owned, operated or managed by a public
4 housing agency or leased by a public housing agency as part
5 of a scattered site or mixed-income development, or on a
6 public way within 1,000 feet of the real property comprising
7 any school, regardless of the time of day or the time of
8 year, or residential property owned, operated or managed by a
9 public housing agency or leased by a public housing agency as
10 part of a scattered site or mixed-income development. School
11 is defined, for the purposes of this Section, as any public
12 or private elementary or secondary school, community college,
13 college, or university. These charges and all other charges
14 arising out of the same incident shall be prosecuted under
15 the criminal laws of this State.

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

25 (ii) If before trial or plea an information or
26 indictment is filed that includes one or more charges
27 specified in paragraph (a) of this subsection (2) and
28 additional charges that are not specified in that paragraph,
29 all of the charges arising out of the same incident shall be
30 prosecuted under the criminal laws of this State.

31 (c) (i) If after trial or plea the minor is convicted of
32 any offense covered by paragraph (a) of this subsection (2),
33 then, in sentencing the minor, the court shall have available
34 any or all dispositions prescribed for that offense under

1 Chapter V of the Unified Code of Corrections.

2 (ii) If after trial or plea the court finds that the
3 minor committed an offense not covered by paragraph (a) of
4 this subsection (2), that finding shall not invalidate the
5 verdict or the prosecution of the minor under the criminal
6 laws of the State; however, unless the State requests a
7 hearing for the purpose of sentencing the minor under Chapter
8 V of the Unified Code of Corrections, the Court must proceed
9 under Sections 5-705 and 5-710 of this Article. To request a
10 hearing, the State must file a written motion within 10 days
11 following the entry of a finding or the return of a verdict.
12 Reasonable notice of the motion shall be given to the minor
13 or his or her counsel. If the motion is made by the State,
14 the court shall conduct a hearing to determine if the minor
15 should be sentenced under Chapter V of the Unified Code of
16 Corrections. In making its determination, the court shall
17 consider among other matters: (a) whether there is evidence
18 that the offense was committed in an aggressive and
19 premeditated manner; (b) the age of the minor; (c) the
20 previous history of the minor; (d) whether there are
21 facilities particularly available to the Juvenile Court or
22 the Department of Corrections, Juvenile Division, for the
23 treatment and rehabilitation of the minor; (e) whether the
24 security of the public requires sentencing under Chapter V of
25 the Unified Code of Corrections; and (f) whether the minor
26 possessed a deadly weapon when committing the offense. The
27 rules of evidence shall be the same as if at trial. If after
28 the hearing the court finds that the minor should be
29 sentenced under Chapter V of the Unified Code of Corrections,
30 then the court shall sentence the minor accordingly having
31 available to it any or all dispositions so prescribed.

32 (3) (a) The definition of delinquent minor under Section
33 5-120 of this Article shall not apply to any minor who at the
34 time of the offense was at least 15 years of age and who is

1 charged with a violation of the provisions of paragraph (1),
2 (3), (4), or (10) of subsection (a) of Section 24-1 of the
3 Criminal Code of 1961 while in school, regardless of the time
4 of day or the time of year, or on the real property
5 comprising any school, regardless of the time of day or the
6 time of year. School is defined, for purposes of this Section
7 as any public or private elementary or secondary school,
8 community college, college, or university. These charges and
9 all other charges arising out of the same incident shall be
10 prosecuted under the criminal laws of this State.

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

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

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

31 (ii) If after trial or plea the court finds that the
32 minor committed an offense not covered by paragraph (a) of
33 this subsection (3), that finding shall not invalidate the
34 verdict or the prosecution of the minor under the criminal

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

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

1 Criminal Code of 1961.

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

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

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

28 (ii) If the minor was not yet 15 years of age at the
29 time of the offense, and if after trial or plea the court
30 finds that the minor committed an offense other than first
31 degree murder committed during the course of either
32 aggravated criminal sexual assault, criminal sexual assault,
33 or aggravated kidnaping, the finding shall not invalidate
34 the verdict or the prosecution of the minor under the

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

28 (5) (a) The definition of delinquent minor under Section
29 5-120 of this Article shall not apply to any minor who is
30 charged with a violation of subsection (a) of Section 31-6 or
31 Section 32-10 of the Criminal Code of 1961 when the minor is
32 subject to prosecution under the criminal laws of this State
33 as a result of the application of the provisions of Section
34 5-125, or subsection (1) or (2) of this Section. These

1 charges and all other charges arising out of the same
2 incident shall be prosecuted under the criminal laws of this
3 State.

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

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

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

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

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

20 (6) The definition of delinquent minor under Section
21 5-120 of this Article shall not apply to any minor who,
22 pursuant to subsection (1), (2), or (3) or Section 5-805, or
23 5-810, has previously been placed under the jurisdiction of
24 the criminal court and has been convicted of a crime under an
25 adult criminal or penal statute. Such a minor shall be
26 subject to prosecution under the criminal laws of this State.

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

32 (8) Nothing in this Act prohibits or limits the
33 prosecution of any minor for an offense committed on or after
34 his or her 17th birthday even though he or she is at the time

1 of the offense a ward of the court.

2 (9) If an original petition for adjudication of wardship
3 alleges the commission by a minor 13 years of age or over of
4 an act that constitutes a crime under the laws of this State,
5 the minor, with the consent of his or her counsel, may, at
6 any time before commencement of the adjudicatory hearing,
7 file with the court a motion that criminal prosecution be
8 ordered and that the petition be dismissed insofar as the act
9 or acts involved in the criminal proceedings are concerned.
10 If such a motion is filed as herein provided, the court shall
11 enter its order accordingly.

12 (Source: P.A. 90-590, eff. 1-1-99; 91-15, eff. 1-1-00;
13 91-673, eff. 12-22-99; revised 1-7-00.)