

1 AN ACT concerning criminal law.

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 5-130 and 5-805 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 Section 20-3 or
 30 paragraph (1)7-(3)7 (4), (7), (9), or (10) of subsection (a)
 31 of Section 24-1 of the Criminal Code of 1961 while in a
 32 school, regardless-of-the-time-of-day-or-the-time-of-year,
 33 or on the real property comprising a school, within 1,000
 34 feet of the real property comprising a school, at a school

1 related activity, or on, boarding, or departing from any
2 conveyance owned, leased, or contracted by a school or school
3 district to transport students to or from school or a school
4 related activity, regardless of the time of day or the time
5 of year. School is defined, for purposes of this Section as
6 any public or private day care center, nursery school,
7 kindergarten, camp, day camp, elementary or secondary school,
8 community college, college, or university. School related
9 activity is defined as any sporting, social, academic, or
10 other activity for which students' attendance or
11 participation is sponsored, organized, or funded in whole or
12 in part by a school or school district These charges and all
13 other charges arising out of the same incident shall be
14 prosecuted under the criminal laws of this State.

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

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

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

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

31 (4) (a) The definition of delinquent minor under Section
32 5-120 of this Article shall not apply to any minor who at the
33 time of an offense was at least 13 years of age and who is
34 charged with first degree murder committed during the course

1 of either aggravated criminal sexual assault, criminal sexual
2 assault, or aggravated kidnaping. However, this subsection
3 (4) does not include a minor charged with first degree murder
4 based exclusively upon the accountability provisions of the
5 Criminal Code of 1961.

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

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

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

32 (ii) If the minor was not yet 15 years of age at the
33 time of the offense, and if after trial or plea the court
34 finds that the minor committed an offense other than first

1 degree murder committed during the course of either
2 aggravated criminal sexual assault, criminal sexual assault,
3 or aggravated kidnapping, the finding shall not invalidate
4 the verdict or the prosecution of the minor under the
5 criminal laws of the State; however, unless the State
6 requests a hearing for the purpose of sentencing the minor
7 under Chapter V of the Unified Code of Corrections, the Court
8 must proceed under Sections 5-705 and 5-710 of this Article.
9 To request a hearing, the State must file a written motion
10 within 10 days following the entry of a finding or the return
11 of a verdict. Reasonable notice of the motion shall be given
12 to the minor or his or her counsel. If the motion is made by
13 the State, the court shall conduct a hearing to determine
14 whether the minor should be sentenced under Chapter V of the
15 Unified Code of Corrections. In making its determination,
16 the court shall consider among other matters: (a) whether
17 there is evidence that the offense was committed in an
18 aggressive and premeditated manner; (b) the age of the
19 minor; (c) the previous delinquent history of the minor;
20 (d) whether there are facilities particularly available to
21 the Juvenile Court or the Department of Corrections, Juvenile
22 Division, for the treatment and rehabilitation of the minor;
23 (e) whether the best interest of the minor and the security
24 of the public require sentencing under Chapter V of the
25 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 (5) (a) The definition of delinquent minor under Section
33 5-120 of this Article shall not apply to any minor who is
34 charged with a violation of subsection (a) of Section 31-6 or

1 Section 32-10 of the Criminal Code of 1961 when the minor is
2 subject to prosecution under the criminal laws of this State
3 as a result of the application of the provisions of Section
4 5-125, or subsection (1) or (2) of this Section. These
5 charges and all other charges arising out of the same
6 incident shall be prosecuted under the criminal laws of this
7 State.

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

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

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

28 (ii) If after trial or plea the court finds that the
29 minor committed an offense not covered by paragraph (a) of
30 this subsection (5), the conviction shall not invalidate the
31 verdict or the prosecution of the minor under the criminal
32 laws of this State; however, unless the State requests a
33 hearing for the purpose of sentencing the minor under Chapter
34 V of the Unified Code of Corrections, the Court must proceed

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

24 (6) The definition of delinquent minor under Section
25 5-120 of this Article shall not apply to any minor who,
26 pursuant to subsection (1), (2), or (3) or Section 5-805, or
27 5-810, has previously been placed under the jurisdiction of
28 the criminal court and has been convicted of a crime under an
29 adult criminal or penal statute. Such a minor shall be
30 subject to prosecution under the criminal laws of this State.

31 (7) The procedures set out in this Article for the
32 investigation, arrest and prosecution of juvenile offenders
33 shall not apply to minors who are excluded from jurisdiction
34 of the Juvenile Court, except that minors under 17 years of

1 age shall be kept separate from confined adults.

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

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

16 (Source: P.A. 90-590, eff. 1-1-99; 91-15, eff. 1-1-00;
17 91-673, eff. 12-22-99; revised 1-7-00.)

18 (705 ILCS 405/5-805)

19 Sec. 5-805. Transfer of jurisdiction.

20 (1) Mandatory transfers.

21 (a) If a petition alleges commission by a minor 15
22 years of age or older of an act that constitutes a
23 forcible felony under the laws of this State, and if a
24 motion by the State's Attorney to prosecute the minor
25 under the criminal laws of Illinois for the alleged
26 forcible felony alleges that (i) the minor has previously
27 been adjudicated delinquent or found guilty for
28 commission of an act that constitutes a felony under the
29 laws of this State or any other state and (ii) the act
30 that constitutes the offense was committed in furtherance
31 of criminal activity by an organized gang, the Juvenile
32 Judge assigned to hear and determine those motions shall,
33 upon determining that there is probable cause that both

1 allegations are true, enter an order permitting
2 prosecution under the criminal laws of Illinois.

3 (b) If a petition alleges commission by a minor 15
4 years of age or older of an act that constitutes a felony
5 under the laws of this State, and if a motion by a
6 State's Attorney to prosecute the minor under the
7 criminal laws of Illinois for the alleged felony alleges
8 that (i) the minor has previously been adjudicated
9 delinquent or found guilty for commission of an act that
10 constitutes a forcible felony under the laws of this
11 State or any other state and (ii) the act that
12 constitutes the offense was committed in furtherance of
13 criminal activities by an organized gang, the Juvenile
14 Judge assigned to hear and determine those motions shall,
15 upon determining that there is probable cause that both
16 allegations are true, enter an order permitting
17 prosecution under the criminal laws of Illinois.

18 (c) If a petition alleges commission by a minor 15
19 years of age or older of: (i) an act that constitutes an
20 offense enumerated in the presumptive transfer provisions
21 of subsection (2); and (ii) the minor has previously been
22 adjudicated delinquent or found guilty of a forcible
23 felony, the Juvenile Judge designated to hear and
24 determine those motions shall, upon determining that
25 there is probable cause that both allegations are true,
26 enter an order permitting prosecution under the criminal
27 laws of Illinois.

28 (d) If a petition alleges commission by a minor 15
29 years of age or older of an act that constitutes the
30 offense of aggravated discharge of a firearm committed in
31 a school, on the real property comprising a school,
32 within 1,000 feet of the real property comprising a
33 school, at a school related activity, or on, boarding, or
34 departing from any conveyance owned, leased, or

1 contracted by a school or school district to transport
 2 students to or from school or a school related activity,
 3 regardless of the time of day or the time of year, the
 4 juvenile judge designated to hear and determine those
 5 motions shall, upon determining that there is probable
 6 cause that the allegations are true, enter an order
 7 permitting prosecution under the criminal laws of
 8 Illinois.

9 ~~For purposes of this paragraph (d) of subsection~~
 10 ~~(1):~~

11 ~~"School" means a public or private elementary or~~
 12 ~~secondary school, community college, college, or~~
 13 ~~university.~~

14 ~~"School-related activity" means any sporting,~~
 15 ~~social, academic, or other activity for which students'~~
 16 ~~attendance or participation is sponsored, organized, or~~
 17 ~~funded in whole or in part by a school or school~~
 18 ~~district.~~

19 (e) If a petition alleges commission by a minor 15 years
 20 of age or older of an act that constitutes a violation of the
 21 provisions of paragraph (1), (3), (5), or (6) of subsection
 22 (a) of Section 24-1 of the Criminal Code of 1961 while in a
 23 school, on the real property comprising a school, within
 24 1,000 feet of the real property comprising a school, at a
 25 school related activity, or on, boarding, or departing from
 26 any conveyance owned, leased, or contracted by a school or a
 27 school district to transport students to or from school or a
 28 school related activity, regardless of the time of day or the
 29 time of year, the court shall, upon a finding of probable
 30 cause that the allegations are true, enter an order
 31 permitting prosecution under the Criminal Code of 1961.

32 (f) For the purposes of this Section:

33 (i) "School" means any public or private day care
 34 center, nursery school, kindergarten, camp, day camp,

1 elementary or secondary school, community college,
2 college, or university.

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

8 (2) Presumptive transfer.

9 (a) If the State's Attorney files a petition, at
10 any time prior to commencement of the minor's trial, to
11 permit prosecution under the criminal laws and the
12 petition alleges the commission by a minor 15 years of
13 age or older of: (i) a Class X felony other than armed
14 violence; (ii) aggravated discharge of a firearm; (iii)
15 armed violence with a firearm when the predicate offense
16 is a Class 1 or Class 2 felony and the State's Attorney's
17 motion to transfer the case alleges that the offense
18 committed is in furtherance of the criminal activities of
19 an organized gang; (iv) armed violence with a firearm
20 when the predicate offense is a violation of the Illinois
21 Controlled Substances Act or a violation of the Cannabis
22 Control Act; (v) armed violence when the weapon involved
23 was a machine gun or other weapon described in subsection
24 (a)(7) of Section 24-1 of the Criminal Code of 1961, and,
25 if the juvenile judge assigned to hear and determine
26 motions to transfer a case for prosecution in the
27 criminal court determines that there is probable cause to
28 believe that the allegations in the petition and motion
29 are true, there is a rebuttable presumption that the
30 minor is not a fit and proper subject to be dealt with
31 under the Juvenile Justice Reform Provisions of 1998
32 (Public Act 90-590), and that, except as provided in
33 paragraph (b), the case should be transferred to the
34 criminal court.

1 (b) The judge shall enter an order permitting
2 prosecution under the criminal laws of Illinois unless
3 the judge makes a finding based on clear and convincing
4 evidence that the minor would be amenable to the care,
5 treatment, and training programs available through the
6 facilities of the juvenile court based on an evaluation
7 of the following:

8 (i) The seriousness of the alleged offense;

9 (ii) The minor's history of delinquency;

10 (iii) The age of the minor;

11 (iv) The culpability of the minor in committing
12 the alleged offense;

13 (v) Whether the offense was committed in an
14 aggressive or premeditated manner;

15 (vi) Whether the minor used or possessed a deadly
16 weapon when committing the alleged offense;

17 (vii) The minor's history of services, including
18 the minor's willingness to participate meaningfully in
19 available services;

20 (viii) Whether there is a reasonable likelihood that
21 the minor can be rehabilitated before the expiration of
22 the juvenile court's jurisdiction;

23 (ix) The adequacy of the punishment or services
24 available in the juvenile justice system.

25 In considering these factors, the court shall give
26 greater weight to the seriousness of the alleged offense and
27 the minor's prior record of delinquency than to the other
28 factors listed in this subsection.

29 (3) Discretionary transfer.

30 (a) If a petition alleges commission by a minor 13
31 years of age or over of an act that constitutes a crime
32 under the laws of this State and, on motion of the
33 State's Attorney to permit prosecution of the minor under
34 the criminal laws, a Juvenile Judge assigned by the Chief

1 Judge of the Circuit to hear and determine those motions,
2 after hearing but before commencement of the trial, finds
3 that there is probable cause to believe that the
4 allegations in the motion are true and that it is not in
5 the best interests of the public to proceed under this
6 Act, the court may enter an order permitting prosecution
7 under the criminal laws.

8 (b) In making its determination on the motion to
9 permit prosecution under the criminal laws, the court
10 shall consider among other matters:

- 11 (i) The seriousness of the alleged offense;
- 12 (ii) The minor's history of delinquency;
- 13 (iii) The age of the minor;
- 14 (iv) The culpability of the minor in committing the
15 alleged offense;
- 16 (v) Whether the offense was committed in an
17 aggressive or premeditated manner;
- 18 (vi) Whether the minor used or possessed a deadly
19 weapon when committing the alleged offense;
- 20 (vii) The minor's history of services, including
21 the minor's willingness to participate meaningfully in
22 available services;
- 23 (viii) The adequacy of the punishment or services
24 available in the juvenile justice system.

25 In considering these factors, the court shall give
26 greater weight to the seriousness of the alleged offense and
27 the minor's prior record of delinquency than to the other
28 factors listed in this subsection.

29 (4) The rules of evidence for this hearing shall be the
30 same as under Section 5-705 of this Act. A minor must be
31 represented in court by counsel before the hearing may be
32 commenced.

33 (5) If criminal proceedings are instituted, the petition
34 for adjudication of wardship shall be dismissed insofar as

1 the act or acts involved in the criminal proceedings. Taking
2 of evidence in a trial on petition for adjudication of
3 wardship is a bar to criminal proceedings based upon the
4 conduct alleged in the petition.

5 (Source: P.A. 90-590, eff. 1-1-99; 91-15, eff. 1-1-00;
6 91-357, eff. 7-29-99.)

7 Section 10. The Criminal Code of 1961 is amended by
8 adding Section 20-3 and changing Section 24-1 as follows:

9 (720 ILCS 5/20-3 new)

10 Sec. 20-3. Aggravated possession of explosives or
11 explosive or incendiary devices.

12 (a) A person commits the offense of aggravated
13 possession of explosives or explosive or incendiary devices
14 in violation of this Section when that person possesses,
15 manufactures, or transports any explosive compound, timing,
16 or detonating device and either intends to use the explosives
17 or device to commit any offense, or knows that another
18 intends to use the explosives or device to commit a felony,
19 while in a school, on the real property comprising a school,
20 within 1,000 feet of the real property comprising a school,
21 at a school related activity, or on, boarding, or departing
22 from any conveyance owned, leased, or contracted by a school
23 or school district to transport students to or from school or
24 a school related activity, regardless of the time of day or
25 the time of year.

26 (b) Sentence. A violation of this Section is a Class X
27 felony, for which, upon conviction, a person shall be
28 sentenced to a term of imprisonment of not less than 10 years
29 nor more than 60 years.

30 (c) For purposes of this Section:

31 (i) "School" means any public or private day care
32 center, nursery school, kindergarten, camp, day camp,

1 elementary or secondary school, community college,
2 college, or university.

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

8 (720 ILCS 5/24-1) (from Ch. 38, par. 24-1)
9 Sec. 24-1. Unlawful Use of Weapons.

10 (a) A person commits the offense of unlawful use of
11 weapons when he knowingly:

12 (1) Sells, manufactures, purchases, possesses or
13 carries any bludgeon, black-jack, slung-shot, sand-club,
14 sand-bag, metal knuckles, throwing star, or any knife,
15 commonly referred to as a switchblade knife, which has a
16 blade that opens automatically by hand pressure applied
17 to a button, spring or other device in the handle of the
18 knife, or a ballistic knife, which is a device that
19 propels a knifelike blade as a projectile by means of a
20 coil spring, elastic material or compressed gas; or

21 (2) Carries or possesses with intent to use the
22 same unlawfully against another, a dagger, dirk, billy,
23 dangerous knife, razor, stiletto, broken bottle or other
24 piece of glass, stun gun or taser or any other dangerous
25 or deadly weapon or instrument of like character; or

26 (3) Carries on or about his person or in any
27 vehicle, a tear gas gun projector or bomb or any object
28 containing noxious liquid gas or substance, other than an
29 object containing a non-lethal noxious liquid gas or
30 substance designed solely for personal defense carried by
31 a person 18 years of age or older; or

32 (4) Carries or possesses in any vehicle or
33 concealed on or about his person except when on his land

1 or in his own abode or fixed place of business any
2 pistol, revolver, stun gun or taser or other firearm,
3 except that this subsection (a) (4) does not apply to or
4 affect transportation of weapons that meet one of the
5 following conditions:

6 (i) are broken down in a non-functioning
7 state; or

8 (ii) are not immediately accessible; or

9 (iii) are unloaded and enclosed in a case,
10 firearm carrying box, shipping box, or other
11 container by a person who has been issued a
12 currently valid Firearm Owner's Identification Card;
13 or

14 (5) Sets a spring gun; or

15 (6) Possesses any device or attachment of any kind
16 designed, used or intended for use in silencing the
17 report of any firearm; or

18 (7) Sells, manufactures, purchases, possesses or
19 carries:

20 (i) a machine gun, which shall be defined for
21 the purposes of this subsection as any weapon, which
22 shoots, is designed to shoot, or can be readily
23 restored to shoot, automatically more than one shot
24 without manually reloading by a single function of
25 the trigger, including the frame or receiver of any
26 such weapon, or sells, manufactures, purchases,
27 possesses, or carries any combination of parts
28 designed or intended for use in converting any
29 weapon into a machine gun, or any combination or
30 parts from which a machine gun can be assembled if
31 such parts are in the possession or under the
32 control of a person;

33 (ii) any rifle having one or more barrels less
34 than 16 inches in length or a shotgun having one or

1 more barrels less than 18 inches in length or any
2 weapon made from a rifle or shotgun, whether by
3 alteration, modification, or otherwise, if such a
4 weapon as modified has an overall length of less
5 than 26 inches; or

6 (iii) any bomb, bomb-shell, grenade, bottle or
7 other container containing an explosive substance of
8 over one-quarter ounce for like purposes, such as,
9 but not limited to, black powder bombs and Molotov
10 cocktails or artillery projectiles; or

11 (8) Carries or possesses any firearm, stun gun or
12 taser or other deadly weapon in any place which is
13 licensed to sell intoxicating beverages, or at any public
14 gathering held pursuant to a license issued by any
15 governmental body or any public gathering at which an
16 admission is charged, excluding a place where a showing,
17 demonstration or lecture involving the exhibition of
18 unloaded firearms is conducted.

19 This subsection (a)(8) does not apply to any auction
20 or raffle of a firearm held pursuant to a license or
21 permit issued by a governmental body, nor does it apply
22 to persons engaged in firearm safety training courses; or

23 (9) Carries or possesses in a vehicle or on or
24 about his person any pistol, revolver, stun gun or taser
25 or firearm or ballistic knife, when he is hooded, robed
26 or masked in such manner as to conceal his identity; or

27 (10) Carries or possesses on or about his person,
28 upon any public street, alley, or other public lands
29 within the corporate limits of a city, village or
30 incorporated town, except when an invitee thereon or
31 therein, for the purpose of the display of such weapon or
32 the lawful commerce in weapons, or except when on his
33 land or in his own abode or fixed place of business, any
34 pistol, revolver, stun gun or taser or other firearm,

1 except that this subsection (a) (10) does not apply to or
2 affect transportation of weapons that meet one of the
3 following conditions:

4 (i) are broken down in a non-functioning
5 state; or

6 (ii) are not immediately accessible; or

7 (iii) are unloaded and enclosed in a case,
8 firearm carrying box, shipping box, or other
9 container by a person who has been issued a
10 currently valid Firearm Owner's Identification Card.

11 A "stun gun or taser", as used in this paragraph (a)
12 means (i) any device which is powered by electrical
13 charging units, such as, batteries, and which fires one
14 or several barbs attached to a length of wire and which,
15 upon hitting a human, can send out a current capable of
16 disrupting the person's nervous system in such a manner
17 as to render him incapable of normal functioning or (ii)
18 any device which is powered by electrical charging units,
19 such as batteries, and which, upon contact with a human
20 or clothing worn by a human, can send out current capable
21 of disrupting the person's nervous system in such a
22 manner as to render him incapable of normal functioning;
23 or

24 (11) Sells, manufactures or purchases any explosive
25 bullet. For purposes of this paragraph (a) "explosive
26 bullet" means the projectile portion of an ammunition
27 cartridge which contains or carries an explosive charge
28 which will explode upon contact with the flesh of a human
29 or an animal. "Cartridge" means a tubular metal case
30 having a projectile affixed at the front thereof and a
31 cap or primer at the rear end thereof, with the
32 propellant contained in such tube between the projectile
33 and the cap; or

34 (12) (Blank).

1 (b) Sentence. A person convicted of a violation of
 2 subsection 24-1(a)(1) through (5), subsection 24-1(a)(10), or
 3 subsection 24-1(a)(11) commits a Class A misdemeanor. A
 4 person convicted of a violation of subsection 24-1(a)(8) or
 5 24-1(a)(9) commits a Class 4 felony; a person convicted of a
 6 violation of subsection 24-1(a)(6) or 24-1(a)(7)(ii) or (iii)
 7 commits a Class 3 felony. A person convicted of a violation
 8 of subsection 24-1(a)(7)(i) commits a Class 2 felony, unless
 9 the weapon is possessed in the passenger compartment of a
 10 motor vehicle as defined in Section 1-146 of the Illinois
 11 Vehicle Code, or on the person, while the weapon is loaded,
 12 in which case it shall be a Class X felony. A person
 13 convicted of a second or subsequent violation of subsection
 14 24-1(a)(4), 24-1(a)(8), 24-1(a)(9), or 24-1(a)(10) commits a
 15 Class 3 felony.

16 (c) Violations in specific places.

17 (1) A person who violates subsection ~~24-1(a)(6)~~ or
 18 ~~24-1(a)(7)~~ in ~~any school, regardless of the time of day~~
 19 ~~or the time of year,~~ in residential property owned,
 20 operated or managed by a public housing agency or leased
 21 by a public housing agency as part of a scattered site or
 22 mixed-income development, in a public park, in a
 23 courthouse, ~~on the real property comprising any school,~~
 24 ~~regardless of the time of day or the time of year,~~ on
 25 residential property owned, operated or managed by a
 26 public housing agency or leased by a public housing
 27 agency as part of a scattered site or mixed-income
 28 development, on the real property comprising any public
 29 park, on the real property comprising any courthouse, in
 30 ~~any conveyance owned, leased or contracted by a school to~~
 31 ~~transport students to or from school or a school-related~~
 32 ~~activity,~~ or on any public way within 1,000 feet of the
 33 real property comprising any school, public park,
 34 courthouse, or residential property owned, operated, or

1 managed by a public housing agency or leased by a public
2 housing agency as part of a scattered site or
3 mixed-income development commits a Class 2 felony.

4 (1.1) A person who violates subsection 24-1(a)(7)
5 in any school, regardless of the time of day or the time
6 of year, on the real property comprising any school,
7 regardless of the time of day or the time of year, on,
8 boarding, or departing from any conveyance owned, leased,
9 or contracted by a school to transport students to or
10 from school or a school related activity, regardless of
11 the time of day or the time of year, or on any public way
12 within 1,000 feet of the real property comprising any
13 school, regardless of the time of day or the time of
14 year, commits a Class X felony.

15 (1.2) A person who violates subsection 24-1(a)(6)
16 in any school, regardless of the time of day or the time
17 of year, in residential property owned, operated or
18 managed by a public housing agency or leased by a public
19 housing agency as part of a scattered site or
20 mixed-income development, in a public park, in a
21 courthouse, on the real property comprising any school,
22 regardless of the time of day or the time of year, on
23 residential property owned, operated or managed by a
24 public housing agency or leased by a public housing
25 agency as part of a scattered site or mixed-income
26 development, on the real property comprising any public
27 park, on the real property comprising any courthouse, on,
28 boarding, or departing from any conveyance owned, leased
29 or contracted by a school to transport students to or
30 from school or a school related activity, regardless of
31 the time of day or the time of year, or on any public way
32 within 1,000 feet of the real property comprising any
33 public park, courthouse, or residential property owned,
34 operated, or managed by a public housing agency or leased

1 by a public housing agency as part of a scattered site or
2 mixed-income development commits a Class 3 felony.

3 (1.5) A person who violates subsection 24-1(a)(4),
4 24-1(a)(9), or 24-1(a)(10) in any school, regardless of
5 the time of day or the time of year, in residential
6 property owned, operated, or managed by a public housing
7 agency or leased by a public housing agency as part of a
8 scattered site or mixed-income development, in a public
9 park, in a courthouse, on the real property comprising
10 any school, regardless of the time of day or the time of
11 year, on residential property owned, operated, or managed
12 by a public housing agency or leased by a public housing
13 agency as part of a scattered site or mixed-income
14 development, on the real property comprising any public
15 park, on the real property comprising any courthouse, on,
16 boarding, or departing from in any conveyance owned,
17 leased, or contracted by a school to transport students
18 to or from school or a school related activity,
19 regardless of the time of day or the time of year, or on
20 any public way within 1,000 feet of the real property
21 comprising any school, regardless of the time of day or
22 the time of year, or any public way within 1,000 feet of
23 the real property comprising any school, public park,
24 courthouse, or residential property owned, operated, or
25 managed by a public housing agency or leased by a public
26 housing agency as part of a scattered site or
27 mixed-income development commits a Class 2 3 felony.

28 (2) A person who violates subsection 24-1(a)(1),
29 24-1(a)(2), or 24-1(a)(3) in any school, regardless of
30 the time of day or the time of year, in residential
31 property owned, operated or managed by a public housing
32 agency or leased by a public housing agency as part of a
33 scattered site or mixed-income development, in a public
34 park, in a courthouse, on the real property comprising

1 any school, regardless of the time of day or the time of
 2 year, on residential property owned, operated or managed
 3 by a public housing agency or leased by a public housing
 4 agency as part of a scattered site or mixed-income
 5 development, on the real property comprising any public
 6 park, on the real property comprising any courthouse, on,
 7 boarding, or departing from in any conveyance owned,
 8 leased or contracted by a school to transport students to
 9 or from school or a school related activity, regardless
 10 of the time of day or the time of year, or any public way
 11 within 1,000 feet of the real property comprising any
 12 school, regardless of the time of day or the time of
 13 year, or on any public way within 1,000 feet of the real
 14 property comprising any school, public park, courthouse,
 15 or residential property owned, operated, or managed by a
 16 public housing agency or leased by a public housing
 17 agency as part of a scattered site or mixed-income
 18 development commits a Class 4 felony. "Courthouse" means
 19 any building that is used by the Circuit, Appellate, or
 20 Supreme Court of this State for the conduct of official
 21 business.

22 (3) Paragraphs (1), (1.1), (1.5), and (2) of this
 23 subsection (c) shall not apply to law enforcement
 24 officers or security officers of such school, college, or
 25 university or to students carrying or possessing firearms
 26 for use in training courses, parades, hunting, target
 27 shooting on school ranges, or otherwise with the consent
 28 of school authorities and which firearms are transported
 29 unloaded enclosed in a suitable case, box, or
 30 transportation package.

31 (4) For the purposes of this subsection (c):
 32 (i) "School" means any public or private day
 33 care center, nursery school, kindergarten, camp, day
 34 camp, elementary or secondary school, community

1 college, college, or university.

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

7 (d) The presence in an automobile other than a public
8 omnibus of any weapon, instrument or substance referred to in
9 subsection (a)(7) is prima facie evidence that it is in the
10 possession of, and is being carried by, all persons occupying
11 such automobile at the time such weapon, instrument or
12 substance is found, except under the following circumstances:

13 (i) if such weapon, instrument or instrumentality is found
14 upon the person of one of the occupants therein; or (ii) if
15 such weapon, instrument or substance is found in an
16 automobile operated for hire by a duly licensed driver in the
17 due, lawful and proper pursuit of his trade, then such
18 presumption shall not apply to the driver.

19 (e) Exemptions. Crossbows, Common or Compound bows and
20 Underwater Spearguns are exempted from the definition of
21 ballistic knife as defined in paragraph (1) of subsection (a)
22 of this Section.

23 (Source: P.A. 90-686, eff. 1-1-99; 91-673, eff. 12-22-99;
24 91-690, eff. 4-13-00.)

25 Section 99. Effective date. This Act takes effect upon
26 becoming law.