

AN ACT concerning courts.

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

Section 5. The Juvenile Court Act of 1987 is amended by changing Sections 5-130, 5-407, 5-805, and 5-810 and by adding Section 5-822 as follows:

(705 ILCS 405/5-130)

Sec. 5-130. Excluded jurisdiction.

(1)(a) The definition of delinquent minor under Section 5-120 of this Article shall not apply to any minor who at the time of an offense was at least 16 ~~15~~ years of age and who is charged with: (i) first degree murder, (ii) aggravated criminal sexual assault, or (iii) aggravated battery with a firearm as described in Section 12-4.2 or subdivision (e)(1), (e)(2), (e)(3), or (e)(4) of Section 12-3.05 where the minor personally discharged a firearm as defined in Section 2-15.5 of the Criminal Code of 1961 or the Criminal Code of 2012, ~~(iv) armed robbery when the armed robbery was committed with a firearm, or (v) aggravated vehicular hijacking when the hijacking was committed with a firearm.~~

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

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

(ii) If before trial or plea an information or indictment is filed that includes one or more charges specified in paragraph (a) of this subsection (1) and additional charges that are not specified in that paragraph, all of the charges arising out of the same incident shall be prosecuted under the Criminal Code of 1961 or the Criminal Code of 2012.

(c) (i) If after trial or plea the minor is convicted of any offense covered by paragraph (a) of this subsection (1), then, in sentencing the minor, the court shall sentence the minor under Section 5-4.5-105 of the Unified Code of Corrections ~~have available any or all dispositions prescribed for that offense under Chapter V of the Unified Code of Corrections.~~

(ii) If after trial or plea the court finds that the minor committed an offense not covered by paragraph (a) of this subsection (1), that finding shall not invalidate the verdict or the prosecution of the minor under the criminal laws of the State; however, unless the State requests a hearing for the purpose of sentencing the minor under Chapter V of the Unified

Code of Corrections, the Court must proceed under Sections 5-705 and 5-710 of this Article. To request a hearing, the State must file a written motion within 10 days following the entry of a finding or the return of a verdict. Reasonable notice of the motion shall be given to the minor or his or her counsel. If the motion is made by the State, the court shall conduct a hearing to determine if the minor should be sentenced under Chapter V of the Unified Code of Corrections. In making its determination, the court shall consider among other matters: (a) whether there is evidence that the offense was committed in an aggressive and premeditated manner; (b) the age of the minor; (c) the previous history of the minor; (d) whether there are facilities particularly available to the Juvenile Court or the Department of Juvenile Justice for the treatment and rehabilitation of the minor; (e) whether the security of the public requires sentencing under Chapter V of the Unified Code of Corrections; and (f) whether the minor possessed a deadly weapon when committing the offense. The rules of evidence shall be the same as if at trial. If after the hearing the court finds that the minor should be sentenced under Chapter V of the Unified Code of Corrections, then the court shall sentence the minor under Section 5-4.5-105 of the Unified Code of Corrections ~~accordingly having available to it any or all dispositions so prescribed.~~

(2) (Blank).

(3) (Blank). ~~(a) The definition of delinquent minor under~~

~~Section 5-120 of this Article shall not apply to any minor who at the time of the offense was at least 15 years of age and who is charged with a violation of the provisions of paragraph (1), (3), (4), or (10) of subsection (a) of Section 24-1 of the Criminal Code of 1961 or the Criminal Code of 2012 while in school, regardless of the time of day or the time of year, or on the real property comprising any school, regardless of the time of day or the time of year. School is defined, for purposes of this Section as any public or private elementary or secondary school, community college, college, or university. These charges and all other charges arising out of the same incident shall be prosecuted under the criminal laws of this State.~~

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

~~(ii) If before trial or plea an information or indictment is filed that includes one or more charges specified in paragraph (a) of this subsection (3) and additional charges that are not specified in that paragraph, all of the charges~~

~~arising out of the same incident shall be prosecuted under the criminal laws of this State.~~

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

~~(ii) If after trial or plea the court finds that the minor committed an offense not covered by paragraph (a) of this subsection (3), that finding shall not invalidate the verdict or the prosecution of the minor under the criminal laws of the State; however, unless the State requests a hearing for the purpose of sentencing the minor under Chapter V of the Unified Code of Corrections, the Court must proceed under Sections 5-705 and 5-710 of this Article. To request a hearing, the State must file a written motion within 10 days following the entry of a finding or the return of a verdict. Reasonable notice of the motion shall be given to the minor or his or her counsel. If the motion is made by the State, the court shall conduct a hearing to determine if the minor should be sentenced under Chapter V of the Unified Code of Corrections. In making its determination, the court shall consider among other matters: (a) whether there is evidence that the offense was committed in an aggressive and premeditated manner; (b) the age of the minor; (c) the previous history of the minor; (d) whether there are facilities particularly available to the~~

~~Juvenile Court or the Department of Juvenile Justice for the treatment and rehabilitation of the minor; (e) whether the security of the public requires sentencing under Chapter V of the Unified Code of Corrections; and (f) whether the minor possessed a deadly weapon when committing the offense. The rules of evidence shall be the same as if at trial. If after the hearing the court finds that the minor should be sentenced under Chapter V of the Unified Code of Corrections, then the court shall sentence the minor accordingly having available to it any or all dispositions so prescribed.~~

(4) (Blank). ~~(a) The definition of delinquent minor under Section 5-120 of this Article shall not apply to any minor who at the time of an offense was at least 13 years of age and who is charged with first degree murder committed during the course of either aggravated criminal sexual assault, criminal sexual assault, or aggravated kidnaping. However, this subsection (4) does not include a minor charged with first degree murder based exclusively upon the accountability provisions of the Criminal Code of 1961 or the Criminal Code of 2012.~~

~~(b) (i) If before trial or plea an information or indictment is filed that does not charge first degree murder committed during the course of aggravated criminal sexual assault, criminal sexual assault, or aggravated kidnaping, the State's Attorney may proceed on any lesser charge or charges, but only in Juvenile Court under the provisions of this Article. The State's Attorney may proceed under the criminal laws of this~~

~~State on a lesser charge if before trial the minor defendant knowingly and with advice of counsel waives, in writing, his or her right to have the matter proceed in Juvenile Court.~~

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

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

~~(ii) If the minor was not yet 15 years of age at the time of the offense, and if after trial or plea the court finds that the minor committed an offense other than first degree murder committed during the course of either aggravated criminal sexual assault, criminal sexual assault, or aggravated kidnaping, the finding shall not invalidate the verdict or the prosecution of the minor under the criminal laws of the State; however, unless the State requests a hearing for the purpose of sentencing the minor under Chapter V of the Unified Code of Corrections, the Court must proceed under Sections 5-705 and~~

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

(5) (Blank). ~~(a) The definition of delinquent minor under Section 5-120 of this Article shall not apply to any minor who is charged with a violation of subsection (a) of Section 31-6~~

~~er Section 32-10 of the Criminal Code of 1961 or the Criminal Code of 2012 when the minor is subject to prosecution under the criminal laws of this State as a result of the application of the provisions of Section 5-125, or subsection (1) or (2) of this Section. These charges and all other charges arising out of the same incident shall be prosecuted under the criminal laws of this State.~~

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

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

~~(c)(i) If after trial or plea the minor is convicted of any offense covered by paragraph (a) of this subsection (5), then, in sentencing the minor, the court shall have available any or all dispositions prescribed for that offense under Chapter V of~~

~~the Unified Code of Corrections.~~

~~(ii) If after trial or plea the court finds that the minor committed an offense not covered by paragraph (a) of this subsection (5), the conviction shall not invalidate the verdict or the prosecution of the minor under the criminal laws of this State; however, unless the State requests a hearing for the purpose of sentencing the minor under Chapter V of the Unified Code of Corrections, the Court must proceed under Sections 5-705 and 5-710 of this Article. To request a hearing, the State must file a written motion within 10 days following the entry of a finding or the return of a verdict. Reasonable notice of the motion shall be given to the minor or his or her counsel. If the motion is made by the State, the court shall conduct a hearing to determine if whether the minor should be sentenced under Chapter V of the Unified Code of Corrections. In making its determination, the court shall consider among other matters: (a) whether there is evidence that the offense was committed in an aggressive and premeditated manner; (b) the age of the minor; (c) the previous delinquent history of the minor; (d) whether there are facilities particularly available to the Juvenile Court or the Department of Juvenile Justice for the treatment and rehabilitation of the minor; (e) whether the security of the public requires sentencing under Chapter V of the Unified Code of Corrections; and (f) whether the minor possessed a deadly weapon when committing the offense. The rules of evidence shall be the same as if at trial. If after~~

~~the hearing the court finds that the minor should be sentenced under Chapter V of the Unified Code of Corrections, then the court shall sentence the minor accordingly having available to it any or all dispositions so prescribed.~~

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

(7) The procedures set out in this Article for the investigation, arrest and prosecution of juvenile offenders shall not apply to minors who are excluded from jurisdiction of the Juvenile Court, except that minors under 18 years of age shall be kept separate from confined adults.

(8) Nothing in this Act prohibits or limits the prosecution of any minor for an offense committed on or after his or her 18th birthday even though he or she is at the time of the offense a ward of the court.

(9) If an original petition for adjudication of wardship alleges the commission by a minor 13 years of age or over of an act that constitutes a crime under the laws of this State, the minor, with the consent of his or her counsel, may, at any time before commencement of the adjudicatory hearing, file with the court a motion that criminal prosecution be ordered and that

the petition be dismissed insofar as the act or acts involved in the criminal proceedings are concerned. If such a motion is filed as herein provided, the court shall enter its order accordingly.

(10) If, prior to August 12, 2005 (the effective date of Public Act 94-574), a minor is charged with a violation of Section 401 of the Illinois Controlled Substances Act under the criminal laws of this State, other than a minor charged with a Class X felony violation of the Illinois Controlled Substances Act or the Methamphetamine Control and Community Protection Act, any party including the minor or the court sua sponte may, before trial, move for a hearing for the purpose of trying and sentencing the minor as a delinquent minor. To request a hearing, the party must file a motion prior to trial. Reasonable notice of the motion shall be given to all parties. On its own motion or upon the filing of a motion by one of the parties including the minor, the court shall conduct a hearing to determine whether the minor should be tried and sentenced as a delinquent minor under this Article. In making its determination, the court shall consider among other matters:

- (a) The age of the minor;
- (b) Any previous delinquent or criminal history of the minor;
- (c) Any previous abuse or neglect history of the minor;
- (d) Any mental health or educational history of the minor, or both; and

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

Any material that is relevant and reliable shall be admissible at the hearing. In all cases, the judge shall enter an order permitting prosecution under the criminal laws of Illinois unless the judge makes a finding based on a preponderance of the evidence that the minor would be amenable to the care, treatment, and training programs available through the facilities of the juvenile court based on an evaluation of the factors listed in this subsection (10).

(11) The changes made to this Section by Public Act 98-61 apply to a minor who has been arrested or taken into custody on or after January 1, 2014 (the effective date of Public Act 98-61).

(Source: P.A. 97-1150, eff. 1-25-13; 98-61, eff. 1-1-14; 98-756, eff. 7-16-14.)

(705 ILCS 405/5-407)

Sec. 5-407. Processing of juvenile in possession of a firearm.

(a) If a law enforcement officer detains a minor pursuant to Section 10-27.1A of the School Code, the officer shall deliver the minor to the nearest juvenile officer, in the

manner prescribed by subsection (2) of Section 5-405 of this Act. The juvenile officer shall deliver the minor without unnecessary delay to the court or to the place designated by rule or order of court for the reception of minors. In no event shall the minor be eligible for any other disposition by the juvenile police officer, notwithstanding the provisions of subsection (3) of Section 5-405 of this Act.

(b) ~~Minors not excluded from this Act's jurisdiction under subsection (3)(a) of Section 5-130 of this Act~~ shall be brought before a judicial officer within 40 hours, exclusive of Saturdays, Sundays, and court-designated holidays, for a detention hearing to determine whether he or she shall be further held in custody. If the court finds that there is probable cause to believe that the minor is a delinquent minor by virtue of his or her violation of item (4) of subsection (a) of Section 24-1 of the Criminal Code of 1961 or the Criminal Code of 2012 while on school grounds, that finding shall create a presumption that immediate and urgent necessity exists under subdivision (2) of Section 5-501 of this Act. Once the presumption of immediate and urgent necessity has been raised, the burden of demonstrating the lack of immediate and urgent necessity shall be on any party that is opposing detention for the minor. Should the court order detention pursuant to this Section, the minor shall be detained, pending the results of a court-ordered psychological evaluation to determine if the minor is a risk to himself, herself, or others. Upon receipt of

the psychological evaluation, the court shall review the determination regarding the existence of urgent and immediate necessity. The court shall consider the psychological evaluation in conjunction with the other factors identified in subdivision (2) of Section 5-501 of this Act in order to make a de novo determination regarding whether it is a matter of immediate and urgent necessity for the protection of the minor or of the person or property of another that the minor be detained or placed in a shelter care facility. In addition to the pre-trial conditions found in Section 5-505 of this Act, the court may order the minor to receive counseling and any other services recommended by the psychological evaluation as a condition for release of the minor.

(c) Upon making a determination that the student presents a risk to himself, herself, or others, the court shall issue an order restraining the student from entering the property of the school if he or she has been suspended or expelled from the school as a result of possessing a firearm. The order shall restrain the student from entering the school and school owned or leased property, including any conveyance owned, leased, or contracted by the school to transport students to or from school or a school-related activity. The order shall remain in effect until such time as the court determines that the student no longer presents a risk to himself, herself, or others.

(d) Psychological evaluations ordered pursuant to subsection (b) of this Section and statements made by the minor

during the course of these evaluations, shall not be admissible on the issue of delinquency during the course of any adjudicatory hearing held under this Act.

(e) In this Section:

"School" means any public or private elementary or secondary school.

"School grounds" includes the real property comprising any school, any conveyance owned, leased, or contracted by a school to transport students to or from school or a school-related activity, or any public way within 1,000 feet of the real property comprising any school.

(Source: P.A. 97-1150, eff. 1-25-13.)

(705 ILCS 405/5-805)

Sec. 5-805. Transfer of jurisdiction.

(1) (Blank). ~~Mandatory transfers.~~

~~(a) If a petition alleges commission by a minor 15 years of age or older of an act that constitutes a forcible felony under the laws of this State, and if a motion by the State's Attorney to prosecute the minor under the criminal laws of Illinois for the alleged forcible felony alleges that (i) the minor has previously been adjudicated delinquent or found guilty for commission of an act that constitutes a felony under the laws of this State or any other state and (ii) the act that constitutes the offense was committed in furtherance of criminal activity by an~~

~~organized gang, the Juvenile Judge assigned to hear and determine those motions shall, upon determining that there is probable cause that both allegations are true, enter an order permitting prosecution under the criminal laws of Illinois.~~

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

~~(c) If a petition alleges commission by a minor 15 years of age or older of: (i) an act that constitutes an offense enumerated in the presumptive transfer provisions of subsection (2); and (ii) the minor has previously been adjudicated delinquent or found guilty of a forcible felony, the Juvenile Judge designated to hear and determine~~

~~those motions shall, upon determining that there is probable cause that both allegations are true, enter an order permitting prosecution under the criminal laws of Illinois.~~

~~(d) If a petition alleges commission by a minor 15 years of age or older of an act that constitutes the offense of aggravated discharge of a firearm committed in a school, on the real property comprising a school, within 1,000 feet of the real property comprising a school, at a school related activity, or on, boarding, or departing from any conveyance owned, leased, or contracted by a school or school district to transport students to or from school or a school related activity, regardless of the time of day or the time of year, the juvenile judge designated to hear and determine those motions shall, upon determining that there is probable cause that the allegations are true, enter an order permitting prosecution under the criminal laws of Illinois.~~

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

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

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

(2) Presumptive transfer.

(a) If the State's Attorney files a petition, at any time prior to commencement of the minor's trial, to permit prosecution under the criminal laws and the petition alleges a minor 15 years of age or older of an act that constitutes a forcible felony under the laws of this State, and if a motion by the State's Attorney to prosecute the minor under the criminal laws of Illinois for the alleged forcible felony alleges that (i) the minor has previously been adjudicated delinquent or found guilty for commission of an act that constitutes a forcible felony under the laws of this State or any other state and (ii) the act that constitutes the offense was committed in furtherance of criminal activity by an organized gang, ~~the commission by a minor 15 years of age or older of: (i) a Class X felony other than armed violence; (ii) aggravated discharge of a firearm; (iii) armed violence with a firearm when the predicate offense is a Class 1 or Class 2 felony and the State's Attorney's motion to transfer the case alleges that the offense committed is in furtherance of the criminal activities of an organized gang; (iv) armed violence with a firearm when the predicate offense is a violation of the Illinois Controlled Substances Act, a violation of the Cannabis Control Act, or a violation of the Methamphetamine Control and Community Protection Act; (v) armed violence when the weapon involved was a machine gun or other weapon~~

~~described in subsection (a) (7) of Section 24-1 of the Criminal Code of 1961 or the Criminal Code of 2012; (vi) an act in violation of Section 401 of the Illinois Controlled Substances Act which is a Class X felony, while in a school, regardless of the time of day or the time of year, or on any conveyance owned, leased, or contracted by a school to transport students to or from school or a school related activity, or on residential property owned, operated, or managed by a public housing agency or leased by a public housing agency as part of a scattered site or mixed income development; or (vii) an act in violation of Section 401 of the Illinois Controlled Substances Act and the offense is alleged to have occurred while in a school or on a public way within 1,000 feet of the real property comprising any school, regardless of the time of day or the time of year when the delivery or intended delivery of any amount of the controlled substance is to a person under 17 years of age, (to qualify for a presumptive transfer under paragraph (vi) or (vii) of this clause (2)(a), the violation cannot be based upon subsection (b) of Section 407 of the Illinois Controlled Substances Act) and, if the juvenile judge assigned to hear and determine motions to transfer a case for prosecution in the criminal court determines that there is probable cause to believe that the allegations in the petition and motion are true, there is a rebuttable presumption that the minor is not a fit and~~

proper subject to be dealt with under the Juvenile Justice Reform Provisions of 1998 (Public Act 90-590), and that, except as provided in paragraph (b), the case should be transferred to the criminal court.

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

(i) the age of the minor;

(ii) the history of the minor, including:

(A) any previous delinquent or criminal history of the minor,

(B) any previous abuse or neglect history of the minor, and

(C) any mental health, physical or educational history of the minor or combination of these factors;

(iii) the circumstances of the offense, including:

(A) the seriousness of the offense,

(B) whether the minor is charged through accountability,

(C) whether there is evidence the offense was committed in an aggressive and premeditated

manner,

(D) whether there is evidence the offense caused serious bodily harm,

(E) whether there is evidence the minor possessed a deadly weapon;

(iv) the advantages of treatment within the juvenile justice system including whether there are facilities or programs, or both, particularly available in the juvenile system;

(v) whether the security of the public requires sentencing under Chapter V of the Unified Code of Corrections:

(A) the minor's history of services, including the minor's willingness to participate meaningfully in available services;

(B) whether there is a reasonable likelihood that the minor can be rehabilitated before the expiration of the juvenile court's jurisdiction;

(C) the adequacy of the punishment or services.

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

~~For purposes of clauses (2) (a) (vi) and (vii):~~

~~"School" means a public or private elementary or secondary~~

~~school, community college, college, or university.~~

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

(3) Discretionary transfer.

(a) If a petition alleges commission by a minor 13 years of age or over of an act that constitutes a crime under the laws of this State and, on motion of the State's Attorney to permit prosecution of the minor under the criminal laws, a Juvenile Judge assigned by the Chief Judge of the Circuit to hear and determine those motions, after hearing but before commencement of the trial, finds that there is probable cause to believe that the allegations in the motion are true and that it is not in the best interests of the public to proceed under this Act, the court may enter an order permitting prosecution under the criminal laws.

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

(i) the age of the minor;

(ii) the history of the minor, including:

(A) any previous delinquent or criminal history of the minor,

(B) any previous abuse or neglect history of

the minor, and

(C) any mental health, physical, or educational history of the minor or combination of these factors;

(iii) the circumstances of the offense, including:

(A) the seriousness of the offense,

(B) whether the minor is charged through accountability,

(C) whether there is evidence the offense was committed in an aggressive and premeditated manner,

(D) whether there is evidence the offense caused serious bodily harm,

(E) whether there is evidence the minor possessed a deadly weapon;

(iv) the advantages of treatment within the juvenile justice system including whether there are facilities or programs, or both, particularly available in the juvenile system;

(v) whether the security of the public requires sentencing under Chapter V of the Unified Code of Corrections:

(A) the minor's history of services, including the minor's willingness to participate meaningfully in available services;

(B) whether there is a reasonable likelihood

that the minor can be rehabilitated before the expiration of the juvenile court's jurisdiction;

(C) the adequacy of the punishment or services.

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

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

(5) If criminal proceedings are instituted, the petition for adjudication of wardship shall be dismissed insofar as the act or acts involved in the criminal proceedings. Taking of evidence in a trial on petition for adjudication of wardship is a bar to criminal proceedings based upon the conduct alleged in the petition.

(6) When criminal prosecution is permitted under this Section and a finding of guilt is entered, the criminal court shall sentence the minor under Section 5-4.5-105 of the Unified Code of Corrections.

(7) The changes made to this Section by this amendatory Act of the 99th General Assembly apply to a minor who has been taken into custody on or after the effective date of this amendatory Act of the 99th General Assembly.

(Source: P.A. 97-1150, eff. 1-25-13.)

(705 ILCS 405/5-810)

Sec. 5-810. Extended jurisdiction juvenile prosecutions.

(1) (a) If the State's Attorney files a petition, at any time prior to commencement of the minor's trial, to designate the proceeding as an extended jurisdiction juvenile prosecution and the petition alleges the commission by a minor 13 years of age or older of any offense which would be a felony if committed by an adult, and, if the juvenile judge assigned to hear and determine petitions to designate the proceeding as an extended jurisdiction juvenile prosecution determines that there is probable cause to believe that the allegations in the petition and motion are true, there is a rebuttable presumption that the proceeding shall be designated as an extended jurisdiction juvenile proceeding.

(b) The judge shall enter an order designating the proceeding as an extended jurisdiction juvenile proceeding unless the judge makes a finding based on clear and convincing evidence that sentencing under the Chapter V of the Unified Code of Corrections would not be appropriate for the minor based on an evaluation of the following factors:

(i) the age of the minor;

(ii) the history of the minor, including:

(A) any previous delinquent or criminal history of the minor,

(B) any previous abuse or neglect history of the minor, and

(C) any mental health, physical and/or educational history of the minor;

(iii) the circumstances of the offense, including:

(A) the seriousness of the offense,

(B) whether the minor is charged through accountability,

(C) whether there is evidence the offense was committed in an aggressive and premeditated manner,

(D) whether there is evidence the offense caused serious bodily harm,

(E) whether there is evidence the minor possessed a deadly weapon;

(iv) the advantages of treatment within the juvenile justice system including whether there are facilities or programs, or both, particularly available in the juvenile system;

(v) whether the security of the public requires sentencing under Chapter V of the Unified Code of Corrections:

(A) the minor's history of services, including the minor's willingness to participate meaningfully in available services;

(B) whether there is a reasonable likelihood that the minor can be rehabilitated before the expiration of

the juvenile court's jurisdiction;

(C) the adequacy of the punishment or services.

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

(2) Procedures for extended jurisdiction juvenile prosecutions. The State's Attorney may file a written motion for a proceeding to be designated as an extended juvenile jurisdiction prior to commencement of trial. Notice of the motion shall be in compliance with Section 5-530. When the State's Attorney files a written motion that a proceeding be designated an extended jurisdiction juvenile prosecution, the court shall commence a hearing within 30 days of the filing of the motion for designation, unless good cause is shown by the prosecution or the minor as to why the hearing could not be held within this time period. If the court finds good cause has been demonstrated, then the hearing shall be held within 60 days of the filing of the motion. The hearings shall be open to the public unless the judge finds that the hearing should be closed for the protection of any party, victim or witness. If the Juvenile Judge assigned to hear and determine a motion to designate an extended jurisdiction juvenile prosecution determines that there is probable cause to believe that the allegations in the petition and motion are true the court shall grant the motion for designation. Information used by the court

in its findings or stated in or offered in connection with this Section may be by way of proffer based on reliable information offered by the State or the minor. All evidence shall be admissible if it is relevant and reliable regardless of whether it would be admissible under the rules of evidence.

(3) Trial. A minor who is subject of an extended jurisdiction juvenile prosecution has the right to trial by jury. Any trial under this Section shall be open to the public.

(4) Sentencing. If an extended jurisdiction juvenile prosecution under subsection (1) results in a guilty plea, a verdict of guilty, or a finding of guilt, the court shall impose the following:

(i) one or more juvenile sentences under Section 5-710;

and

(ii) an adult criminal sentence in accordance with the provisions of Section 5-4.5-105 of the Unified Code of Corrections ~~Chapter V of the Unified Code of Corrections~~, the execution of which shall be stayed on the condition that the offender not violate the provisions of the juvenile sentence.

Any sentencing hearing under this Section shall be open to the public.

(5) If, after an extended jurisdiction juvenile prosecution trial, a minor is convicted of a lesser-included offense or of an offense that the State's Attorney did not designate as an extended jurisdiction juvenile prosecution,

the State's Attorney may file a written motion, within 10 days of the finding of guilt, that the minor be sentenced as an extended jurisdiction juvenile prosecution offender. The court shall rule on this motion using the factors found in paragraph (1)(b) of Section 5-805. If the court denies the State's Attorney's motion for sentencing under the extended jurisdiction juvenile prosecution provision, the court shall proceed to sentence the minor under Section 5-710.

(6) When it appears that a minor convicted in an extended jurisdiction juvenile prosecution under subsection (1) has violated the conditions of his or her sentence, or is alleged to have committed a new offense upon the filing of a petition to revoke the stay, the court may, without notice, issue a warrant for the arrest of the minor. After a hearing, if the court finds by a preponderance of the evidence that the minor committed a new offense, the court shall order execution of the previously imposed adult criminal sentence. After a hearing, if the court finds by a preponderance of the evidence that the minor committed a violation of his or her sentence other than by a new offense, the court may order execution of the previously imposed adult criminal sentence or may continue him or her on the existing juvenile sentence with or without modifying or enlarging the conditions. Upon revocation of the stay of the adult criminal sentence and imposition of that sentence, the minor's extended jurisdiction juvenile status shall be terminated. The on-going jurisdiction over the minor's

case shall be assumed by the adult criminal court and juvenile court jurisdiction shall be terminated and a report of the imposition of the adult sentence shall be sent to the Department of State Police.

(7) Upon successful completion of the juvenile sentence the court shall vacate the adult criminal sentence.

(8) Nothing in this Section precludes the State from filing a motion for transfer under Section 5-805.

(Source: P.A. 94-574, eff. 8-12-05; 95-331, eff. 8-21-07.)

(705 ILCS 405/5-822 new)

Sec. 5-822. Data collection. On the effective date of this amendatory Act of the 99th General Assembly:

(1) The Clerk of the Circuit Court of every county in this State, shall track the filing, processing, and disposition of all cases:

(a) initiated in criminal court under Section 5-130 of this Act;

(b) in which a motion to transfer was filed by the State under Section 5-805 of this Act;

(c) in which a motion for extended jurisdiction was filed by the State under Section 5-810 of this Act;

(d) in which a designation is sought of a Habitual Juvenile Offender under Section 5-815 of this Act; and

(e) in which a designation is sought of a Violent Juvenile Offender under Section 5-820 of this Act.

(2) For each category of case listed in subsection (1), the clerk shall collect the following:

(a) age of the defendant and of the victim or victims at the time of offense;

(b) race and ethnicity of the defendant and the victim or victims;

(c) gender of the defendant and the victim or victims;

(d) the offense or offenses charged;

(e) date filed and the date of final disposition;

(f) the final disposition;

(g) for those cases resulting in a finding or plea of guilty:

(i) charge or charges for which they are convicted;

(ii) sentence for each charge;

(h) for cases under paragraph (c) of subsection (1), the clerk shall report if the adult sentence is applied due to non-compliance with the juvenile sentence.

(3) On January 15 and June 15 of each year beginning 6 months after the effective date of this amendatory Act of the 99th General Assembly, the Clerk of each county shall submit a report outlining all of the information from subsection (2) to the General Assembly and the county board of the clerk's respective county.

(4) No later than 2 months after the effective date of this amendatory Act of the 99th General Assembly, the standards, confidentiality protocols, format, and data depository for the semi-annual reports described in this Section shall be identified by the State Advisory Group on Juvenile Justice and Delinquency Prevention and distributed to the General Assembly, county boards, and county clerks' offices.

(705 ILCS 405/5-821 rep.)

Section 10. The Juvenile Court Act of 1987 is amended by repealing Section 5-821.

Section 15. The Unified Code of Corrections is amended by adding Section 5-4.5-105 as follows:

(730 ILCS 5/5-4.5-105 new)

Sec. 5-4.5-105. SENTENCING OF INDIVIDUALS UNDER THE AGE OF 18 AT THE TIME OF THE COMMISSION OF AN OFFENSE.

(a) On or after the effective date of this amendatory Act of the 99th General Assembly, when a person commits an offense and the person is under 18 years of age at the time of the commission of the offense, the court, at the sentencing hearing conducted under Section 5-4-1, shall consider the following additional factors in mitigation in determining the appropriate sentence:

(1) the person's age, impetuosity, and level of maturity at the time of the offense, including the ability to consider risks and consequences of behavior, and the presence of cognitive or developmental disability, or both, if any;

(2) whether the person was subjected to outside pressure, including peer pressure, familial pressure, or negative influences;

(3) the person's family, home environment, educational and social background, including any history of parental neglect, physical abuse, or other childhood trauma;

(4) the person's potential for rehabilitation or evidence of rehabilitation, or both;

(5) the circumstances of the offense;

(6) the person's degree of participation and specific role in the offense, including the level of planning by the defendant before the offense;

(7) whether the person was able to meaningfully participate in his or her defense;

(8) the person's prior juvenile or criminal history;
and

(9) any other information the court finds relevant and reliable, including an expression of remorse, if appropriate. However, if the person, on advice of counsel chooses not to make a statement, the court shall not consider a lack of an expression of remorse as an

aggravating factor.

(b) Except as provided in subsection (c), the court may sentence the defendant to any disposition authorized for the class of the offense of which he or she was found guilty as described in Article 4.5 of this Code, and may, in its discretion, decline to impose any otherwise applicable sentencing enhancement based upon firearm possession, possession with personal discharge, or possession with personal discharge that proximately causes great bodily harm, permanent disability, permanent disfigurement or death to another person.

(c) Notwithstanding any other provision of law, if the defendant is convicted of first degree murder and would otherwise be subject to sentencing under clause (iii), (iv), (v), or (vii) of subsection (c) of Section 5-8-1 of this Code based on the category of persons identified therein, the court shall impose a sentence of not less than 40 years of imprisonment. In addition, the court may, in its discretion, decline to impose the sentencing enhancements based upon the possession or use of a firearm during the commission of the offense included in subsection (d) of Section 5-8-1.