



Sen. Don Harmon

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10400HB1823sam001

LRB104 09302 RLC 26091 a

1 AMENDMENT TO HOUSE BILL 1823

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 1823 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The Juvenile Court Act of 1987 is amended by  
5 changing Section 5-130 as follows:

6 (705 ILCS 405/5-130)

7 Sec. 5-130. Excluded jurisdiction.

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

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

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

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

19           (c) (i) If after trial or plea the minor is convicted of any  
20 offense covered by paragraph (a) of this subsection (1), then,  
21 in sentencing the minor, the court shall sentence the minor  
22 under Section 5-4.5-105 of the Unified Code of Corrections.

23           (ii) If after trial or plea the court finds that the minor  
24 committed an offense not covered by paragraph (a) of this  
25 subsection (1), that finding shall not invalidate the verdict  
26 or the prosecution of the minor under the criminal laws of the

1 State; however, unless the State requests a hearing for the  
2 purpose of sentencing the minor under Chapter V of the Unified  
3 Code of Corrections, the Court must proceed under Sections  
4 5-705 and 5-710 of this Article. To request a hearing, the  
5 State must file a written motion within 10 days following the  
6 entry of a finding or the return of a verdict. Reasonable  
7 notice of the motion shall be given to the minor or the minor's  
8 counsel. If the motion is made by the State, the court shall  
9 conduct a hearing to determine if the minor should be  
10 sentenced under Chapter V of the Unified Code of Corrections.  
11 In making its determination, the court shall consider among  
12 other matters: (a) whether there is evidence that the offense  
13 was committed in an aggressive and premeditated manner; (b)  
14 the age of the minor; (c) the previous history of the minor;  
15 (d) whether there are facilities particularly available to the  
16 Juvenile Court or the Department of Juvenile Justice 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 sentenced  
23 under Chapter V of the Unified Code of Corrections, then the  
24 court shall sentence the minor under Section 5-4.5-105 of the  
25 Unified Code of Corrections.

26 (2) (Blank).

1 (3) (Blank).

2 (4) (Blank).

3 (5) (Blank).

4 (6) (Blank).

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

10 (8) Nothing in this Act prohibits or limits the  
11 prosecution of any minor for an offense committed on or after  
12 the minor's 18th birthday even though the minor is at the time  
13 of the offense a ward of the court.

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

24 (10) If, prior to August 12, 2005 (the effective date of  
25 Public Act 94-574), a minor is charged with a violation of  
26 Section 401 of the Illinois Controlled Substances Act under

1 the criminal laws of this State, other than a minor charged  
2 with a Class X felony violation of the Illinois Controlled  
3 Substances Act or the Methamphetamine Control and Community  
4 Protection Act, any party including the minor or the court sua  
5 sponte may, before trial, move for a hearing for the purpose of  
6 trying and sentencing the minor as a delinquent minor. To  
7 request a hearing, the party must file a motion prior to trial.  
8 Reasonable notice of the motion shall be given to all parties.  
9 On its own motion or upon the filing of a motion by one of the  
10 parties including the minor, the court shall conduct a hearing  
11 to determine whether the minor should be tried and sentenced  
12 as a delinquent minor under this Article. In making its  
13 determination, the court shall consider among other matters:

14 (a) The age of the minor;

15 (b) Any previous delinquent or criminal history of the  
16 minor;

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

19 (d) Any mental health or educational history of the  
20 minor, or both; and

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

26 Any material that is relevant and reliable shall be

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

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

12 (Source: P.A. 103-22, eff. 8-8-23.)".