

# HB4336



## 100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

HB4336

by Rep. Robyn Gabel

### SYNOPSIS AS INTRODUCED:

705 ILCS 405/5-410  
705 ILCS 405/5-710  
705 ILCS 405/5-720

Amends the Juvenile Court Act of 1987. Provides that a juvenile may be kept or detained in an authorized detention facility if the juvenile is 13 years of age or older (rather than 10 years of age or older). Makes conforming changes.

LRB100 16410 SLF 31538 b

A BILL FOR

1 AN ACT concerning courts.

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 5-410, 5-710 and 5-720 as follows:

6 (705 ILCS 405/5-410)

7 Sec. 5-410. Non-secure custody or detention.

8 (1) Any minor arrested or taken into custody under ~~pursuant~~  
9 ~~to~~ this Act who requires care away from his or her home but who  
10 does not require physical restriction shall be given temporary  
11 care in a foster family home or other shelter facility  
12 designated by the court.

13 (2) (a) Any minor 13 ~~10~~ years of age or older arrested  
14 under ~~pursuant to~~ this Act where there is probable cause to  
15 believe that the minor is a delinquent minor and that (i)  
16 secured custody is a matter of immediate and urgent necessity  
17 for the protection of the minor or of the person or property of  
18 another, (ii) the minor is likely to flee the jurisdiction of  
19 the court, or (iii) the minor was taken into custody under a  
20 warrant, may be kept or detained in an authorized detention  
21 facility. ~~A minor under 13 years of age shall not be admitted,~~  
22 ~~kept, or detained in a detention facility unless a local youth~~  
23 ~~service provider, including a provider through the~~

1 ~~Comprehensive Community Based Youth Services network, has been~~  
2 ~~contacted and has not been able to accept the minor. No minor~~  
3 ~~under 12 years of age shall be detained in a county jail or a~~  
4 ~~municipal lockup for more than 6 hours.~~

5 (b) The written authorization of the probation officer or  
6 detention officer (or other public officer designated by the  
7 court in a county having 3,000,000 or more inhabitants)  
8 constitutes authority for the superintendent of any juvenile  
9 detention home to detain and keep a minor for up to 40 hours,  
10 excluding Saturdays, Sundays and court-designated holidays.  
11 These records shall be available to the same persons and under  
12 ~~pursuant to~~ the same conditions as are law enforcement records  
13 as provided in Section 5-905.

14 (b-4) The consultation required by subsection (b-5) shall  
15 not be applicable if the probation officer or detention officer  
16 (or other public officer designated by the court in a county  
17 having 3,000,000 or more inhabitants) utilizes a scorable  
18 detention screening instrument, which has been developed with  
19 input by the State's Attorney, to determine whether a minor  
20 should be detained, however, subsection (b-5) shall still be  
21 applicable where no such screening instrument is used or where  
22 the probation officer, detention officer (or other public  
23 officer designated by the court in a county having 3,000,000 or  
24 more inhabitants) deviates from the screening instrument.

25 (b-5) Subject to the provisions of subsection (b-4), if a  
26 probation officer or detention officer (or other public officer

1 designated by the court in a county having 3,000,000 or more  
2 inhabitants) does not intend to detain a minor for an offense  
3 which constitutes one of the following offenses he or she shall  
4 consult with the State's Attorney's Office prior to the release  
5 of the minor: first degree murder, second degree murder,  
6 involuntary manslaughter, criminal sexual assault, aggravated  
7 criminal sexual assault, aggravated battery with a firearm as  
8 described in Section 12-4.2 or subdivision (e)(1), (e)(2),  
9 (e)(3), or (e)(4) of Section 12-3.05, aggravated or heinous  
10 battery involving permanent disability or disfigurement or  
11 great bodily harm, robbery, aggravated robbery, armed robbery,  
12 vehicular hijacking, aggravated vehicular hijacking, vehicular  
13 invasion, arson, aggravated arson, kidnapping, aggravated  
14 kidnapping, home invasion, burglary, or residential burglary.

15 (c) Except as otherwise provided in paragraph (a), (d), or  
16 (e), no minor shall be detained in a county jail or municipal  
17 lockup for more than 12 hours, unless the offense is a crime of  
18 violence in which case the minor may be detained up to 24  
19 hours. For the purpose of this paragraph, "crime of violence"  
20 has the meaning ascribed to it in Section 1-10 of the  
21 Alcoholism and Other Drug Abuse and Dependency Act.

22 (i) The period of detention is deemed to have begun  
23 once the minor has been placed in a locked room or cell or  
24 handcuffed to a stationary object in a building housing a  
25 county jail or municipal lockup. Time spent transporting a  
26 minor is not considered to be time in detention or secure

1 custody.

2 (ii) Any minor so confined shall be under periodic  
3 supervision and shall not be permitted to come into or  
4 remain in contact with adults in custody in the building.

5 (iii) Upon placement in secure custody in a jail or  
6 lockup, the minor shall be informed of the purpose of the  
7 detention, the time it is expected to last and the fact  
8 that it cannot exceed the time specified under this Act.

9 (iv) A log shall be kept which shows the offense which  
10 is the basis for the detention, the reasons and  
11 circumstances for the decision to detain and the length of  
12 time the minor was in detention.

13 (v) Violation of the time limit on detention in a  
14 county jail or municipal lockup shall not, in and of  
15 itself, render inadmissible evidence obtained as a result  
16 of the violation of this time limit. Minors under 18 years  
17 of age shall be kept separate from confined adults and may  
18 not at any time be kept in the same cell, room or yard with  
19 adults confined pursuant to criminal law. Persons 18 years  
20 of age and older who have a petition of delinquency filed  
21 against them may be confined in an adult detention  
22 facility. In making a determination whether to confine a  
23 person 18 years of age or older who has a petition of  
24 delinquency filed against the person, these factors, among  
25 other matters, shall be considered:

26 (A) The age of the person;

1 (B) Any previous delinquent or criminal history of  
2 the person;

3 (C) Any previous abuse or neglect history of the  
4 person; and

5 (D) Any mental health or educational history of the  
6 person, or both.

7 (d) (i) If a minor 13 ~~12~~ years of age or older is confined  
8 in a county jail in a county with a population below 3,000,000  
9 inhabitants, then the minor's confinement shall be implemented  
10 in such a manner that there will be no contact by sight, sound  
11 or otherwise between the minor and adult prisoners. Minors 13  
12 ~~12~~ years of age or older must be kept separate from confined  
13 adults and may not at any time be kept in the same cell, room,  
14 or yard with confined adults. This paragraph (d) (i) shall only  
15 apply to confinement pending an adjudicatory hearing and shall  
16 not exceed 40 hours, excluding Saturdays, Sundays and court  
17 designated holidays. To accept or hold minors during this time  
18 period, county jails shall comply with all monitoring standards  
19 adopted by the Department of Corrections and training standards  
20 approved by the Illinois Law Enforcement Training Standards  
21 Board.

22 (ii) To accept or hold minors, 13 ~~12~~ years of age or older,  
23 after the time period prescribed in paragraph (d) (i) of this  
24 subsection (2) of this Section but not exceeding 7 days  
25 including Saturdays, Sundays, and holidays pending an  
26 adjudicatory hearing, county jails shall comply with all

1 temporary detention standards adopted by the Department of  
2 Corrections and training standards approved by the Illinois Law  
3 Enforcement Training Standards Board.

4 (iii) To accept or hold minors 13 ~~12~~ years of age or older,  
5 after the time period prescribed in paragraphs (d)(i) and  
6 (d)(ii) of this subsection (2) of this Section, county jails  
7 shall comply with all county juvenile detention standards  
8 adopted by the Department of Juvenile Justice.

9 (e) When a minor who is at least 15 years of age is  
10 prosecuted under the criminal laws of this State, the court may  
11 enter an order directing that the juvenile be confined in the  
12 county jail. However, any juvenile confined in the county jail  
13 under this provision shall be separated from adults who are  
14 confined in the county jail in such a manner that there will be  
15 no contact by sight, sound or otherwise between the juvenile  
16 and adult prisoners.

17 (f) For purposes of appearing in a physical lineup, the  
18 minor may be taken to a county jail or municipal lockup under  
19 the direct and constant supervision of a juvenile police  
20 officer. During such time as is necessary to conduct a lineup,  
21 and while supervised by a juvenile police officer, the sight  
22 and sound separation provisions shall not apply.

23 (g) For purposes of processing a minor, the minor may be  
24 taken to a County Jail or municipal lockup under the direct and  
25 constant supervision of a law enforcement officer or  
26 correctional officer. During such time as is necessary to

1 process the minor, and while supervised by a law enforcement  
2 officer or correctional officer, the sight and sound separation  
3 provisions shall not apply.

4 (3) If the probation officer or State's Attorney (or such  
5 other public officer designated by the court in a county having  
6 3,000,000 or more inhabitants) determines that the minor may be  
7 a delinquent minor as described in subsection (3) of Section  
8 5-105, and should be retained in custody but does not require  
9 physical restriction, the minor may be placed in non-secure  
10 custody for up to 40 hours pending a detention hearing.

11 (4) Any minor taken into temporary custody, not requiring  
12 secure detention, may, however, be detained in the home of his  
13 or her parent or guardian subject to such conditions as the  
14 court may impose.

15 (5) The changes made to this Section by Public Act 98-61  
16 apply to a minor who has been arrested or taken into custody on  
17 or after January 1, 2014 (the effective date of Public Act  
18 98-61).

19 (Source: P.A. 98-61, eff. 1-1-14; 98-685, eff. 1-1-15; 98-756,  
20 eff. 7-16-14; 99-254, eff. 1-1-16.)

21 (705 ILCS 405/5-710)

22 Sec. 5-710. Kinds of sentencing orders.

23 (1) The following kinds of sentencing orders may be made in  
24 respect of wards of the court:

25 (a) Except as provided in Sections 5-805, 5-810, 5-815,



1 a minor who is found guilty under Section 5-620 may be:

2 (i) put on probation or conditional discharge and  
3 released to his or her parents, guardian or legal  
4 custodian, provided, however, that any such minor who  
5 is not committed to the Department of Juvenile Justice  
6 under this subsection and who is found to be a  
7 delinquent for an offense which is first degree murder,  
8 a Class X felony, or a forcible felony shall be placed  
9 on probation;

10 (ii) placed in accordance with Section 5-740, with  
11 or without also being put on probation or conditional  
12 discharge;

13 (iii) required to undergo a substance abuse  
14 assessment conducted by a licensed provider and  
15 participate in the indicated clinical level of care;

16 (iv) on and after the effective date of this  
17 amendatory Act of the 98th General Assembly and before  
18 January 1, 2017, placed in the guardianship of the  
19 Department of Children and Family Services, but only if  
20 the delinquent minor is under 16 years of age or, under  
21 ~~pursuant to~~ Article II of this Act, a minor for whom an  
22 independent basis of abuse, neglect, or dependency  
23 exists. On and after January 1, 2017, placed in the  
24 guardianship of the Department of Children and Family  
25 Services, but only if the delinquent minor is under 15  
26 years of age or, pursuant to Article II of this Act, a

1 minor for whom an independent basis of abuse, neglect,  
2 or dependency exists. An independent basis exists when  
3 the allegations or adjudication of abuse, neglect, or  
4 dependency do not arise from the same facts, incident,  
5 or circumstances which give rise to a charge or  
6 adjudication of delinquency;

7 (v) placed in detention for a period not to exceed  
8 30 days, either as the exclusive order of disposition  
9 or, where appropriate, in conjunction with any other  
10 order of disposition issued under this paragraph,  
11 provided that any such detention shall be in a juvenile  
12 detention home and the minor so detained shall be 13 ~~10~~  
13 years of age or older. However, the 30-day limitation  
14 may be extended by further order of the court for a  
15 minor under age 15 committed to the Department of  
16 Children and Family Services if the court finds that  
17 the minor is a danger to himself or others. The minor  
18 shall be given credit on the sentencing order of  
19 detention for time spent in detention under Sections  
20 5-501, 5-601, 5-710, or 5-720 of this Article as a  
21 result of the offense for which the sentencing order  
22 was imposed. The court may grant credit on a sentencing  
23 order of detention entered under a violation of  
24 probation or violation of conditional discharge under  
25 Section 5-720 of this Article for time spent in  
26 detention before the filing of the petition alleging

1 the violation. A minor shall not be deprived of credit  
2 for time spent in detention before the filing of a  
3 violation of probation or conditional discharge  
4 alleging the same or related act or acts. The  
5 limitation that the minor shall only be placed in a  
6 juvenile detention home does not apply as follows:

7 Persons 18 years of age and older who have a  
8 petition of delinquency filed against them may be  
9 confined in an adult detention facility. In making a  
10 determination whether to confine a person 18 years of  
11 age or older who has a petition of delinquency filed  
12 against the person, these factors, among other  
13 matters, shall be considered:

14 (A) the age of the person;

15 (B) any previous delinquent or criminal  
16 history of the person;

17 (C) any previous abuse or neglect history of  
18 the person;

19 (D) any mental health history of the person;

20 and

21 (E) any educational history of the person;

22 (vi) ordered partially or completely emancipated  
23 in accordance with the provisions of the Emancipation  
24 of Minors Act;

25 (vii) subject to having his or her driver's license  
26 or driving privileges suspended for such time as

1 determined by the court but only until he or she  
2 attains 18 years of age;

3 (viii) put on probation or conditional discharge  
4 and placed in detention under Section 3-6039 of the  
5 Counties Code for a period not to exceed the period of  
6 incarceration permitted by law for adults found guilty  
7 of the same offense or offenses for which the minor was  
8 adjudicated delinquent, and in any event no longer than  
9 upon attainment of age 21; this subdivision (viii)  
10 notwithstanding any contrary provision of the law;

11 (ix) ordered to undergo a medical or other  
12 procedure to have a tattoo symbolizing allegiance to a  
13 street gang removed from his or her body; or

14 (x) placed in electronic home detention under Part  
15 7A of this Article.

16 (b) A minor found to be guilty may be committed to the  
17 Department of Juvenile Justice under Section 5-750 if the  
18 minor is at least 13 years and under 20 years of age,  
19 provided that the commitment to the Department of Juvenile  
20 Justice shall be made only if the minor was found guilty of  
21 a felony offense or first degree murder. The court shall  
22 include in the sentencing order any pre-custody credits the  
23 minor is entitled to under Section 5-4.5-100 of the Unified  
24 Code of Corrections. The time during which a minor is in  
25 custody before being released upon the request of a parent,  
26 guardian or legal custodian shall also be considered as

1 time spent in custody.

2 (c) When a minor is found to be guilty for an offense  
3 which is a violation of the Illinois Controlled Substances  
4 Act, the Cannabis Control Act, or the Methamphetamine  
5 Control and Community Protection Act and made a ward of the  
6 court, the court may enter a disposition order requiring  
7 the minor to undergo assessment, counseling or treatment in  
8 a substance abuse program approved by the Department of  
9 Human Services.

10 (2) Any sentencing order other than commitment to the  
11 Department of Juvenile Justice may provide for protective  
12 supervision under Section 5-725 and may include an order of  
13 protection under Section 5-730.

14 (3) Unless the sentencing order expressly so provides, it  
15 does not operate to close proceedings on the pending petition,  
16 but is subject to modification until final closing and  
17 discharge of the proceedings under Section 5-750.

18 (4) In addition to any other sentence, the court may order  
19 any minor found to be delinquent to make restitution, in  
20 monetary or non-monetary form, under the terms and conditions  
21 of Section 5-5-6 of the Unified Code of Corrections, except  
22 that the "presentencing hearing" referred to in that Section  
23 shall be the sentencing hearing for purposes of this Section.  
24 The parent, guardian or legal custodian of the minor may be  
25 ordered by the court to pay some or all of the restitution on  
26 the minor's behalf, pursuant to the Parental Responsibility

1 Law. The State's Attorney is authorized to act on behalf of any  
2 victim in seeking restitution in proceedings under this  
3 Section, up to the maximum amount allowed in Section 5 of the  
4 Parental Responsibility Law.

5 (5) Any sentencing order where the minor is committed or  
6 placed in accordance with Section 5-740 shall provide for the  
7 parents or guardian of the estate of the minor to pay to the  
8 legal custodian or guardian of the person of the minor such  
9 sums as are determined by the custodian or guardian of the  
10 person of the minor as necessary for the minor's needs. The  
11 payments may not exceed the maximum amounts provided for by  
12 Section 9.1 of the Children and Family Services Act.

13 (6) Whenever the sentencing order requires the minor to  
14 attend school or participate in a program of training, the  
15 truant officer or designated school official shall regularly  
16 report to the court if the minor is a chronic or habitual  
17 truant under Section 26-2a of the School Code. Notwithstanding  
18 any other provision of this Act, in instances in which  
19 educational services are to be provided to a minor in a  
20 residential facility where the minor has been placed by the  
21 court, costs incurred in the provision of those educational  
22 services must be allocated based on the requirements of the  
23 School Code.

24 (7) In no event shall a guilty minor be committed to the  
25 Department of Juvenile Justice for a period of time in excess  
26 of that period for which an adult could be committed for the

1 same act. The court shall include in the sentencing order a  
2 limitation on the period of confinement not to exceed the  
3 maximum period of imprisonment the court could impose under  
4 Article V of the Unified Code of Corrections.

5 (7.5) In no event shall a guilty minor be committed to the  
6 Department of Juvenile Justice or placed in detention when the  
7 act for which the minor was adjudicated delinquent would not be  
8 illegal if committed by an adult.

9 (7.6) In no event shall a guilty minor be committed to the  
10 Department of Juvenile Justice for an offense which is a Class  
11 4 felony under Section 19-4 (criminal trespass to a residence),  
12 21-1 (criminal damage to property), 21-1.01 (criminal damage to  
13 government supported property), 21-1.3 (criminal defacement of  
14 property), 26-1 (disorderly conduct), or 31-4 (obstructing  
15 justice) of the Criminal Code of 2012.

16 (7.75) In no event shall a guilty minor be committed to the  
17 Department of Juvenile Justice for an offense that is a Class 3  
18 or Class 4 felony violation of the Illinois Controlled  
19 Substances Act unless the commitment occurs upon a third or  
20 subsequent judicial finding of a violation of probation for  
21 substantial noncompliance with court-ordered ~~court-ordered~~  
22 treatment or programming.

23 (8) A minor found to be guilty for reasons that include a  
24 violation of Section 21-1.3 of the Criminal Code of 1961 or the  
25 Criminal Code of 2012 shall be ordered to perform community  
26 service for not less than 30 and not more than 120 hours, if

1 community service is available in the jurisdiction. The  
2 community service shall include, but need not be limited to,  
3 the cleanup and repair of the damage that was caused by the  
4 violation or similar damage to property located in the  
5 municipality or county in which the violation occurred. The  
6 order may be in addition to any other order authorized by this  
7 Section.

8 (8.5) A minor found to be guilty for reasons that include a  
9 violation of Section 3.02 or Section 3.03 of the Humane Care  
10 for Animals Act or paragraph (d) of subsection (1) of Section  
11 21-1 of the Criminal Code of 1961 or paragraph (4) of  
12 subsection (a) of Section 21-1 of the Criminal Code of 2012  
13 shall be ordered to undergo medical or psychiatric treatment  
14 rendered by a psychiatrist or psychological treatment rendered  
15 by a clinical psychologist. The order may be in addition to any  
16 other order authorized by this Section.

17 (9) In addition to any other sentencing order, the court  
18 shall order any minor found to be guilty for an act which would  
19 constitute, predatory criminal sexual assault of a child,  
20 aggravated criminal sexual assault, criminal sexual assault,  
21 aggravated criminal sexual abuse, or criminal sexual abuse if  
22 committed by an adult to undergo medical testing to determine  
23 whether the defendant has any sexually transmissible disease  
24 including a test for infection with human immunodeficiency  
25 virus (HIV) or any other identified causative agency of  
26 acquired immunodeficiency syndrome (AIDS). Any medical test



1 shall be performed only by appropriately licensed medical  
2 practitioners and may include an analysis of any bodily fluids  
3 as well as an examination of the minor's person. Except as  
4 otherwise provided by law, the results of the test shall be  
5 kept strictly confidential by all medical personnel involved in  
6 the testing and must be personally delivered in a sealed  
7 envelope to the judge of the court in which the sentencing  
8 order was entered for the judge's inspection in camera. Acting  
9 in accordance with the best interests of the victim and the  
10 public, the judge shall have the discretion to determine to  
11 whom the results of the testing may be revealed. The court  
12 shall notify the minor of the results of the test for infection  
13 with the human immunodeficiency virus (HIV). The court shall  
14 also notify the victim if requested by the victim, and if the  
15 victim is under the age of 15 and if requested by the victim's  
16 parents or legal guardian, the court shall notify the victim's  
17 parents or the legal guardian, of the results of the test for  
18 infection with the human immunodeficiency virus (HIV). The  
19 court shall provide information on the availability of HIV  
20 testing and counseling at the Department of Public Health  
21 facilities to all parties to whom the results of the testing  
22 are revealed. The court shall order that the cost of any test  
23 shall be paid by the county and may be taxed as costs against  
24 the minor.

25 (10) When a court finds a minor to be guilty the court  
26 shall, before entering a sentencing order under this Section,

1 make a finding whether the offense committed either: (a) was  
2 related to or in furtherance of the criminal activities of an  
3 organized gang or was motivated by the minor's membership in or  
4 allegiance to an organized gang, or (b) involved a violation of  
5 subsection (a) of Section 12-7.1 of the Criminal Code of 1961  
6 or the Criminal Code of 2012, a violation of any Section of  
7 Article 24 of the Criminal Code of 1961 or the Criminal Code of  
8 2012, or a violation of any statute that involved the wrongful  
9 use of a firearm. If the court determines the question in the  
10 affirmative, and the court does not commit the minor to the  
11 Department of Juvenile Justice, the court shall order the minor  
12 to perform community service for not less than 30 hours nor  
13 more than 120 hours, provided that community service is  
14 available in the jurisdiction and is funded and approved by the  
15 county board of the county where the offense was committed. The  
16 community service shall include, but need not be limited to,  
17 the cleanup and repair of any damage caused by a violation of  
18 Section 21-1.3 of the Criminal Code of 1961 or the Criminal  
19 Code of 2012 and similar damage to property located in the  
20 municipality or county in which the violation occurred. When  
21 possible and reasonable, the community service shall be  
22 performed in the minor's neighborhood. This order shall be in  
23 addition to any other order authorized by this Section except  
24 for an order to place the minor in the custody of the  
25 Department of Juvenile Justice. For the purposes of this  
26 Section, "organized gang" has the meaning ascribed to it in

1 Section 10 of the Illinois Streetgang Terrorism Omnibus  
2 Prevention Act.

3 (11) If the court determines that the offense was committed  
4 in furtherance of the criminal activities of an organized gang,  
5 as provided in subsection (10), and that the offense involved  
6 the operation or use of a motor vehicle or the use of a  
7 driver's license or permit, the court shall notify the  
8 Secretary of State of that determination and of the period for  
9 which the minor shall be denied driving privileges. If, at the  
10 time of the determination, the minor does not hold a driver's  
11 license or permit, the court shall provide that the minor shall  
12 not be issued a driver's license or permit until his or her  
13 18th birthday. If the minor holds a driver's license or permit  
14 at the time of the determination, the court shall provide that  
15 the minor's driver's license or permit shall be revoked until  
16 his or her 21st birthday, or until a later date or occurrence  
17 determined by the court. If the minor holds a driver's license  
18 at the time of the determination, the court may direct the  
19 Secretary of State to issue the minor a judicial driving  
20 permit, also known as a JDP. The JDP shall be subject to the  
21 same terms as a JDP issued under Section 6-206.1 of the  
22 Illinois Vehicle Code, except that the court may direct that  
23 the JDP be effective immediately.

24 (12) If a minor is found to be guilty of a violation of  
25 subsection (a-7) of Section 1 of the Prevention of Tobacco Use  
26 by Minors Act, the court may, in its discretion, and upon

1 recommendation by the State's Attorney, order that minor and  
2 his or her parents or legal guardian to attend a smoker's  
3 education or youth diversion program as defined in that Act if  
4 that program is available in the jurisdiction where the  
5 offender resides. Attendance at a smoker's education or youth  
6 diversion program shall be time-credited against any community  
7 service time imposed for any first violation of subsection  
8 (a-7) of Section 1 of that Act. In addition to any other  
9 penalty that the court may impose for a violation of subsection  
10 (a-7) of Section 1 of that Act, the court, upon request by the  
11 State's Attorney, may in its discretion require the offender to  
12 remit a fee for his or her attendance at a smoker's education  
13 or youth diversion program.

14 For purposes of this Section, "smoker's education program"  
15 or "youth diversion program" includes, but is not limited to, a  
16 seminar designed to educate a person on the physical and  
17 psychological effects of smoking tobacco products and the  
18 health consequences of smoking tobacco products that can be  
19 conducted with a locality's youth diversion program.

20 In addition to any other penalty that the court may impose  
21 under this subsection (12):

22 (a) If a minor violates subsection (a-7) of Section 1  
23 of the Prevention of Tobacco Use by Minors Act, the court  
24 may impose a sentence of 15 hours of community service or a  
25 fine of \$25 for a first violation.

26 (b) A second violation by a minor of subsection (a-7)

1 of Section 1 of that Act that occurs within 12 months after  
2 the first violation is punishable by a fine of \$50 and 25  
3 hours of community service.

4 (c) A third or subsequent violation by a minor of  
5 subsection (a-7) of Section 1 of that Act that occurs  
6 within 12 months after the first violation is punishable by  
7 a \$100 fine and 30 hours of community service.

8 (d) Any second or subsequent violation not within the  
9 12-month time period after the first violation is  
10 punishable as provided for a first violation.

11 (Source: P.A. 98-536, eff. 8-23-13; 98-803, eff. 1-1-15;  
12 99-268, eff. 1-1-16; 99-628, eff. 1-1-17; 99-879, eff. 1-1-17;  
13 revised 9-2-16.)

14 (705 ILCS 405/5-720)

15 Sec. 5-720. Probation revocation.

16 (1) If a petition is filed charging a violation of a  
17 condition of probation or of conditional discharge, the court  
18 shall:

19 (a) order the minor to appear; or

20 (b) order the minor's detention if the court finds that  
21 the detention is a matter of immediate and urgent necessity  
22 for the protection of the minor or of the person or  
23 property of another or that the minor is likely to flee the  
24 jurisdiction of the court, provided that any such detention  
25 shall be in a juvenile detention home and the minor so

1           detained shall be 13 ~~10~~ years of age or older; and

2           (c) notify the persons named in the petition under  
3           Section 5-520, in accordance with the provisions of Section  
4           5-530.

5           In making its detention determination under paragraph (b)  
6           of this subsection (1) of this Section, the court may use  
7           information in its findings offered at such a hearing by way of  
8           proffer based upon reliable information presented by the State,  
9           probation officer, or the minor. The filing of a petition for  
10          violation of a condition of probation or of conditional  
11          discharge shall toll the period of probation or of conditional  
12          discharge until the final determination of the charge, and the  
13          term of probation or conditional discharge shall not run until  
14          the hearing and disposition of the petition for violation.

15          (2) The court shall conduct a hearing of the alleged  
16          violation of probation or of conditional discharge. The minor  
17          shall not be held in detention longer than 15 days pending the  
18          determination of the alleged violation.

19          (3) At the hearing, the State shall have the burden of  
20          going forward with the evidence and proving the violation by a  
21          preponderance of the evidence. The evidence shall be presented  
22          in court with the right of confrontation, cross-examination,  
23          and representation by counsel.

24          (4) If the court finds that the minor has violated a  
25          condition at any time prior to the expiration or termination of  
26          the period of probation or conditional discharge, it may

1 continue him or her on the existing sentence, with or without  
2 modifying or enlarging the conditions, or may revoke probation  
3 or conditional discharge and impose any other sentence that was  
4 available under Section 5-710 at the time of the initial  
5 sentence.

6 (5) The conditions of probation and of conditional  
7 discharge may be reduced or enlarged by the court on motion of  
8 the probation officer or on its own motion or at the request of  
9 the minor after notice and hearing under this Section.

10 (6) Sentencing after revocation of probation or of  
11 conditional discharge shall be under Section 5-705.

12 (7) Instead of filing a violation of probation or of  
13 conditional discharge, the probation officer, with the  
14 concurrence of his or her supervisor, may serve on the minor a  
15 notice of intermediate sanctions. The notice shall contain the  
16 technical violation or violations involved, the date or dates  
17 of the violation or violations, and the intermediate sanctions  
18 to be imposed. Upon receipt of the notice, the minor shall  
19 immediately accept or reject the intermediate sanctions. If the  
20 sanctions are accepted, they shall be imposed immediately. If  
21 the intermediate sanctions are rejected or the minor does not  
22 respond to the notice, a violation of probation or of  
23 conditional discharge shall be immediately filed with the  
24 court. The State's Attorney and the sentencing court shall be  
25 notified of the notice of sanctions. Upon successful completion  
26 of the intermediate sanctions, a court may not revoke probation

1 or conditional discharge or impose additional sanctions for the  
2 same violation. A notice of intermediate sanctions may not be  
3 issued for any violation of probation or conditional discharge  
4 which could warrant an additional, separate felony charge.

5 (Source: P.A. 90-590, eff. 1-1-99.)