



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

HB4776

Introduced 2/6/2024, by Rep. Will Guzzardi

SYNOPSIS AS INTRODUCED:

705 ILCS 405/5-710
705 ILCS 405/5-750

Amends the Juvenile Court Act of 1987. Provides that a minor found to be guilty may be committed to the Department of Juvenile Justice if the minor is at least 14 (rather than 13) years and under 20 years of age, provided that the commitment to the Department of Juvenile Justice shall be made only if the minor was found guilty of a felony offense or first degree murder. Provides that when a minor of the age of at least 14 (rather than 13) years is adjudged delinquent for the offense of first degree murder, the court shall declare the minor a ward of the court and order the minor committed to the Department of Juvenile Justice until the minor's 21st birthday, without the possibility of aftercare release, furlough, or nonemergency authorized absence for a period of 5 years from the date the minor was committed to the Department of Juvenile Justice.

LRB103 36942 JRC 67056 b

1 AN ACT concerning minors.

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

4 Section 5. The Juvenile Court Act of 1987 is amended by
5 changing Sections 5-710 and 5-750 as follows:

6 (705 ILCS 405/5-710)

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

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

10 (a) Except as provided in Sections 5-805, 5-810, and
11 5-815, a minor who is found guilty under Section 5-620 may
12 be:

13 (i) put on probation or conditional discharge and
14 released to the minor's parents, guardian or legal
15 custodian, provided, however, that any such minor who
16 is not committed to the Department of Juvenile Justice
17 under this subsection and who is found to be a
18 delinquent for an offense which is first degree
19 murder, a Class X felony, or a forcible felony shall be
20 placed on probation;

21 (ii) placed in accordance with Section 5-740, with
22 or without also being put on probation or conditional
23 discharge;

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

4 (iv) on and after January 1, 2015 (the effective
5 date of Public Act 98-803) and before January 1, 2017,
6 placed in the guardianship of the Department of
7 Children and Family Services, but only if the
8 delinquent minor is under 16 years of age or, pursuant
9 to Article II of this Act, a minor under the age of 18
10 for whom an independent basis of abuse, neglect, or
11 dependency exists. On and after January 1, 2017,
12 placed in the guardianship of the Department of
13 Children and Family Services, but only if the
14 delinquent minor is under 15 years of age or, pursuant
15 to Article II of this Act, a minor for whom an
16 independent basis of abuse, neglect, or dependency
17 exists. An independent basis exists when the
18 allegations or adjudication of abuse, neglect, or
19 dependency do not arise from the same facts, incident,
20 or circumstances which give rise to a charge or
21 adjudication of delinquency;

22 (v) placed in detention for a period not to exceed
23 30 days, either as the exclusive order of disposition
24 or, where appropriate, in conjunction with any other
25 order of disposition issued under this paragraph,
26 provided that any such detention shall be in a

1 juvenile detention home and the minor so detained
2 shall be 10 years of age or older. However, the 30-day
3 limitation may be extended by further order of the
4 court for a minor under age 15 committed to the
5 Department of Children and Family Services if the
6 court finds that the minor is a danger to the minor or
7 others. The minor shall be given credit on the
8 sentencing order of detention for time spent in
9 detention under Sections 5-501, 5-601, 5-710, or 5-720
10 of this Article as a result of the offense for which
11 the sentencing order was imposed. The court may grant
12 credit on a sentencing order of detention entered
13 under a violation of probation or violation of
14 conditional discharge under Section 5-720 of this
15 Article for time spent in detention before the filing
16 of the petition alleging the violation. A minor shall
17 not be deprived of credit for time spent in detention
18 before the filing of a violation of probation or
19 conditional discharge alleging the same or related act
20 or acts. The limitation that the minor shall only be
21 placed in a juvenile detention home does not apply as
22 follows:

23 Persons 18 years of age and older who have a
24 petition of delinquency filed against them may be
25 confined in an adult detention facility. In making a
26 determination whether to confine a person 18 years of

1 age or older who has a petition of delinquency filed
2 against the person, these factors, among other
3 matters, shall be considered:

4 (A) the age of the person;

5 (B) any previous delinquent or criminal
6 history of the person;

7 (C) any previous abuse or neglect history of
8 the person;

9 (D) any mental health history of the person;
10 and

11 (E) any educational history of the person;

12 (vi) ordered partially or completely emancipated
13 in accordance with the provisions of the Emancipation
14 of Minors Act;

15 (vii) subject to having the minor's driver's
16 license or driving privileges suspended for such time
17 as determined by the court but only until the minor
18 attains 18 years of age;

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

1 law;

2 (ix) ordered to undergo a medical or other
3 procedure to have a tattoo symbolizing allegiance to a
4 street gang removed from the minor's body; or

5 (x) placed in electronic monitoring or home
6 detention under Part 7A of this Article.

7 (b) A minor found to be guilty may be committed to the
8 Department of Juvenile Justice under Section 5-750 if the
9 minor is at least 14 ~~13~~ years and under 20 years of age,
10 provided that the commitment to the Department of Juvenile
11 Justice shall be made only if the minor was found guilty of
12 a felony offense or first degree murder. The court shall
13 include in the sentencing order any pre-custody credits
14 the minor is entitled to under Section 5-4.5-100 of the
15 Unified Code of Corrections. The time during which a minor
16 is in custody before being released upon the request of a
17 parent, guardian or legal custodian shall also be
18 considered as time spent in custody.

19 (c) When a minor is found to be guilty for an offense
20 which is a violation of the Illinois Controlled Substances
21 Act, the Cannabis Control Act, or the Methamphetamine
22 Control and Community Protection Act and made a ward of
23 the court, the court may enter a disposition order
24 requiring the minor to undergo assessment, counseling or
25 treatment in a substance use disorder treatment program
26 approved by the Department of Human Services.

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

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

9 (4) In addition to any other sentence, the court may order
10 any minor found to be delinquent to make restitution, in
11 monetary or non-monetary form, under the terms and conditions
12 of Section 5-5-6 of the Unified Code of Corrections, except
13 that the "presentencing hearing" referred to in that Section
14 shall be the sentencing hearing for purposes of this Section.
15 The parent, guardian or legal custodian of the minor may be
16 ordered by the court to pay some or all of the restitution on
17 the minor's behalf, pursuant to the Parental Responsibility
18 Law. The State's Attorney is authorized to act on behalf of any
19 victim in seeking restitution in proceedings under this
20 Section, up to the maximum amount allowed in Section 5 of the
21 Parental Responsibility Law.

22 (5) Any sentencing order where the minor is committed or
23 placed in accordance with Section 5-740 shall provide for the
24 parents or guardian of the estate of the minor to pay to the
25 legal custodian or guardian of the person of the minor such
26 sums as are determined by the custodian or guardian of the

1 person of the minor as necessary for the minor's needs. The
2 payments may not exceed the maximum amounts provided for by
3 Section 9.1 of the Children and Family Services Act.

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

15 (7) In no event shall a guilty minor be committed to the
16 Department of Juvenile Justice for a period of time in excess
17 of that period for which an adult could be committed for the
18 same act. The court shall include in the sentencing order a
19 limitation on the period of confinement not to exceed the
20 maximum period of imprisonment the court could impose under
21 Chapter V of the Unified Code of Corrections.

22 (7.5) In no event shall a guilty minor be committed to the
23 Department of Juvenile Justice or placed in detention when the
24 act for which the minor was adjudicated delinquent would not
25 be illegal if committed by an adult.

26 (7.6) In no event shall a guilty minor be committed to the

1 Department of Juvenile Justice for an offense which is a Class
2 4 felony under Section 19-4 (criminal trespass to a
3 residence), 21-1 (criminal damage to property), 21-1.01
4 (criminal damage to government supported property), 21-1.3
5 (criminal defacement of property), 26-1 (disorderly conduct),
6 or 31-4 (obstructing justice) of the Criminal Code of 2012.

7 (7.75) In no event shall a guilty minor be committed to the
8 Department of Juvenile Justice for an offense that is a Class 3
9 or Class 4 felony violation of the Illinois Controlled
10 Substances Act unless the commitment occurs upon a third or
11 subsequent judicial finding of a violation of probation for
12 substantial noncompliance with court-ordered treatment or
13 programming.

14 (8) A minor found to be guilty for reasons that include a
15 violation of Section 21-1.3 of the Criminal Code of 1961 or the
16 Criminal Code of 2012 shall be ordered to perform community
17 service for not less than 30 and not more than 120 hours, if
18 community service is available in the jurisdiction. The
19 community service shall include, but need not be limited to,
20 the cleanup and repair of the damage that was caused by the
21 violation or similar damage to property located in the
22 municipality or county in which the violation occurred. The
23 order may be in addition to any other order authorized by this
24 Section. Community service shall not interfere with the school
25 hours, school-related activities, or work commitments of the
26 minor or the minor's parent, guardian, or legal custodian.

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

10 (9) In addition to any other sentencing order, the court
11 shall order any minor found to be guilty for an act which would
12 constitute, predatory criminal sexual assault of a child,
13 aggravated criminal sexual assault, criminal sexual assault,
14 aggravated criminal sexual abuse, or criminal sexual abuse if
15 committed by an adult to undergo medical testing to determine
16 whether the defendant has any sexually transmissible disease
17 including a test for infection with human immunodeficiency
18 virus (HIV) or any other identified causative agency of
19 acquired immunodeficiency syndrome (AIDS). Any medical test
20 shall be performed only by appropriately licensed medical
21 practitioners and may include an analysis of any bodily fluids
22 as well as an examination of the minor's person. Except as
23 otherwise provided by law, the results of the test shall be
24 kept strictly confidential by all medical personnel involved
25 in the testing and must be personally delivered in a sealed
26 envelope to the judge of the court in which the sentencing

1 order was entered for the judge's inspection in camera. Acting
2 in accordance with the best interests of the victim and the
3 public, the judge shall have the discretion to determine to
4 whom the results of the testing may be revealed. The court
5 shall notify the minor of the results of the test for infection
6 with the human immunodeficiency virus (HIV). The court shall
7 also notify the victim if requested by the victim, and if the
8 victim is under the age of 15 and if requested by the victim's
9 parents or legal guardian, the court shall notify the victim's
10 parents or the legal guardian, of the results of the test for
11 infection with the human immunodeficiency virus (HIV). The
12 court shall provide information on the availability of HIV
13 testing and counseling at the Department of Public Health
14 facilities to all parties to whom the results of the testing
15 are revealed. The court shall order that the cost of any test
16 shall be paid by the county.

17 (10) When a court finds a minor to be guilty the court
18 shall, before entering a sentencing order under this Section,
19 make a finding whether the offense committed either: (a) was
20 related to or in furtherance of the criminal activities of an
21 organized gang or was motivated by the minor's membership in
22 or allegiance to an organized gang, or (b) involved a
23 violation of subsection (a) of Section 12-7.1 of the Criminal
24 Code of 1961 or the Criminal Code of 2012, a violation of any
25 Section of Article 24 of the Criminal Code of 1961 or the
26 Criminal Code of 2012, or a violation of any statute that

1 involved the wrongful use of a firearm. If the court
2 determines the question in the affirmative, and the court does
3 not commit the minor to the Department of Juvenile Justice,
4 the court shall order the minor to perform community service
5 for not less than 30 hours nor more than 120 hours, provided
6 that community service is available in the jurisdiction and is
7 funded and approved by the county board of the county where the
8 offense was committed. The community service shall include,
9 but need not be limited to, the cleanup and repair of any
10 damage caused by a violation of Section 21-1.3 of the Criminal
11 Code of 1961 or the Criminal Code of 2012 and similar damage to
12 property located in the municipality or county in which the
13 violation occurred. When possible and reasonable, the
14 community service shall be performed in the minor's
15 neighborhood. This order shall be in addition to any other
16 order authorized by this Section except for an order to place
17 the minor in the custody of the Department of Juvenile
18 Justice. Community service shall not interfere with the school
19 hours, school-related activities, or work commitments of the
20 minor or the minor's parent, guardian, or legal custodian. For
21 the purposes of this Section, "organized gang" has the meaning
22 ascribed to it in Section 10 of the Illinois Streetgang
23 Terrorism Omnibus Prevention Act.

24 (11) If the court determines that the offense was
25 committed in furtherance of the criminal activities of an
26 organized gang, as provided in subsection (10), and that the

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

19 (12) (Blank).

20 (13) Fines and assessments, including any fee or
21 administrative cost authorized under Section 5-4.5-105,
22 5-5-10, 5-6-3, 5-6-3.1, 5-7-6, 5-9-1.4, or 5-9-1.9 of the
23 Unified Code of Corrections, relating to any sentencing order
24 shall not be ordered or imposed on a minor or the minor's
25 parent, guardian, or legal custodian. The inability of a
26 minor, or minor's parent, guardian, or legal custodian, to

1 cover the costs associated with an appropriate sentencing
2 order shall not be the basis for the court to enter a
3 sentencing order incongruent with the court's findings
4 regarding the offense on which the minor was adjudicated or
5 the mitigating factors.

6 (Source: P.A. 102-558, eff. 8-20-21; 103-22, eff. 8-8-23;
7 103-379, eff. 7-28-23; revised 8-25-23.)

8 (705 ILCS 405/5-750)

9 Sec. 5-750. Commitment to the Department of Juvenile
10 Justice.

11 (1) Except as provided in subsection (2) of this Section,
12 when any delinquent has been adjudged a ward of the court under
13 this Act, the court may commit the minor to the Department of
14 Juvenile Justice, if it finds that (a) the minor's parents,
15 guardian or legal custodian are unfit or are unable, for some
16 reason other than financial circumstances alone, to care for,
17 protect, train or discipline the minor, or are unwilling to do
18 so, and the best interests of the minor and the public will not
19 be served by placement under Section 5-740, or it is necessary
20 to ensure the protection of the public from the consequences
21 of criminal activity of the delinquent; and (b) commitment to
22 the Department of Juvenile Justice is the least restrictive
23 alternative based on evidence that efforts were made to locate
24 less restrictive alternatives to secure confinement and the
25 reasons why efforts were unsuccessful in locating a less

1 restrictive alternative to secure confinement. Before the
2 court commits a minor to the Department of Juvenile Justice,
3 it shall make a finding that secure confinement is necessary,
4 following a review of the following individualized factors:

5 (A) Age of the minor.

6 (B) Criminal background of the minor.

7 (C) Review of results of any assessments of the minor,
8 including child centered assessments such as the CANS.

9 (D) Educational background of the minor, indicating
10 whether the minor has ever been assessed for a learning
11 disability, and if so what services were provided as well
12 as any disciplinary incidents at school.

13 (E) Physical, mental and emotional health of the
14 minor, indicating whether the minor has ever been
15 diagnosed with a health issue and if so what services were
16 provided and whether the minor was compliant with
17 services.

18 (F) Community based services that have been provided
19 to the minor, and whether the minor was compliant with the
20 services, and the reason the services were unsuccessful.

21 (G) Services within the Department of Juvenile Justice
22 that will meet the individualized needs of the minor.

23 (1.5) Before the court commits a minor to the Department
24 of Juvenile Justice, the court must find reasonable efforts
25 have been made to prevent or eliminate the need for the minor
26 to be removed from the home, or reasonable efforts cannot, at

1 this time, for good cause, prevent or eliminate the need for
2 removal, and removal from home is in the best interests of the
3 minor, the minor's family, and the public.

4 (2) When a minor of the age of at least 14 ~~13~~ years is
5 adjudged delinquent for the offense of first degree murder,
6 the court shall declare the minor a ward of the court and order
7 the minor committed to the Department of Juvenile Justice
8 until the minor's 21st birthday, without the possibility of
9 aftercare release, furlough, or non-emergency authorized
10 absence for a period of 5 years from the date the minor was
11 committed to the Department of Juvenile Justice, except that
12 the time that a minor spent in custody for the instant offense
13 before being committed to the Department of Juvenile Justice
14 shall be considered as time credited towards that 5 year
15 period. Upon release from a Department facility, a minor
16 adjudged delinquent for first degree murder shall be placed on
17 aftercare release until the age of 21, unless sooner
18 discharged from aftercare release or custodianship is
19 otherwise terminated in accordance with this Act or as
20 otherwise provided for by law. Nothing in this subsection (2)
21 shall preclude the State's Attorney from seeking to prosecute
22 a minor as an adult as an alternative to proceeding under this
23 Act.

24 (3) Except as provided in subsection (2), the commitment
25 of a delinquent to the Department of Juvenile Justice shall be
26 for an indeterminate term which shall automatically terminate

1 upon the delinquent attaining the age of 21 years or upon
2 completion of that period for which an adult could be
3 committed for the same act, whichever occurs sooner, unless
4 the delinquent is sooner discharged from aftercare release or
5 custodianship is otherwise terminated in accordance with this
6 Act or as otherwise provided for by law.

7 (3.5) Every delinquent minor committed to the Department
8 of Juvenile Justice under this Act shall be eligible for
9 aftercare release without regard to the length of time the
10 minor has been confined or whether the minor has served any
11 minimum term imposed. Aftercare release shall be administered
12 by the Department of Juvenile Justice, under the direction of
13 the Director. Unless sooner discharged, the Department of
14 Juvenile Justice shall discharge a minor from aftercare
15 release upon completion of the following aftercare release
16 terms:

17 (a) One and a half years from the date a minor is
18 released from a Department facility, if the minor was
19 committed for a Class X felony;

20 (b) One year from the date a minor is released from a
21 Department facility, if the minor was committed for a
22 Class 1 or 2 felony; and

23 (c) Six months from the date a minor is released from a
24 Department facility, if the minor was committed for a
25 Class 3 felony or lesser offense.

26 (4) When the court commits a minor to the Department of

1 Juvenile Justice, it shall order the minor conveyed forthwith
2 to the appropriate reception station or other place designated
3 by the Department of Juvenile Justice, and shall appoint the
4 Director of Juvenile Justice legal custodian of the minor. The
5 clerk of the court shall issue to the Director of Juvenile
6 Justice a certified copy of the order, which constitutes proof
7 of the Director's authority. No other process need issue to
8 warrant the keeping of the minor.

9 (5) If a minor is committed to the Department of Juvenile
10 Justice, the clerk of the court shall forward to the
11 Department:

12 (a) the sentencing order and copies of committing
13 petition;

14 (b) all reports;

15 (c) the court's statement of the basis for ordering
16 the disposition;

17 (d) any sex offender evaluations;

18 (e) any risk assessment or substance abuse treatment
19 eligibility screening and assessment of the minor by an
20 agent designated by the State to provide assessment
21 services for the courts;

22 (f) the number of days, if any, which the minor has
23 been in custody and for which the minor is entitled to
24 credit against the sentence, which information shall be
25 provided to the clerk by the sheriff;

26 (g) any medical or mental health records or summaries

1 of the minor;

2 (h) the municipality where the arrest of the minor
3 occurred, the commission of the offense occurred, and the
4 minor resided at the time of commission;

5 (h-5) a report detailing the minor's criminal history
6 in a manner and form prescribed by the Department of
7 Juvenile Justice;

8 (i) all additional matters which the court directs the
9 clerk to transmit; and

10 (j) all police reports for sex offenses as defined by
11 the Sex Offender Management Board Act.

12 (6) Whenever the Department of Juvenile Justice lawfully
13 discharges from its custody and control a minor committed to
14 it, the Director of Juvenile Justice shall petition the court
15 for an order terminating the minor's custodianship. The
16 custodianship shall terminate automatically 30 days after
17 receipt of the petition unless the court orders otherwise.

18 (7) If, while on aftercare release, a minor committed to
19 the Department of Juvenile Justice who resides in this State
20 is charged under the criminal laws of this State, the criminal
21 laws of any other state, or federal law with an offense that
22 could result in a sentence of imprisonment within the
23 Department of Corrections, the penal system of any state, or
24 the federal Bureau of Prisons, the commitment to the
25 Department of Juvenile Justice and all rights and duties
26 created by that commitment are automatically suspended pending

1 final disposition of the criminal charge. If the minor is
2 found guilty of the criminal charge and sentenced to a term of
3 imprisonment in the penitentiary system of the Department of
4 Corrections, the penal system of any state, or the federal
5 Bureau of Prisons, the commitment to the Department of
6 Juvenile Justice shall be automatically terminated. If the
7 criminal charge is dismissed, the minor is found not guilty,
8 or the minor completes a criminal sentence other than
9 imprisonment within the Department of Corrections, the penal
10 system of any state, or the federal Bureau of Prisons, the
11 previously imposed commitment to the Department of Juvenile
12 Justice and the full aftercare release term shall be
13 automatically reinstated unless custodianship is sooner
14 terminated. Nothing in this subsection (7) shall preclude the
15 court from ordering another sentence under Section 5-710 of
16 this Act or from terminating the Department's custodianship
17 while the commitment to the Department is suspended.

18 (Source: P.A. 102-350, eff. 8-13-21; 103-22, eff. 8-8-23.)