103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

SB2042

Introduced 2/9/2023, by Sen. Cristina H. Pacione-Zayas

SYNOPSIS AS INTRODUCED:

See Index

Amends the Juvenile Court Act of 1987. Establishes procedures for determining whether a child is fit to stand trial. Provides that the procedures apply to a child under the age of 21, regardless of whether the person is subject to the Act or prosecuted under the criminal laws of the State. Provides that unfitness may result from the presence of any condition or confluence of conditions, including, but not limited to, mental illness, substance use disorder, developmental disability, chronological immaturity, relative immaturity, or child traumatic stress. Provides that a diagnosis is not required for a finding of unfitness. Provides that a child is unfit when the child either: (1) lacks sufficient present ability to consult with the child's attorney with a reasonable degree of rational understanding, as evidenced by lacking the ability to disclose to the attorney facts pertinent to the proceedings at issue and to assist in the child's defense; or (2) lacks a rational or a factual understanding of the proceedings against the child, as evidenced by certain specified factors. Provides that the issue of the child's fitness to stand trial, to plead, or to be sentenced may be raised by the child's attorney, the State, or the court at any time before a plea is entered or before, during, or after trial. Provides that in making determinations on the issue of a child's fitness, the following burdens of proof and presumptions shall apply: (1) when the court finds a bona fide doubt as to the fitness of a child, the State bears the burden of proving that the child is fit by clear and convincing evidence; and (2) a child who is receiving medication shall not be presumed to be fit or unfit to stand trial solely by virtue of the receipt of that medication. Provides that the Illinois Juvenile Justice Commission shall develop and recommend mechanisms to collect and analyze data, disaggregated by race, ethnicity, gender, geography, age, and socioeconomic status, resulting from the implementation of these provisions. Provides that the report and recommendations shall be submitted to the General Assembly on or before January 1, 2024. Contains a severability provision. Effective July 1, 2023.

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A BILL FOR

1 AN ACT concerning courts.

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

4 Section 5. The Juvenile Court Act of 1987 is amended by 5 adding Part 5A to Article V as follows:

PART 5A. FITNESS TO STAND TRIAL

- 6 (705 ILCS 405/Art. Pt. 5A heading new)
- 7
- (, to into, me. it. on heading hew)
- 8 (705 ILCS 405/5-5A-101 new)

9 Sec. 5-5A-101. Purpose. This Part recognizes that children are substantially different from adults and therefore creates 10 11 procedures to establish fitness to stand trial that accommodate these differences. This Part is intended to 12 13 support children through practices that are trauma-informed and that protect children's rights and dignity; questions of 14 15 interpretation shall be resolved in line with these practices. This Part recognizes that the ability to understand charges 16 17 and to participate meaningfully in one's own defense evolve 18 gradually throughout childhood and early adulthood and that 19 each child deserves developmentally appropriate responses that reflect the best understanding of the child's current 20 21 abilities.

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| 1 | (705 ILCS 405/5-5A-105 new) |
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| 2 | Sec. 5-5A-105. Definitions. As used in this Part: |
| 3 | "Child" means a person under the age of 21, regardless of |
| 4 | whether the person is subject to this Act or prosecuted under |
| 5 | the criminal laws of this State. |
| 6 | "Child traumatic stress" means exposure to one or more |
| 7 | traumatic events over the course of a child's life that result |
| 8 | in that child developing reactions that persist and that |
| 9 | interfere with the child's functional, social, adaptive, or |
| 10 | intellectual ability. |
| 11 | "Chronological immaturity" means a lack of functional, |
| 12 | social, adaptive, or intellectual ability due to chronological |
| 13 | age. |
| 14 | "Developmental disability" means a disability that is |
| 15 | attributable to an intellectual disability, cerebral palsy, |
| 16 | epilepsy, autism, a learning disability, or any other |
| 17 | condition that results in impaired functional, social, |
| 18 | adaptive, or intellectual ability. |
| 19 | "Mental illness" means a mental or emotional disorder that |
| 20 | substantially impairs a person's thought, perception of |
| 21 | reality, emotional process, judgment, behavior, or ability to |
| 22 | cope with the ordinary demands of life, but does not include |
| 23 | behavioral disorders. |
| 24 | "Relative immaturity" means a lack of functional, social, |
| 25 | adaptive, or intellectual ability when a child is compared to |
| 26 | other children of the same chronological age. |

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1"Substance use disorder" has the same meaning as provided2in Section 1-10 of the Substance Use Disorder Act.

3 (705 ILCS 405/5-5A-110 new) 4 Sec. 5-5A-110. Unfitness standard. Unfitness may result 5 from the presence of any condition or confluence of 6 conditions, including, but not limited to, mental illness, 7 substance use disorder, developmental disability, 8 chronological immaturity, relative immaturity, or child 9 traumatic stress. A diagnosis is not required for a finding of 10 unfitness. A child is unfit when the child either:

11 <u>(1) lacks sufficient present ability to consult with</u> 12 <u>the child's attorney with a reasonable degree of rational</u> 13 <u>understanding, as evidenced by lacking the ability to</u> 14 <u>disclose to the attorney facts pertinent to the</u> 15 <u>proceedings at issue and to assist in the child's defense;</u> 16 or

17 (2) lacks a rational or a factual understanding of the 18 proceedings against the child, as evidenced by any one or 19 more of the following:

20 (A) a lack of ability to identify who the
 21 participants are, including the judge, child's
 22 attorney, State's Attorney, or qualified expert;
 23 (B) a lack of ability to differentiate the
 24 multiple roles a single participant could serve in
 25 different proceedings the child is involved in;

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| 1 | (C) a lack of understanding of the allegations in |
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| 2 | the petition for adjudication of delinquency; |
| 3 | (D) a lack of understanding of the range of |
| 4 | possible dispositions that may be imposed in the |
| 5 | proceedings; |
| 6 | (E) a lack of ability to use the factual |
| 7 | understandings and factors in subparagraphs (A) |
| 8 | through (D) of this subsection to make rational |
| 9 | decisions; or |
| 10 | (F) a lack of any other factors that a qualified |
| 11 | expert deems relevant. |
| | |
| 12 | (705 ILCS 405/5-5A-115 new) |
| 13 | Sec. 5-5A-115. Raising the issue of unfitness. |
| 14 | (a) The issue of the child's fitness to stand trial, to |
| 15 | plead, or to be sentenced may be raised by the child's |
| | |
| 16 | attorney, the State, or the court at any time before a plea is |
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| 16 | attorney, the State, or the court at any time before a plea is |
| 16 17 | attorney, the State, or the court at any time before a plea is entered or before, during, or after trial. |
| 16 17 18 | attorney, the State, or the court at any time before a plea is entered or before, during, or after trial. (b) When the issue of the child's fitness is raised, the |
| 16 17 18 19 | <pre>attorney, the State, or the court at any time before a plea is entered or before, during, or after trial. (b) When the issue of the child's fitness is raised, the court must determine whether there is a bona fide doubt that</pre> |
| 16 17 18 19 20 | <pre>attorney, the State, or the court at any time before a plea is entered or before, during, or after trial. (b) When the issue of the child's fitness is raised, the court must determine whether there is a bona fide doubt that the child is fit. The court shall find a bona fide doubt when</pre> |
| 16 17 18 19 20 21 | <pre>attorney, the State, or the court at any time before a plea is entered or before, during, or after trial. (b) When the issue of the child's fitness is raised, the court must determine whether there is a bona fide doubt that the child is fit. The court shall find a bona fide doubt when evidence is presented or proffered that suggests that the</pre> |
| 16 17 18 19 20 21 22 | <pre>attorney, the State, or the court at any time before a plea is entered or before, during, or after trial. (b) When the issue of the child's fitness is raised, the court must determine whether there is a bona fide doubt that the child is fit. The court shall find a bona fide doubt when evidence is presented or proffered that suggests that the child could be unfit. If the court finds that there is a bona</pre> |

| 1 | of a child established by attorney-client privilege. |
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| 2 | (c) When a child is being prosecuted under the criminal |
| 3 | laws of this State pursuant to Section 5-130 or 5-805, the |
| 4 | criminal court shall apply the fitness standards in this Part. |
| 5 | If the issue of the child's fitness is raised prior to the |
| 6 | resolution of a transfer proceeding pursuant to Section 5-805, |
| 7 | the juvenile court shall apply the fitness standards as set |
| 8 | forth in this Part. |
| | |
| 9 | (705 ILCS 405/5-5A-120 new) |
| 10 | Sec. 5-5A-120. Burdens and presumptions. In making |
| 11 | determinations on the issue of a child's fitness, the |
| 12 | following burdens of proof and presumptions shall apply: |
| 13 | (1) when the court finds a bona fide doubt as to the |
| 14 | fitness of a child pursuant to Section 5-5A-115, the State |
| 15 | bears the burden of proving that the child is fit by clear |
| 16 | and convincing evidence; and |
| 17 | (2) a child who is receiving medication shall not be |
| 18 | presumed to be fit or unfit to stand trial solely by virtue |
| 19 | of the receipt of that medication. |
| | |
| 20 | (705 ILCS 405/5-5A-125 new) |
| 21 | Sec. 5-5A-125. Fitness evaluation. When the court orders a |
| 22 | fitness evaluation pursuant to subsection (b) of Section |

- 23 <u>5-5A-115</u>, the court must appoint one or more qualified experts
- 24 pursuant to Section 5-5A-135. Each expert must evaluate

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whether the child is fit and must submit a report of the
 expert's findings to the court pursuant to Section 5-5A-160.

3 (705 ILCS 405/5-5A-130 new) Sec. 5-5A-130. Location of evaluation. A fitness 4 5 evaluation ordered pursuant to subsection (b) of Section 5-5A-115 must be conducted in the least restrictive 6 environment for the child. The evaluation must be conducted in 7 8 person whenever possible. Video technology for a remote 9 evaluation may be used only as a last resort. If video technology is used, it must be a secure platform. 10

11 (705 ILCS 405/5-5A-135 new)

Sec. 5-5A-135. Qualification of experts. An expert evaluating the child pursuant to Section 5-5A-125 must either be a licensed clinical psychologist or psychiatrist with training and experience in forensics, child development, and child trauma.

(705 ILCS 405/5-5A-140 new)
 <u>Sec. 5-5A-140. Timeline for evaluation. The fitness</u>
 <u>evaluation ordered pursuant to subsection (b) of Section</u>
 <u>5-5A-115 and report written pursuant to Section 5-5A-160 must</u>
 <u>be completed within 30 days of a court order entered pursuant</u>
 <u>to subsection (b) of Section 5-5A-115. The time for completion</u>
 <u>of the fitness evaluation may be extended an additional 30</u>

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days for good cause if the child is not in custody.

| 2 | (705 ILCS 405/5-5A-145 new) |
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| 3 | Sec. 5-5A-145. Counsel at evaluation. The child's counsel |
| 4 | must be allowed to be present at the evaluation conducted, if |
| 5 | requested by child's counsel, pursuant to Section 5-5A-125. |

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(705 ILCS 405/5-5A-150 new)

7 Sec. 5-5A-150. Statements made during evaluation. No statement made by the child during the evaluation conducted 8 9 pursuant to Section 5-5A-125 shall be used against the child 10 in the current court proceedings or in any future proceedings. 11 No statement made by the child relating to the alleged offense 12 or other offenses shall be included in the report required under Section 5-5A-160. The court must advise the child before 13 14 the evaluation takes place that no statement made during the 15 evaluation shall be used against the child.

16 (705 ILCS 405/5-5A-155 new) 17 Sec. 5-5A-155. Recordings of evaluations and privacy. (a) An evaluation of the child conducted pursuant to 18 19 Section 5-5A-125 shall be video recorded. 20 (b) The video recording of a fitness evaluation is 21 confidential and may be viewed only by the court, the expert conducting the evaluation defined in Section 5-5A-125, the 22 child's attorney, the State, and any other expert in the 23

1 proceedings deemed necessary by the court and pursuant to 2 Section 5-910.

| 3 | (705 ILCS 405/5-5A-160 new) |
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| 4 | Sec. 5-5A-160. Contents of evaluation report. |
| 5 | (a) When an evaluation is conducted pursuant to Section |
| 6 | 5-5A-125, the appointed expert must submit a written report of |
| 7 | the findings to the court. The evaluation report must detail |
| 8 | the methods and tools used during the evaluation and be made in |
| 9 | writing. |
| 10 | (b) The evaluation report must contain: |
| 11 | (1) an assessment of any mental illness, substance use |
| 12 | disorder, or developmental disability of the child, |
| 13 | including: |
| 14 | (A) the results of a mental status exam; |
| 15 | (B) a description of the history and current |
| 16 | status of any symptoms of any mental illness or |
| 17 | developmental disability, or both (a diagnosis is not |
| 18 | required); |
| 19 | (2) an assessment of the child's chronological and |
| 20 | relative immaturity; |
| 21 | (3) an assessment of any child traumatic stress, |
| 22 | including a description of the child's history of exposure |
| 23 | to traumatic events; |
| 24 | (4) an assessment of any other condition of the child |
| 25 | that could impact the child's functional abilities related |

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| 1 | to fitness to stand trial; |
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| 2 | (5) an assessment of the child's rational and factual |
| 3 | understandings related to fitness to stand trial, the |
| 4 | unfitness standard in Section 5-5A-110, and the |
| 5 | relationship of these abilities to any conditions of the |
| 6 | child as assessed in paragraphs (1) through (4); |
| 7 | (6) whether the expert, based on the evaluation and in |
| 8 | the expert's professional judgment, believes the child is |
| 9 | <pre>fit;</pre> |
| 10 | (7) if the expert believes that the child is unfit, |
| 11 | whether the expert believes there is a substantial |
| 12 | probability that the child will attain fitness within the |
| 13 | statutory period to attain fitness; |
| 14 | (8) recommendations, if the expert believes the child |
| 15 | is unfit, including: |
| 16 | (A) services that would help the child attain |
| 17 | <u>fitness;</u> |
| 18 | (B) placement for services to attain fitness; and |
| 19 | (C) risk assessments needed prior to placement; |
| 20 | and |
| 21 | (9) opinions on: |
| 22 | (A) the likelihood of the success of the services |
| 23 | recommended; and |
| 24 | (B) the length of time anticipated to attain |
| 25 | fitness. |

| 1 | (705 ILCS 405/5-5A-165 new) |
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| 2 | Sec. 5-5A-165. Hearing to determine fitness. |
| 3 | (a) When a bona fide doubt of fitness has been raised, the |
| 4 | court shall conduct a hearing to determine the issue of the |
| 5 | child's fitness within 30 days of receipt of the evaluation |
| 6 | report described in Section 5-5A-160, unless the timeline is |
| 7 | waived by the child's counsel. |
| 8 | (b) The child has the right to be present at every hearing |
| 9 | on the issue of the child's fitness. |
| 10 | (c) On the basis of the evidence before it, the court must |
| 11 | determine whether the child is unfit to stand trial pursuant |
| 12 | to Section 5-5A-110. If the court finds that the child is |
| 13 | unfit, the court shall determine: |
| 14 | (1) whether in-court assistance pursuant to Section |
| 15 | 5-5A-190 would render the child fit; and |
| 16 | (2) whether there is a substantial probability that |
| 17 | the child, if provided with services to attain fitness |
| 18 | pursuant to Section 5-5A-170, will attain fitness within |
| 19 | the period to attain fitness set forth in Section |
| 20 | <u>5-5A-175.</u> |
| 21 | (d) If the court finds that the child is unfit and there is |
| 22 | not a substantial probability the child will attain fitness |
| 23 | within the statutory period as set forth in Section 5-5A-175, |
| 24 | the court shall proceed under Section 5-5A-210. |
| 25 | (e) If the court finds the child is unfit but that there is |
| 26 | a substantial probability that the child will become fit |

| 1 | within the period to attain fitness set forth in Section |
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| 2 | 5-5A-175, or if the court is unable to determine whether a |
| 3 | substantial probability exists, the court shall order the |
| 4 | child to receive services to attain fitness on either an |
| 5 | inpatient or outpatient basis. If the court is unable to |
| 6 | determine whether a substantial probability exists and orders |
| 7 | the child to receive services to attain fitness, the court |
| 8 | shall conduct a hearing as soon as possible following the |
| 9 | receipt of the report filed pursuant to Section 5-5A-180 to |
| 10 | determine whether there is a substantial probability that the |
| 11 | child will attain fitness within the statutory period. |

12 (f) If the court finds that the child is unfit to stand 13 trial, it shall proceed pursuant to this Act. If the court 14 finds that the child could be rendered fit with in-court 15 assistance, the court shall order in-court assistance pursuant 16 to Section 5-5A-190.

17 (g) An order finding the child unfit to stand trial is a 18 final order for purposes of appeal by the State or the child.

19 (705 ILCS 405/5-5A-170 new)
20 Sec. 5-5A-170. Services to attain fitness.
21 (a) When the court orders services to attain fitness
22 pursuant to Section 5-5A-165, the court shall determine if the
23 child will receive services on an inpatient or outpatient
24 basis. If inpatient, the child shall be placed at a facility
25 approved by the Illinois Department of Human Services to

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record; and

| 1 | provide residential, restoration care and treatment. If the |
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| 2 | court orders the child to receive services on an outpatient |
| 3 | basis, such services shall be rendered in the community at a |
| 4 | program approved by the Illinois Department of Human Services. |
| 5 | Court-ordered services and placements shall be consistent with |
| 6 | the recommendations in the evaluation report. All services |
| 7 | shall be trauma-informed, developmentally appropriate, and |
| 8 | provided in the least restrictive environment considering the |
| 9 | needs and best interests of the child. A placement may be |
| 10 | ordered on an inpatient basis only when the child exhibits |
| 11 | needs warranting a hospital-level of care. |
| 12 | (b) Within 5 days of a court order for services to attain |
| 13 | fitness entered pursuant to Section 5-5A-165, the clerk of the |
| 14 | circuit court shall transmit to the Illinois Department of |
| 15 | Human Services, and any other agency or institution providing |
| 16 | services to attain fitness to the child, the following: |
| 17 | (1) a certified copy of the order to receive services |
| 18 | and the complete copy of any report on the child's fitness |
| 19 | prepared pursuant to this Part; |
| 20 | (2) the county and municipality in which the alleged |
| 21 | offense occurred; |
| 22 | (3) the county and municipality in which the arrest |
| 23 | took place; |
| 24 | (4) a copy of the arrest report, charges, and arrest |

26 (5) all additional matters that the court directs the

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1 <u>clerk to transmit.</u>

| 2 | (705 ILCS 405/5-5A-175 new) |
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| 3 | Sec. 5-5A-175. Period to attain fitness. For a child |
| 4 | charged with a felony, the maximum total time a court may order |
| 5 | a child to receive services to attain fitness shall be one |
| 6 | year. For a child charged with a misdemeanor, the maximum |
| 7 | total period shall be no more than one year. The period to |
| 8 | attain fitness shall begin with the court's first finding of |
| 9 | unfitness during a fitness hearing pursuant to Section |
| 10 | <u>5-5A-165.</u> |

11 (705 ILCS 405/5-5A-180 new)

12 Sec. 5-5A-180. Initial and subsequent progress reports. (a) Within 30 days of entry of an order to receive services 13 14 to attain fitness pursuant to Sections 5-5A-170 and 5-5A-175, 15 the person in charge of supervising the child's services shall 16 file with the court an initial report assessing the program's 17 capacity to provide appropriate services for the child and indicating the person's opinion as to the probability of the 18 19 child attaining fitness within the period to attain fitness 20 provided in Section 5-5A-175. If the initial report indicates 21 that there is a substantial probability that the child will 22 attain fitness within the allowed statutory period, the 23 supervisor shall also file a services plan which shall 24 include:

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| 1 | (1) a description of the goals of services with |
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| 2 | respect to rendering the child fit, a specification of the |
| 3 | proposed modalities of services, and an estimated |
| 4 | timetable for attainment of the goals; and |
| 5 | (2) an identification of the person in charge of |
| 6 | supervising the child's services. |
| 7 | (b) The supervisor shall submit a subsequent written |
| 8 | progress report to the court at least 7 days prior to the date |
| 9 | of any hearing on the issue of the child's fitness. |
| 10 | (c) If the supervisor determines that any of the following |
| 11 | circumstances are met, the supervisor shall notify the court |
| 12 | in writing as soon as possible but no later than 7 days after |
| 13 | the determination is made: |
| 14 | (1) if the supervisor believes that the child has |
| 15 | attained fitness; |
| 16 | (2) if the supervisor believes that there is not a |
| 17 | substantial probability that the child will attain |
| 18 | fitness, with services, within the period to attain |
| 19 | fitness under Section 5-5A-175; or |
| 20 | (3) if the supervisor believes a change in services or |
| 21 | placement is necessary. |
| 22 | (d) The initial and subsequent progress reports shall |
| 23 | <u>contain:</u> |
| 24 | (1) the clinical findings of the supervisor and the |
| 25 | facts upon which the findings are based; |
| 26 | (2) the opinion of the supervisor as to whether the |
| | |

| 1 | child has attained fitness and as to whether the child is |
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| 2 | making progress, with services, toward attaining fitness |
| 3 | within the period set in Section 5-5A-175; |
| 4 | (3) whether the current services to attain fitness and |
| 5 | placement continue to be in the least restrictive |
| 6 | environment necessary, whether a different level of care |
| 7 | is needed, and the basis for that recommendation; and |
| 8 | (4) any other changes in recommendations of services |
| 9 | to attain fitness. |
| 10 | (e) If the supervisor of the child's services determines, |
| 11 | pursuant to paragraph (3) of subsection (d) of this Section, |
| 12 | that the child is not in the least restrictive environment |
| 13 | necessary to attain fitness, upon receipt of the progress |
| 14 | report, the court shall ensure that the child is immediately |
| 15 | moved to the least restrictive environment necessary. |
| | |
| 16 | (705 ILCS 405/5-5A-185 new) |
| 17 | Sec. 5-5A-185. Periodic hearings. Upon entry or |
| 18 | continuation of any order to receive services to attain |
| 19 | fitness, the court shall set a date for hearing to reexamine |
| 20 | the issue of the child's fitness not more than 90 days |
| 21 | thereafter. In addition, whenever the court receives a report |
| 22 | from the supervisor of the child's services pursuant to |
| 23 | paragraph (c) of Section 5-5A-180, the court shall set the |
| 24 | matter for a hearing within 14 days unless good cause is |
| 25 | demonstrated why the hearing cannot be held. On the date set, |

the court shall conduct a hearing to redetermine the child's
fitness pursuant to Section 5-5A-165.
 (705 ILCS 405/5-5A-190 new)
 Sec. 5-5A-190. In-court assistance to render a child fit.
 (a) If the court determines that the child could be
 rendered fit with in-court assistance under Section 5-5A-165,
 the court shall order in-court assistance under subsection
 (b). A child found unfit because of chronological immaturity
 cannot be rendered fit with in-court assistance. A child found
 unfit because of relative immaturity or child traumatic stress
 cannot be rendered fit solely with in-court assistance.

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12 (b) In-court assistance may include, but is not limited 13 to:

14 (1) appointment of a qualified translator who shall 15 simultaneously translate all court proceedings into a 16 language understood by the child; and

17 (2) appointment of an expert qualified to assist a
 18 child who, because of a disability, is unable to
 19 communicate with the child's attorney.

20 <u>(c) If in-court assistance is provided, the case may</u> 21 proceed to trial only if the court determines that in-court 22 assistance renders the child fit. In such cases, the court 23 shall state for the record the following:

24 (1) the qualifications and experience of the experts
 25 or other persons appointed to provide in-court assistance

| 1 | to the child; |
|----|--|
| 2 | (2) the court's reasons for selecting or appointing |
| 3 | the particular experts or other persons to provide the |
| 4 | in-court assistance to the child; |
| 5 | (3) how the appointment of the particular expert or |
| 6 | other persons will serve the goal of rendering the child |
| 7 | fit, based on the appointee's qualifications and |
| 8 | experience, and the lack of functional, social, adaptive, |
| 9 | or intellectual abilities of the child; and |
| 10 | (4) any other factors considered by the court in |
| 11 | appointing the experts or other persons. |
| 12 | (d) A child adjudicated delinquent following a trial |
| 13 | conducted with in-court assistance provided under this Section |
| 14 | shall not be sentenced before a written report of social |
| 15 | investigation is presented to and considered by the court. The |
| 16 | written report of social investigation shall be prepared |
| 17 | pursuant to Section 5-701 and shall include a physical and |
| 18 | mental examination unless the court finds that the reports of |
| 19 | prior physical and mental examinations conducted pursuant to |
| 20 | this Part are adequate and recent enough to render additional |
| 21 | examinations unnecessary. |
| | |
| 22 | (705 ILCS 405/5-5A-195 new) |
| 23 | Sec. 5-5A-195. Time Credit. A sentence imposed on the |
| 24 | child in the pending case or in any other case arising out of |

25 the same conduct shall be reduced by time spent:

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| 1 | (1) in custody pursuant to orders issued under Section |
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| 2 | 5-5A-170 or pursuant to a commitment to the Department of |
| 3 | Human Services following a finding of unfitness under this |
| 4 | Part; |
| 5 | (2) in any court-ordered out-of-home placement; |
| 6 | including, but not limited to, a detention facility, |
| 7 | rehabilitation center, or inpatient hospital; or |
| 8 | (3) home detention or electronic monitoring pursuant |
| 9 | to Section 5-7A-110. |
| | |
| 10 | (705 ILCS 405/5-5A-200 new) |
| 11 | Sec. 5-5A-200. Court organization of records. Any report |
| 12 | filed with the court concerning diagnosis, evaluation |
| 13 | progress, or services made pursuant to this Part shall not be |
| 14 | placed in the child's court record but shall be maintained |
| 15 | separately by the clerk of the court and shall be available |
| 16 | only to the court or an appellate court, the State, the child, |
| 17 | the child's attorney, the child's parent or guardian, or a |
| 18 | facility or program that provides services to the child |
| 19 | pursuant to an order of the court. These records of the child |
| 20 | shall be privileged and shall not be disclosed except under |
| 21 | the conditions set forth in Section 5-910. Nothing in this |
| 22 | Section shall operate to extinguish any rights of a child |
| 23 | established by law, including, but not limited to: |
| 24 | attorney-client, physician-patient, psychologist-client, or |
| 25 | social worker-client privileges, except as otherwise provided |

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1 by law.

2 (705 ILCS 405/5-5A-205 new) 3 Sec. 5-5A-205. Sentencing guidelines for a child who attains fitness. The court shall not impose a commitment to 4 5 the Department of Juvenile Justice upon the child if the court 6 believes that because of the child's condition, such a 7 sentence would not be in the interests of society and the 8 child, or would subject the child to excessive hardship. In addition to any other conditions of a sentence of conditional 9 10 discharge or probation, the court may require that the child receive additional services for the child's condition. 11

12 (705 ILCS 405/5-5A-210 new) Sec. 5-5A-210. Legal disposition if fitness cannot be 13 14 attained. The court shall dismiss the charges against the 15 child with prejudice if the court finds the child is unfit under Section 5-5A-165 and that the child: 16 17 (1) cannot attain fitness within the period to attain 18 fitness defined in Section 5-5A-175 or that there is not a 19 substantial probability that the child will attain fitness 20 within the period to attain fitness defined under Section 21 5-5A-175; and 22 (2) cannot attain fitness with in-court assistance

23 pursuant to Section 5-5A-190.

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| 1 | (705 ILCS 405/5-5A-215 new) |
|---|---|
| 2 | Sec. 5-5A-215. Follow-up study and recommendations. The |
| 3 | Illinois Juvenile Justice Commission shall develop and |
| 4 | recommend mechanisms to collect and analyze data, |
| 5 | disaggregated by race, ethnicity, gender, geography, age, and |
| 6 | socioeconomic status, resulting from the implementation of |
| 7 | this Part. The report and recommendations shall be submitted |
| 8 | to the General Assembly on or before January 1, 2024. |

9 Section 97. Severability. The provisions of this Act are
10 severable under Section 1.31 of the Statute on Statutes.

Section 99. Effective date. This Act takes effect July 1, 2023.

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|----|---------------------------|----------|----------|-------|-----|-------|---|
| 1 | | INDEX | | | | | |
| 2 | Statutes amended | in order | of appea | rance | | | |
| | | | | | | | |
| 3 | 705 ILCS 405/Art. Pt. 5A | | | | | | |
| 4 | heading new | | | | | | |
| 5 | 705 ILCS 405/5-5A-101 new | | | | | | |
| 6 | 705 ILCS 405/5-5A-105 new | | | | | | |
| 7 | 705 ILCS 405/5-5A-110 new | | | | | | |
| 8 | 705 ILCS 405/5-5A-115 new | | | | | | |
| 9 | 705 ILCS 405/5-5A-120 new | | | | | | |
| 10 | 705 ILCS 405/5-5A-125 new | | | | | | |
| 11 | 705 ILCS 405/5-5A-130 new | | | | | | |
| 12 | 705 ILCS 405/5-5A-135 new | | | | | | |
| 13 | 705 ILCS 405/5-5A-140 new | | | | | | |
| 14 | 705 ILCS 405/5-5A-145 new | | | | | | |
| 15 | 705 ILCS 405/5-5A-150 new | | | | | | |
| 16 | 705 ILCS 405/5-5A-155 new | | | | | | |
| 17 | 705 ILCS 405/5-5A-160 new | | | | | | |
| 18 | 705 ILCS 405/5-5A-165 new | | | | | | |
| 19 | 705 ILCS 405/5-5A-170 new | | | | | | |
| 20 | 705 ILCS 405/5-5A-175 new | | | | | | |
| 21 | 705 ILCS 405/5-5A-180 new | | | | | | |
| 22 | 705 ILCS 405/5-5A-185 new | | | | | | |
| 23 | 705 ILCS 405/5-5A-190 new | | | | | | |
| 24 | 705 ILCS 405/5-5A-195 new | | | | | | |
| 25 | 705 ILCS 405/5-5A-200 new | | | | | | |

- 1 705 ILCS 405/5-5A-205 new
- 2 705 ILCS 405/5-5A-210 new
- 3 705 ILCS 405/5-5A-215 new