



Sen. John J. Cullerton

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09400SB0283sam001

LRB094 07534 RLC 44688 a

1 AMENDMENT TO SENATE BILL 283

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 283 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The Unified Code of Corrections is amended by  
5 changing Sections 5-130, 5-805, and 5-810 and by adding Section  
6 5-821 as follows:

7 (705 ILCS 405/5-130)

8 Sec. 5-130. Excluded jurisdiction.

9 (1) (a) The definition of delinquent minor under Section  
10 5-120 of this Article shall not apply to any minor who at the  
11 time of an offense was at least 15 years of age and who is  
12 charged with: (i) first degree murder, (ii) aggravated criminal  
13 sexual assault, (iii) aggravated battery with a firearm  
14 ~~committed in a school, on the real property comprising a~~  
15 ~~school, within 1,000 feet of the real property comprising a~~  
16 ~~school, at a school related activity, or on, boarding, or~~  
17 ~~departing from any conveyance owned, leased, or contracted by a~~  
18 ~~school or school district to transport students to or from~~  
19 ~~school or a school related activity regardless of the time of~~  
20 ~~day or time of year that the offense was committed, where the~~  
21 minor personally discharged a firearm as defined in Section  
22 2-15.5 of the Criminal Code of 1961, (iv) armed robbery when  
23 the armed robbery was committed with a firearm, or (v)  
24 aggravated vehicular hijacking when the hijacking was

1 committed with a firearm.

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

5 ~~For purposes of this paragraph (a) of subsection (1):~~

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

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

12 (b) (i) If before trial or plea an information or  
13 indictment is filed that does not charge an offense specified  
14 in paragraph (a) of this subsection (1) the State's Attorney  
15 may proceed on any lesser charge or charges, but only in  
16 Juvenile Court under the provisions of this Article. The  
17 State's Attorney may proceed under the Criminal Code of 1961 on  
18 a lesser charge if before trial the minor defendant knowingly  
19 and with advice of counsel waives, in writing, his or her right  
20 to have the matter proceed in Juvenile Court.

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

27 (c) (i) If after trial or plea the minor is convicted of  
28 any offense covered by paragraph (a) of this subsection (1),  
29 then, in sentencing the minor, the court shall have available  
30 any or all dispositions prescribed for that offense under  
31 Chapter V of the Unified Code of Corrections.

32 (ii) If after trial or plea the court finds that the minor  
33 committed an offense not covered by paragraph (a) of this  
34 subsection (1), that finding shall not invalidate the verdict

1 or the prosecution of the minor under the criminal laws of the  
2 State; however, unless the State requests a hearing for the  
3 purpose of sentencing the minor under Chapter V of the Unified  
4 Code of Corrections, the Court must proceed under Sections  
5 5-705 and 5-710 of this Article. To request a hearing, the  
6 State must file a written motion within 10 days following the  
7 entry of a finding or the return of a verdict. Reasonable  
8 notice of the motion shall be given to the minor or his or her  
9 counsel. If the motion is made by the State, the court shall  
10 conduct a hearing to determine if the minor should be sentenced  
11 under Chapter V of the Unified Code of Corrections. In making  
12 its determination, the court shall consider among other  
13 matters: (a) whether there is evidence that the offense was  
14 committed in an aggressive and premeditated manner; (b) the age  
15 of the minor; (c) the previous history of the minor; (d)  
16 whether there are facilities particularly available to the  
17 Juvenile Court or the Department of Corrections, Juvenile  
18 Division, for the treatment and rehabilitation of the minor;  
19 (e) whether the security of the public requires sentencing  
20 under Chapter V of the Unified Code of Corrections; and (f)  
21 whether the minor possessed a deadly weapon when committing the  
22 offense. The rules of evidence shall be the same as if at  
23 trial. If after the hearing the court finds that the minor  
24 should be sentenced under Chapter V of the Unified Code of  
25 Corrections, then the court shall sentence the minor  
26 accordingly having available to it any or all dispositions so  
27 prescribed.

28 (2) (Blank). ~~(a) The definition of a delinquent minor under~~  
29 ~~Section 5-120 of this Article shall not apply to any minor who~~  
30 ~~at the time of the offense was at least 15 years of age and who~~  
31 ~~is charged with an offense under Section 401 of the Illinois~~  
32 ~~Controlled Substances Act, while in a school, regardless of the~~  
33 ~~time of day or the time of year, or any conveyance owned,~~  
34 ~~leased or contracted by a school to transport students to or~~

1 ~~from school or a school related activity, or residential~~  
2 ~~property owned, operated or managed by a public housing agency~~  
3 ~~or leased by a public housing agency as part of a scattered~~  
4 ~~site or mixed income development, on the real property~~  
5 ~~comprising any school, regardless of the time of day or the~~  
6 ~~time of year, or residential property owned, operated or~~  
7 ~~managed by a public housing agency or leased by a public~~  
8 ~~housing agency as part of a scattered site or mixed income~~  
9 ~~development, or on a public way within 1,000 feet of the real~~  
10 ~~property comprising any school, regardless of the time of day~~  
11 ~~or the time of year, or residential property owned, operated or~~  
12 ~~managed by a public housing agency or leased by a public~~  
13 ~~housing agency as part of a scattered site or mixed income~~  
14 ~~development. School is defined, for the purposes of this~~  
15 ~~Section, as any public or private elementary or secondary~~  
16 ~~school, community college, college, or university. These~~  
17 ~~charges and all other charges arising out of the same incident~~  
18 ~~shall be prosecuted under the criminal laws of this State.~~

19 ~~(b) (i) If before trial or plea an information or~~  
20 ~~indictment is filed that does not charge an offense specified~~  
21 ~~in paragraph (a) of this subsection (2) the State's Attorney~~  
22 ~~may proceed on any lesser charge or charges, but only in~~  
23 ~~Juvenile Court under the provisions of this Article. The~~  
24 ~~State's Attorney may proceed under the criminal laws of this~~  
25 ~~State on a lesser charge if before trial the minor defendant~~  
26 ~~knowingly and with advice of counsel waives, in writing, his or~~  
27 ~~her right to have the matter proceed in Juvenile Court.~~

28 ~~(ii) If before trial or plea an information or indictment~~  
29 ~~is filed that includes one or more charges specified in~~  
30 ~~paragraph (a) of this subsection (2) and additional charges~~  
31 ~~that are not specified in that paragraph, all of the charges~~  
32 ~~arising out of the same incident shall be prosecuted under the~~  
33 ~~criminal laws of this State.~~

34 ~~(c) (i) If after trial or plea the minor is convicted of~~

1 ~~any offense covered by paragraph (a) of this subsection (2),~~  
2 ~~then, in sentencing the minor, the court shall have available~~  
3 ~~any or all dispositions prescribed for that offense under~~  
4 ~~Chapter V of the Unified Code of Corrections.~~

5 ~~(ii) If after trial or plea the court finds that the minor~~  
6 ~~committed an offense not covered by paragraph (a) of this~~  
7 ~~subsection (2), that finding shall not invalidate the verdict~~  
8 ~~or the prosecution of the minor under the criminal laws of the~~  
9 ~~State; however, unless the State requests a hearing for the~~  
10 ~~purpose of sentencing the minor under Chapter V of the Unified~~  
11 ~~Code of Corrections, the Court must proceed under Sections~~  
12 ~~5-705 and 5-710 of this Article. To request a hearing, the~~  
13 ~~State must file a written motion within 10 days following the~~  
14 ~~entry of a finding or the return of a verdict. Reasonable~~  
15 ~~notice of the motion shall be given to the minor or his or her~~  
16 ~~counsel. If the motion is made by the State, the court shall~~  
17 ~~conduct a hearing to determine if the minor should be sentenced~~  
18 ~~under Chapter V of the Unified Code of Corrections. In making~~  
19 ~~its determination, the court shall consider among other~~  
20 ~~matters: (a) whether there is evidence that the offense was~~  
21 ~~committed in an aggressive and premeditated manner; (b) the age~~  
22 ~~of the minor; (c) the previous history of the minor; (d)~~  
23 ~~whether there are facilities particularly available to the~~  
24 ~~Juvenile Court or the Department of Corrections, Juvenile~~  
25 ~~Division, for the treatment and rehabilitation of the minor;~~  
26 ~~(e) whether the security of the public requires sentencing~~  
27 ~~under Chapter V of the Unified Code of Corrections; and (f)~~  
28 ~~whether the minor possessed a deadly weapon when committing the~~  
29 ~~offense. The rules of evidence shall be the same as if at~~  
30 ~~trial. If after the hearing the court finds that the minor~~  
31 ~~should be sentenced under Chapter V of the Unified Code of~~  
32 ~~Corrections, then the court shall sentence the minor~~  
33 ~~accordingly having available to it any or all dispositions so~~  
34 ~~prescribed.~~

1           (3) (a) The definition of delinquent minor under Section  
2 5-120 of this Article shall not apply to any minor who at the  
3 time of the offense was at least 15 years of age and who is  
4 charged with a violation of the provisions of paragraph (1),  
5 (3), (4), or (10) of subsection (a) of Section 24-1 of the  
6 Criminal Code of 1961 while in school, regardless of the time  
7 of day or the time of year, or on the real property comprising  
8 any school, regardless of the time of day or the time of year.  
9 School is defined, for purposes of this Section as any public  
10 or private elementary or secondary school, community college,  
11 college, or university. These charges and all other charges  
12 arising out of the same incident shall be prosecuted under the  
13 criminal laws of this State.

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

23           (ii) If before trial or plea an information or indictment  
24 is filed that includes one or more charges specified in  
25 paragraph (a) of this subsection (3) and additional charges  
26 that are not specified in that paragraph, all of the charges  
27 arising out of the same incident shall be prosecuted under the  
28 criminal laws of this State.

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

34           (ii) If after trial or plea the court finds that the minor

1 committed an offense not covered by paragraph (a) of this  
2 subsection (3), that finding shall not invalidate the verdict  
3 or the prosecution of the minor under the criminal laws of the  
4 State; however, unless the State requests a hearing for the  
5 purpose of sentencing the minor under Chapter V of the Unified  
6 Code of Corrections, the Court must proceed under Sections  
7 5-705 and 5-710 of this Article. To request a hearing, the  
8 State must file a written motion within 10 days following the  
9 entry of a finding or the return of a verdict. Reasonable  
10 notice of the motion shall be given to the minor or his or her  
11 counsel. If the motion is made by the State, the court shall  
12 conduct a hearing to determine if the minor should be sentenced  
13 under Chapter V of the Unified Code of Corrections. In making  
14 its determination, the court shall consider among other  
15 matters: (a) whether there is evidence that the offense was  
16 committed in an aggressive and premeditated manner; (b) the age  
17 of the minor; (c) the previous history of the minor; (d)  
18 whether there are facilities particularly available to the  
19 Juvenile Court or the Department of Corrections, Juvenile  
20 Division, for the treatment and rehabilitation of the minor;  
21 (e) whether the security of the public requires sentencing  
22 under Chapter V of the Unified Code of Corrections; and (f)  
23 whether the minor possessed a deadly weapon when committing the  
24 offense. The rules of evidence shall be the same as if at  
25 trial. If after the hearing the court finds that the minor  
26 should be sentenced under Chapter V of the Unified Code of  
27 Corrections, then the court shall sentence the minor  
28 accordingly having available to it any or all dispositions so  
29 prescribed.

30 (4) (a) The definition of delinquent minor under Section  
31 5-120 of this Article shall not apply to any minor who at the  
32 time of an offense was at least 13 years of age and who is  
33 charged with first degree murder committed during the course of  
34 either aggravated criminal sexual assault, criminal sexual

1 assault, or aggravated kidnaping. However, this subsection (4)  
2 does not include a minor charged with first degree murder based  
3 exclusively upon the accountability provisions of the Criminal  
4 Code of 1961.

5 (b) (i) If before trial or plea an information or  
6 indictment is filed that does not charge first degree murder  
7 committed during the course of aggravated criminal sexual  
8 assault, criminal sexual assault, or aggravated kidnaping, the  
9 State's Attorney may proceed on any lesser charge or charges,  
10 but only in Juvenile Court under the provisions of this  
11 Article. The State's Attorney may proceed under the criminal  
12 laws of this State on a lesser charge if before trial the minor  
13 defendant knowingly and with advice of counsel waives, in  
14 writing, his or her right to have the matter proceed in  
15 Juvenile Court.

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

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

29 (ii) If the minor was not yet 15 years of age at the time of  
30 the offense, and if after trial or plea the court finds that  
31 the minor committed an offense other than first degree murder  
32 committed during the course of either aggravated criminal  
33 sexual assault, criminal sexual assault, or aggravated  
34 kidnaping, the finding shall not invalidate the verdict or the



1 prosecution of the minor under the criminal laws of the State;  
2 however, unless the State requests a hearing for the purpose of  
3 sentencing the minor under Chapter V of the Unified Code of  
4 Corrections, the Court must proceed under Sections 5-705 and  
5 5-710 of this Article. To request a hearing, the State must  
6 file a written motion within 10 days following the entry of a  
7 finding or the return of a verdict. Reasonable notice of the  
8 motion shall be given to the minor or his or her counsel. If  
9 the motion is made by the State, the court shall conduct a  
10 hearing to determine whether the minor should be sentenced  
11 under Chapter V of the Unified Code of Corrections. In making  
12 its determination, the court shall consider among other  
13 matters: (a) whether there is evidence that the offense was  
14 committed in an aggressive and premeditated manner; (b) the age  
15 of the minor; (c) the previous delinquent history of the minor;  
16 (d) whether there are facilities particularly available to the  
17 Juvenile Court or the Department of Corrections, Juvenile  
18 Division, for the treatment and rehabilitation of the minor;  
19 (e) whether the best interest of the minor and the security of  
20 the public require sentencing under Chapter V of the Unified  
21 Code of Corrections; and (f) whether the minor possessed a  
22 deadly weapon when committing the offense. The rules of  
23 evidence shall be the same as if at trial. If after the hearing  
24 the court finds that the minor should be sentenced under  
25 Chapter V of the Unified Code of Corrections, then the court  
26 shall sentence the minor accordingly having available to it any  
27 or all dispositions so prescribed.

28 (5) (a) The definition of delinquent minor under Section  
29 5-120 of this Article shall not apply to any minor who is  
30 charged with a violation of subsection (a) of Section 31-6 or  
31 Section 32-10 of the Criminal Code of 1961 when the minor is  
32 subject to prosecution under the criminal laws of this State as  
33 a result of the application of the provisions of Section 5-125,  
34 or subsection (1) or (2) of this Section. These charges and all

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

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

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

18 (c) (i) If after trial or plea the minor is convicted of  
19 any offense covered by paragraph (a) of this subsection (5),  
20 then, in sentencing the minor, the court shall have available  
21 any or all dispositions prescribed for that offense under  
22 Chapter V of the Unified Code of Corrections.

23 (ii) If after trial or plea the court finds that the minor  
24 committed an offense not covered by paragraph (a) of this  
25 subsection (5), the conviction shall not invalidate the verdict  
26 or the prosecution of the minor under the criminal laws of this  
27 State; however, unless the State requests a hearing for the  
28 purpose of sentencing the minor under Chapter V of the Unified  
29 Code of Corrections, the Court must proceed under Sections  
30 5-705 and 5-710 of this Article. To request a hearing, the  
31 State must file a written motion within 10 days following the  
32 entry of a finding or the return of a verdict. Reasonable  
33 notice of the motion shall be given to the minor or his or her  
34 counsel. If the motion is made by the State, the court shall

1 conduct a hearing to determine if whether the minor should be  
2 sentenced under Chapter V of the Unified Code of Corrections.  
3 In making its determination, the court shall consider among  
4 other matters: (a) whether there is evidence that the offense  
5 was committed in an aggressive and premeditated manner; (b) the  
6 age of the minor; (c) the previous delinquent history of the  
7 minor; (d) whether there are facilities particularly available  
8 to the Juvenile Court or the Department of Corrections,  
9 Juvenile Division, for the treatment and rehabilitation of the  
10 minor; (e) whether the security of the public requires  
11 sentencing under Chapter V of the Unified Code of Corrections;  
12 and (f) whether the minor possessed a deadly weapon when  
13 committing the offense. The rules of evidence shall be the same  
14 as if at trial. If after the hearing the court finds that the  
15 minor should be sentenced under Chapter V of the Unified Code  
16 of Corrections, then the court shall sentence the minor  
17 accordingly having available to it any or all dispositions so  
18 prescribed.

19 (6) The definition of delinquent minor under Section 5-120  
20 of this Article shall not apply to any minor who, pursuant to  
21 subsection (1), ~~(2)~~, or (3) or Section 5-805, or 5-810, has  
22 previously been placed under the jurisdiction of the criminal  
23 court and has been convicted of a crime under an adult criminal  
24 or penal statute. Such a minor shall be subject to prosecution  
25 under the criminal laws of this State.

26 (7) The procedures set out in this Article for the  
27 investigation, arrest and prosecution of juvenile offenders  
28 shall not apply to minors who are excluded from jurisdiction of  
29 the Juvenile Court, except that minors under 17 years of age  
30 shall be kept separate from confined adults.

31 (8) Nothing in this Act prohibits or limits the prosecution  
32 of any minor for an offense committed on or after his or her  
33 17th birthday even though he or she is at the time of the  
34 offense a ward of the court.

1 (9) If an original petition for adjudication of wardship  
2 alleges the commission by a minor 13 years of age or over of an  
3 act that constitutes a crime under the laws of this State, the  
4 minor, with the consent of his or her counsel, may, at any time  
5 before commencement of the adjudicatory hearing, file with the  
6 court a motion that criminal prosecution be ordered and that  
7 the petition be dismissed insofar as the act or acts involved  
8 in the criminal proceedings are concerned. If such a motion is  
9 filed as herein provided, the court shall enter its order  
10 accordingly.

11 (10) If prior to the effective date of this amendatory Act  
12 of the 94th General Assembly, a minor is charged with a  
13 violation of Section 401 of the Illinois Controlled Substances  
14 Act under the criminal laws of this State ~~subject to the~~  
15 ~~provisions of subsection (2) of this Section,~~ other than a  
16 minor charged with a Class X felony violation of the Illinois  
17 Controlled Substances Act, any party including the minor or the  
18 court sua sponte may, before trial, move for a hearing for the  
19 purpose of trying and sentencing the minor as a delinquent  
20 minor. To request a hearing, the party must file a motion prior  
21 to trial. Reasonable notice of the motion shall be given to all  
22 parties. On its own motion or upon the filing of a motion by  
23 one of the parties including the minor, the court shall conduct  
24 a hearing to determine whether the minor should be tried and  
25 sentenced as a delinquent minor under this Article. In making  
26 its determination, the court shall consider among other  
27 matters:

28 (a) The age of the minor;

29 (b) Any previous delinquent or criminal history of the  
30 minor;

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

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

34 (e) Whether there is probable cause to support the charge,

1 whether the minor is charged through accountability, and  
2 whether there is evidence the minor possessed a deadly weapon  
3 or caused serious bodily harm during the offense.

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

12 (Source: P.A. 91-15, eff. 1-1-00; 91-673, eff. 12-22-99; 92-16,  
13 eff. 6-28-01; 92-665, eff. 1-1-03.)

14 (705 ILCS 405/5-805)

15 Sec. 5-805. Transfer of jurisdiction.

16 (1) Mandatory transfers.

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

32 (b) If a petition alleges commission by a minor 15  
33 years of age or older of an act that constitutes a felony

1 under the laws of this State, and if a motion by a State's  
2 Attorney to prosecute the minor under the criminal laws of  
3 Illinois for the alleged felony alleges that (i) the minor  
4 has previously been adjudicated delinquent or found guilty  
5 for commission of an act that constitutes a forcible felony  
6 under the laws of this State or any other state and (ii)  
7 the act that constitutes the offense was committed in  
8 furtherance of criminal activities by an organized gang,  
9 the Juvenile Judge assigned to hear and determine those  
10 motions shall, upon determining that there is probable  
11 cause that both allegations are true, enter an order  
12 permitting prosecution under the criminal laws of  
13 Illinois.

14 (c) If a petition alleges commission by a minor 15  
15 years of age or older of: (i) an act that constitutes an  
16 offense enumerated in the presumptive transfer provisions  
17 of subsection (2); and (ii) the minor has previously been  
18 adjudicated delinquent or found guilty of a forcible  
19 felony, the Juvenile Judge designated to hear and determine  
20 those motions shall, upon determining that there is  
21 probable cause that both allegations are true, enter an  
22 order permitting prosecution under the criminal laws of  
23 Illinois.

24 (d) If a petition alleges commission by a minor 15  
25 years of age or older of an act that constitutes the  
26 offense of aggravated discharge of a firearm committed in a  
27 school, on the real property comprising a school, within  
28 1,000 feet of the real property comprising a school, at a  
29 school related activity, or on, boarding, or departing from  
30 any conveyance owned, leased, or contracted by a school or  
31 school district to transport students to or from school or  
32 a school related activity, regardless of the time of day or  
33 the time of year, the juvenile judge designated to hear and  
34 determine those motions shall, upon determining that there

1 is probable cause that the allegations are true, enter an  
2 order permitting prosecution under the criminal laws of  
3 Illinois.

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

5 "School" means a public or private elementary or  
6 secondary school, community college, college, or  
7 university.

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

12 (2) Presumptive transfer.

13 (a) If the State's Attorney files a petition, at any  
14 time prior to commencement of the minor's trial, to permit  
15 prosecution under the criminal laws and the petition  
16 alleges the commission by a minor 15 years of age or older  
17 of: (i) a Class X felony other than armed violence; (ii)  
18 aggravated discharge of a firearm; (iii) armed violence  
19 with a firearm when the predicate offense is a Class 1 or  
20 Class 2 felony and the State's Attorney's motion to  
21 transfer the case alleges that the offense committed is in  
22 furtherance of the criminal activities of an organized  
23 gang; (iv) armed violence with a firearm when the predicate  
24 offense is a violation of the Illinois Controlled  
25 Substances Act or a violation of the Cannabis Control Act;  
26 (v) armed violence when the weapon involved was a machine  
27 gun or other weapon described in subsection (a)(7) of  
28 Section 24-1 of the Criminal Code of 1961; (vi) an act in  
29 violation of Section 401 of the Illinois Controlled  
30 Substances Act which is a Class X felony, while in a  
31 school, regardless of the time of day or the time of year,  
32 or on any conveyance owned, leased, or contracted by a  
33 school to transport students to or from school or a school  
34 related activity, or on residential property owned,

1 operated, or managed by a public housing agency or leased  
2 by a public housing agency as part of a scattered site or  
3 mixed-income development; or (vii) an act in violation of  
4 Section 401 of the Illinois Controlled Substances Act and  
5 the offense is alleged to have occurred while in a school  
6 or on a public way within 1,000 feet of the real property  
7 comprising any school, regardless of the time of day or the  
8 time of year when the delivery or intended delivery of any  
9 amount of the controlled substance is to a person under 17  
10 years of age, (to qualify for a presumptive transfer under  
11 paragraph (vi) or (vii) of this clause (2) (a), the  
12 violation cannot be based upon subsection (b) of Section  
13 407 of the Illinois Controlled Substances Act), and, if the  
14 juvenile judge assigned to hear and determine motions to  
15 transfer a case for prosecution in the criminal court  
16 determines that there is probable cause to believe that the  
17 allegations in the petition and motion are true, there is a  
18 rebuttable presumption that the minor is not a fit and  
19 proper subject to be dealt with under the Juvenile Justice  
20 Reform Provisions of 1998 (Public Act 90-590), and that,  
21 except as provided in paragraph (b), the case should be  
22 transferred to the criminal court.

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

30 (i) the age of the minor;

31 (ii) the history of the minor, including:

32 (a) any previous delinquent or criminal history of  
33 the minor,

34 (b) any previous abuse or neglect history of the



1 minor, and

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

4 (iii) the circumstances of the offense, including:

5 (a) the seriousness of the offense,

6 (b) whether the minor is charged through  
7 accountability,

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

10 (d) whether there is evidence the offense caused  
11 serious bodily harm,

12 (e) whether there is evidence the minor possessed a  
13 deadly weapon;

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

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

21 (a) the minor's history of services, including the  
22 minor's willingness to participate meaningfully in  
23 available services;

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

27 (c) the adequacy of the punishment or services.

28 ~~(i) The seriousness of the alleged offense;~~

29 ~~(ii) The minor's history of delinquency;~~

30 ~~(iii) The age of the minor;~~

31 ~~(iv) The culpability of the minor in committing the~~  
32 ~~alleged offense;~~

33 ~~(v) Whether the offense was committed in an aggressive~~  
34 ~~or premeditated manner;~~

1 ~~(vi) Whether the minor used or possessed a deadly~~  
2 ~~weapon when committing the alleged offense;~~

3 ~~(vii) The minor's history of services, including the~~  
4 ~~minor's willingness to participate meaningfully in~~  
5 ~~available services;~~

6 ~~(viii) Whether there is a reasonable likelihood that~~  
7 ~~the minor can be rehabilitated before the expiration of the~~  
8 ~~juvenile court's jurisdiction;~~

9 ~~(ix) The adequacy of the punishment or services~~  
10 ~~available in the juvenile justice system.~~

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

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

16 "School" means a public or private elementary or  
17 secondary school, community college, college, or  
18 university.

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

24 (3) Discretionary transfer.

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

1 court may enter an order permitting prosecution under the  
2 criminal laws.

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

6 (i) the age of the minor;

7 (ii) the history of the minor, including:

8 (a) any previous delinquent or criminal history of  
9 the minor,

10 (b) any previous abuse or neglect history of the  
11 minor, and

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

14 (iii) the circumstances of the offense, including:

15 (a) the seriousness of the offense,

16 (b) whether the minor is charged through  
17 accountability,

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

20 (d) whether there is evidence the offense caused  
21 serious bodily harm,

22 (e) whether there is evidence the minor possessed a  
23 deadly weapon;

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

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

31 (a) the minor's history of services, including the  
32 minor's willingness to participate meaningfully in  
33 available services;

34 (b) whether there is a reasonable likelihood that

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

3           (c) the adequacy of the punishment or services.

4           ~~(i) The seriousness of the alleged offense;~~

5           ~~(ii) The minor's history of delinquency;~~

6           ~~(iii) The age of the minor;~~

7           ~~(iv) The culpability of the minor in committing the~~  
8           ~~alleged offense;~~

9           ~~(v) Whether the offense was committed in an aggressive~~  
10           ~~or premeditated manner;~~

11           ~~(vi) Whether the minor used or possessed a deadly~~  
12           ~~weapon when committing the alleged offense;~~

13           ~~(vii) The minor's history of services, including the~~  
14           ~~minor's willingness to participate meaningfully in~~  
15           ~~available services;~~

16           ~~(viii) The adequacy of the punishment or services~~  
17           ~~available in the juvenile justice system.~~

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

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

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

32           (Source: P.A. 90-590, eff. 1-1-99; 91-15, eff. 1-1-00; 91-357,  
33           eff. 7-29-99.)

1 (705 ILCS 405/5-810)

2 Sec. 5-810. Extended jurisdiction juvenile prosecutions.

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

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

21 (i) the age of the minor;

22 (ii) the history of the minor, including:

23 (a) any previous delinquent or criminal history of  
24 the minor,

25 (b) any previous abuse or neglect history of the  
26 minor, and

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

29 (iii) the circumstances of the offense, including:

30 (a) the seriousness of the offense,

31 (b) whether the minor is charged through  
32 accountability,

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

1           (d) whether there is evidence the offense caused  
2           serious bodily harm,

3           (e) whether there is evidence the minor possessed a  
4           deadly weapon;

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

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

12           (a) the minor's history of services, including the  
13           minor's willingness to participate meaningfully in  
14           available services;

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

18           (c) the adequacy of the punishment or services.

19           ~~(i) The seriousness of the alleged offense;~~

20           ~~(ii) The minor's history of delinquency;~~

21           ~~(iii) The age of the minor;~~

22           ~~(iv) The culpability of the minor in committing the~~  
23           ~~alleged offense;~~

24           ~~(v) Whether the offense was committed in an aggressive~~  
25           ~~or premeditated manner;~~

26           ~~(vi) Whether the minor used or possessed a deadly~~  
27           ~~weapon when committing the alleged offense.~~

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

32           (2) Procedures for extended jurisdiction juvenile  
33           prosecutions.

34           (a) The State's Attorney may file a written motion for

1 a proceeding to be designated as an extended juvenile  
2 jurisdiction prior to commencement of trial. Notice of the  
3 motion shall be in compliance with Section 5-530. When the  
4 State's Attorney files a written motion that a proceeding  
5 be designated an extended jurisdiction juvenile  
6 prosecution, the court shall commence a hearing within 30  
7 days of the filing of the motion for designation, unless  
8 good cause is shown by the prosecution or the minor as to  
9 why the hearing could not be held within this time period.  
10 If the court finds good cause has been demonstrated, then  
11 the hearing shall be held within 60 days of the filing of  
12 the motion. The hearings shall be open to the public unless  
13 the judge finds that the hearing should be closed for the  
14 protection of any party, victim or witness. If the Juvenile  
15 Judge assigned to hear and determine a motion to designate  
16 an extended jurisdiction juvenile prosecution determines  
17 that there is probable cause to believe that the  
18 allegations in the petition and motion are true the court  
19 shall grant the motion for designation. Information used by  
20 the court in its findings or stated in or offered in  
21 connection with this Section may be by way of proffer based  
22 on reliable information offered by the State or the minor.  
23 All evidence shall be admissible if it is relevant and  
24 reliable regardless of whether it would be admissible under  
25 the rules of evidence.

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

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

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

34 and

1           (ii) an adult criminal sentence in accordance with the  
2           provisions of Chapter V of the Unified Code of Corrections,  
3           the execution of which shall be stayed on the condition  
4           that the offender not violate the provisions of the  
5           juvenile sentence.

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

8           (5) If, after an extended jurisdiction juvenile  
9           prosecution trial, a minor is convicted of a lesser-included  
10          offense or of an offense that the State's Attorney did not  
11          designate as an extended jurisdiction juvenile prosecution,  
12          the State's Attorney may file a written motion, within 10 days  
13          of the finding of guilt, that the minor be sentenced as an  
14          extended jurisdiction juvenile prosecution offender. The court  
15          shall rule on this motion using the factors found in paragraph  
16          (1) (b) of Section 5-805. If the court denies the State's  
17          Attorney's motion for sentencing under the extended  
18          jurisdiction juvenile prosecution provision, the court shall  
19          proceed to sentence the minor under Section 5-710.

20          (6) When it appears that a minor convicted in an extended  
21          jurisdiction juvenile prosecution under subsection (1) has  
22          violated the conditions of his or her sentence, or is alleged  
23          to have committed a new offense upon the filing of a petition  
24          to revoke the stay, the court may, without notice, issue a  
25          warrant for the arrest of the minor. After a hearing, if the  
26          court finds by a preponderance of the evidence that the minor  
27          committed a new offense, the court shall order execution of the  
28          previously imposed adult criminal sentence. After a hearing, if  
29          the court finds by a preponderance of the evidence that the  
30          minor committed a violation of his or her sentence other than  
31          by a new offense, the court may order execution of the  
32          previously imposed adult criminal sentence or may continue him  
33          or her on the existing juvenile sentence with or without  
34          modifying or enlarging the conditions. Upon revocation of the



1 stay of the adult criminal sentence and imposition of that  
2 sentence, the minor's extended jurisdiction juvenile status  
3 shall be terminated. The on-going jurisdiction over the minor's  
4 case shall be assumed by the adult criminal court and juvenile  
5 court jurisdiction shall be terminated and a report of the  
6 imposition of the adult sentence shall be sent to the  
7 Department of State Police.

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

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

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

13 (705 ILCS 405/5-821 new)

14 Sec. 5-821. Legislative report. The General Assembly  
15 recognizes that the issue of trial of youth in adult court  
16 continues to command the General Assembly's attention. The  
17 intent of the General Assembly is to encourage the use of  
18 appropriate transfer to adult court for youth. It is further  
19 the intent of the General Assembly to have the changes in this  
20 amendatory Act of the 94th General Assembly studied to  
21 determine the impact of this amendatory Act on the youth in  
22 Illinois. The General Assembly authorizes the Illinois  
23 Juvenile Justice Commission to commission a study on the  
24 changes in jurisdiction made in this amendatory Act and  
25 requests that the Illinois Juvenile Justice Commission provide  
26 a written report to the General Assembly 3 years after the  
27 effective date of this amendatory Act of the 94th General  
28 Assembly.

29 Section 99. Effective date. This Act takes effect upon  
30 becoming law."