



## 96TH GENERAL ASSEMBLY

### State of Illinois

2009 and 2010

HB2678

Introduced 2/24/2009, by Rep. Eddie Washington

#### SYNOPSIS AS INTRODUCED:

705 ILCS 405/5-710  
705 ILCS 405/Art. V, Part 7A heading new  
705 ILCS 405/5-7A-101 new  
705 ILCS 405/5-7A-105 new  
705 ILCS 405/5-7A-110 new  
705 ILCS 405/5-7A-115 new  
705 ILCS 405/7A-120 new  
705 ILCS 405/7A-125 new

Amends the Juvenile Court Act of 1987. Provides that a delinquent minor may be placed in a juvenile electronic home monitoring program. Establishes the conditions of the program.

LRB096 10827 RLC 21050 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning courts.

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

4 Section 5. The Juvenile Court Act of 1987 is amended by  
5 changing Section 5-710 and by adding Part 7A to Article V as  
6 follows:

7 (705 ILCS 405/5-710)

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

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

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

13 (i) put on probation or conditional discharge and  
14 released to his or her 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 murder,  
19 a Class X felony, or a forcible felony shall be placed  
20 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) placed in the guardianship of the Department  
5 of Children and Family Services, but only if the  
6 delinquent minor is under 15 years of age or, pursuant  
7 to Article II of this Act, a minor for whom an  
8 independent basis of abuse, neglect, or dependency  
9 exists. An independent basis exists when the  
10 allegations or adjudication of abuse, neglect, or  
11 dependency do not arise from the same facts, incident,  
12 or circumstances which give rise to a charge or  
13 adjudication of delinquency;

14 (v) placed in detention for a period not to exceed  
15 30 days, either as the exclusive order of disposition  
16 or, where appropriate, in conjunction with any other  
17 order of disposition issued under this paragraph,  
18 provided that any such detention shall be in a juvenile  
19 detention home and the minor so detained shall be 10  
20 years of age or older. However, the 30-day limitation  
21 may be extended by further order of the court for a  
22 minor under age 15 committed to the Department of  
23 Children and Family Services if the court finds that  
24 the minor is a danger to himself or others. The minor  
25 shall be given credit on the sentencing order of  
26 detention for time spent in detention under Sections

1 5-501, 5-601, 5-710, or 5-720 of this Article as a  
2 result of the offense for which the sentencing order  
3 was imposed. The court may grant credit on a sentencing  
4 order of detention entered under a violation of  
5 probation or violation of conditional discharge under  
6 Section 5-720 of this Article for time spent in  
7 detention before the filing of the petition alleging  
8 the violation. A minor shall not be deprived of credit  
9 for time spent in detention before the filing of a  
10 violation of probation or conditional discharge  
11 alleging the same or related act or acts;

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 his or her driver's license  
16 or driving privileges suspended for such time as  
17 determined by the court but only until he or she  
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 than  
25 upon attainment of age 21; this subdivision (viii)  
26 notwithstanding any contrary provision of the law; ~~or~~

1 (ix) ordered to undergo a medical or other  
2 procedure to have a tattoo symbolizing allegiance to a  
3 street gang removed from his or her body; or -

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

6 (b) A minor found to be guilty may be committed to the  
7 Department of Juvenile Justice under Section 5-750 if the  
8 minor is 13 years of age or older, provided that the  
9 commitment to the Department of Juvenile Justice shall be  
10 made only if a term of incarceration is permitted by law  
11 for adults found guilty of the offense for which the minor  
12 was adjudicated delinquent. The time during which a minor  
13 is in custody before being released upon the request of a  
14 parent, guardian or legal custodian shall be considered as  
15 time spent in detention.

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

24 (2) Any sentencing order other than commitment to the  
25 Department of Juvenile Justice may provide for protective  
26 supervision under Section 5-725 and may include an order of

1 protection under Section 5-730.

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

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

19 (5) Any sentencing order where the minor is committed or  
20 placed in accordance with Section 5-740 shall provide for the  
21 parents or guardian of the estate of the minor to pay to the  
22 legal custodian or guardian of the person of the minor such  
23 sums as are determined by the custodian or guardian of the  
24 person of the minor as necessary for the minor's needs. The  
25 payments may not exceed the maximum amounts provided for by  
26 Section 9.1 of the Children and Family Services Act.

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

12           (7) In no event shall a guilty minor be committed to the  
13 Department of Juvenile Justice for a period of time in excess  
14 of that period for which an adult could be committed for the  
15 same act.

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

26           (8.5) A minor found to be guilty for reasons that include a

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

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



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

16 (10) When a court finds a minor to be guilty the court  
17 shall, before entering a sentencing order under this Section,  
18 make a finding whether the offense committed either: (a) was  
19 related to or in furtherance of the criminal activities of an  
20 organized gang or was motivated by the minor's membership in or  
21 allegiance to an organized gang, or (b) involved a violation of  
22 subsection (a) of Section 12-7.1 of the Criminal Code of 1961,  
23 a violation of any Section of Article 24 of the Criminal Code  
24 of 1961, or a violation of any statute that involved the  
25 wrongful use of a firearm. If the court determines the question  
26 in the affirmative, and the court does not commit the minor to

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

18 (11) If the court determines that the offense was committed  
19 in furtherance of the criminal activities of an organized gang,  
20 as provided in subsection (10), and that the offense involved  
21 the operation or use of a motor vehicle or the use of a  
22 driver's license or permit, the court shall notify the  
23 Secretary of State of that determination and of the period for  
24 which the minor shall be denied driving privileges. If, at the  
25 time of the determination, the minor does not hold a driver's  
26 license or permit, the court shall provide that the minor shall

1 not be issued a driver's license or permit until his or her  
2 18th birthday. If the minor holds a driver's license or permit  
3 at the time of the determination, the court shall provide that  
4 the minor's driver's license or permit shall be revoked until  
5 his or her 21st birthday, or until a later date or occurrence  
6 determined by the court. If the minor holds a driver's license  
7 at the time of the determination, the court may direct the  
8 Secretary of State to issue the minor a judicial driving  
9 permit, also known as a JDP. The JDP shall be subject to the  
10 same terms as a JDP issued under Section 6-206.1 of the  
11 Illinois Vehicle Code, except that the court may direct that  
12 the JDP be effective immediately.

13 (Source: P.A. 94-556, eff. 9-11-05; 94-696, eff. 6-1-06;  
14 95-337, eff. 6-1-08; 95-642, eff. 6-1-08; 95-844, eff. 8-15-08;  
15 95-876, eff. 8-21-08.)

16 (705 ILCS 405/Art. V, Part 7A heading new)

17 PART 7A. JUVENILE ELECTRONIC HOME DETENTION LAW

18 (705 ILCS 405/5-7A-101 new)

19 Sec. 5-7A-101. Short title. This Part may be cited as the  
20 Juvenile Electronic Home Detention Law.

21 (705 ILCS 405/5-7A-105 new)

22 Sec. 5-7A-105. Definitions. As used in this Article:

23 (a) "Approved electronic monitoring device" means a device

1 approved by the supervising authority that is primarily  
2 intended to record or transmit information as to the minor's  
3 presence or nonpresence in the home. An approved electronic  
4 monitoring device may record or transmit: oral or wire  
5 communications or an auditory sound; visual images; or  
6 information regarding the minor's activities while inside the  
7 offender's home. These devices are subject to the required  
8 consent as set forth in Section 5-7A-125 of this Article. An  
9 approved electronic monitoring device may be used to record a  
10 conversation between the participant and the monitoring  
11 device, or the participant and the person supervising the  
12 participant solely for the purpose of identification and not  
13 for the purpose of eavesdropping or conducting any other  
14 illegally intrusive monitoring.

15 (b) "Excluded offenses" means any act if committed by an  
16 adult would constitute first degree murder, escape, aggravated  
17 criminal sexual assault, criminal sexual assault, aggravated  
18 battery with a firearm, bringing or possessing a firearm,  
19 ammunition, or explosive in a penal institution, any "Super-X"  
20 drug offense or calculated criminal drug conspiracy or  
21 streetgang criminal drug conspiracy, or any predecessor or  
22 successor offenses with the same or substantially the same  
23 elements, or any inchoate offenses relating to the foregoing  
24 offenses.

25 (c) "Home detention" means the confinement of a minor  
26 adjudicated delinquent or subject to an adjudicatory hearing

1 under Article V for an act that if committed by an adult would  
2 be an offense to his or her place of residence under the terms  
3 and conditions established by the supervising authority.

4 (d) "Participant" means a minor placed into an electronic  
5 monitoring program.

6 (e) "Supervising authority" means the Department of  
7 Juvenile Justice, probation supervisory authority, sheriff,  
8 superintendent of a juvenile detention center, or any other  
9 officer or agency charged with authorizing and supervising home  
10 detention.

11 (f) "Super-X drug offense" means a violation of clause  
12 (a)(1)(B), (C), or (D) of Section 401; clause (a)(2)(B), (C),  
13 or (D) of Section 401; clause (a)(3)(B), (C), or (D) of Section  
14 401; or clause (a)(7)(B), (C), or (D) of Section 401 of the  
15 Illinois Controlled Substances Act.

16 (705 ILCS 405/5-7A-110 new)

17 Sec. 5-7A-110. Application.

18 (a) Except as provided in subsection (d), a minor subject  
19 to an adjudicatory hearing or adjudicated delinquent for an act  
20 that if committed by an adult would be an excluded offense may  
21 not be placed in an electronic home detention program, except  
22 upon order of the court upon good cause shown.

23 (b) A minor adjudicated delinquent for an act that if  
24 committed by an adult would be a Class 1 felony, other than an  
25 excluded offense, may be placed in an electronic home detention

1 program for a period not to exceed the last 90 days of  
2 incarceration.

3 (c) A minor adjudicated delinquent for an act that if  
4 committed by an adult would be a Class X felony, other than an  
5 excluded offense, may be placed in an electronic home detention  
6 program for a period not to exceed the last 90 days of  
7 incarceration, provided that the person was sentenced on or  
8 after the effective date of this amendatory Act of the 96th  
9 General Assembly and provided that the court has not prohibited  
10 the program for the minor in the sentencing order.

11 (d) Applications for electronic home detention may include  
12 the following:

- 13 (1) pre-adjudicatory detention;  
14 (2) probation;  
15 (3) furlough;  
16 (4) post-trial incarceration; or  
17 (5) any other disposition under this Article.

18 (705 ILCS 405/5-7A-115 new)

19 Sec. 5-7A-115. Program description. The supervising  
20 authority may promulgate rules that prescribe reasonable  
21 guidelines under which an electronic home detention program  
22 shall operate. These rules shall include, but not be limited,  
23 to the following:

24 (A) The participant shall remain within the interior  
25 premises or within the property boundaries of his or her

1 residence at all times during the hours designated by the  
2 supervising authority. Such instances of approved absences  
3 from the home may include, but are not limited to, the  
4 following:

5 (1) working or employment approved by the court or  
6 traveling to or from approved employment;

7 (2) unemployed and seeking employment approved for  
8 the participant by the court;

9 (3) undergoing medical, psychiatric, mental health  
10 treatment, counseling, or other treatment programs  
11 approved for the participant by the court;

12 (4) attending an educational institution or a  
13 program approved for the participant by the court;

14 (5) attending a regularly scheduled religious  
15 service at a place of worship;

16 (6) participating in community work release or  
17 community service programs approved for the  
18 participant by the supervising authority; or

19 (7) for another compelling reason consistent with  
20 the public interest, as approved by the supervising  
21 authority.

22 (B) The participant shall admit any person or agent  
23 designated by the supervising authority into his or her  
24 residence at any time for purposes of verifying the  
25 participant's compliance with the conditions of his or her  
26 detention.

1           (C) The participant shall make the necessary  
2           arrangements to allow for any person or agent designated by  
3           the supervising authority to visit the participant's place  
4           of education or employment at any time, based upon the  
5           approval of the educational institution or employer or  
6           both, for the purpose of verifying the participant's  
7           compliance with the conditions of his or her detention.

8           (D) The participant shall acknowledge and participate  
9           with the approved electronic monitoring device as  
10           designated by the supervising authority at any time for the  
11           purpose of verifying the participant's compliance with the  
12           conditions of his or her detention.

13           (E) The participant shall maintain the following:

14                   (1) a working telephone in the participant's home;

15                   (2) a monitoring device in the participant's home,  
16                   or on the participant's person, or both; and

17                   (3) a monitoring device in the participant's home  
18                   and on the participant's person in the absence of a  
19                   telephone.

20           (F) The participant shall obtain approval from the  
21           supervising authority before the participant changes  
22           residence or the schedule described in paragraph (A) of  
23           this Section.

24           (G) The participant shall not commit another act that  
25           if committed by an adult would constitute a crime during  
26           the period of home detention ordered by the court.



1           (H) Notice to the participant that violation of the  
2           order for home detention may subject the participant to an  
3           adjudicatory hearing for escape as described in Section  
4           5-7A-120.

5           (I) The participant shall abide by other conditions as  
6           set by the supervising authority.

7           (705 ILCS 405/7A-120 new)

8           Sec. 7A-120. Escape; failure to comply with a condition of  
9           the juvenile electronic home monitoring detention program. A  
10          minor charged with or adjudicated delinquent for an act that,  
11          if committed by an adult, would constitute a felony or  
12          misdemeanor, conditionally released from the supervising  
13          authority through a juvenile electronic home monitoring  
14          detention program, who knowingly violates a condition of the  
15          juvenile electronic home monitoring detention program shall be  
16          adjudicated a delinquent minor for such act and shall be  
17          subject to an additional sentencing order under Section 5-710.

18          (705 ILCS 405/7A-125 new)

19          Sec. 7A-125. Consent of the participant. Before entering an  
20          order for commitment for juvenile electronic home detention,  
21          the supervising authority shall inform the participant and  
22          other persons residing in the home of the nature and extent of  
23          the approved electronic monitoring devices by doing the  
24          following:

1           (A) Securing the written consent of the participant in  
2           the program to comply with the rules and regulations of the  
3           program as stipulated in paragraphs (A) through (I) of  
4           Section 5-7A-115.

5           (B) Where possible, securing the written consent of  
6           other persons residing in the home of the participant,  
7           including the parent or legal guardian of the minor and of  
8           the person in whose name the telephone is registered, at  
9           the time of the order or commitment for electronic home  
10          detention is entered and acknowledge the nature and extent  
11          of approved electronic monitoring devices.

12          (C) Ensure that the approved electronic devices are  
13          minimally intrusive upon the privacy of the participant and  
14          other persons residing in the home while remaining in  
15          compliance with paragraphs (B) through (D) of Section  
16          5-7A-115.