



Rep. Elaine Nekritz

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09900HB6291ham001

LRB099 19347 SLF 47745 a

1 AMENDMENT TO HOUSE BILL 6291

2 AMENDMENT NO. _____. Amend House Bill 6291 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Juvenile Court Act of 1987 is amended by
5 changing Sections 5-710 and 5-715 as follows:

6 (705 ILCS 405/5-710)

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

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

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

12 (i) put on probation or conditional discharge and
13 released to his or her parents, guardian or legal
14 custodian, provided, however, that any such minor who
15 is not committed to the Department of Juvenile Justice
16 under this subsection and who is found to be a

1 delinquent for an offense which is first degree murder,
2 a Class X felony, or a forcible felony shall be placed
3 on probation;

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

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

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

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

1 Persons 18 years of age and older who have a
2 petition of delinquency filed against them may be
3 confined in an adult detention facility. In making a
4 determination whether to confine a person 18 years of
5 age or older who has a petition of delinquency filed
6 against the person, these factors, among other
7 matters, shall be considered:

8 (A) the age of the person;

9 (B) any previous delinquent or criminal
10 history of the person;

11 (C) any previous abuse or neglect history of
12 the person;

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

14 and

15 (E) any educational history of the person;

16 (vi) ordered partially or completely emancipated
17 in accordance with the provisions of the Emancipation
18 of Minors Act;

19 (vii) subject to having his or her driver's license
20 or driving privileges suspended for such time as
21 determined by the court but only until he or she
22 attains 18 years of age;

23 (viii) put on probation or conditional discharge
24 and placed in detention under Section 3-6039 of the
25 Counties Code for a period not to exceed the period of
26 incarceration permitted by law for adults found guilty

1 of the same offense or offenses for which the minor was
2 adjudicated delinquent, and in any event no longer than
3 upon attainment of age 21; this subdivision (viii)
4 notwithstanding any contrary provision of the law;

5 (ix) ordered to undergo a medical or other
6 procedure to have a tattoo symbolizing allegiance to a
7 street gang removed from his or her body; or

8 (x) placed in electronic home detention under Part
9 7A of this Article.

10 (b) A minor found to be guilty may be committed to the
11 Department of Juvenile Justice under Section 5-750 if the
12 minor is at least 13 years and under 20 years of age,
13 provided that the commitment to the Department of Juvenile
14 Justice shall be made only if a term of imprisonment in the
15 penitentiary system of the Department of Corrections is
16 permitted by law for adults found guilty of the offense for
17 which the minor was adjudicated delinquent. The court shall
18 include in the sentencing order any pre-custody credits the
19 minor is entitled to under Section 5-4.5-100 of the Unified
20 Code of Corrections. The time during which a minor is in
21 custody before being released upon the request of a parent,
22 guardian or legal custodian shall also be considered as
23 time spent in custody.

24 (c) When a minor is found to be guilty for an offense
25 which is a violation of the Illinois Controlled Substances
26 Act, the Cannabis Control Act, or the Methamphetamine

1 Control and Community Protection Act and made a ward of the
2 court, the court may enter a disposition order requiring
3 the minor to undergo assessment, counseling or treatment in
4 a substance abuse program approved by the Department of
5 Human Services.

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

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

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

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

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

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

1 (7.5) In no event shall a guilty minor be committed to the
2 Department of Juvenile Justice or placed in detention when the
3 act for which the minor was adjudicated delinquent would not be
4 illegal if committed by an adult.

5 (7.75) In no event shall a guilty minor be committed to the
6 Department of Juvenile Justice for an offense that is a Class 3
7 or Class 4 felony violation of the Illinois Controlled
8 Substances Act unless the commitment occurs upon a third or
9 subsequent judicial finding of a violation of probation for
10 substantial noncompliance with court ordered treatment or
11 programming.

12 (8) A minor found to be guilty for reasons that include a
13 violation of Section 21-1.3 of the Criminal Code of 1961 or the
14 Criminal Code of 2012 shall be ordered to perform community
15 service for not less than 30 and not more than 120 hours, if
16 community service is available in the jurisdiction. The
17 community service shall include, but need not be limited to,
18 the cleanup and repair of the damage that was caused by the
19 violation or similar damage to property located in the
20 municipality or county in which the violation occurred. The
21 order may be in addition to any other order authorized by this
22 Section.

23 (8.5) A minor found to be guilty for reasons that include a
24 violation of Section 3.02 or Section 3.03 of the Humane Care
25 for Animals Act or paragraph (d) of subsection (1) of Section
26 21-1 of the Criminal Code of 1961 or paragraph (4) of

1 subsection (a) of Section 21-1 of the Criminal Code of 2012
2 shall be ordered to undergo medical or psychiatric treatment
3 rendered by a psychiatrist or psychological treatment rendered
4 by a clinical psychologist. The order may be in addition to any
5 other order authorized by this Section.

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

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

14 (10) When a court finds a minor to be guilty the court
15 shall, before entering a sentencing order under this Section,
16 make a finding whether the offense committed either: (a) was
17 related to or in furtherance of the criminal activities of an
18 organized gang or was motivated by the minor's membership in or
19 allegiance to an organized gang, or (b) involved a violation of
20 subsection (a) of Section 12-7.1 of the Criminal Code of 1961
21 or the Criminal Code of 2012, a violation of any Section of
22 Article 24 of the Criminal Code of 1961 or the Criminal Code of
23 2012, or a violation of any statute that involved the wrongful
24 use of a firearm. If the court determines the question in the
25 affirmative, and the court does not commit the minor to the
26 Department of Juvenile Justice, the court shall order the minor

1 to perform community service for not less than 30 hours nor
2 more than 120 hours, provided that community service is
3 available in the jurisdiction and is funded and approved by the
4 county board of the county where the offense was committed. The
5 community service shall include, but need not be limited to,
6 the cleanup and repair of any damage caused by a violation of
7 Section 21-1.3 of the Criminal Code of 1961 or the Criminal
8 Code of 2012 and similar damage to property located in the
9 municipality or county in which the violation occurred. When
10 possible and reasonable, the community service shall be
11 performed in the minor's neighborhood. This order shall be in
12 addition to any other order authorized by this Section except
13 for an order to place the minor in the custody of the
14 Department of Juvenile Justice. For the purposes of this
15 Section, "organized gang" has the meaning ascribed to it in
16 Section 10 of the Illinois Streetgang Terrorism Omnibus
17 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 (12) If a minor is found to be guilty of a violation of
14 subsection (a-7) of Section 1 of the Prevention of Tobacco Use
15 by Minors Act, the court may, in its discretion, and upon
16 recommendation by the State's Attorney, order that minor and
17 his or her parents or legal guardian to attend a smoker's
18 education or youth diversion program as defined in that Act if
19 that program is available in the jurisdiction where the
20 offender resides. Attendance at a smoker's education or youth
21 diversion program shall be time-credited against any community
22 service time imposed for any first violation of subsection
23 (a-7) of Section 1 of that Act. In addition to any other
24 penalty that the court may impose for a violation of subsection
25 (a-7) of Section 1 of that Act, the court, upon request by the
26 State's Attorney, may in its discretion require the offender to

1 remit a fee for his or her attendance at a smoker's education
2 or youth diversion program.

3 For purposes of this Section, "smoker's education program"
4 or "youth diversion program" includes, but is not limited to, a
5 seminar designed to educate a person on the physical and
6 psychological effects of smoking tobacco products and the
7 health consequences of smoking tobacco products that can be
8 conducted with a locality's youth diversion program.

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

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

15 (b) A second violation by a minor of subsection (a-7)
16 of Section 1 of that Act that occurs within 12 months after
17 the first violation is punishable by a fine of \$50 and 25
18 hours of community service.

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

23 (d) Any second or subsequent violation not within the
24 12-month time period after the first violation is
25 punishable as provided for a first violation.

26 (Source: P.A. 98-536, eff. 8-23-13; 98-803, eff. 1-1-15;

1 99-268, eff. 1-1-16.)

2 (705 ILCS 405/5-715)

3 Sec. 5-715. Probation.

4 (1) The period of probation or conditional discharge shall
5 not exceed 5 years or until the minor has attained the age of
6 21 years, whichever is less, except as provided in this Section
7 for a minor who is found to be guilty for an offense which is
8 first degree murder, ~~a Class X felony or a forcible felony~~. The
9 juvenile court may terminate probation or conditional
10 discharge and discharge the minor at any time if warranted by
11 the conduct of the minor and the ends of justice; provided,
12 however, that the period of probation for a minor who is found
13 to be guilty for an offense which is first degree murder, ~~a~~
14 ~~Class X felony, or a forcible felony~~ shall be at least 5 years.

15 (1.5) The period of probation for a minor who is found
16 guilty of aggravated criminal sexual assault, criminal sexual
17 assault, or aggravated battery with a firearm shall be at least
18 36 months. The period of probation for a minor who is found to
19 be guilty of any other Class X felony shall be at least 24
20 months. The period of probation for a Class 1 or Class 2
21 forcible felony shall be at least 18 months. Regardless of the
22 length of probation ordered by the court, for all offenses
23 under this paragraph (1.5), the court shall schedule hearings
24 to determine whether it is in the best interest of the minor
25 and public safety to terminate probation after the minimum

1 period of probation has been served. In such a hearing, there
2 shall be a rebuttable presumption that it is in the best
3 interest of the minor and public safety to terminate probation.

4 (2) The court may as a condition of probation or of
5 conditional discharge require that the minor:

6 (a) not violate any criminal statute of any
7 jurisdiction;

8 (b) make a report to and appear in person before any
9 person or agency as directed by the court;

10 (c) work or pursue a course of study or vocational
11 training;

12 (d) undergo medical or psychiatric treatment, rendered
13 by a psychiatrist or psychological treatment rendered by a
14 clinical psychologist or social work services rendered by a
15 clinical social worker, or treatment for drug addiction or
16 alcoholism;

17 (e) attend or reside in a facility established for the
18 instruction or residence of persons on probation;

19 (f) support his or her dependents, if any;

20 (g) refrain from possessing a firearm or other
21 dangerous weapon, or an automobile;

22 (h) permit the probation officer to visit him or her at
23 his or her home or elsewhere;

24 (i) reside with his or her parents or in a foster home;

25 (j) attend school;

26 (j-5) with the consent of the superintendent of the

1 facility, attend an educational program at a facility other
2 than the school in which the offense was committed if he or
3 she committed a crime of violence as defined in Section 2
4 of the Crime Victims Compensation Act in a school, on the
5 real property comprising a school, or within 1,000 feet of
6 the real property comprising a school;

7 (k) attend a non-residential program for youth;

8 (l) make restitution under the terms of subsection (4)
9 of Section 5-710;

10 (m) contribute to his or her own support at home or in
11 a foster home;

12 (n) perform some reasonable public or community
13 service;

14 (o) participate with community corrections programs
15 including unified delinquency intervention services
16 administered by the Department of Human Services subject to
17 Section 5 of the Children and Family Services Act;

18 (p) pay costs;

19 (q) serve a term of home confinement. In addition to
20 any other applicable condition of probation or conditional
21 discharge, the conditions of home confinement shall be that
22 the minor:

23 (i) remain within the interior premises of the
24 place designated for his or her confinement during the
25 hours designated by the court;

26 (ii) admit any person or agent designated by the

1 court into the minor's place of confinement at any time
2 for purposes of verifying the minor's compliance with
3 the conditions of his or her confinement; and

4 (iii) use an approved electronic monitoring device
5 if ordered by the court subject to Article 8A of
6 Chapter V of the Unified Code of Corrections;

7 (r) refrain from entering into a designated geographic
8 area except upon terms as the court finds appropriate. The
9 terms may include consideration of the purpose of the
10 entry, the time of day, other persons accompanying the
11 minor, and advance approval by a probation officer, if the
12 minor has been placed on probation, or advance approval by
13 the court, if the minor has been placed on conditional
14 discharge;

15 (s) refrain from having any contact, directly or
16 indirectly, with certain specified persons or particular
17 types of persons, including but not limited to members of
18 street gangs and drug users or dealers;

19 (s-5) undergo a medical or other procedure to have a
20 tattoo symbolizing allegiance to a street gang removed from
21 his or her body;

22 (t) refrain from having in his or her body the presence
23 of any illicit drug prohibited by the Cannabis Control Act,
24 the Illinois Controlled Substances Act, or the
25 Methamphetamine Control and Community Protection Act,
26 unless prescribed by a physician, and shall submit samples

1 of his or her blood or urine or both for tests to determine
2 the presence of any illicit drug; or

3 (u) comply with other conditions as may be ordered by
4 the court.

5 (3) The court may as a condition of probation or of
6 conditional discharge require that a minor found guilty on any
7 alcohol, cannabis, methamphetamine, or controlled substance
8 violation, refrain from acquiring a driver's license during the
9 period of probation or conditional discharge. If the minor is
10 in possession of a permit or license, the court may require
11 that the minor refrain from driving or operating any motor
12 vehicle during the period of probation or conditional
13 discharge, except as may be necessary in the course of the
14 minor's lawful employment.

15 (3.5) The court shall, as a condition of probation or of
16 conditional discharge, require that a minor found to be guilty
17 and placed on probation for reasons that include a violation of
18 Section 3.02 or Section 3.03 of the Humane Care for Animals Act
19 or paragraph (4) of subsection (a) of Section 21-1 of the
20 Criminal Code of 2012 undergo medical or psychiatric treatment
21 rendered by a psychiatrist or psychological treatment rendered
22 by a clinical psychologist. The condition may be in addition to
23 any other condition.

24 (3.10) The court shall order that a minor placed on
25 probation or conditional discharge for a sex offense as defined
26 in the Sex Offender Management Board Act undergo and

1 successfully complete sex offender treatment. The treatment
2 shall be in conformance with the standards developed under the
3 Sex Offender Management Board Act and conducted by a treatment
4 provider approved by the Board. The treatment shall be at the
5 expense of the person evaluated based upon that person's
6 ability to pay for the treatment.

7 (4) A minor on probation or conditional discharge shall be
8 given a certificate setting forth the conditions upon which he
9 or she is being released.

10 (5) The court shall impose upon a minor placed on probation
11 or conditional discharge, as a condition of the probation or
12 conditional discharge, a fee of \$50 for each month of probation
13 or conditional discharge supervision ordered by the court,
14 unless after determining the inability of the minor placed on
15 probation or conditional discharge to pay the fee, the court
16 assesses a lesser amount. The court may not impose the fee on a
17 minor who is made a ward of the State under this Act while the
18 minor is in placement. The fee shall be imposed only upon a
19 minor who is actively supervised by the probation and court
20 services department. The court may order the parent, guardian,
21 or legal custodian of the minor to pay some or all of the fee on
22 the minor's behalf.

23 (5.5) Jurisdiction over an offender may be transferred from
24 the sentencing court to the court of another circuit with the
25 concurrence of both courts. Further transfers or retransfers of
26 jurisdiction are also authorized in the same manner. The court

1 to which jurisdiction has been transferred shall have the same
2 powers as the sentencing court. The probation department within
3 the circuit to which jurisdiction has been transferred, or
4 which has agreed to provide supervision, may impose probation
5 fees upon receiving the transferred offender, as provided in
6 subsection (i) of Section 5-6-3 of the Unified Code of
7 Corrections. For all transfer cases, as defined in Section 9b
8 of the Probation and Probation Officers Act, the probation
9 department from the original sentencing court shall retain all
10 probation fees collected prior to the transfer. After the
11 transfer, all probation fees shall be paid to the probation
12 department within the circuit to which jurisdiction has been
13 transferred.

14 If the transfer case originated in another state and has
15 been transferred under the Interstate Compact for Juveniles to
16 the jurisdiction of an Illinois circuit court for supervision
17 by an Illinois probation department, probation fees may be
18 imposed only if permitted by the Interstate Commission for
19 Juveniles.

20 (6) The General Assembly finds that in order to protect the
21 public, the juvenile justice system must compel compliance with
22 the conditions of probation by responding to violations with
23 swift, certain, and fair punishments and intermediate
24 sanctions. The Chief Judge of each circuit shall adopt a system
25 of structured, intermediate sanctions for violations of the
26 terms and conditions of a sentence of supervision, probation or

1 conditional discharge, under this Act.

2 The court shall provide as a condition of a disposition of
3 probation, conditional discharge, or supervision, that the
4 probation agency may invoke any sanction from the list of
5 intermediate sanctions adopted by the chief judge of the
6 circuit court for violations of the terms and conditions of the
7 sentence of probation, conditional discharge, or supervision,
8 subject to the provisions of Section 5-720 of this Act.

9 (Source: P.A. 97-1108, eff. 1-1-13; 97-1150, eff. 1-25-13;
10 98-575, eff. 1-1-14.)

11 Section 99. Effective date. This Act take shall take effect
12 on January 1, 2017."