

1 firearm.

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

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

6 "School" means a public or private elementary or
7 secondary 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
11 in 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
18 on a lesser charge if before trial the minor defendant
19 knowingly and with advice of counsel waives, in writing, his
20 or her right to have the matter proceed in Juvenile Court.

21 (ii) If before trial or plea an information or
22 indictment is filed that includes one or more charges
23 specified in paragraph (a) of this subsection (1) and
24 additional charges that are not specified in that paragraph,
25 all of the charges arising out of the same incident shall be
26 prosecuted under the 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
33 minor committed an offense not covered by paragraph (a) of
34 this subsection (1), that finding shall not invalidate the

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

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

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

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

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

1 (c) (i) If after trial or plea the minor is convicted of
2 any offense covered by paragraph (a) of this subsection (2),
3 then, in sentencing the minor, the court shall have available
4 any or all dispositions prescribed for that offense under
5 Chapter V of the Unified Code of Corrections.

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

1 available to it any or all dispositions so prescribed.

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

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

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

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

1 Chapter V of the Unified Code of Corrections.

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

32 (4) (a) The definition of delinquent minor under Section
33 5-120 of this Article shall not apply to any minor who at the
34 time of an offense was at least 13 years of age and who is

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

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

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

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

33 (ii) If the minor was not yet 15 years of age at the
34 time of the offense, and if after trial or plea the court

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

33 (5) (a) The definition of delinquent minor under Section
34 5-120 of this Article shall not apply to any minor who is

1 charged with a violation of subsection (a) of Section 31-6 or
2 Section 32-10 of the Criminal Code of 1961 when the minor is
3 subject to prosecution under the criminal laws of this State
4 as a result of the application of the provisions of Section
5 5-125, or subsection (1) or (2) of this Section. These
6 charges and all other charges arising out of the same
7 incident shall be prosecuted under the criminal laws of this
8 State.

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

18 (ii) If before trial or plea an information or
19 indictment is filed that includes one or more charges
20 specified in paragraph (a) of this subsection (5) and
21 additional charges that are not specified in that paragraph,
22 all of the charges arising out of the same incident shall be
23 prosecuted under the criminal laws of this State.

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

29 (ii) If after trial or plea the court finds that the
30 minor committed an offense not covered by paragraph (a) of
31 this subsection (5), the conviction shall not invalidate the
32 verdict or the prosecution of the minor under the criminal
33 laws of this State; however, unless the State requests a
34 hearing for the purpose of sentencing the minor under Chapter

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

25 (6) The definition of delinquent minor under Section
26 5-120 of this Article shall not apply to any minor who,
27 pursuant to subsection (1), (2), or (3) or Section 5-805, or
28 5-810, has previously been placed under the jurisdiction of
29 the criminal court and has been convicted of a crime under an
30 adult criminal or penal statute. Such a minor shall be
31 subject to prosecution under the criminal laws of this State.

32 (7) The procedures set out in this Article for the
33 investigation, arrest and prosecution of juvenile offenders
34 shall not apply to minors who are excluded from jurisdiction

1 of the Juvenile Court, except that minors under 17 years of
2 age shall be kept separate from confined adults.

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

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

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

31 (a) The age of the minor;

32 (b) Any previous delinquent or criminal history of the
33 minor;

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

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

3 (e) Whether there is probable cause to support the
4 charge, whether the minor is charged through accountability,
5 and whether there is evidence the minor possessed a deadly
6 weapon or caused serious bodily harm during the offense.

7 Any material that is relevant and reliable shall be
8 admissible at the hearing. In all cases, the judge shall
9 enter an order permitting prosecution under the criminal laws
10 of Illinois unless the judge makes a finding based on a
11 preponderance of the evidence that the minor would be
12 amenable to the care, treatment, and training programs
13 available through the facilities of the juvenile court based
14 on an evaluation of the factors listed in this subsection
15 (10).

16 (Source: P.A. 91-15, eff. 1-1-00; 91-673, eff. 12-22-99;
17 92-16, eff. 6-28-01.)".