

AN ACT concerning criminal law.

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

Section 5. The Juvenile Court Act of 1987 is amended by changing Sections 5-805 and 5-810 as follows:

(705 ILCS 405/5-805)

Sec. 5-805. Transfer of jurisdiction.

(1) (Blank).

(2) Presumptive transfer.

(a) If the State's Attorney files a petition, at any time prior to commencement of the minor's trial, to permit prosecution under the criminal laws and the petition alleges a minor 15 years of age or older of an act that constitutes a forcible felony under the laws of this State, and if a motion by the State's Attorney to prosecute the minor under the criminal laws of Illinois for the alleged forcible felony alleges that (i) the minor has previously been adjudicated delinquent or found guilty for commission of an act that constitutes a forcible felony under the laws of this State or any other state and (ii) the act that constitutes the offense was committed in furtherance of criminal activity by an organized gang, and, if the juvenile judge assigned to hear and determine

motions to transfer a case for prosecution in the criminal court determines that there is probable cause to believe that the allegations in the petition and motion are true, there is a rebuttable presumption that the minor is not a fit and proper subject to be dealt with under the Juvenile Justice Reform Provisions of 1998 (Public Act 90-590), and that, except as provided in paragraph (b), the case should be transferred to the criminal court.

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

(i) the age of the minor;

(ii) the history of the minor, including:

(A) any previous delinquent or criminal history of the minor,

(B) any previous abuse or neglect history of the minor, ~~and~~

(C) any mental health, physical or educational history of the minor or combination of these factors, and

(D) any involvement of the minor in the child welfare system;

(iii) the circumstances of the offense, including:

(A) the seriousness of the offense,

(B) whether the minor is charged through  
accountability,

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

(D) whether there is evidence the offense  
caused serious bodily harm,

(E) whether there is evidence the minor  
possessed a deadly weapon, ~~+~~

(F) whether there is evidence the minor was  
subjected to outside pressure, including peer  
pressure, familial pressure, or negative  
influences, and

(G) the minor's degree of participation and  
specific role in the offense;

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

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

(A) the minor's history of services, including  
the minor's willingness to participate

meaningfully in available services;

(B) whether there is a reasonable likelihood that the minor can be rehabilitated before the expiration of the juvenile court's jurisdiction; and

(C) the adequacy of the punishment or services.

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

(3) Discretionary transfer.

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

(b) In making its determination on the motion to permit prosecution under the criminal laws, the court

shall consider among other matters:

(i) the age of the minor;

(ii) the history of the minor, including:

(A) any previous delinquent or criminal history of the minor,

(B) any previous abuse or neglect history of the minor, ~~and~~

(C) any mental health, physical, or educational history of the minor or combination of these factors, ~~and~~

(D) any involvement of the minor in the child welfare system;

(iii) the circumstances of the offense, including:

(A) the seriousness of the offense,

(B) whether the minor is charged through accountability,

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

(D) whether there is evidence the offense caused serious bodily harm,

(E) whether there is evidence the minor possessed a deadly weapon, ~~+~~

(F) whether there is evidence the minor was subjected to outside pressure, including peer pressure, familial pressure, or negative

influences, and

(G) the minor's degree of participation and specific role in the offense;

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

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

(A) the minor's history of services, including the minor's willingness to participate meaningfully in available services;

(B) whether there is a reasonable likelihood that the minor can be rehabilitated before the expiration of the juvenile court's jurisdiction;  
and

(C) the adequacy of the punishment or services.

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

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

commenced.

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

(6) When criminal prosecution is permitted under this Section and a finding of guilt is entered, the criminal court shall sentence the minor under Section 5-4.5-105 of the Unified Code of Corrections.

(7) The changes made to this Section by this amendatory Act of the 99th General Assembly apply to a minor who has been taken into custody on or after the effective date of this amendatory Act of the 99th General Assembly.

(Source: P.A. 99-258, eff. 1-1-16.)

(705 ILCS 405/5-810)

Sec. 5-810. Extended jurisdiction juvenile prosecutions.

(1) (a) If the State's Attorney files a petition, at any time prior to commencement of the minor's trial, to designate the proceeding as an extended jurisdiction juvenile prosecution and the petition alleges the commission by a minor 13 years of age or older of any offense which would be a felony if committed by an adult, and, if the juvenile judge assigned to hear and determine petitions to designate the proceeding as

an extended jurisdiction juvenile prosecution determines that there is probable cause to believe that the allegations in the petition and motion are true, there is a rebuttable presumption that the proceeding shall be designated as an extended jurisdiction juvenile proceeding.

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

- (i) the age of the minor;
- (ii) the history of the minor, including:
  - (A) any previous delinquent or criminal history of the minor,
  - (B) any previous abuse or neglect history of the minor, ~~and~~
  - (C) any mental health, physical and/or educational history of the minor, ~~and~~
  - (D) any involvement of the minor in the child welfare system;
- (iii) the circumstances of the offense, including:
  - (A) the seriousness of the offense,
  - (B) whether the minor is charged through accountability,
  - (C) whether there is evidence the offense was



committed in an aggressive and premeditated manner,

(D) whether there is evidence the offense caused serious bodily harm,

(E) whether there is evidence the minor possessed a deadly weapon,<sup>+</sup>

(F) whether there is evidence the minor was subjected to outside pressure, including peer pressure, familial pressure, or negative influences, and

(G) the minor's degree of participation and specific role in the offense;

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

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

(A) the minor's history of services, including the minor's willingness to participate meaningfully in available services;

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

(C) the adequacy of the punishment or services.

In considering these factors, the court shall give greater

weight to the seriousness of the alleged offense, and the minor's prior record of delinquency than to other factors listed in this subsection.

(2) Procedures for extended jurisdiction juvenile prosecutions. The State's Attorney may file a written motion for a proceeding to be designated as an extended juvenile jurisdiction prior to commencement of trial. Notice of the motion shall be in compliance with Section 5-530. When the State's Attorney files a written motion that a proceeding be designated an extended jurisdiction juvenile prosecution, the court shall commence a hearing within 30 days of the filing of the motion for designation, unless good cause is shown by the prosecution or the minor as to why the hearing could not be held within this time period. If the court finds good cause has been demonstrated, then the hearing shall be held within 60 days of the filing of the motion. The hearings shall be open to the public unless the judge finds that the hearing should be closed for the protection of any party, victim or witness. If the Juvenile Judge assigned to hear and determine a motion to designate an extended jurisdiction juvenile prosecution determines that there is probable cause to believe that the allegations in the petition and motion are true the court shall grant the motion for designation. Information used by the court in its findings or stated in or offered in connection with this Section may be by way of proffer based on reliable information offered by the State or the minor. All evidence

shall be admissible if it is relevant and reliable regardless of whether it would be admissible under the rules of evidence.

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

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

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

(ii) an adult criminal sentence in accordance with the provisions of Section 5-4.5-105 of the Unified Code of Corrections, the execution of which shall be stayed on the condition that the offender not violate the provisions of the juvenile sentence.

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

(5) If, after an extended jurisdiction juvenile prosecution trial, a minor is convicted of a lesser-included offense or of an offense that the State's Attorney did not designate as an extended jurisdiction juvenile prosecution, the State's Attorney may file a written motion, within 10 days of the finding of guilt, that the minor be sentenced as an extended jurisdiction juvenile prosecution offender. The court shall rule on this motion using the factors found in paragraph

(1) (b) of Section 5-805. If the court denies the State's Attorney's motion for sentencing under the extended jurisdiction juvenile prosecution provision, the court shall proceed to sentence the minor under Section 5-710.

(6) When it appears that a minor convicted in an extended jurisdiction juvenile prosecution under subsection (1) has violated the conditions of his or her sentence, or is alleged to have committed a new offense upon the filing of a petition to revoke the stay, the court may, without notice, issue a warrant for the arrest of the minor. After a hearing, if the court finds by a preponderance of the evidence that the minor committed a new offense, the court shall order execution of the previously imposed adult criminal sentence. After a hearing, if the court finds by a preponderance of the evidence that the minor committed a violation of his or her sentence other than by a new offense, the court may order execution of the previously imposed adult criminal sentence or may continue him or her on the existing juvenile sentence with or without modifying or enlarging the conditions. Upon revocation of the stay of the adult criminal sentence and imposition of that sentence, the minor's extended jurisdiction juvenile status shall be terminated. The on-going jurisdiction over the minor's case shall be assumed by the adult criminal court and juvenile court jurisdiction shall be terminated and a report of the imposition of the adult sentence shall be sent to the Department of State Police.

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

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

(Source: P.A. 99-258, eff. 1-1-16.)

Section 10. The Unified Code of Corrections is amended by changing Section 5-4.5-105 as follows:

(730 ILCS 5/5-4.5-105)

Sec. 5-4.5-105. SENTENCING OF INDIVIDUALS UNDER THE AGE OF 18 AT THE TIME OF THE COMMISSION OF AN OFFENSE.

(a) On or after the effective date of this amendatory Act of the 99th General Assembly, when a person commits an offense and the person is under 18 years of age at the time of the commission of the offense, the court, at the sentencing hearing conducted under Section 5-4-1, shall consider the following additional factors in mitigation in determining the appropriate sentence:

(1) the person's age, impetuosity, and level of maturity at the time of the offense, including the ability to consider risks and consequences of behavior, and the presence of cognitive or developmental disability, or both, if any;

(2) whether the person was subjected to outside pressure, including peer pressure, familial pressure, or

negative influences;

(3) the person's family, home environment, educational and social background, including any history of parental neglect, domestic or sexual violence, sexual exploitation, physical abuse, or other childhood trauma including adverse childhood experiences (or ACEs);

(4) the person's potential for rehabilitation or evidence of rehabilitation, or both;

(5) the circumstances of the offense;

(6) the person's degree of participation and specific role in the offense, including the level of planning by the defendant before the offense;

(7) whether the person was able to meaningfully participate in his or her defense;

(8) the person's prior juvenile or criminal history;  
~~and~~

(9) the person's involvement in the child welfare system;

(10) involvement of the person in the community;

(11) if a comprehensive mental health evaluation of the person was conducted by a qualified mental health professional, the outcome of the evaluation; and

12 ~~(9)~~ any other information the court finds relevant and reliable, including an expression of remorse, if appropriate. However, if the person, on advice of counsel chooses not to make a statement, the court shall not

consider a lack of an expression of remorse as an aggravating factor.

(b) The trial judge shall specify on the record its consideration of the factors under subsection (a) of this Section.

(c) Notwithstanding any other provision of law, if the court determines by clear and convincing evidence that the individual against whom the person is convicted of committing the offense previously committed a crime under Section 10-9, Section 11-1.20, Section 11-1.30, Section 11-1.40, Section 11-1.50, Section 11-1.60, Section 11-6, Section 11-6.5, Section 11-6.6, Section 11-9.1, Section 11-14.3, Section 11-14.4 or Section 11-18.1 under Criminal Code of 2012 against the person within 3 years before the offense in which the person was convicted, the court may, in its discretion:

(1) transfer the person to juvenile court for sentencing under Section 5-710 of the Juvenile Court Act of 1987;

(2) depart from any mandatory minimum sentence, maximum sentence, or sentencing enhancement; or

(3) suspend any portion of an otherwise applicable sentence.

(d) Subsection (c) shall be construed as prioritizing the successful treatment and rehabilitation of persons under 18 years of age who are sex crime victims who commit acts of violence against their abusers. It is the General Assembly's

intent that these persons be viewed as victims and provided treatment and services in the community, juvenile or family court system.

(e) ~~(b)~~ Except as provided in subsection (f) ~~(e)~~, the court may sentence the defendant to any disposition authorized for the class of the offense of which he or she was found guilty as described in Article 4.5 of this Code, and may, in its discretion, decline to impose any otherwise applicable sentencing enhancement based upon firearm possession, possession with personal discharge, or possession with personal discharge that proximately causes great bodily harm, permanent disability, permanent disfigurement, or death to another person.

(f) ~~(e)~~ Notwithstanding any other provision of law, if the defendant is convicted of first degree murder and would otherwise be subject to sentencing under clause (iii), (iv), (v), or (vii) of subparagraph (c) of paragraph (1) of subsection (a) of Section 5-8-1 of this Code based on the category of persons identified therein, the court shall impose a sentence of not less than 40 years of imprisonment, except for persons convicted of first degree murder where subsection (c) applies. In addition, the court may, in its discretion, decline to impose the sentencing enhancements based upon the possession or use of a firearm during the commission of the offense included in subsection (d) of Section 5-8-1.

(Source: P.A. 99-69, eff. 1-1-16; 99-258, eff. 1-1-16; 99-875,



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