



Sen. Kwame Raoul

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LRB099 11130 RLC 35152 a

1 AMENDMENT TO HOUSE BILL 3718

2 AMENDMENT NO. _____. Amend House Bill 3718 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 5-130, 5-407, 5-805, 5-810, and 5-821 and by
6 adding Section 5-822 as follows:

7 (705 ILCS 405/5-130)

8 Sec. 5-130. Excluded jurisdiction.

9 (1)(a) The definition of delinquent minor under Section
10 5-120 of this Article shall not apply to any minor who at the
11 time of an offense was at least 16 ~~15~~ years of age and who is
12 charged with: (i) first degree murder, (ii) aggravated criminal
13 sexual assault, or (iii) aggravated battery with a firearm as
14 described in Section 12-4.2 or subdivision (e)(1), (e)(2),
15 (e)(3), or (e)(4) of Section 12-3.05 where the minor personally
16 discharged a firearm as defined in Section 2-15.5 of the

1 Criminal Code of 1961 or the Criminal Code of 2012, ~~(iv) armed~~
2 ~~robbery when the armed robbery was committed with a firearm, or~~
3 ~~(v) aggravated vehicular hijacking when the hijacking was~~
4 ~~committed with a firearm.~~

5 These charges and all other charges arising out of the same
6 incident shall be prosecuted under the criminal laws of this
7 State.

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

16 (ii) If before trial or plea an information or indictment
17 is filed that includes one or more charges specified in
18 paragraph (a) of this subsection (1) and additional charges
19 that are not specified in that paragraph, all of the charges
20 arising out of the same incident shall be prosecuted under the
21 Criminal Code of 1961 or the Criminal Code of 2012.

22 (c) (i) If after trial or plea the minor is convicted of any
23 offense covered by paragraph (a) of this subsection (1), then,
24 in sentencing the minor, the court shall sentence the minor
25 under Section 5-4.5-105 of the Unified Code of Corrections ~~have~~
26 ~~available any or all dispositions prescribed for that offense~~

1 ~~under Chapter V of the Unified Code of Corrections.~~

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

1 the hearing the court finds that the minor should be sentenced
2 under Chapter V of the Unified Code of Corrections, then the
3 court shall sentence the minor under Section 5-4.5-105 of the
4 Unified Code of Corrections ~~accordingly having available to it~~
5 ~~any or all dispositions so prescribed.~~

6 (2) (Blank).

7 (3) (Blank). ~~(a) The definition of delinquent minor under~~
8 ~~Section 5-120 of this Article shall not apply to any minor who~~
9 ~~at the time of the offense was at least 15 years of age and who~~
10 ~~is charged with a violation of the provisions of paragraph (1),~~
11 ~~(3), (4), or (10) of subsection (a) of Section 24-1 of the~~
12 ~~Criminal Code of 1961 or the Criminal Code of 2012 while in~~
13 ~~school, regardless of the time of day or the time of year, or~~
14 ~~on the real property comprising any school, regardless of the~~
15 ~~time of day or the time of year. School is defined, for~~
16 ~~purposes of this Section as any public or private elementary or~~
17 ~~secondary school, community college, college, or university.~~
18 ~~These charges and all other charges arising out of the same~~
19 ~~incident shall be prosecuted under the criminal laws of this~~
20 ~~State.~~

21 ~~(b)(i) If before trial or plea an information or indictment~~
22 ~~is filed that does not charge an offense specified in paragraph~~
23 ~~(a) of this subsection (3) the State's Attorney may proceed on~~
24 ~~any lesser charge or charges, but only in Juvenile Court under~~
25 ~~the provisions of this Article. The State's Attorney may~~
26 ~~proceed under the criminal laws of this State on a lesser~~

1 ~~charge if before trial the minor defendant knowingly and with~~
2 ~~advice of counsel waives, in writing, his or her right to have~~
3 ~~the matter proceed in Juvenile Court.~~

4 ~~(ii) If before trial or plea an information or indictment~~
5 ~~is filed that includes one or more charges specified in~~
6 ~~paragraph (a) of this subsection (3) and additional charges~~
7 ~~that are not specified in that paragraph, all of the charges~~
8 ~~arising out of the same incident shall be prosecuted under the~~
9 ~~criminal laws of this State.~~

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

15 ~~(ii) If after trial or plea the court finds that the minor~~
16 ~~committed an offense not covered by paragraph (a) of this~~
17 ~~subsection (3), that finding shall not invalidate the verdict~~
18 ~~or the prosecution of the minor under the criminal laws of the~~
19 ~~State; however, unless the State requests a hearing for the~~
20 ~~purpose of sentencing the minor under Chapter V of the Unified~~
21 ~~Code of Corrections, the Court must proceed under Sections~~
22 ~~5-705 and 5-710 of this Article. To request a hearing, the~~
23 ~~State must file a written motion within 10 days following the~~
24 ~~entry of a finding or the return of a verdict. Reasonable~~
25 ~~notice of the motion shall be given to the minor or his or her~~
26 ~~counsel. If the motion is made by the State, the court shall~~

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

18 (4) (Blank). ~~(a) The definition of delinquent minor under~~
19 ~~Section 5-120 of this Article shall not apply to any minor who~~
20 ~~at the time of an offense was at least 13 years of age and who~~
21 ~~is charged with first degree murder committed during the course~~
22 ~~of either aggravated criminal sexual assault, criminal sexual~~
23 ~~assault, or aggravated kidnaping. However, this subsection (4)~~
24 ~~does not include a minor charged with first degree murder based~~
25 ~~exclusively upon the accountability provisions of the Criminal~~
26 ~~Code of 1961 or the Criminal Code of 2012.~~

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

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

18 ~~(c) (i) If after trial or plea the minor is convicted of~~
19 ~~first degree murder committed during the course of aggravated~~
20 ~~eriminal sexual assault, criminal sexual assault, or~~
21 ~~aggravated kidnaping, in sentencing the minor, the court shall~~
22 ~~have available any or all dispositions prescribed for that~~
23 ~~offense under Chapter V of the Unified Code of Corrections.~~

24 ~~(ii) If the minor was not yet 15 years of age at the time of~~
25 ~~the offense, and if after trial or plea the court finds that~~
26 ~~the minor committed an offense other than first degree murder~~

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

1 ~~minor should be sentenced under Chapter V of the Unified Code~~
2 ~~of Corrections, then the court shall sentence the minor~~
3 ~~accordingly having available to it any or all dispositions so~~
4 ~~prescribed.~~

5 (5) (Blank). ~~(a) The definition of delinquent minor under~~
6 ~~Section 5 120 of this Article shall not apply to any minor who~~
7 ~~is charged with a violation of subsection (a) of Section 31 6~~
8 ~~or Section 32 10 of the Criminal Code of 1961 or the Criminal~~
9 ~~Code of 2012 when the minor is subject to prosecution under the~~
10 ~~criminal laws of this State as a result of the application of~~
11 ~~the provisions of Section 5 125, or subsection (1) or (2) of~~
12 ~~this Section. These charges and all other charges arising out~~
13 ~~of the same incident shall be prosecuted under the criminal~~
14 ~~laws of this State.~~

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

24 ~~(ii) If before trial or plea an information or indictment~~
25 ~~is filed that includes one or more charges specified in~~
26 ~~paragraph (a) of this subsection (5) and additional charges~~

1 ~~that are not specified in that paragraph, all of the charges~~
2 ~~arising out of the same incident shall be prosecuted under the~~
3 ~~criminal laws of this State.~~

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

9 ~~(ii) If after trial or plea the court finds that the minor~~
10 ~~committed an offense not covered by paragraph (a) of this~~
11 ~~subsection (5), the conviction shall not invalidate the verdict~~
12 ~~or the prosecution of the minor under the criminal laws of this~~
13 ~~State; however, unless the State requests a hearing for the~~
14 ~~purpose of sentencing the minor under Chapter V of the Unified~~
15 ~~Code of Corrections, the Court must proceed under Sections~~
16 ~~5 705 and 5 710 of this Article. To request a hearing, the~~
17 ~~State must file a written motion within 10 days following the~~
18 ~~entry of a finding or the return of a verdict. Reasonable~~
19 ~~notice of the motion shall be given to the minor or his or her~~
20 ~~counsel. If the motion is made by the State, the court shall~~
21 ~~conduct a hearing to determine if whether the minor should be~~
22 ~~sentenced under Chapter V of the Unified Code of Corrections.~~
23 ~~In making its determination, the court shall consider among~~
24 ~~other matters: (a) whether there is evidence that the offense~~
25 ~~was committed in an aggressive and premeditated manner; (b) the~~
26 ~~age of the minor; (c) the previous delinquent history of the~~

1 ~~minor; (d) whether there are facilities particularly available~~
2 ~~to the Juvenile Court or the Department of Juvenile Justice for~~
3 ~~the treatment and rehabilitation of the minor; (e) whether the~~
4 ~~security of the public requires sentencing under Chapter V of~~
5 ~~the Unified Code of Corrections; and (f) whether the minor~~
6 ~~possessed a deadly weapon when committing the offense. The~~
7 ~~rules of evidence shall be the same as if at trial. If after~~
8 ~~the hearing the court finds that the minor should be sentenced~~
9 ~~under Chapter V of the Unified Code of Corrections, then the~~
10 ~~court shall sentence the minor accordingly having available to~~
11 ~~it any or all dispositions so prescribed.~~

12 (6) (Blank). ~~The definition of delinquent minor under~~
13 ~~Section 5-120 of this Article shall not apply to any minor who,~~
14 ~~pursuant to subsection (1) or (3) or Section 5-805 or 5-810,~~
15 ~~has previously been placed under the jurisdiction of the~~
16 ~~criminal court and has been convicted of a crime under an adult~~
17 ~~criminal or penal statute. Such a minor shall be subject to~~
18 ~~prosecution under the criminal laws of this State.~~

19 (7) The procedures set out in this Article for the
20 investigation, arrest and prosecution of juvenile offenders
21 shall not apply to minors who are excluded from jurisdiction of
22 the Juvenile Court, except that minors under 18 years of age
23 shall be kept separate from confined adults.

24 (8) Nothing in this Act prohibits or limits the prosecution
25 of any minor for an offense committed on or after his or her
26 18th birthday even though he or she is at the time of the

1 offense a ward of the court.

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

12 (10) If, prior to August 12, 2005 (the effective date of
13 Public Act 94-574), a minor is charged with a violation of
14 Section 401 of the Illinois Controlled Substances Act under the
15 criminal laws of this State, other than a minor charged with a
16 Class X felony violation of the Illinois Controlled Substances
17 Act or the Methamphetamine Control and Community Protection
18 Act, any party including the minor or the court sua sponte may,
19 before trial, move for a hearing for the purpose of trying and
20 sentencing the minor as a delinquent minor. To request a
21 hearing, the party must file a motion prior to trial.
22 Reasonable notice of the motion shall be given to all parties.
23 On its own motion or upon the filing of a motion by one of the
24 parties including the minor, the court shall conduct a hearing
25 to determine whether the minor should be tried and sentenced as
26 a delinquent minor under this Article. In making its

1 determination, the court shall consider among other matters:

2 (a) The age of the minor;

3 (b) Any previous delinquent or criminal history of the
4 minor;

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

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

8 (e) Whether there is probable cause to support the
9 charge, whether the minor is charged through
10 accountability, and whether there is evidence the minor
11 possessed a deadly weapon or caused serious bodily harm
12 during the offense.

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

21 (11) The changes made to this Section by Public Act 98-61
22 apply to a minor who has been arrested or taken into custody on
23 or after January 1, 2014 (the effective date of Public Act
24 98-61).

25 (Source: P.A. 97-1150, eff. 1-25-13; 98-61, eff. 1-1-14;
26 98-756, eff. 7-16-14.)

1 (705 ILCS 405/5-407)

2 Sec. 5-407. Processing of juvenile in possession of a
3 firearm.

4 (a) If a law enforcement officer detains a minor pursuant
5 to Section 10-27.1A of the School Code, the officer shall
6 deliver the minor to the nearest juvenile officer, in the
7 manner prescribed by subsection (2) of Section 5-405 of this
8 Act. The juvenile officer shall deliver the minor without
9 unnecessary delay to the court or to the place designated by
10 rule or order of court for the reception of minors. In no event
11 shall the minor be eligible for any other disposition by the
12 juvenile police officer, notwithstanding the provisions of
13 subsection (3) of Section 5-405 of this Act.

14 (b) Minors ~~not excluded from this Act's jurisdiction under~~
15 ~~subsection (3) (a) of Section 5-130 of this Act~~ shall be brought
16 before a judicial officer within 40 hours, exclusive of
17 Saturdays, Sundays, and court-designated holidays, for a
18 detention hearing to determine whether he or she shall be
19 further held in custody. If the court finds that there is
20 probable cause to believe that the minor is a delinquent minor
21 by virtue of his or her violation of item (4) of subsection (a)
22 of Section 24-1 of the Criminal Code of 1961 or the Criminal
23 Code of 2012 while on school grounds, that finding shall create
24 a presumption that immediate and urgent necessity exists under
25 subdivision (2) of Section 5-501 of this Act. Once the

1 presumption of immediate and urgent necessity has been raised,
2 the burden of demonstrating the lack of immediate and urgent
3 necessity shall be on any party that is opposing detention for
4 the minor. Should the court order detention pursuant to this
5 Section, the minor shall be detained, pending the results of a
6 court-ordered psychological evaluation to determine if the
7 minor is a risk to himself, herself, or others. Upon receipt of
8 the psychological evaluation, the court shall review the
9 determination regarding the existence of urgent and immediate
10 necessity. The court shall consider the psychological
11 evaluation in conjunction with the other factors identified in
12 subdivision (2) of Section 5-501 of this Act in order to make a
13 de novo determination regarding whether it is a matter of
14 immediate and urgent necessity for the protection of the minor
15 or of the person or property of another that the minor be
16 detained or placed in a shelter care facility. In addition to
17 the pre-trial conditions found in Section 5-505 of this Act,
18 the court may order the minor to receive counseling and any
19 other services recommended by the psychological evaluation as a
20 condition for release of the minor.

21 (c) Upon making a determination that the student presents a
22 risk to himself, herself, or others, the court shall issue an
23 order restraining the student from entering the property of the
24 school if he or she has been suspended or expelled from the
25 school as a result of possessing a firearm. The order shall
26 restrain the student from entering the school and school owned

1 or leased property, including any conveyance owned, leased, or
2 contracted by the school to transport students to or from
3 school or a school-related activity. The order shall remain in
4 effect until such time as the court determines that the student
5 no longer presents a risk to himself, herself, or others.

6 (d) Psychological evaluations ordered pursuant to
7 subsection (b) of this Section and statements made by the minor
8 during the course of these evaluations, shall not be admissible
9 on the issue of delinquency during the course of any
10 adjudicatory hearing held under this Act.

11 (e) In this Section:

12 "School" means any public or private elementary or
13 secondary school.

14 "School grounds" includes the real property comprising any
15 school, any conveyance owned, leased, or contracted by a school
16 to transport students to or from school or a school-related
17 activity, or any public way within 1,000 feet of the real
18 property comprising any school.

19 (Source: P.A. 97-1150, eff. 1-25-13.)

20 (705 ILCS 405/5-805)

21 Sec. 5-805. Transfer of jurisdiction.

22 (1) (Blank). ~~Mandatory transfers.~~

23 ~~(a) If a petition alleges commission by a minor 15~~
24 ~~years of age or older of an act that constitutes a forcible~~
25 ~~felony under the laws of this State, and if a motion by the~~

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

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

1 ~~Illinois.~~

2 ~~(c) If a petition alleges commission by a minor 15~~
3 ~~years of age or older of: (i) an act that constitutes an~~
4 ~~offense enumerated in the presumptive transfer provisions~~
5 ~~of subsection (2); and (ii) the minor has previously been~~
6 ~~adjudicated delinquent or found guilty of a forcible~~
7 ~~felony, the Juvenile Judge designated to hear and determine~~
8 ~~those motions shall, upon determining that there is~~
9 ~~probable cause that both allegations are true, enter an~~
10 ~~order permitting prosecution under the criminal laws of~~
11 ~~Illinois.~~

12 ~~(d) If a petition alleges commission by a minor 15~~
13 ~~years of age or older of an act that constitutes the~~
14 ~~offense of aggravated discharge of a firearm committed in a~~
15 ~~school, on the real property comprising a school, within~~
16 ~~1,000 feet of the real property comprising a school, at a~~
17 ~~school related activity, or on, boarding, or departing from~~
18 ~~any conveyance owned, leased, or contracted by a school or~~
19 ~~school district to transport students to or from school or~~
20 ~~a school related activity, regardless of the time of day or~~
21 ~~the time of year, the juvenile judge designated to hear and~~
22 ~~determine those motions shall, upon determining that there~~
23 ~~is probable cause that the allegations are true, enter an~~
24 ~~order permitting prosecution under the criminal laws of~~
25 ~~Illinois.~~

26 ~~For purposes of this paragraph (d) of subsection (1):~~

1 ~~"School" means a public or private elementary or~~
2 ~~secondary school, community college, college, or~~
3 ~~university.~~

4 ~~"School related activity" means any sporting, social,~~
5 ~~academic, or other activity for which students' attendance~~
6 ~~or participation is sponsored, organized, or funded in~~
7 ~~whole or in part by a school or school district.~~

8 (2) Presumptive transfer.

9 (a) If the State's Attorney files a petition, at any
10 time prior to commencement of the minor's trial, to permit
11 prosecution under the criminal laws and the petition
12 alleges a minor 15 years of age or older of an act that
13 constitutes a forcible felony under the laws of this State,
14 and if a motion by the State's Attorney to prosecute the
15 minor under the criminal laws of Illinois for the alleged
16 forcible felony alleges that (i) the minor has previously
17 been adjudicated delinquent or found guilty for commission
18 of an act that constitutes a forcible felony under the laws
19 of this State or any other state and (ii) the act that
20 constitutes the offense was committed in furtherance of
21 criminal activity by an organized gang, the commission by a
22 minor 15 years of age or older of: (i) a Class X felony
23 other than armed violence; (ii) aggravated discharge of a
24 firearm; (iii) armed violence with a firearm when the
25 predicate offense is a Class 1 or Class 2 felony and the
26 State's Attorney's motion to transfer the case alleges that

1 ~~the offense committed is in furtherance of the criminal~~
2 ~~activities of an organized gang; (iv) armed violence with a~~
3 ~~firearm when the predicate offense is a violation of the~~
4 ~~Illinois Controlled Substances Act, a violation of the~~
5 ~~Cannabis Control Act, or a violation of the Methamphetamine~~
6 ~~Control and Community Protection Act; (v) armed violence~~
7 ~~when the weapon involved was a machine gun or other weapon~~
8 ~~described in subsection (a) (7) of Section 24-1 of the~~
9 ~~Criminal Code of 1961 or the Criminal Code of 2012; (vi) an~~
10 ~~act in violation of Section 401 of the Illinois Controlled~~
11 ~~Substances Act which is a Class X felony, while in a~~
12 ~~school, regardless of the time of day or the time of year,~~
13 ~~or on any conveyance owned, leased, or contracted by a~~
14 ~~school to transport students to or from school or a school~~
15 ~~related activity, or on residential property owned,~~
16 ~~operated, or managed by a public housing agency or leased~~
17 ~~by a public housing agency as part of a scattered site or~~
18 ~~mixed income development; or (vii) an act in violation of~~
19 ~~Section 401 of the Illinois Controlled Substances Act and~~
20 ~~the offense is alleged to have occurred while in a school~~
21 ~~or on a public way within 1,000 feet of the real property~~
22 ~~comprising any school, regardless of the time of day or the~~
23 ~~time of year when the delivery or intended delivery of any~~
24 ~~amount of the controlled substance is to a person under 17~~
25 ~~years of age, (to qualify for a presumptive transfer under~~
26 ~~paragraph (vi) or (vii) of this clause (2) (a), the~~

1 ~~violation cannot be based upon subsection (b) of Section~~
2 ~~407 of the Illinois Controlled Substances Act) and, if the~~
3 juvenile judge assigned to hear and determine motions to
4 transfer a case for prosecution in the criminal court
5 determines that there is probable cause to believe that the
6 allegations in the petition and motion are true, there is a
7 rebuttable presumption that the minor is not a fit and
8 proper subject to be dealt with under the Juvenile Justice
9 Reform Provisions of 1998 (Public Act 90-590), and that,
10 except as provided in paragraph (b), the case should be
11 transferred to the criminal court.

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

19 (i) the age of the minor;

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

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

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

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

1 factors;

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

3 (A) the seriousness of the offense,

4 (B) whether the minor is charged through
5 accountability,

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

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

11 (E) whether there is evidence the minor
12 possessed a deadly weapon;

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

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

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

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

26 (C) the adequacy of the punishment or

1 services.

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

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

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

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

13 (3) Discretionary transfer.

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

26 (b) In making its determination on the motion to permit

1 prosecution under the criminal laws, the court shall
2 consider among other matters:

3 (i) the age of the minor;

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

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

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

9 (C) any mental health, physical, or
10 educational history of the minor or combination of
11 these factors;

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

13 (A) the seriousness of the offense,

14 (B) whether the minor is charged through
15 accountability,

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

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

21 (E) whether there is evidence the minor
22 possessed a deadly weapon;

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

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

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

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

10 (C) the adequacy of the punishment or
11 services.

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

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

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

26 (6) When criminal prosecution is permitted under this

1 Section and a finding of guilt is entered, the criminal court
2 shall sentence the minor under Section 5-4.5-105 of the Unified
3 Code of Corrections.

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

8 (Source: P.A. 97-1150, eff. 1-25-13.)

9 (705 ILCS 405/5-810)

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

11 (1) (a) If the State's Attorney files a petition, at any
12 time prior to commencement of the minor's trial, to designate
13 the proceeding as an extended jurisdiction juvenile
14 prosecution and the petition alleges the commission by a minor
15 13 years of age or older of any offense which would be a felony
16 if committed by an adult, and, if the juvenile judge assigned
17 to hear and determine petitions to designate the proceeding as
18 an extended jurisdiction juvenile prosecution determines that
19 there is probable cause to believe that the allegations in the
20 petition and motion are true, there is a rebuttable presumption
21 that the proceeding shall be designated as an extended
22 jurisdiction juvenile proceeding.

23 (b) The judge shall enter an order designating the
24 proceeding as an extended jurisdiction juvenile proceeding
25 unless the judge makes a finding based on clear and convincing

1 evidence that sentencing under the Chapter V of the Unified
2 Code of Corrections would not be appropriate for the minor
3 based on an evaluation of the following factors:

4 (i) the age of the minor;

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

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

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

10 (C) any mental health, physical and/or educational
11 history of the minor;

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

13 (A) the seriousness of the offense,

14 (B) whether the minor is charged through
15 accountability,

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

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

20 (E) whether there is evidence the minor possessed a
21 deadly weapon;

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

26 (v) whether the security of the public requires

1 sentencing under Chapter V of the Unified Code of
2 Corrections:

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

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

9 (C) the adequacy of the punishment or services.

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

14 (2) Procedures for extended jurisdiction juvenile
15 prosecutions. The State's Attorney may file a written motion
16 for a proceeding to be designated as an extended juvenile
17 jurisdiction prior to commencement of trial. Notice of the
18 motion shall be in compliance with Section 5-530. When the
19 State's Attorney files a written motion that a proceeding be
20 designated an extended jurisdiction juvenile prosecution, the
21 court shall commence a hearing within 30 days of the filing of
22 the motion for designation, unless good cause is shown by the
23 prosecution or the minor as to why the hearing could not be
24 held within this time period. If the court finds good cause has
25 been demonstrated, then the hearing shall be held within 60
26 days of the filing of the motion. The hearings shall be open to

1 the public unless the judge finds that the hearing should be
2 closed for the protection of any party, victim or witness. If
3 the Juvenile Judge assigned to hear and determine a motion to
4 designate an extended jurisdiction juvenile prosecution
5 determines that there is probable cause to believe that the
6 allegations in the petition and motion are true the court shall
7 grant the motion for designation. Information used by the court
8 in its findings or stated in or offered in connection with this
9 Section may be by way of proffer based on reliable information
10 offered by the State or the minor. All evidence shall be
11 admissible if it is relevant and reliable regardless of whether
12 it would be admissible under the rules of evidence.

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

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

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

21 and

22 (ii) an adult criminal sentence in accordance with the
23 provisions of Section 5-4.5-105 of the Unified Code of
24 Corrections ~~Chapter V of the Unified Code of Corrections,~~
25 the execution of which shall be stayed on the condition
26 that the offender not violate the provisions of the

1 juvenile sentence.

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

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

16 (6) When it appears that a minor convicted in an extended
17 jurisdiction juvenile prosecution under subsection (1) has
18 violated the conditions of his or her sentence, or is alleged
19 to have committed a new offense upon the filing of a petition
20 to revoke the stay, the court may, without notice, issue a
21 warrant for the arrest of the minor. After a hearing, if the
22 court finds by a preponderance of the evidence that the minor
23 committed a new offense, the court shall order execution of the
24 previously imposed adult criminal sentence. After a hearing, if
25 the court finds by a preponderance of the evidence that the
26 minor committed a violation of his or her sentence other than

1 by a new offense, the court may order execution of the
2 previously imposed adult criminal sentence or may continue him
3 or her on the existing juvenile sentence with or without
4 modifying or enlarging the conditions. Upon revocation of the
5 stay of the adult criminal sentence and imposition of that
6 sentence, the minor's extended jurisdiction juvenile status
7 shall be terminated. The on-going jurisdiction over the minor's
8 case shall be assumed by the adult criminal court and juvenile
9 court jurisdiction shall be terminated and a report of the
10 imposition of the adult sentence shall be sent to the
11 Department of State Police.

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

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

16 (Source: P.A. 94-574, eff. 8-12-05; 95-331, eff. 8-21-07.)

17 (705 ILCS 405/5-822 new)

18 Sec. 5-822. Data collection. On the effective date of this
19 amendatory Act of the 99th General Assembly:

20 (1) The Clerk of the Circuit Court of every county in
21 this State, shall track the filing, processing, and
22 disposition of all cases:

23 (a) initiated in criminal court under Section
24 5-130 of this Act;

25 (b) in which a motion to transfer was filed by the

1 State under Section 5-805 of this Act;

2 (c) in which a motion for extended jurisdiction was
3 filed by the State under Section 5-810 of this Act;

4 (d) in which a designation is sought of a Habitual
5 Juvenile Offender under Section 5-815 of this Act; and

6 (e) in which a designation is sought of a Violent
7 Juvenile Offender under Section 5-820 of this Act.

8 (2) For each category of case listed in subsection (1),
9 the clerk shall collect the following:

10 (a) age of the defendant and of the victim or
11 victims at the time of offense;

12 (b) race and ethnicity of the defendant and the
13 victim or victims;

14 (c) gender of the defendant and the victim or
15 victims;

16 (d) the offense or offenses charged;

17 (e) date filed and the date of final disposition;

18 (f) the final disposition;

19 (g) for those cases resulting in a finding or plea
20 of guilty:

21 (i) charge or charges for which they are
22 convicted

23 (ii) sentence for each charge;

24 (h) for cases under paragraph (c) of subsection
25 (1), the clerk shall report if the adult sentence is
26 applied due to non-compliance with the juvenile

1 sentence.

2 (3) On January 15 and June 15 of each year beginning 6
3 months after the effective date of this amendatory Act of
4 the 99th General Assembly, the Clerk of each county shall
5 submit a report outlining all of the information from
6 subsection (2) to the General Assembly and the county board
7 of the clerk's respective county.

8 (4) No later than 2 months after the effective date of
9 this amendatory Act of the 99th General Assembly, the
10 standards, confidentiality protocols, format, and data
11 depository for the semi-annual reports described in this
12 Section shall be identified by the State Advisory Group on
13 Juvenile Justice and Delinquency Prevention and
14 distributed to the General Assembly, county boards, and
15 county clerks' offices.

16 (705 ILCS 405/5-821 rep.)

17 Section 10. The Juvenile Court Act of 1987 is amended by
18 repealing Section 5-821.

19 Section 15. The Unified Code of Corrections is amended by
20 adding Section 5-4.5-105 as follows:

21 (730 ILCS 5/5-4.5-105 new)

22 Sec. 5-4.5-105. SENTENCING OF INDIVIDUALS UNDER THE AGE OF
23 18 AT THE TIME OF THE COMMISSION OF AN OFFENSE.

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

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

13 (2) whether the person was subjected to outside
14 pressure, including peer pressure, familial pressure, or
15 negative influences;

16 (3) the person's family, home environment, educational
17 and social background, including any history of parental
18 neglect, physical abuse, or other childhood trauma;

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

21 (5) the circumstances of the offense;

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

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

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

3 (9) any other information the court finds relevant and
4 reliable, including an expression of remorse, if
5 appropriate. However, if the person, on advice of counsel
6 chooses not to make a statement, the court shall not
7 consider a lack of an expression of remorse as an
8 aggravating factor.

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

19 (c) Notwithstanding any other provision of law, if the
20 defendant is convicted of first degree murder and would
21 otherwise be subject to sentencing under clause (iii), (iv),
22 (v), or (vii) of subsection (c) of Section 5-8-1 of this Code
23 based on the category of persons identified therein, the court
24 shall impose a sentence of not less than 40 years of
25 imprisonment. In addition, the court may, in its discretion,
26 decline to impose the sentencing enhancements based upon the

1 possession or use of a firearm during the commission of the
2 offense included in subsection (d) of Section 5-8-1."