

1 AN ACT in relation to minors.

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

4 Section 5. The Juvenile Court Act of 1987 is amended by
5 changing Section 5-130 as follows:

6 (705 ILCS 405/5-130)

7 Sec. 5-130. Excluded jurisdiction.

8 (1) (a) The definition of delinquent minor under Section
9 5-120 of this Article shall not apply to any minor who at the
10 time of an offense was at least 15 years of age and who is
11 charged with first degree murder, aggravated criminal sexual
12 assault, aggravated battery with a firearm committed in a
13 school, on the real property comprising a school, within
14 1,000 feet of the real property comprising a school, at a
15 school-related activity, or on, boarding, or departing from
16 any conveyance owned, leased, or contracted by a school or
17 school district to transport students to or from school or a
18 school-related activity regardless of the time of day or time
19 of year that the offense was committed, armed robbery when
20 the armed robbery was committed with a firearm, or aggravated
21 vehicular hijacking when the hijacking was committed with a
22 firearm.

23 These charges and all other charges arising out of the
24 same incident shall be prosecuted under the criminal laws of
25 this State.

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

27 "School" means a public or private elementary or
28 secondary school, community college, college, or university.

29 "School related activity" means any sporting, social,
30 academic or other activity for which students' attendance or
31 participation is sponsored, organized, or funded in whole or

1 in part by a school or school district.

2 (b) (i) If before trial or plea an information or
3 indictment is filed that does not charge an offense specified
4 in paragraph (a) of this subsection (1) the State's Attorney
5 may proceed on any lesser charge or charges, but only in
6 Juvenile Court under the provisions of this Article. The
7 State's Attorney may proceed under the Criminal Code of 1961
8 on a lesser charge if before trial the minor defendant
9 knowingly and with advice of counsel waives, in writing, his
10 or her right to have the matter proceed in Juvenile Court.

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

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

22 (ii) If after trial or plea the court finds that the
23 minor committed an offense not covered by paragraph (a) of
24 this subsection (1), that finding shall not invalidate the
25 verdict or the prosecution of the minor under the criminal
26 laws of the State; however, unless the State requests a
27 hearing for the purpose of sentencing the minor under Chapter
28 V of the Unified Code of Corrections, the Court must proceed
29 under Sections 5-705 and 5-710 of this Article. To request a
30 hearing, the State must file a written motion within 10 days
31 following the entry of a finding or the return of a verdict.
32 Reasonable notice of the motion shall be given to the minor
33 or his or her counsel. If the motion is made by the State,
34 the court shall conduct a hearing to determine if the minor

1 should be sentenced under Chapter V of the Unified Code of
2 Corrections. In making its determination, the court shall
3 consider among other matters: (a) whether there is evidence
4 that the offense was committed in an aggressive and
5 premeditated manner; (b) the age of the minor; (c) the
6 previous history of the minor; (d) whether there are
7 facilities particularly available to the Juvenile Court or
8 the Department of Corrections, Juvenile Division, 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
15 sentenced under Chapter V of the Unified Code of Corrections,
16 then the court shall sentence the minor accordingly having
17 available to it any or all dispositions so prescribed.

18 (2) (a) The definition of a delinquent minor under
19 Section 5-120 of this Article shall not apply to any minor
20 who at the time of the offense was at least 15 years of age
21 and who is charged with an offense under Section 401 of the
22 Illinois Controlled Substances Act when that offense is
23 committed by delivering a controlled substance, or who is
24 charged with an offense under Section 401.1 Section 405, or
25 Section 405.1 of the Illinois Controlled Substances Act,
26 while in a school, regardless of the time of day or the time
27 of year, or any conveyance owned, leased or contracted by a
28 school to transport students to or from school or a school
29 related activity, or residential property owned, operated or
30 managed by a public housing agency or leased by a public
31 housing agency as part of a scattered site or mixed-income
32 development, on the real property comprising any school,
33 regardless of the time of day or the time of year, or
34 residential property owned, operated or managed by a public

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

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

22 (ii) If before trial or plea an information or
23 indictment is filed that includes one or more charges
24 specified in paragraph (a) of this subsection (2) and
25 additional charges that are not specified in that paragraph,
26 all of the charges arising out of the same incident shall be
27 prosecuted under the criminal laws of this State.

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

33 (ii) If after trial or plea the court finds that the
34 minor committed an offense not covered by paragraph (a) of

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

29 (3) (a) The definition of delinquent minor under Section
30 5-120 of this Article shall not apply to any minor who at the
31 time of the offense was at least 15 years of age and who is
32 charged with a violation of the provisions of paragraph (1),
33 (3), (4), or (10) of subsection (a) of Section 24-1 of the
34 Criminal Code of 1961 while in school, regardless of the time

1 of day or the time of year, or on the real property
2 comprising any school, regardless of the time of day or the
3 time of year. School is defined, for purposes of this Section
4 as any public or private elementary or secondary school,
5 community college, college, or university. These charges and
6 all other charges arising out of the same incident shall be
7 prosecuted under the criminal laws of this State.

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

17 (ii) If before trial or plea an information or
18 indictment is filed that includes one or more charges
19 specified in paragraph (a) of this subsection (3) and
20 additional charges that are not specified in that paragraph,
21 all of the charges arising out of the same incident shall be
22 prosecuted under the criminal laws of this State.

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

28 (ii) If after trial or plea the court finds that the
29 minor committed an offense not covered by paragraph (a) of
30 this subsection (3), that finding shall not invalidate the
31 verdict or the prosecution of the minor under the criminal
32 laws of the State; however, unless the State requests a
33 hearing for the purpose of sentencing the minor under Chapter
34 V of the Unified Code of Corrections, the Court must proceed

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

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

33 (b) (i) If before trial or plea an information or
34 indictment is filed that does not charge first degree murder

1 committed during the course of aggravated criminal sexual
2 assault, criminal sexual assault, or aggravated kidnaping,
3 the State's Attorney may proceed on any lesser charge or
4 charges, but only in Juvenile Court under the provisions of
5 this Article. The State's Attorney may proceed under the
6 criminal laws of this State on a lesser charge if before
7 trial the minor defendant knowingly and with advice of
8 counsel waives, in writing, his or her right to have the
9 matter proceed in Juvenile Court.

10 (ii) If before trial or plea an information or
11 indictment is filed that includes first degree murder
12 committed during the course of aggravated criminal sexual
13 assault, criminal sexual assault, or aggravated kidnaping,
14 and additional charges that are not specified in paragraph
15 (a) of this subsection, all of the charges arising out of the
16 same incident shall be prosecuted under the criminal laws of
17 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 criminal sexual assault, criminal sexual assault, or
21 aggravated kidnaping, in sentencing the minor, the court
22 shall have available any or all dispositions prescribed for
23 that offense under Chapter V of the Unified Code of
24 Corrections.

25 (ii) If the minor was not yet 15 years of age at the
26 time of the offense, and if after trial or plea the court
27 finds that the minor committed an offense other than first
28 degree murder committed during the course of either
29 aggravated criminal sexual assault, criminal sexual assault,
30 or aggravated kidnapping, the finding shall not invalidate
31 the verdict or the prosecution of the minor under the
32 criminal laws of the State; however, unless the State
33 requests a hearing for the purpose of sentencing the minor
34 under Chapter V of the Unified Code of Corrections, the Court

1 must proceed under Sections 5-705 and 5-710 of this Article.
2 To request a hearing, the State must file a written motion
3 within 10 days following the entry of a finding or the return
4 of a verdict. Reasonable notice of the motion shall be given
5 to the minor or his or her counsel. If the motion is made by
6 the State, the court shall conduct a hearing to determine
7 whether the minor should be sentenced under Chapter V of the
8 Unified Code of Corrections. In making its determination,
9 the court shall consider among other matters: (a) whether
10 there is evidence that the offense was committed in an
11 aggressive and premeditated manner; (b) the age of the
12 minor; (c) the previous delinquent history of the minor;
13 (d) whether there are facilities particularly available to
14 the Juvenile Court or the Department of Corrections, Juvenile
15 Division, for the treatment and rehabilitation of the minor;
16 (e) whether the best interest of the minor and the security
17 of the public require sentencing under Chapter V of the
18 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 (5) (a) The definition of delinquent minor under Section
26 5-120 of this Article shall not apply to any minor who is
27 charged with a violation of subsection (a) of Section 31-6 or
28 Section 32-10 of the Criminal Code of 1961 when the minor is
29 subject to prosecution under the criminal laws of this State
30 as a result of the application of the provisions of Section
31 5-125, or subsection (1) or (2) of this Section. These
32 charges and all other charges arising out of the same
33 incident shall be prosecuted under the criminal laws of this
34 State.

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

10 (ii) If before trial or plea an information or
11 indictment is filed that includes one or more charges
12 specified in paragraph (a) of this subsection (5) and
13 additional charges that are not specified in that paragraph,
14 all of the charges arising out of the same incident shall be
15 prosecuted under the criminal laws of this State.

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

21 (ii) If after trial or plea the court finds that the
22 minor committed an offense not covered by paragraph (a) of
23 this subsection (5), the conviction shall not invalidate the
24 verdict or the prosecution of the minor under the criminal
25 laws of this State; however, unless the State requests a
26 hearing for the purpose of sentencing the minor under Chapter
27 V of the Unified Code of Corrections, the Court must proceed
28 under Sections 5-705 and 5-710 of this Article. To request a
29 hearing, the State must file a written motion within 10 days
30 following the entry of a finding or the return of a verdict.
31 Reasonable notice of the motion shall be given to the minor
32 or his or her counsel. If the motion is made by the State,
33 the court shall conduct a hearing to determine if whether the
34 minor should be sentenced under Chapter V of the Unified Code

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

17 (6) The definition of delinquent minor under Section
18 5-120 of this Article shall not apply to any minor who,
19 pursuant to subsection (1), (2), or (3) or Section 5-805, or
20 5-810, has previously been placed under the jurisdiction of
21 the criminal court and has been convicted of a crime under an
22 adult criminal or penal statute. Such a minor shall be
23 subject to prosecution under the criminal laws of this State.

24 (7) The procedures set out in this Article for the
25 investigation, arrest and prosecution of juvenile offenders
26 shall not apply to minors who are excluded from jurisdiction
27 of the Juvenile Court, except that minors under 17 years of
28 age shall be kept separate from confined adults.

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

33 (9) If an original petition for adjudication of wardship
34 alleges the commission by a minor 13 years of age or over of

1 an act that constitutes a crime under the laws of this State,
2 the minor, with the consent of his or her counsel, may, at
3 any time before commencement of the adjudicatory hearing,
4 file with the court a motion that criminal prosecution be
5 ordered and that the petition be dismissed insofar as the act
6 or acts involved in the criminal proceedings are concerned.
7 If such a motion is filed as herein provided, the court shall
8 enter its order accordingly.

9 (Source: P.A. 90-590, eff. 1-1-99; 91-15, eff. 1-1-00;
10 91-673, eff. 12-22-99; revised 1-7-00.)