



The Illinois Success Story

Illinois Removes 17-Year-Old Misdemeanants from the Adult System

As of January 1, 2010, 17-year-old misdemeanants in Illinois are no longer being filtered automatically into the adult justice system. Under Public Act 95-1031, 17-year-olds charged with misdemeanors will now have access to the juvenile court's balanced and restorative justice approach to juvenile justice, such as mental health and drug treatment and community-based services, rather than being subjected to the punitive adult system. The success in Illinois is a terrific example of the importance of education in juvenile justice reform movements. When the bill was first introduced in the House in 2003, its benefits were not understood by most legislators, and it was quickly defeated. However, after this initial setback, education efforts were mounted, led by advocacy groups and other reform organizations, and the bill gained more support in both houses from year to year until the final passage in 2009.

March 2011

References

¹ P.A. 95-1031, 91st Gen. Assem. (Ill. 2009); Models for Change, *New Illinois law: 17-year olds charged with misdemeanors stay in juvenile court*, <http://www.modelsforchange.net/reform-progress/1>.

AN ACT in relation to minors.

**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 5-105 and 5-120 and by adding Section 5-121 as follows:

(705 ILCS 405/5-105)

Sec. 5-105. Definitions. As used in this Article:

(1) "Court" means the circuit court in a session or division assigned to hear proceedings under this Act, and includes the term Juvenile Court.

(2) "Community service" means uncompensated labor for a community service agency as hereinafter defined.

(2.5) "Community service agency" means a not-for-profit organization, community organization, church, charitable organization, individual, public office, or other public body whose purpose is to enhance the physical or mental health of a delinquent minor or to rehabilitate the minor, or to improve the environmental quality or social welfare of the community which agrees to accept community service from juvenile delinquents and to report on the progress of the community service to the State's Attorney pursuant to an agreement or to the court or to any agency designated by the court or to the

authorized diversion program that has referred the delinquent minor for community service.

(3) "Delinquent minor" means any minor who prior to his or her 17th birthday has violated or attempted to violate, regardless of where the act occurred, any federal or State law, county or municipal ordinance, and any minor who prior to his or her 18th birthday has violated or attempted to violate, regardless of where the act occurred, any federal, State, county or municipal law or ordinance classified as a misdemeanor offense.

(4) "Department" means the Department of Human Services unless specifically referenced as another department.

(5) "Detention" means the temporary care of a minor who is alleged to be or has been adjudicated delinquent and who requires secure custody for the minor's own protection or the community's protection in a facility designed to physically restrict the minor's movements, pending disposition by the court or execution of an order of the court for placement or commitment. Design features that physically restrict movement include, but are not limited to, locked rooms and the secure handcuffing of a minor to a rail or other stationary object. In addition, "detention" includes the court ordered care of an alleged or adjudicated delinquent minor who requires secure custody pursuant to Section 5-125 of this Act.

(6) "Diversion" means the referral of a juvenile, without court intervention, into a program that provides services

designed to educate the juvenile and develop a productive and responsible approach to living in the community.

(7) "Juvenile detention home" means a public facility with specially trained staff that conforms to the county juvenile detention standards promulgated by the Department of Corrections.

(8) "Juvenile justice continuum" means a set of delinquency prevention programs and services designed for the purpose of preventing or reducing delinquent acts, including criminal activity by youth gangs, as well as intervention, rehabilitation, and prevention services targeted at minors who have committed delinquent acts, and minors who have previously been committed to residential treatment programs for delinquents. The term includes children-in-need-of-services and families-in-need-of-services programs; aftercare and reentry services; substance abuse and mental health programs; community service programs; community service work programs; and alternative-dispute resolution programs serving youth-at-risk of delinquency and their families, whether offered or delivered by State or local governmental entities, public or private for-profit or not-for-profit organizations, or religious or charitable organizations. This term would also encompass any program or service consistent with the purpose of those programs and services enumerated in this subsection.

(9) "Juvenile police officer" means a sworn police officer who has completed a Basic Recruit Training Course, has been

assigned to the position of juvenile police officer by his or her chief law enforcement officer and has completed the necessary juvenile officers training as prescribed by the Illinois Law Enforcement Training Standards Board, or in the case of a State police officer, juvenile officer training approved by the Director of State Police.

(10) "Minor" means a person under the age of 21 years subject to this Act.

(11) "Non-secure custody" means confinement where the minor is not physically restricted by being placed in a locked cell or room, by being handcuffed to a rail or other stationary object, or by other means. Non-secure custody may include, but is not limited to, electronic monitoring, foster home placement, home confinement, group home placement, or physical restriction of movement or activity solely through facility staff.

(12) "Public or community service" means uncompensated labor for a not-for-profit organization or public body whose purpose is to enhance physical or mental stability of the offender, environmental quality or the social welfare and which agrees to accept public or community service from offenders and to report on the progress of the offender and the public or community service to the court or to the authorized diversion program that has referred the offender for public or community service.

(13) "Sentencing hearing" means a hearing to determine

whether a minor should be adjudged a ward of the court, and to determine what sentence should be imposed on the minor. It is the intent of the General Assembly that the term "sentencing hearing" replace the term "dispositional hearing" and be synonymous with that definition as it was used in the Juvenile Court Act of 1987.

(14) "Shelter" means the temporary care of a minor in physically unrestricting facilities pending court disposition or execution of court order for placement.

(15) "Site" means a not-for-profit organization, public body, church, charitable organization, or individual agreeing to accept community service from offenders and to report on the progress of ordered or required public or community service to the court or to the authorized diversion program that has referred the offender for public or community service.

(16) "Station adjustment" means the informal or formal handling of an alleged offender by a juvenile police officer.

(17) "Trial" means a hearing to determine whether the allegations of a petition under Section 5-520 that a minor is delinquent are proved beyond a reasonable doubt. It is the intent of the General Assembly that the term "trial" replace the term "adjudicatory hearing" and be synonymous with that definition as it was used in the Juvenile Court Act of 1987.

(Source: P.A. 90-590, eff. 1-1-99; 91-820, eff. 6-13-00.)

Sec. 5-120. Exclusive jurisdiction. Proceedings may be instituted under the provisions of this Article concerning any minor who prior to the minor's 17th birthday has violated or attempted to violate, regardless of where the act occurred, any federal or State law or municipal or county ordinance, and any minor who prior to his or her 18th birthday has violated or attempted to violate, regardless of where the act occurred, any federal, State, county or municipal law or ordinance classified as a misdemeanor offense. If before trial or plea, an information or indictment is filed that includes one or more charges under the criminal laws of this State and additional charges that are classified as misdemeanors that are subject to proceedings under this Act, all of the charges arising out of the same incident shall be prosecuted under the criminal laws of this State. If after trial or plea the court finds that the minor committed an offense that is solely classified as a misdemeanor, the court must proceed under Section 5-705 and 5-710 of this Act. Except as provided in Sections 5-125, 5-130, 5-805, and 5-810 of this Article, no minor who was under 17 years of age at the time of the alleged offense may be prosecuted under the criminal laws of this State.

(Source: P.A. 90-590, eff. 1-1-99.)

(705 ILCS 405/5-121 new)

Sec. 5-121. Illinois Juvenile Jurisdiction Task Force.

(a) The General Assembly finds that:

(1) 37 other states and the District of Columbia, the Federal Government, and nearly every other nation in the world use 18 as the age of juvenile court jurisdiction; and

(2) the Legislature of Connecticut voted last year to raise the age to 18 for juvenile court; and

(3) recent research on adolescent brain development reveals that the center of the brain that controls reasoning and impulsivity is not fully developed until the early twenties; and

(4) research consistently documents that trying youth age 17 in the adult court disproportionately impacts minority youth.

(b) The Illinois Juvenile Jurisdiction Task Force is hereby created within the Department of Juvenile Justice. The mission of the Illinois Juvenile Jurisdiction Task Force is to study the impact of, develop timelines and propose a funding structure to accommodate the expansion of the jurisdiction of the Illinois Juvenile Court to include youth age 17 under the jurisdiction of this Act.

(c) The Illinois Juvenile Jurisdiction Task Force shall consist of the following members:

(1) one member appointed by the President of the Senate;

(2) one member appointed by the Minority Leader of the Senate;

(3) one member appointed by the Speaker of the House;

- (4) one member appointed by the Minority Leader of the House;
 - (5) one member appointed by the Governor;
 - (6) the Director of Juvenile Justice or his or her designee;
 - (7) the Director of the Administrative Office of Illinois Courts or his or her designee;
 - (8) the Cook County State's Attorney or his or her designee;
 - (9) the Cook County Public Defender or his or her designee;
 - (10) the Director of the Office of the State's Attorneys Appellate Prosecutor or his or her designee;
 - (11) the State Appellate Defender or his or her designee;
 - (12) the Chair of the Illinois Juvenile Justice Commission;
 - (13) the Chair of the Redeploy Illinois Partnership;
 - (14) one member appointed by the Governor who is a chairman of a county board; and
 - (15) one member appointed by the President of the Illinois Probation and Court Services Association.
- (d) The Task Force shall appoint a chairperson from among its members. If a vacancy occurs in the Task Force membership, the vacancy shall be filled in the same manner as the initial appointment.

(e) Members of the Illinois Juvenile Jurisdiction Task Force shall serve without compensation.

(f) The Illinois Juvenile Jurisdiction Task Force may begin to conduct business upon the appointment of a majority of its members.

(g) The Task Force shall submit a report by January 1, 2010 to the General Assembly with recommendations on extending juvenile court jurisdiction to youth age 17 charged with felony offenses.

Section 99. Effective date. This Act takes effect upon becoming law, except that the amendatory changes to Sections 5-105 and 5-120 of the Juvenile Court Act of 1987 take effect January 1, 2010.