

## Chapter 8: Juvenile Court Proceedings and Personnel in Illinois

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(Information in this section is condensed from 705 ILCS 405 unless otherwise noted)

The juvenile court in Illinois exercises different types of jurisdiction over minors. Exclusive jurisdiction refers to proceedings instituted under the provisions of the juvenile court act 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. Except as provided for elsewhere in the juvenile court act, no minor who was under 17 years of age at the time of the alleged offense may be prosecuted under the criminal laws of the State of Illinois.

Concurrent jurisdiction applies to any minor alleged to have violated a traffic, boating, or fish and game law, or a municipal or county ordinance, may be prosecuted for the violation, and, if found guilty punished under any statute or ordinance relating to the violation, without reference to procedures under the Juvenile Court Act, except any detention, must be in compliance with the Act.

By definition, some minors are excluded from the jurisdiction of the juvenile court.

The definition of delinquent minor under Section 5-120 of this Article shall not apply to any minor who at the time of an offense was at least 15 years of age and who is charged with the following:

- (1) First Degree murder
- (2) Aggravated criminal sexual assault
- (3) Armed robbery when the armed robbery was committed with a firearm
- (4) Aggravated vehicular hijacking when the hijacking was committed with a firearm
- (5) In violation of 720 ILCS 570/401 of the Illinois Controlled Substances Act, while in a school, regardless of the time of day or the time of year, or any conveyance owned, leased or contacted by a school to transport students to or from school or a school related activity, or residential property owned, operated and managed by a public housing agency, on the real property comprising any school, regardless of the time of day or the time of year, or residential property owned, operate and managed by a public housing agency, or on a public way within 1,000 feet of the real property comprising any school, regardless of the time of day or the time of year, or residential property owned, operated and managed by a public housing agency. School is defined, for the purposes of this Section, as any public or private elementary or secondary school, community college, college, or university.
- (6) The definition of delinquent minor under Section 5-120 of this Article shall not apply to any minor who at the time of the offense was at least 15 years of age and who is charged with a violation of the provisions of paragraph (1), (3), (4), or (10) of subsection (a) of Section 24-1 of the Criminal Code while in school, regardless of the time of day or the time of year, or on the real property comprising any school, regardless of the time of day or the time of year. School is defined, for purposes of this Section as any public or private elementary or secondary school, community college, college, or university.
- (7) These charges and all other charges arising out of the same incident shall be prosecuted pursuant to the Criminal Code. In these cases the State's Attorney shall be contacted.
- (8) The definition of delinquent minor under Section 5-120 of this Article shall not apply to any minor who, pursuant to subsection (1), (2), or (3) or Section 5-805, or 5-810, has previously been placed under the jurisdiction of the criminal court and has been convicted of a crime under an adult criminal or penal statute. Such a minor shall be subject to prosecution under the criminal laws of this State.

- (9) A minor, at least 13 years old, who is charged with first degree murder committed during aggravated criminal sexual assault or aggravated kidnapping will be tried in adult court. If additional charges are added, all charges will be tried in adult court. If the first degree murder charges are dismissed, the lesser charges will be tried in juvenile court unless the minor waives that right. If the charges are based solely on accountability, the minor will be tried as a juvenile.
- (10) The definition of delinquent minor under Section 5-120 of this Article shall not apply to any minor who is charged with a violation of subsection (a) of Section 31-6 or Section 3210 of the Criminal Code when the minor is subject to prosecution under the criminal laws of this State as a result of the application of the provisions of Section 5-125, or subsection 1 or 2 of this Section. These charges and all other charges arising out of the same incident shall be prosecuted under the criminal laws of this State.

Juvenile court judges in Illinois play much the same role as they do in other states (see Chapter 8). They are charged with ensuring that procedural rules are followed, determine whether the minor is a delinquent, minor in need of authoritative intervention, addicted, etc., and hand down dispositions in cases where guilt has been established.

Since 1999, the National Council of Juvenile and Family Court Judges has conducted 54 training sessions in Illinois for more than 2,200 judges, magistrates, commissioners, attorneys, and other juvenile and family-court related professionals. In addition to its national work, the NCJFCJ supports Illinois' efforts to improve the juvenile and family courts. For example, Chicago has been a "Model Court" demonstration site since September 1996. Among its many accomplishments and significant systems improvements, the Chicago Model Court has:

- Utilized various systems change reforms developed and promulgated by the NCJFCJ to reduce the number of children in foster care from approximately 58,000 in 1995 to approximately 9,100 as of early 2007.
- Continued its work on the Cook County Juvenile Court's 21st Century Strategic Planning Process. The goal of this ongoing process was to develop a strategic plan that would assist the Circuit Court of Cook County to achieve better outcomes for at risk children and youth.
- Continued, under the leadership of Presiding Judge Patricia M. Martin, and conducted by Judge Sybil Thomas, to be a national leader in conducting Benchmark Permanency Hearings as well as its mediation program.
- Began a pilot program to increase visitations and the quality of visitations between children and families, thus providing increased therapeutic supports to children and families in the child welfare system (NCJFCJ. (2007, June 30). <http://www.ncjfcj.org/content/view/942/526>

At least one study of juvenile court judges in Illinois, "noted a desire for more training regarding the Illinois Juvenile Court Act, training for attorneys and judges on DCFS policies, more meetings between attorneys and caseworkers before adjudicatory hearings, and judges permanently assigned to juvenile court on a circuit basis. The latter suggestion has already been presented to an Illinois Supreme Court study committee on juvenile justice. Unlike other court cases, juvenile cases involving abuse and neglect have components of criminal and civil law. They also are lengthy affairs, with disposition hearings and follow-up reviews. The survey indicated a need for judges who not only are well educated about juvenile law and agency services, but who can devote the time necessary to become more familiar with individual cases." (Perspectives, 2005)

With respect to prosecutors in Illinois juvenile courts, they are charged with representing the citizens of the state in criminal and delinquency cases, with protecting the interests of the accused, with determining whether charges will be filed and, if so, what the nature of the charges will be, and with recommending sentences/dispositions upon conviction in court. They also decide whether or not to enter

into pleas bargaining with defense counsel. “As the court has changed over time, the role of the prosecutor within the juvenile justice system has changed. Contemporary juvenile courts increasingly focus on protection of the due process rights of defendants rather than on the “best interests” of youthful offenders. As a result, juvenile courts are becoming more adversarial. Most juvenile courts closely resemble adult courts in the types of crimes charged, the pre-trial motions filed and the adversarial posture of prosecutors and defense attorneys. The traditional role of the juvenile prosecutor as social worker, policeman, and district attorney, has slowly evolved into something much different than the early progressives envisioned. In response to the increasing seriousness of juvenile crime and the expansion of defendant rights in the juvenile system, juvenile prosecutors are now forced to operate more as district attorneys concerned with the safety of the public than as counselors charged with redirecting wayward youth... Whatever direction the juvenile justice system takes, prosecutors will be called on to take the lead in developing policies and programs that make the system work. Now more than ever, juvenile courts need experienced, well trained prosecutors who are dedicated to solving the unique problems that arise when children commit crimes.” (American Prosecutors Research Institute, 1999).

Defense counsel in Illinois performs the same basic functions as defense counsel in juvenile courts elsewhere. That is, counsel is supposed to provide the best defense possible for his/her client, to adhere to rules of confidentiality, and to enter into plea bargains on behalf of the client. However, “Children charged with delinquent offenses in Illinois usually are assigned a defense attorney only right before, or sometimes not even until, the conclusion of their first appearance before a judge, according to a new report that concludes that representation of juveniles in Illinois falls well short of national standards. The lack of communication between a child and a lawyer prior to stepping before a judge and the harmful effects that has on meaningful advocacy are among findings showing that the juvenile court system in Illinois is not living up to its obligation to effectively defend indigent children... Many devoted and talented attorneys are attempting to provide competent representation to their clients, but there is disparity in access to and quality of counsel across the state, the report concludes. Many attorneys in the juvenile system are overwhelmed and lack the training, skills, time and resources to represent children effectively, according to the findings. (Crawford *et al.*, 2007). (see Chapter 8)

Juvenile probation officers are officials of the court who have the responsibility to accept and supervise all persons placed on probation or court supervision and enforce the conditions imposed by the court. They are also to serve as an agent of change for the benefit of minors, their families, and the community. These goals are to be carried out through risk assessment, case planning, and seeking out resources necessary to help rehabilitate the minor. Resources involved may include substance abuse treatment, mental health services, sex offender treatment, etc.

Juvenile probation officers also prepare written reports for the court. These include social history investigations, progress reports/summaries. In addition, probation officers in Illinois must also notify the court, through the state’s attorney, of any violation that occurs while the minor is on probation.

In Illinois, all probation officers must undergo 40 hours of mandatory training in their first year of employment as prescribed by the Administrative Office of the Illinois Courts. This training focuses on risk assessment, case planning, motivational interviewing, and role modeling among other subjects. The goal of this training is to enhance the effectiveness of new probation officers. After the first year, probation officers are required to attend 20 hours of profession-related training annually. This training is often provided by the Illinois Probation and Court Services Association (IPCSA). Formed in 1969, the IPCSA was organized with the intent of sharing ideas and strategies practiced by both juvenile and adult service providers. Membership is open to all probation officers, detention officers, judges, and related professionals in the State of Illinois.

The IPCSA conduct two training seminars annually, providing officers and others with the most up-to-date strategies, technologies, and programs. The IPCSA works closely with other professional organizations in the state to maintain a high standard of service to both juvenile and adult clients (IPCSA <http://www.ipcsa.org>).

During the past few years, probation officers in Illinois have been analyzing research findings in order to identify more effective intervention strategies. This analysis has shown that punishment and surveillance alone are not effective in reducing recidivism, but when coupled with treatment and cognitive behavioral intervention may be more effective. Cognitive behavioral intervention focuses on educational and training programs such as the following:

*Thinking for Change* is a cognitive skills curriculum developed by the National Institute for Corrections. The 32 lesson program is offered in a closed group format and is designed to intermingle and use the tools from both cognitive restructuring and cognitive skills programs. Cognitive restructuring concepts are introduced during the first eleven lessons, interspersed with targeted critical and social skills. Lessons in problem-solving techniques follow. The program can be downloaded from the Internet free of charge.

*MRT, Moral Recognition Therapy* is a cognitive restructuring program whereby a systematic treatment strategy is used to enhance self-image, promote growth of a positive, productive identity, and facilitate the development of higher stages of moral reasoning. The program seeks to reeducate probationers socially, morally, and behaviorally to instill appropriate goals, motivation, and values.

*Thinking Reports* are actually records of what occurred in a specific situation and are done by the individual involved and then processed by a staff person either individually or in a group setting. They can be used to assist an offender to understand his/her behavioral cycle, and, from the cycle, to develop a relapse prevention or intervention program to help the offender break the cycle.

Key figures in juvenile court proceedings include attorneys for the state and for the defendant, the judge, representatives of the department of children and family services, and the probation officer. While the frequency of legal representation in juvenile court is increasing, the quality of this representation needs to be improved. Competent lawyers and judges need to be rewarded for their performances in juvenile court proceedings. Whenever possible, juvenile court judges should be assigned exclusively to juvenile court for whatever period of time. Judges who combine the best elements of the parent-figure and law-giver roles are a definite asset to the juvenile justice system. Probation officers and personnel from the department of children and family services are crucial if juvenile justice philosophy is to be implemented. Their services to the court and to juveniles with problems complement the roles of the other juvenile court personnel. Continued emphasis on training and competence at all levels is essential.

### **Review Questions**

1. What are some categories of youthful offenders excluded, by definition, from juvenile court jurisdiction?
2. According to at least one study of juvenile court judges in Illinois, are such judges properly well prepared to handle the duties of juvenile court?
3. How has the role of the prosecutor in juvenile court changed over the years?
4. What are the annual training requirements for probation officers in Illinois?
5. What are some of the tasks assigned to juvenile probation officers by the court?