

2012 REPORT

Exhibit A Proposed Amendments

Juvenile Court Act

(705) ILCS 405/5-615)

Sec. 5-615. Continuance under supervision.

(1) The court may enter an order of continuance under supervision for an offense other than first degree murder, a Class X felony or a forcible felony ~~(a)~~ upon an admission or stipulation by the appropriate respondent or minor respondent of the facts supporting the petition and before proceeding to adjudication, or after hearing the evidence at the trial. ~~and (b) in the absence of objection made in open court by the minor, his or her parent, guardian, or legal custodian, the minor's attorney or the State's Attorney.~~

~~(2) If the minor, his or her parent, guardian, or legal custodian, the minor's attorney or State's Attorney objects in open court to any continuance and insists upon proceeding to findings and adjudication, the court shall so proceed.~~

(2) If the minor is not barred from receiving an order for supervision as provided in this subsection, the court may continue the case under supervision after considering the circumstances of the offense, and the history, character and condition of the offender minor, if the court is of the opinion that:

(1) the offender minor is not likely to commit further crimes;

(2) the defendant minor and the public would be best served if the defendant minor were not to receive a criminal juvenile record; and

(3) in the best interests of justice an order of supervision is more appropriate than a sentence otherwise permitted under this Code.

Justification for Proposed Change:

The Juvenile Court Act allows for a case to be continued under supervision before adjudication of delinquency. The purpose of the statute, like the corresponding provisions in the Unified Code of Corrections at 730 ILCS 5/5-6-1(c), is, under appropriate circumstances, to avoid an adjudication of delinquency and keep the juvenile's record clear. Supervision in the Unified Code of Corrections is at the judge's discretion with no party having the power to veto supervision. However, in the Juvenile Court Act, "the minor, his or her parent, guardian, or legal custodian, the minor's attorney or the State's Attorney" can block supervision by simply objecting to it. Even if the judge truly believes a continuance under supervision is the best disposition, that judge cannot grant it if any of these parties object. The proposed change would not prevent those parties from objecting to supervision but would leave it up to the discretion of the sentencing judge as to whether or not the minor should get the benefit of supervision. The language proposed mirrors the supervision language in the Unified Code of Corrections and gives the court the same factors to consider in its decision.

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(705) ILCS 405/5-715)

Sec. 5-715. Probation.

- (1) The period of probation or conditional discharge shall not exceed 5 years or until the minor has attained the age of 21 years, whichever is less, except as provided in this Section for a minor who is found to be guilty for an offense which is first degree murder. , ~~a Class X felony or a forcible felony~~. The juvenile court may terminate probation or conditional discharge and discharge the minor at any time if warranted by the conduct of the minor and the ends of justice; provided, however, that the period of probation for a minor who is found to be guilty for an offense which is first degree murder, ~~a Class X felony, or a forcible felony~~ shall be at least 5 years.

Justification for Proposed Change:

A mandatory five year term of probation for forcible felonies runs counter to the research of evidence based practices for supervising juveniles. Our court services divisions have received training on assessing each juvenile to determine the appropriate level of supervision, based on risk factors and the likelihood of committing further criminal offenses. Some juveniles who commit forcible felonies do not have high risk factors, and requiring them to serve a five year term of probation forces court services offices to commit resources to juveniles who are low risk to reoffend while limiting the ability of the offices to assign officers to more intensively supervise those who are at a high risk to reoffend.

Additionally a five year term of probation results in many juveniles who are 19 and 20 years of age to remain on juvenile probation—often after they have demonstrated that they do not require supervision. It results in high case loads for court services officers, diversion of resources from younger and higher risk juveniles, developing programming for young adults while diverting such programming away from younger juveniles. Often a young adult might be on both juvenile and adult probation, which is a waste of judicial/court services resources. A five year term of probation also runs counter to evidence based research and practices.

(705) ILCS 405/5-710)

Sec. 5-710. Kinds of sentencing orders.

- (1) The following kinds of sentencing orders may be made in respect of wards of the court:
 - (a) Except as provided in Sections 5-805, 5-810, 5-815, a minor who is found guilty under Section 5-620 may be:

- (v) placed in detention for a period not to exceed ~~30~~ 90 days, either as the exclusive order of disposition or, where appropriate, in conjunction with any other order of disposition issued under this paragraph, provided that any such detention shall be in a juvenile detention home and the minor so detained shall be 10 years of age or older.

Justification for Proposed Change:

The proposed amendment is needed to give the court more leverage to enforce behavior changes in minors where commitment to the Department of Juvenile Justice is not appropriate, but where further detention is warranted. There are many cases where a minor has already been detained for close to 30 days such that the court has no further time to detain the minor and this amendment would rectify those situations.

2012 REPORT

Sex Offender Registration Act

730 ILCS 150/3-5.

Section 3-5. Application of Act to adjudicated juvenile delinquents

(a) In all cases involving an adjudicated juvenile delinquent who meets the definition of sex offender as set forth in paragraph (5) of subsection (A) of Section 2 of this Act, the court ~~shall~~ may order the minor to register as a sex offender. In determining whether to order the minor to register, the court shall consider the aggravating and mitigating factors in addition to, but not limited to the following factors, none of which is more important than any other:

1. the use of force or violence during the commission of the sex offense
2. whether the minor's actions were an on-going course of conduct over period of time
3. the wishes of victim and victim's family
4. whether there were multiple victims
5. the nature of the sexual contact
6. whether the minor was found guilty based upon an accountability theory

Justification for Proposed Change:

The general purpose of the Juvenile Court Act of 1987 is to “secure for each minor subject hereto such care and guidance, preferably in his or her own home, as will serve the safety and moral, emotional, mental and physical welfare of the minor and the best interests of the community...” Further, in regards to juvenile delinquents, the Act goes on to state that “[i]t is the intent of the General Assembly to promote a juvenile justice system...[that will] equip juvenile offenders with competencies to live responsibly and productively”. Throughout the Act it is evident that the General Assembly recognizes the need to treat juveniles differently than adults consistent with evidence based practices and medical research on adolescent development. Yet, when it comes to requiring a juvenile delinquent to register as a sex offender, they are treated just like an adult with no consideration given to the safety and welfare of the minor or equipping him/her with competencies to live responsibly and productively. The current registration requirements have the opposite effect often separating juveniles from their families, siblings and communities and hindering their ability to obtain an education or employment. When this is considered in the light of DMC, it is evident that more and more minorities are being “put in the system”, rather than learning tools to live responsibly and productively. The trickle effect into adult court is undeniable. Giving discretion to judges, after considering all of the circumstances of the offense together with the aforementioned factors, will help reduce DMC both in juvenile court and adult court, and is consistent with the purpose and intent of the Juvenile Court Act of 1987.

2012 REPORT

ALTERNATIVE DISPUTE RESOLUTION COORDINATING COMMITTEE

Conference Year 2012

Statement of Purpose:

The Committee shall examine the range of civil and criminal dispute resolution processes, utilized in other jurisdictions, convene alternative dispute resolution program administrators for the purpose of facilitating informational exchanges to promote program efficacy, and monitor the progress of all court-sponsored alternative dispute resolution programs.

General Charge:

The Committee shall examine the range of civil and criminal dispute resolution processes utilized in other jurisdictions and make recommendations regarding programs and various types of dispute resolution techniques suitable for adoption in Illinois, including methods for ongoing evaluation. The Committee shall develop recommendations for implementing and administering dispute resolution programs that remain affordable, appropriate, and provide an efficient alternative to protracted litigation. The Committee shall monitor and assess on a continuous basis the performance of circuit court dispute resolution programs approved by the Supreme Court and make regular reports regarding their operations. The Committee shall develop uniform reporting requirements for circuit courts in the collection and monitoring of statistical information for alternative dispute resolution cases. The Committee will also examine and develop training programs in ADR techniques and practices to promote consistency in ADR services. The Committee shall also explore the feasibility of expanding ADR into other courts.

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2012 REPORT

COMMITTEE ON AUTOMATION & TECHNOLOGY

Conference Year 2012

Statement of Purpose:

The Automation and Technology Committee shall provide consultation, guidance, and recommendations regarding standards, policies and procedures relating to the use of technology and automation within the judicial branch.

General Charge:

The Committee shall develop general guidelines which promote the effective and efficient use of technology and automation in the trial courts including recommendations for statewide standards, protocols, or procedures. The Committee shall analyze and develop recommendations related to rules and statutory changes that will manage the use of technology within the courts. The Committee's work also includes the review and evaluation of technology applications and their impact on the operation and workflow of the court. The Committee will also research and recommend response protocols to resolve security issues which may affect the use of technology.

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2012 REPORT

COMMITTEE ON CRIMINAL LAW & PROBATION ADMINISTRATION

Conference Year 2012

Statement of Purpose:

To advise the Judicial Conference in matters affecting criminal law and procedures and the administration of probation services.

General Charge:

The Committee shall review and make recommendations on matters affecting the administration of criminal law and shall monitor, evaluate and provide recommendations on issues affecting the probation system. The Committee will review, analyze and examine new issues arising out of legislation and case law that impact criminal law and procedures and probation resources and operations.

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2012 REPORT

COMMITTEE ON DISCOVERY PROCEDURES

Conference Year 2012

Statement of Purpose:

The Committee on Discovery Procedures shall review and assess discovery devices used in Illinois, with the goal of making recommendations to expedite discovery and to eliminate any abuses of the discovery process.

General Charge:

The Committee shall study and make recommendations on the discovery devices used in Illinois including, but not limited to, depositions, interrogatories, requests for production of documents or tangible things or inspection of real property, disclosures of expert witnesses, and requests for admission. The Committee shall investigate and make recommendations on innovative means of expediting pretrial discovery and ending any abuses of the discovery process so as to promote early settlement discussions and to encourage civility among attorneys. The Committee will also review and make recommendations on proposals concerning discovery matters submitted by the Supreme Court Rules Committee, other Committees or other sources.

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2012 REPORT

COMMITTEE ON EDUCATION

Conference Year 2012

Statement of Purpose:

The Committee shall identify education needs for the Illinois judiciary and develop short and long term plans to address these needs.

General Charge:

The Committee shall develop and recommend a "core" judicial education curriculum for Illinois judges which identifies the key judicial education topics and issues to be addressed through the judicial education activities each Conference year. This will include identifying emerging legal, sociological, cultural, and technical issues that may impact decision making and court administration by Illinois judges. Based on the core curriculum, the Committee shall recommend and develop programs for new and experienced Illinois judges. To do so, the Committee shall recommend topics and faculty for the annual New Judge Seminar and Seminar Series, and, in alternate years, the Education Conference and the Advanced Judicial Academy. The Committee will also assess the judicial education needs, expectations and program participation of Illinois judges. The Committee shall also review and recommend judicial education programs, offered by organizations and entities other than the Supreme Court, to be approved for the award of continuing judicial education credits.

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2012 REPORT

STUDY COMMITTEE ON COMPLEX LITIGATION

Conference Year 2012

Statement of Purpose:

The Study Committee shall make recommendations, through proposed rules or other procedures, to reduce the cost and delay attendant to lengthy civil and criminal trials with multiple parties or issues. The Committee shall provide yearly updates to its Manual for Complex Litigation (Civil and Criminal).

General Charge:

The Committee shall prepare revisions, updates, and new topics as necessary, for the Manual for Complex Litigation, including the maintenance of forms accurate to the Manual Appendix.

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2012 REPORT

STUDY COMMITTEE ON JUVENILE JUSTICE

Conference Year 2012

Statement of Purpose:

The Study Committee on Juvenile Justice shall review and assess practices related to the processing of juvenile delinquency, abuse, neglect, and dependency cases. The Committee shall provide judges with current developments in the processing of juvenile court cases through up-dating and distributing the juvenile law benchbook (Volumes I and II).

General Charge:

The Committee shall study and make recommendations on the processing of juvenile delinquency, abuse, neglect, and dependency cases; prepare supplemental updates to the juvenile law benchbooks for distribution to judges reviewing such proceedings brought in juvenile court; and, make recommendations regarding training for juvenile court judges on emerging issues of juvenile law identified during the course of the Committee's work on the benchbook or during Committee meetings.

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