

AN ACT concerning courts.

**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 Section 5-410 as follows:

(705 ILCS 405/5-410)

Sec. 5-410. Non-secure custody or detention.

(1) Any minor arrested or taken into custody pursuant to this Act who requires care away from his or her home but who does not require physical restriction shall be given temporary care in a foster family home or other shelter facility designated by the court.

(2) (a) Any minor 10 years of age or older arrested pursuant to this Act where there is probable cause to believe that the minor is a delinquent minor and that (i) secured custody is a matter of immediate and urgent necessity for the protection of the minor or of the person or property of another, (ii) the minor is likely to flee the jurisdiction of the court, or (iii) the minor was taken into custody under a warrant, may be kept or detained in an authorized detention facility. A minor under 13 years of age shall not be admitted, kept, or detained in a detention facility unless a local youth service provider, including a provider through the

Comprehensive Community Based Youth Services network, has been contacted and has not been able to accept the minor. No minor under 12 years of age shall be detained in a county jail or a municipal lockup for more than 6 hours.

(b) The written authorization of the probation officer or detention officer (or other public officer designated by the court in a county having 3,000,000 or more inhabitants) constitutes authority for the superintendent of any juvenile detention home to detain and keep a minor for up to 40 hours, excluding Saturdays, Sundays and court-designated holidays. These records shall be available to the same persons and pursuant to the same conditions as are law enforcement records as provided in Section 5-905.

(b-4) The consultation required by subsection (b-5) shall not be applicable if the probation officer or detention officer (or other public officer designated by the court in a county having 3,000,000 or more inhabitants) utilizes a scorable detention screening instrument, which has been developed with input by the State's Attorney, to determine whether a minor should be detained, however, subsection (b-5) shall still be applicable where no such screening instrument is used or where the probation officer, detention officer (or other public officer designated by the court in a county having 3,000,000 or more inhabitants) deviates from the screening instrument.

(b-5) Subject to the provisions of subsection (b-4), if a probation officer or detention officer (or other public officer

designated by the court in a county having 3,000,000 or more inhabitants) does not intend to detain a minor for an offense which constitutes one of the following offenses he or she shall consult with the State's Attorney's Office prior to the release of the minor: first degree murder, second degree murder, involuntary manslaughter, criminal sexual assault, aggravated criminal sexual assault, aggravated battery with a firearm as described in Section 12-4.2 or subdivision (e)(1), (e)(2), (e)(3), or (e)(4) of Section 12-3.05, aggravated or heinous battery involving permanent disability or disfigurement or great bodily harm, robbery, aggravated robbery, armed robbery, vehicular hijacking, aggravated vehicular hijacking, vehicular invasion, arson, aggravated arson, kidnapping, aggravated kidnapping, home invasion, burglary, or residential burglary.

(c) Except as otherwise provided in paragraph (a), (d), or (e), no minor shall be detained in a county jail or municipal lockup for more than 12 hours, unless the offense is a crime of violence in which case the minor may be detained up to 24 hours. For the purpose of this paragraph, "crime of violence" has the meaning ascribed to it in Section 1-10 of the Alcoholism and Other Drug Abuse and Dependency Act.

(i) The period of detention is deemed to have begun once the minor has been placed in a locked room or cell or handcuffed to a stationary object in a building housing a county jail or municipal lockup. Time spent transporting a minor is not considered to be time in detention or secure

custody.

(ii) Any minor so confined shall be under periodic supervision and shall not be permitted to come into or remain in contact with adults in custody in the building.

(iii) Upon placement in secure custody in a jail or lockup, the minor shall be informed of the purpose of the detention, the time it is expected to last and the fact that it cannot exceed the time specified under this Act.

(iv) A log shall be kept which shows the offense which is the basis for the detention, the reasons and circumstances for the decision to detain and the length of time the minor was in detention.

(v) Violation of the time limit on detention in a county jail or municipal lockup shall not, in and of itself, render inadmissible evidence obtained as a result of the violation of this time limit. Minors under 18 years of age shall be kept separate from confined adults and may not at any time be kept in the same cell, room or yard with adults confined pursuant to criminal law. Persons 18 years of age and older who have a petition of delinquency filed against them may be confined in an adult detention facility. In making a determination whether to confine a person 18 years of age or older who has a petition of delinquency filed against the person, these factors, among other matters, shall be considered:

(A) The age of the person;

(B) Any previous delinquent or criminal history of the person;

(C) Any previous abuse or neglect history of the person; and

(D) Any mental health or educational history of the person, or both.

(d) (i) If a minor 12 years of age or older is confined in a county jail in a county with a population below 3,000,000 inhabitants, then the minor's confinement shall be implemented in such a manner that there will be no contact by sight, sound or otherwise between the minor and adult prisoners. Minors 12 years of age or older must be kept separate from confined adults and may not at any time be kept in the same cell, room, or yard with confined adults. This paragraph (d) (i) shall only apply to confinement pending an adjudicatory hearing and shall not exceed 40 hours, excluding Saturdays, Sundays and court designated holidays. To accept or hold minors during this time period, county jails shall comply with all monitoring standards adopted by the Department of Corrections and training standards approved by the Illinois Law Enforcement Training Standards Board.

(ii) To accept or hold minors, 12 years of age or older, after the time period prescribed in paragraph (d) (i) of this subsection (2) of this Section but not exceeding 7 days including Saturdays, Sundays and holidays pending an adjudicatory hearing, county jails shall comply with all

temporary detention standards adopted by the Department of Corrections and training standards approved by the Illinois Law Enforcement Training Standards Board.

(iii) To accept or hold minors 12 years of age or older, after the time period prescribed in paragraphs (d)(i) and (d)(ii) of this subsection (2) of this Section, county jails shall comply with all county juvenile detention standards adopted by the Department of Juvenile Justice.

(e) When a minor who is at least 15 years of age is prosecuted under the criminal laws of this State, the court may enter an order directing that the juvenile be confined in the county jail. However, any juvenile confined in the county jail under this provision shall be separated from adults who are confined in the county jail in such a manner that there will be no contact by sight, sound or otherwise between the juvenile and adult prisoners.

(f) For purposes of appearing in a physical lineup, the minor may be taken to a county jail or municipal lockup under the direct and constant supervision of a juvenile police officer. During such time as is necessary to conduct a lineup, and while supervised by a juvenile police officer, the sight and sound separation provisions shall not apply.

(g) For purposes of processing a minor, the minor may be taken to a County Jail or municipal lockup under the direct and constant supervision of a law enforcement officer or correctional officer. During such time as is necessary to

process the minor, and while supervised by a law enforcement officer or correctional officer, the sight and sound separation provisions shall not apply.

(3) If the probation officer or State's Attorney (or such other public officer designated by the court in a county having 3,000,000 or more inhabitants) determines that the minor may be a delinquent minor as described in subsection (3) of Section 5-105, and should be retained in custody but does not require physical restriction, the minor may be placed in non-secure custody for up to 40 hours pending a detention hearing.

(4) Any minor taken into temporary custody, not requiring secure detention, may, however, be detained in the home of his or her parent or guardian subject to such conditions as the court may impose.

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

(Source: P.A. 98-61, eff. 1-1-14; 98-685, eff. 1-1-15; 98-756, eff. 7-16-14.)