



**94TH GENERAL ASSEMBLY**  
**State of Illinois**  
**2005 and 2006**  
**HB2604**

Introduced 2/18/2005, by Rep. Annazette Collins

**SYNOPSIS AS INTRODUCED:**

705 ILCS 405/5-410

Amends the Juvenile Court Act of 1987. Provides that no minor under 17 (instead of 12) years of age shall be detained in a county jail or a municipal lockup for more than 6 hours. Deletes a provision requiring a minor's confinement to be implemented in such a manner that there is no contact by sight, sound, or otherwise between adult prisoners. Makes other changes.

LRB094 09435 RXD 39683 b

1 AN ACT concerning courts.

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 5-410 as follows:

6 (705 ILCS 405/5-410)

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

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

13 (2) (a) Any minor 10 years of age or older arrested  
14 pursuant to this Act where there is probable cause to believe  
15 that the minor is a delinquent minor and that (i) secured  
16 custody is a matter of immediate and urgent necessity for the  
17 protection of the minor or of the person or property of  
18 another, (ii) the minor is likely to flee the jurisdiction of  
19 the court, or (iii) the minor was taken into custody under a  
20 warrant, may be kept or detained in an authorized detention  
21 facility. No minor under 17 ~~12~~ years of age shall be detained  
22 in a county jail or a municipal lockup for more than 6 hours.

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

32 (b-4) The consultation required by subsection (b-5) shall

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

11 (b-5) Subject to the provisions of subsection (b-4), if a  
12 probation officer or detention officer (or other public officer  
13 designated by the court in a county having 3,000,000 or more  
14 inhabitants) does not intend to detain a minor for an offense  
15 which constitutes one of the following offenses he or she shall  
16 consult with the State's Attorney's Office prior to the release  
17 of the minor: first degree murder, second degree murder,  
18 involuntary manslaughter, criminal sexual assault, aggravated  
19 criminal sexual assault, aggravated battery with a firearm,  
20 aggravated or heinous battery involving permanent disability  
21 or disfigurement or great bodily harm, robbery, aggravated  
22 robbery, armed robbery, vehicular hijacking, aggravated  
23 vehicular hijacking, vehicular invasion, arson, aggravated  
24 arson, kidnapping, aggravated kidnapping, home invasion,  
25 burglary, or residential burglary.

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

33 (i) The period of detention is deemed to have begun  
34 once the minor has been placed in a locked room or cell or  
35 handcuffed to a stationary object in a building housing a  
36 county jail or municipal lockup. Time spent transporting a

1 minor is not considered to be time in detention or secure  
2 custody.

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

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

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

14 (v) Violation of the time limit on detention in a  
15 county jail or municipal lockup shall not, in and of  
16 itself, render inadmissible evidence obtained as a result  
17 of the violation of this time limit. Minors under 17 years  
18 of age shall be kept separate from confined adults and may  
19 not at any time be kept in the same cell, room or yard with  
20 adults confined pursuant to criminal law. Persons 17 years  
21 of age and older who have a petition of delinquency filed  
22 against them may be confined in an adult detention  
23 facility. In making a determination whether to confine a  
24 person 17 years of age or older who has a petition of  
25 delinquency filed against the person, these factors, among  
26 other matters, shall be considered:

27 (A) The age of the person;

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

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

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

34 (d) (Blank). ~~(i) If a minor 12 years of age or older is~~  
35 ~~confined in a county jail in a county with a population below~~  
36 ~~3,000,000 inhabitants, then the minor's confinement shall be~~

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

13 ~~(ii) To accept or hold minors, 12 years of age or older,~~  
14 ~~after the time period prescribed in paragraph (d) (i) of this~~  
15 ~~subsection (2) of this Section but not exceeding 7 days~~  
16 ~~including Saturdays, Sundays and holidays pending an~~  
17 ~~adjudicatory hearing, county jails shall comply with all~~  
18 ~~temporary detention standards promulgated by the Department of~~  
19 ~~Corrections and training standards approved by the Illinois Law~~  
20 ~~Enforcement Training Standards Board.~~

21 ~~(iii) To accept or hold minors 12 years of age or older,~~  
22 ~~after the time period prescribed in paragraphs (d) (i) and~~  
23 ~~(d) (ii) of this subsection (2) of this Section, county jails~~  
24 ~~shall comply with all programmatic and training standards for~~  
25 ~~juvenile detention homes promulgated by the Department of~~  
26 ~~Corrections.~~

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

35 (f) For purposes of appearing in a physical lineup, the  
36 minor may be taken to a county jail or municipal lockup under

1 the direct and constant supervision of a juvenile police  
2 officer. During such time as is necessary to conduct a lineup,  
3 and while supervised by a juvenile police officer, the sight  
4 and sound separation provisions shall not apply.

5 (g) For purposes of processing a minor, the minor may be  
6 taken to a County Jail or municipal lockup under the direct and  
7 constant supervision of a law enforcement officer or  
8 correctional officer. During such time as is necessary to  
9 process the minor, and while supervised by a law enforcement  
10 officer or correctional officer, the sight and sound separation  
11 provisions shall not apply.

12 (3) If the probation officer or State's Attorney (or such  
13 other public officer designated by the court in a county having  
14 3,000,000 or more inhabitants) determines that the minor may be  
15 a delinquent minor as described in subsection (3) of Section  
16 5-105, and should be retained in custody but does not require  
17 physical restriction, the minor may be placed in non-secure  
18 custody for up to 40 hours pending a detention hearing.

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

23 (Source: P.A. 93-255, eff. 1-1-04.)