



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

HB3480

by Rep. Robyn Gabel

SYNOPSIS AS INTRODUCED:

20 ILCS 505/17a-9
705 ILCS 405/5-410
705 ILCS 405/5-415

from Ch. 23, par. 5017a-9

Amends the Children and Family Services Act. Provides that the Illinois Juvenile Justice Commission shall include recommendations regarding the funding of detention, the transparency and evaluation of the use of detention, and the availability of youth services to reduce the use of detention and prevent deeper criminal involvement in its annual submission of recommendations to the Governor and the General Assembly. Amends the Juvenile Court Act of 1987. Provides that on or after January 1, 2020, detention of a minor shall be a last resort and only in the case of any minor 14 years of age or older arrested on or after the effective date of the amendatory Act if there is probable cause to believe that the minor is a delinquent minor charged with a felony offense, that secured custody is the least restrictive alternative available, and is a matter of immediate and urgent necessity for the protection of the minor or of the person of another. Provides that any minor placed in detention shall immediately have counsel appointed and an opportunity to privately consult with counsel in person, and have a review of the decision to detain within 24 hours of the placement in detention. Provides that unless sooner released, a minor alleged to be a delinquent minor taken into temporary custody must be brought before a judicial officer within 24 hours including Saturdays, Sundays, and court-designated holidays for a detention or shelter care hearing to determine whether he or she shall be further held in custody. Makes other changes. Effective January 1, 2020.

LRB101 07366 SLF 52406 b

1 AN ACT concerning juveniles.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Children and Family Services Act is amended
5 by changing Section 17a-9 as follows:

6 (20 ILCS 505/17a-9) (from Ch. 23, par. 5017a-9)

7 Sec. 17a-9. Illinois Juvenile Justice Commission.

8 (a) There is hereby created the Illinois Juvenile Justice
9 Commission which shall consist of 25 persons appointed by the
10 Governor. The Chairperson of the Commission shall be appointed
11 by the Governor. Of the initial appointees, 8 shall serve a
12 one-year term, 8 shall serve a two-year term and 9 shall serve
13 a three-year term. Thereafter, each successor shall serve a
14 three-year term. Vacancies shall be filled in the same manner
15 as original appointments. Once appointed, members shall serve
16 until their successors are appointed and qualified. Members
17 shall serve without compensation, except they shall be
18 reimbursed for their actual expenses in the performance of
19 their duties. The Commission shall carry out the rights, powers
20 and duties established in subparagraph (3) of paragraph (a) of
21 Section 223 of the Federal "Juvenile Justice and Delinquency
22 Prevention Act of 1974", as now or hereafter amended. The
23 Commission shall determine the priorities for expenditure of

1 funds made available to the State by the Federal Government
2 pursuant to that Act. The Commission shall have the following
3 powers and duties:

4 (1) Development, review and final approval of the
5 State's juvenile justice plan for funds under the Federal
6 "Juvenile Justice and Delinquency Prevention Act of 1974";

7 (2) Review and approve or disapprove juvenile justice
8 and delinquency prevention grant applications to the
9 Department for federal funds under that Act;

10 (3) Annual submission of recommendations to the
11 Governor and the General Assembly concerning matters
12 relative to its function, including recommendations
13 regarding the funding of detention, the transparency and
14 evaluation of the use of detention, and the availability of
15 youth services to reduce the use of detention and prevent
16 deeper criminal involvement;

17 (4) Responsibility for the review of funds allocated to
18 Illinois under the "Juvenile Justice and Delinquency
19 Prevention Act of 1974" to ensure compliance with all
20 relevant federal laws and regulations;

21 (5) Function as the advisory committee for the State
22 Youth and Community Services Program as authorized under
23 Section 17 of this Act, and in that capacity be authorized
24 and empowered to assist and advise the Secretary of Human
25 Services on matters related to juvenile justice and
26 delinquency prevention programs and services; and

1 (6) Study the impact of, develop timelines, and propose
2 a funding structure to accommodate the expansion of the
3 jurisdiction of the Illinois Juvenile Court to include
4 youth age 17 under the jurisdiction of the Juvenile Court
5 Act of 1987. The Commission shall submit a report by
6 December 31, 2011 to the General Assembly with
7 recommendations on extending juvenile court jurisdiction
8 to youth age 17 charged with felony offenses.

9 (b) On the effective date of this amendatory Act of the
10 96th General Assembly, the Illinois Juvenile Jurisdiction Task
11 Force created by Public Act 95-1031 is abolished and its duties
12 are transferred to the Illinois Juvenile Justice Commission as
13 provided in paragraph (6) of subsection (a) of this Section.

14 (Source: P.A. 96-1199, eff. 1-1-11.)

15 Section 10. The Juvenile Court Act of 1987 is amended by
16 changing Sections 5-410 and 5-415 as follows:

17 (705 ILCS 405/5-410)

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

19 (1) Placement of a minor away from his or her home must be
20 the last resort and be the least restrictive alternative
21 available. Any minor arrested or taken into custody pursuant to
22 this Act who requires care away from his or her home but who
23 does not require physical restriction shall be given temporary
24 care in a foster family home or other shelter facility

1 designated by the court.

2 (2) (a) (Blank). ~~Any minor 10 years of age or older~~
3 ~~arrested pursuant to this Act where there is probable cause to~~
4 ~~believe that the minor is a delinquent minor and that (i)~~
5 ~~secured custody is a matter of immediate and urgent necessity~~
6 ~~for the protection of the minor or of the person or property of~~
7 ~~another, (ii) the minor is likely to flee the jurisdiction of~~
8 ~~the court, or (iii) the minor was taken into custody under a~~
9 ~~warrant, may be kept or detained in an authorized detention~~
10 ~~facility. A minor under 13 years of age shall not be admitted,~~
11 ~~kept, or detained in a detention facility unless a local youth~~
12 ~~service provider, including a provider through the~~
13 ~~Comprehensive Community Based Youth Services network, has been~~
14 ~~contacted and has not been able to accept the minor. No minor~~
15 ~~under 12 years of age shall be detained in a county jail or a~~
16 ~~municipal lockup for more than 6 hours.~~

17 (a-5) For a minor arrested or taken into custody for
18 vehicular hijacking or aggravated vehicular hijacking, a
19 previous finding of delinquency for vehicular hijacking or
20 aggravated vehicular hijacking shall be given greater weight in
21 determining whether secured custody of a minor is a matter of
22 immediate and urgent necessity for the protection of the minor
23 or of the person or property of another.

24 (a-10) It is the policy of this State to identify and
25 eliminate barriers to racial, ethnic, and gender fairness
26 within the juvenile justice system and to support the

1 fundamental principle of fair and equitable treatment under the
2 law. To that end, it is a goal to ensure that detention is the
3 last resort and for as short a time as possible, and to
4 eliminate the use of detention for young children. On or after
5 January 1, 2020, detention of a minor shall be a last resort
6 and only in the case of any minor 14 years of age or older
7 arrested on or after the effective date of this amendatory Act
8 of the 101st General Assembly if there is probable cause to
9 believe that the minor is a delinquent minor charged with a
10 felony offense, that secured custody is the least restrictive
11 alternative available, and is a matter of immediate and urgent
12 necessity for the protection of the minor or of the person of
13 another. Any minor placed in detention shall immediately have
14 counsel appointed and an opportunity to privately consult with
15 counsel in person and have a review of the decision to detain
16 within 24 hours of the placement in detention.

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

26 (b-4) The consultation required by paragraph subsection

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

12 (b-5) Subject to the provisions of paragraph ~~subsection~~
13 (b-4), if a probation officer or detention officer (or other
14 public officer designated by the court in a county having
15 3,000,000 or more inhabitants) does not intend to detain a
16 minor for an offense which constitutes one of the following
17 offenses he or she shall consult with the State's Attorney's
18 Office prior to the release of the minor: first degree murder,
19 second degree murder, involuntary manslaughter, criminal
20 sexual assault, aggravated criminal sexual assault, aggravated
21 battery with a firearm as described in Section 12-4.2 or
22 subdivision (e) (1), (e) (2), (e) (3), or (e) (4) of Section
23 12-3.05, aggravated or heinous battery involving permanent
24 disability or disfigurement or great bodily harm, robbery,
25 aggravated robbery, armed robbery, vehicular hijacking,
26 aggravated vehicular hijacking, vehicular invasion, arson,

1 aggravated arson, kidnapping, aggravated kidnapping, home
2 invasion, burglary, or residential burglary.

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

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

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

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

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

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

14 (A) the ~~The~~ age of the person;

15 (B) any ~~Any~~ previous delinquent or criminal
16 history of the person;

17 (C) any ~~Any~~ previous abuse or neglect history of
18 the person; and

19 (D) any ~~Any~~ mental health or educational history of
20 the person, or both.

21 (d) (Blank). ~~(i) If a minor 12 years of age or older is~~
22 ~~confined in a county jail in a county with a population below~~
23 ~~3,000,000 inhabitants, then the minor's confinement shall be~~
24 ~~implemented in such a manner that there will be no contact by~~
25 ~~sight, sound or otherwise between the minor and adult~~
26 ~~prisoners. Minors 12 years of age or older must be kept~~

1 ~~separate from confined adults and may not at any time be kept~~
2 ~~in the same cell, room, or yard with confined adults. This~~
3 ~~paragraph (d)(i) shall only apply to confinement pending an~~
4 ~~adjudicatory hearing and shall not exceed 40 hours, excluding~~
5 ~~Saturdays, Sundays and court designated holidays. To accept or~~
6 ~~hold minors during this time period, county jails shall comply~~
7 ~~with all monitoring standards adopted by the Department of~~
8 ~~Corrections and training standards approved by the Illinois Law~~
9 ~~Enforcement Training Standards Board.~~

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

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

23 (e) When a minor who is at least 15 years of age is
24 prosecuted under the criminal laws of this State, the court may
25 enter an order directing that the juvenile be confined in the
26 county jail. However, any juvenile confined in the county jail

1 under this provision shall be separated from adults who are
2 confined in the county jail in such a manner that there will be
3 no contact by sight, sound or otherwise between the juvenile
4 and adult prisoners.

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

11 (g) For purposes of processing a minor, the minor may be
12 taken to a county jail ~~County Jail~~ or municipal lockup under
13 the direct and constant supervision of a law enforcement
14 officer or correctional officer. During such time as is
15 necessary to process the minor, and while supervised by a law
16 enforcement officer or correctional officer, the sight and
17 sound separation provisions shall not apply.

18 (3) If the probation officer or State's Attorney (or such
19 other public officer designated by the court in a county having
20 3,000,000 or more inhabitants) determines that the minor may be
21 a delinquent minor as described in subsection (3) of Section
22 5-105, and should be retained in custody but does not require
23 physical restriction, the minor may be placed in non-secure
24 custody for up to 40 hours pending a detention hearing.

25 (4) Any minor taken into temporary custody, not requiring
26 secure detention, may, however, be detained in the home of his

1 or her parent or guardian subject to such conditions as the
2 court may impose.

3 (5) The changes made to this Section by Public Act 98-61
4 apply to a minor who has been arrested or taken into custody on
5 or after January 1, 2014 (the effective date of Public Act
6 98-61).

7 (Source: P.A. 99-254, eff. 1-1-16; 100-745, eff. 8-10-18;
8 revised 10-3-18.)

9 (705 ILCS 405/5-415)

10 Sec. 5-415. Setting of detention or shelter care hearing;
11 release.

12 (1) Unless sooner released, a minor alleged to be a
13 delinquent minor taken into temporary custody must be brought
14 before a judicial officer within 24 ~~40~~ hours including
15 Saturdays, Sundays, and court-designated holidays for a
16 detention or shelter care hearing to determine whether he or
17 she shall be further held in custody. If a minor alleged to be
18 a delinquent minor taken into custody is hospitalized or is
19 receiving treatment for a physical or mental condition, and is
20 unable to be brought before a judicial officer for a detention
21 or shelter care hearing, the 24-hour ~~40-hour~~ period will not
22 commence until the minor is released from the hospital or place
23 of treatment. If the minor gives false information to law
24 enforcement officials regarding the minor's identity or age,
25 the 24-hour ~~40-hour~~ period will not commence until the court

1 rules that the minor is subject to this Act and not subject to
2 prosecution under the Criminal Code of 1961 or the Criminal
3 Code of 2012. Any other delay attributable to a minor alleged
4 to be a delinquent minor who is taken into temporary custody
5 shall act to toll the 24-hour ~~40-hour~~ time period. The 24-hour
6 ~~40-hour~~ time period shall be tolled to allow counsel for the
7 minor to prepare for the detention or shelter care hearing,
8 upon a motion filed by such counsel and granted by the court.
9 ~~In all cases, the 40-hour time period is exclusive of~~
10 ~~Saturdays, Sundays and court designated holidays.~~

11 (2) If the State's Attorney or probation officer (or other
12 public officer designated by the court in a county having more
13 than 3,000,000 inhabitants) determines that the minor should be
14 retained in custody, he or she shall cause a petition to be
15 filed as provided in Section 5-520 of this Article, and the
16 clerk of the court shall set the matter for hearing on the
17 detention or shelter care hearing calendar. Immediately upon
18 the filing of a petition in the case of a minor retained in
19 custody, the court shall cause counsel to be appointed to
20 represent the minor. When a parent, legal guardian, custodian,
21 or responsible relative is present and so requests, the
22 detention or shelter care hearing shall be held immediately if
23 the court is in session and the State is ready to proceed,
24 otherwise at the earliest feasible time. In no event shall a
25 detention or shelter care hearing be held until the minor has
26 had adequate opportunity to consult in person with counsel. The

1 probation officer or such other public officer designated by
2 the court in a county having more than 3,000,000 inhabitants
3 shall notify the minor's parent, legal guardian, custodian, or
4 responsible relative of the time and place of the hearing. The
5 notice may be given orally.

6 (3) The minor must be released from custody at the
7 expiration of the 24-hour ~~40-hour~~ period specified by this
8 Section if not brought before a judicial officer within that
9 period.

10 (4) After the initial 24-hour ~~40-hour~~ period has lapsed,
11 the court may review the minor's custodial status at any time
12 prior to the trial or sentencing hearing. If during this time
13 period new or additional information becomes available
14 concerning the minor's conduct, the court may conduct a hearing
15 to determine whether the minor should be placed in a detention
16 or shelter care facility. If the court finds that there is
17 probable cause that the minor is a delinquent minor and that it
18 is a matter of immediate and urgent necessity for the
19 protection of the minor or of the person or property of
20 another, or that he or she is likely to flee the jurisdiction
21 of the court, the court may order that the minor be placed in
22 detention or shelter care.

23 (Source: P.A. 97-1150, eff. 1-25-13.)

24 Section 99. Effective date. This Act takes effect January
25 1, 2020.